



CEDAR CITY

10 NORTH MAIN • CEDAR CITY, UTAH 84720
435-586-2950 • FAX: 435-586-4362
www.cedarcity.org

Mayor
Joe Burgess

Council Members
Ronald R. Adams
Nina R. Barnes
John Black
Paul Cozzens
Don Marchant

City Manager
Rick B. Holman

CITY COUNCIL WORK MEETING NOVEMBER 20, 2013

The City Council will hold a work meeting on Wednesday, November 20, 2013, at 5:30 p.m., in the Council Chambers at the City Office, 10 North Main Street, Cedar City, Utah. The agenda will consist of the following items:

I. Call to Order

II. Agenda Order Approval

III. Administration Agenda

- Mayor and Council Business
- Staff Comment

IV. Public Agenda

- Public Comments

Business Agenda

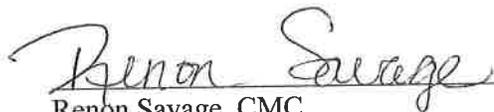
Public

1. Public Hearing to consider a lot modification in the vicinity of 1396 North and Cedar View Drive (lots 24 and 25 of Canyon Ridge UD phase 4) – Tim Watson

Staff

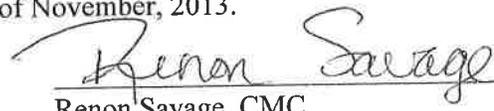
2. Consider approval of the Title 6 Sub-recipient Plan – Tammy Nay
3. Consider Cedar City Style Guide – Danny Stewart & Brennan Wood
4. Consider an ordinance and agreement related to vacating the City's interest in its rights-of-way along 200 West between Center Street and College Ave. – Paul Bittmenn
5. Consider an ordinance reauthorizing the RAP Tax – Paul Bittmenn
6. Consider ratifying the City's Prairie Dog Declaration – Rick Holman
7. Discuss sign ordinance

Dated this 18th day of November, 2013.


Renon Savage, CMC
City Recorder

CERTIFICATE OF DELIVERY:

The undersigned duly appointed and acting recorder for the municipality of Cedar City, Utah, hereby certifies that a copy of the foregoing Notice of Agenda was delivered to the Daily News, and each member of the governing body this 18th day of November, 2013.


Renon Savage, CMC
City Recorder

Cedar City Corporation does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

If you are planning to attend this public meeting and, due to a disability, need assistance in accessing, understanding or participating in the meeting, please notify the City not later than the day before the meeting and we will try to provide whatever assistance may be required.

CEDAR CITY REDEVELOPMENT AGENCY
WORK MEETING AGENDA ITEM V - I
DECISION PAPER

TO: Mayor and City Council

FROM: City Attorney

DATE: November 7, 2013, 2013

SUBJECT: Lot Line Adjustment

Discussion:

This is a public hearing to consider a lot line adjustment within a platted subdivision. The property is located in the vicinity of 1396 North Cedar View Drive. The specific lots are lots 24 and 25 in the Canyon Ridge PUD phase 4.

Attached is a map showing the proposed lot modification. Mr. And Mrs. Reid own both parcel #1 and parcel #2. They are moving some property from parcel #1 and including it with parcel #2.

Also attached are the planning commission minutes. The planning commission gave the proposal a positive recommendation.

Mr. Watson is the engineer on the project. He is tasked with providing notice to property owners within 300 feet of the project as well as the home owners association. Mr. Watson will provide proof of notice prior to the work meeting.

CEDAR CITY PLANNING COMMISSION

MINUTES

November 5, 2013

The Cedar City Planning Commission held a Meeting on Tuesday, November 5, 2013, at 5:15 p.m., in the Cedar City Council Chambers, 10 North Main, Cedar City, Utah.

Members in attendance: - , Rich Gillette, Ron Adams, Mike Mitchell, Kent Peterson, Jill Peterson Kristie McMullin- Chair,

Members absent: Vance Smith,

Staff in attendance: Kit Wareham, Larry Palmer, Paul Bittmenn and Michal Adams

Others in attendance: Dave Clarke-Platt & Platt, Tim Watson-Watson Engineering, Roger Smith, Brian Nichols

Kent moved to have Rich act as chair pro-tem seconded by Ron and the vote was unanimous.

The meeting was called to order at 5:15

<u>ITEM/ REQUESTED MOTION</u>	<u>LOCATION/PROJECT</u>	<u>APPLICANT/ PRESENTER</u>
<u>I. Regular Items</u>		

- 1- Approval of Minutes (October 15, 2013)
(Approval)

Ron moved to approve the minutes of October 15, 2013, seconded by Mike and the vote was unanimous.

- 2- Minor Lot Subd.
(Approval)

2775 N 175 W

Roger Smith/Platt & Platt

Dave Clarke presented; he said that last January they split off the 6 lots and did not do these two lots until the road was dedicated. That has now happened, so they want to complete these other two lots at this time.

Kent moved to approve the minor lot subdivision, seconded by Kristie and the vote was unanimous.

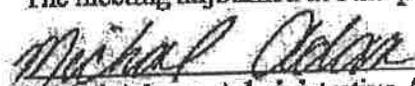
Kristie arrived at the meeting.

- 3- Subd.- Lot Modification 1396 N Cedar View Dr. Kent Reid/Watson Eng.
(Recommendation)

Tim Watson presented; in the Phase 4 of the Canyon Ridge PUD, Kent Reid owns these two lots and has a house and garage on one lot. The garage he built is a little closer to the lot line than he wanted, so he wants to move that line over a little to have a setback on that side. This only affects these two lots and he owns them both. Kit pointed out that this is the PUD around the golf course. There are no minimum lot size, frontages, etc. in a PUD. All is in conformance. This does not affect any sewer or water laterals.

Jill moved to give a positive recommendation to the City Council for this lot modification, seconded by Mike and the vote was unanimous.

The meeting adjourned at 5:25 p.m.


Michal Adams, Administrative Assistant

CEDAR CITY COUNCIL
AGENDA ITEMS IV - 4
DECISION PAPER

TO: Mayor and City Council

FROM: Paul Bittmenn

DATE: November 18, 2013

SUBJECT: vacating 200 West between College Ave and Center Street.

DISCUSSION:

In June of this year the City passed an ordinance vacating its interest in 200 West between College Ave. and Center Street. The ordinance was not set to take place until all of the public utilities were moved and accepted by the City. So the City still holds its interests in 200 West.

In order to secure financing from some of the benefactors for the project SUU needs to show the City has vacated its interest in the right of way.

So, here is the new proposal. The City's interest would be vacated contemporaneous with the City passing this ordinance and SUU and Cedar City entering the attached agreement.

The basic terms of the agreement are: (1) SUU would grant Cedar City a license in the rights of way the City just vacated. So the street would remain open and the City will continue with maintenance of the street until SUU is ready to begin construction and the utilities that need to be moved will remain until they are moved; (2) SUU will provide the City and the public notice of when the street is to close; (3) SUU will assign to Cedar City its rights and interest in the \$500,000.00 pledged by the Cedar City Redevelopment Agency in lieu of a bond. Once all of the utilities have been moved as per City standards, are accepted by the City, and the warranty period has passed the bond can be released; (4) SUU will provide the City with as built drawings so we know where the utilities are located.

Between the agreement and the ordinance we will be able to vest the right of way in SUU, keep the street open until construction begins, have the utilities relocated to City Standards, and have what amounts to a \$500,000.00 bond to cover the utility relocation.

I have sent a draft to the folks at SUU and told them when and where the Council meeting will be held.

CEDAR CITY ORDINANCE NO. _____

AN ORDINANCE AMENDING THE EFFECTIVE DATE OF CEDAR CITY ORDINANCE 0626-13 CONDITIONED UPON SOUTHERN UTAH UNIVERSITY ENTERING AN AGREEMENT RELATED TO RELOCATION OF UTILITIES; AND APPROVING AN AGREEMENT RELATED TO THE RELOCATION OF UTILITIES.

WHEREAS, Cedar City has adopted ordinance No. 0626-13 which vacated the City's interest in 200 West between Center Street and College Avenue and designated that the City's interest would vest in the neighboring property owners. A copy of Cedar City ordinance No. 0626-13 is attached hereto and incorporated herein by this reference as Exhibit #1; and

WHEREAS, according to the terms of Cedar City ordinance No. 0626-13 it will not be published or recorded until, "the City has verified that all public utility services previously within the 200 West rights of way have been successfully relocated"; and

WHEREAS, Cedar City ordinance No. 0626-13 states that it shall not become effective until it is published; and

WHEREAS, Southern Utah University is the entity that is scheduled to relocate the public utilities necessary to trigger the publication of Cedar City ordinance No. 0626-13 thereby making it effective and vacating the City's interest in the rights of way; and

WHEREAS, the City's rights of way in 200 West between Center Street and College Ave. are being vacated to facilitate Southern Utah University's planned facility expansion; and

WHEREAS, the proposed facility expansion is valued in excess of thirty million dollars (\$30,000,000.00) and in order to secure a portion of the funding necessary for the construction Southern Utah University must demonstrate to certain benefactors that it has title to 200 West between Center Street and College Ave.; and

WHEREAS, Cedar City has supported Southern Utah University's efforts to expand its facilities; and

WHEREAS, it is in the best interests of the health, safety, and general welfare of Cedar City to continue to support Southern Utah's facility expansion efforts while at the same time protecting the City's investment in public utilities currently located within the City's rights of way which service properties other than Southern Utah University.

NOW THEREFORE, BE IT ORDAINED BY the City Council of Cedar City, State of Utah, that the Cedar City adopts the agreement related to the relocation of public infrastructure currently in the City's rights of way, a copy of said agreement is attached hereto and incorporated herein as exhibit #2.

NOW THEREFORE, BE IT FURTHER ORDAINED BY the City Council of Cedar City, State of Utah, that upon Southern Utah University entering the attached and incorporated agreement Cedar City

Ordinance No. 0626-13 is amended to allow immediate publication, thus effectively vacating the City's rights of way.

NOW THEREFORE, BE IT FURTHER ORDAINED BY the City Council of Cedar City, State of Utah, that once this ordinance and ordinance No. 0626-13 are published they shall both be recorded in the office of the Iron County Recorder. This recording shall include all exhibits attached to both ordinances.

This ordinance, Cedar City ordinance No. _____, shall become effective upon Southern Utah University's adoption of the attached agreement and publication as required by law.

Dated this ___ day of _____, 2013.

JOE BURGESS
MAYOR

[SEAL]
ATTEST:

RENON SAVAGE
RECORDER

STATE OF UTAH)
 :SS.
COUNTY OF IRON)

This is to certify that on the ___ day of _____, 2013, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared Joe Burgess, known to me to be the Mayor of Cedar City Corporation, and Renon Savage, known to me to be the City Recorder of Cedar City Corporation, and acknowledged to me that he the said Joe Burgess and she the said Renon Savage executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

NOTARY PUBLIC

Exhibit #1

Cedar City Ordinance No. _____
Copy of Cedar City Ordinance No. 0626-13

CEDAR CITY ORDINANCE NO. 0626-13

AN ORDINANCE OF THE CEDAR CITY COUNCIL VACATING THE PUBLIC RIGHT OF WAY ALONG 200 WEST BETWEEN COLLEGE AVENUE AND CENTER STREET; VESTING THE VACATED PROPERTY RIGHTS IN THE NEIGHBORING PROPERTY OWNERS; GRANTING SOUTHERN UTAH UNIVERSITY A REVOCABLE LICENSE TO PHYSICALLY CLOSE THE STREET AND BEGIN CONSTRUCTION; AND ESTABLISH EFFECTIVE DATES.

WHEREAS, Approximately twelve (12) years ago the Cedar City Council expressed its approval for the concept of vacating 200 West between College Avenue and Center Street in order to facilitate the future development of facilities benefiting Southern Utah University and the Utah Shakespeare Festival. This approval was conditioned upon completion of the following three (3) items: (1) the property on either side of the road proposed to be vacated be acquired by Southern Utah University; (2) College Avenue between 100 West and 300 West is converted from a one way street to a two way street; and (3) the utility easements within the area proposed to be vacated will be preserved. Exhibit #1 which is attached hereto and incorporated herein by this reference is a legal description of the property to be vacated; and

WHEREAS, during the twelve (12) year period Southern Utah University has considered various concepts and designs for the proposed development of facilities in the area of 200 West; and

WHEREAS, Southern Utah University has completed the acquisition of the property on either side of 200 West between College Avenue and Center Street; and

WHEREAS, Southern Utah University has agreed that part of the development project will be relocating all of the utilities that are currently in 200 West public rights of way to be vacated by this ordinance. Also, the relocation of the utilities will be done in consultation with the various utility providers; and

WHEREAS, the Cedar City Council agendas for June 19, 2013, and June 26, 2013, include a resolution for the City Council to designate College Avenue a two (2) way street between 100 West and 300 West; and

WHEREAS, on or about May 7, 2013, the Cedar City Planning Commission considered the request to vacate 200 West between College Way and Center Street, and after due consideration gave the request a positive recommendation; and

WHEREAS, a public hearing related to vacating 200 West between College Way and Center Street was duly advertised for June 19, 2013; and

WHEREAS, the City Council held the public hearing on June 19, 2013, and received all public comments; and

WHEREAS, the Cedar City Council determines that vacating the public rights of way along 200 West between College Avenue and Center Street in such a manner so as to protect the relocation of utilities currently located within existing easements is in the best interest of the health, safety, and welfare of the Citizens of Cedar City.

NOW THEREFORE BE IT ORDAINED by the City Council of Cedar City, State of Utah, that all public rights of way along 200 West between College Avenue and Center Street are vacated. The City's interest in the west side of 200 West shall revert to the property owners bordering the west side of 200 West. The City's interest in the east side of 200 West shall revert to the property owners bordering the east side of 200 West.

NOW THEREFORE BE IT FURTHER ORDAINED by the City Council of Cedar City, State of Utah, this ordinance shall not be published or recorded until the City has verified that all public utility services previously within the 200 West rights of way have been successfully relocated.

This ordinance, Cedar City Ordinance No. 0626-13, shall become effective upon passage by the City Council, signature of the Mayor, Publication according to State Law, and recording of this ordinance with the Iron County Recorder.

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Dated this 1st day of July, 2013.

[SEAL]
ATTEST:



Joe Burgess
JOE BURGESS
MAYOR

Renon Savage
RENON SAVAGE
RECORDER

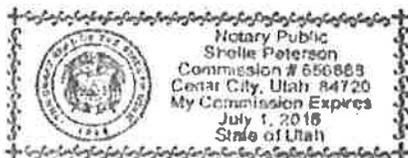
STATE OF UTAH)

:ss.

COUNTY OF IRON)

This is to certify that on the 1st day of July 2013, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared Joe Burgess, known to me to be the Mayor of Cedar City Corporation, and Renon Savage, known to me to be the City Recorder of Cedar City Corporation, and acknowledged to me that he the said Joe Burgess and she the said Renon Savage executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.



Shelle Peterson
NOTARY PUBLIC

Exhibit #1

**Cedar City Ordinance No. 0626-13
Legal description of rights of way to be vacated.**

**ORDIANCNE TO VACATE 200 WEST STREET
BETWEEN CENTER STREET AND COLLEGE AVENUE**

Beginning at the northwest corner of Block 26, Plat B, Cedar City Town survey; thence South, 371 ft. ± along the west block line to a point 25.00 ft. north of the southwest corner of Lot 8, said Block 26; thence West, 99.00 ft. to a point 25.00 ft. north of the southeast corner of Lot 13, Block 27, said Plat B; thence North, 371ft. ± along the east line of Block 27 to the northeast corner of Lot 11, Block 27, said Plat B; thence East, 99.00 ft. to the point of beginning.

Exhibit #2

Cedar City Ordinance No. _____

Agreement between Cedar City and Southern Utah University.

200 WEST VACATING, UTILITY RELOCATING, AND BOND AGREEMENT

This agreement is entered into on this ___ day of _____, 2013, between Cedar City Corporation, a municipal corporation and political subdivision of the State of Utah, hereinafter referred to as CITY; Southern Utah University, a Utah institution of higher education, body politic and corporate, hereinafter referred to as SUU; and the Utah Shakespeare Festival, an entity doing business under the auspice of Southern Utah University hereinafter referred to as USF.

WHEREAS, on or about November 22, 2011, USF and the Cedar City Redevelopment Agency (RDA) entered an agreement whereby RDA pledged a total of two million dollars (\$2,000,000.00) toward the construction of a new theater for USF; and

WHEREAS, on or about January 16, 2013, USF and RDA entered an amendment to the November 22, 2011, agreement whereby RDA deposited one million five hundred thousand dollars (\$1,500,000.00) in an escrow account for the benefit of USF and the construction of the new theater and the remaining five hundred thousand dollars (\$500,000.00) was to remain with RDA in accordance with the amended agreement; and

WHEREAS, City has passed ordinance 0626-13 which vacated the City's rights of way in 200 West between Center Street and College Ave. and that the street rights of way would be vacated upon the successful relocation of certain public utilities; and

WHEREAS, USF has requested that City advance the vacating of its rights of way on 200 West between Center Street and College Ave. so SUU can secure additional project funding and in exchange SUU has agreed to keep the right or way open to public use until such time as the project construction commences, complete the relocation of the utilities in a manner that complies with City Engineering standards, and post the five hundred thousand dollars (\$500,000.00) pledged by the RDA as a bond to make sure the public utilities relocation is completed.

NOW THEREFORE CITY and USF agree that adequate consideration exists to support this agreement and agree to the following terms and conditions.

1. Maintaining the public right of way.

Contingent upon entering this agreement, CITY has approved ordinances vacating its interest in its 200 West rights of way between Center Street and College Ave. effective prior to the relocation of the public utilities located in, on, or around the vacated rights of way. This will vest title to CITY's rights of way in SUU and CITY loses the ability to keep the road open for public use prior to the actual closure of the road for the commencement of construction. SUU hereby grants CITY an irrevocable license to maintain the status quo so that the street will continue to be open for public use, maintained by the City, and controlled by the City until such time as SUU closes the street to commence construction. Also, SUU grants to CITY an irrevocable license to continue the use of the rights of way for culinary water, secondary irrigation water, sewer, and storm drain purposes until such time as these utilities are re-routed in compliance with the

terms and conditions of this agreement. SUU agrees not to close the street until it is reasonably necessary to do so to facilitate construction.

2. Required notices.

SUU will provide notice to all of the private utility companies who have utilities located in any of the rights of way vacated by CITY. This notice will be provided prior to the January 1, 2014. The notice shall contain the construction commencement date and tell the private utilities they need to relocate their utility services.

Ten business days prior to closing the street for the commencement of construction, SUU shall notify the CITY of its intent to close the street. The notice shall be provided to the City Manager. The notice shall include the construction commencement date.

SUU shall provide CITY with notice related to the proposed date when the CITY's utilities (culinary water, secondary irrigation water, sewer, and storm drain) will be re-routed. The time line to re-route the CITY's utilities shall comply with the terms and provisions of this agreement.

Ten business days prior to closing the street for construction SUU will post signs at either end of the street to provide the traveling public notice of the date when the street will be closed.

3. Relocation of culinary water, secondary irrigation water, sewer, and storm drain utilities.

SUU will, at its own cost, relocate the CITY's culinary water, secondary water, sewer, and storm drain utilities located within the vacated rights of way. All relocation shall be done in accordance with CITY engineering standards. SUU will provide the CITY Engineer and the CITY public works department sufficient copies of construction drawings detailing the relocation of CITY's culinary water, secondary irrigation water, sewer, and storm drain utilities. These drawings shall be provided to the CITY Engineer and CITY public works department at least one (1) month prior to the scheduled closing of the street. SUU will not commence any work to move the CITY's culinary water, secondary irrigation water, sewer, and storm drain utilities until the construction drawings have been approved by the CITY Engineer and the CITY's public works department. The CITY Engineer and the CITY's public works department will not unreasonably delay review of the drawings or unreasonably withhold their approvals.

Prior to disconnecting the CITY's culinary water, secondary irrigation water, sewer, and storm drain utilities SUU will install and have inspected all of the new infrastructure as per the approved construction drawings. SUU shall not bury any of the infrastructure until it has been inspected and approved by the CITY Engineer and the CITY's public works department.

CITY culinary water, secondary irrigation water, sewer, and storm drain utilities that are to be re-routed by SUU serve commercial and residential property that is not owned or controlled by

SUU. In order to relocate these utilities they will have to be disconnected and reconnected thus disrupting services. SUU will ensure that the disruption of each individual utility service does not take longer than four (4) hours.

SUU agrees to complete the relocation of the CITY's culinary water, secondary irrigation water, sewer, and storm drain utilities during the excavation phase of the project to relocate the outdoor Shakespeare Theater.

Once the utility relocation has been accepted by CITY, SUU will have thirty (30) days to provide CITY with a set of as built drawings. SUU shall provide one (1) hard copy that is 24 inch by 36 inch and one electronic copy in a format acceptable to the City Engineer.

SUU and its contractor shall comply with all CITY ordinance related to road break permits necessary during the facility construction.

4. Bonding.

In lieu of posting a cash bond or letter of credit to insure that CITY's utilities are relocated and to cover the one (1) year warranty period USF hereby assigns all right, title, and interest in the five hundred thousand dollars (\$500,000.00) currently pledged to USF by RDA for the relocation of the outdoor Shakespeare Theater. CITY shall release all or a portion of its interest in the five hundred thousand dollars (\$500,000.00) upon acceptance of the improvements by the CITY Engineer and the CITY public works department. The CITY will retain an interest in an amount equal to ten percent of the estimated value of the improvements for the one year warranty period. Upon the expiration of the one (1) year warranty period and successfully passing inspection by the CITY Engineer and the CITY public works department, the CITY will release all interest it has in the five hundred thousand (\$500,000.00) pledged to SUU by the RDA.

SUU warrants that it has not assigned, pledged, hypothecated, or in other way encumbered the five hundred thousand dollar (\$500,000.00) pledge by the RDA.

5. Miscellaneous provisions.

This agreement shall be governed by the laws of the State of Utah. Jurisdiction over disputes related to this agreement is vested in the district courts in and for the State of Utah. Venue is vested in the 5th Judicial District Court in and for Iron County.

This agreement consists of the following: (1) this document; (2) the CITY ordinances referred to herein; (3) the prior agreement and amendment between RDA and USF mentioned herein; (4) the duly adopted CITY engineering standards; and (5) the relevant construction drawings herein described.

In the event of a dispute each party shall pay their own costs and attorney fees.

The persons signing this agreement warrant that they have received the requisite permission to enter this agreement from their governing boards and that their signature on this agreement is intended to bind their respective entities.

Amendments to this agreement are possible, but they must be in writing signed by all three of the parties hereto.

Remainder of page intentionally left blank.

CITY's signature page.

Dated this ____ day of _____, 2013.

JOE BURGESS
MAYOR

[SEAL]
ATTEST:

RENON SAVAGE
RECORDER

STATE OF UTAH)
 :SS.
COUNTY OF IRON)

This is to certify that on the ____ day of _____, 2013, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared Joe Burgess, known to me to be the Mayor of Cedar City Corporation, and Renon Savage, known to me to be the City Recorder of Cedar City Corporation, and acknowledged to me that he the said Joe Burgess and she the said Renon Savage executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

NOTARY PUBLIC

SUU's signature page.

Dated this ____ day of _____, 2013.

Dr. Richard Kendall
President, Southern Utah University

STATE OF UTAH)

 :SS.

COUNTY OF IRON)

On this _____ day of _____, 2013, personally appeared before me Dr. Richard Kendall who duly acknowledged to me that he signed the above and foregoing document.

NOTARY PUBLIC

USF's signature page.

Dated this ____ day of _____, 2013.

R. Scott Phillips
USF Executive Director

STATE OF UTAH)

:ss.

COUNTY OF IRON)

On this _____ day of _____, 2013, personally appeared before me R. Scott Phillips who duly acknowledged to me that he signed the above and foregoing document.

NOTARY PUBLIC

CEDAR CITY REDEVELOPMENT AGENCY
WORK MEETING AGENDA ITEM V - 5
DECISION PAPER

TO: Mayor and City Council
FROM: City Attorney
DATE: November 7, 2013, 2013
SUBJECT: RAP tax

Discussion:

Approximately 67% of the voters in the election voted yes on the question of reauthorizing the RAP tax. If the Council wants to continue the RAP tax the next step is to pass an ordinance formally reauthorizing the RAP tax. Attached is such an ordinance. The ordinance specifies that the RAP tax will be distributed in accordance with chapter 39 of the City's ordinance. This is the current system the City has in place requiring 1/3 for arts, 1/3 for parks, and 1/3 for recreation.

If the council would like any changes in the ordinance please let me know. If the council would like to continue the RAP tax please approve the ordinance. Staff will notify the State Tax Commission.

CEDAR CITY CORPORATION
ORDINANCE No. _____

AN ORDINANCE REAUTHORIZING A RECREATION, ARTS, AND PARKS (RAP) TAX

WHEREAS, on or about November 30, 2005, Cedar City imposed a RAP tax pursuant to the authority given to the City by Title 59, Chapter 12, Sections 1401 through 1404 of the Utah State Code and the approval of the majority of voters during the immediately preceding municipal election; and

WHEREAS, pursuant to statute the tax imposed in 2005 would expire eight (8) years after it was imposed; and

WHEREAS, on or about August 14, 2013, the Cedar City Council passed Resolution No. 13-0814-1 which created ballot proposition #1 asking the voters if they would reauthorize a .1% RAP tax for an additional ten (10) years. Proposition #1 was placed on the November 5, 2013, municipal election ballot; and

WHEREAS, on or about July 22, 2013, the Board of Iron County Commissioners adopted Resolution No. 2013-8 stating that Iron County was not looking at imposing a .1% sales tax based on its authority under UCA §59-12-701 et. sec.; and

WHEREAS, approximately sixty seven percent (67%) of the voters casting ballots during the November 5, 2013, municipal elections voted yes on proposition #1, showing approval of a majority of the voters casting ballots to reauthorize the RAP tax for an additional ten (10) years; and

WHEREAS, the City Council of Cedar City finds that it is in the best interest of the health, safety, and general welfare of Cedar City to reauthorize the City's RAP tax for an additional ten (10) years.

NOW THEREFORE BE IT ORDAINED by the City Council of Cedar City, State of Utah, that the City's .1% RAP tax is reauthorized for an additional ten (10) years and that the RAP tax shall be distributed pursuant to the provisions of Chapter 39 of the ordinance of Cedar City.

Remainder of page intentionally left blank.

This ordinance shall become effective immediately upon passage and publication as required by State law.

Dated this _____ day of November, 2013.

JOE BURGESS
MAYOR

[SEAL]
ATTEST:

RENON SAVAGE
RECORDER

**CEDAR CITY COUNCIL
AGENDA ITEM 4**

INFORMATION SHEET

TO: Mayor and City Council

FROM: Rick Holman

DATE: November 18, 2013

SUBJECT: Prairie Dog Declaration

DISCUSSION: The City was asked by PETPO to submit a Declaration describing some of the challenges being experienced at City facilities due to prairie dogs. In order to have the Declaration submitted to the Federal Court, the proposed document was reviewed by staff and modifications were made so the Mayor could sign. The document was completed and provided last week.

It is proposed that the Council ratify authorization for the Mayor to sign the Declaration in order to have met the desired time frame.

MATT MUNSON, matt@mamunsonlaw.com, Utah Bar No. 12602
Attorney for Plaintiff
M. A. Munson Law
970 South Sage Drive, Suite 109
Cedar City, Utah 84720
Telephone: (435) 216-6821

DAMIEN M. SCHIFF, dms@pacificlegal.org, Cal. Bar No. 235101
(pro hac vice)
JONATHAN WOOD, jw@pacificlegal.org, Cal. Bar No. 285229
(pro hac vice)
Attorneys for Plaintiff
Pacific Legal Foundation
930 G Street
Sacramento, California 95814
Telephone: (916) 419-7111
Facsimile: (916) 419-7747

Attorneys for Petitioner and Plaintiff

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

PEOPLE FOR THE ETHICAL TREATMENT OF
PROPERTY OWNERS,

Case No. 2:13-cv-00278-DB

Petitioner and Plaintiff,

**DECLARATION OF JOE
BURGESS IN SUPPORT OF
PETITIONER'S MOTION FOR
SUMMARY JUDGMENT**

v.

UNITED STATES FISH AND WILDLIFE SERVICE;
et al.,

Respondents and Defendants,

and

FRIENDS OF ANIMALS,

Respondent-Intervenor.

I, Joe Burgess, hereby declare as follows:

1. I have personal knowledge of the following facts and if called upon to do so could competently testify to them under oath. As to those matters which reflect a matter of opinion, they reflect my personal opinion and judgment upon the matter.

2. I am the mayor of the Cedar City Corporation, and I am authorized to sign this declaration on its behalf.

3. Cedar City Corporation is the municipal government for Cedar City, Utah.

4. Cedar City Corporation is a member of People for the Ethical Treatment of Property Owners.

5. As a municipal government, Cedar City Corporation owns and operates numerous public facilities for the benefit of local residents, including recreational areas, a golf course, airport, and cemetery. The restrictions imposed on Utah prairie dog take by the Fish and Wildlife Service's 4(d) Rule complicates the Corporation's ability to operate these facilities.

6. Utah prairie dogs dig and burrow on the city's recreational areas, including sports fields. Because of the resulting safety hazards, Cedar City Corporation has to fence off areas of these fields, limiting the space available to local children to recreate.

7. Utah prairie dogs also occupy the municipal golf course. They chew through the wiring in the irrigation system. As a result of this damage, Cedar City Corporation has had to repair or replace parts of this system.

8. The prairie dogs have pockmarked the driving range, making it more difficult for the Corporation's employees to retrieve balls and maintain the range.

9. Utah prairie dog holes have damaged the Corporation's mowing equipment.

10. I believe that the additional maintenance, irrigation, and equipment costs average \$5,000 to \$6,000 per year.

11. In addition to these increased costs, the Utah prairie dogs have made the course grounds less suitable and created a safety hazard for employees and guests.

12. Utah prairie dog mounds create severe hazards at the Cedar City Regional Airport, particularly in the runway and taxiway safety zones. In case of a mechanical problem, these zones must be flat.

13. Mounds and burrows also create a constant need for additional maintenance at the airport. Cedar City Corporation had to purchase additional equipment and task employees to regularly grade the airport's grounds to deal with ruts and mounds, significantly increasing its costs. The Corporation must engage in these costly efforts to address the symptoms of the Utah prairie dog on the airport grounds, because the 4(d) Rule prevents it from removing them.

14. Complying with a 2009 habitat plan negotiated between the Federal Aviation Administration and the Service required the Corporation to forego \$325,000 of airport improvement funds. These funds were intended for badly needed improvements at the airport. The Corporation had to accept these costs because of the burdens imposed by the predecessor to the 4(d) Rule.

15. For the last 12 years, most of that under the predecessor to the 4(d) Rule, Utah prairie dogs have occupied Cedar City Cemetery. Their presence interferes with Cedar City Corporation's ability to maintain the cemetery. Their burrows have broken the cemetery's roads and grounds, causing damage to the Corporation's equipment and vehicles. Increased costs and lost equipment time have made it more difficult for the Corporation to maintain the cemetery grounds.

16. Utah prairie dogs also threaten the solemnity of Cedar City Cemetery. Earlier this year I was informed that they interrupted a funeral by barking loudly and incessantly during the service. I believe that this disruption caused great stress for the attendees, including the unfortunate widow.

17. Utah prairie dogs threaten grave sites. Their burrows create an uneven ground that is more difficult to traverse for visitors, especially the elderly and disabled.

18. Utah prairie dogs chew and eat flowers and other remembrances left by mourners. Prairie dogs have also contributed to overcrowding because they occupy areas into which the cemetery planned to expand.

19. The 4(d) Rule's restrictions prevent Cedar City Corporation from adequately protecting Cedar City Cemetery from the Utah prairie dog. The Corporation has tried to limit the prairie dog's invasion by installing a "prairie dog fence," but these efforts have failed. Building this fence and other maintenance related to the Utah prairie dog have cost the cemetery approximately \$3,000 per year. Under the 4(d) Rule, the Corporation must continue to pursue these unsuccessful efforts. It forbids the Corporation from capturing and removing the prairie dogs that threaten this sacred site.

20. Although many of Cedar City Corporation's properties are eligible for permitted take of Utah prairie dogs under the 4(d) Rule, it must first suffer significant costs and delays before receiving a permit. These costs and delays are injuries that it cannot avoid under the 4(d) Rule.

21. If not restrained by the 4(d) Rule, the Corporation would like to capture the Utah prairie dogs and remove them from these public facilities. However, it fears imminent enforcement and prosecution from the Service for illegal take should it do so. Because of this fear, the Corporation has refrained from acting to protect its interests and the interests of local residents.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, and that this declaration was executed this 14th day of November, 2013, at Cedar City, Utah.



JOE BURGESS
CEDAR CITY CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2013, I electronically filed the foregoing: DECLARATION OF JOE BURGESS FOR CEDAR CITY CORPORATION IN SUPPORT OF PETITIONER'S MOTION FOR SUMMARY JUDGMENT with the Clerk of the Court through the CM/ECF system, which will send notification of such filing to counsel at the following e-mail addresses:

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