



# RESOLUTIONS

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\* Resolution appears in more than one category.

# AIR QUALITY

## Resolution 2019-002

*(A) Resolution on Improving Utah's Air Quality*

*(B) We, the members of the Utah League of Cities and Towns, find that:*

**Whereas**, the leaders of Utah's cities and towns value the efficient use of our natural resources, our economic success, and public health;

**Whereas**, some areas in Utah suffer from periodic poor air quality, which is a serious public health concern and a detriment to our economic prosperity as a state;

**Whereas**, Utah's air quality has gradually improved in recent decades, but further improvement is needed given our enhanced knowledge about the detrimental impacts of air pollution on human health;

**Whereas**, Utah's periodic poor air quality also affects rural areas including visibility in our national parks through regional haze;

**Whereas**, while the state has taken significant steps in recent years to address air quality, including passing 12 air quality measures during the 2019 General Session, much more could be done at the federal, state, and local levels;

**Whereas**, ULCT supported HB 411 during the 2019 General Session, which provided cities with the ability to transition to 100% renewable energy without shifting costs to other customers;

**Whereas**, ULCT supported HB 148 during the 2019 General Session, which provided cities with greater enforcement over anti-idling ordinances;

**Whereas**, Utah's cities and towns recognize that our buildings and homes contribute nearly 40% of the harmful emissions that contribute to poor air quality and will soon surpass combustion engine vehicles as the leading contributor to air pollution in the state;

**Whereas**, Utah's cities and towns recognize that benchmarking energy efficiency of buildings and homes and increasing energy efficiency can result in direct benefits to municipal budgets; and

**Whereas**, Utah's cities and towns are home to over 90% of the state's population and have the ability to be innovative in finding solutions to the air quality and other environmental concerns that they face.

*(C) Now, therefore, we the members of the Utah League of Cities and Towns resolve that:*

1. Utah cities and towns support local government's ability to consider local action to address air quality, including but not limited to:
  - a. Enacting idle-free ordinances;
  - b. Installing electric vehicle charging networks;
  - c. Encouraging energy efficiency in homes and businesses;
  - d. Encouraging and purchasing renewable energy sources where appropriate;
  - e. Considering non-combustion options for fleet vehicles and other city equipment;
  - f. Transportation planning and technology that increases access and connectivity without primarily relying on single-occupancy vehicles;
  - g. Planning our neighborhoods and communities to facilitate use of transit and active transportation options;
  - h. Exploring city functions that might be performed by employees via teleworking; and
  - i. Upgrading city buildings and facilities to comport with higher energy efficiency standards.
  
2. Utah cities and towns support enhanced federal and statewide action to address air quality, including but not limited to:
  - a. Increased support for fiscally responsible, clean, renewable, and carbon-free energy;
  - b. State funding for public transit;
  - c. Creation of a statewide electric vehicle charging network;
  - d. Adoption of more energy-efficient building code standards;
  - e. Adoption of transparency requirements for building energy efficiency;
  - f. Investigation of how maintaining a minimum level of the Great Salt Lake might mitigate potential of harmful dust;
  - g. Stricter vehicle emissions testing; and
  - h. Support for federal enactment of clean car standards.

Submitted by:  
Jeff Silvestrini, Millcreek City Mayor

September 9, 2019

# ECONOMIC DEVELOPMENT

## Resolution 2019-001

*(A) Resolution encouraging a state-wide review of the effectiveness of all economic development incentives and urging a community-first approach to economic development*

*(B) We, the members of the Utah League of Cities and Towns find:*

Whereas, Utah’s rapid and disparate growth, its accompanying opportunities, and infrastructure challenges have spurred a state-wide review of economic development policy tools, strategies, objectives and definitions; and

**Whereas**, economic development strategies within Utah are implemented on multiple levels, including the neighborhood, community, city, county, region, and state; and

**Whereas**, the residents of Utah’s cities and towns elect mayors and councilmembers to be stewards of their communities which includes ensuring economic development occurs in a manner, location, and scale that is appropriate and compatible with their respective communities; and

**Whereas**, community-first economic development policies are designed to address the specific needs and objectives of the community, as developed by their local elected officials; and

**Whereas**, the purpose of economic development is to provide economic sustainability, opportunity, and balance to residents in Utah’s communities, both current and future; and

**Whereas**, the success of economic development projects is contingent upon the entities who provide for and enhance the physical and service infrastructure supporting economic activity; and

**Whereas**, economic development largely occurs on privately owned land within the boundaries of cities and towns, which provide services to accommodate growth; and

**Whereas**, changes to economic development statutes should be conducted judiciously and involve stakeholder participation; and

**Whereas**, economic development approaches differ by municipalities’ ages and cycles of development; specifically, rural communities have different community assets, objectives, and challenges in development than those of urban communities; and

**Whereas**, economic development is most beneficial when all affected stakeholders collaborate and contribute towards a mutually beneficial outcome; and

**Whereas**, economic development begins and occurs at the local level and local municipalities are eager to partner reciprocally with other stakeholders, including but not limited to the State of Utah, the Economic Development Corporation of Utah, counties, neighboring municipalities, associations of governments (AOGs), school districts, property owners, residents, businesses, and chambers of commerce.

- i) Examples of partnerships with counties, AOG's, special districts, other taxing entities, and the State might include resource development, technical assistance, infrastructure development, and access to additional tools for small jurisdictions; and

Whereas, municipalities are best suited to coordinate economic development with other local taxing entities; and

Whereas, cities and towns cannot support development proposals, task forces, commissions, districts, development authorities, or legislation that would deprive local governments of their traditional land use authority or control over their tax increment without their consent; and

*(C) Therefore, we, the members of the Utah League of Cities and Towns resolve that:*

1. Utah should promote a community-first model of economic development, which prioritizes sustainability and quality of life for all residents, old and new.
2. Collaboration in economic development should be encouraged and supported reciprocally in all levels of government, recognizing that economic development is most effectively and efficiently implemented locally.
3. Any comprehensive review of current tools and programs will only be successful with the involvement of cities and towns and must prioritize community-first economic development. Those tools and programs include, but are not limited to, the following:
  - a) Agricultural grants;
  - b) Business expansion & retention programs;
  - c) Business recruitment and marketing efforts;
  - d) Employment center development (business parks, office buildings, retail developments);
  - e) Entrepreneurship and innovation assets (creative capital, incubators, research parks, technology transfer, maker spaces, coworking facilities, industry-academic research partnerships);
  - f) Housing development, which includes achieving the appropriate balance of housing types, including workforce housing, and other uses of land and infrastructure;

- g) Industrial rehabilitation and environmental reclamation;
- h) Local Economic Development Tax Increment Financing Tool(EDTIF)applications;
- i) Main street and downtown revitalization programs such as the National Main Street Program;
- j) Place-making, which includes arts & culture programming;
- k) Professional development education for local staff and elected officials that covers core concepts including many of the programs listed above; and
- l) Public infrastructure;
- m) Small business development support, including access to capital and mentoring/training program;
- n) The formation and capacity building of Redevelopment Areas (RDAs)/Community Reinvestment Areas (CRAs);
- o) Tourism development;
- p) Transportation strategies, including roads, transit, trail, rail, freight, and airports.

Submitted by:

Marlin Eldred, Lehi City Economic Development Director Nick Duerksen, Sandy City Economic Development Director

September 9, 2019



## Resolution 2017-001A Economic Development, Local Land Use Authority, and Local Control of Tax Increment \*

### **(A) Title: Encouraging Economic Development while Preserving Local Land Use Authority and Local Control of Tax Increment**

### **(B) We, the members of the Utah League of Cities and Towns find:**

Whereas, economic development is important to the prosperity of the State of Utah and the prosperity and future growth of local cities and towns; and

Whereas, the vast majority of economic development occurs on privately owned property within the boundaries of cities and towns; and

Whereas, cities and towns have utilized their traditional land use authority to enable these economic development opportunities; and

Whereas, the preservation of this local land use authority on private property is essential so that cities and towns can ensure that economic development occurs, but in a manner, location and scale that are appropriate and compatible with the long range plans for the local community; and

Whereas, cities and towns have also utilized tax increment financing, made available through the creation of Community Reinvestment Areas, to incentivize economic development or redevelopment and to help defray the costs of infrastructure necessary for that development; and

Whereas, the preservation of this local control of tax increment is also essential in order for cities and towns to have the resources necessary to facilitate economic development, but also to ensure that the local community will have sufficient funds to provide the municipal services that will be needed as that development occurs; and

Whereas, in recent years local municipalities have worked in cooperation with the State of Utah, the business community, and other stakeholders to support and promote economic development opportunities, which has resulted in an extraordinary level of economic prosperity within the State of Utah; and

Whereas, local municipalities are eager to promote and pursue further opportunities for economic development, particularly in proximity to state transportation infrastructure and in partnership with the State, while preserving their traditional local land use authority on private property and local control of tax increment;

### **(C) Now, therefore, we the members of the Utah League of Cities and Towns, resolve that:**

1. Cities and towns within the State of Utah commit that they are willing and ready to collaborate and partner with the State, the business community, and other stakeholders to pursue a broad range of

future economic development opportunities, including those located in proximity to State transportation infrastructure.

2. Cities and towns cannot support development proposals, task forces, commissions, districts, development authorities or other legislation that would deprive local municipalities of their traditional local land use authority on private property, or deprive them of control of tax increment generated within their jurisdiction without their consent.

3. League staff should seek appropriate opportunities to communicate the principles contained within this resolution with State legislative leaders.

Submitted by  
Mayor Bill Applegarth, Riverton City

## Resolution 2012-004 Sales Tax and Economic Development \*

### Economic Development and Sales Tax

#### **A Resolution of the Utah League of Cities and Towns regarding economic development and tax stability**

**WHEREAS:** The municipal tax structure should be rooted in the principles of fairness, consistency, predictability, stability, sustainability, efficiency, flexibility, and effectiveness.

**WHEREAS:** A one-size tax structure does not fit all municipal situations.

**WHEREAS:** Portions of the current tax structure are obsolete and no longer represent the current service based economy.

**WHEREAS:** As demographics and economics change municipal services must reflect those changes.

**WHEREAS:** Municipalities' dependence on sales tax revenue creates a situation where day to day needs cannot be met when this revenue decreases unless other services or revenue sources are adjusted.

**WHEREAS:** The current economic development incentives for local governments don't match the incentives for the state, where the state pursues job creators to gain greater income tax, local governments pursue sales tax generators to better balance their budgets.

**NOW THEREFORE:** be it resolved that the Utah League of Cities and Towns petitions for this Resolution to allow the ULCT and its staff to work with all interested parties to formulate a strategy to create long-term sustainability in local government financial tools. Recognizing the sensitivities of distribution of sales tax, discrepancies in funding for transportation projects, and other items that may prove to create some contention among members, the intent of this resolution is to serve to memorialize what may be a multi-year effort.

## Resolution 2012-005 Sales Tax and Economic Development \*

### **A Resolution of the Utah League of Cities and Towns regarding referendum on budget items**

**WHEREAS:** Cities and towns rely heavily on property tax dollars to fund municipal services

**WHEREAS:** it has long been held that municipal budget items were not referable; and

**WHEREAS:** the current state law, which requires compliance with “Truth in Taxation” and the associated meetings and notices, does not allow enough time to certify the tax rate, while still allowing for signatures to be gathered for a referendum; and

**WHEREAS:** the lack of sufficient time to gather referendum signatures and place the item on the ballot precludes the city from dealing with the referendum in the same election cycle as the proposed tax increase, thus forcing the city to collect the taxes with uncertainty about whether the citizenry will vote to overturn the tax increase, and

**WHEREAS:** the current signature gathering requirements for a municipal referendum on budget items are excessively low, allowing for a small fringe group to have a debilitating impact on municipal budgeting and provision of services; and

**WHEREAS:** This level of uncertainty and confusion on the budget will negatively impact the city’s ability to provide the municipal services their citizens expect.

**NOW THEREFORE:** be it resolved that the Utah League of Cities and Towns petitions for this Resolution to: work on a legislative solution to address the signature gathering requirements and the timing of signature gathering requirements that more appropriately dovetail into the current timing of truth in taxation, notice, and collections of municipal taxes.

# ELECTIONS

## Resolution 2011-002 Election Participation

### **2011 Utah League of Cities and Towns Resolution – Encouragement to Participate in Elections**

We, the members of the Utah League of Cities & Towns find:

1. Utah's political parties select their nominees through a unique caucus and convention system that more people need to understand and take part in;
2. Even though participating in caucus night is as important, and in some ways more important than voting in the November general elections; there is no way to cast your vote at a caucus meeting early or absentee or even earlier in the day—you must be present in that exact hour to have a voice.
3. Despite this importance, only 65,000 Utahns attended their neighborhood caucus meeting in 2010, less than 3% of residents.
4. Our Republic is more representative of the populace when more are involved. With 70% of delegates elected at caucuses having been Utah residents for 20 years or longer, and with 75% of delegates being male, we need to have broader participation in neighborhood caucus meetings.

Therefore, we resolve:

1. To strongly encourage our member cities and towns to cancel all city events, meetings, sporting activities, and other conflicts during the evening of the Utah neighborhood caucus meetings in March 2012.
2. To strongly encourage church groups, youth groups, scout groups, businesses, and other community organizations to keep free of conflicts the evening of the Utah neighborhood caucus meetings.
3. To strongly encourage all Utah voters to attend and participate in the neighborhood caucus meeting of the political party of their choice in March 2012 and to have their voice heard.

# FIREWORKS

## Resolution 2016-001A (Merged Resolution)

**(A) Title: A resolution of the Utah League of Cities and Towns regarding the regulation of fireworks.**

**(B) We, the members of the Utah League of Cities and Towns find:**

1. Whereas, the Utah League of Cities and Towns supports the long-standing tradition of using private and public fireworks to celebrate State and Federal holidays.
2. Whereas, several years ago the Utah State Legislature passed legislation that greatly expanded the scope and nature of fireworks allowed within the State, and the number of days on which those fireworks may be discharged. That same legislation restricted the ability of local cities and counties to regulate the use of fireworks within their respective jurisdictions.
3. Whereas, current State law allows for the purchase and discharge of almost any variety or size of fireworks, many of which are unsafe for private use or for use in residential neighborhoods. Those legal fireworks also create a high risk of wildfires in foothill, mountainous and rural areas.
4. Whereas, we the members of the Utah League of Cities and Towns find that although State law prohibits cities and towns from adopting ordinances or regulations for the sale and discharge of fireworks that conflict with State regulations, many Cities and Towns attempt to enact regulations for the discharge of fireworks the best they knew how and, in an effort, to decrease fire danger as well as personal or property loss; and
5. Whereas, current State law also allows for those fireworks to be discharged on certain specified holidays, and for three days before and three days after the holiday. In the month of July, where there are two legal holidays, the use of these fireworks is allowed for 14 days during the month.
6. Whereas, during the past few years record high temperatures and low precipitation have dramatically increased the risk of wildfires within the State, and this increase in the nature and duration of fireworks creates a significant risk to public safety.
7. Whereas, many citizens have complained that this increased firework activity has created significant problems with domestic animals and livestock who are often traumatized by the bright lights and loud noises that accompany these fireworks, which is only made worse by the extended duration of the firework activity.

8. Whereas, Cities and Towns throughout the State of Utah determine that the private discharge of aerial fireworks as allowed by State law in 2011 creates serious concerns for public safety, placing both persons and property at high risk; and

9. Whereas, this increased use of fireworks also has a significant negative impact upon local air quality.

10. Whereas, many citizens have complained to their local elected officials about these problems, but due to the nature of the State legislation, local governments have been deprived of any meaningful authority to address these issues.

11. Whereas, Cities and Towns further realize that because current State law determines how restrictive local governments can be in regulating fireworks in their own respective jurisdictions, being able to regulate the discharge of fireworks within local government jurisdictions is very difficult if not impossible for local governments in their efforts to provide for their own public safety.

**Now, therefore, we the members of the Utah League of Cities and Towns recommend that:**

1. UCA 11-3-8 be amended which currently prohibits cities and towns from adopting ordinances or regulations that conflict with UCA 53-7-220 through 53-7-225, in such a way as to allow individual cities and towns to adopt ordinances or regulations that appropriately address the needs and concerns of each city or town and which are not any more liberal than what State law allows.

2. For example, the Utah State Legislature could modify the current State fireworks regulations to: (a) Restrict the scope and the nature of legal fireworks within the State of Utah; (b) Reduce the number of days that fireworks are allowed to be discharged; and (c) Restore the authority of local cities and counties to regulate fireworks within their respective jurisdictions as necessary to protect public safety.

3. We request that League staff take such action as may be necessary or appropriate to implement the provisions identified in this resolution.

Salt Lake County Council of Governments Carmen Freeman, Chair  
Mayor of Herriman City

Vernal City  
Sonja Norton, Mayor  
Ken Bassett, City Manager

## Resolution 2014-006

### **(A) Resolution Title/Subject**

A Resolution of the Utah League of Cities and Towns regarding the regulation of fireworks:

### **(B) We, the members of the Utah League of Cities and Towns regarding the regulation of fireworks:**

1. Whereas, due to dry conditions, high temperatures and winds, the danger of fires in the State of Utah during the summer of 2012 was extremely high; and
2. Whereas, at that same time, Governor Herbert called on local governments to enact ordinances which would prohibit the discharge of fireworks during certain times and places; and
3. Whereas, the Utah State Legislature in 2013 amended laws regulating the discharge of fireworks in the State; and
4. Whereas, although State law prohibited cities and towns from adopting ordinances or regulation for the sale and discharge of fireworks that conflict with State regulations, many cities and towns still attempt to enact regulations for the discharge of fireworks the best they know how and in an attempt to decrease fire danger for both wild land and urban interface areas, brush covered areas, mountainous areas, as well as residential and commercial developed areas.
5. Whereas, cities and towns further realize that because current State law regulates how restrictive local governments can be in regulating fireworks, being able to ban the discharge of fireworks as Governor Herbert has requested is still not possible.

### **(C) Now, therefore, we, members of the Utah League of Cities and Towns recommend that:**

Once again, the Utah State Legislature give greater discretion to cities and towns in regulating the discharge of aerial fireworks by amending UCA 11-3-8, which currently prohibits cities and towns from adopting ordinances or regulations that conflict with UCA 53-7-220 through 53-7-225 and 15A-5-202.5, in such a way as to allow individual cities and towns to adopt ordinances or regulations that appropriately address the needs and concerns of each city or town as they deem necessary.



## Resolution 2012-003

### Fireworks and Fire Danger

#### **A Resolution of the Utah League of Cities and Towns regarding the regulation of fireworks:**

**WHEREAS:** due to dry conditions, high temperatures and winds, the danger of fires in the State of Utah during the summer of 2012 was extremely high; and

**WHEREAS:** Governor Herbert determined that the discharge of fireworks throughout the State increased the risk of fires and should be banned in the unincorporated areas of the State; and

**WHEREAS:** Governor Herbert also called on local government to enact ordinances which would prohibit the discharge of fireworks during certain times and places; and

**WHEREAS:** Although State law prohibited cities and towns from adopting ordinances or regulation for the sale and discharge of fireworks that conflict with State regulations, many cities and towns attempted to enact regulations for the discharge of fireworks the best they knew how and in an attempt to decrease fire danger; and

**WHEREAS:** Cities and towns further realized that because current State law regulated how restrictive local governments can be in regulating fireworks, being able to ban the discharge of fireworks as Governor Herbert requested was not possible.

**NOW THEREFORE:** be it resolved that the Utah League of Cities and Towns petitions for this Resolution to: Give greater discretion to cities and towns on regulating the discharge of aerial fireworks by amending UCA 11-3-8 which currently prohibits cities and towns from adopting ordinances or regulations that conflict with UCA 53-7-220 through 53-7-225, in such a way as to allow individual cities and towns to adopt ordinances or regulations that appropriately address the needs and concerns of each city or town.

# POPULATION GROWTH

## Resolution 2018-004 (Growth and Housing) \*

### ***(A) Preparing for the Future and Maintaining the Individual Character and Community of Utah’s Cities and Towns***

### ***(B) We, the members of the Utah League of Cities and Towns, find that:***

#### **I. Preparing for the Future (population growth and local role)**

Whereas, the population of Utah is set to grow from approximately 3 million to 5.8 million by 2065 (an average increase of 1.3 percent per year)<sup>1</sup> which if mismanaged would impact Utah’s quality of life; and

Whereas, while population growth brings economic opportunity, it also brings infrastructure challenges (such as roads, sidewalks, traffic signals, streetlights, drinking water, wastewater, sewer, and more), housing, schooling, and employment needs, and environmental impacts; and

Whereas, the state’s increasing urbanization has already resulted in more multifamily housing units built along the Wasatch Front than single family housing units between 2007 and 2017<sup>2</sup>; and

Whereas, the state’s increasing urbanization will require more transportation investment, including for transit, and more coordination between cities, towns, counties, metropolitan planning organizations, the Utah Department of Transportation, and other transportation stakeholders; and

Whereas, ULCT actively endorsed SB 136 (2018), Transportation Governance Amendments, which will incorporate and coordinate local land use planning and economic development potential into state transportation planning and programming; and

Whereas, the residents of Utah’s cities and towns elect mayors and council members to be stewards of their communities, exercise local control, and make decisions to both preserve their quality of life and prepare for the future; and

Whereas, according to recent survey data from Y2 Analytics, many residents of Utah’s cities and towns are frustrated by the impact of population growth because of the accompanying congestion, traffic, loss of open space, and shifting expectations; and

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<sup>1</sup> Utah’s Long-Demographic and Economic Projections Summary, Kem C. Gardner Policy Institute, July 2017. Available at <http://gardner.utah.edu/wp-content/uploads/Projections-Brief-Final.pdf>.

<sup>2</sup> According to Envision Utah data, as reported in the Salt Lake Tribune, July 20, 2018.

Whereas, mayors and council members hold some (but not all) keys to prepare for population growth and, as local decisions affect cities and towns statewide, should think regionally as they act locally; and

Whereas, every city and town must do their part to prepare for population growth, encourage housing affordability, and address affordable housing in their communities.

## **II. The Housing Gap**

Whereas, because of population growth, the 2008 recession and aftermath, Congressional action, lending policies, and the rising cost of housing development, housing supply has not kept pace with household formation since the recession; and

Whereas, per the May 2018 Gardner Business Review report titled “What Rapidly Rising Prices Mean for Housing Affordability” (the “Gardner report”), there was a surplus of housing units compared to households from 1971-2010 of 84,217. However, there has been a shortage of new housing units compared to households between 2011-2017 of 43,000, of which 54% occurred in 2011 and 2012; and

Whereas, the Gardner Institute published in July 2018 that the number of permits for new dwelling units is at the highest level since 2006 and the number of new residential units would match the number of new households in calendar year 2018.

## **III. Housing Affordability**

Whereas, Utah is seeing rapidly increasing housing prices in urban areas because of strong economic growth coupled with population growth; and

Whereas, the Gardner report outlined multiple reasons for the escalating housing costs in Utah, including a severe labor shortage in the construction industry, lack of available land for development, increased material and construction costs, federal trade policy, and local government regulatory costs; and

Whereas, the Gardner report indicated that wages in Utah have not kept pace with housing costs; and

Whereas, the Gardner report did not examine zoning or NIMBYism (“not in my backyard” perspective from nearby residents), but acknowledged they play an unquantifiable role in the cost of housing.

## **IV. Affordable Housing**

Whereas, the Gardner Institute reported in July 2018 that 100,000 Utah households are severely cost burdened by housing; and

Whereas, the Gardner report indicated a household with income below the median has a one in five chance of being severely cost burdened by housing (paying 50% of their income toward housing); and

Whereas, the Gardner report indicated that a household with income above the median only has a one in 130 chance of being severely cost burdened by housing; and

Whereas, the private sector has difficulty producing profitable affordable housing for residents below the area median income without incentives, subsidies, or other assistance.

#### **V. Local Keys and Responsibilities**

Whereas, Utah's cities and towns hold some but not all the keys to help address this statewide issue; and

Whereas, local government regulation of housing means ensuring the health, safety, and welfare for current and future residents in the construction of new buildings, connectivity of new development with roads, water, sewer, and other infrastructure, and providing public safety services; and

Whereas, local government regulation of housing means covering the cost of infrastructure that is required to provide essential services to new residents, including water, wastewater, and stormwater systems, roads, municipal power systems, public safety facilities, and parks; and

Whereas, local government is responsible for finding the balance between the costs that current residents bear for infrastructure and services resulting from new growth and the costs that future residents will bear for the new infrastructure and services.

#### **VI. Direct Democracy (Initiatives, Referenda, Referrals, or other Ballot Propositions)**

Whereas, the Utah League of Cities and Towns believes that citizens, per Article VI Section 1 of the Utah State Constitution, hold legislative authority essential to the democratic separation of powers; and

Whereas, the current state law on the citizen direct democracy process should be modernized to ensure that it is consistent and clear for petitioners, elected officials, city staff, property owners, and the public; and

Whereas, such modernization should include an adjudication of whether the city action is administrative or legislative at the outset of the referendum process, before petitioners expend time and money gathering the required signatures; and

Whereas, such modernization should clarify that city leaders may explain the action that petitioners desire to be referred and answer questions from residents, among other improvements.

***(C) Now, therefore, we the members of the Utah League of Cities and Towns resolve that:***

**I. Population growth and the housing gap**

1. Utah cities and towns will engage with other stakeholders to formulate and consider state initiatives that facilitate the accommodation of population growth, and that enhance flexibility of other revenue tools.
2. Utah cities and towns support expanding the use of accessory dwelling units where appropriate.
3. Utah cities and towns are willing to review zoning ordinances, regulatory ordinances, and processes to facilitate additional housing units (i) where the infrastructure can support them, (ii) particularly near current and future transportation corridors, and (iii) in a manner that preserves local official decision-making.
4. Utah cities and towns support efforts to inform residents about population growth and mitigate the impacts on their quality of life.

**II. Housing affordability**

1. Utah cities and towns will support federal policies that could ease material and labor costs that impact housing prices.
2. Utah cities and towns support other efforts to reduce costs of housing that are not tied to infrastructure.
3. Utah cities and towns will support state and local efforts to improve wage growth.

**III. Affordable housing**

1. Utah cities and towns commit to examining their current housing stock by complying with HB 259 (2018) Moderate Income Housing Amendments to incorporate moderate income housing into their general plans.
2. Utah cities and towns will support state financial support and other incentives such as inclusionary zoning in certain areas to preserve or create affordable housing.

**IV. Direct democracy**

1. Utah cities and towns support the modernization of the direct democracy process in a way that protects the legislative authority of cities and their residents and ensures clarity, consistency, transparency, and fairness for all.

***(D) We, the members of the Utah League of Cities and Towns, further resolve that:***

**I. Legislative authority:**

1. Utah cities and towns will oppose any state legislative effort to erode traditional local legislative authority over planning and zoning decisions, as previously established in ULCT Resolution 2007-1.
2. Utah cities and towns will oppose any state efforts to penalize municipal leaders for land use decisions.
3. Utah cities and towns will oppose any state legislative efforts to reduce the local legislative authority of city councils or of the people themselves per Article VI of the Utah State Constitution.

**II. Revenues and planning for infrastructure and services:**

1. Utah cities and towns will oppose any state efforts to restrict the municipal ability or reduce existing municipal revenues to fund infrastructure needs and public services.
2. Utah cities and towns will oppose any state efforts to disproportionately shift the burden of paying for necessary infrastructure because of new development from future residents to current residents.
3. Utah cities and towns will engage with the other stakeholders to formulate and consider state initiatives for funding (i) the acquisition and development of transportation corridors of regional significance, and (ii) other infrastructure needs, which can accommodate future residential, commercial and retail growth so long as such initiatives preserve local official decision-making.

**III. General:**

1. ULCT will oppose state legislative efforts that violate principles of local authority, create an unfunded mandate, enforce a one-size-fits-all approach, or promote a “solution” in search of a problem.

Submitted by:

The ULCT Board of Directors

September 11, 2018

# JUSTICE COURT

## Resolution 2007-003 Justice Court Reform

Adopted — Tuesday, September 11, 2007

Sheraton Hotel — Salt Lake City

3:00 — 4:00 p.m.

2007 Utah League of Cities and Towns Resolution – Justice Court Modifications

**Whereas:** Municipalities of the state of Utah value the ability to operate and maintain a local justice court and;

**Whereas:** Municipal officials are committed to providing fair and equitable justice in matters heard before municipal justice courts and;

**Whereas:** There is a perception that some municipal justice courts are motivated by the financial aspects of the municipal justice court operation at the expense of fair justice and;

**Whereas:** The Utah Supreme Court in its opinion on the “Goodman” case raised specific concerns regarding the perceptions that municipal revenue pressures, as well as the lack of structural independence, were potentially compromising the role of an independent judiciary and unduly influencing the outcome of issues heard before municipal justice courts and;

**Whereas:** The Utah Judicial Council, under the direction of Associate Supreme Court Justice Ronald E. Nehring has commissioned a study group and has made specific recommendations by which the municipal revenues can be separated from the administration of justice and greater professionalism can be attained by way of changes in the current system and;

**Whereas:** The municipalities of Utah believe that the goals set forth by the study group are laudable, but wishes to attain such goals in a different fashion than that which was originally proposed by the Utah Judicial Council

**Now Therefore Let It Be Resolved:** The Utah League of Cities and Towns’ position on legislative efforts to amend the municipal justice court system is as follows:

1. Cities and towns continue to be allowed to select their own judge and the judge will remain a city employee;
2. Potential municipal justice court judges will be reviewed by a local nominating committee; recommendations from the nominating committee will be submitted to the governing body of the municipality/county in which the judge will preside, and the governing body will grant final approval of the nominee;
3. Justice court judges will continue to be part-time or full-time as the caseload dictates;

4. After selection by the governing body, the judges would be subject to retention elections every four years within the jurisdiction where the judge presides; and retention elections will be held in conjunction with the election cycle for the jurisdiction in which the judge presides.
5. Justice court judge's salary would be initially set by the municipality or county employing the judge, but raises would be based on an average of the annual pay increase for all city employees within the jurisdiction. The raise/pay increase would be dictated in statute to ensure "isolation" from "political pressure" regarding future pay increase. In addition, statutorily guided salary increases would only apply to those municipal judges that are not at the current statutory pay limit of 85% of the salary of district court judges. Municipal justice court judges would still maintain a statutory cap of 85% of the district court judge pay scale.
6. Municipal justice court judges will be required to have at least a four-year college degree, and all currently sitting judges would be exempt from this provision.
7. Additional efforts will be made to harmonize the software and information sharing concerns that have been raised by the Supreme Court by pursuing a revenue tool and process by which all justice courts would be able to share information within a given period of time.



# LAND USE

## Resolution 2018-004 (Growth and Housing) \*

### ***(A) Preparing for the Future and Maintaining the Individual Character and Community of Utah's Cities and Towns***

### ***(B) We, the members of the Utah League of Cities and Towns, find that:***

#### **I. Preparing for the Future (population growth and local role)**

Whereas, the population of Utah is set to grow from approximately 3 million to 5.8 million by 2065 (an average increase of 1.3 percent per year)<sup>3</sup> which if mismanaged would impact Utah's quality of life; and

Whereas, while population growth brings economic opportunity, it also brings infrastructure challenges (such as roads, sidewalks, traffic signals, streetlights, drinking water, wastewater, sewer, and more), housing, schooling, and employment needs, and environmental impacts; and

Whereas, the state's increasing urbanization has already resulted in more multifamily housing units built along the Wasatch Front than single family housing units between 2007 and 2017<sup>4</sup>; and

Whereas, the state's increasing urbanization will require more transportation investment, including for transit, and more coordination between cities, towns, counties, metropolitan planning organizations, the Utah Department of Transportation, and other transportation stakeholders; and

Whereas, ULCT actively endorsed SB 136 (2018), Transportation Governance Amendments, which will incorporate and coordinate local land use planning and economic development potential into state transportation planning and programming; and

Whereas, the residents of Utah's cities and towns elect mayors and council members to be stewards of their communities, exercise local control, and make decisions to both preserve their quality of life and prepare for the future; and

Whereas, according to recent survey data from Y2 Analytics, many residents of Utah's cities and towns are frustrated by the impact of population growth because of the accompanying congestion, traffic, loss of open space, and shifting expectations; and

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<sup>3</sup> Utah's Long-Demographic and Economic Projections Summary, Kem C. Gardner Policy Institute, July 2017. Available at <http://gardner.utah.edu/wp-content/uploads/Projections-Brief-Final.pdf>.

<sup>4</sup> According to Envision Utah data, as reported in the Salt Lake Tribune, July 20, 2018.

Whereas, mayors and council members hold some (but not all) keys to prepare for population growth and, as local decisions affect cities and towns statewide, should think regionally as they act locally; and

Whereas, every city and town must do their part to prepare for population growth, encourage housing affordability, and address affordable housing in their communities.

## **II. The Housing Gap**

Whereas, because of population growth, the 2008 recession and aftermath, Congressional action, lending policies, and the rising cost of housing development, housing supply has not kept pace with household formation since the recession; and

Whereas, per the May 2018 Gardner Business Review report titled “What Rapidly Rising Prices Mean for Housing Affordability” (the “Gardner report”), there was a surplus of housing units compared to households from 1971-2010 of 84,217. However, there has been a shortage of new housing units compared to households between 2011-2017 of 43,000, of which 54% occurred in 2011 and 2012; and

Whereas, the Gardner Institute published in July 2018 that the number of permits for new dwelling units is at the highest level since 2006 and the number of new residential units would match the number of new households in calendar year 2018.

## **III. Housing Affordability**

Whereas, Utah is seeing rapidly increasing housing prices in urban areas because of strong economic growth coupled with population growth; and

Whereas, the Gardner report outlined multiple reasons for the escalating housing costs in Utah, including a severe labor shortage in the construction industry, lack of available land for development, increased material and construction costs, federal trade policy, and local government regulatory costs; and

Whereas, the Gardner report indicated that wages in Utah have not kept pace with housing costs; and

Whereas, the Gardner report did not examine zoning or NIMBYism (“not in my backyard” perspective from nearby residents), but acknowledged they play an unquantifiable role in the cost of housing.

## **IV. Affordable Housing**

Whereas, the Gardner Institute reported in July 2018 that 100,000 Utah households are severely cost burdened by housing; and

Whereas, the Gardner report indicated a household with income below the median has a one in five chance of being severely cost burdened by housing (paying 50% of their income toward housing); and

Whereas, the Gardner report indicated that a household with income above the median only has a one in 130 chance of being severely cost burdened by housing; and

Whereas, the private sector has difficulty producing profitable affordable housing for residents below the area median income without incentives, subsidies, or other assistance.

#### **V. Local Keys and Responsibilities**

Whereas, Utah's cities and towns hold some but not all the keys to help address this statewide issue; and

Whereas, local government regulation of housing means ensuring the health, safety, and welfare for current and future residents in the construction of new buildings, connectivity of new development with roads, water, sewer, and other infrastructure, and providing public safety services; and

Whereas, local government regulation of housing means covering the cost of infrastructure that is required to provide essential services to new residents, including water, wastewater, and stormwater systems, roads, municipal power systems, public safety facilities, and parks; and

Whereas, local government is responsible for finding the balance between the costs that current residents bear for infrastructure and services resulting from new growth and the costs that future residents will bear for the new infrastructure and services.

#### **VI. Direct Democracy (Initiatives, Referenda, Referrals, or other Ballot Propositions)**

Whereas, the Utah League of Cities and Towns believes that citizens, per Article VI Section 1 of the Utah State Constitution, hold legislative authority essential to the democratic separation of powers; and

Whereas, the current state law on the citizen direct democracy process should be modernized to ensure that it is consistent and clear for petitioners, elected officials, city staff, property owners, and the public; and

Whereas, such modernization should include an adjudication of whether the city action is administrative or legislative at the outset of the referendum process, before petitioners expend time and money gathering the required signatures; and

Whereas, such modernization should clarify that city leaders may explain the action that petitioners desire to be referred and answer questions from residents, among other improvements.

***(C) Now, therefore, we the members of the Utah League of Cities and Towns resolve that:***

#### **I. Population growth and the housing gap**

1. Utah cities and towns will engage with other stakeholders to formulate and consider state initiatives that facilitate the accommodation of population growth, and that enhance flexibility of other revenue tools.
2. Utah cities and towns support expanding the use of accessory dwelling units where appropriate.
3. Utah cities and towns are willing to review zoning ordinances, regulatory ordinances, and processes to facilitate additional housing units (i) where the infrastructure can support them, (ii) particularly near current and future transportation corridors, and (iii) in a manner that preserves local official decision-making.
4. Utah cities and towns support efforts to inform residents about population growth and mitigate the impacts on their quality of life.

#### **II. Housing affordability**

1. Utah cities and towns will support federal policies that could ease material and labor costs that impact housing prices.
2. Utah cities and towns support other efforts to reduce costs of housing that are not tied to infrastructure.
3. Utah cities and towns will support state and local efforts to improve wage growth.

#### **III. Affordable housing**

1. Utah cities and towns commit to examining their current housing stock by complying with HB 259 (2018) Moderate Income Housing Amendments to incorporate moderate income housing into their general plans.
2. Utah cities and towns will support state financial support and other incentives such as inclusionary zoning in certain areas to preserve or create affordable housing.

#### **IV. Direct democracy**

1. Utah cities and towns support the modernization of the direct democracy process in a way that protects the legislative authority of cities and their residents and ensures clarity, consistency, transparency, and fairness for all.

***(D) We, the members of the Utah League of Cities and Towns, further resolve that:***

**I. Legislative authority:**

1. Utah cities and towns will oppose any state legislative effort to erode traditional local legislative authority over planning and zoning decisions, as previously established in ULCT Resolution 2007-1.
2. Utah cities and towns will oppose any state efforts to penalize municipal leaders for land use decisions.
3. Utah cities and towns will oppose any state legislative efforts to reduce the local legislative authority of city councils or of the people themselves per Article VI of the Utah State Constitution.

**II. Revenues and planning for infrastructure and services:**

1. Utah cities and towns will oppose any state efforts to restrict the municipal ability or reduce existing municipal revenues to fund infrastructure needs and public services.
2. Utah cities and towns will oppose any state efforts to disproportionately shift the burden of paying for necessary infrastructure because of new development from future residents to current residents.
3. Utah cities and towns will engage with the other stakeholders to formulate and consider state initiatives for funding (i) the acquisition and development of transportation corridors of regional significance, and (ii) other infrastructure needs, which can accommodate future residential, commercial and retail growth so long as such initiatives preserve local official decision-making.

**III. General:**

1. ULCT will oppose state legislative efforts that violate principles of local authority, create an unfunded mandate, enforce a one-size-fits-all approach, or promote a “solution” in search of a problem.

Submitted by:

The ULCT Board of Directors

September 11, 2018

## Resolution 2017-001A Economic Development, Local Land Use Authority, and Local Control of Tax Increment \*

### **(A) Title: Encouraging Economic Development while Preserving Local Land Use Authority and Local Control of Tax Increment**

### **(B) We, the members of the Utah League of Cities and Towns find:**

Whereas, economic development is important to the prosperity of the State of Utah and the prosperity and future growth of local cities and towns; and

Whereas, the vast majority of economic development occurs on privately owned property within the boundaries of cities and towns; and

Whereas, cities and towns have utilized their traditional land use authority to enable these economic development opportunities; and

Whereas, the preservation of this local land use authority on private property is essential so that cities and towns can ensure that economic development occurs, but in a manner, location and scale that are appropriate and compatible with the long range plans for the local community; and

Whereas, cities and towns have also utilized tax increment financing, made available through the creation of Community Reinvestment Areas, to incentivize economic development or redevelopment and to help defray the costs of infrastructure necessary for that development; and

Whereas, the preservation of this local control of tax increment is also essential in order for cities and towns to have the resources necessary to facilitate economic development, but also to ensure that the local community will have sufficient funds to provide the municipal services that will be needed as that development occurs; and

Whereas, in recent years local municipalities have worked in cooperation with the State of Utah, the business community, and other stakeholders to support and promote economic development opportunities, which has resulted in an extraordinary level of economic prosperity within the State of Utah; and

Whereas, local municipalities are eager to promote and pursue further opportunities for economic development, particularly in proximity to state transportation infrastructure and in partnership with the State, while preserving their traditional local land use authority on private property and local control of tax increment;

### **(C) Now, therefore, we the members of the Utah League of Cities and Towns, resolve that:**

1. Cities and towns within the State of Utah commit that they are willing and ready to collaborate and partner with the State, the business community, and other stakeholders to pursue a broad range of

future economic development opportunities, including those located in proximity to State transportation infrastructure.

2. Cities and towns cannot support development proposals, task forces, commissions, districts, development authorities or other legislation that would deprive local municipalities of their traditional local land use authority on private property, or deprive them of control of tax increment generated within their jurisdiction without their consent.

3. League staff should seek appropriate opportunities to communicate the principles contained within this resolution with State legislative leaders.

Submitted by  
Mayor Bill Applegarth, Riverton City

## Resolution 2012-001 Billboards

### **Billboards and Local Land Use Authority**

**A resolution recognizing the primacy of local governments to handle the land use issues associated with billboards through local ordinance and policy.**

**Whereas:** Local land use authority is explicitly granted to county and municipal governments; and

**Whereas:** The appropriate venue for land use changes are with local land use authorities.

**Whereas:** Local governments work to equitably address development concerns and community impacts with local ordinance and policy; and

**Whereas:** Participation in land use processes mitigate disputes through clear and discernible public input at the local level; and

**Whereas:** Whereas: local municipal governments also have the responsibility to ensure compliance with applicable legal requirements for billboards, such as the Federal Highway Beautification Act and the Utah-Federal Agreement

**Whereas:** The regulation of billboards is an issue that uniquely impacts the character of neighborhoods within our city; and

**Whereas:** The citizenry of our cities believe, that local government is responsible for balancing their private property rights with those of the sign industry:

**NOW, THEREFORE,** We, the members of the Utah League of Cities and Towns, encourage the outdoor advertising industry to productively utilize local government ordinances, rules and policies to fairly and effectively regulate outdoor advertising. Furthermore, we will work closely with the outdoor advertising industry to clarify the Utah State Code on statewide standards for outdoor advertising as long as local authority is maintained with regards to billboards and digital interfaces.



## Resolution 2007-001 Land Use

Adopted — Tuesday, September 11, 2007  
Sheraton Hotel — Salt Lake City  
3:00 — 4:00 p.m.

### 2007 Utah League of Cities and Towns Resolution — Land Use Regulation

Whereas: Elected municipal officials have the responsibility to implement land use policies that effectively balance competing needs of property owners, with maintaining property values;

Whereas: Municipal officials must have flexibility to deal with differing circumstances for which land use regulations are required.

Whereas: To retain this flexibility, the Land Use Management and Development Act (LUDMA) must remain enabling legislation and must not set specific rigid standards with which all local jurisdictions must comply.

Whereas: Repeated legislative effort to make LUDMA more rigid and controlling has created uncertainty in local jurisdictions providing an incentive not to implement innovations available in LUDMA.

Whereas: Municipal officials desire to stay current and well informed, with a thorough understanding of the laws regulating property values and property rights

Now Therefore Let It Be Resolved: The Utah League of Cities and Towns' position on legislative efforts to amend the Municipal Land Use Management and Development Act (LUDMA) is as follows:

1. The League of Cities and Towns strongly opposes any legislation attempting to take away or limit the authority of local elected officials to make land use decisions within their jurisdictions. Formulation and implementation of land use regulations need to remain with local government officials.
2. One size does not fit many. Each jurisdiction must be allowed to adapt land use policy to its locale and its culture. State enabling legislation (LUDMA) needs to remain flexible allowing local governments to adjust to local circumstances.
3. The League of Cities and Towns, in conjunction with the development community, believes that property rights thrive on certainty. Constant changes in land use legislation undermine property values statewide.
4. The Utah League of Cities and Towns, together with all other sectors of state and local government, in participation with the development community, will benefit from coordinated, professional, training regarding land use laws, private property rights and recent developments in state law.

5. The Utah Real Estate Market remains healthy, but is part of a national system of lending and market forces that have presented challenges to the robust development opportunities that have preceded us.
6. The municipal land use and development communities must work together to sustain healthy economic growth and development into the future.
7. As such, the League of Cities and Towns continues to support the premise that LUDMA should not be amended or supplemented in any respect without a concerted effort among stakeholders to achieve a consensus-based bill.

# LOCAL AUTHORITY

## Resolution 2018-001 (Medical Cannabis)

**(A) Resolution about local authority and medical marijuana**

**(B) We, the members of the Utah League of Cities and Towns find:**

Whereas, voters will consider legalizing medical marijuana in November; and

Whereas, cities and towns recognize that the availability and usage of medical marijuana is a worthwhile policy discussion with the legislature, policy makers, patients, and the general public; and

Whereas the language in Proposition 2 is broader than just the question of medical marijuana usage, production, and distribution; and

Whereas, cities and towns have the traditional responsibility and authority to create laws, ordinances, policies, and procedures for local land use, legislative policymaking, licensing, public health, welfare, and safety including law enforcement within their jurisdiction; and

Whereas the initiative as written undermines the ability of law enforcement to investigate legal or illegal use of marijuana and could impact the public safety of our communities; and

Whereas we are working in conjunction with the Utah Chiefs of Police Association to raise concerns about the impact of the initiative language on public safety; and

Whereas, the initiative language infringes on traditional local government authority over land use, legislative policymaking, and licensing; and

Whereas, the initiative language would preempt a city from enacting a zoning ordinance that prohibits a cannabis dispensary or production facility; and

Whereas, the initiative language would preclude cities from having buffers between residential zones and community locations (schools, churches, parks, etc.) beyond the state radius of 300 feet or 600 feet; and

Whereas, the initiative language would preempt any ordinance or rule enacted by a political subdivision regarding a cannabis dispensary or production facility; and

Whereas, the initiative’s preemption language would interfere with traditional municipal business license authority.

***(C) THEREFORE, we, the members of the ULCT resolve that:***

1. Cities and towns oppose any action, either via the legislature or a vote of the people, to preempt traditional local authority over land use planning and zoning with respect to medical marijuana.
2. Cities and towns oppose any action to preempt traditional local authority over business licensing of medical marijuana.
3. Cities and towns oppose any action to preempt traditional local authority to enact ordinances that are vital to the public safety, health, and welfare of our communities.

Be it further resolved that,

1. If Proposition 2 does not pass, cities and towns urge the Utah State Legislature, the Governor, and stakeholders to consider our concerns about preemption of traditional local authority over land use, legislative policymaking, public safety, and licensing in future legislation or initiatives about medical marijuana.
2. If Proposition 2 passes, cities and towns urge the Utah State Legislature, the Governor, and stakeholders to address ULCT concerns in statute about the current initiative language that preempts traditional local authority over land use, legislative policymaking, public safety, and licensing.

Submitted by:

The ULCT Board of Directors

September 11, 2018

## Resolution 2018-002 (Water Supply) \*

***(A) Resolution about proposed changes to the Utah State Constitution about municipal authority over water rights and water supply***

***(B) We, the members of the Utah League of Cities and Towns find:***

Whereas, water is a precious, finite, and irreplaceable resource essential to the wellbeing of all residents and to the economic vitality of the state; and

Whereas, cities and towns who operate culinary water systems are responsible for ensuring that residents have access to sufficient water supplies; and

Whereas, cities and towns that supply culinary water directly to end users are responsible for setting reasonable rates for the water usage; and

Whereas, the Utah State Legislature in 2018 passed a resolution assigning the Natural Resources, Agriculture and Environment Interim Committee to consider a proposal to amend the Utah Constitution Article 11 Section 6, which forbids municipalities from selling waterworks or water rights; and

Whereas, the Director of the Utah Department of Natural Resources appointed members to four study groups to study and make recommendations to the Legislature on a variety of water issues; and

Whereas, the Constitutional Amendment study group, which included members of the Utah League of Cities and Towns, has drafted a proposed amendment to Article 11 Section 6 of the Utah Constitution; and

Whereas, the proposed amendment has achieved consensus by all members of the study group and is attached hereto; and

Whereas, the surplus water study group, which included members of the Utah League of Cities and Towns, is working on companion legislation to the proposed amendment to provide additional clarity to retail service outside of a town or city boundary.

***(C) THEREFORE, we, the members of the ULCT resolve that:***

1. Utah cities and towns support the attached proposed amendment to Article 11 Section 6 of the Utah State Constitution.
2. Utah cities and towns support the narrow ability for a municipality to convey waterworks to another governmental entity that is a public water supplier.
3. Utah cities and towns support equal protection for all water customers within a designated water service area established by a municipality.

4. Utah cities and towns support increased transparency and opportunities for public input regarding retail water rates in a designated water service area.
5. Utah cities and towns oppose any state effort to oversee or regulate the municipal legislative responsibility of setting water rates or the designation of designated water service areas.
6. Utah cities and towns support the continued ability of municipalities to protect all of their sources of culinary water from contamination.

Submitted by:

ULCT Board of Directors

September 11, 2018

## Resolution 2018-004 (Growth and Housing) \*

### ***(A) Preparing for the Future and Maintaining the Individual Character and Community of Utah's Cities and Towns***

#### ***(B) We, the members of the Utah League of Cities and Towns, find that:***

##### **I. Preparing for the Future (population growth and local role)**

Whereas, the population of Utah is set to grow from approximately 3 million to 5.8 million by 2065 (an average increase of 1.3 percent per year)<sup>5</sup> which if mismanaged would impact Utah's quality of life; and

Whereas, while population growth brings economic opportunity, it also brings infrastructure challenges (such as roads, sidewalks, traffic signals, streetlights, drinking water, wastewater, sewer, and more), housing, schooling, and employment needs, and environmental impacts; and

Whereas, the state's increasing urbanization has already resulted in more multifamily housing units built along the Wasatch Front than single family housing units between 2007 and 2017<sup>6</sup>; and

Whereas, the state's increasing urbanization will require more transportation investment, including for transit, and more coordination between cities, towns, counties, metropolitan planning organizations, the Utah Department of Transportation, and other transportation stakeholders; and

Whereas, ULCT actively endorsed SB 136 (2018), Transportation Governance Amendments, which will incorporate and coordinate local land use planning and economic development potential into state transportation planning and programming; and

Whereas, the residents of Utah's cities and towns elect mayors and council members to be stewards of their communities, exercise local control, and make decisions to both preserve their quality of life and prepare for the future; and

Whereas, according to recent survey data from Y2 Analytics, many residents of Utah's cities and towns are frustrated by the impact of population growth because of the accompanying congestion, traffic, loss of open space, and shifting expectations; and

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<sup>5</sup> Utah's Long-Demographic and Economic Projections Summary, Kem C. Gardner Policy Institute, July 2017. Available at <http://gardner.utah.edu/wp-content/uploads/Projections-Brief-Final.pdf>.

<sup>6</sup> According to Envision Utah data, as reported in the Salt Lake Tribune, July 20, 2018.

Whereas, mayors and council members hold some (but not all) keys to prepare for population growth and, as local decisions affect cities and towns statewide, should think regionally as they act locally; and

Whereas, every city and town must do their part to prepare for population growth, encourage housing affordability, and address affordable housing in their communities.

## **II. The Housing Gap**

Whereas, because of population growth, the 2008 recession and aftermath, Congressional action, lending policies, and the rising cost of housing development, housing supply has not kept pace with household formation since the recession; and

Whereas, per the May 2018 Gardner Business Review report titled “What Rapidly Rising Prices Mean for Housing Affordability” (the “Gardner report”), there was a surplus of housing units compared to households from 1971-2010 of 84,217. However, there has been a shortage of new housing units compared to households between 2011-2017 of 43,000, of which 54% occurred in 2011 and 2012; and

Whereas, the Gardner Institute published in July 2018 that the number of permits for new dwelling units is at the highest level since 2006 and the number of new residential units would match the number of new households in calendar year 2018.

## **III. Housing Affordability**

Whereas, Utah is seeing rapidly increasing housing prices in urban areas because of strong economic growth coupled with population growth; and

Whereas, the Gardner report outlined multiple reasons for the escalating housing costs in Utah, including a severe labor shortage in the construction industry, lack of available land for development, increased material and construction costs, federal trade policy, and local government regulatory costs; and

Whereas, the Gardner report indicated that wages in Utah have not kept pace with housing costs; and

Whereas, the Gardner report did not examine zoning or NIMBYism (“not in my backyard” perspective from nearby residents), but acknowledged they play an unquantifiable role in the cost of housing.

## **IV. Affordable Housing**

Whereas, the Gardner Institute reported in July 2018 that 100,000 Utah households are severely cost burdened by housing; and



Whereas, the Gardner report indicated a household with income below the median has a one in five chance of being severely cost burdened by housing (paying 50% of their income toward housing); and

Whereas, the Gardner report indicated that a household with income above the median only has a one in 130 chance of being severely cost burdened by housing; and

Whereas, the private sector has difficulty producing profitable affordable housing for residents below the area median income without incentives, subsidies, or other assistance.

#### **V. Local Keys and Responsibilities**

Whereas, Utah's cities and towns hold some but not all the keys to help address this statewide issue; and

Whereas, local government regulation of housing means ensuring the health, safety, and welfare for current and future residents in the construction of new buildings, connectivity of new development with roads, water, sewer, and other infrastructure, and providing public safety services; and

Whereas, local government regulation of housing means covering the cost of infrastructure that is required to provide essential services to new residents, including water, wastewater, and stormwater systems, roads, municipal power systems, public safety facilities, and parks; and

Whereas, local government is responsible for finding the balance between the costs that current residents bear for infrastructure and services resulting from new growth and the costs that future residents will bear for the new infrastructure and services.

#### **VI. Direct Democracy (Initiatives, Referenda, Referrals, or other Ballot Propositions)**

Whereas, the Utah League of Cities and Towns believes that citizens, per Article VI Section 1 of the Utah State Constitution, hold legislative authority essential to the democratic separation of powers; and

Whereas, the current state law on the citizen direct democracy process should be modernized to ensure that it is consistent and clear for petitioners, elected officials, city staff, property owners, and the public; and

Whereas, such modernization should include an adjudication of whether the city action is administrative or legislative at the outset of the referendum process, before petitioners expend time and money gathering the required signatures; and

Whereas, such modernization should clarify that city leaders may explain the action that petitioners desire to be referred and answer questions from residents, among other improvements.

***(C) Now, therefore, we the members of the Utah League of Cities and Towns resolve that:***

**I. Population growth and the housing gap**

1. Utah cities and towns will engage with other stakeholders to formulate and consider state initiatives that facilitate the accommodation of population growth, and that enhance flexibility of other revenue tools.
2. Utah cities and towns support expanding the use of accessory dwelling units where appropriate.
3. Utah cities and towns are willing to review zoning ordinances, regulatory ordinances, and processes to facilitate additional housing units (i) where the infrastructure can support them, (ii) particularly near current and future transportation corridors, and (iii) in a manner that preserves local official decision-making.
4. Utah cities and towns support efforts to inform residents about population growth and mitigate the impacts on their quality of life.

**II. Housing affordability**

1. Utah cities and towns will support federal policies that could ease material and labor costs that impact housing prices.
2. Utah cities and towns support other efforts to reduce costs of housing that are not tied to infrastructure.
3. Utah cities and towns will support state and local efforts to improve wage growth.

**III. Affordable housing**

1. Utah cities and towns commit to examining their current housing stock by complying with HB 259 (2018) Moderate Income Housing Amendments to incorporate moderate income housing into their general plans.
2. Utah cities and towns will support state financial support and other incentives such as inclusionary zoning in certain areas to preserve or create affordable housing.

**IV. Direct democracy**

1. Utah cities and towns support the modernization of the direct democracy process in a way that protects the legislative authority of cities and their residents and ensures clarity, consistency, transparency, and fairness for all.

***(D) We, the members of the Utah League of Cities and Towns, further resolve that:***

**I. Legislative authority:**

1. Utah cities and towns will oppose any state legislative effort to erode traditional local legislative authority over planning and zoning decisions, as previously established in ULCT Resolution 2007-1.
2. Utah cities and towns will oppose any state efforts to penalize municipal leaders for land use decisions.
3. Utah cities and towns will oppose any state legislative efforts to reduce the local legislative authority of city councils or of the people themselves per Article VI of the Utah State Constitution.

**II. Revenues and planning for infrastructure and services:**

1. Utah cities and towns will oppose any state efforts to restrict the municipal ability or reduce existing municipal revenues to fund infrastructure needs and public services.
2. Utah cities and towns will oppose any state efforts to disproportionately shift the burden of paying for necessary infrastructure because of new development from future residents to current residents.
3. Utah cities and towns will engage with the other stakeholders to formulate and consider state initiatives for funding (i) the acquisition and development of transportation corridors of regional significance, and (ii) other infrastructure needs, which can accommodate future residential, commercial and retail growth so long as such initiatives preserve local official decision-making.

**III. General:**

1. ULCT will oppose state legislative efforts that violate principles of local authority, create an unfunded mandate, enforce a one-size-fits-all approach, or promote a “solution” in search of a problem.

Submitted by:

The ULCT Board of Directors

September 11, 2018

## Resolution 2017-001A Economic Development, Local Land Use Authority, and Local Control of Tax Increment \*

### **(A) Title: Encouraging Economic Development while Preserving Local Land Use Authority and Local Control of Tax Increment**

### **(B) We, the members of the Utah League of Cities and Towns find:**

Whereas, economic development is important to the prosperity of the State of Utah and the prosperity and future growth of local cities and towns; and

Whereas, the vast majority of economic development occurs on privately owned property within the boundaries of cities and towns; and

Whereas, cities and towns have utilized their traditional land use authority to enable these economic development opportunities; and

Whereas, the preservation of this local land use authority on private property is essential so that cities and towns can ensure that economic development occurs, but in a manner, location and scale that are appropriate and compatible with the long range plans for the local community; and

Whereas, cities and towns have also utilized tax increment financing, made available through the creation of Community Reinvestment Areas, to incentivize economic development or redevelopment and to help defray the costs of infrastructure necessary for that development; and

Whereas, the preservation of this local control of tax increment is also essential in order for cities and towns to have the resources necessary to facilitate economic development, but also to ensure that the local community will have sufficient funds to provide the municipal services that will be needed as that development occurs; and

Whereas, in recent years local municipalities have worked in cooperation with the State of Utah, the business community, and other stakeholders to support and promote economic development opportunities, which has resulted in an extraordinary level of economic prosperity within the State of Utah; and

Whereas, local municipalities are eager to promote and pursue further opportunities for economic development, particularly in proximity to state transportation infrastructure and in partnership with the State, while preserving their traditional local land use authority on private property and local control of tax increment;

### **(C) Now, therefore, we the members of the Utah League of Cities and Towns, resolve that:**

1. Cities and towns within the State of Utah commit that they are willing and ready to collaborate and partner with the State, the business community, and other stakeholders to pursue a broad range of

future economic development opportunities, including those located in proximity to State transportation infrastructure.

2. Cities and towns cannot support development proposals, task forces, commissions, districts, development authorities or other legislation that would deprive local municipalities of their traditional local land use authority on private property, or deprive them of control of tax increment generated within their jurisdiction without their consent.

3. League staff should seek appropriate opportunities to communicate the principles contained within this resolution with State legislative leaders.

Submitted by  
Mayor Bill Applegarth, Riverton City

# PUBLIC SAFETY

## Resolution 2016-005 311 Non-Emergency

### **Encouraging the Utah State Legislature to support local government use of 311 for non-emergency use**

#### **We, the Members of the Utah League of Cities and Towns find that:**

1. In 1996 the Federal Communications (FCC) reversed the use of 311 for national non-emergency use.
2. The 311 non-emergency system allows citizens to access their local government for such non-emergency calls issues as loss of water service, potholes, streetlight outages, and graffiti.
3. The 311 number is intended as a one-call approach for communication between residents and municipalities.
4. The 311 moves citizens away from using the emergency service number, 911, and instead provides a non-emergency option to report issues and receive information by increasing access to government services.
5. Over 100 major cities and counties nationwide are currently using the 311 option as their non-emergency, customer service contact line. Other cities and counties, including some in Utah, are considering adopting the number.
6. For consistency purposes, it's important to have a predictable phone number.
7. The 311 service provides detailed reporting of concerns which then creates a more accurate tracking system.
8. The 311 service was specifically reserved for municipal purposes and not for emergency hotlines.

#### **Now, therefore, we the members of the Utah League of Cities and Towns recommend that:**

1. The 311 service continues as an option for non-emergency calls and municipal customer service.
2. The State of Utah utilize other phone numbers or tools for emergency hotlines.

Submitted by,

John Curtis

Mayor, Provo City

Immediate Past President, Utah League of Cities and Towns

## Resolution 2012-002 Head Injuries

### **The Protection of Athletes with Head Injuries Act Changes**

**WHEREAS**, valid concerns regarding head injuries from participation in sporting events prompted the Utah State Legislature to pass “The Protection of Athletes with Head Injuries Act” (H.B. 204) in the 2011 legislative session; and

**WHEREAS**, the definition in the Act of “amateur sports organizations” includes municipalities which operate recreation facilities; and

**WHEREAS**, the Act requires that amateur sports organizations adopt and enforce policies which address training of coaches, education of parents of athletes of minority age, the treatment of athletes with head injuries, and the return of athletes to play following a head injury; and

**WHEREAS**, current language in the Act imposes potential tort liability for head injuries on a municipality for merely making a recreation facility available for use, irrespective of whether a municipality has any sponsorship of, management of, or control over those operating the events occurring in or on such recreation facility; and

**WHEREAS**, current language in the Act imposes potential tort liability for head injuries on a municipality for the training of coaches and others managing a given sporting event irrespective of whether a municipality has direct or indirect involvement with the coaches and managers of a given sporting event; and

**WHEREAS**, such potential liability is causing municipalities to reconsider the extent to which they are willing to provide recreational facilities to residents and sports organizations; and

**WHEREAS**, member entities of the Utah League of Cities and Towns (the “League”) believe the responsibility for policies regarding training of coaches, education of parents of athletes of minority age, the treatment of athletes with head injuries, and the return of athletes to play following a head injury lies with parents of injured individuals and/or with those entities that sponsor and manage given sporting events, not with the owner of the facility at which or on which an event occurs, unless such owner is also the sponsor and/or manager of a given event; and

**WHEREAS**, the League believes the current language of the Act is a disincentive for municipalities to provide facilities for residents and sports organizations and has the potential to significantly minimize recreational opportunities for citizens of the State of Utah.

**NOW THEREFORE LET IT BE RESOLVED** by the Utah League of Cities and Towns that the language of the Act should be amended as described below:

1. The definitions and other language of the Act should be amended to place the responsibilities outlined in the Act on parents of athletes of minority age as well as the individuals and/or organizations that sponsor and manage sporting events, rather than on an entity who merely owns or operates a facility where a sporting event may occur.

2. The language of the Act should be amended to clarify that an amateur sports organization would only have responsibility to remove a minor participant from a sporting event when the amateur sports organization knew or should have known of a suspected concussion or traumatic head injury.



## Resolution 2011-003 Protecting Victims' Rights

### 2011 Utah League of Cities and Towns Resolution – Protecting Victims' Rights

**Whereas:** Elected municipal officials have the responsibility to implement and enforce policies that effect property owners;

**Whereas:** Municipalities work to ensure that residents are protected from unlawful criminal activity;

**Whereas:** The prosecution of theft cases has become increasingly difficult for the victims and municipal governments when criminals attempt to use pawnshops and secondhand dealers as a cover for their crimes;

**Whereas:** The current system may result in the property owner also being victimized when recovering stolen property that has been sold to a pawnshop or secondhand dealer;

Now Therefore Let It Be Resolved: The Utah League of Cities and Towns' position on legislative efforts to amend the Commerce and Trade Code relating to Pawnshop and Secondhand Merchandise Transaction Information Act is stated below:

1. The League of Cities and Towns strongly supports legislative efforts that protect the ability of municipal police departments and prosecutors to have the discretion to hold evidence pertaining to an investigation of stolen property.
2. Municipalities, pawnshop owners and secondhand dealers should work in partnership to stem the tide of criminal activity through the utilization of digital photos of the property and person selling the property; having a clear definition of the property being sold to private proprietors; and establishing a category of business license for those who sell to pawnshops beyond to monthly number of transactions exceeds twenty items.
3. The League of Cities and Towns, Police Chiefs Association and the Utah Prosecutors Association jointly support significant penalties for pawnshops that are non-compliant with the Pawn shop and Second Merchandise Transaction Information Act.
4. The League of Cities and Towns, Police Chiefs Association and Utah Prosecutors Association desire laws that will jointly protect the interest of the public and that are fair to pawnshop and secondhand merchandise dealers.
5. Municipal governments, law enforcement, and prosecutors must be able to prudently protect the rights of property owners and the private sector from the ever increasing attempt by criminals to misuse the businesses as a means of escaping arrest and prosecution in a court of law.
6. Pawnshop and second hand dealers should have access to pawnshop database for the sole purpose of compliance with current statutes and business licensing.

The League of Cities and Towns, Police Chiefs Association and Utah Prosecutors Association that all merchandise sold to secondhand dealers and pawnshops should be held uniformly for thirty days.

## Resolution 2011-004 Safe and Respectful Communities

### 2011 ULCT Resolution – Safe and Respectful Communities

**Whereas** recognition of the inherent dignity and of the equitable treatment of all Utahns is the foundation of freedom, justice and peace in our State,

**Whereas** our common values proclaim that we all shall enjoy freedom of speech and belief and freedom from fear, this has been deemed a core and shared aspiration of all Utahns,

**Whereas** disregard and contempt for human dignity and safety have resulted in violent acts which have outraged the conscience of our communities and struck fear in the hearts of individuals,

**Whereas** it is essential to promote the development of civil and respectful relations between community members,

**Whereas** the League of Cities and Towns of Utah have reaffirmed the value of every person and in the creation and maintenance of safe communities where no resident is subjected to violence or bias based on their real or perceived personal characteristics,

Whereas a common understanding of these commitments to the safety, respect and dignity of all Utahns is of greatest importance to the Utah League of Cities and Towns,

Now, Therefore be it resolved that THE LEAGUE OF CITIES AND TOWNS puts forth this Resolution in support of safe and respectful communities as a common standard of behavior for all people, to the end that every individual and every community in Utah, keeping this Resolution constantly in mind, shall strive to promote respect and safety for all residents of our cities and towns, and shall prevent acts of violence against any member of our communities.

1. Everyone has the right freely to participate in the life of the community, free from fear of violence and actual acts of violence
2. Acts of violence are not acceptable and will not be tolerated by the community, the government and the legal system.
3. Communities are committed to providing every resident the opportunity to live a full and engaged life without fear of violence.

# RULES OF CIVIL PROCEDURE

## Resolution 2014-003 Appeal Security

### **(A) Resolution Title/Subject**

**Title:** A Resolution of the Utah League of Cities and Towns Supporting a Bill to Amend Utah Code §78B-5-805 and Rule 62(e) of the Utah Rules of Civil Procedure.

**Subject:** In 2013, Utah Code §78B-5-805 & Rule 62(e) of the Utah Rules of Civil Procedure were amended to require Utah municipalities to post security for all judgment amounts in excess of \$5 million as a condition of obtaining a stay of judgment during the appeal of that judgment (hereinafter “appeal security”).

### **(B) We, the members of the Utah League of Cities & Towns find:**

1. Utah municipalities should enjoy the same legal rights to appeal currently enjoyed by the State of Utah and its agencies, counties, school districts, special districts, local districts, and other Utah governmental entities.
2. Private litigants that obtain a judgment against a Utah municipality are not advantaged by a municipality posting an appeal security and are not disadvantaged by a municipality not posting an appeal security because of the Utah Governmental Immunity Act requirements for municipalities to pay judgments, the ability of municipalities to raise taxes to pay judgments, and the lack of Utah law enabling municipal bankruptcies, among other things. Also, a municipality cannot abscond, unlike a private litigant.
3. The bond and security markets do not make available traditional securities for the purpose of securing the payment of a judgment by a municipality, short of fully collateralizing the posted security, a proposition that is unaffordable and impractical for municipalities and other governmental entities.
4. Utah law does not allow Utah municipalities to sign a promissory note, to collateralize its assets, or to pledge its properties in order to secure a note or other obligation in order to obtain a convention security, such as, a supersedeas bond. (Tooele City has obtained the written legal opinion of the law firm of Ballard Spahr regarding these matters.)
5. The appeal security requirement conflicts with established Governmental Immunity Act provisions for the payment of judgments. For example, the appeal security requirement requires the posting of security for 100% of judgment amounts exceeding \$5 million, while the GIA allows municipalities to pay judgments in installments over 10 years.
6. Utah Code §10-6-116 prohibits Utah municipalities from accumulating fund balances exceeding 25% of its anticipated general fund revenues, which limits a municipality’s ability to post an appeal security from its accrued funds, similar to limiting a municipality’s ability to pay an entire judgment in one year.

7. Requiring Utah municipalities to post an appeal security is contrary to public policy for many reasons, including the above, and also including the adverse effects the requirement has on fiscal policy, budgeting, fund balances, capital facilities planning, municipal bond ratings, etc.
8. The 2013 amendments have the effect of leveraging Utah municipalities to pay judgments, even incorrect or illegal judgments, because the appeal security is prohibitively expensive, generally unavailable, and arguably illegal, and thus deprives municipalities of their constitutional right to access to the courts in violation of the Utah Constitution's "Open Courts" provision.
9. The 2013 amendments, contrary to "leveling the playing field" in litigation, are punitive in nature toward Utah municipalities.
10. This resolution is necessary to protect the fiscal and legal interests of all Utah municipalities.

**(C) Now, therefore, we, the members of the Utah League of Cities & Towns recommend that:**

1. Utah Code §78B-5-805 and Rule 62(e) of the Utah Rules of Civil Procedure be amended to reinstate the protection for Utah municipalities enjoyed by the State of Utah and its agencies, counties, school districts, special districts, local districts, and other Utah governmental entities.
2. Utah Code §78B-5-805 and Rule 62(e) of the Utah Rules of Civil Procedure be amended to restore consistency with existing Utah law, including the Governmental Immunity Act.

Tooele City Corporation

City(s), Town(s), and/or Affiliate Group submitting this resolution

Roger Baker, Tooele City Attorney (as the request of the Tooele City Mayor and City Council)

Person preparing form

# TAX

## Resolution 2018-003 (Motor Fuel Tax) \*

### **(A) Resolution about the motor and special fuel tax**

#### **(B) We, the members of the Utah League of Cities and Towns find:**

Whereas, the motor and special fuel tax (gas tax) provides significant revenue to cities and towns to address transportation needs; and

Whereas, the gas tax operates as a surrogate for a user fee of the road system; and  
Whereas, ULCT has publicly supported legislative efforts to increase and modernize the gas tax, including through HB 362 in 2015 and SB 136 in 2018; and

Whereas, ULCT negotiated in 2007 the formula for the gas tax that entitles cities, towns, and counties to 30% of the gas tax revenues; and

Whereas, the gas tax distribution formula is a ULCT endorsed consensus formula, with 50% based on weighted lane mile and 50% based on population for the 30% local portion; and

Whereas, the Utah State Legislature passed HJR 20 in the 2018 session which poses an opinion question to voters whether “to provide additional funding for public education and local roads, should the state increase the state motor and special fuel tax rates by an equivalent of 10 cents per gallon?”; and

Whereas, the primary impetus of HJR 20 was to increase funding for education, but the funding method of gas tax would also provide needed revenue for local government transportation needs; and

Whereas, if voters approve Question 1, the Utah State Legislature will have to take official action to ratify the will of the voters, increase the gas tax, and allocate an equivalent amount to 70% of the gas tax for public education and 30% to local roads.

#### **(C) THEREFORE, we, the members of the ULCT resolve that:**

1. Cities and towns support legislative action, either through the legislature or directly by the people, that would result in an increase of the gas tax.
2. Cities and towns support efforts to inform the general public about local transportation funding needs in order to repair, replace, or construct vital road infrastructure.
3. Cities and towns urge the Utah State Legislature, if voters approve Question 1, to increase the gas tax by ten cents.
4. Cities and towns urge the Utah State Legislature to allocate the ten cent gas tax increase according to consensus formulas.

Submitted by:

The ULCT Board of Directors

September 11, 2018

## Resolution 2017-001A Economic Development, Local Land Use Authority, and Local Control of Tax Increment \*

### **(A) Title: Encouraging Economic Development while Preserving Local Land Use Authority and Local Control of Tax Increment**

### **(B) We, the members of the Utah League of Cities and Towns find:**

Whereas, economic development is important to the prosperity of the State of Utah and the prosperity and future growth of local cities and towns; and

Whereas, the vast majority of economic development occurs on privately owned property within the boundaries of cities and towns; and

Whereas, cities and towns have utilized their traditional land use authority to enable these economic development opportunities; and

Whereas, the preservation of this local land use authority on private property is essential so that cities and towns can ensure that economic development occurs, but in a manner, location and scale that are appropriate and compatible with the long range plans for the local community; and

Whereas, cities and towns have also utilized tax increment financing, made available through the creation of Community Reinvestment Areas, to incentivize economic development or redevelopment and to help defray the costs of infrastructure necessary for that development; and

Whereas, the preservation of this local control of tax increment is also essential in order for cities and towns to have the resources necessary to facilitate economic development, but also to ensure that the local community will have sufficient funds to provide the municipal services that will be needed as that development occurs; and

Whereas, in recent years local municipalities have worked in cooperation with the State of Utah, the business community, and other stakeholders to support and promote economic development opportunities, which has resulted in an extraordinary level of economic prosperity within the State of Utah; and

Whereas, local municipalities are eager to promote and pursue further opportunities for economic development, particularly in proximity to state transportation infrastructure and in partnership with the State, while preserving their traditional local land use authority on private property and local control of tax increment;

### **(C) Now, therefore, we the members of the Utah League of Cities and Towns, resolve that:**



1. Cities and towns within the State of Utah commit that they are willing and ready to collaborate and partner with the State, the business community, and other stakeholders to pursue a broad range of

future economic development opportunities, including those located in proximity to State transportation infrastructure.

2. Cities and towns cannot support development proposals, task forces, commissions, districts, development authorities or other legislation that would deprive local municipalities of their traditional local land use authority on private property, or deprive them of control of tax increment generated within their jurisdiction without their consent.

3. League staff should seek appropriate opportunities to communicate the principles contained within this resolution with State legislative leaders.

Submitted by  
Mayor Bill Applegarth, Riverton City

## Resolution 2016-003 Local Property Tax (Amended)

**(A) Title: A resolution of the Utah League of Cities and Towns regarding local property tax.**

**(B) We, the members of the Utah League of Cities and Towns find:**

1. Whereas, state and local governments rely on several different taxes, including property tax, to provide essential services.
2. Whereas, in the State of Utah, property tax is a revenue based tax system, designed to produce the same amount of revenue to the local taxing authority from one year to the next. Under this system, the certified tax rate is adjusted each year to produce the same amount of revenue as was generated the prior year.
3. Whereas, in contrast, income tax and sales tax use a rate based tax system, which has a fixed tax rate. Under this system, the rate remains constant, but the amount of revenue generated changes each year.
4. Whereas, the costs of providing municipal services increase every year, but, with the exception of property tax received for new growth, the amount of property tax received by each local municipality each year remains essentially flat.
5. Whereas, the only way that a local municipality can increase the amount of property tax it receives is to comply with the State “truth in taxation” requirements, which requires the municipality to publish a notice announcing that the municipality intends to increase property taxes, even though the actual tax rate may remain the same or be lower than the tax rate imposed the previous year.
6. Whereas, as a consequence of these tax regulations, many local municipalities have increasingly relied upon sales tax to fund essential municipal services. Many municipalities have also created redevelopment project areas to incentivize retail projects that will increase local sales tax, but have often been criticized for doing so.
7. Whereas, in recent years, however, an increasing percentage of retail purchases have been done online, rather than at traditional local street front businesses. Under current Federal law, the majority of those online sales transactions are not subject to local sales tax. Thus, the amount of sales tax received by local municipalities has not been increasing as it has in the past.
8. Whereas, these circumstances have created an unsustainable financial environment for local municipalities, where the cost of providing essential services continues to increase, but the growth of sales tax is insufficient to keep pace with those increased costs, and the amount of property tax is flat.

**Now, therefore, we the members of the Utah League of Cities and Towns recommend and find that:**

1. The current State “truth in taxation” regulations, that require a municipality to declare that it is proposing to increase property taxes, as a precondition of receiving additional property tax revenue, even when the actual proposed tax rate may remain the same or decline, is not truthful and is not fair,

particularly when compared to the fact that the State of Utah receives increased revenues each year from income tax and sales tax without being required to make any such declaration.

2. Local municipalities need to be able to obtain some growth in property tax, without artificial impediments, in order to fund the increasing cost of essential municipal services, without and to avoid the undesirable effects of excessive dependence upon sales tax revenues and retail development.

~~3. The Utah State Legislature should modify the current “truth in taxation” requirements so that the language of any property tax notice given should not require the municipality to declare that it is proposing to increase property taxes unless the actual proposed tax rate is greater than the tax rate imposed the previous year.~~

~~4. We request that League staff take such action as may be necessary or appropriate to work with State Legislators to accomplish these objectives.~~

Board of the Utah League of Cities and Towns Council Member Lynn Pace, President  
City of Holladay

## Resolution 2014-009 Definition of “New Growth”

### **(A) Resolution/Title**

#### **Regarding Proposed Changes to the Definition of “New Growth” under Utah Law**

### **(B) We, the members of the Utah League of Cities and Towns find:**

1. Whereas, the Utah State Auditor recently issued a report identifying problems with the current definition of how “new growth” is calculated for the purposes of determining the certified property tax rate; and
2. Whereas, based upon the State Auditor’s report, the State Revenue and Taxation interim committee of the Utah State Legislature requested that legislative staff prepare a bill to address the issues identified in the Auditor’s report; and
3. Whereas, contrary to common assumptions, the amount of “new growth” that a city may receive under current Utah law is not based solely upon the amount of new development that occurs within a community, but may also be increased or decreased depending upon changes to the value of centrally assessed properties and personal property; and
4. Whereas, the current definition and calculation of “new growth” makes it difficult to predict the amount of “new growth” that will occur, or to explain how the amount of new growth is calculated; and
5. Whereas, the current definition of “new growth” also makes it difficult for taxing entities to predict the amount of additional property tax revenue that they will receive upon the expiration of a redevelopment project area; and
6. Whereas, most communities have not determined whether a change in the definition and calculation of how “new growth” is determined would increase or decrease the amount of property tax they receive; and
7. Whereas, the bill requested by the Revenue and Taxation interim committee will require the League of Cities and Towns to respond to that proposed legislation;

### **(C) Now, therefore, we the members of the Utah League of Cities & Towns, recommend that:**

1. ULCT staff conduct an analysis of the likely consequences that would result from a change in the definition and calculation of “new growth” under Utah law. Staff is specifically requested to assess the likely impact of such a change on Utah cities and towns in terms of:
  - (a) anticipated increases or decreases in revenue;
  - (b) predictability for purposes of budget preparation and economic development; and

(c) transparency of taxation and public process.

2. ULCT staff is further requested to share those finding with the League’s Legislative Policy Committee so that the League membership can formulate an educated and appropriate position on this proposed legislation.

\_\_ Salt Lake City \_\_\_\_\_  
City(s), Town(s), and/or Affiliate Group submitting this resolution

\_\_ Council Member Kyle LaMalfa \_\_\_\_\_  
Person preparing for

## Resolution 2014-008 Market Place Fairness Act/Sales Tax

### **(A) Resolution Title/Subject**

#### **Market Place Fairness Act and the Collection and Payment of Local Sales Tax Owed**

### **(B) We, the members of the Utah League of Cities and Towns, find:**

1. Whereas, the local option sales tax is an important funding source for local Utah cities and towns. Indeed, for many cities and towns, it is the primary source of revenue; and
2. Whereas, the amount of internet (or remote) purchases over the past few years has increased dramatically; and
3. Whereas, current law requires local merchants with a physical presence in the State (“brick and mortar merchants”) to collect and remit sales tax, but does not require internet (or remote) sellers without a physical presence in the State (“internet merchants”) to do so; and
4. Whereas, although State law requires individuals who make internet purchases to report the amount of such purchases and to remit the amount of sales tax owed in their annual income tax return, few do so, and there is no effective mechanism for enforcement of nonpayment or collection of the sales tax owed; and
5. Whereas, brick and mortar merchants have complained that this disparity in the collection of sales tax creates an unfair advantage for internet merchants who do not have to charge, collect or remit sales tax; and
6. Whereas, local governments have also complained that this disparity in the collection of sales tax has reduced the amount of sales tax paid, and has made it increasingly difficult to provide essential local services to their citizens; and
7. Whereas, in recognition of this difficulty in the collection of the sales tax owed, the United States Congress is currently considering the passage of the Market Place Fairness Act, which would require internet merchants to collect and remit sales tax in the same manner as currently required by brick and mortar merchants; and
8. Whereas, requiring internet merchants to collect and remit sales tax would not create a new tax obligation, and would not create a new source of revenue to local government, but would merely provide a more effective mechanism for collecting the amount of sales tax that is already owed but is seldom paid; and
9. Whereas, notwithstanding that fact, in the 2013 legislative session, the Utah State Legislature passed SB 58, which created a “Remote Sales Restricted Account,” consisting of sales tax funds which would be collected from internet merchants if Congress passes the Market Place Fairness Act. That bill also provides that any sales tax collected from internet merchants should be held

in that restricted account and “may be used to lower local sales and use tax rates as the Legislature may provide by statute.”

**Now, therefore, we the membership of the Utah League of Cities & Towns recommend that:**

1. We support passage of the Federal Market Place Fairness Act, and we encourage the members of our Utah Congressional delegation to support that bill.
2. We request and support legislation to amend or repeal SB 58 (2013) to the extent that it attempts to restrict or hold any amount of local sales tax collected.
3. We strongly oppose any attempt to restrict or hold any amount of sales tax owed to local government, and oppose any attempt to lower the current local sales tax rate.
4. We request that League staff take such action as may be necessary or appropriate to implement the positions identified in this resolution.

\_\_\_\_ Holladay City \_\_\_\_\_  
City(s), Town(s), and/or Affiliate Group submitting this resolution

\_\_\_\_ Council Member Lynn Pace \_\_\_\_\_  
Person preparing form

## Resolution 2012-004 Sales Tax and Economic Development \*

### Economic Development and Sales Tax

#### **A Resolution of the Utah League of Cities and Towns regarding economic development and tax stability**

**WHEREAS:** The municipal tax structure should be rooted in the principles of fairness, consistency, predictability, stability, sustainability, efficiency, flexibility, and effectiveness.

**WHEREAS:** A one-size tax structure does not fit all municipal situations.

**WHEREAS:** Portions of the current tax structure are obsolete and no longer represent the current service based economy.

**WHEREAS:** As demographics and economics change municipal services must reflect those changes.

**WHEREAS:** Municipalities' dependence on sales tax revenue creates a situation where day to day needs cannot be met when this revenue decreases unless other services or revenue sources are adjusted.

**WHEREAS:** The current economic development incentives for local governments don't match the incentives for the state, where the state pursues job creators to gain greater income tax, local governments pursue sales tax generators to better balance their budgets.

**NOW THEREFORE:** be it resolved that the Utah League of Cities and Towns petitions for this Resolution to allow the ULCT and its staff to work with all interested parties to formulate a strategy to create long-term sustainability in local government financial tools. Recognizing the sensitivities of distribution of sales tax, discrepancies in funding for transportation projects, and other items that may prove to create some contention among members, the intent of this resolution is to serve to memorialize what may be a multi-year effort.



## Resolution 2012-005 Sales Tax and Economic Development \*

### **A Resolution of the Utah League of Cities and Towns regarding referendum on budget items**

**WHEREAS:** Cities and towns rely heavily on property tax dollars to fund municipal services

**WHEREAS:** it has long been held that municipal budget items were not referable; and

**WHEREAS:** the current state law, which requires compliance with “Truth in Taxation” and the associated meetings and notices, does not allow enough time to certify the tax rate, while still allowing for signatures to be gathered for a referendum; and

**WHEREAS:** the lack of sufficient time to gather referendum signatures and place the item on the ballot precludes the city from dealing with the referendum in the same election cycle as the proposed tax increase, thus forcing the city to collect the taxes with uncertainty about whether the citizenry will vote to overturn the tax increase, and

**WHEREAS:** the current signature gathering requirements for a municipal referendum on budget items are excessively low, allowing for a small fringe group to have a debilitating impact on municipal budgeting and provision of services; and

**WHEREAS:** This level of uncertainty and confusion on the budget will negatively impact the city’s ability to provide the municipal services their citizens expect.

**NOW THEREFORE:** be it resolved that the Utah League of Cities and Towns petitions for this Resolution to: work on a legislative solution to address the signature gathering requirements and the timing of signature gathering requirements that more appropriately dovetail into the current timing of truth in taxation, notice, and collections of municipal taxes.

## Resolution 2011-001 Tax Structure

### **2011 Utah League of Cities and Towns Resolution – Local Government Tax Structure**

Resolution submitted by the ULCT Staff in support of basic principles related to local government finance

In 2004 and 2005, the Utah League of Cities and Towns established the League's Tax Team. This group met for nearly two years and after input from a wide variety of people and organizations developed the League's tax plan. The plan's general principles were affirmed by the League's general membership in September 2005.

These general principles are:

- The municipal tax structure should be rooted in the principles of fairness, consistency, predictability, stability, sustainability, efficiency, flexibility, and effectiveness.
- A one-size tax structure does not fit all municipal situations.
- Portions of the current tax structure are obsolete and no longer represent the current economy.
- As demographics and economics change municipal services must reflect those changes.
- Municipalities' dependence on sales tax revenue creates a situation where day to day needs cannot be met when this revenue decreases unless other services or revenue sources are adjusted.

Recently, various proposals are being considered by the Utah State Legislature that authorizes additional sales tax rates for a variety of targeted programs. In addition, proposals to change the current 50/50 sales tax distribution formula have been presented to the Legislature.

Now, therefore be it resolved that we, the members of the Utah League of Cities and Towns, recommend that we reaffirm the tax principles adopted in 2005. In addition, we recommend that before any statutory changes are adopted that impact municipal funding, that the Utah Legislature considers the following factors:

1. Any change to municipal funding should include the comprehensive input of cities and towns to ensure that all circumstances are considered.
2. Recognition that periodic evaluation of the funding tools available to local government is important.
3. Recognition that a review of municipal funding sources should not be singularly focused on one portion of the funding, but should be comprehensive of all available funding sources.
4. Recognition that there is no one right, or fair, answers to sales tax distribution. Each formula has "pro's and con's and must be generally supported by Utah's cities and towns.
5. Maintenance of a 50/50 distribution formula for the municipal sales tax creates stability and consistency for local governments, and has been agreed to by our membership as the

suggested distribution formula and “hold harmless” cities forfeited sales tax growth starting in 2005 to maintain that distribution formula.

6. Significant long-term financing, business development, land use, and community sustainability decisions have been made by municipalities based upon the premise of a continuing 50/50 distribution formula.
7. Changes to the distribution formula creates “winners” and “losers” and should be evaluated carefully.

Recognition that most new “endeavors” look at sales tax as the preferred funding option and with limited sales tax capacity a prioritization of those endeavors is important.

## Resolution 2005-001 Sales Tax

### 2005 Utah League of Cities and Towns Resolution – 2006 Tax Reform Package

Resolution submitted by the ULCT Tax Team in support of legislation implementing the Utah League of Cities and Towns 2006 Tax Reform Package

We, the members of the Utah League of Cities and Towns, find the following:

- *The municipal tax structure should be rooted in the principles of fairness, consistency, predictability, stability, sustainability, efficiency, flexibility, and effectiveness.*
- *A one-size tax structure does not fit all municipal situations.*
- *Portions of the current tax structure are obsolete and no longer represent the current economy.*
- *As demographics and economics change municipal services must reflect those changes.*
- *Municipalities' dependence on sales tax revenue creates a situation where day to day needs cannot be met when this revenue decreases unless other services or revenue sources are adjusted.*

The purpose of the 2006 Tax Reform Package is to bring additional fairness, consistency and sustainability to the municipal revenue sources that are used to provide the services that citizens have come to expect from their local governments.

The 2006 Tax Reform Package will:

- (1) Maintain the current 50/50 distribution formula for the municipal sales tax.
- (2) Convert the current 1983 local options sales tax hold-harmless from one of an on-going formula to a dollar-figure based on the most recent budget year, where the hold-harmless is phased out naturally.
- (3) Amend Truth-in-Taxation to allow for a CPI adjustment without going through that process.
- (4) Amend Truth-In-Taxation to make the newspaper ad more informative and less inflammatory.

Now, therefore, be it resolved that we, the members of the Utah League of Cities and Towns, recommend the following:

Support the 2006 ULCT Tax Reform package as proposed by the ULCT Tax Team.

# TRANSPORTATION FUNDING

## Resolution 2018-003 (Motor Fuel Tax) \*

### ***(A) Resolution about the motor and special fuel tax***

#### ***(B) We, the members of the Utah League of Cities and Towns find:***

Whereas, the motor and special fuel tax (gas tax) provides significant revenue to cities and towns to address transportation needs; and

Whereas, the gas tax operates as a surrogate for a user fee of the road system; and  
Whereas, ULCT has publicly supported legislative efforts to increase and modernize the gas tax, including through HB 362 in 2015 and SB 136 in 2018; and

Whereas, ULCT negotiated in 2007 the formula for the gas tax that entitles cities, towns, and counties to 30% of the gas tax revenues; and

Whereas, the gas tax distribution formula is a ULCT endorsed consensus formula, with 50% based on weighted lane mile and 50% based on population for the 30% local portion; and

Whereas, the Utah State Legislature passed HJR 20 in the 2018 session which poses an opinion question to voters whether “to provide additional funding for public education and local roads, should the state increase the state motor and special fuel tax rates by an equivalent of 10 cents per gallon?”; and

Whereas, the primary impetus of HJR 20 was to increase funding for education, but the funding method of gas tax would also provide needed revenue for local government transportation needs; and

Whereas, if voters approve Question 1, the Utah State Legislature will have to take official action to ratify the will of the voters, increase the gas tax, and allocate an equivalent amount to 70% of the gas tax for public education and 30% to local roads.

#### ***(C) THEREFORE, we, the members of the ULCT resolve that:***

1. Cities and towns support legislative action, either through the legislature or directly by the people, that would result in an increase of the gas tax.
2. Cities and towns support efforts to inform the general public about local transportation funding needs in order to repair, replace, or construct vital road infrastructure.
3. Cities and towns urge the Utah State Legislature, if voters approve Question 1, to increase the gas tax by ten cents.
4. Cities and towns urge the Utah State Legislature to allocate the ten cent gas tax increase according to consensus formulas.

Submitted by:

The ULCT Board of Directors

September 11, 2018

## Resolution 2014-002 Transportation Funding

### (A) LPC Resolution Title/Subject

Encouraging the State of Utah to Pursue a Comprehensive Transportation Funding Strategy

### (B) We, the Members of the Utah League of Cities and Towns find that:

1. Due to declining motor fuel purchases, improving fuel efficiency, and decreasing purchasing power because of inflation, the current use of motor fuel taxes to achieve transportation needs in Utah is outmoded & insufficient. The current motor fuel tax has not been increased since 1997.
2. The 1% local option sales tax is the workhorse for Utah's cities and towns to provide the services that residents expect. The Utah Legislature has the sole authority to adjust the local option sales tax and last increased the 1% local option in 1983 (though the increase was not fully implemented until 1991).
3. Cities and towns are using a greater share of their general funds on traditional transportation related projects—such as road construction, operation, maintenance—because of a rapidly growing population and aging infrastructure which in turn prevents the cities and towns from adequately funding other core governmental services like public safety. Likewise, the state legislature supplements the motor fuel tax with general fund revenue which diverts money from other services.
4. At the same time, citizens are demanding a new paradigm of transportation—including bike lanes, transit, complete streets, trails, and multi-use paths—but cities and towns have insufficient revenue sources to meet the public demand. In fact, the Unified Transportation Plan identifies a local government shortfall of approximately \$3 billion in revenue between today and 2040 in order to meet the local transportation needs.
5. Along the Wasatch Front, half of the PM2.5 emissions that degrade air quality come from mobile sources such as motor vehicles. For most Utahns, cleaner air is a top priority issue for the State of Utah because it impacts public health, transportation, natural resources, economic development, and tourism. The traditional transportation infrastructure incentives cars and thus contributes to the air quality problem.
6. In Utah, nearly one in ten adults and an increasing number of children suffer from asthma. 57% of adults are overweight, 22% are obese, and one in ten children is overweight. In addition, one in fourteen Utahns suffer from diabetes and it is the sixth leading cause of death in Utah.

The new transportation system will encourage active transportation because of enhanced opportunity, connectivity, and safety, which could result in better personal and public health.

7. Investing in both old and new transportation has a profound economic impact in Utah. For example, if the State of Utah invested an additional \$11.3 billion dollars on transportation between now and 2040 per the Unified Transportation Plan, it would save Utah's households and

businesses more than \$84.8 billion in expenses, generate 182,618 jobs, and contribute more than \$183.6 billion in additional gross domestic product for the State.

8. Residents are demanding a new paradigm of transportation—including bike lanes, transit complete streets, trails, and multi-use paths—but cities and towns are limited to the aforementioned revenue options of the 1% local option and the motor fuel tax which are insufficient to meet the new public expectations.

(C) Now therefore we the members of the Utah League of Cities & Towns recommend that:

1. The Utah State Legislature empower cities and towns with the financial tools to fulfill the new paradigm of transportation that our residents expect; and
2. The staff of the Utah League of Cities and Towns is authorized with the necessary flexibility to pursue all potential funding options to address the new transportation paradigm.
3. The Utah State Legislature should provide or authorize adequate funding to implement the 2040 Unified Transportation Plan, by providing adequate increased funding for State transportation needs, local transportation needs, and for transit needs.

(D) We the members of the Utah League of Cities and Towns recommend that the Utah State Legislature carefully consider the following comprehensive approach:

1. A statewide, local option 1/4 cent sales tax dedicated to transportation. This statewide, local option sales tax would provide additional critical transportation infrastructure funding for cities and towns to invest in the new transportation paradigm and reduce the impact of growth or aging transportation infrastructure on municipal general funds.
2. The 1/4 cent sales tax for transportation would generate the approximately \$3 billion between now and 2040 and could meet the priority needs identified in the Unified Transportation Plan.



3. Clarify and expand the definition for what transportation funds can be used to reflect both the diversity of transportation options in cities and town and the demand from our residents for more active transportation options. Under current state law, B&C revenues via the motor fuel tax may only be spent on B&C roads and on transportation modes within B&C rights of way. The new definition could include transit, sidewalks, trails, bridges, signage, road safety, tunnels, bicycle paths, and other modalities outside of B&C rights of way. Investing in trails, sidewalks, and bike paths will result in Utahns living more active and healthy lifestyles and thus decreasing health care costs and improving quality of life. Investing in transit, trails, and bike paths will also help improve the air quality because it will reduce the quantity of motor vehicles on the roads.

4. Raise the traditional statewide motor fuel tax and include an indexing component so that the motor fuel tax could keep pace with inflation.

# WATER

## Resolution 2018-002 (Water Supply) \*

***(A) Resolution about proposed changes to the Utah State Constitution about municipal authority over water rights and water supply***

***(B) We, the members of the Utah League of Cities and Towns find:***

Whereas, water is a precious, finite, and irreplaceable resource essential to the wellbeing of all residents and to the economic vitality of the state; and

Whereas, cities and towns who operate culinary water systems are responsible for ensuring that residents have access to sufficient water supplies; and

Whereas, cities and towns that supply culinary water directly to end users are responsible for setting reasonable rates for the water usage; and

Whereas, the Utah State Legislature in 2018 passed a resolution assigning the Natural Resources, Agriculture and Environment Interim Committee to consider a proposal to amend the Utah Constitution Article 11 Section 6, which forbids municipalities from selling waterworks or water rights; and

Whereas, the Director of the Utah Department of Natural Resources appointed members to four study groups to study and make recommendations to the Legislature on a variety of water issues; and

Whereas, the Constitutional Amendment study group, which included members of the Utah League of Cities and Towns, has drafted a proposed amendment to Article 11 Section 6 of the Utah Constitution; and

Whereas, the proposed amendment has achieved consensus by all members of the study group and is attached hereto; and

Whereas, the surplus water study group, which included members of the Utah League of Cities and Towns, is working on companion legislation to the proposed amendment to provide additional clarity to retail service outside of a town or city boundary.

***(C) THEREFORE, we, the members of the ULCT resolve that:***

1. Utah cities and towns support the attached proposed amendment to Article 11 Section 6 of the Utah State Constitution.

2. Utah cities and towns support the narrow ability for a municipality to convey waterworks to another governmental entity that is a public water supplier.
3. Utah cities and towns support equal protection for all water customers within a designated water service area established by a municipality.
4. Utah cities and towns support increased transparency and opportunities for public input regarding retail water rates in a designated water service area.
5. Utah cities and towns oppose any state effort to oversee or regulate the municipal legislative responsibility of setting water rates or the designation of designated water service areas.
6. Utah cities and towns support the continued ability of municipalities to protect all of their sources of culinary water from contamination.

Submitted by:

ULCT Board of Directors

September 11, 2018

## Resolution 2014-001 Impairment Protection for Existing Water Rights

### **(A) LPC Resolution Title/Subject**

**Encouraging the Utah State Legislature to Support Impairment Protection for Existing Water Rights**

### **(B) We, the Members of the Utah League of Cities and Towns find that:**

1. In 2011, the Utah Supreme Court in *Jensen v. Jones* held that the State Engineer lacked statutory authority to consider non-adjudicated forfeiture when determining a change application.
2. Since 2011, the Utah State Legislature and many interested parties, including ULCT, have attempted to address long-standing concerns about the state engineer's statutory authority to adjudicate, the change application procedure, equal and predictable treatment for applicants, state requirements on development timelines compared to state water approval timelines, and the concept of impairment.
3. The Legislature considered but declined to adopt legislation in 2012, 2013, and 2014 on this issue.
4. During the summer of 2014, the General Managers of the Central Utah Water Conservancy District, Jordan Valley Water Conservancy District, Washington County Water Conservancy District, and Weber Basin Water Conservancy District; representatives from the Farm Bureau and the Utah League of Cities and Towns, and the State Engineer met regularly to find consensus on some of these issues.
5. The result of the group's work includes defining quantity impairment, codifying an optional consultation process with the State Engineer's office prior to the filing of a change application, clarifying the roles of the State Engineer and of potentially affected parties in the protest process, and

### **(C) Now, therefore, we the members of the Utah League of Cities and Towns recommend that:**

1. Utah Code §73-3-3 be amended to focus on the change applicant's responsibilities. Specifically, Utah Code §73-3-3 shall define quantity impairment, provide an optional non-binding pre-application consultation between the applicant, and the State Engineer, and clarify that the applicant has the burden of producing evidence sufficient to support a reasonable belief that the change will not cause a specifically identified water right to experience quantity impairment.

2. Quantity impairment would be defined as any impairment of an existing water right resulting from a change application that would deprive another person entitled to the use of water of that person's beneficial use. That deprivation could come in several ways, including diminishing the quantity of water in the supply source for the person's water right, changing the timing of availability in that supply source, or enlarging the quantity of water depleted by the proposed nature of use when compared to the current use.

3. Utah Code §73-3-8 be amended to focus on the administrative decision process. Specifically, Utah Code §73-3-8 shall clarify the State Engineer's decision process and empower the State Engineer to approve a change application for part of a water right or when an applicant mitigates the impairment of another person's water right. Additionally, under circumstances like those that led to the Jensen v. Jones decision, there would be a rebuttable presumption of quantity impairment unless a codified exception exists.

4. Per the proposed changes to Utah Code §73-3-8, the State Engineer would only apply the presumption if a protestant raises a timely protest that identifies the existing right that could be impaired. The State Engineer could provide notice to a representative body of potential protestants but every potential protestant need not be notified. Ultimately, a protestant whose water right may face quantity impairment must file a protest or lose the opportunity to later bring a quantity impairment claim in the administrative process. The changes would not impact a potential protestant's ability to adjudicate a forfeiture claim.

## Resolution 2007-002 Water Forfeiture

Adopted — Tuesday, September 11, 2007  
Sheraton Hotel — Salt Lake City  
3:00 — 4:00 p.m.

### 2007 Utah League of Cities and Towns Resolution – Water Forfeiture

**Whereas:** Elected municipal officials have the responsibility to implement land use policies that effectively balance competing needs of property owners, with maintaining property values;

**Whereas:** Elected municipal officials have the responsibility to ensure that their communities have access to adequate potable water supplies and sufficient water flow to adequately combat the threat of fire.

**Whereas:** Elected municipal officials have the responsibility to plan for growth, entitle new development according to the municipality's land use laws and ensure that new growth and development have adequate utility capacity as it is constructed

**Whereas:** Current Water Rights law provides ineffective protection of certified water rights that are held for municipalities' future growth potential.

**Whereas:** Current Water Rights law leaves too much discretion in the hands of the State Engineer to determine whether applications will be approved for diligence claims or change applications, which are planned to support the reasonable future demands of the municipality.

**Whereas:** The State Engineer has requested that the Water Community reach consensus on new legislation that will allow the State Engineer to recognize a municipality's need to purchase and hold water for the reasonable future needs of the public as a "beneficial use" under state water law.

**Whereas:** The State Engineer has requested the municipal community to consider whether it should support a revision to the state constitution that would lift the constitutional prohibition against municipal alienation of water rights.

**Whereas:** The Water Community appears to have reached consensus on language that would recognize that a public water supplier's control of water for the reasonable future needs of the public is in fact a beneficial use.

**Whereas:** The Water Community, the municipal water users task force, and the Property Rights Coalition has recommended that the constitutional prohibition against municipal alienation of water rights remain in tact, to protect growing municipalities' right to exact water sufficient to sustain subdivision and development.

**Now Therefore Let It Be Resolved:** The Utah League of Cities and Towns' position on legislative efforts to amend the water rights is as follows:

1. The League of Cities and Towns strongly supports legislation which recognizes that the control of water held for the reasonable future demands of the public is a beneficial use under Utah Water Rights Law.
2. The constitutional prohibition on alienation of municipal water rights is an important safeguard that will ensure that growing communities will remain able to exact sufficient water to sustain new development.