

**TAYLORSVILLE CITY COUNCIL  
AGENDA ITEM SUMMARY**

**MEETING DATE:** October 19, 2011

**AGENDA ITEM:** Resolution No. 11-29 – Resolution Requesting the Recertification of the Taylorsville Justice Court

**PUBLIC HEARING REQUIRED – YES** \_\_\_\_\_ **NO** **X** \_\_\_\_\_

**RESOLUTION/ORDINANCE REQUIRED**

**ORDINANCE** \_\_\_\_\_ **RESOLUTION** **X** \_\_\_\_\_ **NONE** \_\_\_\_\_

**PRESENTER:** John Brems

**ISSUE SUMMARY:** Consideration of Resolution 11-29 – Resolution Requesting the Recertification of the Taylorsville Justice Court

**ATTACHMENT(S):** Opinion Letter of City Attorney John Brems

**CITY ATTORNEY (Approved as to form):**

**ACTION REQUIRED.** Approval of Resolution 11-29

**CONTACT:** City Attorney John Brems

**TAYLORSVILLE, UTAH**  
**RESOLUTION NO. 11-29**

**RESOLUTION REQUESTING THE RECERTIFICATION  
OF THE TAYLORSVILLE JUSTICE COURT**

**WHEREAS**, the Taylorsville City Council (the "*Council*") met in regular session on October 19, 2011, to consider, among other things, adopting a resolution requesting the recertification of the Taylorsville Justice Court; and

**WHEREAS**, UTAH CODE ANN. § 78A-7-103 requires that justice courts be recertified at the end of each four-year term; and

**WHEREAS**, the term of the present court expires on February 8, 2012; and

**WHEREAS**, the Council has received an opinion letter from John N. Brems, City Attorney, which sets forth the requirements for the operation of a justice court and feasibility of continuing to maintain the same; and

**WHEREAS**, the Council has determined that it is in the best interests of the health, safety and welfare of the inhabitants of Taylorsville to continue to provide for a justice court.

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

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

This Resolution, assigned No. 11-29, shall take effect immediately on passage and acceptance as provided herein.

**PASSED AND APPROVED** by the Council of Taylorsville, Utah this \_\_\_\_ day of October, 2011.

**TAYLORSVILLE CITY COUNCIL**

By \_\_\_\_\_  
Jerry Rechtenbach, Chairman

**VOTING:**

Bud Catlin	Yea	___	Nay	___
Larry Johnson	Yea	___	Nay	___
Dama Barbour	Yea	___	Nay	___
Morris Pratt	Yea	___	Nay	___
Jerry Rechtenbach	Yea	___	Nay	___

**PRESENTED** to Mayor of Taylorsville for his approval this \_\_\_ day of \_\_\_\_\_, 2011.

**APPROVED** this \_\_\_ day of \_\_\_\_\_, 2011.

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**Russ Wall, Mayor**

**ATTEST:**

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**Cheryl Peacock Cottle, Recorder**

**DEPOSITED** in the Recorder's office this \_\_\_ day of \_\_\_\_\_, 2011.

**POSTED** this \_\_\_ day of \_\_\_\_\_, 2011.

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PARSONS KINGHORN HARRIS

A PROFESSIONAL CORPORATION

October 10, 2011

Mayor Russ Wall
CITY OF TAYLORSVILLE
2600 West Taylorsville Blvd.
Taylorsville, UT 84118

Re: Opinion Letter Regarding Recertification of Taylorsville Justice Court

Dear Mayor Wall:

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

- 1. UTAH CODE ANN. §§ 78A-7-103 et seq.
2. Requirements established by the Judicial Council.
3. Resolution No. 11-29 adopted by the Taylorsville City Council (the "Council") on October 19, 2011, requesting recertification of the Taylorsville Justice Court ("Court").
4. Court Certification Affidavit dated September 29, 2011.

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

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

ATTORNEYS AT LAW

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- John Parsons, Gerald H. Kinghorn, Paul T. Moxley, Langdon T. Owen, Jr., John N. Brems, John S. Bradley, Harold L. Reiser, J. Scott Brown, Steven C. Strong, Catherine L. Brabson, Lisa R. Petersen, George B. Hofmann, Matthew M. Boley, Melyssa D. Davidson, Jeremy R. Cook, Michael D. Kendall, Kimberley L. Hansen, Victor P. Copeland

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

1. All official Court business is conducted in a courtroom or in an office located in a public facility which is conducive and appropriate to the administration of justice.
2. The Court is open and judicial business is transacted each day as appropriate for the classification of the Court, although the judges are not present during all hours that the Court is open.
3. The hours that the Court will be open are posted conspicuously at the Court.
4. The judges and the clerk are available to attend Court and conduct Court business as needed and attend the Court at regularly scheduled times.
5. Taylorsville provides and compensates the judges and clerical personnel to conduct the business of the Court.
6. Taylorsville assumes expense of travel, meals, and lodging for the judges to attend required judicial education and training.
7. Taylorsville assumes the cost of travel and training expense for clerical personnel at training sessions conducted by the Judicial Council.
8. Taylorsville provides sufficient staff of public prosecutors to attend the Court and perform the duties of prosecution.
9. Taylorsville provides adequate funding for attorneys where persons are indigent as provided by law.
10. Taylorsville provides law enforcement officers to attend Court when required and provide security for the Court.
11. Witness and jury fees as required by law are paid by Taylorsville.
12. All fines, surcharges, or assessments which are payable to the State are forwarded to the State as required by law.
13. Taylorsville pays the judges a fixed compensation.
14. Court is held within the jurisdiction of Taylorsville, except as provided by law.
15. Taylorsville provides and keeps current for the Court a copy of the motor vehicle laws of the State of Utah, appropriate copies of the Utah Code, Judicial Court's Manual, state laws affecting local government, local ordinances, and other necessary legal reference material.

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16. All required reports and audits are filed as required by law or by the Rules of the Judicial Council.

17. The Court uses a common-case management system and disposition reporting system as specified by the Judicial Council.

18. Effective July 1, 2012, the Court shall record all proceedings with a digital audio recording device and maintain the audio recording for one year.

19. The Court is open at least one hour each day that the Court is required to be open as provided by law.

20. The judges are available to attend Court and conduct Court business as needed.

21. The Court has the following furnishings: a desk and a chair for the judges (on a 6" riser); a desk and a chair for the court clerk; chairs for the witnesses; separate tables and appropriate chairs for plaintiffs and defendants; a Utah state flag; a United States flag; a separate area and chairs for at least four jurors; a separate area with appropriate seating for the public. The Court also has the following: an appropriate room for jury deliberation; an appropriate area or room for victims and witnesses which is separate from the public; judicial robe; gavel; current bail schedule; copy of the Code of Judicial Administration, and necessary forms and supplies. Office space for the judges and the clerk is also provided. The judges have their own desks, as well as the clerk, and there is a secured filing cabinet for the judges and the clerk, a telephone for the judges, and a telephone for the clerk, appropriate office supplies, a cash register or secured cash box, a typewriter or word processor, and a copy machine.

22. A clerk is present during the time the Court is open each day and during Court sessions.

23. Taylorsville provides law enforcement services.

24. A security plan has been filed that appears to be consistent with C.J.A. Rule 3-414.

25. One judge is employed on a full-time basis, and the other judge is employed on a part-time basis.

26. The appropriate number of clerks, as required by the classification of the Court, is present during the time the Court is open each day and as needed during Court sessions.

27. The Court is open during regular business hours.

28. The courtroom is dedicated for exclusive use as a court.

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29. The judges' chambers, clerk's office, and courtroom are in the same building.
30. The judges share private chambers.
31. Except as provided above, the judges' chambers and the clerk's offices are not shared by another entity.

Taylorsville is now advised that the foregoing items are all requirements for Justice Court recertification. Based upon my findings with respect to the above referenced items, it is my opinion that the Court meets or exceeds all requirements imposed by state statutes and by the state Judicial Council. It is therefore my opinion that the continued operations of the Court are feasible under applicable law.

This opinion is subject to the following limitations:

3.1. The application, effect, and/or nonviolation of any law, regulation, ordinance, or rule of any federal, state, county, municipal, or other governmental agency, court, or body is, of course, subject to any change in existing law, with a retroactive application being possible; to the adoption of conflicting law (by statute, judicial decision, or otherwise); or to the adoption of law where no law now exists. Further, although I consider the opinions expressed herein to be valid under existing law, the modification of such existing law by a court or governmental agency of competent jurisdiction occurring after the date hereof may affect the opinions expressed herein.

3.2. The documents described herein are subject to applicable Utah law (statutory, judicial decisions, and otherwise), which may be affected by the exercise of judicial discretion in accordance with general principles of law and equity.

3.3. The opinions that are expressed herein relate only to the effect of applicable laws of the State of Utah, and I express no opinion as to the effect or application of the laws of any other state, municipality, or jurisdiction.

This opinion is rendered solely for the benefit of the addressees specified above. This opinion is a legal opinion only, and is not a guaranty or warranty of the matters discussed herein. This opinion may not be (a) relied upon by any other person or entity or in connection with any other transaction; (b) furnished, either as an original document or as a copy, to any other persons or entities; (c) quoted, circulated, or referred to (in whole or in part) in any other document; or (d) publicly filed, without my prior written consent.

Very truly yours,

PARSONS KINGHORN HARRIS

John N. Brems