

**City of Taylorsville**  
**CITY COUNCIL MEETING**  
*Minutes*

**Wednesday, March 7, 2012**  
**Council Chambers**  
**2600 West Taylorsville Blvd., Room No. 140**  
**Taylorsville, Utah 84129**

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**BRIEFING SESSION**

**Attendance:**

Mayor Russ Wall

**Council Members:**

Council Chairman Jerry Rechtenbach  
Vice-Chairman Dama Barbour  
Council Member Ernest Burgess  
Council Member Larry Johnson  
Council Member Kristie Overson

**City Staff:**

John Inch Morgan, City Administrator  
John Brems, City Attorney  
Cheryl Peacock Cottle, City Recorder  
Donald Adams, Economic Development Director  
Mark McGrath, Community Development Director  
John Taylor, City Engineer  
Scott Harrington, Chief of Finance  
Jessica Springer, Council Coordinator

**Others:** Charles Christopher

**BRIEFING SESSION**

**1. Review Administrative Report**

18:03:47 Chairman Rechtenbach conducted the Briefing Session, which convened at 6:03 p.m. City Recorder Cheryl Peacock Cottle conducted a Roll Call, wherein all Council Members were present. Chairman Rechtenbach called for questions on the Administrative Report, and Council Member Kristie Overson inquired about the RFP issued for economic development incentive brokers. City Administrator John Inch Morgan gave clarification on the service being requested. Council Member Barbour questioned whether scheduled meetings will be held on the evenings

of caucus meetings. Mayor Wall confirmed that no City-sponsored meetings will be held during caucus meetings.

## 2. Review Agenda

18:07:24 The agenda for the City Council Meeting was reviewed.

Community Development Director Mark McGrath gave background information regarding Agenda Item 5.1. He addressed questions related to this issue. He outlined the differences between a "Hobby Animal Permit" and a "Fanciers Animal Permit." Mr. McGrath also described the City ordinance in regard to animal ownership. He affirmed that no complaints regarding the requested animals have been received by neighbors.

18:15:57 City Administrator John Inch Morgan described tentative rules designed for the use of City parks. He noted that these will be presented for consideration under Agenda Item 6.2.

18:17:16 Chairman Rechtenbach cited the need for discussion, under Agenda Item 7.1 - Other Matters, regarding the April City Council Meeting schedule.

18:18:13 Chairman Rechtenbach suggested that further discussion be scheduled regarding the ordinance relating to Animal Hobby and Animal Fancier Permits. Mr. McGrath agreed to follow up on this recommendation.

## 3. Adjourn

18:18:34 The Briefing Session was adjourned at 6:18 p.m.

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## REGULAR MEETING

### Attendance:

Mayor Russ Wall

### Council Members:

Council Chairman Jerry Rechtenbach  
Vice-Chairman Dama Barbour  
Council Member Ernest Burgess  
Council Member Larry Johnson  
Council Member Kristie Overson

### City Staff:

John Inch Morgan, City Administrator  
John Brems, City Attorney  
Mark McGrath, Community Development Director  
Wayne Dial, Assistant Chief of Police  
Cheryl Peacock Cottle, City Recorder

Jessica Springer, Council Coordinator  
John Taylor, City Engineer  
Scott Harrington, Chief of Finance  
Donald Adams, Economic Development Director  
Aimee Newton, Communications Director  
Michael Kwan, Judge  
Marsha Thomas, Judge

**Citizens:** Gayleen Gudmunsen, Sim Gill, Pam Roberts, Jay Ziolkowski, Members of Scout Troops 99, 589, 325 and 843, Jacob Bailey, Aubrey Thomson, Nicole Eggert, Lynn Handy, Rhetta McIff, Ralph Chamness, Pam Manson, Judy Bunkall, Israel Grossman, Jerry Milne, Celeste Eggert, Royce Larsen, Phil Weimer, Billy Swartzfager, Terra Bueno, Joel Gardner, Ed Blake, Emmy Beck, Erin Penrose, Reagan Gabbitas, Roger Borenicht, Karen Crespin, Chad Garfield, Danie Bertrand, Kristen Yancey, Bailey Wyatt, Jasey Wyatt, Doug Shupe, Sue Shupe, Spencer Braithwaite, McKenzie Miller, Kathy Cue, Angela Wright, Amy Bosworth, Holly Mullen

## **1. WELCOME, INTRODUCTION AND PRELIMINARY MATTERS**

18:29:42 Chairman Jerry Rechtenbach called the meeting to order at 6:30 p.m. and welcomed those in attendance. City Recorder Cheryl Peacock Cottle conducted a Roll Call, wherein all Council Members were present.

### **1.1 Opening Ceremonies – Pledge of Allegiance – *Aubrey Thomson, Youth Council***

18:30:54 Youth Council Member Aubrey Thomson directed the Pledge of Allegiance.

### **1.2 Reverence – Jacob Bailey, *Youth Council* (Opening Ceremonies For March 21, 2012 to be arranged by Council Member Johnson)**

Youth Council Member Jacob Bailey offered the Reverence.

### **1.3 Citizen Comments**

18:33:00 Chairman Jerry Rechtenbach reviewed the Citizen Comment Procedures for the audience. He then called for any citizen comments.

18:35:17 Charles Christopher made a suggestion regarding sign-in forms for City Council Meetings. He recommended providing a column for e-mail addresses for those in attendance who may wish to receive City Council packets. Mr. Christopher noted that only the current Council

packets are available on the City website and historical packets are not available. He said that receiving the packet via e-mail would provide individuals the opportunity to keep an archive of the documents.

18:36:52 There were no additional citizen comments, and Chairman Rechtenbach closed the citizen comment period.

18:36:58 Chairman Rechtenbach recognized several scouts in attendance from Troops 99, 589, 325 and 843.

#### **1.4 Mayor's Report**

18:37:46 Mayor Russ Wall reported on the 2<sup>nd</sup> Annual Urban Iditarod event held on March 3, 2012. He relayed that eleven teams participated in this very successful event. The Mayor recognized the efforts of LARP Chair Rhetta McIff in organizing the recent event. Chairman Rechtenbach thanked Communications Director Aimee Newton for the fine press coverage surrounding the Iditarod.

## **2. APPOINTMENTS**

### **2.1 Judy Bunkall, Ordinance Review Committee – *Chairman Rechtenbach***

18:40:18 Chairman Rechtenbach recognized Judy Bunkall and nominated her to serve as a member of the Ordinance Review Committee.

18:40:31 Council Member Larry Johnson **MOVED** to appoint Judy Bunkall as a member of the Ordinance Review Committee. Council Member Dama Barbour **SECONDED** the motion. Chairman Rechtenbach called for discussion on the motion. There being none, he called for a vote. The vote was as follows: Johnson-yes, Rechtenbach-yes, Barbour-yes, Burgess-yes, and Overson-yes. **All City Council members voted in favor and the motion passed unanimously.**

### **2.2 Resolution No. 12-12 – Affirming the Appointment of Jerry Rechtenbach as a Member of the Unified Fire Authority Board of Directors -- *Mayor Wall***

18:41:33 Mayor Wall expressed his pleasure at serving on the Unified Fire Authority (UFA) Board for the past six years. He then nominated Council Chairman Jerry Rechtenbach to serve as a member of the UFA Board of Directors.

18:42:34 Council Member Dama Barbour **MOVED** to appoint Jerry Rechtenbach as a member of the UFA Board of Directors. Council Member Kristie Overson **SECONDED** the motion. Chairman Rechtenbach called for discussion on the motion. There being none, he called for a

vote. The vote was as follows: Johnson-yes, Rechtenbach-yes, Barbour-yes, Burgess-yes, and Overson-yes. **All City Council members voted in favor and the motion passed unanimously.**

### **3. REPORTS**

#### **3.1 Youth Council Report – Reagan Gabbitas, Youth Council Chair**

18:43:24 Youth Council Chair Reagan Gabbitas reported on recent activities and upcoming events for the Taylorsville Youth Council. She cited participation in the recent Urban Iditarod and described preparations currently underway for the upcoming Youth Council Leadership Conference to be held at Utah State University.

#### **3.2 District Attorney's Office – Sim Gill, District Attorney & Ralph Chamness, Chief Deputy**

18:45:29 Salt Lake County District Attorney Sim Gill reported on activities in the Salt Lake County District Attorney's Office. Mr. Gill cited efforts to facilitate open communication with municipalities, to de-centralize the District Attorney's Office, and to establish strong relationships with local officials. He described ways that the community is served by the District Attorney's Office.

#### **3.3 Administrative Control Board, Sanitation – Pam Roberts**

18:52:04 Sanitation Department Director Pam Roberts recognized Council Chair Jerry Rechtenbach as a founding member of the Service District Administrative Control Board. She presented a token of appreciation to Chairman Rechtenbach for his years of service. Ms. Roberts noted that Council Member Barbour will replace Mr. Rechtenbach as a new Board Member.

#### **3.4 Quarterly Report, UFA – Jay Ziolkowski**

18:54:52 UFA Battalion Chief Jay Ziolkowski thanked Mayor Wall for his six years of service on the UFA Board and welcomed Chairman Rechtenbach as the new board member who will represent the City of Taylorsville. He noted that the next UFA Board Meeting will be held on March 20, 2012 at 7:30 a.m.

Chief Ziolkowski reported on recent UFA activities in Taylorsville during the previous quarter, ending December 31, 2012. He cited an approximate 10% decrease in call volume during that quarter, for the first time in several years. He suggested that the positive trend may continue as City intersections are improved. Chief Ziolkowski referenced some difficulty in placing fire equipment at the new continuous flow intersections during response to traffic accidents. He observed, however, that the continuous flow intersections generally seem safer.

### **3.5 Quarterly Report, Taylorsville Courts – Judge Michael Kwan**

Judge Michael Kwan was not in attendance and Judge Thomas left briefly to notify Judge Kwan, who then joined the meeting within minutes.

19:00:03 Judge Kwan reported on activity in the Taylorsville Municipal Court. He reviewed statistics contained in the Quarterly Report, as provided in Council packets. He outlined numbers for case filing statistic and traffic filings/dispositions.

19:02:11 The Judge relayed that it has recently been learned that electronic citations were erroneously held for a period by the Administrative Office of the Courts. He said that a large number of citations were only recently received and will be processed, which should increase traffic cases. The Judge reported that criminal cases are up overall, as well as Small Claim cases.

19:06:49 Judge Kwan addressed questions regarding Small Claims cases.

19:07:27 The Judge said that revenue amounts are below budget. City Administrator John Inch Morgan noted that a mid-year adjustment has already been made to reflect actual revenue.

19:09:51 Judge Kwan gave clarification on budgeted monthly Court revenue. He cited recent success with warrants, etc.

19:11:32 Judge Kwan reported on Court expenses and relayed that current expenses are below budget, but above amounts reflected last year at this time. He clarified that bailiff expenses were not included in last year's Court Budget. He noted that the Bailiff expense has added approximately \$70,000 to the Court Budget.

19:14:08 The Judge said that he currently gives the Court an overall grade of B minus. He cited concerns with caseload and staff coverage. He noted that the Court Staff is working very hard. He described the Court's strengths in following up on the enforcement of court orders and not allowing lag time between the time when payments are in default and the time when individuals appear in Court. The Judge cited the use of collection resources, i.e. the State Office of Debt Collection and the Tax Commission Finder Program. He suggested that caseloads seem to now be trending up, although traffic cases are down. He confirmed that Traffic School is still available and is now being overseen by City Administration.

19:17:19 Council Member Overson inquired about the workload for Court Staff. Judge Kwan said that the workload has not changed with the decreased caseload, but more focus has recently been given to closing cases and pursuing collections.

19:18:19 Council Member Overson inquired about staff retention in the Court. The Judge indicated that retention is good so far and relayed that the Clerk of the Court almost accepted a position with another Court, but the Taylorsville Court was ultimately able to retain her as an employee. He described the current Clerk of the Court as a great asset for the Court and the City.

19:19:03 Council Member Barbour inquired whether the bailiff expense was included in the Court Budget. Judge Kwan explained that it was submitted with the 2011-2012 Budget, but referenced comparison with the 2010-2011 budget wherein the bailiff expense was part of the Police Department Budget.

19:21:08 Chairman Rechtenbach questioned how the Council can help with Court needs. Judge Kwan cited his efforts to prepare next year's Court Budget.

#### **4. CONSENT AGENDA**

##### **4.1 Minutes – RCCM 02-01-12, SCCM & CCWS 02-08-12 & RCCM 02-15-12**

18:58:52 Council Member Kristie Overson **MOVED** to adopt the Consent Agenda. Council Member Dama Barbour **SECONDED** the motion. Chairman Rechtenbach called for discussion on the motion. There being none, he called for a roll call vote. The vote was as follows: Johnson-yes, Rechtenbach-yes, Barbour-yes, Burgess-yes, and Overson-yes. **All City Council members voted in favor and the motion passed unanimously.**

#### **5. PLANNING MATTERS**

##### **5.1 Appeal of an Animal Fancier's Permit to Limit the Number of Dogs to Ten Within One Year on Property Located at 3503 West Valley Heights Drive – Mark McGrath**

19:21:56 Community Development Director Mark McGrath relayed that on February 14, 2012 the Planning Commission denied an application for an Animal Fancier's Permit in order to allow an additional 20 dogs on the subject property. He noted that the applicant initially received approval for a Fancier's Permit allowing six teacup poodles to be kept. He reviewed the history of the permit applications culminating in the most recent request for a total of 26 dogs to be contained on the property.

19:24:33 Mr. McGrath noted that the animals (all teacup poodles) are already on the property and are being well cared for. He stated that there have been no official complaints from neighbors regarding the animals. He stated that West Valley Animal Services has made inspection of the subject property and recommended approval. He relayed that the applicant was given one year from the denial date of February 14, 2012 to reduce the number of animals to ten

and become compliant; and the applicant has now appealed the Planning Commission's decision to the City Council.

19:26:27 Mr. McGrath described the options before the City Council, as follows: (1) uphold the Planning Commission decision, (2) remand the matter back to the Planning Commission for further consideration, or (3) schedule a public hearing, with a 14-day notification, to hear the appeal before the City Council.

19:27:33 Mr. McGrath addressed questions and confirmed that there have been no neighbor complaints and the animals are being well cared for. He acknowledged that the City's current ordinance places no limits on the number of animals that may be allowed under a conditional use permit.

19:28:22 Mayor Wall noted that the applicant is currently in violation by 20 dogs. He said this is the first time that Administration has heard that West Valley Animal Services recommended approval. He inquired why Administration was not previously told of that approval. Mr. McGrath relayed that the Planning Commission was notified at the hearing and apologized that the Mayor was not made aware.

19:30:29 Council Member Johnson cited concern with the amount of waste accumulating on the property.

19:31:09 Council Member Barbour reviewed the history of permit applications and noted that the Planning Commission did approve up to ten dogs. She observed that the applicant is currently in violation by keeping 26 dogs.

19:32:41 Mr. McGrath confirmed that the dogs could be used for breeding purposes.

19:33:04 Council Member Burgess expressed concern about the numbers of dogs on the property and recommended that the City may need to uphold the Planning Commission's decision or reduce that number back to six dogs. Chairman Rechtenbach outlined the three options before the City Council, as described earlier.

19:33:52 Council Member Ernest Burgess **MOVED** to uphold the Planning Commission's decision in this matter. Council Member Dama Barbour **SECONDED** the motion. Chairman Rechtenbach called for discussion on the motion. Council Member Burgess stressed that there should be no more than 10 dogs allowed in the home. Chairman Rechtenbach clarified that any change in the permit would need to come before the Planning Commission and expressed concern with the current ordinance in regard to Fancier and Hobby Permits. He noted that, even though the animals are reported to be well cared for, the Planning Commission has arbitrarily limited the number of dogs to ten. He said he prefers changing the ordinance to a specific

number and then grandfathering in this situation as a legal non-conforming use. Mayor Wall warned against setting a dangerous precedent. He observed that the dog owners are aware of the rules and currently have 26 dogs on a one-fifth acre lot. The Mayor suggested remanding the matter back to the Planning Commission or hearing the appeal. Chairman Rechtenbach agreed that the applicants are in violation of their current permit. He noted that the ordinance does not set limits and the dog owners did come in voluntarily for permits. Council Member Overson suggested that the ordinance does propose limits. She cited language relating to the Animal Fanciers Permit and managing litters. She observed that the applicants are currently in violation of their permit. Chairman Rechtenbach clarified that there are still no limits for how many animals may be allowed under a permit. Mr. McGrath interpreted the language for the Fanciers Permit and gave some clarification. Council Members reaffirmed that there are some issues with the ordinance. Council Member Barbour stated that she believes the dog owners are definitely in violation. She called for a question to the motion. Chairman Rechtenbach called for a roll call vote. All City Council Members voted and the vote was as follows: Johnson-yes, Rechtenbach-no, Barbour-yes, Burgess-yes, and Overson-yes. **All City Council members voted and the motion passed with a four to one vote.**

## 6. FINANCIAL MATTERS

### 6.1 ***Public Hearing – 6:30 p.m. – To Receive Public Comment on the Community Development Block Grant (CDBG) Funds – Kathy Ricci***

19:41:44 Chairman Jerry Rechtenbach opened the public hearing and called for citizen comments regarding CDBG Funds

19:41:52 Celeste Eggert, of the Road Home, outlined services provided at the homeless shelters. She confirmed that the facilities have zero-tolerance for drugs and alcohol. She relayed that the Road Home partners with Catholic Community Services to assist those who are incapacitated during the coldest winter months. She cited a significant increase in the number of families who are seeking shelter.

19:44:47 Kathryn Cue, from Family Support Center, presented a request for funding for the Taylorsville location. She described crisis and counseling services that are offered at the Center.

19:47:39 Roger Borgenicht, Director of Assist, described two programs offered in Taylorsville, as follows: Critical Home Repairs and Accessibility Design. He cited services provided last year to low-income families and fixed-income individuals. He noted that licensed contractors are used for making repairs. He reported that 76 jobs were performed last year on 59 different homes in Taylorsville.

19:50:28 Council Member Overson inquired whether all work funded by CDBG is performed in Taylorsville and Mr. Borgenicht confirmed that is the case. Council Member Burgess asked how families are referred to the program and Mr. Borgenicht described the process to screen applicants and evaluate problems within homes. He confirmed that sometimes repairs are performed on rental properties under limited emergency circumstances.

19:53:36 Council Member Johnson inquired about contractors used and scenarios when homes may be sold after repairs are made. Mr. Borgenicht confirmed that homes may be sold one year after repairs are made.

19:54:14 Phil Weimer, of Community Health Centers, expressed appreciation for past support and described the programs offered through the Oquirrh View Clinic in Taylorsville. He noted that services are provided to those who are uninsured and meet low-income criteria. He gave statistics on those served in Taylorsville last year. He addressed questions about specific help that is given. He confirmed that most referrals are by word-of-mouth and new patients are usually pregnant women.

20:02:45 Angela Wright, Director of YMCA Community Center, described uses for potential funding. She relayed that 617 Taylorsville children were served last year. She expressed appreciation for the Urban Iditarod event which benefitted the YMCA. She referenced the Community Garden Center with which the YMCA has assisted. Ms. Wright noted that some requested funds are for needed expansion at the Fremont Elementary location.

20:07:54 Amy Bosworth, Director of United Way 211, described services provided. She noted that these services were previously funded through the Food Bank. She reported that United Way served 231 individuals in Taylorsville last year to supply clothing, food, etc. She referenced the VITA Program, which offers Volunteer Income Tax Assistance. Ms. Bosworth also cited holiday assistance that is provided to families.

20:11:09 Ed Blake, Executive Director of Habitat for Humanity, described services offered through the program, i.e. home building, recycling initiatives at the Thrift Store, and neighborhood revitalization. He gave clarification on amounts being requested to cover hard costs in Taylorsville. Mr. Blake confirmed that ground breaking on the Habitat for Humanity home in Taylorsville should be in about 40 days.

20:15:36 Billy Swartzfager and Terra Bueno, of Boys and Girls Club South Valley, reported on their program. Mr. Swartzfager relayed that 204 Taylorsville children are currently being provided with after-school care, mentoring services, summer programs, etc.

20:19:45 Jennifer Campbell, of South Valley Sanctuary, described services provided to victims of domestic violence. She cited purposes of the program and relayed that 15 individuals from

Taylorsville were served last year. She confirmed that the program partners with the Taylorsville Victim Advocate to provide services. She explained that the shelter is at an undisclosed location.

20:25:05 Kristen Yancey, of Big Brothers Big Sisters of Utah, described services provided through its mentoring program offered to local low-income children. She cited ways that the programs benefit children and family relationships in high-risk situations. She referenced examples of positive experiences reported through the program.

20:29:32 Holly Mullen, representing the Rape Recovery Center, cited funding requested through CDBG to help support sexual assault victims in Taylorsville. She provided statistics relating to sexual assault and rape in the State. She recognized a successful partnership between the Rape Recovery Center and Taylorsville Victim Advocate Tessa Kohl. She reported on her continued efforts to specifically identify Taylorsville residents who may erroneously report their residence as being in Salt Lake City.

20:35:06 Mayor Wall noted that Ms. Mullen has recently taken over the Rape Recovery Center and commended her efforts.

20:35:42 There were no additional comments and Chairman Rechtenbach declared the public hearing closed.

20:36:53 The Mayor asked that Kathy Ricci be excused from this meeting. He cited recommendations being made for CDBG funding. He said that Administration will bring back a resolution regarding CDBG funding for final approval at the March 21, 2012 City Council Meeting.

20:39:42 Chairman Rechtenbach inquired about the funding recommended for surveillance cameras. Mayor Wall described needs for such cameras at additional locations in the City and some upgrades that will be made to current equipment. The Mayor gave clarification on the amount recommended for the Senior Center expansion. He said work at the Senior Center still needs to be done, but can wait until next year. He confirmed that the Council may make suggestions to change Administration's recommendations.

## **6.2 Discussion Regarding the Adoption of a Policy for Special Use Parks, and Adopting New Fees Applicable to the Special Use Parks – *John Inch Morgan***

20:42:47 City Administrator John Inch Morgan noted that the subject policy for Special Use Parks was first discussed in November, 2011. He referenced the suggestion to add the Taylorsville Bennion Heritage Center Park and the Labrum Park to the list of Special Use Parks.

20:43:09 Mr. Morgan noted that the City ordinance does address certain rules and regulations related to City parks. He cited the need for a policy to address more specialized uses and fees for certain new City parks. He noted that some parks will be used for special events or tournaments. Mr. Morgan referenced the policy that has been drafted and provided to the Council for consideration. He outlined proposed fees and regulations for large groups conducting special events in the parks. He asked for direction from the Council so that the ordinance relating to parks might be amended accordingly.

20:45:36 Council Member Overson asked for clarification on the designation for the Taylorsville Bennion Heritage Center Park. Mr. Morgan said the entire property is being considered for special use, but will be better defined in amendments to the ordinance. He explained that the Historic Preservation Committee has asked that the green space on the property be included and that rules be implemented for that area.

20:46:40 Council Member Overson asked whether the intent is to allow individuals to walk in and hold events or picnics in the bowery on the Heritage Center property. Mr. Morgan confirmed that the area is a public space, but specific restrictions may be appropriate for that property.

20:48:28 Council Member Larry Johnson agreed that an exception and more specific restrictions should be included for the property at the Taylorsville Bennion Heritage Center. Mr. Morgan agreed to write such restrictions into the policy.

20:48:24 Council Member Johnson inquired whether any camping will be allowed in the special use parks. Mr. Morgan indicated that camping will not generally be allowed. He explained that overnight camping will be specially permitted for scout groups and other qualified 501(c)-3 groups at Labrum Park. He said language in the ordinance will be perfected to address that exception. Mayor Wall clarified that it will also be required in the policy that overnight camping groups must have a Taylorsville connection.

20:50:09 Mr. Morgan outlined requirements for Special Events and the need for groups to obtain Mass Gathering Permits and follow Health Department policies and requirements for large gatherings.

20:52:07 Council Member Ernest Burgess expressed concern about high fee amounts. The Mayor explained that fees must cover the City's expense for police coverage and administrative costs in preparing a Mass Gathering Permit. He noted that fees are less for non-profit groups, but City costs may not be covered for those events. The Mayor also cited expense in repairing landscaping and restoring parks after large events.

20:54:02 Mr. Morgan referenced other comparable events and fees in neighboring cities.

20:55:15 Council Member Johnson inquired about events where alcohol is allowed. The Mayor said he cannot imagine any City event where alcohol would be allowed. He stated that some details may be spelled out, but events will basically be required to adhere to Mass Gathering Permit regulations.

20:56:59 Chairman Rechtenbach inquired about liability issues. Mr. Morgan explained that groups are required through Mass Gathering Permits to provide certificates of insurance.

20:58:16 Mr. Morgan stated that the policy for special use parks will be crafted into the existing ordinance and possibly brought back for discussion at the March 14<sup>th</sup> Work Session. He noted a need to have the ordinance in place fairly soon because requests for park use are coming in. Mr. Morgan confirmed that he will amend and redline the ordinance and bring it back in two weeks for consideration.

20:59:43 Council Member Overson suggested that it may be appropriate to ask the Historical Preservation Committee for input with regard to the Heritage Center Park. Mr. Morgan agreed and confirmed that Administration is also already working on the policy with LARP Chair Rhetta McIff.

## 7. OTHER MATTERS

### 7.1 Ordinance 12-05 – Amending Chapter 2.36 (Elections) of the Taylorsville Code of Ordinances – *John Brems*

21:00:24 City Attorney John Brems presented the subject ordinance and described background issues. He explained that in the City's recent election a candidate contributed more than \$1500 of his/her own money to his/her own campaign. Mr. Brems said that City Recorder Cheryl Cottle asked him, as City Attorney, about the legality of this contribution. Mr. Brems then directed Ms. Cottle to contact the Lt. Governor's Office, who oversees elections in the State, and inquire whether this particular contribution was in violation of Taylorsville's ordinance which currently limits campaign contributions to \$1500 from one individual or business. Ms. Cottle was told by the Lt. Governor's office that the provision to limit campaign contributions may be deemed unconstitutional. Mr. Brems stated that, as a result, he has more closely examined the ordinance and now has questions as to the constitutionality of the City's campaign contribution limitation. He said there are other campaign contribution limitations that may survive scrutiny, but Taylorsville's ordinance has at least three problems. Mr. Brems suggested that if a cap to contributions is still desired, certain stipulations in the ordinance may need to be amended.

21:02:08 Council Member Barbour questioned whether there is a difference between a candidate spending his/her own money for his/her own campaign and having someone else contribute to the campaign. Mr. Brems said it is a fatal flaw in the existing ordinance that there is no

distinction between the two. He suggested that this is one thing that should be fixed in the ordinance and said this is why the ordinance is being brought forward for possible amendment.

21:02:47 Council Member Johnson said that he spent more than \$1500 on his own campaign and did not realize there was a cap. Chairman Rechtenbach suggested that he does not consider his own expense for his own campaign as a contribution. He noted that there is a fine line between the two and stated that he did not list what he spent out of pocket on his own campaign on the Campaign Finance Statement. Mr. Brems said he believes candidates are supposed to list what they contribute to their own campaigns.

21:04:57 Mr. Brems said he believes the current City ordinance violates the distinction being examined by the Supreme Court. He suggested eliminating that portion of the ordinance at this time and, if a cap is still desired, coming back with an amendment to the ordinance relating to contribution limits. Mr. Brems stated that the existing ordinance may be a violation of free speech.

21:04:18 Council Member Burgess asked whether the City is truly in violation of the constitution. Mr. Brems said in his opinion the ordinance has three problems, but since there is no election occurring right now there may be no risk.

21:05:29 Mr. Brems clarified that there is no current ruling on Taylorsville's limitation of campaign contributions being in violation of free speech because it has not been taken to court; however, it is his opinion that there is a probability that it could be determined to be such if it is challenged in the future.

21:06:21 Mayor Wall disagreed that there is no risk for the City being sued in regard to the subject ordinance. He cited history with the City's adoption of a free-protest zone. Mayor Wall said that the City was sued as a result and relayed that he was also personally sued over that issue. He referenced another recent lawsuit resulting from campaign signs in South Jordan. The Mayor suggested that the City's ordinance has not been tested, but Attorney Brian Barnard is likely to sue. He cited a potential scenario where the City may be sued over campaign contribution limitations. Mayor Wall asked whether the Council wants to allow the City's ordinance to be tested or whether it wants to take the City Attorney at his word.

21:08:37 Mayor Wall confirmed that the City has paid \$15,000 for attorney fees in the litigation referenced.

21:08:43 Council Member Johnson inquired why these issues were not brought forward two or three years ago. The Mayor noted that the City Recorder asked some questions which exposed the potential problem.

21:08:56 City Recorder Cheryl Peacock Cottle stated that the potential issue was just recently brought to the City's attention and as soon as it was, the City Attorney and Administration felt a responsibility to make the Council aware.

21:10:07 Larry Johnson cited the potential for corruption in campaigns if contribution caps are removed. Mr. Brems acknowledged Mr. Johnson's concerns about perceived corruption, but explained that potential challenges exist in relation to free speech. Mr. Brems cited the need to identify rationale for campaign contribution caps in the ordinance.

21:11:29 Council Member Burgess questioned whether the City should redefine the ordinance or whether it is safer to simply remove the contribution cap from the ordinance altogether.

21:12:16 Mr. Brems reiterated that the current ordinance has flaws. He said that if the majority of the Council is in favor of campaign contribution limitations, he will rework the current ordinance and bring back something that may withstand scrutiny under free speech laws. He explained that he will examine five or six Supreme Court decisions and try to write something into the ordinance that will withstand constitutional challenge; however, there is no guarantee that the ordinance could not still be successfully challenged.

21:12:44 Council Member Barbour cited frivolous lawsuits that can always be filed. Mr. Brems clarified that he believes he can re-write something related to caps that would probably withstand a potential lawsuit. He confirmed that the City only pays attorney fees if it loses a lawsuit.

21:13:32 Mr. Brems stated that one of the things he will address in the ordinance is eliminating caps for what candidates contribute to their own campaigns. He affirmed that he believes an ordinance relating to caps can be implemented that would withstand a lawsuit. He pointed out that there may still be an issue since Taylorsville is one of the only other cities in the State that enacts a cap. Ms. Barbour said her primary concern is that the ordinance will withstand a lawsuit.

21:14:00 Mr. Brems cited another problem in the ordinance in that money needed for a Council Member to campaign in a district is much less than what is need to run a city-wide mayoral campaign. He recommended making a distinction in the ordinance between contribution limitations for Council Members and those for the Mayor. Mr. Brems suggested that the Council adopt the subject ordinance, eliminating the cap for now and giving him direction to re-write the section of the ordinance in regard to contribution caps in order to address the three problem issues described.

21:15:19 Council Member Larry Johnson **MOVED** to adopt Ordinance 12-05 – Amending Chapter 2.36 (Elections) of the Taylorsville Code of Ordinances, with direction to the City Attorney to draft and bring back a future amended ordinance that will withstand constitutional

challenges relating to free speech in regard to contribution limits/caps. Council Member Kristie Overson **SECONDED** the motion. Chairman Rechtenbach called for discussion on the motion. Chairman Rechtenbach cited his concern over adopting the ordinance only to bring it back for amendment at a future time. Mr. Brems cited the need to eliminate any risk for litigation immediately. He said it is not a big deal to bring the ordinance back with the changes requested. Council Member Burgess called for clarification on the risk involved if the ordinance is not amended immediately. Mr. Brems acknowledged that the risk is not great but is still there. Council Member Barbour cited the need to protect the City. Mr. Brems stated that he will need to investigate several issues in regard to free speech and thus anticipates needing at least a month to bring back the re-write to the ordinance. There being no further discussion, Chairman Rechtenbach called for a vote. The vote was as follows: Johnson-yes, Rechtenbach-yes, Barbour-yes, Burgess-yes, and Overson-yes. **All City Council members voted in favor and the motion passed unanimously.**

21:20:36 Council Member Ernest Burgess inquired about the cost to the City for Mr. Brems to do research. Mr. Brems confirmed that he is on a flat fee with the City and the charge is the same whether or not he does research.

21:21:13 Mr. Brems cited some additional issues where direction is needed in regard to elections. He inquired whether there is any desire from the Council to change the filing fee for candidates to file for election and whether a nomination petition should be addressed in regard to the filing fee. He suggested that if a nomination petition is submitted by a candidate a reduced fee may be charged or waived. He affirmed that the current filing fee for candidates is \$35.

21:21:52 Chairman Rechtenbach cited his concerns over frivolous filings by candidates who are not serious about campaigning. He said such filings may cost the City significantly when a Primary election is required.

21:22:09 Mr. Brems suggested that the filing fee might be increased.

21:22:30 Ms. Cottle noted that a nomination petition cannot be required by the City. Mr. Brems gave an example of how the City may offer to reduce or waive the filing fee when a signed petition is voluntarily submitted by a candidate.

21:23:15 Council Member Johnson suggested that the fee may be increased somewhat, but said he is against the nomination petition.

21:23:45 Council Member Overson called for clarification on the use of a nomination petition. Mr. Brems explained that a nomination petition may be used to help eliminate frivolous and costly primary elections.

21:24:22 Ms. Cottle explained that candidates currently have the option of producing a nomination petition with 25 signatures and the City may offer to reduce or waive the filing fee for a candidate who chooses to submit such a petition. She suggested that this may be an incentive to encourage candidates to be more vested in the process and to garner support.

21:24:51 Council Member Burgess questioned whether there have been some candidates in the past who have filed without being seriously interested in campaigning. Chairman Rechtenbach affirmed that there have been frivolous filings and noted that holding a Primary Election can cost the City up to \$15,000 per district. He said this is not at all an effort to weed out people who want to run for office, but rather represents a desire to attract candidates who are vested in the City and serious about seeking office.

21:25:57 Council Member Barbour said she feels the \$35 filing fee is too low. She suggested raising the fee to \$50 or \$100. She cited a desire not to eliminate good people who may be interested in running for office. She recommended that a nomination petition may be accepted in lieu of a filing fee.

21:26:42 Mayor Wall cited a previous election when four candidates filed for the office of Mayor, which created a primary election; yet, there were only two candidates who did any campaigning at all. He said it should be reasonable for serious candidates to knock on doors and obtain signatures.

21:27:21 Mr. Brems clarified that 25 signatures is the statutory provision. Chairman Rechtenbach suggested increasing the filing fee to \$100 and if a nomination petition of 25 signatures is submitted the filing fee can be reduced to \$50.

21:28:49 Council Members Barbour and Overson agreed that this is an appropriate provision and will help encourage serious candidates. Ms. Cottle affirmed that only a couple of other cities surveyed have filing fees of \$100.

21:29:13 Council Member Burgess agreed that obtaining signatures will provide insight for potential candidates and will be useful. The majority of the Council agreed that the filing fee for candidates should be increased to \$100, but if a candidate should submit a nomination petition containing 25 signatures the fee will be reduced to \$50.

21:30:11 Ms. Cottle affirmed that in the survey she conducted of other municipalities, there were only two other cities who reported offering to reduce the filing fee if a nomination petition is submitted. She clarified that some cities do not charge any filing fee, and the results of the survey conducted were widely varied.

21:31:55 Mr. Brems indicated that the change in the election code regarding the candidate filing fee will be brought back at the same time as the other proposed amendments.

21:32:07 The upcoming ULCT Mid-Year Conference, scheduled for April 11 – 13, 2012, was referenced. Chairman Rechtenbach suggested that the April Meeting Schedule be adjusted, as follows: regular City Council Meetings held on April 4<sup>th</sup> and April 25<sup>th</sup>; a Work Session held on April 18<sup>th</sup>; the April 11<sup>th</sup> Work Session will be cancelled.

21:32:48 Mayor Russ Wall called for a personal privilege. He explained that he was blindsided by the earlier discussion regarding 26 dogs, but said that does not excuse his inappropriate remarks to Community Development Director Mark McGrath. The Mayor apologized to Mr. McGrath and said he does a great job.

**8. NEW ITEMS FOR SUBSEQUENT CONSIDERATION (No Action)**

There were no new items for subsequent consideration.

**9. NOTICE OF FUTURE PUBLIC MEETINGS (NEXT MEETING)**

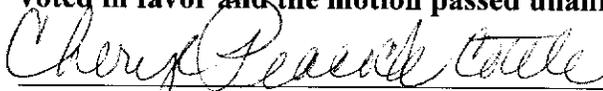
21:34:03

- 9.1 City Council Work Session – Wednesday, March 14, 2012 – 6:00 p.m.
- 9.2 City Council Briefing Session – Wednesday, March 21, 2012 – 6:00 p.m.
- 9.3 City Council Meeting – Wednesday, March 21, 2012 – 6:30 p.m.
- 9.4 City Council Briefing Session – Wednesday, April 4, 2012 – 6:00 p.m.
- 9.5 City Council Meeting – Wednesday, April 4, 2012 – 6:30 p.m.

**10. CALENDAR OF UPCOMING EVENTS**

**11. ADJOURNMENT**

21:34:10 Council Member Kristie Overson **MOVED** to adjourn the City Council Meeting. Council Member Ernest Burgess **SECONDED** the motion. Chairman Rechtenbach called for discussion. There being none, he called for a vote. The vote was as follows: Johnson-yes, Rechtenbach-yes, Barbour-yes, Burgess-yes, and Overson-yes. **All City Council members voted in favor and the motion passed unanimously.** The meeting was adjourned at 9:31 p.m.



Cheryl Peacock Cottle, City Recorder

Minutes approved: CC 03-21-12