

**TAYLORSVILLE CITY COUNCIL WORK MEETING
AGENDA ITEM SUMMARY**

MEETING DATE: February 8, 2012

AGENDA ITEM: Discussion of issues related to the City of Taylorsville Code of Ordinances Chapter 2.36 Section 2.36.055.

PUBLIC HEARING REQUIRED – No.

RESOLUTION/ORDINANCE REQUIRED

ORDINANCE X RESOLUTION

PRESENTER: City Administrator John Inch Morgan

ISSUE SUMMARY:

In the February 1, 2012 City Council Meeting, the Council adopted Ordinance 12-03 with amendments that changed the election filing period from July to June in years when municipal elections are held. During the discussion on election issues, consideration was given to a suggestion to eliminate section 2.36.055 of Chapter 2.36, which would remove limits on campaign contributions from the Taylorsville City Code of Ordinances.

The Council determined that more discussion and input on this issue was needed on this topic.

Discussion topics:

- The efficacy of campaign limits
- Consistency with Supreme Court decisions
- Consistency with State Statutes
- Survey of municipal clerks on elections practices and laws
- Candidate Filing Fee
- Nomination Petition

CITY ATTORNEY (Approved as to form):

ACTION REQUIRED: Discussion only

Survey of Utah Municipal Clerks on Election Practices *
January, 2012

<i>City/Town</i>	<i>Filing Fee</i>	<i>Campaign Contribution Limitation ?</i>	<i>Nomination Petition ?</i>	<i>Notes</i>
Bountiful	\$25	No	No	
Brian Head	None Required	No	No	
Cedar City	None Required	No	No	
Clinton	\$25	No	A Nomination Petition with 25 signatures may be submitted in lieu of filing fee	
Cottonwood Heights	\$25	No	No	
Duchesne	\$100 - Mayor \$25 - City Council	No	No	
Eagle Mountain	\$50	No	No	
Heber	\$50	No	No	
Holladay	\$35	No	No	
Hooper	\$25	No		
Kaysville	\$100	No	No	
Layton	\$25	No	No	
Lehi	\$35	No		
Midvale	\$50 - Mayor \$25 - City Council	No		
Murray	None Required	No		
Naples	None Required	No	No	
Orem	\$35	No	No	
Salt Lake City	\$325 – Mayor \$75 – City Council	Yes	A Nomination Petition with 75 signatures (from relevant District) may be submitted in lieu of filing fee	Mayor's Nomination Petition requires 25 signatures per Council District in the City.
South Jordan	None Required	No	No	
South Weber	None Required	No	No	
St. George	Mayor - \$100 City Council - \$50	No	No	
Syracuse	\$25	No	No	
Tooele	\$50 – Mayor \$30 – City Council	No	No	
Tremonton	\$50	No	No	
Vernal	None Required	No	No	
Washington Terrace	\$25	No	No	
Wendover	None Required	No	No	
West Jordan	None Required	No	No	
West Valley City	\$25	No	No	

* This list is not all inclusive, as some municipal clerks did not respond to the survey request.

TAYLORSVILLE, UTAH
ORDINANCE NO. 12-

AN ORDINANCE AMENDING CHAPTER 2.36 BY ELIMINATING SECTION 2.36.055

WHEREAS, the Taylorsville City Council (the "Council") met in regular meeting on _____, 2012, to consider, among other things, amending Chapter 2.36 by eliminating section 2.36.055; and

WHEREAS, the City and the Recorder advised the Council that they believe that it is in the best interest of the City to amend Chapter 2.36 by eliminating section 2.36.055; and

WHEREAS, the Council determines that it is appropriate to Chapter 2.36 by eliminating section 2.36.055 of the Taylorsville Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the Council that Chapter 2.36 is amended as follows (changes designated by interlineating the words to be deleted):

2.36.010: DEFINITIONS:

CANDIDATE: Any person who files a declaration of candidacy for an elective office hereunder; or is nominated pursuant to these provisions or receives contributions or makes expenditures or consents to another person receiving contributions or making expenditures with a view to bringing about such person's nomination or election for office; or causes on his behalf, any written material or advertisements to be printed, published, broadcast, distributed or disseminated which indicates an intention to seek office.

CONTRIBUTIONS: Monetary and nonmonetary contributions such as in kind contributions and contributions of any property, but shall not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate and contributions by the candidate himself.

ELECTIONS: Both primary and general elections.

EXPENDITURES: A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing nomination or election of any candidate.

2.36.020: TERM OF OFFICE:

The term of office for the mayor and each council member shall be four (4) years.

2.36.030: DECLARATION OF CANDIDACY; TAYLORSVILLE GENERAL ELECTIONS:

- A. A person may become a candidate for any city office if:
1. The person is a registered voter; and
 2. The person has resided within the city for the 12 consecutive months immediately before

the date of the election; or

3. If the territory in which the person resides was annexed into the city, the person has resided within the annexed territory of the city for the twelve (12) consecutive months immediately prior to the date of the election.
- B. In addition to the requirements of 2.36.030 A., each candidate for a city council position shall be a resident of the council district from which elected.
- C. In accordance with Utah Constitution Article IV, Section 6, any mentally incompetent person, any person convicted of a felony, or any person convicted of treason or a crime against the elective franchise may not hold office in the city until the right to hold elective office is restored under Utah Code Ann. § 20A-2-101.5.
- D. Except as provided in 2.36.030 E., each person seeking to become a candidate for a city office shall:
 1. File a declaration of candidacy, in person, with the city recorder during office hours and not later than 5 p.m. between June 1 and June 15 of any odd-numbered year; and
 2. Pay the filing fee of Thirty-five Dollars (\$35).
- E. Any resident of a city may nominate a candidate for a city office by:
 1. Filing a nomination petition with the city recorder during office hours, but not later than 5 p.m., between June 1 and June 15 of any odd-numbered year; and
 2. Paying the filing fee of Thirty-five Dollars (\$35).
- F. Before the city recorder may accept any declaration of candidacy or nomination petition, the city recorder shall:
 1. Read to the prospective candidate or person filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking; and
 2. Require the candidate or person filing the petition to state whether or not the candidate meets those requirements.
- G. If the prospective candidate does not meet the qualification requirements for the office, the city recorder may not accept the declaration of candidacy or nomination petition.
- H. If it appears that the prospective candidate meets the requirements of candidacy, the city recorder shall:
 1. Inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;
 2. Provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot.
 3. Provide the candidate with a copy of Utah Code Ann. § 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Utah Code Ann. § 20A-7-801(4)(a);
 4. Provide the candidate with a copy of the pledge of fair campaign practices described under Utah Code Ann. § 20A-9-206 and inform the candidate that:
 - a. signing the pledge is voluntary; and
 - b. signed pledges shall be filed with the city recorder.
 5. Accept the declaration of candidacy or nomination petition;
- I. If the candidate elects to sign the pledge of fair campaign practices, the city recorder shall accept the candidate's pledge.
- J. The declaration of candidacy shall substantially comply with the following form:

"I, (print name) _____, being first sworn, say that I reside at _____ Street, city of Taylorsville, county of Salt Lake, state of Utah, Zip Code _____, telephone number (if any) _____; that I am a registered voter; and that I am a candidate for the office of _____ (stating the term). I will meet the legal qualifications required of candidates for this office. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ (month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)"

- K. Any registered voter may be nominated for city office by submitting a petition signed by:
1. 25 residents of the city who are at least 18 years old; or
 2. 20% of the residents of the city who are at least 18 years old.
- L. The petition shall substantially conform to the following form:
- "NOMINATION PETITION"
1. The undersigned residents of the City of Taylorsville, being 18 years old or older, nominate _____ (name of nominee) to the office of _____ for the (two or four-year term, whichever is applicable)."
 2. The remainder of the petition shall contain lines and columns for the signatures of persons signing the petition and their addresses and telephone numbers.
- M. The city recorder shall verify with the county clerk that all candidates are registered voters.
- N. Any candidate who is not registered to vote is disqualified and the city recorder may not print the candidate's name on the ballot.
- O. Immediately after expiration of the period for filing a declaration of candidacy, the city recorder shall:
1. Cause the names of the candidates as they will appear on the ballot to be published in at least two successive publications of a newspaper with general circulation in the city; and
 2. Notify the lieutenant governor of the names of the candidates as they will appear on the ballot.
- P. A declaration of candidacy or nomination petition filed under this section may not be amended after the expiration of the period for filing a declaration of candidacy.
- Q. A declaration of candidacy or nomination petition filed under this section is valid unless a written objection is filed with the city recorder within five days after the last day for filing.
- R. If an objection is made, the city recorder shall:
1. Mail or personally deliver notice of the objection to the affected candidate immediately; and
 2. Decide any objection within 48 hours after it is filed.
- S. If the city recorder sustains the objection, the candidate may correct the problem by amending the declaration or petition within three days after the objection is sustained or by filing a new declaration within three days after the objection is sustained.
- T. The city recorder's decision upon objections to form is final.
- U. The city recorder's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

- V. The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.
- W. Any person who filed a declaration of candidacy and was nominated, and any person who was nominated by a nomination petition, may, any time up to 23 days before the election, withdraw the nomination by filing a written affidavit with the clerk.

2.36.040: QUALIFYING AS A WRITE-IN CANDIDATE:

- A. Each person wishing to become a valid write-in candidate shall file a declaration of candidacy with the city recorder's office not later than thirty (30) days before the city election in which the person intends to be a write-in candidate.
- B. The city recorder shall:
 - 1. Read to the candidate the constitutional and statutory requirements for the office; and
 - 2. Ask the candidate whether or not the candidate meets the requirements.
- C. If the candidate cannot meet the requirements of office, the city recorder may not accept the write-in candidate's declaration of candidacy.

2.36.050: CAMPAIGN FINANCE STATEMENT IN CITY ELECTIONS:

- A. As used in this section:
 - 1. "Reporting Date" means:
 - a. ten days before a city general election, for a campaign finance statement required to be filed no later than seven days before a city general election; and
 - b. the day of filing, for a campaign finance statement required to be filed no later than 30 days after a city primary or general election.
 - 2. "Reporting limit" means \$50:
- B. Each candidate for city office who is not eliminated at a city primary election shall file with the city recorder a campaign finance statement;
 - 1. No later than seven (7) days before the city general election; and
 - 2. No later than thirty (30) days after the city general election.
- C. Each candidate for city office who is eliminated at a city primary election shall file with the city recorder a campaign finance statement no later than thirty (30) days after the date of the city primary election.
- D. Each campaign finance statement under 2.36.050 B. shall:
 - 1. Except as provided in 2.36.050 D.1.c.:
 - a. report all of the candidate's itemized and total:
 - (i) campaign contributions, including in-kind and other nonmonetary contributions, received before the close of the reporting date; and
 - (ii) campaign expenditures as of the reporting date; and
 - b. identify:
 - (i) for each contribution that exceeds the reporting limit, the amount of the contribution and the name of the donor;
 - (ii) the aggregate total of all contributions that individually do not exceed the reporting limit; and
 - (iii) for each campaign expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or
 - c. report the total amount of all campaign contributions and expenditures if the

- candidate receives \$500 or less in campaign contributions and spends \$500 or less on the candidate's campaign.
- E. The city recorder shall, at the time the candidate for city office files a declaration of candidacy, and again fourteen (14) days before each city general election, notify the candidate in writing of:
1. The provisions of statute and city ordinance governing the disclosure of campaign contributions and expenditures;
 2. The dates when the candidate's campaign finance statement is required to be filed; and
 3. The penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.
- F. Notwithstanding any provision of Utah Code Ann. § 63G-2-101 *et seq.*, the city recorder shall:
1. Make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed.
 2. Make the campaign finance statement filed by a candidate available for public inspection by:
 - a. posting an electronic copy or the contents of the statement on the city's website no later than seven (7) business days after the statement is filed and
 - b. verifying that the address of the city's website has been provided to the lieutenant governor in order to meet the requirements of Utah Code Ann. § 20A-11-103(5).
- G. If a candidate fails to file a campaign finance statement before the city general election by the deadline specified in 2.36.050 B.1., the city recorder shall inform the appropriate election official who:
1. Shall:
 - a. if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or
 - b. if removing the candidate's name from the ballot is not practicable, inform the voters by any practical method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
 - c. may not count any votes for that candidate.
- H. Notwithstanding 2.36.050 G., a candidate who files a campaign finance statement seven (7) days before a city general election is not disqualified if:
1. The statement details accurately and completely the information required under 2.36.050 D., except for inadvertent omissions or insignificant errors or inaccuracies; and
 2. The omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.
- I. A campaign finance statement required under this section is considered filed if it is received in the city recorder's office by 5 p.m. on the date that it is due.
- J. A private party in interest may bring a civil action in district court to enforce the provisions of this section.
- K. In a civil action under 2.36.050 J., the court may award costs and attorney's fees to the prevailing party.

2.36.055: CONTRIBUTION LIMITATION:

It is unlawful for a candidate for city office to accept a campaign contribution in excess of one thousand five hundred dollars (\$1,500.00) from any one individual or entity.

2.36.060: ELECTION JUDGES; APPOINTMENT FOR LOCAL ELECTIONS:

- A. At least fifteen (15) days before the date scheduled for any local election, the city council shall appoint or provide for the appointment of:
 - 1. Four (4) registered voters from their jurisdiction to serve as election judges for each voting precinct; and
 - 2. At least one registered voter from their jurisdiction to serve as canvassing judge, if necessary; and
 - 3. As many alternate judges as may be needed to replace appointed judges who are unable to serve.
- B. The city council may not appoint any candidate's parent, sibling, spouse, child, or in-law to serve as an election judge in the voting precinct where the candidate resides.
- C. The city recorder shall:
 - 1. Prepare and file a list containing the name, address, voting precinct, and telephone number of each person appointed; and
 - 2. Make the list available in the city recorder's office for inspection, examination, and copying during business hours.
- D.
 - 1. The city council shall provide for the compensation of election judges for their services.
 - 2. The city council may not compensate their election judges at a rate higher than that paid by the county to its election judges.

2.36.070: PENALTY FOR NONCOMPLIANCE:

In addition to the remedies specified in section 2.36.050 of this chapter, any candidate, individual or entity who fails to comply with this chapter is guilty of an infraction. This Ordinance, assigned Ordinance No. 12-__, shall take effect as soon as it shall be published or posted as required by law, deposited, and recorded in the office of the City Recorder, and accepted as required herein.

PASSED AND APPROVED this _____ day of _____, 2012.

TAYLORSVILLE CITY COUNCIL

By: _____
Jerry Rechtenbach, Chairman

VOTING:

Dama Barbour	Yea	___	Nay	___
Ernest Burgess	Yea	___	Nay	___
Larry Johnson	Yea	___	Nay	___
Kristie Overson	Yea	___	Nay	___
Jerry Rechtenbach	Yea	___	Nay	___

PRESENTED to Mayor of Taylorsville for his approval this _____ day of _____, 2012.

APPROVED this _____ day of _____, 2012.

Russ Wall, Mayor

ATTEST:

Cheryl Peacock Cottle, Recorder

DEPOSITED in the Recorder's office this _____ day of _____, 2012.

POSTED this _____ day of _____, 2012.