

## Annette Singleton

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**Subject:** FW: Hoytsville Cemetery Service District position

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**From:** Mike Rees [<mailto:mikerees50@gmail.com>]  
**Sent:** Tuesday, February 26, 2013 1:03 PM  
**To:** Annette Singleton  
**Subject:** Hoytsville Cemetery Service District position

I am interested in serving on the Hoytsville Cemetery Special Service District Board. I am a resident of the Hoytsville community, my home is at 1080 So Hoytsville Road. Please contact me if you need additional information.

Regarding the resume, mine is all round my former career in the oil and gas industry; not to applicable to the opportunity. I recently retired after 30 years of management positions, now looking to support my community.

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Thanks, Mike

435-714-0419

## HOYTSTVILLE CEMETERY MAINTENANCE DISTRICT

c/o Gary Pace

1483 S W Hoytsville Road

Coalville, Utah 84017

435-336-2232

4 Year Terms - Appointed by County Council

<b>NAME</b>	<b>ADDRESS</b>	<b>CONTACT NUMBERS</b>	<b>TERM EXPIRES</b>	<b>1<sup>st</sup> appointed</b>
<b>Gary Pace</b>	<b>1483 S W Hoytsville Road Coalville, Utah 84017</b>	<b>435-336-2232</b>	<b>12/31/2012</b>	<b>7/29/09</b>
<b>Glenn M. Shaw</b>	<b>1185 S Hoytsville Road Coalville, Utah 84017</b>	<b>435-336-2280</b>	<b>12/31/2014</b>	<b>1/18/2012</b>

*Memorandum*

*To: The Summit County Council*

*From: Anita Lewis, Assistant County Manager*

*Date: March 1, 2013*

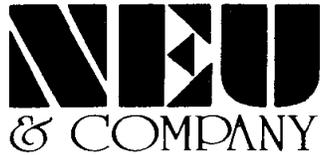
*Re: Work Session – Strategic Plan*

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*Attached are the mission and vision statements, strategic issues on County Council priorities for 2013-2014. The purpose of the work session is to:*

- 1) Finalize the mission statement and vision statement*
- 2) Review the strategic issues*
- 3) Determine the priority level of the performance objectives.*

*After the work session discussion, the strategic plan will be scheduled for adoption.*



DRAFT

February 11, 2013

## **SUMMIT COUNTY, UTAH**

### **Mission and Vision Statements, Strategic Issues On County Council Priorities for 2013-2014**

#### **MISSION STATEMENT**

The mission of Summit County is to provide excellent and efficient services that ensure quality of life for present and future generations. (Not Final – open to further discussion)

**\*\*A statement of mission is a general statement of how you will achieve your mission. There is a very close relationship between vision and mission. The mission is an action statement that usually begins with the word “to”. The mission statement is a simple and direct statement that is easy to remember.**

#### **VISION STATEMENT: 2040**

In 2040, Summit County is a community that is economically diverse with multiple economic drivers and is master planned to honor and sustain our natural beauty, resources, and quality of life for a healthy, prosperous and culturally-diverse citizenry. (Suggest rewording of the first part of this statement.

This vision statement enables the County Council to promote strategic leadership and performance to guide Summit County into the future.

**\*\*The vision statement should be concise and easy to remember. Because it is easy to remember, it’s easy for everyone in the organization to focus of the vision. When people focus on the vision, their daily activities are automatically directed towards achieving the vision.**

## **STRATEGIC ISSUES**

In order to achieve our mission and vision for the future, Summit County must focus on the following six strategic issues that help us define “what is most important” when determining where resources, both time and money, should be spent.

### **STRONG FISCAL FOUNDATION**

Summit County needs a strong financial foundation in order to provide consistent, high quality services to its citizens.

The County shall utilize sound financial principles incorporating diverse, stable and equitable revenue sources and strategic budgeting to achieve the County’s mission, vision and priorities, both near and long term.

### **PLANNING AND COLLABORATION**

Summit County recognizes that collaborative visionary planning is essential to ensuring carefully-managed growth.

The County shall adopt updated general plans and revised development codes and collaborate with neighboring jurisdictions and communities concerning regional issues.

### **MULTI-MODAL TRANSPORTATION**

Efficient multi-modal transportation systems and mobility options are essential to planning for growth and preserving the community’s quality of life.

Summit County shall proactively update its transportation plans.

### **ECONOMIC VITALITY AND DIVERSITY**

Summit County needs a diversified and growing economy to ensure its future economic vitality.

In order to build and sustain a strong economic base, the County shall attract new and diverse economic drivers while continuing to support its existing business.

### **ENVIRONMENTAL STEWARDSHIP**

Summit County recognizes the importance of the natural environment to our quality of life.

The County shall be proactive in reducing our carbon footprint, acquiring and protecting water resources, remediating soil contamination from our mining legacy, protecting air quality and actively participating with our local, state and federal agencies.

## **ENGAGED AND INFORMED CITIZENRY**

Summit County values citizen input and involvement and understands the importance of an informed citizenry.

The County shall adopt a comprehensive communications plan utilizing current technology to encourage citizen participation in all facets of county government.

### **PRIORITY PERFORMANCE OBJECTIVES FOR 2013-2014**

The Summit County Council has identified the following [high](#) priority objectives to be [analyzed and reviewed periodically](#). ~~accomplished during the next two years~~. These ~~twelve items performance goals~~ are deemed to be strategically important and essential to defining and achieving the County's mission and vision for the future.

- Establish financial stability, including enhancing revenues, for the County.
- Adopt updated General Plan and revised development codes for Snyderville Basin and an accompanying Master Plan for the area east of Highway 40 and north of I-80.
- Adopt an updated General Plan and development code for Eastern Summit County.
- Adopt an Economic Development Plan for Summit County.
- Adopt a revised Snyderville Transportation Plan.
- Adopt an Eastern Summit County Transportation Plan.
- Adopt a comprehensive environmental clean-up plan with emphasis on the Highway 40 corridor.
- Adopt updated Summit County Emergency Operations Plan.
- Adopt a Summit County water strategy.
- Adopt Summit County air and water quality strategies.
- Adopt a Solid-Waste Master Plan for Summit County.
- Adopt a comprehensive county-wide communications plan.

**MANAGER'S REPORT**  
**March 6, 2013**

To: Council Members  
From: Robert Jasper

<u>Department</u>	<u>Description of Updates</u>																																
Administration	<p><u>Submitted by Robert Jasper, County Manager:</u>            ♦ Documents and transactions are listed on the Manager Approval list dated 2/28/13, posted on the website at: <a href="http://www.summitcounty.org/manager/index.php">http://www.summitcounty.org/manager/index.php</a></p>																																
Auditor																																	
Assessor																																	
Attorney	<p><u>Submitted by Matthew Bates, Prosecuting Attorney:</u>  <u>Criminal Division Activity</u>  <b>CRIMINAL CASES FILED</b>                              DISTRICT COURT: 12           JUSTICE COURT: 24  <b>CRIMINAL FILINGS OF INTEREST</b>  <b>CRIMINAL CASES SENTENCED</b>                              District Court: 9               Justice Court: 17  <b>PLEAS, TRIALS, AND SENTENCES OF INTEREST</b>            The court did not have a Monday calendar because of the holiday.  <u>Victim Advocate Activity</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;"><b>Summit County Victim Assistance Activity 2/25/13</b></th> </tr> </thead> <tbody> <tr> <td><b>Victim contact and Notification Packet</b> sent out following offender being charged</td> <td style="text-align: right;">2</td> </tr> <tr> <td><b>Victim Impact Statement</b> assistance provided and <b>Packet</b> sent to victim with instructions</td> <td style="text-align: right;">5</td> </tr> <tr> <td><b>Sentencing letter</b> sent to victim with court sanctions and explanation</td> <td style="text-align: right;">4</td> </tr> <tr> <td><b>Board of Pardons</b> letter and <b>registration</b> of victims information for parole hearings</td> <td style="text-align: right;">0</td> </tr> <tr> <td><b>Court Assistance</b> provided to clients</td> <td style="text-align: right;">3</td> </tr> <tr> <td><b>Hearings</b> attended on behalf of victims and results of outcomes provided</td> <td style="text-align: right;">9</td> </tr> <tr> <td><b>Court Prep</b> and orientation in anticipation of testifying</td> <td style="text-align: right;">3</td> </tr> <tr> <td><b>Protective Order</b> assistance in filing, service of order and hearing assistance</td> <td style="text-align: right;">0</td> </tr> <tr> <td><b>Civil Stalking Injunction</b> assistance in filing, service of order and hearing assistance</td> <td style="text-align: right;">0</td> </tr> <tr> <td><b>Child Protective Order</b> assistance in filing, service of order and hearing assistance</td> <td style="text-align: right;">0</td> </tr> <tr> <td><b>Pre-Trial Protective Orders/Jail No Contact Agreements</b> contact victims and request order</td> <td style="text-align: right;">2</td> </tr> <tr> <td><b>Callout with law enforcement</b> i.e., unexpected death, rape, after hour calls, etc.</td> <td style="text-align: right;">3</td> </tr> <tr> <td><b>Client Mtgs</b> i.e., walk-ins and appointments</td> <td style="text-align: right;">8</td> </tr> <tr> <td><b>Children's Justice Center</b> appointments with family or guardian during interview</td> <td style="text-align: right;">2</td> </tr> <tr> <td><b>Restitution assistance</b> i.e., submit claim forms to the Utah Office for Victim's of Crime, etc.</td> <td style="text-align: right;">5</td> </tr> </tbody> </table>	<b>Summit County Victim Assistance Activity 2/25/13</b>		<b>Victim contact and Notification Packet</b> sent out following offender being charged	2	<b>Victim Impact Statement</b> assistance provided and <b>Packet</b> sent to victim with instructions	5	<b>Sentencing letter</b> sent to victim with court sanctions and explanation	4	<b>Board of Pardons</b> letter and <b>registration</b> of victims information for parole hearings	0	<b>Court Assistance</b> provided to clients	3	<b>Hearings</b> attended on behalf of victims and results of outcomes provided	9	<b>Court Prep</b> and orientation in anticipation of testifying	3	<b>Protective Order</b> assistance in filing, service of order and hearing assistance	0	<b>Civil Stalking Injunction</b> assistance in filing, service of order and hearing assistance	0	<b>Child Protective Order</b> assistance in filing, service of order and hearing assistance	0	<b>Pre-Trial Protective Orders/Jail No Contact Agreements</b> contact victims and request order	2	<b>Callout with law enforcement</b> i.e., unexpected death, rape, after hour calls, etc.	3	<b>Client Mtgs</b> i.e., walk-ins and appointments	8	<b>Children's Justice Center</b> appointments with family or guardian during interview	2	<b>Restitution assistance</b> i.e., submit claim forms to the Utah Office for Victim's of Crime, etc.	5
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Community Development	<p><u>Submitted by Don Sargent, Community Development Director:</u>  <b>Snyderville Basin</b></p> <ul style="list-style-type: none"> <li>The Planning Commission held a public hearing on February 26<sup>th</sup> to review and consider a determination on making the general plan either regulatory or advisory. The item was continued for an action to a special meeting date of March 14<sup>th</sup> to hopefully involve all the planning commission members in the discussion following the possible development code amendment of eligibility requirements by the SCC on March 13<sup>th</sup>. The General Plan and Neighborhood Plans will then be scheduled for continued review and consideration of edits made by the Planning Commission with the comment and input received by the public.</li> </ul> <p><b>Eastern Summit County</b></p>																																

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	<p>Staff is completing research and assembling information on the call-up provisions of other jurisdictions for continued review and discussion of the Planning Commission. In addition Staff is completing an analysis on property configurations for a continued discussion on possible re-zone alternatives.</p> <p><b>Department Administrative Items</b></p> <p>The department received 2 new planning applications and 15 new building applications this past week as follows:</p> <p style="text-align: center;"><b>New Planning Applications Submitted Feb 20-Feb 27, 2013</b></p> <p style="text-align: center;"><b>Snyderville Basin</b></p> <table border="1" data-bbox="464 606 1531 913"> <thead> <tr> <th>Project #</th> <th>Project Name</th> <th>Submittal Date</th> <th>Planner</th> </tr> </thead> <tbody> <tr> <td>13-514</td> <td><b>Park City Tech Center LIP</b> Dave Allen Low Impact Permit PCTC</td> <td>Feb 21, 13</td> <td>Kimber</td> </tr> <tr> <td>13-515</td> <td><b>Clear Wing LC</b> Joel Kesterman Lot of Record 8001 Parleys Way PP-33-E</td> <td>Feb 27, 13</td> <td>Molly</td> </tr> </tbody> </table> <p style="text-align: center;"><b>New Building Applications Submitted Feb 20 - Feb 27, 2013</b></p> <p style="text-align: center;"><b>Snyderville Basin</b></p> <table border="1" data-bbox="451 1169 1360 1871"> <thead> <tr> <th>Project #</th> <th>Project Name</th> <th>Submittal Date</th> </tr> </thead> <tbody> <tr> <td>13-837</td> <td><b>Powder Corp.</b> (Boyer Building) Tenant Finish 1794 Olympic Parkway, Park City, UT</td> <td>Feb 20, 13</td> </tr> <tr> <td>13-838</td> <td><b>Tom Murphy</b> Basement Remodel 8996 N Sackett Dr. Park City, UT</td> <td>Feb 21, 13</td> </tr> <tr> <td>13-839</td> <td><b>Thad Peterson</b> - Jaffa Group Wine Cooler installation 4819 Last Stand Dr. Park City, UT</td> <td>Feb 22, 13</td> </tr> <tr> <td>13-840</td> <td><b>Otto Walker</b> Single Family Dwelling 1446 W Red Fox Rd. Park City, UT</td> <td>Feb 22, 13</td> </tr> <tr> <td>13-842</td> <td><b>Neerings Plumbing</b> Furnace Replacement 5438 N Cross Country Way, Park City, UT</td> <td>Feb 25, 13</td> </tr> </tbody> </table>	Project #	Project Name	Submittal Date	Planner	13-514	<b>Park City Tech Center LIP</b> Dave Allen Low Impact Permit PCTC	Feb 21, 13	Kimber	13-515	<b>Clear Wing LC</b> Joel Kesterman Lot of Record 8001 Parleys Way PP-33-E	Feb 27, 13	Molly	Project #	Project Name	Submittal Date	13-837	<b>Powder Corp.</b> (Boyer Building) Tenant Finish 1794 Olympic Parkway, Park City, UT	Feb 20, 13	13-838	<b>Tom Murphy</b> Basement Remodel 8996 N Sackett Dr. Park City, UT	Feb 21, 13	13-839	<b>Thad Peterson</b> - Jaffa Group Wine Cooler installation 4819 Last Stand Dr. Park City, UT	Feb 22, 13	13-840	<b>Otto Walker</b> Single Family Dwelling 1446 W Red Fox Rd. Park City, UT	Feb 22, 13	13-842	<b>Neerings Plumbing</b> Furnace Replacement 5438 N Cross Country Way, Park City, UT	Feb 25, 13
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	13-844	<b>Magleby Construction</b> Single Family Dwelling 3983 Quarry Mountain Rd., Park City, UT	Feb 25, 13
	13-845	<b>Colonial Construction</b> Kitchen Remodel 1585 W Silver Springs Rd., Park City, UT	Feb 25, 13
	13-846	<b>Neerings Plumbing</b> Water Heater Replacement 5438 N Cross Country Way, Park City, UT	Feb 25, 13
	13-847	<b>Kevin Iverson</b> Garage 7030 Canyon Dr, Pine Brook, Park City, UT	Feb 26, 13
	13-848	<b>Vern Belcher</b> Swimming Pool 5850 Silver Summit Parkway, Park City, UT	Feb 26, 13
	13-849	<b>Joel Gott</b> Single Family Dwelling SS-59-8 (29 Marilyn Court) Park City, UT	Feb 26, 13
	13-850	<b>Chris Carter</b> Photovoltaic / Solar Panels 3881 Quarry Mountain Rd., Park City, UT	Feb 27, 13
<b>Eastern Summit County</b>			
	13-836	<b>Coby Anderson</b> Single Family Dwelling 1050 S Rusty Cir., Kamas, UT	Feb 20, 13
	13-841	<b>ID Electric</b> Electrical Meter Change-out 6500 E Hwy 35, Oakely, UT	Feb 22, 13
	13-843	<b>Blue Sky - Dan Weatherbie</b> Bridge / Water Tank 27649 Old Lincoln Hwy, Wanship, UT	Feb 25, 13
Engineering	<u>Submitted by Derrick Radke, Engineer:</u> <ul style="list-style-type: none"> <li>• 3 Subdivision/Site Plan Plat reviews</li> <li>• Silver Creek Junction DA</li> <li>• Traffic Model Update</li> <li>• Corridor Preservation Application Acceptance/Review</li> <li>• Eastern Summit County Transportation Master Plan</li> <li>• Travel Demand Model</li> <li>• Newpark Round-About Design</li> <li>• Lower Village Road Design/Coordination</li> <li>• Overlay Project Development</li> <li>• Seal Coat Project Development</li> </ul>		

<u>Department</u>	<u>Description of Updates</u>
	<ul style="list-style-type: none"> <li>• Summit Park Design</li> <li>• Brown’s Canyon Retaining Wall Repair</li> <li>• Road Inventory. Worked on Road Paint and Paint Symbols</li> <li>• Residential Permit Activity <ul style="list-style-type: none"> <li>○ 3 over the counter</li> <li>○ 4 plans reviewed</li> <li>○ 3 driveway inspections</li> <li>○ 3 erosion control inspections</li> <li>○ 3 code enforcement</li> </ul> </li> <li>• Right-of-Way Permit Activity <ul style="list-style-type: none"> <li>○ 1 new applications</li> <li>○ 5 site inspection</li> </ul> </li> <li>• Development Site Inspections <ul style="list-style-type: none"> <li>○ 6 Development Site Inspections</li> <li>○ Various routine inspections</li> </ul> </li> </ul> <p>We submitted an application to the Non-Urban Committee to the Transportation Commission for Bridge Replacement Funds to replace the Hoytsville Rail Trail Bridge. Were requested and received \$1,050,000. Our required match is about \$68,000. The project is scheduled to be funded for construction in 2016</p>
Facilities	<p><u>Submitted by Mike Crystal, Facilities Manager:</u></p> <p><u>Justice Center</u>  Bill and Mason changed out old ovens and plumbed in new ones for the jail kitchen. We are getting prices to upgrade the water heater also. Our housekeeper cleans about 15,000 sq. feet of office space at this location.</p> <p><u>Health dept.</u>  Got all the heating back on line, had some problems with water flow. Working on solar panels with the new sustainability employee.</p> <p><u>Parks</u>  Keeping up with snow removal at all our buildings.</p> <p><u>Courthouse</u>  Staff has been doing some painting throughout the building  Also taking care of the building for all the after hour’s meetings  Have been working on upstairs employees’ rest rooms</p>
Health Department	<p><u>Submitted by Rich Bullough, Health Department Director:</u></p> <p><u>Sequester Impacts:</u> We are prepared to take cuts in federally funded programs due to the apparently imminent sequestration of funds, beginning March 1, 2013. The SCHD program most impacted will be the WIC program. We are anticipating a 5.1% reduction in funding, and have already identified areas in which we can cut costs. We believe we can do this without reducing direct services.</p> <p>Other areas which may be impacted are federally funded vaccination programs for children; health promotion, chronic disease, and safety programs; and emergency preparedness programs. It is possible these cuts would be similar to those in WIC. We have developed contingency budgets and set priorities if these cuts do occur.</p> <p><u>Air Quality:</u> The Utah Department of Environmental Quality implemented an ozone monitoring program in Summit County during the summer of 2012. The report from that study is, I'm told, very</p>

<u>Department</u>	<u>Description of Updates</u>
	<p>near completion. I'm hoping to have it in a couple of weeks. I have been "warned" that we did have some high ozone values and that there is strong reason to believe most of that is transient from the Wasatch Front. We will brief the Board of Health and the County Council on findings. Also, I will do a Park Record and KPCW interview when the final report is released.</p> <p>With respect to PM2.5, Summit County did not exceed federal standards during this winter of brutal inversions. That said, I think we need to be discussing longer-term measures to help avoid what surrounding counties have experienced. These might include emissions testing, limits on wood burning fireplaces, increased non-idling efforts, etc. I'm working with DEQ to identify some options and then will coordinate with county agencies and others. We will be giving a Council update on this as well</p>
I.T.	<p><u>Submitted by Ron Boyer, Director of IT:</u></p> <ul style="list-style-type: none"> <li>• Had 16 walk-in requests and 3 internal requests for GIS maps.</li> <li>• Continue to coordinate with Tyler and Abarasoftware to adjust Eagleweb site for payment service.</li> <li>• Testing setup for Health Department USIIS system with departments clinical software.</li> <li>• Beginning implementation of Westlaw system for Attorney's office.</li> <li>• Website updates: posted videos, Healthy Lifestyles and Harassment Training, both internal. Posted job openings, Call to Artists for upcoming Artscape competition, added Expedited Solar Permit to Building permit system.</li> <li>• Spoke with member of public to discuss concerns with information on website.</li> <li>• Evaluating phone system at Public Works and Animal Control facility to decrease cost and upgrade equipment. Setup internet fax for Animal Control.</li> <li>• Contacted Allwest to update data connection at Building in Kamas and USU Extension.</li> <li>• Support tickets for period Feb 11 – Feb 177 Opened 164 Closed</li> </ul>
Justice Court	<p><u>Submitted by Shauna Kerr, Justice Court Judge:</u></p> <p><b>February 25, 2013 Case Filing Updates:</b> February has been a busy month for the Justice Court with appearances by defendants cited or booked during the holidays and in January. From Jan 30-February 19<sup>th</sup> we had 309 traffic violations filed and of those 17 cases involved Driving Under the Influence of Alcohol or Drugs [DUI]. Of the 309 traffic matters filed 172 were moving violations and the majority of non-moving violations involve driver license violations. One of the tools that Courts in Utah have to assure appearances at all hearings and scheduled court dates is the ability to issue a FTA [Failure to Appear} suspension of the defendant's drivers license. This suspension remains until the defendant appears in the suspending court and receives a clearance that must be filed with Drivers License division [DLD]. In addition the court has the ability to suspend a defendant's drivers license if they fail to comply with the courts orders and this is called a Failure to Comply [FTC] suspension. This suspension remains in effect until compliance is obtained. Because of these two tools many individuals find that their driving privilege in this state is suspended. Driving on suspension or revocation is probably the most frequently charged traffic violation we see in the court. The bail schedule for driving on suspension is \$300.00. Speeding, traffic control device violations and other minor moving violations are generally resolved with a bail forfeiture and no appearance required in the court. The court disposed of 257 traffic cases in February through pleas, trials or bail forfeitures.</p> <p>The Justice Court received 80 new criminal case filings during the first three weeks of February and disposed of 73 cases. Controlled substance charges were the number one type of charge filed with 35 cases being filed during this period.</p> <p><u>Case Pending Reports.</u> The court has the ability to track the age of pending cases and to prioritize older cases for disposition. We ran the Case Pending Report last week and found that the oldest case</p>

<u>Department</u>	<u>Description of Updates</u>
	<p>currently pending in our court was a DUI from 2010 and that case was set for a jury trial on Thursday Feb 28, 2013. However, a subsequent review of this old DUI charge showed that this is actually at 3<sup>rd</sup> DUI related offense within the past 10 years for this defendant so this case was properly dismissed in the Justice Court by motion of the County Attorney's office and re-filed as a third degree felony in the Third District Court. There are 9 other cases that are older than 400 days pending in this court and three of those are set for Wednesday 27<sup>th</sup> and should be finally disposed of on that date. The average day pending in our court currently is 62 days but with the removal of these oldest cases that number will decrease. As per the last report we have 258 cases on tracking, 421 cases calendared and 52 cases with warrants issued and a total filed case load at this time of 817 cases.</p> <p><b>Staffing Updates: Please join us on Friday March 8<sup>th</sup> for a celebration for our retiring Senior Court Clerk, Annette Stevens.</b> We will have a celebration at the Justice Court from 12:30-2:20 PM to thank Annette for her years of service to Summit County. We are currently advertising for an entry level Clerk I to fill this vacancy. The job announcement closes on Friday March 1, 2013 and we hope to begin, screening, interviews and hiring soon thereafter. I will be meeting with the Council in the near future to discuss some payroll/budget concerns resulting from this transition.</p>
Library	
Mountain Regional Water	
Park City Fire Service District	<p><u>Submitted by Paul Hewitt, Fire Chief:</u></p> <ul style="list-style-type: none"> <li>➤ PCFD will be implementing a pilot motorcycle program this Spring. These two small bore motorcycles will be used to service special events and hard to get to locations. They will be equipped with all the medical gear our Paramedics use.</li> <li>➤ Park City Staff attended the annual Utah State Fire Caucus at the Capitol Rotunda February 11. This is our opportunity to discuss important fire issues with our state and local representatives.</li> <li>➤ PCFD's "Tackle the Tower" team took second place in this annual event to benefit the American Lung Association on February 23.</li> <li>➤ Firefighters Scott Greenwood and Sean Briley participated in the "Polar Plunge" benefitting Special Olympics on February 13.</li> <li>➤ Specialty ice rescue Training and large animal rescue in the next month</li> </ul>
Personnel	<p><u>Submitted by Brian Bellamy, Personnel Director:</u></p> <p><b>Personnel</b></p> <ol style="list-style-type: none"> <li>1. Jobs Advertised <ol style="list-style-type: none"> <li>a. Animal Control Officer – 2 applications – closes March 8</li> <li>b. Community and Public Affairs Coordinator – 101 applications – closes March 1</li> <li>c. Contract Attorney – 44 applications – open until filled</li> <li>d. Corrections Officer – 253 applications – open roster</li> <li>e. Justice Court Clerk – 31 applications – closes March 1</li> <li>f. Plans Examiner – 4 applications – closes March 1</li> <li>g. Senior Engineer – 8 applications – closes March 8</li> </ol> </li> <li>2. Setup interviews for Fair Coordinator</li> <li>3. Updated two Worker's Comp claim and one FMLA letter</li> <li>4. Held one new employee orientation</li> <li>5. Reconciled dental insurance with Auditor's Office</li> <li>6. Continued discussions with Prudential Insurance regarding life insurance issues</li> <li>7. On-going emergency management meetings</li> <li>8. Employee performance evaluation reminders sent and made departmental changes in program</li> <li>9. Worked with Sheriff's Office on job descriptions</li> </ol>

<u>Department</u>	<u>Description of Updates</u>
	<p>10. Researched employee concerns from Sheriff's Office</p> <p>11. Multiple verifications of employment</p> <p>12. Ronie worked on ERMCC certification</p> <p>13. Met with multiple department heads regarding employee issues</p> <p>14. More work on lawsuit</p> <p>15. Continue to answer public inquiries regarding county employment</p> <p>16. Serve county employee's needs</p> <p><b>Animal Control</b></p> <ol style="list-style-type: none"> <li>1. 8 dogs are in the shelter along with 7 cats <ol style="list-style-type: none"> <li>a. 10 new animals were received by Animal Control this week</li> <li>b. 2 dogs were transferred</li> <li>c. 0 cats were transferred</li> <li>d. 0 dogs adopted</li> <li>e. 0 cats adopted</li> <li>f. 1 dog claimed by owner</li> </ol> </li> <li>2. Field Supervisor attended Utah Animal Control Association Annual Meeting.</li> <li>3. Officers ran 43 details for the week.</li> <li>4. Created and updated one additional form for Animal Control</li> </ol>
Public Works	<p><u>Submitted by Kevin Callahan, Public Works Director:</u></p> <p><b>Wildland Fire</b> Met with State Forestry, Fire and State Lands on a pilot program to allow County Fire Warden to have citation authority for county fire codes. Based on that meeting it appears that we have state agreement on proceeding with a pilot program which may have to be formalized in a written agreement. Worked with Fire Warden on final edits to proposed code revision for fire cost recovery.</p> <p><b>Solid Waste</b> Completed a tour of county solid waste facilities with new SW Superintendent SW Superintendent began safety training program with landfill staff.</p> <p><b>Fleet Management</b> Reviewed potential for CNG in new plow trucks Reviewed new design for city/county triangle parcel for new public works yard Met with Sustainability Coordinator on CNG fleet strategy</p> <p><b>Emergency Management</b> Completed concept design for April Great Shake out exercise for Summit County Met with Park City Fire on potential uses for Hazardous Materials Emergency Preparedness grant</p> <p><b>Road Division</b> Reviewed revised draft plan for Highway 40 public works facility in advance of committee</p>
Recorder	
Treasurer	<p><u>Submitted by Corrie Forsling, County Treasurer:</u></p> <ul style="list-style-type: none"> <li>• Completed installation of Check 21 bank upload process. Now scanning each check only one time—it is then applied directly to the tax account and uploaded to Zions Bank for payment. This saves about 10-15 minutes per day currently, but will be a significant time savings at tax time in November/December.</li> <li>• Working closely with Clerk's office to specify process for billing Kimball Area Transit fee to new &amp; relocated business license applicants.</li> <li>• Beginning the process of making online payment available for the Kimball Transit District.</li> <li>• Tax Collections for the week of 2/18/13: <ul style="list-style-type: none"> <li>○ Real Property: \$150,326.40</li> <li>○ Personal Property: \$11,019.70</li> </ul> </li> </ul>

<u>Department</u>	<u>Description of Updates</u>
	<ul style="list-style-type: none"> <li>• General Funds received for the week of 2/18/13: <ul style="list-style-type: none"> <li>○ Clerk (Business License Renewals): \$17,219</li> <li>○ Clerk (other): \$527</li> <li>○ Animal Control: \$297</li> <li>○ Building: \$15,523.83</li> <li>○ Engineering: \$6,487</li> <li>○ Health: \$86,954.46</li> <li>○ Library: \$478.92</li> <li>○ Planning: \$2,097.34</li> <li>○ Recorder: \$9,714.75</li> <li>○ Senior Citizens: \$1,826.59</li> <li>○ Fair: \$1,742.75</li> <li>○ Public Works: \$10,924.12</li> <li>○ Sheriff: \$68,942.57</li> <li>○ Payments on A/R: \$616.20</li> <li>○ Other Misc: \$24,031.51</li> </ul> </li> </ul>
Sheriff	<p><u>Submitted by Justin Martinez, Bureau Chief:</u>  Our suspect in the high speed chase was arrested yesterday by Lt. Lange. He obtained a full confession and then was booked into our jail.</p> <p>Detective Paul Scott received a wall-mount award for his service with the DEA.</p> <p>The Sheriff's office and the Park City Police Department joined together to raise over \$1600.00 for Special Olympics in last Saturday's Polar Plunge. (Very cold)</p>
Snyderville Basin Recreation	
USU Extension	<ul style="list-style-type: none"> <li>- USU Extension held their weekly master gardener class with 26 homeowners in attendance</li> <li>- 20 individuals were assisted with their tax return preparation through USU Extension/VITA tax program in Summit County</li> <li>- USU Extension held their monthly cooking instruction class with 15 homemakers in attendance</li> <li>- Approximately 130 4-H and FFA market livestock exhibitors and their parents attended an educational livestock exhibitor meeting co-sponsored by the USU Extension office</li> <li>- USU Extension sponsored a Utah Marriage Coalition class in Summit County with 42 individuals in attendance</li> <li>- USU Extension agent spent time meeting with the Summit County Fair board</li> </ul>

**RESOLUTION SUPPORTING MEDICAID EXPANSION  
SUMMIT COUNTY, UTAH**

**WHEREAS**, the expansion of Medicaid under the Affordable Care Act is of statewide concern; and,

**WHEREAS**, in Summit County, 16% of adults (approximately 3,859 individuals) are uninsured, and more than half of these adults would benefit from the opportunity to enroll in Medicaid; and,

**WHEREAS**, due to the recent Supreme Court decision, Summit County adults with incomes over 100% and up to 400% of the federal poverty level will be eligible to purchase subsidized insurance through Utah's future American Health Benefit Exchange (individual insurance market) if they don't already have insurance through their current employer; and,

**WHEREAS**, should the State elect to expand Medicaid, childless adults earning up to 138% of the federal poverty level, as well as parents earning between 44% and 133% of the federal poverty level, would be eligible to enroll in Medicaid; and,

**WHEREAS**, should the State not elect to expand Medicaid, those individuals with incomes between 100% and 400% of the federal poverty level will still be required to purchase insurance, while those below 100% of the federal poverty level won't have access to affordable health insurance coverage at all; and,

**WHEREAS**, research has shown that when parents have insurance coverage, their children are more likely to obtain and use insurance (see [Given the Association between Parent and Child Insurance Status, New Expansions May Benefit Families](#) (GAO-11-264, February 4, 2011)); and,

**WHEREAS**, the Medicaid expansion will cost the State of Utah nothing for the first three years if Utah opts in to the expansion starting in 2014, as the federal government has committed to cover 100% of the costs for that period; and,

**WHEREAS**, thereafter, the State of Utah's portion of the expansion costs until 2020 will never exceed 10% of the overall costs; and,

**WHEREAS**, the estimated costs of the Medicaid expansion in 2014 (approximately \$3.9 million) are probably less than the costs of services provided to the same population that are currently receiving care in a more expensive and less cost effective environment (i.e.; mental hospitals, emergency rooms, and jails);

**NOW, THEREFORE**, be it resolved by the County Council, Summit County, Utah, that based upon cost-benefit analyses in other states and on the data that is available for Utah and Summit County, we recommend full support for the Medicaid expansion to both the Governor and Utah State Legislature.

APPROVED AND ADOPTED this 6th day of March, 2013.

SUMMIT COUNTY COUNCIL  
SUMMIT COUNTY, UTAH

ATTEST:

By: \_\_\_\_\_  
Claudia McMullin, Chair

\_\_\_\_\_  
Kent Jones, County Clerk

**DAVID R. BRICKEY**  
**COUNTY ATTORNEY**

Criminal Division

JOY E. NATALE  
Prosecuting Attorney

RYAN P.C. STACK  
Prosecuting Attorney

MATTHEW D. BATES  
Prosecuting Attorney

Summit County Courthouse, 60 N. Main #227, P.O. Box 128  
Coalville, Utah 84017

Telephone (435) 336-3206 Facsimile (435) 336-3287  
Email: (first initial)(last name)@summitcounty.org

Civil Division

DAVID L. THOMAS  
Chief Deputy

JAMI R. BRACKIN  
Deputy County Attorney

HELEN E. STRACHAN  
Deputy County Attorney

**MEMORANDUM**

To: County Council

From: David L. Thomas, Chief Civil Deputy

Date: February 28, 2013

Re: Franchises

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1. Last week we discussed the draft franchise ordinance.
2. The Ordinance does the following:
  - a. It recites the statutory authority which allows county legislative bodies the ability to grant franchises along and over the public right of way.
  - b. It provides a definition section which more fully describes the critical legal “terms of art” that pertain to the ordinance.
  - c. It requires that all entities desiring to use the public right of way obtain a franchise from the county council.
  - d. It sets up a three tiered system of franchises.
    - (i) Public Utilities: These are governmental entities or entities regulated by the PSC.
    - (ii) Private Utilities: These are unregulated private entities that are required to show a good faith effort to obtain private easements prior to requesting the use of the public right of way.
    - (iii) Telecommunications Services: These are Cable TV and OVS operators who are regulated in accordance with the Cable TV Act of 1992. The County, as the Franchising Authority, has power to regulate certain unique aspects of the telecommunications service.
  - e. It requires that the grantee obtain an excavation permit when constructing within the public right of way.
  - f. It provides that the County may charge a franchise fee for the use of the public right of way.
  - g. It contains a “Preemption” provision, whose purpose is to protect the county ordinance from judicial repeal should the FCC take the position that portions of the ordinance are preempted under federal law.
3. I have added a definition and provision regarding “Cable Modem Service,” which is internet services. The preemption section has been amended to include a provision that should FCC Rule or judicial determination alter the status of Cable Modem Services so that local regulation applies, then such will be treated in the same manner as “Telecommunications Service” under the ordinance.

**AMENDMENTS TO TITLE 7, CHAPTER 1 OF THE SUMMIT COUNTY CODE  
USE OF COUNTY RIGHTS OF WAY**

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

**PREAMBLE**

**WHEREAS**, the County may require that entities using the public right of way enter into franchise agreements; and,

**WHEREAS**, as a result of federal and state law, entities using the public right of way are subject to varying degrees of regulation by the County; and,

**WHEREAS**, this Ordinance accordingly amends Summit County Code, Title 7, Chapter 1, to require a franchise to utilize the public right of way and to provide for regulations with respect to telecommunication services that utilize the public right of way;

**NOW, THEREFORE**, the County Council of the County of Summit, State of Utah, ordains as follows:

Section 1.     **Amendments.** Use of County Rights of Way, Summit County Code, Title 7, Chapter 1 is amended in accordance with Exhibit A herein.

Section 2.     **Effective Date.** This Ordinance shall take effect 15 days after approval and upon publication in accordance with law.

Enacted this \_\_\_\_ day of \_\_\_\_\_, 2013.

ATTEST:

Summit County Council

\_\_\_\_\_  
Kent Jones  
Summit County Clerk

\_\_\_\_\_  
Claudia McMullin, Chair

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Approved as to Form  
David L. Thomas  
Chief Civil Deputy

VOTING OF COUNTY COUNCIL:

Councilmember Armstrong	_____
Councilmember Robinson	_____
Councilmember Ure	_____
Councilmember Carson	_____
Councilmember McMullin	_____

# **EXHIBIT A**

# Chapter 1

## USE OF COUNTY RIGHTS OF WAY

7-1-1: LEGISLATIVE FINDING:

7-1-2: LEGISLATIVE POLICY:

7-1-3: CRITERIA; PUBLIC UTILITIES:

7-1-4: CRITERIA; OTHERS:

7-1-5: EXCAVATION PERMIT APPROVALS; APPEAL:

7-1-6: ADMINISTRATIVE FEES:

### 7-1-1: LEGISLATIVE FINDING:

It is the specific finding of Summit County that all "county rights of way", where the county council is the highway authority, are and were acquired for the purposes of:

A. Transporting people and animals through Summit County.

B. Conveying transmission facilities of public utilities, ~~"utilities" (governmental service districts, water companies or utilities regulated by the public service commission of Utah)~~ to developed or developing areas within Summit County. (Ord. 710, 12-17-2008, eff. 1-1-2009)

### 7-1-2: AUTHORITY LEGISLATIVE POLICY:

Summit County may grant franchises along and over the public roads and highways for all lawful purposes, upon such terms, conditions, and restrictions as in the judgment of the county council are necessary and proper, to be exercised in such manner as to present the least obstruction and inconvenience to the traveling public. UCA §17-50-306.

~~A. The county council hereby declares that it is the official policy of Summit County that any entity identified in subsection 7-1-1B of this chapter, desiring to use "county rights of way" for the purposes defined in section 7-1-1 of this chapter, must comply with the criteria set forth in section 7-1-3 of this chapter.~~

~~B. The county council hereby declares that it is the official policy of Summit County that any entity not identified in subsection 7-1-1B of this chapter, desiring to use "county rights of way" for the purposes defined in section 7-1-1 of this chapter, must comply with the criteria set forth in section 7-1-4 of this chapter. (Ord. 710, 12-17-2008, eff. 1-1-2009)~~

### 7-1-3: DEFINITIONS:

Cable Modem

Service: offering of internet services for a fee directly to the public in accordance with rules established by the FCC.

County: Summit County, Utah.

County Council: Legislative body of Summit County.

County Right of Way: the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, concourse, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, public water or public easements, or other public way within the County, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining private utilities, public utilities, and telecommunication services.

Franchise: a nonexclusive initial authorization, or renewal thereof, issued by the County which authorizes the construction, maintenance or operation of a public utility, private utility, or telecommunication service system along the county right of way. A Franchise shall not be construed to include any general license required for the privilege of transacting and carrying on a business within the County as may be required by other ordinances and laws of the County, or for attaching devices to poles or structures, whether owned by the County or a private entity, or for excavating or performing other work in or along the county right of way, unless otherwise provided in a Grantee's Franchising Agreement.

Franchise

Agreement: a contract entered into pursuant to this chapter between the County and a Grantee that sets forth, subject to this chapter, the terms and conditions under which a Franchise will be granted and exercised.

Grantee: a natural person, domestic or foreign corporation, partnership, limited liability company, association, joint venture or organization of any kind granted a Franchise by the County Council, and any lawful successor thereto, or transferee or assignee thereof.

Open Video System

"OVS": a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service, including video programming, that is provided to multiple customers within a community, including, but not limited to pedestals, equipment enclosures (such as equipment cabinets), amplifiers, power guards, nodes, cables, fiber optics and other equipment necessary to operate the OVS, or installed in conjunction with the OVS, the operator of which has been certified by the FCC.

Person: an individual, partnership, association, joint stock company, organization, corporation, joint venture, limited liability company, or any lawful successor thereto or transferee thereof, but such term does not include the County.

Private Utility: a utility which either is not regulated by the Utah Public Service Commission, is not a governmental entity, and is not a telecommunications service.

Public Utility: a utility which either is regulated by the Utah Public Service Commission or is a governmental entity.

Telecommunications: the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications

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Service: offering of telecommunications for a fee directly to the public or to such classes of users as to be effectively available directly to the public, regardless of facilities used. For purposes of this chapter, telecommunication services shall not include telephone and telegraph services. Telecommunication services shall include cable tv and OVS.

Utility: a business or service which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as electricity, natural gas, water, sewer, or telephone service.

#### **7-1-4: FRANCHISE REQUIRED:**

No Person shall construct, install, maintain or operate a private utility, public utility, or telecommunications service on, over, through, or within the county right of way, or on, over, through or within any other public property of the County, unless that Person has been granted a Franchise by the County Council and its Franchise Agreement is in full force and effect.

#### **7-1-53: CRITERIA; PUBLIC UTILITIES:**

"Public Utilities" seeking to obtain a franchise to utilize a "county right of way", for the purposes defined in section 7-1-1 of this chapter, must do the following as a prerequisite to the granting of an franchise-excavation permit:

- A. Have evidence on file with Summit County that it is a public utility as defined in subsection 7-1-4B3 of this chapter.
- B. Complete and submit the standard form of an excavation permit as provided by Summit County.
- C. Provide a written statement showing that granting of the requested franchise-excavation permit will further a public purpose.
- D. Provide evidence in the form of a guarantee or bond that work will be completed in a professional manner, and that any damage to roadway or roadbed will be repaired in a timely manner and said repairs will be guaranteed for a period of two (2) years. (Ord. 710, 12-17-2008, eff. 1-1-2009)

#### **7-1-64: CRITERIA; OTHER PRIVATE UTILITIES:**

"Private Utilities" ~~All other entities~~ seeking to obtain a franchise to utilize a "county right of way" for the purposes defined in section 7-1-1 of this chapter must do the following as a prerequisite to the granting of an franchise-excavation permit:

A. Provide evidence that the granting of an franchise excavation permit shall further a public purpose.

B. Provide evidence that the Private Utility applicant has attempted in good faith to acquire easements from private property owners to avoid the use of the county right of way.

C. Provide evidence that the county right of way, which is the subject of the application, has adequate capacity.

D. Complete and submit the standard form of an excavation permit as provided by Summit County.

E. Provide evidence in the form of a guarantee or bond that work will be completed in a professional manner, and that any damage to roadway or roadbed will be repaired in a timely manner and said repairs will be guaranteed for a period of two (2) years. (Ord. 710, 12-17-2008, eff. 1-1-2009)

### 7-1-7: CRITERIA; TELECOMMUNICATION SERVICES:

"Telecommunication Services" are governed by Title VI of the Telecommunications Act of 1934, as amended (the "Act"). Conditions and terms of any franchise agreement, including regulation of services and fees, shall comply with the Act. Franchises to Telecommunication Service providers shall be non-exclusive. Telecommunication Service providers seeking to obtain a franchise to utilize a "county right of way" must do the following as a prerequisite to the granting of a franchise:

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A. Provide evidence that the granting of a franchise shall further a public purpose.

B. Agree to the following service requirements, which shall be memorialized within the franchise agreement:

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1. Whenever the Grantee receives a request for telecommunication service from a County resident in a contiguous unserved area where there are at least 15 residences within 1320 cable-bearing strand feet (one-quarter cable mile) from the portion of the Grantee's trunk or distribution cable which is to be extended, it shall extend its system to such residents at no cost to said residents for the system extension, other than the published Standard/non-Standard Installation fees charged to all customers of Grantee for telecommunication services.

2. The Grantee is responsible for insuring that the telecommunication system is designed, installed and operated in a manner that fully complies with FCC rules in Subpart K of Part 76 of Chapter I of Title 47 of the Code of Federal Regulations as revised or amended from time to time.

3. The Grantee shall, upon request, provide without charge, one outlet of Basic Service to those County offices, fire station(s), police stations(s), public school building(s) and other County buildings that are passed by its system. The outlets of Basic and Expanded Basic Service shall not be used to distribute or sell services in or throughout such buildings, nor shall such outlets be located in areas open to the public. The Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said building or premises exceeds one hundred twenty-five (125) cable feet unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of one hundred twenty-five (125) cable feet. If additional outlets of Basic and Expanded Basic Service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials.

4. In accordance with and at the time required by the provisions of FCC Regulations Part 11, Subpart D, Section 11.51, and as other provisions which may from time to time be amended, the Grantee shall install and maintain an Emergency Alert System (EAS) for use in transmitting Emergency Act Notifications (EAN) and Emergency Act Terminations (EAT) in local and statewide situations as may be designated to be an emergency by the Local Primary (LP), the State Primary (SP) and/or the State Emergency Operations Center (SEOC), as those authorities are identified and defined within FCC Regulations, Section 11.18.

5. The Grantee will maintain a local, toll-free or collect call telephone access line which will be available to customers twenty-four (24) hours a day, seven (7) days a week.

6. Under Normal Operating Conditions, each of the following five (5) standards will be met no less than ninety-five percent (95%) of the time, as measured by the Grantee on a quarterly basis:

a. Standard installations will be performed within seven (7) business days after an order has been placed and the customer is ready to take service. Standard installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.

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b. Excluding conditions beyond its control, the Grantee will begin working on service interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The Grantee will begin actions to correct other service problems the next business day after notification of the service problem.

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c. The Grantee will provide "appointment window" alternatives for installations, service

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calls and other installation activities, which will be either a specific time, or at maximum, a four (4) hour time block during Normal Business Hours.

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d. The Grantee shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

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e. If a representative of the Grantee is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the Grantee will contact the customer as soon as possible but no later than thirty (30) minutes before the "appointment window" begins. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

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7. Notifications to customers:

a. The Grantee shall provide written information on each of the following areas at the time of installation of service, and at any time upon request:

i. Products and services offered;

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ii. Prices and options for services and conditions of subscription to programming and other services;

iii. Installation and service maintenance policies;

iv. Instructions on how to use the service;

v. Channel positions of programming carried on the system; and

vi. Billing and complaint procedures, including the address and telephone number of the local County's telecommunication services office.

b. Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the system and in writing. Notice will be given to customers a minimum of thirty (30) days in advance if the change

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is within the control of the Grantee. In addition, the Grantee shall notify customers thirty (30) days in advance of any significant changes in the other information required in §7-1-7(B)(7(a).

8. Billing:

a. Bills will be clear, concise and understandable. Bills will be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly describe all activity during the billing period, including optional charges, rebates and credits.

b. In case of a billing dispute, the Grantee will respond to a written complaint from a customer within thirty (30) days from receipt of the complaint.

9. Upon request by the County, the Grantee shall make available one (1) channel to be used for educational and governmental cablecast programming. If programming time is not used by the County and is available for sharing, the channel may be shared with other municipalities receiving programming from the common head end receive site location. The Grantee reserves the right to program the designated educational and governmental channel during the hours not used by the County or other governmental entities. This provision is not applicable to OVS services.

10. The County may adopt the requisite ordinances to regulate rates for the provision of Basic Cable TV Service and equipment as defined, provided and permitted by the 1984 Communications Act, as amended by the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Act"), or any successive legislation, together with implementing regulations promulgated by the FCC.

11. The Grantee shall file with the County on December 31 of each year a full schedule of all customer user rates and all other charges including, but not limited to, pay TV, lease channel and discrete services, made in connection with the system.

12. The County may perform technical tests of the system during reasonable times and in a manner that does not unreasonably interfere with the normal business operations of the Grantee or the system in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable state or federal laws. Except in emergency circumstances, such tests may be undertaken only after giving the Grantee reasonable notice thereof, not to be less than five (5) business days, and providing a representative of the Grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the County. The County agrees that such

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testing shall be undertaken no more than once a year without reasonable cause, including but not limited to customer complaints. The results thereof shall be made available to the Grantee.

13. The Grantee agrees that the County, upon thirty (30) days written notice to the Grantee, may review such of its books and records at the Grantee's business office, during Normal Business Hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of the Franchise. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Such notice shall specifically reference the Section of the Franchise which is under review, so that the Grantee may organize the necessary books and records for easy access by the County. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years from the date of the book or record. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing service within the County. The County agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide subscriber information in violation of Section 551 of the Cable Act.

14. On an annual basis, upon thirty (30) days prior written notice, the County, including the County Auditor or his/her authorized representative, shall have the right to conduct an independent audit of Grantee's records reasonably related to the administration and enforcement of the Franchise, in accordance with Generally Accepted Accounting Principles ("GAAP"). If the audit shows that franchise fee payments have been underpaid by five percent (5%) or more, Grantee shall pay the total cost of the audit. Such cost shall not exceed five thousand dollars (\$5000) for each year of the audit period without Grantee's prior written consent. The County's right to audit and the Grantee's obligation to retain records related to a franchise fee audit shall expire three (3) years after each franchise fee payment has been made to the County.

15. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Comprehensive Commercial General Liability Insurance in the amount of Two Million Dollars (\$2,000,000) combined single limit per occurrence and Three Million Dollars (\$3,000,000) aggregate for bodily injury and property damage. The Grantee shall provide to the County an Endorsement to the Insurance Policy designating the County as an additional primary insured. Such Endorsement shall provide that such insurance coverage is primary and not contributory to any insurance policy maintained by the County. Additionally, the Grantee shall maintain in full force and effect, Automobile Liability insurance with limits of no less than \$500,000 combined single limit per accident for bodily injury and property damage. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the County. The Grantee shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63G-7-604 of the

Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.

C. Provide evidence that the county right of way, which is the subject of the franchise, has adequate capacity.

D. Complete and submit the standard form of an excavation permit as provided by Summit County.

E. Provide evidence in the form of a guarantee or bond that work will be completed in a professional manner, and that any damage to roadway or roadbed will be repaired in a timely manner and said repairs will be guaranteed for a period of two (2) years.

F. Grantee shall pay to the County a franchise fee of five percent (5%) of annual Gross Revenue. The twelve (12) month period applicable under the Franchise for computation of the franchise fee shall be a calendar year. The period of limitation for recovery of any franchise fee payable under this chapter or for any overpayment shall be three (3) years from the date on which payment by the Grantee is due, or from the date payment is made in the case of an overpayment.

1. OVS that comply with 47 USC §573 and are certified by the FCC shall pay a fee in lieu of a franchise fee of 5% of annual Gross Revenue on the same basis as other telecommunication service providers having franchise agreements within the County.

## **7-1-85: EXCAVATION PERMIT APPROVALS; APPEAL:**

A. The county council has delegated the county engineer as the authority to approve, deny, or approve with conditions any and all excavation permits on county rights of way. The county engineer shall have wide discretionary power to grant or deny permits as deemed to be in the best interests of the county. Such decisions may be appealed to the county council, whose decision shall be final.

B. Upon receipt of a properly completed excavation permit application, the county engineer shall:

1. Review the application for completeness.
2. Review the area to be excavated to determine that adequate capacity is available, and that the placement of facilities applied for will not jeopardize any higher or more necessary uses known to the county.
3. Issue a timely response to the applicant in the form of an approved permit, approved permit with conditions, or permit denial. (~~Ord. 710, 12-17-2008, eff. 1-1-2009~~)

4. Where a franchise agreement is required under this chapter, the county engineer shall not issue an excavation permit prior to the county council's approval of the franchise.
5. The County Engineer is expressly empowered to determine the depth of the placement of all infrastructure within the county right of way.

### **7-1-96: FRANCHISE ADMINISTRATIVE FEES:**

The county council shall periodically set franchise administrative fees for the use of the county rights of way, as allowed in Utah code and federal law. (Ord. 710, 12-17-2008, eff. 1-1-2009)

### **7-1-10: PREEMPTION:**

- A. In the event that federal or state laws, rules or regulations preempt a provision or limit enforceability of a provision of this chapter, then the provision shall be read to be preempted but only to the extent and for the time, required by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended, or otherwise changed so that the provision herein that had been preempted is no longer preempted, parties shall negotiate in good faith to establish reasonable timeframes in which such provision shall thereupon return to full force and effect, and shall thereafter be binding on all grantees, without the requirement of further action on the part of the County.
- B. According to FCC Rule, Cable Modem Services are classified as "information services" whose regulation by state and local authorities has been preempted by federal law. In the event that FCC Rule or judicial determination alters the status of Cable Modem Services such that state and local regulation is no longer preempted, the County expressly reserves the right to treat Cable Modem Services in the same manner as a Telecommunications Service under this Chapter without further amendment.

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## STAFF REPORT

**To:** Summit County Council (SCC)  
**Report Date:** Thursday, February 28, 2013  
**Meeting Date:** Wednesday, March 6, 2013  
**Author:** Kimber Gabryszak, AICP  
**Project Name:** General Plan and Development Code Amendments

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**EXECUTIVE SUMMARY:** In recent months, the Eastern Summit County Planning Commission (ESCPC) has been discussing amendments to the Eastern Summit County General Plan (General Plan) as well as the Eastern Summit County Development Code (Code). As part of those discussions, the ESCPC has determined that a top priority is a set of amendments to state that the General Plan is advisory. This includes a statement in the General Plan to that effect, and amendments to the Code where appropriate to ensure that any references recognize the advisory role of the General Plan.

The ESCPC held two public hearings on December 19, 2012; they voted to forward positive recommendations to the Summit County Council (SCC) on both the General Plan and Code amendments.

The SCC reviewed these items at their February 27, 2013 meeting. Information that has changed is highlighted in yellow for convenience.

The SCC requested several modifications:

- Add language to the General Plan purpose statement to clarify that in the event of conflicts between the Code and General Plan, the Code language will govern.
- Remove references to consistency with the General Plan from the development review processes, and keep those references in the Zone Districts and other locations where appropriate.

Staff has made the requested edits and also highlighted other locations in the Code where references to the General Plan may be found. Staff felt it appropriate to leave references in the rezoning criteria, Development Agreement criteria, Specially Planned Area criteria, and similar.

**The SCC held a public hearing on the General Plan amendments on February 27, 2013, closed the public hearing, and continued the decision to this meeting with requested changes. Staff has made the requested changes and recommends that the SCC vote to approve the General Plan amendments.**

**The SCC opened a public hearing on the Code amendments on February 27, 2013, and continued the public hearing to this meeting with requested changes. Staff has made the requested changes and recommends that the SCC hold the public hearing and vote to approve the Code amendments.**

A. **Project Description**

- **Project Name & Type:** General Plan and Development Code amendments
- **Applicant(s):** Summit County
- **Location:** Applicable to Eastern Summit County
- **Zone District & Setbacks:** All
- **Type of Process:** Legislative
- **Routing / Final authority:** Summit County Council (SCC)

B. **Background**

The ESCPC has been involved in various Code and General Plan amendments for the past months and even years. As part of those discussions, the ESCPC and Staff have recognized the difficulties that have arisen from the regulatory nature of the General Plan, and unintentional conflicts that have arisen between the General Plan and Code. To avoid these conflicts and improve the processes in Eastern Summit County, the ESCPC has begun a rewrite of the Code, and are also preparing for further amendments to the General Plan.

Those future amendments will be very thorough, and likely take a lengthy process to complete. In the meantime, the top priority identified has been to state that the General Plan is advisory, to avoid regulatory conflicts for applications that are processed in the interim.

C. **Community Review**

The February 27, 2013 hearings were noticed in the *Summit County News* and posted in the community. As of the date of this report, no public comment has been received.

D. **Identification and Analysis of Issues**

**Impact of the General Plan**

State Code Section 17.27a.405 outlines the effect of general plans, and states that:

*[...] the general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.*

The section goes on to state that General Plans may be regulatory if the County adopts an ordinance stating that it is regulatory. This was done in the past for the General Plan, however issues have arisen due to vague language in the General Plan and unintentional conflicts between the specific language in both the General Plan and Code. These amendments seek to clarify that the Eastern Summit County General Plan is advisory to avoid such issues going forward.

As future Code amendments are processed, consistency with the General Plan will be reviewed to ensure that the vision of the General Plan is enacted through the Code.

E. **Findings/ Code Criteria and Discussion**

**1. General Plan Amendments**

The Code does not call out criteria for General Plan amendments, but State Code does outline the process, intent, and contents.

State Code Section 17.27a.103 defines a General Plan as:

*(16) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county.*

State Code Section 17.27a.401 contains the items that are required for General Plans. As part of an upcoming update, any missing items will be incorporated into the General Plan.

State Code Section 17.27a.102 outlines the purpose of the State Land Use code, with which the General Plan must comply:

*(1) (a) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each county and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.*

**Staff has reviewed the General Plan for compliance with these Sections and has found that it complies, with the exception of some missing sections (affordable housing, nuclear waste) which will be addressed in the next General Plan update.**

## **2. Code Amendments**

Section 11-5-3(B.1.c) of the Code outlines the standards for Code amendments, with Staff's analysis in italics under each criterion:

c. Approval of an amendment to the zone district map shall not be granted until both the Planning Commission and County Council have reviewed the specific development proposal and determined:

(1) The amendment complies with the goals of the General Plan;

*The role of the General Plan will more clearly be advisory, with the goals of the General Plan to be implemented through the Code. The amendments still require general consistency with the General Plan.*

(2) The amendment is compatible with adjacent land uses and will not be overly burdensome on the local community;

*Not applicable; there are no adjacent land uses or local community for this amendment, as the amendment is not limited to only one area.*

(3) The specific development plan is in compliance with all applicable standards and criteria for approval as described in Chapter 4 of this Title; and

*Not applicable; this is a general amendment that does not involve a specific development proposal.*

(4) The amendment does not adversely affect the public health, safety and general welfare.

*The amendment will better protect public health, safety, and welfare by making the process more clear, and making the Code more effective.*

F. **Recommendation(s)/Alternatives**

**Hearing and recommendation #1**

As the hearing on this item was closed on February 27, 2013, Staff recommends that the SCC discuss the General Plan amendments and vote to **approve** these amendments through adoption of an ordinance, with the findings and conditions below:

**Findings:**

1. The amendments comply with the standards in the State Code, as outlined in Section E.1 of this report.

**Conditions:**

1. The amendments will be edited as directed by the SCC.
2. Any other conditions as articulated by the SCC.

**Hearing and recommendation #2**

Staff also recommends that the SCC conduct a continued public hearing on the Development Code amendments and vote to **approve** these amendments through adoption of an ordinance, with the findings and conditions below:

**Findings:**

1. The amendments comply with the goals of the General Plan, as outlined in Section E.2 of this report;
2. The amendments comply with Section 11-5-3(B.1.c) of the Code, as outlined in Section E.2 of this report.
3. The amendment does not adversely affect the public health, safety and general welfare, as outlined in Section E.2 of this report.

**Conditions:**

1. The amendments will be edited as directed by the SCC.
2. Any other conditions as articulated by the SCC.

**Attachment(s)**

Exhibit A – General Plan Amendment – draft language (pages 5-6)

Exhibit B – Development Code Amendments – draft language (pages 7-36)

Exhibit C – Draft Ordinances (pages 37-38)

## INTRODUCTION

There is always going to be change; the question is whether Eastern Summit County merely bends to change, or acknowledges change and seizes the opportunity to manage it to the benefit of the residents. Eastern Summit County residents have a clear idea of what living here is about and how change is affecting their lives. But, they are not quite sure how to preserve those things that are important, (i.e. tolerance, interdependence, participation, and a rural agricultural lifestyle), given that the change often appears to be at odds with established Eastern Summit County values, customs, and traditions.

An influx of new residents, bringing with them new traditions, values and problems, together with new development patterns that are appearing from the valleys to the mountain tops in Eastern Summit County, often do not support the desires of those people that now live here. In the simplest of terms, development pressures are escalating property values in a manner that make it difficult for residents to pay property taxes, raise a family, and provide affordable housing opportunities for their children. It is now difficult to stay here, let alone preserve a rich heritage.

Eastern Summit County is unique. The rural agricultural way of life, its small towns, scenic beauty, spectacular natural resources, and the proximity to Park City and Salt Lake City make it a very desirable place to live. While there is a diversity of people here, the vast majority of the residents of Eastern Summit County share common values, a traditional work ethic, and a commitment to support each other. Collectively, these are qualities that must be preserved. However, Eastern Summit County stands to lose some of its uniqueness because of change that will be brought about by the growth pressure it now faces. It is our challenge in Eastern Summit County to understand the impacts of growth and make decisions now on how to create the most positive outcome for the future.

What is life in Eastern Summit County? John Winthrop, the first Colonial Governor of Massachusetts, defined the rural community lifestyle of his time like this:

*“Wee must delight in eache other, make other’s conditions our owne, rejoyce together, mourne together, labor and suffer together, allways having before our eyes our commission and community in the worke as members of the same body.”*

Given input from residents today, life in Eastern Summit County is largely based on the same principles as was life in colonial times. These principles are typically not found in city or suburban life. “In a democracy, by the very meaning of the word, the people govern – they create among themselves the conditions of their lives.” Here, the people are the ranchers and farmers, businessmen and women, individuals, employers, employees, and government. While one quote states the core values that must be preserved, the other shows that it is up to everyone here to protect that which “we” desire. It is our commission as citizens to create a Vision for Eastern Summit County to help shape the future we desire.

## ***PURPOSE OF THE PLAN***

The Eastern Summit County General Plan is an advisory document that is intended to provide a vision for Eastern Summit County. This vision is implemented through specific regulations governing development that are codified in the Eastern Summit County Development Code. If there is a conflict between the terms of this plan and the Eastern Summit County Development Code, the terms of the Development Code shall prevail.

The Eastern Summit County General Plan provides the type of guidance required for the governing body, planning commission, property owners, and each resident and to achieve the type of social, cultural, physical and economic environment desired. This plan attempts to:

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1. Recognize existing problems which can potentially negate any positive steps taken in the future to improve Eastern Summit County as a place to live and work and suggest remedial action for these problems;
2. Guide growth and development in a rational and creative manner that is consistent with the desires of the residents; and
3. Establish long-range guidelines and policies to assist decision makers in the consistent application of decisions, even when the composition of the decision making body changes.

By following these guidelines and policies, decisions will be directed at common goals and allow the County to adapt successfully to the challenges we will face.

Four points must be made about the nature of this Plan. First, the highest priority of this Plan is to establish standards and regulations to ensure that all growth is consistent and compatible with the desired rural, agricultural, small town character. Virtually every action suggested in the Plan supports this goal in a direct or indirect way.

Second, this Plan is a vision for all of Eastern Summit County. It is crucial that a common vision be established because the problems we face and the solutions we need overlap political jurisdictions. By establishing a common vision, it may be possible for the collective resources and actions of the County and municipalities to implement that vision and protect the culture and values of the residents of Eastern Summit County.

Third, this Plan includes all geographic areas of Eastern Summit County. While it does not plan areas within incorporated boundaries, it does provide mechanisms to ensure that growth and change outside municipal boundaries are compatible with municipal plans.

Fourth, this Plan is generalized. It does not indicate specific land use locations or detailed development regulations; but rather, it presents, in a general fashion, the type of land use patterns, development regulations and other programs and strategies which, based upon current and forecasted conditions, will best serve the needs of residents in the foreseeable future.

**TITLE 11  
EASTERN SUMMIT COUNTY DEVELOPMENT  
CODE**

**Exhibit B  
Code Amendments**

**CHAPTER 1  
RURAL AGRICULTURE PROTECTION  
PROGRAM**

**SECTION:**

- 11-1-1: Statement of Purpose
- 11-1-2: Rural Agriculture Protection
- 11-1-3: Agriculture Protection Area
- 11-1-4: Agriculture Preservation Incentive
- 11-1-5: Community Preservation Incentive
- 11-1-6: Preserving and Promoting Business Enterprises
- 11-1-7: Expectations for Public Infrastructure and Services

**11-1-1: STATEMENT OF PURPOSE:**

The Eastern Summit County General Plan (hereafter referred to as "the General Plan"), was developed to ensure that the rural, agricultural and small town character of the eastern portion of the county shall remain, even in the presence of growth and change. The intention of the county is to assure the managed, proper and sensitive development of land to protect and enhance these desired qualities and the lifestyle that exists. In adopting the Eastern Summit County Development Code (hereafter referred to as "the Code" or "this Title"), the county will fully exercise all of the powers granted to it by Utah Code Annotated title 17, to require, to the extent possible and practical, that all development and change within Eastern Summit County will occur in a manner that is consistent with the goals and expectations of the residents. In order to accomplish the stated purpose, this Title will:

- A. Protect the right to farm in Eastern Summit County and promote and encourage the preservation of agricultural lands, operations and open space;
- B. Establish incentives for preserving active agriculture lands and operations;
- C. Allow simple procedures for landowners to undertake minor subdivisions

of property to increase opportunities for residents and local workers to

11-1-1  
11-1-2

live in Eastern Summit County;

- D. Protect existing businesses that are important to the Eastern Summit County economy from the encroachment of new residential development;
- E. Allow appropriate flexibility with regard to the location of land uses and other zoning matters, so long as the resulting use of the land is compatible with its surroundings and ~~generally consistent with the~~ General Plan;
- F. Ensure that new development is undertaken in a manner that is sensitive to the rural, agricultural and small town character, and make every effort to ensure that new development will not bring about change that is inconsistent with the underlying community values and resources;
- G. Prevent or minimize development when it will significantly increase potential dangers to life and safety of existing and future residents and emergency service personnel;
- H. Require a common sense approach to development and ensure that people choosing to locate in remote areas of the county recognize and accept the possible consequences of their actions;
- I. Preserve the natural resources of Eastern Summit County;
- J. Ensure that development is compatible with wildlife habitats and environmentally sensitive areas;
- K. Ensure that the county and incorporated municipalities cooperate in guiding development near the boundaries of each municipality; and
- L. Protect private property rights. (Ord. 278, 5-6-1996)

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### 11-1-2: RURAL AGRICULTURE PROTECTION:

Maintaining viable agricultural lands and operations and rural business enterprises is crucial to the public health, safety and welfare of Eastern Summit County. New development must assume the responsibility for creating a compatible relationship with the normal operations of these activities. To this end, no subdivision plat shall be approved by the county without a plat note containing the language stated below. No building permit shall be issued for any previously platted lot without an acknowledgment in writing from the owner (titled "Memorandum of Understanding") containing the language stated below. The executed memorandum of understanding and plat shall be filed in the records of the County Recorder to notify any future owner of the lot about the

presence of agricultural and rural business operations in Eastern Summit County. It shall state:

11-1-3

*The owners of property within Eastern Summit County recognize the importance of agricultural lands and operations and small rural business enterprises. It is recognized that agricultural lands and operations and rural business enterprises have unique operating characteristics that must be respected. (Owners of each lot platted in this subdivision/the owner of the residence constructed upon this lot) have/has been given notice and recognizes that there are active agriculture lands and operations and rural business enterprises within Eastern Summit County and acknowledges and accepts that, so long as such lands and operations exist, there may be dust, noise, odor, prolonged work hours, use of roadways for the purposes of herding/moving animals, and other attributes associated with normal agricultural operations and rural businesses. (Ord. 278, 5-6-1996)*

### **11-1-3: AGRICULTURE PROTECTION AREA:**

**The General Plan** seeks to ensure that agricultural land uses and operations in Eastern Summit County are protected, to the extent possible, from the adverse affects of development. It is the intent of the agricultural protection program to: a) provide incentives to farmers and ranchers that encourage them to stay on the land; b) augment and carry out the state's Agricultural Protection Area provision, established in Utah Code Annotated, Section 17-41-101, to maintain agricultural activities that are valuable to the state and the county; c) protect farmers and ranchers from nuisance complaints, undesirable rezoning, and unreasonably restrictive state and local actions; and, d) educate and raise the awareness of developers and new residents that Eastern Summit County values, which form the foundation of the **General Plan**, will be protected from any adverse affects of development and help ensure the right to farm in Eastern Summit County.

- A. Agriculture Protection Advisory Board: The County Manager, with the advice and consent of the County Council, shall appoint members to an Agriculture Protections Area Advisory Board (Advisory Board) in accordance with state law. The Advisory Board shall:
1. Evaluate each proposal for the creation of an Agriculture Protection Area and make a recommendation to the County Council regarding the acceptability of the proposal;
  2. Provide advice to the Planning Commission, County Manager and County Council about:
    - a. The desirability of each proposed Agriculture Protection Area designation;
    - b. The nature of agricultural production within each proposed Agriculture Protection Area;
    - c. The relation of agricultural production within the proposed

The Cluster Bonus/Agricultural Preservation Subdivision shall be applicable for legally

11-1-5

11-1-6

created lots/parcels in the AP zone district, which constitute the heaviest concentration of agricultural enterprises and is located within the primary county infrastructure and service area. Chapter 4 of this Title defines the procedures related to the Cluster Bonus/Agriculture Preservation Subdivision. (Ord. 278, 5-6-1996)

### **11-1-5: COMMUNITY PRESERVATION INCENTIVE:**

The minor subdivision of property and Cluster Bonus Minor Subdivision provisions are hereby created with the intent of increasing opportunities for residents and local workers to afford a place to live in Eastern Summit County. The minor subdivision of property and the Cluster Bonus Minor Subdivision provisions shall be applicable only in the AP and HC zone districts, which constitute the areas where the county's primary infrastructure and services are located. These provisions shall apply to any legally created lot/parcel. Chapter 4 of this Title defines the procedures related to the minor subdivision of property and Cluster Bonus Minor Subdivision provisions. (Ord. 278, 5-6-1996)

### **11-1-6: PRESERVING AND PROMOTING BUSINESS ENTERPRISES:**

- A. Existing Enterprises: There are many viable rural business enterprises in Eastern Summit County that are being encroached upon by new residential development. These business operations remain viable; some need to expand. These operations require protection from the effects of new residential development, in much the same way as agricultural lands and operations. Business enterprises that existed on the effective date hereof, so long as they were lawfully established under previous zoning regulations, shall hereunder be considered a "permitted use" within the zone district that they are located.
- B. Expansion of Existing Enterprises: The expansion of lawfully established business enterprises shall require a "Conditional Use" approval, as described in Section 11-4-5 of this Title. The intent of the Conditional Use approval shall be to ensure compatibility with surrounding uses to the extent practical and reasonable. They shall be allowed to undertake appropriate expansion when they reasonably mitigate potential impacts on nearby residential land uses. Provisions for mitigation are described in Chapter 2 of this Title.
- C. Promoting New Enterprises: New business enterprises, and jobs within the tax base that will result, are crucial to the future of Eastern Summit County. It is difficult to identify locations for such activities without a specific proposal to consider. Therefore, a procedure has been incorporated in this title that allows the county the flexibility to consider these uses in the future. The specially planned area offers business operators, who desire to locate in Eastern Summit

Council to foster any business that promotes the goals and objectives of the General Plan and is compatible with its surroundings. (Ord. 278, 5-6-1996)

## 11-1-7: EXPECTATIONS FOR PUBLIC INFRASTRUCTURE AND SERVICES:

- A. Memorandum of Understanding Required: Although the county endeavors to provide reasonable and appropriate infrastructure and services which adequately serve allowed land uses in Eastern Summit County, certain new buildings/structures and developments, because of location, will not be easily served by the county or special districts. If a person chooses to construct a new residential or commercial structure, or obtain development approval in areas removed from the county's primary infrastructure and service area, the developer/owner shall acknowledge in writing (titled "Memorandum of Understanding") at the time of development approval, or in the instance of a previously platted lot at the time of building permit issuance for a new structure, the following:

*The property owner acknowledges that he/she is building in a location that is far removed from the primary Summit County service areas. As such, the property owner is on notice that there is limited access, infrastructure and public services in the area. Some services, which include, but are not limited to, garbage pick up and school bus service, will not be provided. Emergency response time will be longer than it is in more accessible areas, and access by emergency vehicles may be impossible at times due to snow and road conditions. The owner understands and acknowledges that there may be infrastructure in these remote locations that does not meet adopted county infrastructure standards. It is the intent of Summit County to attempt to continue to provide the existing variety, scale and frequency of public services and infrastructure for all existing and new development in these remote areas of Eastern Summit County. It is not the intent of Summit County to increase the variety, scale and frequency of public services and infrastructure or to provide urban levels of service and infrastructure in these areas. By this notice, the property owner assumes the risks of occupancy as outlined above, and is hereby put on notice that there are no anticipated changes in the levels of services or infrastructure by either Summit County or the appropriate special service district, nor does the property owner expect changes beyond those identified herein.*

- B. Recording: This acknowledgment shall be deemed to run with the land and, as such, shall be recorded at the developer/owner's expense in the records of the County Recorder to provide notice to future property owners regarding service level expectations. (Ord. 278, 5-6-1996)

front property line. In cases where the property lines extend to the center of a private driveway or access road, the minimum setback shall be fifty five feet (55') from the centerline of the driveway or road. The minimum side and rear setbacks for all structures shall be twelve feet (12').

11-3-8

11-3-9

For structures taller than thirty-two (32) feet and/or parcels larger than five (5) acres, the setbacks shall be at least one hundred feet (100') from any public road right-of-way or, in the absence of a designated right-of-way, at least one hundred twenty feet (120') from the centerline of the public roadway, and the minimum side and rear setbacks shall be fifty feet (50').

Wetlands and Streams: The minimum setback from wetlands shall be forty feet (40'). The minimum setback from any other naturally occurring year-round stream, lake, pond or reservoir shall be one hundred feet (100') from the ordinary high water mark.

- G. Special Requirements: Special landscape screening and other buffer requirements, to the extent practical and reasonable, may be required to minimize the impact on adjacent uses. Special screening and buffer requirements shall be determined through the planning permit review processes.

### 11-3-9: INDUSTRIAL (I):

- A. District Intent: This zone district is established for the purposes of providing locations for those industrial land uses that are **generally** consistent with and supportive of the goals of The Eastern Summit County General Plan. This zone district is intended to encourage industrial development near incorporated municipalities, where adequate services are generally available. However, it also is intended to permit an appropriate diversity of economic activity at other appropriate locations to support the needs of Eastern Summit County residents when appropriate services can be made available and the use is compatible with its surroundings. Industrial uses are reviewed through the Conditional Use review process.
- B. Existing Legal Non-Conforming Industrial Uses: Existing legal non-conforming industrial uses not located within an Industrial zone district may continue and may be enlarged and/or expanded in accordance with Section 6.20 of the Code and the Industrial Use Criteria listed in Subsection "C" below.
- C. Industrial Zone and Use Criteria: New industrial uses shall not be established nor shall existing industrial uses be expanded within the industrial zone unless the use complies with all of the following criteria.

- I. Special Requirements: Special landscape screening and other buffer requirements, to the extent practical and reasonable, may be required to minimize the impact on adjacent uses. Special screening and buffer requirements shall be determined through the Conditional Use review processes.

### 11-3-10: SPECIALLY PLANNED AREA (SPA):

11-3-10

- A. District Purpose: The purpose of the SPA zone district is to allow, at the discretion of the county, flexibility in the use of land, densities, site layout, and project design. The county shall only use **the SPA Zone** when it is clearly demonstrated that in doing so, substantial benefits will be derived by the residents of Eastern Summit County. The SPA zone may be designated by the county only after an application has been submitted by the owner of the property to be considered in the application. The burden shall rest upon an applicant to demonstrate that the proposed SPA is in the best interest of the general health, safety, and welfare of Eastern Summit County residents. The SPA is intended to:
  - 1. Permit innovative considerations in the development of land to ensure that development is undertaken in a manner that significantly further the goals and objectives of the Eastern Summit **County General Plan**;
  - 2. Allow a creative approach to the development and use of the land and related physical facilities to produce better development, design and construction of quality and aesthetic amenities;
  - 3. Allow for a choice in the type and quality of environments, including a mix of land uses, available to residents and the public;
  - 4. Better relate residential, commercial, and industrial development with community facilities and infrastructure location, size, and design;
- B. Requirements for Approving an SPA: Before an SPA zone is designated in any area, the Planning Commission and County Council shall determine the following:
  - 1. That there are substantial tangible benefits to be derived by the general public of Eastern Summit County that significantly outweigh those that would otherwise be derived if development occurred under the provisions of the underlying zone district;
  - 2. That there are unique circumstances, above the normal limitations and allowances of the underlying zone, that justify the use of an SPA;

3. That the development proposed in an application for SPA consideration is compatible with the rural, agricultural, and small town character of Eastern Summit County;
4. That the development proposed in the application will not adversely affect the social, cultural, and rural values and institutions of Eastern Summit County;

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5. That the development proposed furthers the goals and objectives of the General Plan;

6. That the development proposed complies with criteria described in this Title for approving a development project, including;
  - a. The development evaluation standards contained in Chapter 2 of this Title;
  - b. The criteria for approving an SPA that are described in Section 11-4-5 of this Title;
  - c. The provisional requirements of development agreements in Section 11-6-10 of this Title; and
7. That approving an SPA zone district will not adversely affect the public health, safety, and general welfare.

C. Application and Review Procedure: The procedure for applying for an SPA is described in Subsection 11-5-3B of this Title. All contiguous property under one ownership shall be planned in a unified and comprehensive fashion and shall be included in an application for SPA consideration and approval. (Ord. 481, 3-1-2004)

### **11-3-11: ANNEXATION DECLARATION AREA OVERLAY (ADA):**

- A. District Purpose: The purpose of the ADA overlay is to allow, at the discretion of the county, flexibility in the use of land, densities, site layout, and project design, and to permit a choice in living environments available in Eastern Summit County. The ADA overlay is intended to:
  1. Ensure that development occurring in the annexation declaration area of each incorporated municipality is compatible with applicable and appropriate standards and policies of the municipality and the county;

due to rezoning, if the specific zone district is adjusted in a manner that does not coincide with these lines, specific property boundaries or prominent natural features shall be used. (Ord. 481, 3-1-2004; amd. 2004 Code)

2. District boundaries in the HC zone district shall be located two hundred fifty feet (250') on either side of the centerline of only those county roads so designated on the Zone District Map.

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3. District boundaries in the "C", "I" and "RI" zone districts shall follow specific property lines, the centerline of adjacent roads, or prominent natural features.
4. When, due to scale, the Zone District Map lacks detail, is illegible, or where there is uncertainty, contradiction, or conflict as to the intended location of any zone district boundary as shown thereon, the CDD or designated planning staff member shall make an interpretation of the map upon request of any person, and any person aggrieved by any such interpretation may appeal the same to the Planning Commission. (Ord 481, 3-1-2004)

### **11-3-13: ALLOWED, CONDITIONAL, LOW IMPACT, AND TEMPORARY USES:**

- A. To facilitate public understanding of the Code and for better administration, convenience, and use thereof, those uses designated as "allowed" are permitted as a matter of right without special authorization, provided the use complies with all requirements of the zone district as described in this Chapter. The establishment of any allowed use is subject only to obtaining a building permit, business license, and/or road encroachment permit.
- B. Conditional Uses are those uses which are permitted in a particular zone district upon showing that such use at a specific site within that zone district will comply with all conditions and standards specified in the Code for ensuring compatibility with surrounding land uses. Conditional uses that are not capable of meeting the Development Evaluation Standards described in Chapter 2.0 of the Code at a specific location shall not be approved at that location. However, the Conditional Use maybe acceptable at another location where it can comply with the Development Evaluation Standards.
- C. Low Impact Uses are uses, projects and activities that are considered to have little or no impact on the public health, safety and general welfare. Low Impact Uses determined to be in compliance with the development evaluation standards and general regulation of the Code may be approved administratively by the CDD or designated planning staff member.

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A. Any parcel/lot described in a deed, sales contract or survey, that was recorded in

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the office of the Summit County Recorder before August 1, 1977, is a "lot of record." Any parcel/lot described in a deed, sales contract, or survey that was recorded in the office of the Summit County Recorder between August 1, 1977 and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation, is also a "lot of record."

A "lot of record" is eligible for the development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title. The "lot of record" status of a property gives the land owner or designated representative the right to apply for such entitlement.

The allowable density for a "lot of record" is determined by the underlying zone district. A "lot of record" that is smaller than the applicable minimum parcel size for the zone district in which it is located may be eligible for one (1) unit of density, if all applicable provisions of this Title can be satisfied.

Any parcel/lot that is not a "lot of record" and that was not created in accordance with the land use ordinances of Eastern Summit County is eligible for development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title, by an action of the County through one of the processes as outlined in Section 11-4-2(F) herein, provided all Code criteria can be met.

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There are parcels/lots within Eastern Summit County that, while their existence may be recorded in the office of the Summit County Recorder, were not created in accordance with the land use ordinances of Eastern Summit County as described herein. Summit County will not process a development application or issue a building permit for such parcels/lots except as provided for in Subsection 11-4-2(F) herein

B. Lot of Record Verification: The CDD or designated planning staff member shall verify "lot of record" status on all parcels for development applications in which an associated building permit will be issued, including requests to subdivide property, except as provided for in Subsection 11-4-2(G) herein. The CDD or designated planning staff member decision on the "lot of record" status will be made in writing and provided to the applicant and land owner.

C. Parcel Combinations:

1. In the event that two (2) or more adjacent "lots of record" are combined through a lot line adjustment process in accordance with this Title, the

5. Section lines do not divide a parcel into two (2) or more "lots of record" unless the parcel(s) otherwise conform to the definition of a "lot of record."

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6. If the description of a "lot of record" has changed due to an updated survey for the purpose of confirming property boundaries, and the description does not create additional, separately described parcels, the "lot of record" status will remain intact.
7. Multiple Assessor Parcel or property tax identification numbers are not conclusive proof of "lot of record".

F. Any parcel/lot that is not a "lot of record" and that was not created in accordance with the land use ordinances of Eastern Summit County is eligible for development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title, by an action of the County through one of the following development processes, as defined and outlined in Chapter 4 of this Title, provided all Code criteria can be met.

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1. Lot Line Adjustment/Boundary Line Agreement, including the combination of a "non-lot of record" with a "lot of record."
2. Subdivision (In the case of recombining parcels which were broken off from a "lot of record," the revised description of the parcel(s) must match the original description that complied with the "lot of record" definition, subject to modifications permitted under the preceding Section E).
3. Plat Amendment, including the expansion of a subdivision to include land outside of a subdivision, regardless of "lot of record" status of the expansion parcel(s).
4. Special Exception as granted by the County Council if the criteria for approval as outlined in Section 11-4-11(B) of this Title can be satisfied.

G. Exceptions:

1. Verification of "lot of record" status is not required for the following building improvements, permits, subdivisions, or structures:
  - a. Agricultural exempt buildings
  - b. Grading permits
  - c. Land Divisions for agricultural purposes
  - d. Building additions, remodels, detached garages, or other accessory

patented independent of the quarter section of which they are a part.

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5. Section lines do not divide a lot into two (2) or more "legally created lots" unless the lot(s) otherwise conform to the definition of a "legally created lot."
6. If the description of a "legally created lot" has changed due to an updated survey for the purpose of confirming property boundaries and the description does not create additional, separately described lots, the "legally created lot" status will remain intact.
7. Multiple Assessor Parcel or property tax identification numbers are not conclusive proof of "legally created lot" status.

E. Any lot that is not a "legally created lot" and that was not created in accordance with the land use ordinances of Eastern Summit County is eligible for development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title, by completing one of the following development processes, as defined and outlined in Chapter 4 of this Title, provided all Code criteria can be met.

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1. Lot Line Adjustment/Boundary Line Agreement
2. Subdivision (In the case of reconstituting "legally created lots", the revised description of the lot(s) must match the previous description that complied with the "legally created lot" definition, subject to modifications permitted under the preceding Section D.
3. Plat Amendment, including the expansion of a subdivision to include land outside of a subdivision, regardless of the "legally created lot" or "lot of record" status of the expansion parcel(s).
4. Special Exception as granted by the County Council if the criteria for approval as outlined in Section 11-4-11(B) of this Title can be satisfied.

F. Exceptions:

1. Verification of "legally created lot" status is not required for the following building improvements, permits, subdivisions, or structures:
  - a. Agricultural exempt buildings
  - b. Grading permits

## 11-4-5: NON-AGRICULTURAL DEVELOPMENT OF LANDS DIVIDED FOR AGRICULTURAL PURPOSES:

Lands divided or partitioned for agricultural purposes are eligible for the development

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of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title, by complying with the subdivision regulations of this Title and provided that all zone district, Code criteria can be met.

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All existing dwelling units of the original agricultural parcel shall be evaluated and accounted for within the overall density of the nonagricultural subdivision.

“Lot of record” or “legally created lot” status is not required if (a) the property was originally divided or partitioned for agricultural purposes pursuant to Section 11-4-4, and (b) the boundaries of each lot or parcel are either described in a deed through a metes and bounds description recorded with the County Recorder or graphically illustrated on a record of survey map recorded with the County Recorder, and (c) the total area of the parcel(s) comprising the property is at least five (5) contiguous acres, and (d) the landowner certifies that:

1. The land has been actively devoted to agricultural use producing in excess of 50% of the average agricultural production per acre of similarly situated land for each of the preceding two (2) years; and
2. The land has been devoted to the raising of useful plants and animals with a reasonable expectation of profit.

Review Procedure: The CDD or designated planning staff member shall verify the criteria set forth in this section in order to determine whether lands divided or partitioned for agricultural purposes are eligible for non-agricultural development consistent with the requirements of this Section. This decision may be appealed to the County Council within ten (10) calendar days from the date of the decision in accordance with Section 11-7-17 of this Title.

## 11-4-6: PERMITS REQUIRED:

No development or development activity may be undertaken within the unincorporated areas of Eastern Summit County unless all development permits applicable to the proposed development or subdivision of land area are issued in accordance with the provisions of this Title.

## 11-4-7: GENERAL PROVISIONS:

- A. Initiation: An application for development approval or a development permit

- b. After completion of the report identifying issues and concerns related to the project for the Planning Commission, the CDD or designated planning staff member shall schedule a public hearing before the Planning Commission as soon as practicable.

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- c. After hearing public comment, reviewing the project, comments from service providers, and the recommendation from the CDD or designated planning staff member, the Planning Commission shall make a recommendation to the CDD for approval, approval with conditions, or denial of the application.
- d. Once the CDD approves the final plat and all applicable signatures are obtained, the County Attorney will review the preliminary Title Report for acceptability.
- e. Upon approval of the County Attorney and once all required signatures are obtained, the detailed final plat shall be recorded in the records of the County Recorder. (Ord. 481, 3-1-2004)

### 11-4-10: MAJOR DEVELOPMENT REVIEW PROCESS:

- A. Purpose: The major development review process shall serve as a procedure to ensure that all significant development, due to its size, type, and/or location, protects actively farmed and ranched lands, natural resources, and open space; is appropriately clustered; consolidates access; and incorporates appropriate infrastructure and design standards based on location and proximity to existing county and municipal infrastructure and service areas. It is an integrated site layout and subdivision process and is, therefore, applicable to residential, commercial, and industrial development.
- B. Applicability: The major development review process shall be used to review all development, regardless of the zone district within which it is proposed, that is not eligible for consideration under the minor subdivision of lands or Cluster Bonus/Agricultural Preservation subdivision provisions of this Title. All specially planned areas shall be reviewed in accordance with this procedure.
- C. Criteria for Approval: Before an application being considered under the terms of this section can be approved, including a Specially Planned Area plan, the application shall conform to the following criteria:
  - 1. All aspects of the specific proposal shall be in compliance with the Development Evaluation Standards provided in Chapter 2 of this Title.
  - 2. The project, unless specifically involving a Specially Planned Area, shall comply with all zoning requirements described in Chapter 3 of this Title.

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3. The project shall comply with the Infrastructure Standards in Chapter 6 of 11-4-10

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this Title.

4. All new lots created shall be clustered to the greatest extent possible and practicable.

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5. The proposal shall ensure orderly growth within Eastern Summit County.

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6. The proposal shall protect life and property from natural or manmade hazards.

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7. The proposal shall prevent harm to neighboring properties and lands, including nuisances.

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8. Development that will adversely affect the rural, small town character of Eastern Summit County in a significant manner is not appropriate and shall not be approved.

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9. The proposal shall not adversely affect the overall safety, health, and general welfare of the public.

D. Submission Requirements: An application for major development approval shall not be accepted as complete unless such application contains the information set forth herein. The CDD or designated planning staff member may request and the applicant shall submit such additional information as may be needed to ascertain whether such application conforms to the requirements of this title. The CDD or designated planning staff member has the discretion to waive application requirements due to hardship, exceptional circumstances, or non-applicability on a case by case basis.

1. Sketch Plan: Prior to submitting a formal application for development review, an applicant shall submit a sketch plan, which shall contain enough information in graphic and text form to adequately describe the applicant's intentions with regard to the proposed development. Sketch plans shall be prepared in pen or pencil and shall be drawn to a convenient scale of not more than one hundred feet to an inch (1" = 1 00'), unless otherwise approved by the county. The sketch plan shall include the following:

- a. The creation date of the parcel(s) to be subdivided in accordance with the definition of a "lot of record", as defined in Appendix A of this Title.
- b. The name of the subdivision. This name shall not duplicate the name of any plat previously recorded.
- c. Name and address, including telephone number, of legal owner, and citation of last instrument conveying title to each parcel of

property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference.

- d. Legal description and location of property, including citation of any existing legal rights-of-way, irrigation ditches, or easements affecting the property; and existing covenants on the property, if any.
  - e. The approximate location, dimensions, and areas of all proposed or existing lots/structures, existing easements, burial grounds, railroad rights-of-way, watercourses, and names of existing streets or other public roads adjacent to the proposed lots.
  - f. A delineation of environmentally sensitive areas identified in Chapter 2 of this Title, including, but not limited to, wetlands, slopes exceeding thirty percent (30%), and ridgelines.
  - g. Identification of the means for providing water supply, power, sanitary sewage systems, collection and discharge of surface water drainage, and fire protection.
  - h. All areas within and adjacent to the project, including areas separated by a street, highway, road, right-of-way, railroad line, or stream or watercourse, under common ownership, shall be identified in the sketch plan.
  - i. **If the application is for a Specially Planned Area plan review, the sketch plan also shall include a statement describing how the proposed development will further the goals and objectives of the General Plan and sufficient information to demonstrate the general design philosophy proposed for the project.**
2. Preliminary Plan: A completed preliminary plan application form shall be submitted. In addition to the requirements in Subsection 01 of this Section, an application for preliminary plan also shall include the following information: A graphic layout (drawn to scale not smaller than 1 inch equals 100 feet, unless otherwise approved by the county) showing the following:
- a. A title block stating the name of the proposed development; the type of development; the name, address, and phone number of the legal owner of property, and the professional person(s) responsible for the design and survey; and a graphic and written scale and date of preparation.
  - b. Location of true north and a vicinity map with township, range, and section lines, including sufficient detail to show the

fee for the review thereof.

- H. Adult/Sex-Oriented Facilities: See Appendix B of this Title for Adult/Sex-Oriented Facilities and Businesses requirements. (Ord. 481, 3-1-2004)

### 11-4-13: TEMPORARY USE REVIEW:

- A. Purpose: Upon compliance with the provisions of this section, a temporary use approval may be granted, upon reasonable conditions necessary for the protection and preservation of the public health, safety, and welfare. This Section is intended to provide a process and procedure for reviewing and approving, approving with conditions, or denying a temporary use, or limited duration activity

that will provide an overall benefit to the community for the time frame during which it is permitted to exist.

Deleted: The use must be consistent with the intent of the General Plan and this Title.

- B. Criteria for Approval: Before an application for a Temporary Use is approved by the Planning Commission, it shall conform to the following criteria:

1. The proposed use shall be appropriate, on a temporary basis, in the particular location, taking into account the nature of the use, its relationship to surrounding land uses and its impact on the natural environment.
2. The proposed use shall be in general compliance with the Development Evaluations Standards in Chapter 2 of this Title.
3. The proposed use will not be in violation of any county, state, and federal laws.
4. The applicant shall present evidence to show approval of the landowner for the particular use, unless the land is owned by the applicant and, in such case, the applicant shall submit proof of ownership.
5. The applicant shall demonstrate that he possesses the requisite skills and experience to ensure that the particular activity will be conducted in a safe and orderly manner.
6. The site shall be returned to its original condition or, when significant disturbance has occurred, to a condition approved by the Planning Commission.
7. The use shall not adversely affect, in a significant manner, the public health, safety, and welfare.

- C. Review Procedure:

to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and adjacent property owners and without substantially impairing the intent and purpose of this title.

- B. Standards: The BOA shall not approve a variance unless it shall make findings, based upon the evidence presented to it in each specific case, that all of the following provisions apply:
1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
  2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
  3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
  4. The variance will not substantially affect the general plan and will not be contrary to the public interests; and
  5. The spirit of the land use ordinance is observed and substantial justice done.
- C. Conditions: In approving a variance, the BOA may require such conditions as will, in its judgment, mitigate any harmful effects of the variance and secure substantially the purposes of this Title.
- D. Use Variances Prohibited: The BOA may not grant use variances.
- E. Review Procedure:
1. The CDD or designated planning staff member shall review the Board of Adjustment application and make preliminary findings as to whether the application complies with the standards for approving a variance established in this Title.
  2. If applicable, the CDD or designated planning staff member may secure input regarding the proposed request from any affected agencies and service providers. Upon receiving such information, the CDD or designated planning staff member shall prepare a report and make findings and recommendations and shall schedule a public hearing before the BOA.
  3. The BOA shall review the application and staff report. After conducting a public hearing, the BOA shall approve, approve with conditions, or deny the proposed request.

4. No petition for judicial review may be filed unless and until the applicant has exhausted all manners or relief and processes as are provided herein and in this Title.

#### 11-4-15: SPECIAL EXCEPTIONS:

- A. Purpose: Where the County Council finds that an applicant has a unique circumstance or equitable claim which makes strict enforcement of the provisions of this Title unduly burdensome, it may, after a public hearing, approve special exceptions to the zoning provisions of this Title so that substantial justice may be done and the public interest secured; provided that the special exception does not have the effect of nullifying the intent and purpose of this Title or any provision thereof.
- B. Criteria for Approval: The County Council shall not approve a special exception unless the applicant demonstrates that:
  1. The special exception is not detrimental to the public health, safety, and welfare;
  2. The intent of the Development Code and General Plan will be met;
  3. The applicant does not reasonably qualify for any other equitable processes provided through the provisions of this Title; and
  4. There are equitable claims or unique circumstances warranting the special exception.
- C. Submission Requirements: An application for a Special Exception shall not be accepted as complete unless such application contains sufficient information in graphic and text form to adequately describe the applicant's objective and all applicable fees are paid.
- D. Review Procedure:
  1. If applicable, the CDD or designated planning staff member may obtain input regarding the proposed Special Exception from all affected agencies and service providers. Upon receiving such information, the CDD or designated planning staff member shall prepare a report and make findings and recommendations and shall schedule a public hearing before the County Council as soon thereafter as may be practicable.
  2. The County Council shall review the application and staff report. After conducting a public hearing, the County Council shall approve, approve with conditions, or deny the Special Exception request.

## 11-4-16: LOW IMPACT PERMIT REVIEW:

- A. Purpose: The purpose of the Low Impact Permit is to provide a process and procedure for reviewing and approving, approving with conditions, or denying a Low Impact Use. Upon compliance with the provisions of this Section, a Low Impact Use approval may be granted by the CDD or designated planning staff member, with reasonable conditions necessary for the protection and preservation of the public health, safety, and welfare.
- B. Applicability: The Low Impact Review Process can be utilized to obtain administrative approval for projects determined to be low impact and which are in conformance with the Development Evaluation Standards and general regulations of the Code. An application for approval of a Low Impact Permit shall be commenced by filing a sketch plan and paying the applicable fee with the Community Development Department.
- C. Review Procedure:
1. The applicant shall provide a sketch plan and description of the proposed project. The Sketch Plan shall contain enough information, in graphic and text form, to adequately describe to the satisfaction of the CDD or designated planning staff member the applicant's intentions with regard to use, site layout and compliance with the "Code," and any applicable ordinance, development permit, or development agreement.
  2. In proposals where the CDD or designated planning staff member determines that potential issues may arise or additional comment is needed or has been received from the community, a public hearing on the application may be scheduled with the Planning Commission. Following the public hearing, the Planning Commission shall make a recommendation to the CDD regarding an approval, approval with conditions or denial of the application.
  3. The CDD or designated planning staff member shall determine whether the application is sufficient and in compliance with the provisions of the Code. The CDD or designated planning staff member may require the applicant to submit such additional information as may be necessary to determine whether the application conforms to the requirements of the Code.
  4. The CDD or designated planning staff member shall approve, approve with conditions or deny the Low Impact Permit application and shall communicate the decision to the applicant. The CDD or designated planning staff member may impose all reasonable conditions necessary to ensure compliance with applicable provisions of Chapter 2 of the Code. The CDD or designated planning staff member may also provide written notice of such decision to any persons who have requested notice of such decision. Any person aggrieved by such decision may appeal the decision in accordance with the provisions of the Code. Oil, gas and steam wells

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12. Open Recreational Uses in the AG-100 and AG-160 Zoning Districts.
13. Other similar uses and projects not listed but which are similar in nature and character as other listed Low Impact uses and projects.
14. The conversion of an existing building or structure in an Highway Corridor (HC), Commercial (C), or Industrial (I) zone district from its current or previous use to a new or substantially different type of activity or use, or a revision or amendment to an approved development permit, or other minor improvements as determined by the CDD or designated planning staff member, which:
  - a. does not significantly increase vehicular traffic, unless the increases are consistent with previously approved plans for which appropriate mitigation has been contemplated and which has been implemented in an appropriate manner to accommodate the proposed amendment.
  - b. does not significantly increase the demand for parking; unless the increases are consistent with previously approved plans for which appropriate mitigation has been contemplated and which has been implemented in an appropriate manner to accommodate the proposed amendment.
  - c. does not intensify the likelihood of pedestrian and vehicular conflicts;
  - d. does not create unsightly conditions or impacts to the environment including, but not limited to, unscreened storage, and other environmental concerns;
  - e. does not intensify noise levels or odors;
  - f. does not create significant dust and dirt conditions, which cannot be adequately mitigated;
  - g. does not intensify lighting and glare conditions; **and**
  - h. does not create a sudden change in privacy for adjacent property owners.

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E. General Criteria. No Low Impact Permit shall be approved unless the applicant demonstrates that

1. The use conforms to all applicable requirements of the Code and state and federal regulations;

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2. The use is not detrimental to public health, safety and welfare;

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3. The use is appropriately located with respect to public facilities and services;

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4. The use is compatible with the existing neighborhood character and will not adversely affect surrounding land uses:

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5. Exterior lighting will be directed downward and not be reflected upon adjoining land.

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6. The natural topography, ridgelines, soils, critical areas, watercourses and vegetation shall be preserved where possible through careful site planning and design of access routes, circulation areas, buildings and other structures, parking areas, utilities, drainage facilities and other features.

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F. Criteria for oil wells, gas wells and steam wells. A Low Impact Permit application shall be reviewed and approved for oil, gas, and steam wells according to the following criteria:

1. Access to the drill site shall utilize existing roads as much as possible.
2. Any required grading and associated cut and fill areas shall be re-vegetated and contoured to maintain existing drainage patterns.
3. Erosion control best management practices in accordance with County Ordinance 381-A shall be applied to all disturbed areas, including roads, staging areas and drill site.
4. The drilling and production operation shall be conducted in such a manner as to minimize, so far as practicable, dust, noise, vibration, and odors.
5. All waste shall be disposed of in such a manner as to comply with the air and water quality regulations of state and county ordinances.
6. Firefighting apparatus and supplies as approved by the County Wildland Fire Marshall shall be maintained on the drilling site at all times during drilling and production operations.
7. Upon completion or abandonment of the well, all disturbed areas, including the drill site and staging areas shall be reclaimed by re-contouring the area blend with the natural terrain, replacing top-soil and re-vegetating. A weed mitigation plan shall be implemented as part of the re-vegetation plan for all disturbed areas.
8. Drill sites and/or staging areas located on sensitive lands such as steep slopes and ridgelines or within one (1) mile of a residential areas

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1. A copy of the proposed amendment shall be delivered to the Planning Commission for its review and recommendation. Prior to making a recommendation, the Planning Commission shall hold a public hearing regarding the proposed amendment.
2. The Planning Commission's recommendation shall be delivered to the County Council. The County Council shall hold a public hearing on the proposed amendment. Following the public hearing, the County Council shall either approve or deny the amendment. (Ord. 278, 5-6-1996)

B. Amendment to Zone District Map (**Rezoning**):

1. If the applicant is a private landowner:
  - a. An application for an amendment to the Zone District Map shall be submitted to the CDD or designated planning staff member. The County Council may permit the rezoning of the property only after it has determined that **said rezoning is consistent with the goals and objectives of the general plan**, all other criteria and considerations described in this title, and said action is necessary to promote the public health, safety and welfare of the residents of Eastern Summit County. (Ord. 278, 5-6-1996; amd. 2004 Code)
  - b. The application must be authorized by each owner of the real property that is located within the area to be rezoned or a duly authorized representative of each owner.
  - c. Approval of an amendment to the zone district map shall not be granted until both the Planning Commission and County Council have reviewed the specific development proposal and determined:
    - (1) The amendment **is generally consistent** with the goals of the General Plan;
    - (2) The amendment is compatible with adjacent land uses and will not be overly burdensome on the local community;
    - (3) The specific development plan is in compliance with all applicable standards and criteria for approval as described in Chapter 4 of this Title; and
    - (4) The amendment does not adversely affect the public health, safety and general welfare.
2. The County Council may initiate the action on its own motion or upon request of the Planning Commission or County Manager.
  - a. When the amendment is proposed by the County Council, the application shall contain the following:

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the Commission. Following the public hearing, the Commission shall make a recommendation to the CDD regarding an approval, approval with conditions or denial of the application.

2. **Abandonment or Loss of Non-Conforming Commercial or Industrial Use:** A non-conforming commercial or industrial use that is discontinued for a

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continuous period of one (1) year is presumed abandoned and shall not thereafter be re-established or resumed. The property owner shall have the burden of establishing that any claimed abandonment has not in fact occurred. Any party claiming that a non-conforming use has been abandoned shall have the burden of establishing such abandonment. All evidence either providing non-abandonment or abandonment shall be submitted to the CDD who shall make a final determination of abandonment status. Any subsequent use of the building, structure, or land must conform to the regulations specified in this Title for the zone district in which the use is located.

3. **Special Standards that shall be met for Expansions or Conversions of Non-Conforming Commercial or Industrial Uses:**

- a. The use does not significantly increase vehicular traffic or interfere with traffic flow;
- b. The use does not significantly increase the demand for parking;
- c. The use does not significantly intensify the likelihood of pedestrian and vehicular conflicts;
- d. The use does not create unsightly conditions or impacts to the environment including, but not limited to unscreened storage and other environmental concerns;
- e. The use does not significantly intensify noise levels or odors;
- f. The use does not create significant dust and dirt conditions, which cannot be adequately mitigated;
- g. The use does not significantly intensify lighting and glare conditions;
- h. The use does not create a significant change in privacy for adjacent property owners; **and**
- j. The use will not adversely affect, in a significant manner, the public health, safety, and welfare.

Deleted: i..The use is generally consistent with the goals and policies of the General Plan... [2]

## 11-6-9: DEVELOPMENT AGREEMENTS:

- A. Authority: The County may, but under no circumstances is it required, enter into a development agreement with a property owner or applicant for development approval. The County, at its sole discretion, may opt to use a development

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agreement when it determines that such an approach to development promotes and protects the public health, safety and general welfare. Development agreements shall be used to implement a specific plan under an SPA zoning designation, as indicated in Section 11-4-4 of this Title. (Ord. 305, 2-241997)

- B. Binding Agreement: Whenever the County opts to enter into a development agreement, the agreement shall constitute a binding contract between the applicant and the County. It shall contain those terms and conditions agreed to by the applicant and the County. The agreement shall describe all limitations, restrictions and parameters associated with the development of the subject property. The agreement shall describe all processes and procedures for obtaining final approval and building permits. The agreement shall not allow the sale or transfer of individual parcels or components of the entire project unless specifically provided for in the agreement or as otherwise allowed under State law.
- C. Effect of Approval: Upon approval of the development agreement, it shall constitute a vested right in the specific terms and proposals for a period of five (5) years from the date of the approval, or longer when specifically allowed in the agreement, subject to any conditions agreed to and incorporated into the agreement.
- D. Criteria for Approval: The criteria for approval are as follows:
1. The development agreement has been duly adopted in accordance with the provisions stated in this section.
  2. The development agreement includes written consent by each landowner whose properties are included within the area described.
  3. The County Council, after receipt of a recommendation from the Planning Commission and review and consideration of the development agreement, finds that the specific proposals, terms and conditions contained in the agreement **promote the intent of the general plan**, result in benefits to the general public that would not otherwise occur under the literal application of this title, and provides a more flexible way to more effectively protect the health, safety and general welfare of the public.
  4. Development allowed under a development agreement shall comply with the development evaluation standards in Chapter 2 of this Title, the

infrastructure standards in Chapter 6 of this Title, and all other criteria described in Sections 11-3-9 and 11-4-4 of this Title.

5. When appropriate, based on the size of the project, the landowner or applicant agrees to, at a minimum, contribute all capital improvements and facilities necessary to mitigate the impacts of the project on the

11-6-9  
11-6-10  
11-6-11

County and special districts.

6. The landowner or applicant will mitigate all fiscal impacts on the general public.
7. Development shall not be permitted to create unacceptable construction management impacts.
8. While a creative approach to the development and use of the land and related physical facilities may be allowed by a development agreement, all development approved in the agreement shall meet or exceed development quality objectives of the General Plan and this Title, and the development quality and aesthetic objectives described in the Snyderville Basin General Plan and Title 10 of this Code when the proposed development is adjacent to the Snyderville Basin planning district.
9. The development shall be consistent with the goal of orderly growth and minimize construction impacts on public infrastructure within Eastern Summit County.
10. The development shall protect life and property from natural and manmade hazards.
11. The development shall prevent harm to neighboring properties and lands, including nuisances.

- E. Procedure for Approving Agreements: All development agreements shall be reviewed and approved in accordance with the procedures for a specially planned area, as described in Section 11-3-9 of this Title. (Ord. 278, 5-6-1996)

#### **11-6-10: RE-APPLICATION FOLLOWING DENIAL:**

If any application for development approval is denied for failure to meet the substantive requirements of this title, an application for all or a part of the same property shall not be considered for a period of one year from the date of denial unless the subsequent application for development is substantially different from the previously denied proposal. (Ord. 278, 5-6-1996)

Approval of any development may be made with or without conditions, and the failure to fully abide by the terms of any conditional approval will result in a forfeiture of any vested property right associated with the development approval. (Ord. 278, 5-6-1996)

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11-6-

11-6-14

### **11-6-13: EFFECTIVE PERIOD OF APPROVALS:**

- A. Sketch Plan Review: Upon the completion of a sketch plan review, a formal development application, as required in this title, shall be submitted within six (6) months from the completion of the sketch plan review.
- B. Preliminary Plan: The approval of a preliminary plan, when required in this title, shall be effective for a period of one year from the date of its approval. At the end of the one year period, the applicant shall have submitted a complete application for final development review. If a complete final plan application is not submitted within one year, the preliminary approval shall be considered null and void, and the applicant shall be required to submit a new sketch plan and development application in accordance with the provisions of this Title in effect at that time.
- C. Final Plan; Vested Right: Upon approval of any final plan/plat, it shall constitute a vested right in the specific terms and proposals identified in the approval for a period of one (1) year from the date of the approval, at which time the final plat shall be recorded in the office of the County Recorder. This provision reflects the County Council's position that no developer has a vested right in perpetuity, and that in the interest of the health, safety and general welfare, developers must proceed with development approvals with due diligence. Therefore, development projects, including subdivision plats and site plans, which were approved before May 6, 1984, in which no development has taken place, are not entitled to vested rights under this title. The establishment of a vested right does not exempt the property owner from requirements for building permits or other necessary permits. The establishment of a vested right shall not preclude the application from the requirements of the building code, fire code, plumbing code, electrical code, mechanical code or other requirements necessary for the protection of the public health, safety and welfare. (Ord. 278, 5-6-1996)
- D. Development Permit Extension: One six (6) month extension of a development permit may be granted by the CDD upon his finding that special circumstances exist which warrant such an extension, including, but not limited to, a delay caused by a government review agency or natural disaster.

Deleted: and General Plan

### **11-6-14: COMPLETION OF IMPROVEMENTS:**

- A. Financing: Installation of the improvements required in a development or development phase shall be guaranteed by:

elevation along the centerline of the existing road or roads within one hundred feet (100') of the intersection shall be shown. Approximate radii of all curves, lengths of tangents, and central angles of all roads shall be shown.

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2. The CDD or designated planning staff member may require, where steep slopes exist, that cross sections of all proposed roads be provided at one hundred foot (100') stations. The cross sections shall extend at right angles from the centerline to twenty five feet (25') beyond the catch point of the cut or fill slope. The cross section shall indicate the location of the property lines (right-of-way lines).
3. Plans and profiles showing the locations and typical cross section of road pavements, including curbs and gutters, sidewalks, drainage easements, servitudes, rights of way, manholes, and catch basins; the location of road lighting standards, and road signs; the location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing or proposed utility systems; and exact location and size of all water, gas, or other underground utilities or structures.
4. Location, size, elevation and other appropriate descriptions of any existing facilities or utilities, including, but not limited to, existing roads, sewers, drains, water mains, easements, water bodies, streams, and other pertinent features such as swamps, railroads, buildings, at the point of connection to proposed facilities, utilities within the subdivision, the water elevations of adjoining lakes or streams at the date of the survey, and the approximate high and low water elevations of such lakes or streams. All elevations shall be referred to the USGS datum plane. If the subdivision borders a lake, river or stream, the distances and bearings of a meander line established not less than twenty feet (20') back from the ordinary high water mark of such waterways.
5. Topography at the same scale as the sketch plan with contour intervals of two feet (2'), referred to sea level datum. All datum provided shall be latest applicable U.S. coast and geodetic survey datum and should be so noted on the plat.
6. All specifications and references required by the County Construction Standards and Specifications, including a site grading plan for the entire subdivision.
7. Notation of approval as follows:

*Owner*

*Date*

Deleted: features noted on the General Plan

## CHAPTER 7 GENERAL PROVISIONS

### SECTION:

- 11-7-1: Short Title
- 11-7-2: Statement of Purpose
- 11-7-3: Applicability
- 11-7-4: Development Review Fees
- 11-7-5: Planning Commission
- 11-7-6: Joint Planning
- 11-7-7: Board of Adjustment
- 11-7-8: Conflict
- 11-7-9: Effect on Previous Ordinances
- 11-7-10: Penalty
- 11-7-11: Interpretation
- 11-7-12: Severability
- 11-7-13: Vested Rights Determination
- 11-7-14: Enforcement
- 11-7-15: Violations and Penalties
- 11-7-16: Remedies
- 11-7-17: Appeal Procedures

### 11-7-1: SHORT TITLE:

This title shall be known as *THE EASTERN SUMMIT COUNTY DEVELOPMENT CODE*, and is referred to herein as "this Title". (Ord. 278, 5-6-1996)

### 11-7-2: STATEMENT OF PURPOSE:

- A. The Eastern Summit County General Plan (hereafter referred to as "the General Plan"), was developed to ensure that the rural, agricultural and small town character of the eastern portion of the county shall remain. It is the intent of the county, in adopting this Title, to fully exercise all of the powers granted to it by the provision of Utah Code Annotated Title 17, for the appropriate regulation of development and changes and improvements to land use within the eastern portion of the county.
- B. The intention of the county is to assure the managed, proper and sensitive development of land and to protect and enhance the rural, agricultural and small town qualities and lifestyle that exist. This Title is intended to allow development in a manner that encourages the preservation of agricultural lands; the logical and appropriate growth of the incorporated towns in Eastern Summit County; is

Commission, Board of Adjustment or Community Development Department, where commission action is not always required, of a plan, project, rezoning, use, activity or other action that shall be given after all the requirements set out in the preliminary approval have been met and after all concerns of all service providers regarding such plan, project, rezoning, use, activity or other action have been addressed and answered.

**FINAL PLAT:** The map or plan of a subdivision and any accompanying material, as described in these regulations, that is intended to be recorded in the office of the Summit County Recorder.

**FLOODPLAIN:** An area adjoining a river, stream or watercourse, or other body of standing water, in which a potential flood hazard exists due to inundation or overflow of water having sufficient volume and velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of watercourses. Any area designated as a floodplain by the Federal Emergency Management Agency and Summit County.

**FLOOR AREA AND LOT COVERAGE:** The combined area of all floor space associated with a commercial or industrial use including floors above or below the ground floor. Also, any areas outside of structures and associated with the use, including storage areas, parking lots, driveways and similar areas.

**FOOD PROCESSING, COMMERCIAL:** An establishment that transforms raw ingredients into food or transforms food into other forms for consumption.

**FUNERAL SERVICES:** An establishment engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral home or mortuaries.

**GAS AND FUEL, STORAGE AND SALES:** Bulk storage tanks of flammable and combustible liquids, compressed gases or liquefied petroleum gas (LP gas) for business use, retail sale, wholesale, or wholesale distributing.

**GASOLINE SERVICE STATION WITH CONVENIENCE STORE:** A place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience market or supermarket.

**GENERAL PLAN:** The General Plan for Eastern Summit County, prepared by the Planning Commission and the County Council, pursuant to state law, [in an advisory capacity, implemented through the Development Code](#).

**GRADE, NATURAL:** Elevation of the surface of the land prior to commencement of construction of any improvements proposed or the placement of any fill on the site.

**SUMMIT COUNTY, UTAH**  
**ORDINANCE NO. 798**

**AMENDING THE EASTERN SUMMIT COUNTY GENERAL PLAN**

**WHEREAS**, the Eastern Summit County General Plan (General Plan) was adopted in 1996, and

**WHEREAS**, Summit County desires to state that the General Plan is advisory in nature, and

**WHEREAS**, the Eastern Summit County Planning Commission held a public hearing on December 19, 2012 and voted to forward a positive recommendation to the Summit County Council on the amendment, and

**WHEREAS**, the Summit County Council held a public hearing on February 27, 2013; and

**WHEREAS**, the Summit County Council continued the decision and voted to approve the amendments on March 6, 2013.

**NOW THEREFORE, the Legislative Body of the County of Summit, the State of Utah, hereby ordains the following:**

**Section 1. SNYDERVILLE BASIN GENERAL PLAN**

The Eastern Summit County General Plan is hereby amended as illustrated in Exhibit A.

**Section 2. Effective Date**

This Ordinance shall take effect fifteen (15) days after the date of its publication.

APPROVE, ADOPTED, AND PASSED and ordered published by the Summit County Council, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**SUMMIT COUNTY COUNCIL**  
**SUMMIT COUNTY, UTAH**

**By:** \_\_\_\_\_  
**Claudia McMullin, Chair**

**Councilor Robinson voted** \_\_\_\_\_  
**Councilor Ure voted** \_\_\_\_\_  
**Councilor McMullin voted** \_\_\_\_\_  
**Councilor Carson voted** \_\_\_\_\_  
**Councilor Armstrong voted** \_\_\_\_\_

**SUMMIT COUNTY, UTAH**  
**ORDINANCE NO. 799**

**AMENDING THE EASTERN SUMMIT COUNTY DEVELOPMENT CODE**

**WHEREAS**, the Summit County desires to state that the Eastern Summit County General Plan (General Plan) is advisory in nature, and

**WHEREAS**, the Summit County Council has approved amendments to the General Plan making it advisory in nature, and

**WHEREAS**, the Eastern Summit County Development Code (Code) was adopted in 1996, and

**WHEREAS**, the Code makes references to the General Plan that unintentionally make the General Plan regulatory, and

**WHEREAS**, the proposed Code amendments clarify those Code references to ensure that the General Plan remains advisory, and

**WHEREAS**, the Eastern Summit County Planning Commission held a public hearing on December 19, 2012 and voted to forward a positive recommendation to the Summit County Council on the amendment, and

**WHEREAS**, the Summit County Council held a public hearing on February 27, 2013; and

**WHEREAS**, the Summit County Council continued the hearing to March 6, 2013, and voted to approve the amendments on March 6, 2013.

**NOW THEREFORE, the Legislative Body of the County of Summit, the State of Utah, hereby ordains the following:**

**Section 1. SNYDERVILLE BASIN DEVELOPMENT CODE CHAPTER 5**

The Eastern Summit County Development Code is hereby amended as illustrated in Exhibit A.

**Section 2. Effective Date**

This Ordinance shall take effect fifteen (15) days after the date of its publication.

APPROVE, ADOPTED, AND PASSED and ordered published by the Summit County Council, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**SUMMIT COUNTY COUNCIL**  
**SUMMIT COUNTY, UTAH**

**By:** \_\_\_\_\_  
**Claudia McMullin, Chair**

**Councilor Robinson voted** \_\_\_\_\_  
**Councilor Ure voted** \_\_\_\_\_  
**Councilor McMullin voted** \_\_\_\_\_  
**Councilor Carson voted** \_\_\_\_\_  
**Councilor Armstrong voted** \_\_\_\_\_

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# MINUTES

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**SUMMIT COUNTY**  
**BOARD OF COUNTY COUNCIL**  
**WEDNESDAY, JANUARY 23, 2013**  
**SHELDON RICHINS BUILDING**  
**PARK CITY, UTAH**

**PRESENT:**

**Claudia McMullin**, *Council Chair*  
**Chris Robinson**, *Council Vice Chair*  
**Roger Armstrong**, *Council Member*  
**Kim Carson**, *Council Member*  
**David Ure**, *Council Member*

**Robert Jasper**, *Manager*  
**Anita Lewis**, *Assistant Manager*  
**Dave Thomas**, *Deputy Attorney*  
**Kent Jones**, *Clerk*  
**Karen McLaws**, *Secretary*

**CLOSED SESSION**

**Council Member Robinson made a motion to convene in closed session to discuss personnel. The motion was seconded by Council Member Armstrong and passed unanimously, 5 to 0.**

The Summit County Council met in closed session from 3:05 p.m. to 3:55 p.m. for the purpose of discussing personnel matters. Those in attendance were:

**Claudia McMullin**, *Council Chair*  
**Chris Robinson**, *Council Vice Chair*  
**Roger Armstrong**, *Council Member*  
**Kim Carson**, *Council Member*  
**David Ure**, *Council Member*

**Robert Jasper**, *Manager*  
**Anita Lewis**, *Assistant Manager*  
**David Brickey**, *Attorney*  
**Dave Thomas**, *Deputy Attorney*  
**Jami Brackin**, *Deputy Attorney*

**Council Member Robinson made a motion to dismiss from closed session to discuss personnel and to convene in closed session to discuss litigation. The motion was seconded by Council Member Armstrong and passed unanimously, 5 to 0.**

The Summit County Council met in closed session from 3:55 p.m. to 4:25 p.m. for the purpose of discussing litigation. Those in attendance were:

**Claudia McMullin**, *Council Chair*  
**Chris Robinson**, *Council Vice Chair*  
**Roger Armstrong**, *Council Member*  
**Kim Carson**, *Council Member*  
**David Ure**, *Council Member*

**Robert Jasper**, *Manager*  
**Anita Lewis**, *Assistant Manager*  
**David Brickey**, *Attorney*  
**Dave Thomas**, *Deputy Attorney*  
**Jami Brackin**, *Deputy Attorney*

**Council Member Ure made a motion to dismiss from closed session and to convene in work session. The motion was seconded by Council Member Robinson and passed unanimously, 5 to 0.**

## **WORK SESSION**

Chair McMullin called the work session to order at 4:30 p.m.

- **Winter season marketing update presented by Bill Malone and Cathy Miller, Park City Chamber/Bureau**

Bill Malone with the Park City Chamber/Bureau commented that December was challenging from a visitation standpoint due to major snowfall not coming until about mid-month and Christmas being mid-week. Visitation was comparable to previous years, but a good portion of it will fall into January of this year. Key indicators show a positive trend for the rest of the season, and the pace of reservations is up significantly from last year.

Sales and Marketing Director Cathy Miller recalled that the Quick Start promotions started about 10 years ago, and they are in their three top markets for the first time this year—New York City, Los Angeles, and Chicago. The commercials will air from December 27 through February 17. The spots include flight information from those markets, and she provided the New York spot for the Council Members to view. They determined that they could invest another \$100,000 into this season using the Transient Room Tax, and the Utah Office of Tourism also had some extra money, and they have combined those funds and are looking at advertising in the Baltimore/Washington market or the Boston market.

Stephen Lane, Tourism Marketing Manager for the Chamber/Bureau, reviewed the direct response cable TV campaign, which launched on January 14. He explained that they were able to identify the demographics of who is likely to look at their ads and what programming they watch. When the person responds, they are able to identify which stations the respondents are watching. He played the ad for the Council Members.

Ms. Miller explained that they will be extending the Direct TV commercials this year and are working hard to promote the season. She stated that Park City is having a good season, and their competitors are not in the shape Park City is, so they want to take advantage of that.

Mr. Lane reviewed the social media efforts and the photo gallery project. Ms. Miller explained that they have had a lot of media coverage as well this year.

Mr. Malone reported that international sales are strong this winter, with the leaders this year being Australia, the United Kingdom, and Brazil, and most people from those countries stay a long time when they come. He explained that they are also seeing more businesses from Russia, New Zealand, Spain, and Argentina. Meeting and convention business has also grown significantly this past year. He noted that they are also working on summer plans and events.

Council Member Robinson asked how the Chamber/Bureau is enjoying the new visitors' center. Mr. Malone replied that they were up more than 2,000 visitors in December, and they are trying to build more local knowledge about it.

**CONVENE AS THE BOARD OF EQUALIZATION**

**Council Member Robinson made a motion to dismiss as the Summit County Council and to convene as the Summit County Board of Equalization. The motion was seconded by Council Member Carson and passed unanimously, 5 to 0.**

The meeting of the Summit County Board of Equalization was called to order at 4:49 p.m.

**CONSIDERATION OF APPROVAL OF 2012 STIPULATIONS**

**Board Member Robinson made a motion to approve the 2012 stipulations as presented. The motion was seconded by Board Member Carson and passed unanimously, 5 to 0.**

**DISMISS AS THE BOARD OF EQUALIZATION AND RECONVENE AS THE SUMMIT COUNTY COUNCIL**

**Board Member Robinson made a motion to dismiss as the Board of Equalization and to reconvene as the Summit County Council in regular session. The motion was seconded by Board Member Ure and passed unanimously, 5 to 0.**

The meeting of the Summit County Board of Equalization adjourned at 4:50 p.m.

**REGULAR MEETING**

Chair McMullin called the regular meeting to order at 4:50 p.m.

- **Pledge of Allegiance**

**DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE #790 REGARDING AMENDMENTS TO SUMMIT COUNTY CODE, TITLE 2, CHAPTER 14, SUMMIT COUNTY RECREATION ARTS AND PARKS ADVISORY COMMITTEE; TOM FEY AND HELEN STRACHAN**

Deputy County Attorney Helen Strachan explained that these amendments include changing the granting cycle for the cultural RAP tax from December to May and some clean-up work on Title 2 of the Code.

Council Member Robinson reported that he received two comments by e-mail in support of the amendments.

Council Member Ure asked who pays the administration costs. County Manager Bob Jasper replied that the general fund pays those costs. His staff, the Auditor, and the Treasurer spend a lot of time on this and he would like to look at changing that next year. Matt Leavitt with the County Auditor's Office explained that they included 1.5% in the general fund and municipal fund for administration in 2013. Council Member Carson stated that she believed some type of budget should be presented to account for the 1.5%. Council Member Armstrong stated that the State statute does not authorize the committee to spend or allocate any part of the 1.5%. Council

Member Robinson agreed and explained that the committee has 98.5% of the money that is allocated by the County Council based on recommendations from the committee, and that is the only budget that is needed. The remaining 1.5% is a line item from the RAP tax fund to the general fund or municipal fund to reimburse for administrative expenses. Ms. Strachan explained that the chapter they are amending has to do strictly with the role of the committee, and they have never dealt with a budget.

Council Member Carson suggested adding language after “adequate and proper collection of the tax,” to state “and allocation of the amount for disbursement.”

**Council Member Robinson made a motion to adopt Ordinance #790 regarding amendments to the Summit County Code, Title 2, Chapter 14, Summit County Recreation, Arts, and Parks Advisory Committee, with the edits discussed. The motion was seconded by Council Member Ure and passed unanimously, 5 to 0.**

**DISCUSSION AND POSSIBLE ADOPTION OF A COUNTY-WIDE POLICY ON RECREATION, ARTS, AND PARKS PROGRAM; TOM FEY AND HELEN STRACHAN**

Committee Chair Tom Fey thanked John Ball and his law firm, Parsons Behle & Latimer, for providing free word processing services for this policy. He recalled that the RAP tax was passed in Summit County 10 years ago. At that time they got documentation from Salt Lake County and used it as the basis for the rules for the committee in Summit County. Those have not been updated since then. Two years ago Assistant Manager Anita Lewis met with Salt Lake County again and found that they had revised much of their information and policies. The committee believed it would be a good idea for Summit County to have a similar policy, and the policy presented to the Council for approval is modeled after the Salt Lake County policy. He reviewed the items included in the policy and explained that they also asked a number of organizations to review the policy. The organizations responded stating that they like the fact that a policy is being put in place and recommend that the policy be adopted.

Kathy Hunter, Director of the Park City/Summit County Arts Council stated that she supports the adoption of these policies. She believed this would give the committee an extra affirmation of what they have done and puts it in writing so they can be as fair and thorough as they always have been. In response to a question from Chair McMullin, Ms. Hunter explained the function of the Arts Council as an umbrella organization and her role on the committee.

Chair McMullin referred to the wording regarding services and stated that the RAP grant is not the same as the County providing money to non-profits and entering into a contract with them to provide services the County would otherwise provide. Mr. Jasper stated that he would rather move toward buying something, because a grant implies that the County is giving the money to the organization, and they don't have to do anything for the money. Council Member Armstrong commented that is how the RAP Tax is structured at the State level. It is a grant as long as it is based on representations made to the committee that the money will be used for specific things. He preferred that they refer to the agreement as a grant agreement rather than an agreement for services. Council Member Robinson agreed that the organization will be required to enter into a grant agreement with Summit County prior to receiving funds. Mr. Jasper stated that he has concerns about that and wants to put into a contract what the organization will do in order to

receive the money. He stated that many of the contracts are vague, and he would like to focus on what they are going to do. Then they can determine afterward whether the organization did what they agreed to do. Council Member Robinsons suggested that they change the wording to state, “enter into a grant agreement outlining the conditions of the grant prior to receiving funds.”

Council Member Carson referred to the appeal process and noted that it does not include a time period within which an applicant must appeal. The Council Members suggested a 10-day appeal period. The Council Members discussed having a reconsideration come back to the County Council versus an appeal process and requested that the language be changed to reconsideration.

**Council Member Ure made a motion to adopt the County-wide policy on the Recreation, Arts, and Parks program with the amendments discussed. The motion was seconded by Council Member Armstrong and passed unanimously, 5 to 0.**

**DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE #791, THE GOVERNING ORDINANCE OF THE SNYDERVILLE BASIN CEMETERY DISTRICT; HELEN STRACHAN, DEPUTY COUNTY ATTORNEY**

Ms. Strachan recalled that the question of whether to create a cemetery district in the Snyderville Basin was put to the voters in November 2012, and the voters overwhelmingly approved it. The Cemetery District is formally created, and the next step is to adopt a governing ordinance for the Cemetery District. She explained that the language in this ordinance is the same as that for the other cemetery districts. The District’s powers are defined by State law, and the Council previously decided that the District should have a five-member board of trustees. Once the ordinance is adopted, the next step will be to notice and advertise for board of trustees members.

Mr. Jasper asked who would name the board members. Ms. Strachan replied that they would be appointed by the County Council. Mr. Jasper asked if the board would then be on its own and be totally independent. Ms. Strachan replied that they would be, but those duties could be kept by the Council. Deputy County Attorney Dave Thomas clarified that this is a local district rather than a special service district, and he was not certain that the Council can hold back powers. The County’s oversight would be in the appointment of the board of trustees members. Currently there is no tax rate associated with the District, and the only income would be from burial plots.

Council Member Ure confirmed with Mr. Thomas that the Council has the authority to set a tax rate. Council Robinson noted that they would have the power to bond, but they would not have a revenue stream unless it is from a private source, such as fees. Mr. Thomas explained that the setting of a tax rate would have to put it on a ballot for an election.

Mr. Jasper stated that the board of trustees would need some help from Staff to get started, and he would not want to just create a board of trustees and leave them on their own. Mr. Thomas explained that the Council could appoint itself as the board of trustees for now. Council Member Robinson stated that initially he thought they could appoint five people to figure out how to get the Cemetery District up and running and make recommendations to the Council, but the real power would remain with the Council until things are in place. Then, after a period of time, the Council could vest the authority in the five trustees. He believed there is enough process that needs to take place that the Council would not be in a position to do it all. Mr. Jasper asked if

the Council could be the board of trustees for now and appoint an advisory committee that they could eventually appoint as the board of trustees.

Council Member Armstrong asked what would happen next if the Council appoints itself as the board of trustees and appoints a committee. Ms. Strachan replied that they need land for the cemetery and people who can dedicate their time to finding the land and setting up the services.

Council Member Ure suggested that they assign a couple of Council Members to develop a plan for setting up a committee and determine what needs to be done and bring that back in a couple of weeks.

Louis Cicalese stated that he currently sits on the board of 10 cemeteries as president in New Jersey and has been in the cemetery business for 22 years. He explained that he knows all aspects of cemeteries, from their formation to their operation. He offered to serve on a committee to get the cemetery district started. Chair McMullin asked if he was aware of other people who might be able to serve on a blue-ribbon committee to assist him. Mr. Cicalese replied that he has met a couple of people locally who have done some work for the Park City Cemetery. He explained that they will need people on the committee who have a variety of strengths and skills. They will need to look at the death records and try to determine the needs of the community, then develop a formula to determine how much space they need.

Council Member Robinson suggested that the Council approve the ordinance as amended and make a motion to give the Manager the task of coming up with recommendations for a task force that would frequently return to the Council with some concrete suggestions. He suggested that Ms. Strachan make the recommended changes to the ordinance and bring it back at a future meeting for approval.

#### **APPOINTMENT OF TWO MEMBERS TO THE TIMEBERLINE SPECIAL SERVICE DISTRICT ADMINISTRATIVE CONTROL BOARD**

**Council Member Robinson made a motion to reappoint Bill Evans and Don Fulton to the Timberline Special Service District Administrative Control Board, with their terms to expire December 31, 2016. The motion was seconded by Council Member Carson and passed unanimously, 4 to 0. Council Member Armstrong was not present for the vote.**

#### **ADVICE AND CONSENT OF COUNTY MANAGER'S RECOMMENDATION TO APPOINT MEMBERS TO FILL VACANCIES ON THE SUMMIT COUNTY WEED CONTROL BOARD**

**Council Member Robinson made a motion to consent to the County Manager's recommendation to reappoint John Blazzard, Earl (Sam) Blonquist, and Robert Siddoway to the Summit County Weed Control Board, with Mr. Blazzard's and Mr. Blonquist's terms to expire November 30, 2015, and Mr. Siddoway's term to expire November 30, 2016. The motion was seconded by Council Member Carson and passed unanimously, 4 to 0. Council Member Armstrong was not present for the vote.**

**ADVICE AND CONSENT OF COUNTY MANAGER’S RECOMMENDATION TO APPOINT MEMBERS TO FILL VACANCIES ON THE SUMMIT COUNTY FAIR ADVISORY BOARD**

Council Member Robinson made a motion to consent to the County Manager’s recommendation to appoint Chablee Padgett, Robyn Bailey, and to reappoint Dirk Rockhill to the Summit County Fair Advisory Board, with their terms to expire December 31, 2015; to appoint Dusty Morgan to serve on the Summit County Fair Advisory Board, as recommended by Future Farmers of America, with her term to expire December 31, 2014; to appoint Jodie Coleman to serve on the Summit County Fair Advisory Board, as recommended by Coalville City, with her term to expire December 31, 2015; and to appoint Stephen Lane to serve on the Summit County Fair Advisory Board, as recommended by the Park City Chamber of Commerce, with his term to expire December 31, 2015. The motion was seconded by Council Member Carson and passed unanimously, 4 to 0. Council Member Armstrong was not present for the vote.

**APPOINT MEMBERS TO THE SUMMIT COUNTY MOSQUITO ABATEMENT DISTRICT AS RECOMMENDED BY PARK CITY, COALVILLE, AND OAKLEY**

Council Member Robinson made a motion to appoint Blake Fonnesebeck and to reappoint Dana Williams to the Summit County Mosquito Abatement District Board of Trustees, as recommended by the Park City Council, with their terms to expire December 31, 2016; to reappoint Roger Crittenden to the Summit County Mosquito Abatement District Board of Trustees, as recommended by the Coalville City Council, with his term to expire December 31, 2016; and to reappoint DelRay Hatch to the Summit County Mosquito Abatement District Board of Trustees, as recommended by Oakley City, with his term to expire December 31, 2016. The motion was seconded by Council Member Carson and passed unanimously, 4 to 0. Council Member Armstrong was not present for the vote.

**COUNCIL MINUTES**

NOVEMBER 28, 2012

DECEMBER 3, 2012

DECEMBER 5, 2012

Council Member Ure made a motion to approve the minutes of the November 28, 2012; December 3, 2012; and December 5, 2012, County Council meetings as written. The motion was seconded by Council Member Robinson and passed unanimously, 3 to 0. Council Member Carson abstained from the vote as she was not on the Council at the time of those meetings. Council Member Armstrong was not present.

**MANAGER COMMENTS**

Mr. Jasper reported that he is putting out a press release to welcome Jaren Cade Scott, the new solid waste superintendent who has come from Iron County where he worked as solid waste superintendent. Chair McMullin noted that Insa Riepen would like Mr. Scott to attend her meetings.

Mr. Jasper reported that the County is currently advertising for a public information officer and asked the Council Members to provide information on anyone they may be aware of who might be interested in that position. Chair McMullin commented that public information officer might be the wrong title, because a public information office connotes an emergency response person. She was thinking about a PR or communications specialist. She suggested that they discuss what the job description should be before advertising the position. Mr. Jasper encouraged the Council Members to contact him and share their ideas to help him define the position. Chair McMullin suggested that they schedule some time in work session at the next meeting to define what they are looking for.

### **COUNCIL COMMENTS**

Chair McMullin asked if any Council Members are interested in attending the USU sunrise session to address water sustainability in Utah. Council Members Ure and Robinson expressed an interest in attending.

Council Member Ure reported that at a three-day conference held in Oklahoma City, water was the number one topic discussed for a day and a half. He asked if the County has a written policy regarding the County taking over the roads in subdivisions. Mr. Jasper replied that they do not have a written policy, but he sought direction from the Council on that in a work session. Council Member Ure commented that may be causing some problems that need to be discussed. Chair McMullin asked that they revisit that topic in work session.

Council Member Carson reported that she received a call from a constituent who was concerned about snow plowing on a particular road in Pinebrook and asked if she should direct that to Mr. Jasper. Chair McMullin replied that she should. Council Member Robinson explained that when he gets a call like that, he asks the person to send him an e-mail, which he forwards to Mr. Jasper and whoever else may be able to address the issue and sends a copy to all the Council Members.

### **PUBLIC INPUT**

Chair McMullin opened the public input.

Josh Mann stated that he will try to videotape the County Council meetings as often as he can. Since it takes some time for the minutes to be produced, it is hard for people to stay involved. He will put the recordings on You Tube and the web so people can watch them.

Chair McMullin closed the public input.

### **PUBLIC HEARING AND POSSIBLE DECISION REGARDING FINAL SITE PLAN FOR SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT FIELDHOUSE EXPANSION; AMIR CAUS, COUNTY PLANNER**

Chair McMullin stated that this item was cancelled due to process issues.

**CLOSED SESSION**

**Council Member Robinson made a motion to convene in closed session to discuss litigation. The motion was seconded by Council Member Ure and passed unanimously, 5 to 0.**

The Summit County Council met in closed session from 6:20 p.m. to 6:30 p.m. for the purpose of discussing litigation. Those in attendance were:

**Claudia McMullin, Council Chair**  
**Chris Robinson, Council Vice Chair**  
**Roger Armstrong, Council Member**  
**Kim Carson, Council Member**  
**David Ure, Council Member**

**Robert Jasper, Manager**  
**Anita Lewis, Assistant Manager**  
**Dave Thomas, Deputy Attorney**

**Council Member Ure made a motion to dismiss from closed session to discuss litigation and to convene in closed session to discuss property acquisition. The motion was seconded by Council Member Robinson and passed unanimously, 5 to 0.**

The Summit County Council met in closed session from 6:30 p.m. to 6:40 p.m. for the purpose of discussing property acquisition. Those in attendance were:

**Claudia McMullin, Council Chair**  
**Chris Robinson, Council Vice Chair**  
**Roger Armstrong, Council Member**  
**Kim Carson, Council Member**  
**David Ure, Council Member**

**Robert Jasper, Manager**  
**Anita Lewis, Assistant Manager**  
**Dave Thomas, Deputy Attorney**

**Council Member Carson made a motion to dismiss from closed session to discuss property acquisition and to convene in closed session to discuss personnel. The motion was seconded by Council Member Ure and passed unanimously, 5 to 0.**

The Summit County Council met in closed session from 6:40 p.m. to 6:50 p.m. for the purpose of discussing personnel. Those in attendance were:

**Claudia McMullin, Council Chair**  
**Chris Robinson, Council Vice Chair**  
**Roger Armstrong, Council Member**  
**Kim Carson, Council Member**  
**David Ure, Council Member**

**Robert Jasper, Manager**  
**Anita Lewis, Assistant Manager**  
**Dave Thomas, Deputy Attorney**

**Council Member Ure made a motion to dismiss from closed session. The motion was seconded by Council Member Armstrong and passed unanimously, 5 to 0.**

The County Council meeting adjourned at 6:50 p.m.

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**Council Chair, Claudia McMullin**

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**County Clerk, Kent Jones**

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# MINUTES

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**SUMMIT COUNTY**  
**BOARD OF COUNTY COUNCIL**  
**WEDNESDAY, JANUARY 30, 2013**  
**COUNCIL CHAMBERS**  
**COALVILLE, UTAH**

**PRESENT:**

**Claudia McMullin**, *Council Chair*  
**Chris Robinson**, *Council Vice Chair*  
**Roger Armstrong**, *Council Member*  
**Kim Carson**, *Council Member*  
**David Ure**, *Council Member*

**Robert Jasper**, *Manager*  
**Anita Lewis**, *Assistant Manager*  
**Dave Thomas**, *Deputy Attorney*  
**Kent Jones**, *Clerk*  
**Annette Singleton**, *Office Manager*  
**Karen McLaws**, *Secretary*

**CLOSED SESSION**

**Council Member Ure made a motion to convene in closed session for the purpose of discussing property acquisition. The motion was seconded by Council Member Armstrong and passed unanimously, 5 to 0.**

The Summit County Council met in closed session from 12:10 p.m. to 1:30 p.m. to discuss property acquisition. Those in attendance were:

**Claudia McMullin**, *Council Chair*  
**Chris Robinson**, *Council Vice Chair*  
**Roger Armstrong**, *Council Member*  
**Kim Carson**, *Council Member*  
**David Ure**, *Council Member*

**Robert Jasper**, *Manager*  
**Anita Lewis**, *Assistant Manager*  
**David Brickey**, *Attorney*  
**Dave Thomas**, *Deputy Attorney*  
**Jami Brackin**, *Deputy Attorney*  
**Rena Jordan**, *Snyderville Basin Recreation*  
**Bonnie Park**, *Snyderville Basin Recreation*

**Council Member Ure made a motion to dismiss from closed session and to convene in work session. The motion was seconded by Council Member Robinson and passed unanimously, 5 to 0.**

**WORK SESSION**

Chair McMullin called the work session to order at 1:35 p.m.

- **Discussion regarding citizen survey; Richard Krannich**

Richard Krannich with Utah State University recalled that the Council did a citizen survey two years ago and asked what items from that survey the County would like to get a second snapshot on. He noted that doing this type of survey every few years allows the Council to get a pulse on what is happening with the citizens. They could also include questions that would help them make decisions about items that are of concern right now or that they anticipate will become issues in the next couple of years.

County Manager Bob Jasper stated that he believes this kind of survey is helpful to the Council in determining overall priorities and direction for the County. He felt it would be helpful to do one every couple of years, but they need to be consistent in asking some of the same questions to determine whether public opinion has changed. He thought it might be a good idea to add questions about economics and taxes.

Mr. Krannich provided copies of the previous questionnaire for the Council Members to review. The Council Members discussed adding questions about tax increases to maintain the level of service on roads and how much people would be willing to pay to maintain those services. Chair McMullin explained the tax increase and petition drive issue for Mr. Krannich and explained that this would be a good time to ask questions about tax increases, because people are more educated now due to the recent truth in taxation hearings. Mr. Krannich requested that the Council provide him with written details about what happened and the cutbacks that occurred as a result, explaining that he could build questions around those concrete, real situations. He stated that it is always better to ask questions about things that are specific and real rather than questions that are general and vague.

Council Member Robinson commented that the County will be doing its own survey at the polls on the tax increase, and he wanted to be cautious about doing polling on an issue that will appear on the ballot. Mr. Krannich explained that the questions would not be that specific, and there are strategies for asking questions about willingness to pay.

Council Member Armstrong stated that he would like to learn more about what the eastern side of the County would like to see in terms of development. Chair McMullin asked if they could have a separate questionnaire for different parts of the County. Mr. Krannich explained that he could include certain questions and state that, if people live in a specific area, they should answer those questions. The downside is that they would end up with extra pages that cost more to print and mail. He could also make an analysis of the answers based on ZIP Code. Council Member Armstrong stated that he believed those kinds of questions would help the Planning Commission in analyzing what they want to see happen over time. Mr. Krannich explained that another option would be to print two different questionnaires, one for the west side and one for the east side, with 80% to 90% of the questions being the same and the remainder being area specific. Council Member Carson argued that any information would be applicable to either side of the County.

Council Member Armstrong stated that he would like to see more questions about economic development and the types of economic development people would like to see. Chair McMullin agreed that would be a great question, and she would like to know if sentiment regarding big box stores like Costco has changed in the past nine years.

Mr. Jasper suggested that Mr. Krannich draft a questionnaire and e-mail it to the Council Members for discussion. Then they could meet with Mr. Krannich again to finalize the questionnaire. Mr. Krannich suggested that they get the survey out no later than April, with the follow-up questionnaire going out no later than the beginning of June. If it is any later than that, children will be out of school and people will not be as likely to pay attention to what shows up in their mailbox. Mr. Krannich offered to prepare a budget for the survey.

Chair McMullin explained that the Council may have a better idea about questions after doing their strategic planning the beginning of February. Mr. Krannich suggested a timeline of starting the process in February, having the second or third round of revisions by the beginning of March, launching the survey by the middle of March, and being done by the middle or end of May.

Chair Ure asked about the possibility of an e-mail survey. Mr. Krannich replied that in the future he believed all surveys would be internet-based. He could not do that now, because he does not have full access to the population's e-mail addresses, so he could not sample and statistically generalize to the whole population. He could make an online version of the questionnaire as an option for people who receive a questionnaire. He stated that it would not take much work to set the questionnaire up that way, and people could only respond if they have the unique access code sent out with the survey so he would know who has responded online. He also discussed the publicity they would implement when the survey is sent out to explain its purpose and to remind people to return it.

- **Discussion regarding oversight and policy of Boards, Commissions, and Special Service Districts; David Brickey, County Attorney**

Chair McMullin stated that this item has been cancelled and asked why it was on the agenda. Mr. Jasper replied that it was an outgrowth of some concerns County Attorney David Brickey had as he was doing the training. He believed Mr. Brickey felt that some boards and commissions might not be getting enough support. Mr. Jasper and Ron Boyer discussed the advisability and costs of providing a County e-mail address to members of all boards and commissions. Council Member Armstrong asked if the Council knows what all the boards and commissions do and if any could be eliminated to save the County money. Mr. Jasper explained that they reviewed all of them a year or two ago and made some changes at that time. Chair McMullin explained that each board was found to be necessary except for perhaps the Water Concurrency Board. Council Member Armstrong requested that the Council schedule a work session to review the boards and commissions to see if they need to make changes.

- **Preview of Building/Planning/Engineering Fee Schedule and updates; Don Sargent, Community Development Director**

Community Development Director Don Sargent recalled that the Council adopted a revised fee schedule for the Community Development Department in 2010. At that time a fee study was conducted that created a methodology for justifying an increase in fees. When they researched the fees, they found that nothing had been done to increase them since 1994, and it was time to look at an increase in application fees to cover the cost of reviewing and processing applications. The resolution adopted in 2010 required that the fees be reviewed every two years, and no longer than five years, to see if they need to be modified or updated. When they reviewed the fees in

2010, there was a substantial difference between the amount they were charging and what the fee study recommended. Therefore, the Council recommended that they not charge the full amount, because the increase was so large, so they increased fees an average of about 50% of what was recommended by the study. He recalled that in the last quarter of 2011, the Community Development Department initiated the GovPartner computer program that allows people to pay their fees online. At that time they discussed increasing fees by 3% to cover the cost of the online payments, and the Council decided the County would absorb that cost and did not adopt that fee. His research shows that the credit card transaction fees amounted to about \$4,500 last year.

Council Member Robinson questioned the fees for solar energy and wind farm installations. Mr. Sargent explained that when installations are above a certain size, they require outside expertise to assist in reviewing the applications and inspecting and reviewing the installations. Council Member Carson believed that, if the County is trying to encourage people to install solar panel systems, they should make accommodations in the fees so people will be willing to install solar. Mr. Sargent explained that most residential installations would be charged the \$350 fee. Council Member Ure stated that he did not believe they should try to set fees in order to drive a certain program in a certain direction.

Council Member Robinson asked about the weed control fees. County Engineer Derrick Radke explained that refers to excavation work done by others in the County right-of-way that causes weeds to proliferate. He explained that the Weed Board requested that the weed control items be included in the grading permit process as a tool that would be available in addition to State law to encourage people to take care of weeds that come up because of construction projects.

Mr. Sargent reviewed some of the proposed fees and his rationale for recommending adjustments to various fees and answered questions from the Council Members regarding the fee adjustments. After reviewing specific fees, Mr. Sargent asked if the County Council believes there should be an increase in fees across the board. Chair McMullin asked if he is requesting an increase to the amounts recommended in 2010. Mr. Sargent replied that his department is in a deficit with applications and is not covering costs, and he is suggesting that they increase the fees by an additional percentage. Council Member Carson stated that, considering the budget discussions, she believed they should try to recover as many of the costs as possible. She could see spending taxpayer money on long-range planning issues, because that is for the betterment of the entire community. Council Member Armstrong commented that, just like in Service Area 6 and the municipal fund, these fees should have increased incrementally since 1994, and now they have a large disparity. He believed they should continue to move the fees up until they are on par with where they should be and that they should be increased by at least 25%. Council Member Robinson stated that he is more inclined to see them increased by 10% across the board and do it more often.

Building Official Robert Taylor explained that the Building Department's current fee structure is based on an appendix from the 2009 International Residential Building Code that is applicable to one- and two-family dwellings. However, it is currently applied to all construction in the County. He proposed that they clearly divide out the fees intended for one- or two-family residential construction and not propose an increase in those fees. He proposed that an increased fee be charged for all commercial projects and multi-family residential projects that exceed \$1 million, because they are considerably more complex and require considerably more time and

expertise to service. The Council Members discussed with Mr. Taylor the pros and cons of bringing in a third-party building inspector on large projects, with the costs being paid by the developer. Mr. Taylor explained that the Code currently allows the Building Official the authority to make that decision. Council Member Carson suggested that Mr. Taylor explore having a third-party inspector on bigger projects.

Mr. Sargent suggested that they might want to consider looking at the fee waiver provision in the ordinance, stating that it would be helpful if they had a way to identify when a fee waiver is appropriate.

- **Updates regarding Economic Development; Anita Lewis and Alison Weyher**

Assistant County Manager Anita Lewis explained that they wanted to help the two new Council Members understand what they have been doing with economic development and where they would like to go in the future. She provided a background of economic development efforts in the County since 2010 and the goals that have been met. She reported that Alison Weyher was successful in writing a Business Expansion and Retention (BEAR) grant and has conducted 60 of 200 interviews with business owners that need to be conducted under the grant.

Ms. Weyher explained that the interview consists of 10 pages and is conducted in person. The information is sent to the Governor's Office of Economic Development (GOED), and the State monitors some of the information, with the remainder of the information remaining with the County. So far, the results of her surveys show that 62% of the businesses she has interviewed say the local business climate is good or excellent, and 70% say it will be better in five years. Of those businesses, 82% say they have adequate capital, and 51% plan to expand in the next 12 to 18 months. Only 3% have seen a decline in employment over the last year, while 35% expect to increase the number of employees within the year. Of the 4,300 employees represented by the businesses with which she has met, 41% of them live outside Summit County. She noted that industries like landscaping, construction, agriculture all hire in the summer and lay off in the winter, and she thought there would be some crossover to winter jobs in the community, such as snow plowing, but that does not happen for a number of reasons. She expressed concern that the average income for a family of four in Summit County is about \$106,000, but the average salary paid by employers in Summit County is just slightly more than \$35,000, so there is a huge disparity between salaries paid by employers in the County and the resort community. Another concern is that 20% of employers have difficulty retaining employees, and 27% of employers have a hard time recruiting employees. Employers with higher paying jobs have a hard time getting people to commute from outside the community. She explained that through the BEAR program, once she meets with a business and gets to know what their needs are, she can determine what to do to help them.

Ms. Lewis explained that the State Legislature funds the BEAR program every year, and she encouraged the Council Members to use their contacts to encourage the Legislature to continue to fund the program. She explained that the interviews are just the first step in a process, and grants are available for other areas of economic development. She encouraged the Council to think about next steps in economic development in their strategic planning.

- **Discussion regarding role of possible Public Relations Specialist**

Chair McMullin clarified that the purpose of this item is to let Council Members discuss what they are looking for in a public relations specialist, and Personnel Director Brian Bellamy will take that information to create a job description. She stated that the reason why she wanted this position in the budget has to do with what she does not want to see happen again. She does not ever want the lack of communication with the community over something like the tax increase to happen again. The messaging was confusing, and the Council Members were not consistent in their messages to the public. She recalled that they did an equally poor job of messaging the two items on the ballot in 2011, resulting in anger in the community that would not have been necessary if they had done a better job of communicating. She would like this person to come to Council meetings so they can hear first-hand what the Council is talking about and help craft the message. She would like the message to be consistent, regardless of where it comes from, on any topic that implicates the Council and policy. She would also like this person to train the Council Members, because they are not great at messaging.

Council Member Armstrong felt it was important to get more people engaged in their meetings and the issues on an ongoing basis. If people feel engaged, they are more likely to be supportive.

Council Member Robinson commented that, after reading Park City's and other job descriptions, he did not believe this job is big enough for the person to only do public relations. He asked if the job description should include someone who could work in sustainability or affordable housing or some other area where the County needs help. Council Member Armstrong stated that a true PR person will have a special set of skills and would probably not have the skill set to also fill some other position. Chair McMullin noted that they have already closed the sustainability position, and for now, she wants a PR focus. Mr. Bellamy explained that Park City's public relations person also does PIO work for them. His research shows that the average salary with benefits for a PR person runs about \$79,000. Mr. Jasper commented that they might be able to contract with someone to do the job part time. Chair McMullin noted that she is not interested in hiring a firm to do this job.

- **Discussion regarding possible changes to the cost recovery provisions of the Summit County Code so as to allow the process to be initiated through the Administrative Code Enforcement Program; Dave Thomas, Chief Civil Attorney**

Deputy County Attorney Dave Thomas explained that the current process in the County is that the Manager investigates aggravated fire, aggravated medical, and hazardous materials emergencies and makes a determination of culpability and the cost of cleaning up the emergency. The responsible party can appeal that determination to the County Council within 30 days, and the County Council holds a hearing to make the final determination. After 30 days, the County can commence a civil lawsuit. That process is very bureaucratic and time consuming, and often the responsible party does not take the process seriously. There is no enforcement mechanism, and in the end the County still has to file a civil complaint. The proposed process would create County misdemeanor offenses for false alarms, release of hazardous material, and reckless burning, which can be enforced through the Administrative Code Enforcement Program. A citation would be issued, a hearing would be held before an administrative law judge who could impose cost recovery and fines, and that could be enforced through the Justice Court. The

process is more streamlined, and people tend to take it more seriously when they are issued a citation and have to appear before a judge.

Council Member Ure asked for the definition of reckless burning. Mr. Thomas replied that it is defined as recklessly starting a fire, causing an explosion that is dangerous to human life, having started a fire whether recklessly or not and knowing that in spreading it will endanger the life or property of another and either failed to take reasonable measures to put out or control the fire or failed to give a prompt fire alarm, to build or maintain a fire without taking reasonable steps to remove all flammable materials surrounding the site of the fire as necessary to prevent the fire's spread or escape, or damaging the property of another by reckless use of fire. He noted that this language mimics the State criminal statute. Council Member Ure commented that when a farmer is burning his ditch bank in the spring, a cross wind could come up and blow things the other direction very quickly, and he asked if those are the people they will be going after. Public Works Director Kevin Callahan explained that reckless would be if they had called in to the fire authorities and were told not to burn, but they burned anyway. Mr. Thomas clarified that the County's intent is cost recovery. County Fire Warden Bryce Boyer explained that any time a person wants to burn on their property, they are encouraged to call dispatch before lighting the fire. If they call in ahead of time, he can tell them if it is a no-burn day due to the weather forecast. Council Member Armstrong suggested that they include language about burning at a time when burning is prohibited.

Chair McMullin suggested that they include in the ordinance some examples of reckless burning.

Mr. Callahan noted that this language refers to an enforcement official, and the Stat is very uncomfortable with a county Fire Warden issuing an administrative citation. He currently has to call for a deputy to issue the citation, which Mr. Boyer signs, and that is not an efficient process. He stated that they will continue to work with the State to find a solution to that concern. Mr. Jasper discussed issues that arose during last year's fire season between the State and County and asked that they convey to the State Forester that this should be a partnership, which means there are two sides, and they should talk about things, not have one side make all the decisions.

Council Member Robinson noted that the Code refers to the Chief Executive Officer of the County and asked if that is the Manager. He suggested that language be clarified.

Council Member Armstrong suggested that the definition of reckless burning include the negligent causing of a fire, which should incorporate shooting, fireworks, and other causes.

Council Member Carson commented that she supports moving in the direction of enforcing this through the administrative law judge.

### **CONVENE AS THE GOVERNING BOARD OF THE SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT**

**Council Member Armstrong made a motion to convene as the Governing Board of the Snyderville Basin Special Recreation District. The motion was seconded by Council Member Robinson and passed unanimously, 5 to 0.**

The meeting of the Governing Board of the Snyderville Basin Special Recreation District was called to order at 4:20 p.m.

**APPROVAL AND EXECUTION OF OPTION AGREEMENT (TOLL CANYON); DAVE THOMAS, CHIEF CIVIL ATTORNEY**

**EXERCISE OF OPTION TO PURCHASE TOLL CANYON; DAVE THOMAS, CHIEF CIVIL ATTORNEY**

Mr. Thomas recalled that Utah Open Lands entered into an option agreement with RE Investment Holdings, LLC (REIH) to purchase Toll Canyon for \$6.1 million, with \$2 million down and \$4.1 million in a note secured by a deed of trust that, if timely paid by December 28, 2014, will reduce the note to \$3.49 million. The option must be exercised by Friday, February 1, 2013, with closing on Monday, February 4. The Board has before them the option agreement between Utah Open Lands and the Snyderville Basin Special Recreation District which provides that the Recreation District will make the down payment at the February 4 closing, and as security for the down payment, they will take a deed of trust and be in second position to REIH. From then until when the rest is due in December 2014, Utah Open Lands will work toward a contribution of \$250,000, and the Recreation District will pay the \$3.49 million minus the \$250,000 contribution from Utah Open Lands by December 28, 2014. That money will come through the Park City purchase and open space agreement executed on December 19, 2012, in which Park City has a note payable to the Recreation District that is due November 14, 2014, that will more than cover the \$3.49 million. That note has a deed of trust attached to it as well. With the Toll Canyon purchase comes 37.52 acre feet of water rights both decreed and through a contract with Weber Basin, as well as 30 gallons per minute of source capacity from two of Mountain Regional Water Special Service District's wells. The Board first needs to approve the option agreement, which has had the section on water rights added to it. Once that has been signed, the Board needs to exercise the option before tomorrow, January 31, 2013. Mr. Thomas clarified that the water rights will be assigned by REIH on February 4 to Utah Open Lands, which will then immediately assign those water rights to the Recreation District.

**Board Member Robinson made a motion to execute the Option Agreement between Utah Open Lands and the Snyderville Basin Special Recreation District for the acquisition of the Toll Canyon property. The motion was seconded by Board Member Carson and passed unanimously, 4 to 0. Board Member Ure was not present for the vote.**

**Board Member Robinson made a motion to exercise the option to purchase Toll Canyon. The motion was seconded by Board Member Armstrong and passed unanimously, 5 to 0.**

**DISMISS AS THE GOVERNING BOARD OF THE SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT AND RECONVENE AS THE SUMMIT COUNTY COUNCIL**

**Board Member Robinson made a motion to dismiss as the Governing Board of the Snyderville Basin Special Recreation District and to reconvene as the Summit County Council. The motion was seconded by Board Member Carson and passed unanimously, 5 to 0.**

The meeting of the Governing Board of the Snyderville Basin Special Recreation District adjourned at 4:35 p.m.

### **REGULAR MEETING**

Chair McMullin called the regular meeting to order at 4:45 p.m.

- **Pledge of Allegiance**

### **DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE #792 AMENDING TITLE 1, CHAPTER 11, OF THE SUMMIT COUNTY CODE REGARDING DISPOSITION OF COUNTY REAL PROPERTY AND PERSONAL PROPERTY; DAVE THOMAS, CHIEF CIVIL ATTORNEY**

Mr. Thomas recalled that the Optional Form of Government was amended during the last election to change the powers section regarding consent of the County Council when the County Manager disposes of real or personal property valued at over \$500,000. State statute requires the County to define a significant piece of real property, which required a change in the sections regarding property in public use and property not in public use. Previously, under the County Commission form of government, a recommendation was required from the Planning Commission, and that provision has been eliminated.

Council Member Robinson asked if there is a requirement for Council approval of the acquisition of real property. Mr. Thomas replied there is not, only in the sense that the Council has budgetary authority, and the money would have to be appropriated for property acquisition.

**Council Member Robinson made a motion to approve Ordinance #792 amending Title 1, Chapter 11, of the Summit County Code regarding disposition of County real property and personal property. The motion was seconded by Council Member Carson and passed unanimously, 5 to 0.**

### **DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE #793 AMENDING TITLE 9, CHAPTER 1, OF THE SUMMIT COUNTY CODE REGARDING BUILDING CODES AND REGULATIONS; DAVE THOMAS, CHIEF CIVIL ATTORNEY**

Mr. Thomas explained that these amendments will update the chapter showing that the County is adopting the Building Code and will also adopt the Fire Code, which was inadvertently left out of the current Code.

**Council Member Ure made a motion to approve Ordinance #793 amending Title 9, Chapter 1, of the Summit County Code regarding building codes and regulations. The motion was seconded by Council Member Carson and passed unanimously, 5 to 0.**

**DISCUSSION AND POSSIBLE ACTION REGARDING AN APPEAL OF AN ADMINISTRATIVE DECISION FOR BLUE SKY RANCH (DAVE URE AND SALLY ELLIOTT, APPELLANTS), LOCATED ON PARCELS NS-82 AND NS-86 IN WANSHIP; JENNIFER STRADER, COUNTY PLANNER**

Council Member Robinson asked about the procedure when an appellant is also a County Council Member. Mr. Thomas replied that when a Council Member appears as a party to an appeal, they should recuse themselves and take the position as the appellant. Council Member Ure stated that he would not recuse himself, because he has nothing to gain from the appeal, and it has cost him money, travel, and a significant amount of time to bring the appeal. He asserted that he would simply be representing his constituents, and nothing in State or County law requires him to recuse himself when he does not have a financial interest in the outcome. Chair McMullin stated that there could be legal ramifications to that decision and that Council Member Ure is taking a risk by not recusing himself.

Chair McMullin swore in those who planned to give testimony on the appeal.

Council Member Ure noted that the Handbook states that an appeal goes to the appeal authority, which holds a public hearing on the appeal, and he claimed that this is a public hearing, which would allow anyone in the audience to participate. Council Member Robinson noted that this item is not scheduled on the agenda as a public hearing. Mr. Thomas stated that neither the County Code nor State statute requires a public hearing. The language in the Handbook probably refers to those present being able to talk, but it is not an official public hearing. The only notice necessary was notice of the appeal.

Council Member Ure explained that, once he started the appeal, he could not communicate with the other Council Members about it, and he verified that he has not discussed it with any of the other Council Members. He stated that he has believed in certain principles his entire life, and when something happens that crosses that line that he thinks should be changed and looked at, he does not care about the consequences. He believed this issue would be better for all of Summit County and is not directed at trying to hurt Blue Sky, but he is trying to set up a process where everyone is treated equally and knows what the Planning and Zoning Ordinances are. He stated that he made his first telephone call regarding this while he was Council Chair, and when he called Sally Elliott, they were both sitting members of the County Council.

Chair McMullin asked if Council Member Ure is suggesting that he represented the Council in making his telephone calls, because the Council did not discuss this, and his telephone calls were not representative of the Council as a body. Council Member Ure agreed and stated that by calling other Council Members, it could have been classified as a public meeting and been in violation of the Public Meetings Act. He confirmed that he was not representing the Council when he made the telephone calls. He stated that he is appearing this evening on behalf of himself, David Ure, along with Carsten Mortensen and Sally Elliott.

Council Member Ure stated that the issue before the Council is the process of approving a distillery under a Low Impact Permit (LIP). He was not opposed to the facility itself, but he was opposed to the process by which it was approved. He stated that he has been accused by people in Wanship of trying to kill business, and that is not the case. He noted that there is no definition of a distillery in the Code, and nothing in the LIP describes the nature of the distillery. The

minutes of the Eastern Summit County Planning Commission say there will be approximately nine semi loads a month going to the distillery, which is .5 million pounds of grain. When that is mixed with water, there will be a huge amount of waste, which creates a large impact. He questioned how much water is available at Blue Sky and whether the 24 acre feet referred to in the staff report has been verified, because it is not documented anywhere. He discussed water issues in Eastern Summit County and stated that he believed the Council had passed legislation requiring people to show a water certificate when developing their property, but there is no certificate in the Blue Sky application. He asked how much acreage the 24 acre feet would be spread across, noting that Blue Sky has a significant amount of acreage to irrigate, 60 units, and two or three restaurants that will use water. He questioned how many gallons would be used in the distillery and how many gallons the distillery will produce in a year. He believed those questions should have been included in the conditions of approval so the Planning Commission could have had an opportunity to review that information and give input.

Chair McMullin asked if Council Member Ure's issue is that the LIP was issued, and the Conditional Use Permit (CUP) was amended based on the Community Development Director's decision not having gone through the Planning Commission. Council Member Ure confirmed that is correct and that the Community Development Director has the authority to issue the LIP on his own. Chair McMullin noted that certain conditions apply to issuing a LIP.

With regard to intensity, Council Member Ure asked how they could justify nine semi loads of grain going to Blue Sky each month, and according to his calculations, that would mean 27 semi loads hauling waste out. He stated that amount of waste would feed a lot of cattle, probably five or six times more than the cattle at Blue Sky would consume. Chair McMullin verified with Council Member Ure that he believes the increment of the waste would increase the intensity of the use beyond the original intensity. Council Member Ure stated that another question is how many gallons of alcohol will be produced. He believed the majority of it would be sold at wholesale, creating more traffic on the road, which is a big impact. He noted that the waste also has a strong odor, which is another impact. He claimed that the intensity, the water, and the amount of production were never discussed with the Planning Commission. He noted that there will be a guest ranch, a restaurant, a distillery, and two warehouses, all on land zoned AG-160, and he questioned which would be the accessory use. He asked if the restaurant and distillery would have to shut down if the guest ranch shuts down. Chair McMullin stated that she believes the record shows that they would shut down if the guest ranch shuts down. Council Member Ure noted that the owner stated in the minutes that would depend on the contracts with High West.

Council Member Ure addressed water issues and noted that the wells in the West Hoytsville Subdivision are running dry. He thought the Community Development Director should have asked about the impact on those wells when this distillery will take even more water out of an area that is already short on water. He asked why the septic system was not discussed so they could have a guarantee that the septic system on this property will not pollute somewhere else and why they are not under the jurisdiction of the Eastern Summit County Sewer Advisory Committee. It was his understanding that a CUP has a higher priority than County ordinance. The CUP was approved in 2006, and an amendment was made to the Code in 2008 addressing major and minor amendments to CUPs. Chair McMullin verified with Council Member Ure that his claim is that, because the CUP was issued in 2006, it is subject to the amendment process that existed in 2006 rather than the current amendment process. Council Member Ure stated that he did not believe the Community Development Director should have sole authority to issue a LIP,

because someone with a CUP could ask for a nuclear power plant as an accessory use to their existing CUP. With the kind of authority the Community Development Director has, he could put a nuclear power plant on property where a CUP exists. Council Member Ure stated that by issuing the LIP, they are increasing the value of the guest ranch. If the owners decided to sell it because of the increased value, and the distillery use is not on the use chart, the new owner could request a sexually oriented business on the property as an accessory use to the restaurant and still keep the total square footage below the 220,000-square-foot limit. He did not think the people in Wanship would want that type of business there.

Chair McMullin asked if Council Member Ure would be satisfied if a distillery were to fall within a definition in the use chart or whether he believes distillery should be defined in the use chart. Council Member Ure stated that he believed there are three ways to solve the problem. One would be to issue a Temporary Use Permit (TUP) with conditions and then have the applicant go through a rezone process. Another option would be for the Council to issue a special exception with conditions, so the Council could ask questions about water, waste, septic, etc. He stated that he is not opposed to the distillery, but he is concerned about there not being any conditions on the LIP and the process by which it was approved. Chair McMullin clarified with Council Member Ure that he would like Blue Sky Ranch to go forward; he just wants to do it through a different process with all of the impacts addressed.

Carsten Mortensen, an appellant added to the appeal since it was filed, stated that he is in favor of business growth in the County and does not have anything against Blue Sky. His concern is that different businesses are treated differently when going through the planning process, and he believes they need consistency in the process. He attended the Planning Commission meeting when Blue Sky made their presentation, and without exception, the Planning Commissioners wanted it to go through the proper process and did not want a LIP. He had to miss the next meeting and was not sure what happened at that meeting. He had questions about this being an accessory use and believed this should have gone through the same process everyone else had to go through.

Sally Elliott stated that she was invited to the groundbreaking ceremony for Blue Sky and was surprised that the Council had not heard anything about it. She was surprised to see everyone celebrating and thinking it was a done deal. She wrote an e-mail to the Council Members expressing her concerns, and that may have been when Council Member Ure realized that they agreed on this issue. She stated that she was on the County Commission when Blue Sky was approved in 2006 but missed the site inspection, and although she asked Don Sargent to provide her with a report on the site inspection, she never received it. She likes whiskey and horses, and as a veteran of three tourism businesses, she thinks this is a great tourism opportunity for Summit County. She did not address the potential impacts, because she felt that should probably be done by the people surrounding the use, and it falls within the Planning Commission's purview. She believed the applicant had complied with everything they were asked to do by the Community Development Director. Her complaint is about the process, and this is not the intent of the Code, so she believed they should re-do the Code appropriately. She believed there should be a zone change and that the Community Development Director is at fault for trying to approve a use in an agricultural zone that is clearly a commercial use that should be in a commercial zone. She stated that the Community Development Director erred in his judgment, which has caused heartache and grief for many people and has probably cost Blue Sky a lot of money. She believed they need to add distillery with a definition to the use chart. She commented that they

could not have foreseen that anyone would want to build a distillery in this area, but when they do it, they should go back and do the right thing. She stated that the Code should reflect the public opinion expressed at the public hearings when the Code was adopted, and the burden lies on the Community Development Director and Planning Staff to create the language in the Code that causes the will of the people to occur, and that has not happened. Even though they see in the minutes that the surrounding neighbors approve of this use, they haven't followed the County process. She stated that this is far outside of anything she has seen in 22 years of elected service and attending public hearings and is totally foreign to her as a way of doing things. She asked the Council to direct the Planning Department through Mr. Jasper to re-do the process in a way that comports with the law and the wishes of the people, because the wishes of the people are what should be written the Code. If the Code doesn't say it, then it is not the letter of the law, and the Planning Director is at fault.

Council Member Ure noted that this is the first time this planning element has been looked at. He stated that the minutes of the December 19 Eastern Summit County Planning Commission meeting are good, but he asked the Council to listen to the audio recording of the meeting, because the Planning Commission went into much greater detail wrestling with the idea of whether this was the proper process and forwarded a positive recommendation by a vote of 4 to 2 out of sympathy for Blue Sky because they did not want to waste Blue Sky's work and time.

Mr. Sargent stated that one thing he has learned working for the County is that he will be in trouble if a project is approved, and he will be in trouble if the project is denied. He explained that any decision like this one regarding how to process an application or interpret the Code is his responsibility, and he also relies on a very professional staff to help him make those decisions based on discussion and review of each situation. He believes Staff followed the Code and did their job with this application. He acknowledged that the Code does not address all project applications equally. Each one is different, and the Code does not fit every detail of every application they see. The job of Staff is to interpret each situation the best they can based on the circumstances surrounding any given application.

County Planner Jennifer Strader explained that in 2006 a CUP was approved for Blue Sky for a guest ranch and lodge intended to attract patrons for an extended stay. That use is identified as a Conditional Use in the use chart in the AG-160 Zone District, and there is no definition in the Code for what a guest ranch consists of. The main use was to be a corporate university providing educational and team building opportunities to employees. It was proposed to include a conference center, lodging, wellness center, agricultural buildings, and other accessory and support buildings. The total square footage was 220,000 square feet, which would include, in addition to the university campus, conferences, weddings, special events, corporate training, food and beverage, and recreational activities. In 2007 Blue Sky requested an amendment to the CUP based on economic conditions. They proposed decreasing the overall square footage to about half of what was previously approved, with the uses of the facility remaining the same. At that time, they also requested to add High West. After Staff reviewed the proposed amendments and potential land use impacts, they directed the applicant to apply for a LIP based on the section of the Code that allows a LIP to amend a CUP. It was Staff's opinion that the impacts associated with the amendment would likely decrease based on the reduction in square footage, and the original approval included five restaurants and cafes. Service providers reviewed the application, and several work sessions were held with the Planning Commission. They voiced general support of the application but requested that Staff schedule a public hearing to be sure

that public comment could be addressed. A public hearing was held on December 19, and four members of the public spoke in favor of the application, with no negative comments received. The Planning Commission voted to forward a positive recommendation to the Community Development Director, who is the final approval authority for LIPs. Planner Strader noted that all of the conditions placed on the original CUP must be met by the applicant. The LIP does not have conditions because the CUP already includes the conditions. She noted that, because the LIP went through the public hearing process, it was essentially the same as the CUP process. The only difference is that the Planning Commission is the final approval authority for a CUP.

Chair McMullin asked for Mr. Thomas's opinion on the assertion that the rules that existed in 2006 with respect to the CUP process should apply in this situation. Mr. Thomas explained that the procedure does not usually vest. The Utah courts have said that they should generally use the least restrictive process for the property owner. To the extent that the Code amendments allow the property owner to have a less restrictive way of amending, generally they would be allowed to do that. Deputy County Attorney Helen Strachan explained that this is a new LIP application that is separate from the previous CUP application.

Mike Phillips, Managing Partner and Owner of Blue Sky and CEO of Phillips Edison & Company, the parent company, clarified some facts. He stated that the truck projection was not all grain, and other supplies would come to the distillery. With regard to septic, they are putting in a fully contained package sewer treatment plant similar to what services Oakley, and the volumes of water consumption and sewage treatment are less than they would have been with the 171 rooms approved under the CUP. He stated that they are in the process of satisfying all of the conditions in the original CUP. He noted that they have tried to do everything the County has asked of them since starting this project, and he believed Staff had done a good job of reviewing the project and that they were going down the right path. If the County has an issue with the process, that should be addressed by seeking a revision or amendment to the Code, which is a separate process. He explained that they relied on the County's approvals and have already invested about \$15 million in the project. He asserted that the appeal is unfair to Blue Sky and is delaying the project, so they would like it resolved as quickly as possible. He reviewed the plan for the entire property and the uses on the property. He explained that the distillery would be a component of the food and beverage offering at Blue Sky. He described other food and beverage experiences that are becoming an important part of this type of conference center and food and beverage operation. He noted that the total number of rooms has been reduced by 111 with the amendment, and they decreased the size of some facilities and cut traffic to half of what was projected when the CUP was approved. He explained that the use proposed for the original CUP remains the same with this amendment, but the size and impact has been cut back. He explained that they will continue to operate the ranch once the guest facilities have been completed, and it will provide about 200 new jobs in eastern Summit County. He noted that the ranch supplies grass-fed beef for Summit County Beef. He requested that the County Council deny the appeal.

Dan Weatherby, project manager, stated that there were some errors in the appellants' calculation of water use and product being trucked to the mountain. He explained that the project will be built in several phases over 15 years. The start-up deliveries of grain would be approximately 4,000 lb. per month for the first couple of years. As the distillery progresses in ability, that would increase. The estimate of nine trucks was a question posed to the applicant in the LIP process, and the answers to those questions are on record with the Planning Department. He stated that the proportions of water to grain presented by the appellant are not accurate, but

that information is part of the record, and he could also supply that information. He stated that they have proof of 24 acre feet under contract, which was also presented and is on file. A well on the property provides more than the 100 gallons per minute that was set as part of the criteria. He noted that 24 acre feet is the total amount needed for the original 2006 CUP approval and is more than adequate for the current proposed buildout.

Council Member Armstrong asked about the grain leaving the site. Mr. Weatherby replied that the grain will go into the still pots where it will be cooked. Then it will be delivered and used as cattle feed. He explained that they will not have left over grain, as they have ample cattle to eat all of the grain.

Brad Cahoon, legal counsel for Blue Sky, explained that this is a significant company. He noted that, because this is an appeal, the Council is sitting in a quasi-judicial capacity, and due process is in play. Having an appellant who refuses to recuse himself and purports to also be among the decision makers would be in violation of due process, and he would object to that. Mr. Ure has claimed that he has not had any communication with the other Council Members, but if that were the case, it would prejudice the decision. He discussed the principle of exhaustion of administrative remedies, which requires an appellant to have participated in the proceedings below; i.e., before the Planning Commission proceedings. In reviewing the record, none of the issues being raised with the Council were raised before the Planning Commission, and this is the first time they have been raised. The appellants are not on record as voicing any objection before the Planning Commission, which is a violation of the doctrine of administrative remedies, and because of that, the appellants have no standing to file an appeal. The Planning Commission was entitled to and should have heard the appellants' arguments and had an opportunity to take them into consideration. It is inappropriate for them to come with new ideas and arguments for the first time on appeal.

Mr. Cahoon stated that there has been a lot of criticism of the Community Development Director, but as the Code is now written, he was granted discretion to decide the process, and he exercised that discretion and made a proper interpretation. He concluded that there would not be an increase in square footage, density, and intensity, and therefore he selected the LIP process. However, he still felt it was significant enough to present it to the Planning Commission, and the Planning Commission had the opportunity to consider the merits of what was being presented. With regard to a distillery not being identified on the use chart, he noted that the 2006 CUP approval also does not fit into the use chart other than the guest ranch. It was very broad and encompassed multiple structures and uses that were all complementary, and because the Code allows for an amendment process, it can be concluded that the distillery is consistent with the overall concept. He noted that the Planning Commission found on December 19 that all accessory uses are tied to the principal use and that the restaurant facility is an accessory use to the principal use. He explained that the restaurant and distillery use could not exist without Blue Sky, which makes it an accessory use. He stated that the appellants could have appealed the decision made by the Planning Commission, but they did not, and that leaves them without standing. He noted that the Council now has facts that controvert the assertions made by Mr. Ure regarding quantity of water, grain, and waste. He believed it was speculation that there would be odor, and he did not believe that would be a concern. He noted that the septic tank concern has also been controverted.

Mr. Cahoon stated that, if there is a question of process, it should be addressed through an amendment to the Code. He believed it was unfair to sandwich Blue Sky in the middle of a dispute among elected officials and policy makers about process. He did not believe the power plant was a good analogy, considering that all the federal and energy commission regulations would go into approving that. He also noted that the County has a separate ordinance that applies to where sexually oriented businesses can be located. With regard to the assertion that the Community Development Director made an error in judgment, he believed the record supports the fact that it was not an error in judgment and was actually a prudent exercise of judgment.

Ms. Elliott stated that through many years, she has been through many land-use seminars and training programs which have encouraged very illuminated, illustrative, definitive Codes that enable decision makers and Staff to make reasonable decisions. She believed both Codes are in terrible conflict, and they have been asking for them to be revised for years, and it has not happened. When there has been a conflict, there has always been a difficulty. She told Mr. Cahoon that they are not being unfair or unreasonable to anyone. He is getting paid by the hour, and she was sure he is perfectly happy with that. She stated that her concerns are good government, and the purposes of good government were not served in this process. In order to insure an orderly process, the Code needs to be tightened up, amended, and good government needs to be served by doing the will of the people and not the particular ease of Staff members and attorneys. She reiterated that the will of the people has not been served, and the good of the public is not being used in this area.

Council Member Ure stated that he took his information from the GRAMA request information he received from Staff, and on page 2 of the report dated December 10, it says the applicant expects approximately nine trucks per month will deliver grain to the distillery. He stated that he was pleased to hear that they only plan to bring up 4,000 lb. of grain. If they are changing from a septic system, which is shown in the CUP as a septic system, that is a major change to the CUP, and it should be identified and become part of the CUP. He questioned how they could allow a use that is not shown on the use chart, because the use chart is a chart of wisdom and experience. He would like to see the distillery go into the project, because it would be a good accessory use. He believed they have to hold to the use chart, and they could still approve a distillery by going through another process that is a clean process. He noted that the restaurant and distillery will be open to the public, and public access was never addressed in the approval process. He believed that is a big change from the original CUP which proposed that people park at the bottom and be bused to the site. He did not believe having the restaurant open to the public is a problem, but it shows a fallacy in the way they conduct business in the County. He acknowledged that the CUP has conditions, but no conditions are listed for the distillery, and no one has answered the question about the production of the distillery. He asked if it would be in proportion to the amount of liquor sold on site, and he believed that question could be answered very easily if someone would ask it.

Council Member Robinson referred to the argument that a distillery is not in the use chart and suggested that, if they were producing milk, the applicant would be hauling grain and hay to the site and would be selling milk and milk products. If they produced more than what was needed for the restaurant and guest ranch, they would allow that to be sold outside of the ranch. He believed distilling is taking an agricultural product, grain, and creating a food beverage and a byproduct that is used as livestock feed. He did not believe it is a huge stretch to look at what is

produced at the distillery as food and fiber, which is an agricultural use. There is a use on the existing use chart that allows for an agricultural use, and that is what he sees this to be. He asked the Council to consider that semantics framework.

Council Member Armstrong stated that he could not uphold Council Member Robinson's opinion regarding an agricultural use. He tracks everything well with the application up to the point of manufacture of whiskey for distribution. He asked if High West is willing to operate a distillery within a restaurant that is primarily intended to provide beverages consumed at the restaurant or sold to guests at the restaurant through the gift shop; i.e., to be used primarily on site. He believes that is the proposed accessory use. When they add the manufacturing of commercial amounts of whiskey on site for distribution outside that facility, it feels like a different kind of use.

Mr. Phillips explained that they raise cows and truck them out and sell them off premises. They also raise and cut hay and sell it off premises. The guest ranch will have a restaurant and commissary, and people will want things with the Blue Sky trademark on them. There will be places to sell those outside of the ranch to provide additional identity and branding, as many resorts do. He stated that there will be consumption on site of a good portion of the spirits produced there, but they will also store whiskey and ship it out to sell. He did not see much difference other than perhaps the scale and volume of hay production and turning grain into a distilled spirit and selling that. Council Member Armstrong explained that an accessory use for a guest ranch is different from a farming operation. The accessory use of the distillery would have to be tied to the original permitted use. If they were to limit their manufacturing to sales on site and de minimis off site use, he would be inclined to see this as an accessory use under the LIP process and then allow a different process for a broader use if that is what the applicant desires. Mr. Phillips stated that corporate groups may come in and want to be able to buy the product in quantity, and he was not sure how he could control that. He did not believe they would want to control that, because the idea would be to enhance the brand and sell as much as they can through the guest experience. He explained that High West currently ships about 9,000 cases of whiskey a year and will probably ship between 16,000 and 17,000 cases next year. In the next few years he estimated it would probably be between 25,000 and 35,000 cases a year.

Chair McMullin explained that five elements must be established for an accessory use. One is that it must be maintained and operated substantially for the benefit of patrons of the principal use. She asked if the distillery would be maintained and operated substantially for the benefit of those who go to Blue Sky Ranch and what percentage of the whiskey would be manufactured and shipped out. Mr. Phillips replied that very little would be shipped out at first, because it will be stored. Initially about 20% would be shipped out, and that would grow over time. Chair McMullin asked if this would be the primary manufacturing location for High West. Mr. Phillips replied that it would be. They have a distillery near the airport and one in Park City, and most of the product now comes out of Park City. They will consolidate the testing and mixing in Park City and move the Salt Lake facility to Blue Sky. Chair McMullin confirmed with Mr. Phillips that this will become the primary distillery for the entire High West business, not just for Blue Sky patrons. She asked how many cases they are likely to ship after the first three years. Mr. Phillips replied that in about three to five years they will be shipping up to 22,000 cases. Chair McMullin asked Mr. Phillips to describe why the High West distillery and restaurant are accessory to the principal use of the ranch and verified with Mr. Phillips that the restaurant will be open to the public. Mr. Phillips explained that in wine country, many people go there for the

experience of wine tasting, and there are clubs where people go to enjoy the spirits and see how they are made. People like to have an interactive experience, and they will come to High West and will want to take a tour, see how things are made, and buy some. It has entertainment value and is part of the total experience, and it is in character with the educational part of their operation, especially for groups. He believed it is in keeping with the total entertainment component of the resort.

Chair McMullin asked Mr. Thomas to respond to the position that a distillery is not on the use chart and they cannot create a use through a LIP amendment to the CUP. Mr. Thomas explained that the use table states that, in cases where proposed uses are not listed in the table, the Community Development Director shall compare the nature and characteristics of the proposed use with those of the uses specifically listed and make a determination that the proposed use is similar in nature and logically fits into any of the categories listed. Where it is determined that the proposed use is consistent with an existing category or use, the proposed use shall be permitted, conditional, or prohibited under the existing use with which it has been associated.

Council Member Robinson asked for an opinion regarding whether an operation that converts grain to fiber and a food beverage is akin to taking grain and making another food beverage such as a dairy. Mr. Thomas replied that he could try to fit that into an agricultural use, but it would not be a typical agricultural use. He would probably fit it more into light manufacturing than agricultural. Council Member Armstrong stated that the problem he has with trying to define this as an agricultural use is that the definition of agricultural is quite specific. It refers to raising crops and animals.

Council Member Carson noted that the Council is supposed to be hearing this de novo and asked how Council Member Ure's refusal to recuse himself would fit, because he has thoroughly researched this and been out gathering information. Mr. Thomas explained that the problem is that Blue Sky has due process rights, and the Council is sitting as a judge. The situation with Council Member Ure would be as though they had a district court judge who decided to appeal a case and then sat as the judge on his own case. The Council is to hear the evidence anew, and based on the evidence presented to them in this proceeding, they make a decision. Council Member Robinson stated that he was not certain that it is entirely up to Council Member Ure to decide whether he can recuse himself or not. He asked if the Council can disqualify his vote, because he would not want his vote to count and then have it found that the due process of either party was denied, which would taint the process. Council Member Ure requested time to discuss that decision with the other appellants. Mr. Thomas stated that he did not believe the Council could disqualify Council Member Ure, and he needs to decide whether he will recuse himself. However, if he decides not to recuse himself, that could lead to other issues.

Council Member Robinson stated that one problem he has with the accessory use argument is that they are dealing with a moving target. The amount shipped today may be zero, then it may be 20%, and in the future it could be 90%, since they have been told this facility will consolidate other operations. He asked for Staff's opinion of what the similar use would be and whether the agricultural use would apply. Mr. Sargent explained that Staff compared the distillery to the other uses in the original CUP approval and their associated impacts. They determined that it would be an accessory use but acknowledged that it was not identified as a specific use in the use chart. That question never came up until the application went to the Planning Commission. Staff's analysis started with the overall umbrella of the CUP and compared the impacts

associated with it under the LIP process. Council Member Robinson asked what the process would have been if the applicants had asked to reduce the square footage and add a dairy operation. Mr. Sargent replied that it would have been reviewed as an agricultural use and would not have been related to the CUP.

Chair McMullin asked about the analysis used to determine that this use would not increase the intensity of the use. Planner Strader explained that they looked at land-use impacts; i.e., traffic, fire protection, and health safety issues. The County Engineer confirmed that the level of service on the roads would not be impacted, and the North Summit Fire District and Fire Warden confirmed that it would meet all the requirements. Chair McMullin asked if they were looking specifically at the distillery use or the application in the aggregate. Planner Strader replied that it was looked at in total, with the decrease in density and the addition of High West.

Council Member Ure stated that he would like to call witnesses.

Mike Brown stated that he did not intend to speak tonight, and he believed the Council was far from the real issue of this appeal. He stated that the Planning Commission minutes show that he is not opposed to the distillery or Blue Sky. He is currently the only Planning Commissioner who served on the Planning Commission when Blue Sky was approved in 2006, and he believes the issues are Code related. He referred to Condition 16 in the original CUP approval which addressed a potential change in the economy and states that, if there are any changes to the CUP associated with Blue Sky, it would need to be amended. If suddenly there are two options for amending a CUP, he questioned why they would not have put different language in the condition. He stated that even Mr. Sargent acknowledged in 2006 that any amendment to the CUP would come to the Planning Commission. He asked if the process for amending a CUP was in the Code in 2006. Chair McMullin replied that it was not. Mr. Brown asked what the purpose of conditions is if the Code supersedes the conditions. He maintained that the only reason to put conditions in place is because they are specific to that application, site, and activity. If the Planning Commission wanted this to have a LIP review, they would have put that in the condition. He did not believe a Code change negates a condition. When he voted on the CUP, they were specific that the only way the CUP could be amended was through a CUP through the Planning Commission. He did not believe Mr. Sargent had a right to consider this as a LIP, because it violated the condition placed on the CUP. He stated that this was originally approved as a guest ranch that included a 5-story building tiered back into the mountain. It has now changed to little cabins strung out along the stream that they try to protect because it is a water source, which he maintains is an increase in intensity. He has been on the Planning Commission for over seven years, and they have always made their decisions based on what is on the use chart; if it was not on the use chart, they would not approve it. If somebody wanted a use that was not on the use chart, they had to ask for a Code amendment to put it on the use chart, and then they could reapply for the use. He stated that they cannot permit a use through a LIP or CUP. He brought up that concept in a September 2012 Planning Commission meeting when he stated that he did not believe CUPs could allow non-permitted uses if they feel they cannot mitigate potential concerns. The Legal Staff told him they could not add a non-permitted use through the CUP process. If that is true, he asked how they could add one through the LIP process, which is an even lower level of review. He also noted that the minutes show that he did not believe they should hold the applicant hostage on a poor process decision from the Community Development Director, and it is clear in the minutes that they were not comfortable about this. He stated that they never discussed the cabins being spread out along the ditch bank,

and if they were to take a snapshot of what was approved and what is on the ground now, they would not recognize them as the same project. He believed Condition 16 was put in place, not to restrict a change, but to force it back through the proper process. The Planning Commission was the authority body on the CUP, and that is why the condition was there. He claimed that the only reason this LIP came to the Planning Commission was due to word of mouth, and there are a lot of red flags. The easiest way to have done this would have been to make application to amend the use chart in the Code to include a distillery, do it in the allowed zone, and make application to permit and zone this use for what it really is. He asked why they would want someone to invest millions of dollars and be subject to a CUP revisions, which he believes is terrible planning. Mr. Brown stated that they cannot add another use without coming to the County Council as the legislative body. He believed adding a drive-through window to a fast-food restaurant is what an accessory use is all about, not adding a distillery to a previously approved guest ranch. He questioned how often a distillery would be associated with team building and obstacle courses. He believed all applicants should have access to the same provisions, and the current Code does not do that, but that does not mean they have to justify this type of action when there are other clean remedies to the problem. He noted that Commissioner Henrie asked whether someone could get a permit for a distillery if they were to request one today in the AP-40 zone, and the response from Staff was that they could not. He questioned how someone could get a permit for something they could not get under the general provisions and guidelines of the Code. He stated that there is no application for an accessory use or anything in the Code that defines how to get an accessory use. He believed they should look at every possible way to process applications in a timely, orderly manner, but he does not condone bending, stretching, and manipulating to get it done. He believed the Community Development Director should have said things are not going right, and they should fix the process so they can avoid these types of problems. He believed if the Council were to decide tonight to force Staff to follow the right process, it might help them get the ball rolling.

Mr. Phillips noted that this was not noticed as a public hearing, and they are stretching this process to allow witnesses that were not discussed beforehand. He asked for an opportunity to respond to what has been said.

Deputy County Attorney Helen Strachan stated that it was her position that they are not acting as witnesses but as appellants. They are not adding new facts, but are testifying for the appellants. Council Member Robinson asked if that changes the legal nature of their presentation. They already know who the appellants are, and if these are not witnesses, he asked for clarification regarding the capacity in which these witnesses are appearing. Mr. Cahoon stated that, technically, he should be able to cross examine them if they are witnesses. He stated that Mr. Brown is more of an advocate, and the applicant should be able to respond to the arguments. Chair McMullin assured Mr. Cahoon that he would have an opportunity to respond to the arguments and the facts being asserted.

Dennis Wright stated that something is wrong with the process, and that is what this is all about. He did not believe Council Member Ure should apologize to anyone and wanted to compliment him on his integrity. He stated that the Council Members know something is wrong with the process when two right wingers and a liberal are sitting together on this appeal. He believed the Council has done a tremendous job of picking Planning Commissioners, and it is a shame that he has to come on his own time to see if there is a problem with the government and the process. He asked why this was not done correctly and why it was even brought to the County Council.

He believed the first question Staff should have asked was whether the State Engineer approved the point of diversion change. He stated that the Planning Commission is donating their time to help the community, and he asked the Council to support them.

Chair McMullin stated that she would not hear any more witnesses unless they have facts to add. She did not want to hear another appellant argument; she wanted to hear evidence.

Council Member Ure stated that he would recuse himself from voting on this item because it would not be fair to Blue Sky to not have due process.

Mr. Mortensen stated that it seems to him that they are bringing in a whole new manufacturing entity to partner with Blue Sky by moving all of their manufacturing facilities here. This is an existing manufacturing facility moving to the Blue Sky site under an existing CUP.

Mr. Phillips explained that the original CUP was for two buildings housing the hotel rooms, one on each side of the stream, with a road proposed to connect them. They have eliminated the hotel site and the other building that was on the other side of the stream. They reduced the number of rooms proposed and will still have a guest lodge similar to what was proposed in the first place, but everything is on one side of the stream so there would be no increase in intensity crossing the stream. They have a stream restoration plan approved by the Army Corps of Engineers. They believe reducing the number of rooms has decreased the intensity, and they did a traffic study showing that the intensity of traffic was less than what was originally proposed.

Mr. Cahoon reminded the Council that they are sitting in a quasi-judicial capacity and explained that judges use rules of construction when looking at zoning ordinances. They look at the ordinance as a whole and try to construe all the provisions together and not leave out any provisions. There is also a rule that says counties must apply their own rules and ordinances, and when there is ambiguity, it needs to be construed in favor of the landowner's free use of property. The ordinance states that, if a use is not specifically listed, the Community Development Director can exercise discretion to make a determination of consistency with other recognized uses. The Community Development Director is looking at the original 2006 approval and construing it along with the Code in making a reasoned interpretation. There is a general rule that an ordinance amendment cannot apply retroactively to a land owner, but there is an important exception to that rule. If the legislative change is procedural, it does apply retroactively, and that applies to Condition 16. He believed there is a way to come to a reasoned, supportable decision under the current ordinance to make a motion to deny the appeal and uphold the Community Development Director's issuance of the LIP that amended the CUP. He acknowledged the arguments about amending the Code and stated that could be done as well, but it needs to be done outside of this hearing and through a separate process.

Council Member Robinson asked Mr. Sargent what category in the use chart he determined the distillery was most similar to. Mr. Sargent replied that they did not evaluate a specific use. They looked at the overall uses approved and allowed in the CUP, which included restaurant uses, and felt, based on the impact analysis, that this would be similar to or less than the impact created under the original CUP. Council Member Robinson asked if any steps in the process were not taken that would have been taken if this had been a major amendment. Mr. Sargent stated that Staff felt it would be prudent to review this with the Planning Commission, which was an extra step in the LIP process, and in essence, it was the same as a complete review under the CUP with

respect to process. Council Member Robinson stated that he believed the Community Development Director acted within his discretion to determine that this was a minor amendment, and to his credit, he treated it as a major amendment. It was also within his discretion to use the 2008 Code provision. However, he does not believe this is an accessory use. Mr. Sargent clarified that Staff did not go into the review looking at the distillery as being accessory to the primary use. They looked at it as being a similar use to what was already approved under the CUP and assessed the impacts associated with it. Council Member Robinson reviewed the five requirements for an accessory use and stated that he did not believe moving the entire distillery operation to this site meets those requirements. He would ask if anything else on the use chart meets those requirements, and that would be an agricultural use as he has already described. He could not uphold the Community Development Director's decision if it is based on this being an accessory use. He did not believe anything is wrong with the process, and the Community Development Director acted in good faith, followed the Code, and made the judgment call that this is a minor amendment, that the 2008 Ordinance change is procedural, and he did not believe the 2006 CUP set in stone that the Community Development Director could not apply the 2008 ordinance and use his discretion.

Council Member Armstrong commented that part of the appellants' argument is whether the Council wants the Community Development Director to have discretion, and he is not prepared to address that tonight. He believed if High West simply wanted to build a restaurant on the property, there would be no need to apply for a permit, because it would already be covered under the CUP. He believed the discussion rises out of the distillery operation. If the distillery were housed inside for the restaurant and was part of providing foodservice and possibly entertainment for the restaurant, he would not have a problem with it. However, that is not what they are looking at. He believed the proposed distillery operation exceeds what was approved in the CUP and is not an accessory use. He was not certain that anyone knew until tonight that the planned use was to consolidate all of High West's operations onto this one site, and he did not see this as a permitted use. He commended Staff for taking this to the Eastern Summit County Planning Commission, but he believed their scrutiny on the LIP and was not the same type of scrutiny they would have used to evaluate a CUP. He expressed concern that they not torture the Code in order to arrive at a decision. The Code is very specific in defining an agricultural use, and the definition of agriculture does not fit here. The more they torture the Code, the more problems they will create for themselves down the line. He stated that Condition 16 is confusing, because it refers to future development, and there will be future development on any property that has not yet been developed. He believed if this were to come back through the proper process, it would probably be well received.

Council Member Carson stated that she does not have a problem with a distillery being located here, but she does have a problem with product being manufactured and shipped out. She confirmed with Mr. Thomas that the Council could add conditions if they were to deny the appeal. She agreed with having the distillery at the restaurant as part of an overall experience to visitors. She would be willing to move forward with denying the appeal and attaching certain conditions that would move the use back to those in the original CUP, which would limit the amount produced, stored, and shipped from this facility. Because the whiskey will have to be stored for some time on site, that might allow the applicant to go back through an appropriate process to expand the use.

Chair McMullin agreed with Council Member Robinson that there is a process in the Code that the Community Development Director had the right to use, and he used it to amend the CUP through a LIP. Not only did he use his discretion to determine that this would not increase the intensity of the use, but Staff went beyond that and brought more process into the decision. She did not believe there was anything wrong with the manner in which the process was applied, because the Code allows it. The appellants may disagree with the Code, but right now the Code allows exactly what transpired. She does not want the distillery to go away, and she wants it to be successful, but she does not believe it is an accessory use. She believed it is a light industrial use and that the right process would be a rezone to Light Industrial if the applicant wants to manufacture, ship, and sell from this facility. She would be willing to entertain a denial of the appeal with conditions that for a certain period of time the applicant may proceed, but they need to seek a rezone during that time to what the use really is. Mr. Phillips stated that he would need more detail about the specifics of those conditions in terms of percentages, because there is a lead time for what is planned. Chair McMullin replied that the County needs more information. She suggested that Mr. Phillips get together with High West and get details about the expectations for the distillery operation for the next five years and then in five to ten years. Once they know those details, the Council could tailor conditions to satisfy a lead-in time.

Council Member Robinson stated that he would agree with the conditions, but he would want them to state that there will be no wholesale production and sale from the distillery during that time. The only thing the applicant could count on would be acting as a true accessory use to the restaurant and guest ranch. The only way to go beyond that would be through some future process that would allow a greater use than that.

Council Member Armstrong agreed that, in order to assure that this is an accessory use, there can be no wholesale operations, and any whiskey manufactured should be for use and sale on site. The applicant could apply for a rezone or whatever is determined to be the correct process. There would be no assurance the applicant would get any greater use in the future.

Ms. Elliott asked if the Council could table a decision and allow the applicant to go forward to see what they could do about getting a rezone. Chair McMullin clarified that they would deny the appeal and not allow any wholesale sales, leaving the applicant to decide whether they want to rezone. She stated that the last thing they want to do is stop this process.

**Council Member Robinson made a motion to deny the appeal on the administrative decision for Blue Sky Ranch and to ask the Chief Civil Deputy Attorney to craft findings of fact and conclusions of law to support the following findings:**

**Findings:**

- 1. The Community Development Director did not err in granting the LIP.**
- 2. The distillery must be an accessory use, which means that no more than 15% of its production can be sold off site on a wholesale or retail basis, and at least 85% must be consumed or purchased on site as a retail sale.**
- 3. Other findings consistent with the deliberations this evening.**

**The motion was seconded by Council Member Carson and passed unanimously, 4 to 0. Council Member Ure recused himself from voting on the appeal.**

Council Member Robinson requested that Staff prepare for a future work session to discuss adding a food production use to the use table.

## **PUBLIC INPUT**

Chair McMullin opened the public input.

Craig Eroh stated that the Council has another development coming up, the Discovery CORE Rezone, and the process is set up so that the master development plan is at the sole discretion of the County Manager. He proposed that, since no one has seen the plan for 105 units, it should be reviewed through the Planning Commission to allow the public to make comment on the development. He believed a public affairs coordinator is a great idea, and if it is done correctly, there should be more than enough work for a full-time position. He would not want the citizen survey to replace a formal envisioning process, and he is encouraged by what he saw. He could see this recognition of a problem as an opportunity to correct the oversights and protect everyone's rights. He was very impressed with the work session and believed they are going in the right way.

Glen Wright stated that he spent 30 years practicing industrial safety for an insurance company, and a distillery is not an incidental or light industrial use. It is highly flammable and requires all kinds of fire protection and construction requirements and sufficient water for fire protection. It needs to be looked at very carefully, and he believed it was abysmal and incompetent that the Planning Department would look at this as an incidental use. He encouraged them to be careful with the zoning change in terms of the hazards associated with the manufacturing process. He stated that the purpose of giving input tonight is to express his disappointment with the Sheriff distributing a letter to the president of the Utah Sheriff's Association. He finds the Sheriff's actions to be irresponsible and an act of political bluster at best and dangerous at worst. Sheriff Edmunds implied that the executive action of the President is an unconstitutional infringement of the Second Amendment and would be resisted by Sheriffs' deputies. Mr. Wright asserted that the President's actions are purely administrative and in no way restrict gun ownership. He read from the Second Amendment and stated that none of these acts violate the Constitution. He stated that the purpose was to defend the U.S. against foreign enemies, because they had a minimal standing army. He stated that Article 6 of the Constitution states that Federal law is supreme to all state and local laws and requires local officials to adhere to and support Federal laws. He stated that the Sheriff's action in this matter brings discredit to Summit County, and he called on the Council to express its displeasure and disagreement with this action.

Chair McMullin closed the public input.

## **MANAGER COMMENTS**

Mr. Jasper reported that he has hired a new sustainability coordinator, Lisa Yoder. He also reported that tomorrow Mountain Regional Water will repay the entire \$.5 million plus interest as their second installment on the money loaned to them by the County. He stated that he is looking at an exchange of land with the Utah Olympic Park, which he will explain further later.

## COUNCIL COMMENTS

Council Member Carson asked if the Council needs to pass a resolution regarding the ability of the Manager to settle lawsuits. Mr. Thomas replied that the Council has already passed that resolution.

The Council Members agreed to discuss the residency requirements for Planning Commissioners next week during the strategic planning retreat.

Council Member Ure requested time on the February 13 agenda for a discussion with the coalition of the Wyoming Governor, Uinta County Commissioners, Forest Service, the BLM, and Summit County to work on north slope problems

## APPROVAL OF COUNCIL MINUTES

DECEMBER 10, 2012

**Council Member Ure made a motion to approve the minutes of the December 10, 2012, County Council meeting as written. The motion was seconded by Council Member Robinson and passed unanimously, 3 to 0. Council Members Armstrong and Carson abstained from the vote as they were not on the Council on December 10.**

The County Council meeting adjourned at 8:30 p.m.

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*Council Chair*, Claudia McMullin

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*County Clerk*, Kent Jones