

MARGARET H. OLSON
COUNTY ATTORNEY

Criminal Division

PATRICIA S. CASSELL
Chief Prosecutor

JOSEPH S. HILL
Prosecuting Attorney

JANET ELLEDGE
Prosecuting Attorney

BRAD BLOODWORTH
Prosecuting Attorney



Civil Division

DAVID L. THOMAS
Chief Deputy

HELEN E. STRACHAN
Deputy County Attorney

RYAN P.C. STACK
Deputy County Attorney

LYNDA VITI
Deputy County Attorney

To: Summit County Council

From: Ryan P.C. Stack, Deputy County Attorney

Date: February 23, 2023

Re: Snyderville Basin Cemetery District

On February 22, 2023, Staff presented on the history and formation of the Snyderville Basin Cemetery District (the "District"). Basin resident and professional Land Use Planner Christa Cassidy then reviewed the logistics involved with establishing, funding, and operating a cemetery. The discussion concluded with the Summit County Council directing Staff to bring back a draft Governing Ordinance for Council's consideration. That ordinance accompanies this staff report.

The short-term immediate steps needed to operationalize the District are 1) adopt a Governing Ordinance, and 2) appoint a five member Board of Trustees. Once appointed, the Board can work toward implementing the necessary steps to ensure the successful creation and operation of a cemetery in the Basin. This will likely include identifying potential location(s) and funding mechanisms (e.g. taxes, bonds, and fees). While a cemetery district may levy a property tax rate up to 0.0004 (Utah Code § 17B-1-1002(1)(b)), the question of whether to authorize the District to impose a property tax levy has not yet been put to the voters. The District will be unable to collect property taxes unless and until so authorized. If the voters were to approve allowing the District to impose a tax rate up to the statutory cap of 0.0004, then the District would be able to initiate the Truth in Taxation process.

The District was created pursuant to Utah Code §§ 17B-1-101 et seq. and 17B-2a-101 et seq. As a cemetery maintenance district, the District is a specialized local district. This means that the Council will not be the District's governing body and will retain only appointing authority over the District's Board of Trustees.¹

¹ Utah Code § 17B-1-304.

**GOVERNANCE ORDINANCE
OF THE SNYDERVILLE BASIN CEMETERY DISTRICT
SUMMIT COUNTY, STATE OF UTAH
ORDINANCE NO. 956**

PREAMBLE

WHEREAS, pursuant to Utah Code Annotated, §17B-1-101 et. seq. and §17B-2a-101 et. seq., the Summit County Council (hereinafter referred to as “Council”) is authorized to create a specialized local district, such as a cemetery maintenance district; and

WHEREAS, the Council has determined that the establishment of a cemetery in the Snyderville Basin area of Summit County is vital in serving the needs of the growing and aging population of unincorporated western Summit County; and

WHEREAS, on April 18, 2012, the Summit County Council (the “Council”) adopted Resolution No. 2012-8 to initiate the process to create the Snyderville Basin Cemetery District (the “District”) and on November 6, 2012, a majority of those within the proposed District boundaries voted in favor of the District’s creation; and

WHEREAS, the Lieutenant Governor’s Office has issued a certificate of incorporation pursuant to UCA §17B-1-215 and §67-1a-6.5, thereby deeming the District created and incorporated; and

WHEREAS, this ordinance puts in place the governing structure of the District.

NOW, THEREFORE, the County Council of the County of Summit, State of Utah, ordains as follows:

Section 1. **Governance.** The District shall be governed in accordance with Exhibit A herein.

Section 2. **Effective Date.** In order to preserve the peace, health, or safety of the County and the inhabitants thereof, this Ordinance shall take effect immediately upon publication in a newspaper published in and having general circulation in the County.

[signatures on following page]

Enacted this _____ day of _____, 2023.

ATTEST:

**SUMMIT COUNTY COUNCIL
SUMMIT COUNTY, STATE OF UTAH**

County Clerk

By: _____
Chairperson

Councilperson Armstrong **voted: _____**

Councilperson Hanson **voted: _____**

Councilperson Harte **voted: _____**

Councilperson Robinson **voted: _____**

Councilperson Stevens **voted: _____**

APPROVED AS TO FORM

Deputy County Attorney

EXHIBIT A

Chapter 44

SNYDERVILLE BASIN CEMETERY DISTRICT

2-44-1: PURPOSE: To provide for the public health, safety, and general welfare of the residents living within the jurisdictional boundaries of the Snyderville Basin Cemetery District, the district is authorized to provide cemetery services through facilities or systems acquired or constructed for that purpose through construction, purchase, lease, contract, gift or condemnation or any combination thereof.

2-44-2: DEFINITIONS:

When used herein shall mean:

BOARD or Board of Trustees: The Snyderville Basin Cemetery District Board of Trustees.

BOARD ACTION: An official vote or action of the voting members of the Board.

BOARD MEMBER: The members of the Snyderville Basin Cemetery District Board of Trustees.

BOND: A written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and a lease agreement, installment purchase agreement, or other agreement that:

- A. Includes an obligation by the district to pay money; and
- B. The District's Board, in its discretion, treats as a bond for purposes of Utah Code Annotated title 11, chapter 14, Local Government Bonding Act, or Utah Code Annotated title 11, chapter 27, Utah Refunding Bond Act.

CHIEF EXECUTIVE OFFICER: The General Manager appointed by the Board to serve as chief executive officer. Chief executive officer shall enjoy all the rights, duties, and responsibilities defined in section 2-44-12 below and in Utah law.

COUNTY: Summit County, Utah.

COUNTY COUNCIL: The Summit County council who exercises legislative authority in the county.

COUNTY MANAGER: The chief executive officer of the county.

DISTRICT: The Snyderville Basin Cemetery District.

FACILITY or FACILITIES: Includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that the District is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

GENERAL MANAGER: The appointed chief executive officer of the District.

GOVERNING BODY: A. For a county or municipality, the legislative body of the county or municipality; and
B. For the District, the Board.

LOCALLY ELECTED PUBLIC OFFICIAL: A person who holds an elected position with a county or municipality but does not include a person who holds an elected position if the elected position is not with a county or municipality.

OFFICERS: The chair, vice-chair, clerk, and treasurer of the District.

2-44-3: DISTRICT POWERS:

The district is a limited purpose local government entity, as described in Utah Code Annotated section 17B-1-103 that operates under, is subject to, and has the powers set forth in Utah Code Annotated section 17B-1-101 et seq., "Provisions Applicable to All Local Districts" (excluding 17B-1-1002 - property tax, which is reserved to the county council), and Utah Code Annotated section 17B-2a-101 et seq., "Cemetery District Maintenance Act".

2-44-4: CREATED:

There is hereby established a Board of Trustees known as the "Snyderville Basin Cemetery District Board of Trustees", which shall govern, in accordance with state law, the affairs of the Snyderville Basin Cemetery District. All powers of the district are exercised through the Board.

2-44-5: DUTIES OF BOARD:

- A. The Board shall have all duties and powers as provided for in Utah Code Annotated, section 17B-1-301, which includes:
1. The power to fix the location of the district's principal place of business and the location of all offices and departments, if any;
 2. The power to fix the times of meetings of the Board;
 3. The power to select and use an official seal;
 4. The power to employ employees and agents, or delegate to district officers power to employ employees and agents, for the operation of the district and its properties and

prescribe or delegate to district officers the power to prescribe the duties, compensation, and terms and conditions of employment of those employees and agents;

5. To require district officers and employees charged with the handling of district funds to provide surety bonds in an amount set by the board or provide a blanket surety bond to cover officers and employees;

6. To contract for or employ professionals to perform work or services for the local district that cannot satisfactorily be performed by the officers or employees of the District;

7. Through counsel, prosecute on behalf of or defend the local district in all court actions or other proceedings in which the District is a party or is otherwise involved;

8. Adopt bylaws for the orderly functioning of the Board;

9. Adopt and enforce rules and regulations for the orderly operation of the District or for carrying out the district's purposes;

10. Prescribe a system of civil service for District employees;

11. On behalf of the District, enter into contracts that the Board considers to be for the benefit of the District;

12. Acquire, construct or cause to be constructed, operate, occupy, control, and use buildings, works or other facilities for carrying out the purposes of the District;

13. On behalf of the District, acquire, use, hold, manage, occupy, and possess property necessary to carry out the purposes of the District, dispose of property when the Board considers it appropriate, and institute and maintain the name of the district any action or proceeding to enforce, maintain, protect, or preserve rights or privileges associated with District property;

14. Delegate to a District officer the exercise of a District duty; and

15. Exercise all powers and perform all functions in the operation of the district and its properties as are ordinarily exercised by the governing body of a political subdivision of the state and as are necessary to accomplish the purposes of the District.

B. In addition to the above, the Board shall also have the following duties and powers as allowed under Utah Code Annotated section 17B-2a-101 et seq., which relates specifically to powers of cemetery maintenance districts:

1. The Board may issue bonds as provided in and subject to Utah Code Annotated section 17B-1-1101 et seq., "local district bonds".

2. The Board shall beautify, improve, and maintain each cemetery within the District.

3. The Board shall ensure that each parcel of property within the District is benefited by the District and by improvements made by the District, ratably with all other parcels of property within the District in proportion to the parcel's taxable value and assess equally in proportion to its taxable value for the purposes of cemetery improvement and maintenance.

2-44-6: MEMBERSHIP:

- A. The membership of the Board shall consist of five (5) members. All five (5) members shall be appointed by the Summit County Council by resolution pursuant to the requirements and process set forth in Utah Code § 17B-1-304. Each member of the Board shall be a registered voter at the location of the board member's residence and a resident within the boundaries of the District. The term of board members shall be governed by Utah Code § 17B-1-303.
- B. The County Council hereby retains the authority to remove any or all Board members for cause.
- C. The Board shall elect from among its members a chair and vice-chair and may elect a treasurer and clerk. The offices of treasurer and clerk may not be held by the same person. Each officer serves at the pleasure of the Board, but the board may designate a set term for officers.
- D. Members shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from District funds.

2-44-7: OFFICERS:

- A. The Board shall elect from among its members a chair, vice-chair, clerk, and treasurer who shall act as the officers of the District. When appropriate, this election shall be held at the Board's first meeting of the calendar year.
- B. Officers shall serve for two (2) years.
- C. A Board member who is also a locally elected public official is not eligible to serve as an officer.
- D. Nothing shall prohibit the vice-chair from also serving as clerk until such time as sufficient Board members are appointed to serve as officers.

2-44-8: VACANCIES:

Whenever there is a vacancy in Board membership, a replacement Board member shall be appointed by the Summit County Council within ninety (90) days. In the event the Summit County Council does not appoint a Board member within ninety (90) days, the Board may make the appointment.

2-44-9: QUORUM:

A majority of three (3) Board members shall constitute a quorum. No action may be taken by the Board unless a quorum is present.

2-44-10: MEETINGS:

- A. The Board shall, with the General Manager, establish a regular meeting schedule which shall not be less than one meeting per month.
- B. All meetings shall be noticed pursuant to and comply with all provisions of the Utah Open and Public Meetings Act.
- C. A copy of the agenda and notice for each Board meeting shall be provided via electronic mail to the Summit County Manager no less than twenty four (24) hours prior to the scheduled meeting.
- D. Written minutes of each board meeting shall be prepared, preserved, and made available for public inspection. A copy of the minutes of each Board meeting shall be provided by electronic mail to the Summit County Manager within five (5) working days following the approval of the minutes.
- E. It is expected that all appointed members of the Board shall attend all regularly scheduled and special meetings as may be called. In the event any member has an attendance record which drops below fifty percent (50%), the County Council may remove said member from the Board and make a replacement appointment.

2-44-11: INDEMNITY AND INSURANCE:

The 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. 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, 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 section may be paid by the 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 as authorized in this section. The 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 section 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.

The 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 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 would have authority to indemnify him or her against the liability under the provisions of this section, or under law.

2-44-12: GENERAL MANAGER POWERS AND DUTIES:

The Board of Trustees hereby delegates to the General Manager and/or CEO, if hired, the following powers, authority, and duties:

- A. To govern the day-to-day operations of the District.
- B. To act as the chief financial officer including:
 - 1. Preparation of an annual budget to be presented to the Board for approval with anticipated revenues and proposed expenditures;
 - 2. Managing the day-to-day expenditures, finances, and budget reconciliation of the District; and
 - 3. Managing all purchases in conformance with Utah purchasing and procurement laws.
- C. To provide recommendations to the Board as to the manner and method of administering and providing the District's services, including the employment of appropriate personnel, contracts for services, the purchase or lease of land, the purchase lease or construction of improvements, facilities, systems, equipment and supplies.
- D. To provide recommendations to the Board as to the operation of the District, including the collection of revenues, disbursement of funds for expenses, custody and management of funds, and such other usual and necessary legal authority required for the District.
- E. To receive input and recommendations from the Board as to the day-to-day operations of the District and any such other recommendations as the Board may see fit.
- F. To ensure that the District and its Board of Trustees are insured against liability and errors and omissions.

G. At a minimum, the Manager and Board chair, shall report annually or as otherwise requested by the Council, to the Summit County Council on the long and short term goals, budget, and activities as well as general business and operation of the District.

H. To ensure that the District complies with all other laws of the State of Utah regulating local districts and otherwise as may be applicable.

2-44-13: FINANCE, PROCUREMENT, AND BUDGET:

A. All collections, investments, disbursements, procurement and other financial transactions will be managed as provided in Utah Code Title 17B.

B. It shall be the duty of the District to prepare an annual budget for adoption by the District which will conform to the fiscal procedures, budgeting and auditing procedures for local districts as found in Utah Code Title 17B, Chapter 1, Parts 6 and 7.

C. The District is subject to the Utah Procurement Code, Utah Code Title 63G, Chapter 6a, or successor law.

2-44-14: ANNUAL REPORT:

The District shall make an annual presentation to the County Council of its goals, budget, and activities.