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Criminal Division

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Civil Division

DAVID L. THOMAS
Chief Deputy

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HELEN E. STRACHAN
Deputy County Attorney

BLAINE S. THOMAS
Deputy County Attorney

To: Summit County Council

From: Helen E. Strachan, Deputy County Attorney

Date: December 4, 2019

RE: Amendments to Title 2, Chapter 11, North Summit Recreation SSD

Attached for your consideration is Ordinance 713-A, an ordinance to amend the governing structure of the North Summit Recreation Special Service District. The District was created back in 2008 and its governing structure does not include the position of District General Manager, despite the fact that we have had a General Manager for the District for a number of years. Today, you also have on your agenda the approval of an employment contract for Duncan Olsen, who has been chosen to serve as the new General Manager for the District. Before you adopt such a contract, the Attorney's Office is recommending some minor amendments to the District's structure to create the position of District Manager. I borrowed from the governing structure of the Snyderville Basin Recreation Special Service District, which outlines the role and duties of the General Manager. Please review the attached and let me know if you have any questions.

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**ORDINANCE NO. 713-A
AMENDMENT TO TITLE 2, CHAPTER 11
OF THE SUMMIT COUNTY CODE
NORTH SUMMIT RECREATION SPECIAL SERVICE DISTRICT
PREAMBLE**

WHEREAS, pursuant to Utah Code Annotated, §17D-1-101 et. seq. (the “Utah Special Service District Act”), 1953, amended, the then-Summit County Board of Commissioners adopted Resolution Number 2008-22 on July 16, 2008 creating the North Summit Recreation Special Service District (the “District”); and

WHEREAS, on March 4, 2009, the Summit County Council adopted Ordinance 713, the governing ordinance of the District. Pursuant to the Utah Special Service District Act, said ordinance outlines the structure of the District, including but not limited to the creation of an administrative control board, the delegation to that board of certain rights, powers, and authority and the reservation of certain rights, powers, and authority to the Summit County Council as the governing board of the District; and

WHEREAS, Ordinance 713 does not include the creation of a General Manager position for the District; and

WHEREAS, the Summit County Council desired to amend Title 2, Chapter 11 of the Summit County Code in order to create the position of General Manager for the District and to outline the duties and responsibilities of the General.

NOW, THEREFORE, the Summit County Council ordains as follows:

Section 1: The Summit County Council hereby repeals Summit County Ordinance No. 713, North Summit Recreation Special Service District Governing Ordinance dated March 4, 2009.

Section 2: The Summit County Council hereby enacts a new Title 2, Chapter 11, “North Summit Recreation Special Service District,” attached hereto as Exhibit A.

Section 3: This Ordinance shall take effect fifteen (15) days after the date of its publication.

APPROVED, ADOPTED, AND PASSED and ordered published by the Summit County Council, this _____ day of December, 2019.

ATTEST:

SUMMIT COUNTY COUNCIL

SUMMIT COUNTY, STATE OF UTAH

County Clerk

By: _____
Chairperson

APPROVED AS TO FORM

Deputy County Attorney

EXHIBIT A

Chapter 11
NORTH SUMMIT RECREATION SPECIAL SERVICE DISTRICT

2-11-1: PURPOSE:

2-11-2: DEFINITIONS:

2-11-3: ESTABLISHED:

2-11-4: MEMBERSHIP:

2-11-5: POWERS AND DUTIES:

2-11-6: GENERAL MANAGER:

2-11-1: PURPOSE:

To provide for the public health, safety, and general welfare of the residents living within the jurisdictional boundaries of ~~N~~orth Summit ~~R~~ecreation ~~S~~pecial ~~S~~ervice ~~D~~istrict, the ~~D~~istrict is authorized to provide recreational services and programs through facilities or systems acquired or constructed for that purpose through construction, purchase, lease, contract, gift or condemnation or any combination thereof.

2-11-2: DEFINITIONS:

BOARD: The ~~n~~orth-~~N~~orth Summit ~~R~~ecreation ~~s~~Special ~~S~~ervice ~~D~~istrict ~~A~~administrative ~~C~~ontrol ~~B~~oard.

BOARD MEMBER: The members of the ~~n~~orth-~~N~~orth Summit ~~R~~ecreation ~~s~~Special ~~s~~Service ~~d~~District ~~a~~Administrative ~~C~~ontrol ~~B~~oard.

COUNTY: Summit County, Utah.

COUNTY COUNCIL: The Summit County ~~c~~ouncil-Council who exercises legislative authority in the county.

COUNTY MANAGER: The chief executive officer of the county.

DISTRICT: The ~~n~~orth-~~N~~orth Summit ~~r~~ecreation-Recreation ~~s~~pecial-Special ~~s~~ervice-Service ~~d~~istrictDistrict.

GOVERNING BOARD: The Summit County ~~c~~ouncil-Council, otherwise referred to as the "~~c~~ounty-County ~~c~~ouncil-Council".

2-11-3: ESTABLISHED:

There is hereby established an administrative control board known as "~~n~~orth-~~N~~orth Summit ~~r~~ecreation-Recreation ~~s~~pecial-Special ~~s~~ervice-Service ~~d~~istrict-District ~~a~~administrative Administrative ~~c~~ontrol-Control ~~b~~oardBoard", which shall govern, in accordance with state law,

the affairs of the ~~north-North~~ Summit ~~recreation-Recreation~~ ~~special-Special~~ ~~service-Service~~ ~~district~~District.

2-11-4: MEMBERSHIP:

The membership of the ~~administrative control board~~Board of the ~~district~~District shall consist of no more than seven (7) persons and no fewer than five (5) persons, all of whom shall be appointed by the ~~county~~County ~~council~~Council pursuant to the procedures set forth in Utah Code Annotated section 17B-1-301 et seq., "~~board~~Board of ~~trustees~~Trustees". At a later date and by resolution, the county council shall appoint the initial five (5) to seven (7) ~~Board M~~Board Mmembers of said ~~administrative control board~~Board, each of whom shall be either a registered voter within the ~~district~~District or an officer or employee of the city of Coalville, or the town of Henefer. Council officers or employees may serve as ex officio members of the ~~b~~BBoard. Of the ~~Board M~~Board Mmembers initially appointed, as nearly as may be, one-half ($\frac{1}{2}$) of the ~~Board M~~Board Mmembers shall serve for terms of office for two (2) years each and the remaining one-half ($\frac{1}{2}$) for terms of office of four (4) years each from the regular commencement of their term of office, the determination of whom shall be in each category to be by lot. Each ~~board~~Board ~~member~~Member may serve a maximum of three (3) terms.

Vacancies of the five (5) to seven (7) appointed members of said ~~board~~Board, other than by expiration of term, shall be filled by appointment by the ~~county~~County ~~council~~Council for the unexpired term of the ~~board~~Board ~~member~~Member whose vacancy is filled. At the end of a ~~board~~Board ~~member's~~Member's term, the position is considered vacant and the ~~county~~County ~~council~~Council may either reappoint the old ~~board~~Board ~~member~~Member or appoint a new ~~Board M~~Board Mmember after following the appointment procedures under Utah law. The ~~county~~County ~~council~~Council may remove any ~~board~~Board ~~member~~Member for cause at any time after a hearing by two-thirds ($\frac{2}{3}$) vote of the ~~county~~County ~~council~~Council.

2-11-5: POWERS AND DUTIES:

A. The ~~board~~Board shall exercise all powers and duties enumerated in Utah Code Annotated section 17D-1-103, with the following exceptions which are expressly reserved pursuant to Utah Code Annotated section 17D-1-301(4)(a) by the ~~county~~County ~~council~~Council as the ~~governing~~Governing ~~board~~Board:

1. The exercise of eminent domain;
2. The power to employ one or more officers, employees, or agents, and establish their compensation, including fringe benefits, and manage a human resources or personnel system separate from the county;
3. The power to borrow money and incur indebtedness, including the issuance of bonds;
4. The power to annex areas into the district;
5. The power to levy a tax or assessment;

6. The power to appoint a board of equalization;
 7. The power to adopt bylaws; and
 8. The power to acquire or dispose of an interest in real property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the ~~special service district~~District, and own, hold, improve, use, finance, or otherwise deal in and with the property or property rights.
- B. The ~~board~~Board shall prepare an annual budget for the ~~north summit recreation special service district~~District, which will conform to Utah Code Annotated section 17B-1-601 et seq., "~~fiscal~~Fiscal procedures for ~~local~~Local ~~district~~Districts" and approve it. The budget shall demonstrate all proposed expenditures and the fees to be established and collected as revenue to the ~~district's~~District's budget.
 - C. The ~~board~~Board shall conduct its business according to bylaws, which shall be adopted by the ~~county~~County ~~council~~Council, with the ~~board~~Board meeting as needed to act on the business of the ~~district~~District. The bylaws may be amended from time to time by a majority vote of the ~~county~~County ~~council~~Council.
 - D. The ~~board~~Board shall elect a chair and vice chair.
 - E. For purposes of advising the ~~county~~County ~~council~~Council and transacting the business of the ~~district~~District, the ~~board~~Board may meet and confer, adopt recommendations and convey them to the ~~county~~County ~~council~~Council verbally or in writing, make decisions regarding ~~district~~District matters, or it may meet with the ~~county~~County ~~council~~Council.
 - F. The ~~district~~District shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil or criminal, administrative or investigative, by reason of the fact that he or she is or was the director, officer, employee, or agent of the ~~district~~District. The indemnification shall be for all expenses (including attorney fees), judgments, fines, and amount paid in settlement, actually and reasonably incurred by him or her in connection with the action, suit, or proceeding, including any appeal of the action, suit or proceeding, if he or she acted in good faith or in a manner he or she reasonably believed to be in or not opposed to the best interests of the ~~district~~District, and with respect to any criminal action or proceeding, if he or she had no reasonable cause to believe the conduct was unlawful. Determination of any action, suit, or proceeding by judgment, order, settlement, conviction or on a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the party did not meet the applicable standard of conduct. Indemnification under this subsection may be paid by the ~~district~~District in advance of the final disposition of any action, suit, or proceeding, on a preliminary determination that the director, officer, employee, or agent met the applicable standard of conduct and on receipt of an undertaking by or on behalf of a director, officer,

employee, or agent to repay the amount, unless it is ultimately determined that he or she is entitled to be indemnified by the ~~district~~District as authorized in this subsection. The ~~district~~District shall also indemnify any director, officer, employee, or agent who has been successful on the merits or otherwise, in defense of any action, suit, or proceeding, or in defense of any claim, issue, or matter in the action, suit, or proceeding, against all expenses, including attorney fees, actually and reasonably incurred, without the necessity of an independent determination that a director, officer, employee, or agent met any appropriate standard of conduct.

The indemnification provided for in this subsection shall continue as to any person who has ceased to be a director, officer, employee, or agent, and shall inure to the benefit of the heirs, executors, and administrators of that person.

G. The ~~district~~District shall have power to purchase and maintain insurance on behalf of any person who is a director, officer, employee, or agent of the ~~district~~District against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the ~~district~~District would have authority to indemnify him or her against the liability under the provisions of this section, or under law.

H. The ~~county~~County ~~council~~Council, as the governing authority of the ~~county~~County, has control and supervisory authority over all activities of the ~~district~~District and may delegate such further powers and authority as provided by statute.

~~I. The district shall record and safeguard all minutes of meetings and actions of the board in accordance with the Utah open meetings act, which includes the appropriate noticing of all meetings.~~

~~I. The district shall make an annual presentation to the county council of its goals, budget and activities. The Board shall appoint a General Manager for the District and shall have the power to remove said General Manager. Such appointment and removal shall be subject to the consent of the County Council. The General Manager shall have the duties described in Section 2-11-6 of this Chapter and his/her appointment shall be memorialized in a written employment contract which shall be approved as to form by the County Attorney.~~

~~J. The Board, with the guidance of the General Manager, shall recommend for County Council approval policies, procedures, and regulations for the District, which are consistent with County standards. All such policies, procedures and regulations shall be on file with the County Clerk.~~

~~K. The County Attorney shall serve as the primary legal counsel to the District. Outside legal counsel may be retained with the approval of the County Attorney.~~

L. The ~~district~~District shall make an annual presentation to the ~~county~~County ~~council~~Council of its goals, budget and activities.

2-11-6: GENERAL MANAGER:

The Governing Board hereby delegates the following powers, authorities and duties to a General Manager, who shall oversee the District:

- A. To govern the day to day operations of the District;
- B. To prepare, in cooperation with the Governing Board, an annual budget for the District, which will conform to Utah Code Annotated section 17B-1-601 et seq., "Fiscal Procedures for Local Districts". The budget shall demonstrate all proposed expenditures and the fees to be established and collected as revenue to the District's budget;
- C. To provide a recommendation to the Board as to the operation of the District, including policies, procedures, and regulations for the District;
- D. To provide a recommendation to the Board as to the establishment and collection of the fees and charges;
- E. To record and safeguard all minutes of meetings and actions of the Board in accordance with the Utah Open Meetings Act, which includes the appropriate noticing of all meetings.