



**AMENDED RIVERDALE CITY COUNCIL AGENDA
CIVIC CENTER - 4600 S. WEBER RIVER DR.
Wednesday – November 4, 2020**

5:30 p.m. – Work Session (City Council Conference Room)

No motions or decisions will be considered during this session, which is open to the public.

6:00 p.m. – Council Meeting (Council Chambers)

A. Welcome & Roll Call

B. Pledge of Allegiance

C. Moment of Silence

D. Public Comment.

(This is an opportunity to address the City Council regarding your concerns or ideas. Please try to limit your comments to three minutes. No action will be taken during Public Comment.)

E. Presentations and Reports

1. Mayor's Report

F. Consent Items

1. Consideration to approve meeting minutes from:
October 20, 2020 City Council Work Session
October 20, 2020 City Council Regular Session

G. Action Items

1. Consideration of Ordinance 927, approving updates on previous Ordinance to meet current water demand requirements.
Presenter: Shawn Douglas
2. Consideration of Resolution 2020-23, to approve employment contract for Riverdale City Administrator.
Presenter: Norm Searle, Mayor
3. Consideration of Resolution 2020-24, finding that certain Riverdale City employees are "substantially dedicated" for mitigating or responding to the COVID19 public health emergency.
Presenter: Cody Cardon, Business Administrator/Steve Brooks, City Attorney/Acting City Administrator
4. Discussion/Consideration/Action on wild animal control within the city.
Presenter: Scott Brenkman, Police Chief

H. Discretionary Items

I. Adjournment

In compliance with the Americans with Disabilities Act, persons in need of special accommodation should contact the City Offices (801) 394-5541 at least 48 hours in advance of the meeting. **Certificate of Posting**
The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted within the Riverdale City limits on this 30th day of October, 2020 at the following locations: 1) Riverdale City Hall Noticing Board 2) Riverdale City website at <http://www.riverdalecity.com/> 3) the Public Notice Website: <http://www.utah.gov/pmn/index.html> and 4) the Standard-Examiner via email. Shalee Evans, City Recorder

**The City Council meeting on November 4, 2020 is viewable and will be conducted electronically and may be accessed by clicking on the link below. The regular City Council Chambers will be available for in person participation with recommended social distancing followed. The Agenda for the meeting is also attached above. **

<https://www.youtube.com/user/riverdalecity>

**RIVERDALE CITY
CITY COUNCIL AGENDA
November 4, 2020**

AGENDA ITEM: F1

SUBJECT: Consideration to approve meeting minutes.

PRESENTER: Shalee Nay, City Recorder

INFORMATION: a. [October 20, 2020 City Council Work Session](#)
b. [October 20, 2020 City Council Regular Session](#)

[BACK TO AGENDA](#)

Minutes of the **Work Session** of the **Riverdale City Council** Tuesday, October 20, 2020 at 5:30 p.m., at the Civic Center in the Administrative Offices, 4600 S Weber River Dr., Riverdale City, Weber County, Utah.

Present:

City Council:	Norm Searle, Mayor Braden Mitchell, Councilmember Brent Ellis, Councilmember Alan Arnold, Councilmember Bart Stevens, Councilmember Steve Hilton, Councilmember
City Employees:	Rodger Worthen, City Administrator Steve Brooks, City Attorney/Acting City Administrator Scott Brenkman, Police Chief Cody Cardon, Business Administration Jared Sholly, Fire Chief Mike Eggett, Community Development Rich Taylor, Community Services Shalee Nay, City Recorder
Visitors:	Stauffer's Towing staff members Jake Tate Hugh Parke Russell Long Bill Cobabe

The Work Session meeting began 5:30 p.m. Mayor Searle welcomed the Council Members stating for the record that all Councilmembers were present along with members of city staff. It was noted that the YouTube live stream was not working.

Public Comment:

There were no known public comments.

Presentations and Reports:

Mayor Searle noted that Stauffer's towing will be here tonight for the city to give them an appreciation plaque, thanking them for all of their hard work they did after that windstorm. They helped out over thirty residents.

Consent Items:

Mayor Searle invited any corrections or comments for the work session and regular meeting minutes for the City Council Meeting held on October 6, 2020. There was one correction noted.

Mayor Searle invited discussion on the second consent item, Consideration to appoint new City Administrator.

Councilmember Mitchell asked if this consent item could possibly be delayed until the council gets to review the contract for the City Administrator.

Action Items:

Mayor Searle invited discussion regarding the first action item, Consideration of Resolution 2020-20, to amend/strike Interlocal Agreement with South Ogden City.

Jared Sholly, Fire Chief, went over the executive summary which explained, after some time of implementing the joint ambulance service plan, it has become clear that the problems with the program have begun to outweigh the benefits of such program for both cities.

Mayor Searle invited discussion regarding the second item, Consideration of Resolution 2020-21, formally amending the General Fund budget for fiscal year 2020-2021.

Cody Cardon, Business Administration, went over the executive summary which explained, The City Council will hold a public hearing tonight to receive and consider public comment on a proposed budget amendment for fiscal year 2020-2021. The City's staff have identified several areas where budget amendments are needed to provide the financial resources to complete various projects or procurements throughout the City. These amendments are the result of various factors including CARES Act Funding associated with COVID19 and interlocal agreement changes.

Mayor Searle invited discussion regarding the third action item, Consideration of Resolution 2020-22, Site Plan Amendment approval for Greenhill Apartments at Riverdale, approximately 4189 South 300 West, Riverdale, Utah 84405; requested by Highmark Construction – Tyler Lemmon's.

Mike Eggett, Community Development, went over the executive summary which explained, Highmark Construction/NXT Property Management Group has applied for a Multiple-Family Residential Site Plan Amendment review and approval for apartment an building addition and pool patio amenities to the Greenhill at Riverdale Apartments property located at approximately 4189 South 3000 West in a Multiple Family Residential (R-5) zone. This site had been the subject of a previous amended site plan and plat approval over the last few years; however, that project never came to full fruition. The proposed amended site plan is before the City Council for final review and approval of the proposed updated site plan. A public hearing is not required to consider this proposed site plan. On September 22, 2020, this matter was reviewed and discussed by the Planning Commission. At the conclusion of the discussion, the Planning Commission approved a favorable recommendation to City Council to approve the proposed amended site plan for the Greenhill at Riverdale Apartments, subject to resolving outstanding staff and engineering concerns. The applicants have since resolved all outstanding staff and engineering concerns and are now ready for consideration by City Council. Following the presentation and discussion of the amended site plan proposal, the City Council may make a motion to approve the amended site plan, approve with additional requirements, table the matter for a later consideration review, or not approve the proposed Greenhill Apartments building additions amended site plan with the appropriate findings of fact. Should this proposal receive approval from the City Council, then the project could move forward to preconstruction activities and completion of final obligations/requirements prior to starting construction on this project site.

Mayor Searle invited discussion regarding the fourth action item, Consideration of Ordinance 926, to approve proposed amendments to Title 10 of Riverdale City Code, specifically Chapters 13D, 14, 16, 21, 25, and 28.

Mike Eggett went over the executive summary which explained, Recently the Community Development Department started discussing concerns with City Code as found in Title 10 regarding language found in various chapters therein. Additionally, there was a recent updated to State Code (USC 10-9a-604.5) that has been adopted and changes the way that bond/escrow requirements and project warranty works for development projects in municipalities. As a result of these discussion and the changes to State Codes, the Community Development Department has brought forward proposed City Code amendments to the associated sections of City Code. On October 13, 2020, this matter was set for a public hearing and thereafter reviewed by the Planning Commission. The public hearing regarding this proposed code amendment was posted and advertised in accordance with State Code. No public comments were provided before nor during the public hearing portion of the meeting. At the conclusion of the public hearing, the Planning Commission approved a motion to submit the proposed Title 10, Chapters 13D, 14, 16, 21, 25, and 28 amendments to the City Council for final approval consideration with a favorable recommendation. Therefore, this matter is now before the City Council for final approval consideration of the proposed language amendment to Title 10, Chapters 13D, 14, 16, 21, 25, and 28 as provided in your packet.

Mayor Searle noted that some residents have been putting gravel or a paver under each tire and have been able to call that good. He asked Mr. Eggett if gravel is considered a hard surface. Mike Eggett noted that according to the definition, it is considered a hard surface.

Councilmember Arnold asked what the purpose of a hard surface is. Mr. Eggett noted that on page 87, the definition is listed along with all the materials that are considered to be a hard surface. Councilmember Arnold noted that he understood the definition, he just wants to know the purpose of having the hard surface and if it is a state code. Mr. Eggett stated that he is not sure why this term is used, and asked Steve Brooks if he knew. Mr. Brooks stated that when Mr. Daily was the Community Development director, that he asked to have this definition put into code because it helps prevent people from parking on their lawns. Councilmember Arnold stated that he understands and noted that he believes we need to have more code enforcement. He stated that Mr. Koger is being stretched thin with having to be Fire Marshal and Code Enforcement. He then noted that the city should look at getting either another person to do the Code Enforcement, or at least have a part time employee to assist with all the code enforcement issues because as it stands right now, Code Enforcement is a complaint based system.

Councilmember Stevens stated that when he was on the Planning Commission, Randy Daily and others stated that if the residents were parking on their lawns, that it would look trashy. He also stated that he does not believe that the code enforcement is not a manpower issues and that it is a leadership issue. Councilmember Arnold noted that he believes that it is a manpower issue because there is only one person handling it along with other duties.

Mayor Searle invited discussion on the fifth action item, Consideration of 2020-23, to approve an Employment Contract for the Riverdale City Administrator. Mayor Searle noted that this contract was written awhile ago, back when Larry Hansen was the administrator.

Councilmember Arnold stated that even Mr. Hansen had stated that this contract is bad for Riverdale city, but good for the possible City Administrator. He noted that he is not for this contract but, is totally okay with the person possibly coming in to work for the city. He stated that this is nothing but a golden parachute.

Mayor Searle stated that he has gone over multiple contracts with other municipalities, and they are all similar to the contract that Riverdale city currently has. He noted that is for the protection for the possible Administrator.

City Council Work Session Meeting, October 20, 2020

Mayor Searle invited discussion on the sixth and final action item, Discussion, and consideration of set-back modification in the Old Mill Subdivision.

Steve Brooks noted that it is time to be in the regular meeting and he can discuss this action item during the regular meeting.

Discretionary Items:

There were no discretionary items.

Adjournment:

Having no further business to discuss the Council adjourned at 6:06 p.m. to convene into their Regular City Council Meeting.

Minutes of the Regular Meeting of the Riverdale City Council held Tuesday, October 20, 2020, at 6:00 p.m., at the Civic Center, 4600 S Weber River Dr., Riverdale City, Weber County, Utah.

Present:

City Council:	Norm Searle, Mayor Braden Mitchell, Councilmember Brent Ellis, Councilmember Alan Arnold, Councilmember Bart Stevens, Councilmember Steve Hilton, Councilmember		
City Employees:	Steve Brooks, City Attorney/Acting City Administrator Scott Brenkman, Police Chief Rich Taylor, Community Services Mike Eggett, Community Development Jared Sholly, Fire Chief Shalee Nay, City Recorder		
Visitors:	Hugh Parke Russell Long	Stauffer's Towing staff Lorri Thurgood	Tyler Lemmons Bill CoBabe

A. Welcome & Roll Call

The City Council meeting began at 6:06 p.m. Mayor Searle called the meeting to order and welcomed all in attendance, including all Council Members, City Staff and all members of the public.

B. Pledge of Allegiance

Mayor Searle invited Councilmember Mitchell to lead the Pledge of Allegiance.

C. Moment of Silence

Mayor Searle called for a moment of silence and asked everyone to remember our police officers, fire fighters, U.S. Military service members, and members of the City Council as they make decisions this evening. He also wanted to remember Gayle; he was an employee with Riverdale city years ago. He died at the age of 93.

D. Public Comment

Mayor Searle invited any member of the public with questions or concerns to address the Council and asked that they keep their comments to approximately three minutes. No action will be taken during public comment. There was no public comment made.

E. Presentations and Reports

1. Mayors Report

Mayor Searle presented a plaque of appreciation to Stauffer's Towing. He thanked them for all their hard work with helping clean up multiple cities after the wind storm that left many tree stumps that they pulled out of the ground and hauled away.

2. City Administration Report

Steve Brooks, Acting City Administrator, summarized the administration report which outlines staff anniversaries, full time employee (fte) allocation, community development (i.e. new businesses coming into the community or existing business remodels), individual staff monthly progress reports, and the condition of the treasury.

F. Consent Items

1. Consideration to approve the City Council meeting minutes from: October 6, 2020 Work Session and Regular Session.

Mayor Searle invited any corrections or comments regarding the above referenced meeting minutes. There was an amendment requested.

MOTION: Councilmember Mitchell moved to approve the meeting minutes. Councilmember Ellis seconded the motion. There was not any discussion regarding this motion. The motion passed unanimously in favor.

2. Consideration to appoint new City Administrator.

MOTION: Councilmember Hilton moved to appoint Bill CoBabe as the new City Administrator. Councilmember Ellis seconded the motion. Councilmembers Mitchell, Ellis, Arnold, and Hilton voted in favor. Councilmember Stevens voted opposed. Motion passes.

G. Action Items

1. Consideration of Resolution 2020-20, to amend/strike Interlocal Agreement with South Ogden City.

Jared Sholly, Fire Chief, went over the executive summary which explained, Riverdale City and South Ogden previously studied and discussed a proposal for joint ambulance services and the City Council formally approved a cooperation agreement for said services on June 18, 2019. After some time of implementing the joint ambulance service plan, it has become clear that the problems with the program have begun to outweigh the benefits of such program for both cities

Councilmember Mitchell thanked Chief Sholly for stepping outside of the box and try something new. Also, for being humble and stating that it is not working.

MOTION: Councilmember Arnold moved to approve Resolution 2020-20 as stated within the packet. Councilmember Mitchell seconded the motion.

Mayor Searle invited discussion regarding the motion. There was not a discussion.

ROLL CALL VOTE: All voted in favor. Motion passes.

2. a. Public Hearing, to receive and consider comments regarding the amending of the General Fund budget for fiscal year 2020-2021.

MOTION: Councilmember Mitchell moved to open the public hearing to receive and consider comments regarding the amending of the General Fund Budget for fiscal year 2020-2021. Councilmember Arnold seconded the motion. All Councilmembers voted in favor. The public hearing is now open.

There was no public comment.

MOTION: Councilmember Mitchell moved to close the public hearing. Councilmember seconded the motion. All Councilmembers Ellis voted in favor. The public hearing is now closed.

b. Consideration of Resolution 2020-21, formally amending the General Fund budget for fiscal year 2020-2021.

Cody Cardon, Business Administration, went over the executive summary which explained, the City's staff have identified several areas where budget amendments are needed to provide the financial resources to complete various projects or procurements throughout the City. These amendments are the result of various factors including CARES Act Funding associated with COVID19 and interlocal agreement changes.

MOTION: Councilmember Mitchell moved to approve Resolution 2020-21, formally amending the General Fund budget for fiscal year 2020-2021. Councilmember Hilton seconded the motion.

Mayor Searle invited discussion regarding the motion. There was not a discussion.

ROLL CALL VOTE: All voted in favor. Motion passes.

3. Consideration of Resolution 2020-22, Site Plan Amendment approval for Greenhill Apartments at Riverdale, approximately 4189 South 300 West, Riverdale, Utah 84405; requested by Highmark Construction – Tyler Lemmons.

Mike Eggett, Community Development, went over the executive summary which explained, Highmark Construction/NXT Property Management Group has applied for a Multiple-Family Residential Site Plan Amendment review and approval for apartment an building addition and pool patio amenities to the Greenhill at Riverdale Apartments property located at approximately 4189 South 3000 West in a Multiple Family Residential (R-5) zone. This site had been the subject of a previous amended site plan and plat approval over the last few years; however, that project never came to full fruition. The proposed amended site plan is before the City Council for final review and approval of the proposed updated site plan. A public hearing is not required to consider this proposed site plan. On September 22, 2020, this matter was reviewed and discussed by the Planning Commission. At the conclusion of the discussion, the Planning Commission approved a favorable recommendation to City Council to approve the proposed amended site plan for the Greenhill at Riverdale Apartments, subject to resolving outstanding staff and engineering concerns. The applicants have since resolved all outstanding staff and engineering concerns and are now ready for consideration by City Council. Following the presentation and discussion of the amended site plan proposal, the City Council may make a motion to approve the amended site plan, approve with additional requirements, table the matter for a later consideration review, or not approve the proposed Greenhill Apartments building additions amended site plan with the appropriate findings of fact. Should this proposal receive approval from the City Council, then the project could move forward to preconstruction activities and completion of final obligations/requirements prior to starting construction on this project site.

Councilmember Ellis asked how many units there will be in total. Mr. Long stated that they currently have approximately 103 units. 91 of those units are occupied. With this approval, it will add 42 units giving them a total of 145.

Councilmember Stevens stated that years ago he had a conversation by a former Police Chief. There was a snarky comment made that there should be a police station built right next to these properties. He asked Chief Brenkman if that area is still a rough area. Chief Brenkman stated that years ago this location did have a lot of issues. However, it has been calm for quite awhile and it is nowhere near as bad as it used to be.

MOTION: Councilmember Mitchell moved to approve Resolution 2020-22, approving the amendment for Greenhill Apartments. Councilmember Ellis seconded the motion.

Mayor Searle invited discussion regarding the motion. There was not a discussion.

ROLL CALL VOTE: All voted in favor. Motion passes.

4. Consideration of Ordinance 926, to approve proposed amendments to Title 10 of Riverdale City Code, specifically Chapters 13D, 14, 16, 21, 25, and 28.

Mike Eggett went over the executive summary which explained, Recently the Community Development Department started discussing concerns with City Code as found in Title 10 regarding language found in various chapters therein. Additionally, there was a recent updated to State Code (USC 10-9a-604.5) that has been adopted and changes the way that bond/escrow requirements and project warranty works for development projects in municipalities. As a result of these discussion and the changes to State Codes, the Community Development Department has brought forward proposed City Code amendments to the associated sections of City Code. On October 13, 2020, this matter was set for a public hearing and thereafter reviewed by the Planning Commission. The public hearing regarding this proposed code amendment was posted and advertised in accordance with State Code. No public comments were provided before nor during the public hearing portion of the meeting. At the conclusion of the public hearing, the Planning Commission approved a motion to submit the proposed Title 10, Chapters 13D, 14, 16, 21, 25, and 28 amendments to the City Council for final approval consideration with a favorable recommendation. Therefore, this matter is now before the City Council for final approval consideration of the proposed language amendment to Title 10, Chapters 13D, 14, 16, 21, 25, and 28 as provided in your packet. Following discussion of the matter, the City Council may take action to approve the proposed City Code change to the suggested Title 10 ordinances (as found in Title 10, Chapters 13D, 14, 16, 21, 25, and 28), approve the proposed code changes with recommended modifications, table the matter to allow more time to gather additional information, or not approve the proposed City Code change to the above noted Title 10 ordinances, subject to outlining the appropriate findings of facts to support the conclusion. Should this approval be provided, then this code amendment would be memorialized and established per ordinance.

MOTION: Councilmember Arnold moved to approve Ordinance 926. Councilmember Hilton seconded the motion.

There was no discussion on this motion.

ROLL CALL VOTE: All voted in favor. Motion passes.

5. Consideration of 2020-23, to approve an Employment Contract for the Riverdale City Administrator.

Mayor Searle invited discussion on this action item and asked all Councilmembers if there are any questions.

Councilmember Mitchell stated that when they approved this same contract with Mr. Worthen, he instantly regretted it. He noted that if Mr. Worthen were to have done something to where we wanted to get rid of him. That would put 6 months of salary out of Riverdale city's pocket. He stated that he understands that the Administrator needs some protection, but most jobs even his own does not have that 6-month severance pay. He also stated that he understands that there should be some protection and he is willing to consider protection for the position but, not the 6 months especially on the first contract agreement. He noted that we have no idea how the person is going to work. He stated that 3 months seems to be more reasonable.

Councilmember Arnold stated that he completely agrees with Councilmember Mitchell. He noted that this agreement has no positives for the city.

Councilmember Stevens asked if the issue is the contract or the person. Councilmember Arnold stated that it is just the contract, he has no issue with the person. Councilmember Stevens stated that 3 months is too expensive. He stated with the first go round, he believes 3 weeks to one month. Councilmember Stevens expressed his concern regarding the interview process for this position. He stated that as Councilmembers, they have deciding authority. He noted that he is bothered by the fact that he had no say in the matter and had no voice. He noted that he was not included, and he is not in favor.

Mayor Searle noted that during the last Administration opening where Rodger Worthen was hired, the City Council was present for that interview process. However, this current interview process, he felt the staff should have say in who will be the new Administrator. He noted that with all that has gone on, with Rodger's passing, that the decision for staff to be involved seemed to be the best route.

Bill CoBabe, City Administrator candidate, thanked the Council for their consideration on this item. He noted that he did give his two-week notice to Pleasant View and that his last day is set to be November 6th, and he was planning on starting here at Riverdale on November 9th. He stated that we all will have a very long fruitful relationship with the city. He also stated that as far as the contract goes, he is open to negotiate the severance and other terms wanted. He expressed how grateful he is to have the opportunity to work for the Council and to go to work. He mentioned his contract at Pleasant View had every 9 months he would accumulate another month severance.

Councilmember Arnold stated the only issue he has is the contract itself. He noted that he is in favor of the one month of severance for every year of service, up to 6 months total. That works out great for the city and the employee.

Mayor Searle asked Steve Brooks, City Attorney, if the motion to appoint Bill CoBabe as the City Administrator could be made tonight and approve the contract on a future date. Steve Brooks stated that it is safe for the council to approve the appointment itself, because the public needs to have the opportunity to see all the items.

MOTION: Councilmember Arnold moved table Resolution 2020-23, for requested amendments to the contract. Councilmember Hilton seconded the motion.

There was no discussion on this item.

ROLL CALL VOTE: Councilmembers Mitchell, Ellis, Arnold, and Hilton voted in favor. Councilmember Stevens voted against. Motion passes.

6. Discussion and consideration of setback modification in the Old Mill Subdivision.

Mike Eggett noted that Hugh Parke is on this call to answer any questions. Mr. Eggett stated that last week it came to their attention that Hugh Parke and Lori Thurgood with the Old Mill Subdivision, the back cold a sac has two lots. In their mind the code set back was 25 feet, but the code has it as 30 feet. They expressed their concern and stated that they would not have done that if they knew the set back was 30 feet. Mr. Eggett also stated that in the code it has an exception regarding the setback. However, it does not apply to this situation. Steve Brooks, City Attorney, noted that the council is the party that makes and approves the setbacks. He does not feel comfortable approving any exceptions when that should be going to the council. He stated that in his mind, all the lots should be the same and it is not administrations job to approve this item. Hugh Parke stated that with the code being able to be read in a way that makes it sound like the setback can be 25 feet instead of the 30 feet, if the council would consider approving the 25 feet setback on these lots.

Councilmember Arnold stated that he does not fee that the council has the authority to interrupt the establishment for a contractor. If it gets approved this time, then the council will need to do it for others as well. He

asked Mr. Brooks about the board of adjusters and if Hugh could take that route. Steve stated that the board is just one person and he is out in Plain City. Commissioner Arnold stated that the city inspector needs to have very well written codes to where this kind of scenario will not take place. Steve Brooks stated that he believes the council is not the right route and he agrees with Councilmember Arnold. He noted that this needs to be left with Jeff Woody's recommendation with the 30 feet. Hugh asked about the board, if it has the power to do an adjustment such as this. Mr. Brooks stated that that is what the board is there for, they will investigate the details and the code and consider action from that.

MOTION: Councilmember Arnold moved to disapprove the setback modification. Councilmember Ellis seconded the motion. All voted in favor. Motion passes.

H. Discretionary Items

Councilmember Arnold asked if Mr. Eggett could look at the code to ensure this error does not happen again. He also stated that help is needed with code enforcement, so it is no longer a complaint-based system. He noted that it is critical for everything to up to code so there are no lives at stake.

I. Adjournment.

MOTION: Having no further business to discuss, Councilmember Hilton made a motion to adjourn. The motion was seconded by Councilmember Arnold; all voted in favor. The meeting was adjourned at 7:46 p.m.

Norm Searle, Mayor

Shalee Nay, City Recorder

Date Approved:

**RIVERDALE CITY
CITY COUNCIL AGENDA
November 4, 2020**

AGENDA ITEM: G1

SUBJECT: Consideration of Ordinance 927, approving updates on previous Ordinance to meet current water demand requirements.

PRESENTER: Shawn Douglas, Public Works

INFORMATION: [a. Executive Summary](#)
[b. Ordinance 927](#)
[c. Chapter 6 City Water Code](#)

[BACK TO AGENDA](#)



City Council Executive Summary

For the Council meeting on:
November 3, 2020

Petitioner:
Shawn Douglas, Public Works Director

Summary of Proposed Action

Consideration of updating Ordinance 8-6 to meet current water demand requirements.

Summary of Supporting Facts & Options

Based on work done with Hansen, Allen & Luce we have determined that the amount of water required for each ERC in Riverdale is .91 acre feet per year. An ERC is defined as an Equivalent Residential Connection. The state now requires that we analyze each new development to make sure we have enough water capacity and water storage capacity. By requiring the new developments to bring water rights with them we will help keep our water costs lower. I would recommend we make this change at this time. We need to continue to review and study our water capacities and make changes as needed based on the types of new growth.

Legal Comments - City Attorney

Steve Brooks, Attorney

Fiscal Comments - Business Administrator/Budget Officer

Cody Cardon,
Business Administrator

Administrative Comments - City Administrator

Rodger Worthen,
City Administrator



ORDINANCE NO. 927

AN ORDINANCE AMENDING THE RIVERDALE MUNICIPAL ORDINANCE CODE, TITLE 8, CHAPTER 6, SECTIONS 1 AND 3, TO AMENDED SAID SECTIONS TO BETTER IMPLEMENT, CLARIFY AND DEFINE PORTIONS CONCERNING RIVERDALE'S TRANSFER OF WATER RIGHT CODEAPPLICABLE WITHIN RIVERDALE CITY AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Riverdale City (hereafter "City") is a municipal corporation, duly organized and existing under the laws of the State of Utah; and;

WHEREAS, Utah Code Annotated §10-9-102 empowers municipalities of the state to enact all ordinances and rules that they consider necessary for the use and development of land located within the municipality; and

WHEREAS, the City finds it is in the best interest of the community and its citizens to address issues, concerns and definitions of Riverdale City's transfer of water rights with and within the City; and

WHEREAS, it appearing that the code additions are in accord with the City's goals, desires and needs and will promote health, safety and the general welfare of the community at large, the Riverdale City Council finds it to be in the best interests of the City;

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF RIVERDALE:

Section 1. Repealer. Any provision of the Riverdale Municipal Ordinance Code found to be in conflict with this ordinance is hereby repealed.

Section 2. The Riverdale Municipal Ordinance, TITLE 8, WATER AND SEWER, CHAPTER 6, TRANSFER OF WATER RIGHT, SECTION 1, PURPOSE AND DEFINITION and SECTION 3, REQUIRED, are hereby adopted as outlined in Attachment 1, attached hereto and incorporated hereby.

Section 3. All other titles, chapters and sections, not otherwise amended hereby, shall remain unchanged, in full force and effect.

Section 4. Severability. If any provision of this ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

Section 5. Effective date. This ordinance shall take effect immediately upon its adoption and posting.

PASSED, ADOPTED AND ORDERED POSTED this ____ day of October, 2020.

Norm Searle, Mayor

Attest:

Shalee Nay City Recorder

CHAPTER 6 TRANSFER OF WATER RIGHT

SECTION:

8-6-1: Purpose And Definition

8-6-2: General Provisions

8-6-3: Required

8-6-4: Exceptions

8-6-5: Form Of Transfer Of Water Right

8-6-1: PURPOSE AND DEFINITION:

The purpose of this chapter is to obtain water rights to support development within the City's growth area, inside and outside of the water provision service area. This purpose shall be achieved through the transfer of water rights to the City as a condition of connection to the City's Municipal water system. The purpose for requiring a transfer of water rights is to enhance the public health, safety, and welfare through a provision designed to enable the City to meet the growth of future culinary water needs within the City. (Ord. 904, 9-18-2018). ~~The City uses equivalent residential connections (ERC) for calculation of water demand requirements. (Amd Ord. 927 Oct. 2020)~~

8-6-2: GENERAL PROVISIONS:

Any and all shares or rights to be delivered to the City, as required by this chapter, shall be recognized by the State Water Engineer and acceptable to the City. The City may, at its discretion, accept cash in an amount set by the City Council; the cash amount shall be established upon the then current share price of Davis and Weber Canal water in lieu of conveying tangible water shares or rights. Water shares or rights shall be submitted to the City Administrator or his/her designee. All water shares or rights transferred to and accepted by the City shall be held in the sole ownership of the City upon transfer of the same. The City Administrator or his/her designee shall have the right to vote its water shares in accordance with the applicable rules and regulations governing the same and shall coordinate contacts and actions of the City with the respective canal or irrigation companies in which the shares are owned. (Ord. 904, 9-18-2018)

8-6-3: REQUIRED:

In the City, each acre of irrigable property requires roughly four (4) acre feet of water annually during normal water years as published by Utah State Engineers Office in the Consumptive Use of Irrigated Crops in Utah, Research Report 145, Utah State University, 1994. As such, water required to be conveyed to the City as part of a request for approval of an annexation, subdivision, large scale development, or site plan, is established by the State Engineers Office as sufficient to meet the water use requirements of the proposed use. ~~Three (3) acre feet per acre developed shall be required due to water loss via evaporation, waste, and impervious service areas in comparison to irrigated crop lands.~~ The City has performed an engineered study to determine ERC consumption in acre feet. The City has determined that each ERC is equivalent to .91 acre feet. The City shall require all development to utilize this ERC in their calculation of water needs when developing. . (Amd Ord. 927 Oct. 2020)

A. Applicable To All Development: The City Council does hereby establish the preferred type of water acceptable to the City shall be shares or stock within an irrigation or water company or an approved water right in good standing by the State of Utah Engineers Office and capable of delivering water through the City's water distribution system via Weber Basin Water Conservancy District treatment.

B. Residential Subdivisions: A developer shall convey to the City water rights that have been customarily used on the property to be developed that are usable by and acceptable to the City to provide ~~three (3) acre feet for each acre~~ .91 acre feet per ERC or part thereof within a residential subdivision. In the event there are no owner water shares or rights on property to be developed, the developer shall obtain and convey water shares or rights acceptable and usable by the City as determined by the City Public Works Director. If no water shares are available or acceptable to the City, ~~the City has excess water, and~~ the applicant can meet the water requirement via cash in lieu of shares as reasonably designated by the City Council. Funds will be held by the City in the Water Fund and restricted for future surface water right(s) acquisition at the City's discretion if available or discovered. . (Amd Ord. 927 Oct. 2020)

C. Nonresidential Subdivisions: A developer shall convey to the City water shares or rights that have been customarily used on the property to be developed that are usable by and acceptable to the City to provide ~~three (3) acre feet~~ .91 acre feet per ERC for each irrigable acre or part thereof within a nonresidential subdivision. In the event there are no owner water rights on property to be developed, the developer shall obtain and convey water rights acceptable and usable by Riverdale City as determined by the Public Works Director. The developer is not required to convey water rights for acreage of asphalt or other non-permeable surfaces. If no water shares are available or acceptable to the City, ~~the City has excess water, and~~ the applicant can meet the water requirement via cash in lieu of shares as reasonably designated by the City Council . Funds will be held by the City in the Water Fund and restricted for future surface water right(s) acquisition at the City's discretion if available or discovered. (Ord. 904, 9-18-2018 Amd Ord. 927 Oct. 2020)

**RIVERDALE CITY
CITY COUNCIL AGENDA
November 4, 2020**

AGENDA ITEM: G2

SUBJECT: Consideration of Resolution 2020-23, to approve employment contract for Riverdale City Administrator.

PRESENTER: Norm Searle, Mayor

INFORMATION: [a. Executive Summary](#)
[b. Resolution 2020-23](#)

[BACK TO AGENDA](#)



City Council Executive Summary

For the Council meeting on: 11-4-2020

Presenter: Mayor Searle

Summary of Proposed Action

(X) Approve
(X) Discussion

Consideration of Resolution 2020-23 adopting the new City Administrator's contract.

Requested By

Petitioner(s): Mayor Searle

Summary of Supporting Facts & Options

With the passing of our previous city administrator, it has come time to hire and approve a contract for the new administrator.

Legal Comments - City Attorney

Steve Brooks, Attorney

Fiscal Comments - Treasurer/Budget Officer

Cody Cardon, Treasurer

Administrative Comments - City Administrator

, City Administrator



RESOLUTION NO. 2020-23

**A RESOLUTION AUTHORIZING AN AGREEMENT
FOR EMPLOYMENT AS CITY ADMINISTRATOR BETWEEN
FWC AND THE CITY OF RIVERDALE**

WHEREAS, Riverdale City is in need of a new city administrator because of the untimely passing of the previous city administrator, to act as the City Administrator (CA); and

WHEREAS, the Mayor has gone through a process to interview individuals for the position and has found that one meets the qualifications the mayor was seeking for the position and he now presents said individual to the Council for advise and consent as outlined by city code; and

WHEREAS, both Riverdale City and the FWC now desire to have the employment agreement between them reduced in writing for the period and under the terms of said agreement; and by doing so will promote the health, safety and the general welfare of the City and community at large.

NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of Riverdale City, that the Mayor with the attestation of the City Recorder, is hereby empowered to enter into and execute an Agreement for Employment as City Administrator in the form and containing the terms as annexed hereto as "Exhibit A".

This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this ____ day of November, 2020.

Norm Searle, Mayor

Attest:

Shalee Nay, City Recorder



AGREEMENT FOR EMPLOYMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2020, by and between Riverdale City Corporation, a Utah Municipal Corporation (hereinafter "City"), and the City Administrator, an individual person (hereinafter "FWC").

WITNESSETH THE PARTIES HERETO:

WHEREAS: City desires to employ the services of FWC as the City's Chief Appointed Official (hereinafter referred to as "Chief Administrative Officer" or "City Administrator"); and

WHEREAS: City believes the employment of FWC as the City Administrator will improve and enhance the effectiveness and efficiency of City operations; and

WHEREAS: It is the desire of the Mayor and City Council (hereinafter "Governing Body") of Riverdale City to:

1. Secure and retain the services of FWC and to provide inducement for him/her to accept such employment;
2. To make possible full work productivity by assuring to FWC morale and peace of mind with respect to continued employment security;
3. To establish the employment expectations of the City for FWC;
4. To establish a just means of compensation for the employment of FWC; and
5. To provide a just means of compensation for the separation of FWC from the City's employment; and

WHEREAS: FWC desires to be employed by the City as the Riverdale City Administrator.

NOW THEREFORE BE IT KNOWN:

In consideration of the mutual covenants herein contained, City and FWC agree as follows:

SECTION 1. DUTIES.

- 1.1 FWC shall be the City's Chief Administrative Officer (City Administrator) to whom all employees of the City shall report. All City employees make up the

administrative service of the City and, as such, all City employees are subordinates of the City Administrator.

- 1.2 FWC shall be responsible to the Governing Body for the day-to-day operations of the City and for such other professional duties as assigned or needed.
- 1.3 FWC will present ideas and make suggestions to the Governing Body, and shall advise the Governing Body on matters of policy, procedure and business requiring Governing Body approval or awareness. FWC shall use his best efforts to lawfully implement the final decisions of the Governing Body, and shall represent, support, and defend the final decisions of the Governing Body.
- 1.4 FWC shall be employed by the City with the title of City Administrator, and shall carry out such duties and functions as set forth in State and Federal Law, City Ordinances and Policy, and as set forth in the adopted City Administrator Job Description contained in the City's Human Resources Manual.

SECTION 2. COMPENSATION – SALARY.

- 2.1 City shall compensate FWC for his/her services as the City Administrator, an initial salary at the annual rate of \$119,683.20 (Tech Net Survey #125 – Riverdale City Step 6) effective from FWC's date of hire until July 1, 2021 when FWC's salary shall be established by ordinance adopted annually in the approval of the City's Fiscal Budget. Said salary shall be paid to FWC on the same pay schedule as established by the usual and customary pay schedule for employees of the City. Said salary shall be paid beginning on the first payroll date following the date of starting employment and shall adjust according to city-wide pay schedule adjustments each July 1st thereafter beginning 2021.
- 2.2 FWC may be compensated above the terms of this agreement upon recommendation of the Governing Body and as adopted in the City's Fiscal Budget.
- 2.3 FWC may also be awarded specific performance bonuses separate and apart from the salary as set forth above. Said performance bonuses may be awarded pursuant to any Governing Body approved performance incentive program for City employees.

SECTION 3. COMPENSATION – BENEFITS.

- 3.1 All provisions of the City's Personnel Policies and Procedures Section of the City's Human Resources Manual and other rules and regulations relating to sick leave, retirement and pension system contributions, holidays, health, dental and life insurances, administrative leave, FMLA leave, and other fringe benefits and working conditions shall also apply to FWC as they would to other management

employees of the City, in addition to said benefits enumerated specifically for the benefit of FWC, as provided herein.

- 3.2 The City shall accrue vacation leave to FWC at 7 hours per semi-monthly pay period. FWC's vacation period shall run with the calendar year. FWC shall be permitted to carry into each calendar year no more than two-hundred-forty (240) hours of vacation time from the previous calendar year. Being classified as an exempt employee for FLSA purposes, FWC shall not be entitled to overtime pay and/or compensatory leave, FWC's existing balance of vacation leave in excess of 240 hours on December 31st of each year shall be paid as a lump sum on the January 15th payroll at FWC's salary rate in effect for the January 15th payroll period. The City shall pay the required premiums on term life for FWC similar to those furnished to other City employees.
- 3.3 Any future requirements made by the Federal or State Government which would be paid by the City for its employees shall also be paid by the City for FWC.
- 3.4 In recognition of the city's need for FWC to travel locally in meeting needs of citizens, attending various meetings in various locations, attending to other official city business and for other official functions and uses, the city shall compensate FWC a monthly vehicle allowance in the amount of \$450.00 per month. FWC also agrees by receiving said allowance to assume all of the responsibilities of ownership including operations, maintenance, tax, licensing, registrations, inspections, insurance, etc.
- 3.5 In recognition of FWC's need for a cell phone, FWC will either be provided a cell phone by the City or be reimbursed at the usual monthly rate for other employees should FWC choose to use his personal phone.

SECTION 4. DUES, SUBSCRIPTIONS AND PROFESSIONAL DEVELOPMENT.

- 4.1 The City shall provide through the budgetary process, resources for FWC to pay all professional licensing fees and professional association membership dues as are required or necessary for the employment and development of FWC as the Chief Appointed Official of Riverdale City, as set forth in the City Administrator Job Description, referred to above.
- 4.2 The City shall provide through the budgetary process, resources for FWC to attend continuing education courses, seminars, conferences, short courses, professional association meetings and luncheons, etc., for the professional development of FWC and for the good of the City. FWC is expected to pursue and attend official functions in behalf of the City.

- 4.3 The city recognizes that certain expenses of an “out-of-pocket” or general job affiliated nature are incurred by FWC, and the City agrees to reimburse or to pay said expenses to FWC. Said reimbursement shall be upon receipt of executed expense or receipts, statements, or personal affidavits.

SECTION 5. PROFESSIONAL LIABILITY INSURANCE AND BONDING.

- 5.1 The City shall provide professional liability insurance to cover FWC against all professional liability claims arising out of an alleged act or omission occurring in the performance of FWC duties, in the amount of one million dollars.
- 5.2 The City shall pay the cost of a fidelity bond or other bonds required by law for FWC or as deemed advisable by the Governing Body.

SECTION 6. TERM OF AGREEMENT.

- 6.1 The term of this agreement shall be for a period of 3 years beginning on the date of hire. This agreement may be renewed at any time by mutual agreement of the parties hereto prior to the expiration of the afore stated term.
- 6.2 The term of this agreement may be extended on a month-to-month basis following the expiration of the afore stated term pending active negotiations for a new agreement. Said active negotiation period may extend for up to six (6) months. In the event a new agreement is not mutually accepted by the parties within the six (6) month extended period, this agreement shall be deemed terminated by the City.
- 6.3 Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the City to terminate the services of FWC as City Administrator at any time for just cause, subject to the provisions of this agreement. For purpose of interpretation, just cause is defined as a criminal conviction for malfeasance in office, or a felony conviction, then the City shall have no obligation to pay severance indicated, except for items FWC may be legally entitled to.
- 6.4 Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of FWC to resign his position with the City upon thirty (30) days notice to the City.
- 6.5 Nothing in this agreement shall prevent the parties from mutually agreeing to the termination of this agreement and renegotiating the severance for such mutually agreed upon termination.

SECTION 7. TERMINATION AND SEVERANCE.

7.1 Termination of this agreement by the City occurs as follows:

- A. The City reduces the salary or other financial benefits of FWC in a greater percentage than an applicable across-the-board reduction for all employees of the City; or
- B. The City is in default of any of the provisions of this agreement, and fails to cure the default within thirty (30) days from receipt of written notice of such default; or
- C. The City terminates FWC's employment, as City Administrator, with the City; or
- D. The City fails to renew this agreement for any reason prior to the agreement expiration date, or such expiration date as shall be extended through subsequent renewals of this agreement, or the City fails to enter into a mutually acceptable renegotiated agreement between the parties; or
- E. FWC resigns from the City's employ, as City Administrator, following a request from a majority of the Governing Body that he resign his/her position.

7.2 In the event FWC is terminated by the City as City Administrator, after the effective date of this agreement, as set forth herein, the City agrees to compensate FWC as follows:

- A. An amount equal to FWC's monthly salary in effect at the time of termination, one month for every twelve months completed employment as of the date of termination, beginning with one month at the time of hire and not to exceed six months' salary (Paragraphs A-E shall all accumulate at the rate of one month reimbursement for every 12 months of employment, with a maximum total of six months of accumulation and reimbursement for Paragraphs A-E); and,
- B. An amount equal to the COBRA health and dental insurance premiums for FWC and family members, as in effect at the time of the termination for up to 6 months; and,
- C. An amount equal to the retirement benefit paid for FWC, as in effect at the time of the termination, for up to 6 months; and,
- D. An amount equal to any and all other financial benefits due and owing to FWC or given to all other employees of the City as of the date of the termination.
- E. In the event FWC is terminated for just cause, then the City shall have no obligation to pay the severance package designated in this Section. For purpose of interpretation, just cause is defined as a criminal conviction for malfeasance in office, or a felony conviction, then the City shall have no obligation to pay severance indicated, except for items FWC may be legally entitled to.

- 7.3 In the event FWC voluntarily resigns from his employment with the City, upon adequate written notice, and the resignation does not constitute a termination, as set forth above, or FWC is otherwise unable or unwilling to fulfill the responsibilities of the City Administrator, the City agrees to pay FWC an amount equal to FWC's then due and owing salary and retirement benefit, and an amount equal to all vacation and sick leave hours accrued and being carried by FWC, as allowed under city policy as of the effective date of the resignation.

SECTION 8. NOTICES.

Notices pursuant to this agreement may be made by either deposit of postage paid, certified mail, or hand delivery, in person, as follows:

To the City:

Riverdale City Corporation
Mayor or City Council
4600 South Weber River Drive
Riverdale UT 84405

To FWC:

Ogden, UT 84404

Or to such other address as may be designated by the parties hereto.

SECTION 9. GENERAL PROVISIONS.

- 9.1 The terms herein shall constitute the entire agreement between the parties and any changes shall be reduced to writing and agreed upon by both parties.
- 9.2 This agreement shall be binding upon the parties and inure to the benefit of the heirs at law and executors of FWC.
- 9.3 This agreement shall become effective commencing immediately upon the signing by both parties.
- 9.4 If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the City of Riverdale has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Recorder, and FWC has signed and executed this Agreement, both in duplicate, the day and year first above written.

Riverdale City By:

Mayor Norm Searle

ATTEST:

Shalee Nay, City Recorder

FWC

**RIVERDALE CITY
CITY COUNCIL AGENDA
November 4, 2020**

AGENDA ITEM: G3

SUBJECT: Consideration of Resolution 2020-24, finding that certain Riverdale City employees are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

PRESENTER: Cody Cardon, Business Administration & Steve Brooks, City Attorney/Acting City Administrator.

INFORMATION: [a. Executive Summary](#)
[b. Resolution 2020-24](#)
[c. Coronavirus Relief Fund information](#)

[BACK TO AGENDA](#)



City Council Executive Summary

For the Council meeting on: 11-4-2020

Petitioner: Staff (Cody/Steve)

Summary of Proposed Action

It appears that part of the CARES funds being distributed to Riverdale City can be used to pay the salary and benefits of employees who qualify as "substantially dedicated" to dealing with fighting the Corona Virus.

It is the staffs position that we use a portion of those funds to off-set the costs and expense to the city to employ these individuals in ways that have never been contemplated and/or deviate from the standard duties and procedures used in the city prior to the infestation of the virus.

Money not used for the standard salary purposes could then be used and directed in other ways, to be determined by the Council in future budget amendments.

Financial impact/comments

Cody Cardon, Bus. Admin.

Legal Comments - City Attorney

Steve Brooks, Attorney

Administrative Comments - City Administrator

Rodger Worthen, City
Administrator



RESOLUTION NO. 2020-24

A RESOLUTION FINDING THAT CERTAIN RIVERDALE CITY EMPLOYEES ARE SUBSTANTIALLY DEDICATED TO MITIGATING OR RESPONDING TO THE COVID-19 PUBLIC HEALTH EMERGENCY

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act, 116 Public Law 136, (the CARES Act) was signed into law by the President of the United States on March 27, 2020; and

WHEREAS, the Utah State legislature previously established a process for distributing funds provided by the CARES Act; and

WHEREAS, indicators from the Federal government imply that under certain conditions, a city may be able to use CARES funding to cover the cost to the city for salary and wages of those individuals

WHEREAS, Riverdale City has been evaluating all proposed expenditures based on guidance contained within the U.S. Department of Treasury Guidance and Coronavirus Relief Fund Frequently Asked Questions (Guidance); and

WHEREAS, the Guidance further advised that "it is presumed for administrative convenience that personnel costs related to public safety are "substantially dedicated" for purposes of the CARES Act unless the chief executive of the entity receiving the funds determines otherwise; and

WHEREAS, the United States Department of the Treasury (Treasury), in its Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments, dated September 2, 2020, (Treasury Guidance) advised that "[p]ayroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency" are eligible expenditures of CARES Act funds; and

WHEREAS, the Treasury Guidance further advised that local governments may presume that "public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. This means that, if this presumption applies, work performed by such employees is considered to be a substantially different use than accounted for in the most recently approved budget as of March 27, 2020. All costs of such employees may be covered using payments from the Fund for services provided during the period that begins on March 1, 2020, and ends on December 30, 2020"; and

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RIVERDALE,
STATE OF UTAH:**

1. In reliance on the Treasury Guidance and having examined the circumstances of Riverdale City, this Council finds and determines that the Treasury presumption that certain Riverdale City employees meet the "substantially dedicated test" as outlined and applied in the Guidance and no specific circumstances rebut the presumption.
2. Therefore, current and future distributions of CARES Act funds to Riverdale City may be expended to cover the payroll and benefits of Riverdale City employees that meet the criteria for funding under the CARES Act and the Guidance put out by the U.S. Treasury Department.
3. That this Resolution shall take effect from and after the date of its passage.

RESOLVED AND ADOPTED by the City Council of Riverdale City, Utah, on the _____ day of October, 2020.

Norm Searle
Mayor, Riverdale City

Attest:

Shalee Nay
City Recorder

Steve Brooks

From: Cody Cardon
Sent: Thursday, October 29, 2020 4:27 PM
To: Steve Brooks; Stacey Comeau
Subject: FW: Public Safety Wages and CARES Act Fund
Attachments: Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf; CARES RELIEF FUND Updated_CRF_FAQs10-19-2020.pdf

Steve and Stacey,

Please see below. Ryan is a partner for the CPA Firm I used to work for and is really conservative when it comes to accounting and federal requirements. They do work for North Salt Lake and they have decided under the referenced items that they can cover all of their Public Safety Wages and Benefits and use their CARES Funding in that way. The one nice thing about going this direction is then it frees us up to use those regular unrestricted funds to do some of these same projects, but in the way we would like to without worry about compliance issues.

Taylor Kauffman from the Utah Governor's Office sent out the below email a while ago with some of this same information:

Local Government Leaders,

After we reached out to you yesterday morning (September 2), the U.S. Department of the Treasury released updated [Guidance](#) and [FAQs](#) documents. Please read these documents carefully as they contain important updates. Foremost among the updates made to the Guidance document is further written direction concerning the use of CRF funds to cover payroll and benefits of public employees.

The updated Guidance document says, "Treasury has not developed a precise definition of what 'substantially dedicated' means given that there is not a precise way to define this term across different employment types. The relevant unit of government should maintain documentation of the 'substantially dedicated' conclusion with respect to its employees."

The Treasury Guidance document also states that "as an administrative accommodation, that a State, local, or tribal government may presume that public health and public safety employees meet the substantially dedicated test." However, the State reminds local governments that the Guidance also still states, as mentioned above, that governments "should maintain documentation of the 'substantially dedicated' conclusion with respect to its employees", and the State believes this new guidance specific to public health and public safety employees does not relieve the requirement to document how you determined which costs you are covering with the CRF. Additionally, the Guidance document says a chief executive (or equivalent) of the relevant government may determine that specific circumstances indicate some public safety or public health employee costs are not substantially dedicated to the COVID-19 response and should not be covered with the CRF. The State encourages each local government chief executive to judiciously consider this issue and make a reasonable decision based on facts and then document that decision.

Given the potential future financial repercussions should costs be determined to be ineligible, we encourage all local governments to prudently make decisions that conform to available written federal guidance and to appropriately document their decisions to show that those costs are necessary expenditures due to COVID-19.

The intent of yesterday's email was to create a unified understanding of this issue based on communications from the Treasury's Office of Inspector General. We apologize for any frustration this issue has caused and hope

the updated guidance resolves your questions and concerns. The State continues to stand as a partner in meeting the needs of the local governments across the state as we face this unparalleled public health emergency.

Thank you,

Taylor Kauffman
Federal Assistance Management Officer
Governor's Office of Management and Budget
State Capitol | 350 North State Street | Salt Lake City, UT 84114
Office: 801-538-1543
Cell: 801-369-2620
tkauffman@utah.gov

Lets talk tomorrow and see where everyone is at. I would much rather do this with wages than pay hazard pay if I had to choose. Thanks

Cody

From: Ryan Child <ryan@childrichards.com>
Sent: Thursday, October 29, 2020 3:41 PM
To: Cody Cardon <CCardon@riverdalecity.com>
Subject: Public Safety Wages and CARES Act Fund

See the boxed in paragraph on page 6 of the first attachment.

Similar, but more basic, language is then used in the FAQ, question 2.

Ryan R. Child, CPA
Child Richards CPAs & Advisors
2490 Wall Ave
Ogden, UT 84401
801-621-0440

**Coronavirus Relief Fund
Frequently Asked Questions
Updated as of October 19, 2020¹**

The following answers to frequently asked questions supplement Treasury's Coronavirus Relief Fund ("Fund") Guidance for State, Territorial, Local, and Tribal Governments, updated as of September 2, 2020 ("Guidance").² Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").

A. Eligible Expenditures

1. *Are governments required to submit proposed expenditures to Treasury for approval?*

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

2. *The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the "substantially dedicated" condition?*

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

3. *The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a "substantially different use" for purposes of the Fund eligibility?*

Costs incurred for a "substantially different use" include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty's ordinary responsibilities.

¹ On August 10, 2020, these Frequently Asked Questions were revised to add Questions A.49–52. On September 2, 2020, Questions A.53–56 were added and Questions A.34 and A.38 were revised. On October 19, 2020, Questions A.57–59 and B.13 were added and Questions A.42, 49, and 53 were revised.

² The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments
Updated September 2, 2020¹

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.²

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

¹ On June 30, 2020, the guidance provided under “Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020” was updated. On September 2, 2020, the “Supplemental Guidance on Use of Funds to Cover Payroll and Benefits of Public Employees” and “Supplemental Guidance on Use of Funds to Cover Administrative Costs” sections were added.

² See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.