

ORDINANCE NO. 897

AN ORDINANCE AMENDING TITLE 2, CHAPTER 34 OF THE SUMMIT COUNTY CODE

EASTERN SUMMIT COUNTY AGRICULTURE PRESERVATION AND OPEN SPACE
ADVISORY COMMITTEE

WHEREAS, the Eastern Summit County Agricultural Preservation and Open Space Advisory Committee (hereinafter "ESAP") met at a regularly held public meeting on October 11, 2018 and forwarded recommendations to the Summit County Council with respect to amendments to Title 2, Chapter 34 of the Summit County Code ; and

WHEREAS, the purpose of ESAP's recommendations are to consolidate existing and extraneous ESAP policies into the existing Title 2, Chapter 34 of the Summit County Code and provide clarifying language to both ESAP, the Summit County Council, and members of the public with respect to the process of applying for grants for agricultural and/or open land purposes

NOW THEREFORE, the County Legislative Body of the County of Summit, State of Utah, hereby ordains as follows:

Section 1. Title 2, Chapter 34: Title 2, Chapter 34 of the Summit County Code is amended as depicted in Exhibit A.

Section 2: Effective Date: This Ordinance shall take effect fifteen (15) days after the date of its publication.

APPROVED, ADOPTED, AND PASSED and ordered published by the Summit County Council, this 10th day of April, 2019.

SUMMIT COUNTY COUNCIL

SUMMIT COUNTY, UTAH

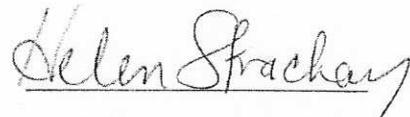
By Council Chair

ATTEST:

SUMMIT COUNTY CLERK

Date of Publication April 20, 2019.

Approved as to form:



County Attorney's Office

EXHIBIT A

Chapter 34
EASTERN SUMMIT COUNTY AGRICULTURE PRESERVATION AND OPEN LANDS
ADVISORY COMMITTEE

2-34-1: PURPOSE:

2-34-2: AUTHORITY:

2-34-3: MEMBERSHIP:

2-34-4: PROCEDURE FOR GRANT ISSUANCE AND OTHER DUTIES:

2-34-5: CONDUCT OF COMMITTEE MEMBERS:

2-34-6: MEETINGS AND ORGANIZATION:

2-34-1: PURPOSE:

The eastern Summit County agriculture preservation and open lands advisory Committee (hereinafter referred to as either "ESAP" or the "Committee"), is created for the purpose of advising and providing input to the county manager and the county council regarding the creation, identification and preservation of agricultural lands and open lands within eastern Summit County.

2-34-2: AUTHORITY:

This Committee is created as an advisory body to the county manager and county council for the purpose stated above. There shall be no actual or apparent authority vested in this Committee except the authority granted in this chapter. Neither this Committee nor any member thereof is empowered to bind the county as to the purchase of any agricultural lands or open lands, including the acquisition of conservation easements.

2-34-3: MEMBERSHIP:

- A. Members: Members shall be appointed and approved on a nonpartisan basis by the county manager with the advice and consent of the county council, and shall commence service at the first regular meeting in March of each calendar year, or at such other time thereafter as soon as practical. As indicated below, other organizations may have the right to nominate members, which will only serve if and when approved by the county manager.
- B. Terms: Members may serve three (3) year terms until a replacement is made. A member is term limited to three (3) consecutive terms. Members shall serve on a voluntary basis, without compensation, except that mileage or other travel expenses associated with service may be reimbursed by the county.
- C. Representation: The Committee shall be comprised of no less than seven (7) and no more than eleven (11) voting members. Preference for membership of the Committee may include members from any of the following groups:

1. Eastern Summit County Planning Commission (the "ESCPC"). There shall be no more than two (2) members representing the ESCPC on the Committee at any time.
2. A professional real estate agent located in eastern Summit County.
3. A land use attorney located in eastern Summit County.
4. An agriculture services representative (NRCS or similar organization).
5. A Summit County Farm Bureau representative (nominated by the Farm Bureau).
6. An at large community representative living in north Summit.
7. An at large community representative living in south Summit.
8. A local builder and/or developer.
9. An open lands or wildlife organization representative.

D. Ex Officio Members: In addition to the voting members identified above, the county manager may appoint nonvoting ex officio members to the Committee in an effort to fulfill the purposes set forth herein.

E. Reporting: The Committee shall make an annual presentation to the county council and county manager as to its goals, budget and activities.

F. Chair/Vice Chair: The Committee shall appoint from among the voting members, a chair and a vice chair, who shall be charged with conducting the meetings and ensuring that the reporting required under this chapter is completed in the manner required. The chair shall serve a term of one (1) year. No member shall serve as chair for more than two (2) consecutive one (1) year terms. The vice chair shall serve a term of one (1) year. No member shall serve as vice chair for more than two (2) consecutive one (1) year terms. If the chair leaves the Committee during an appointed term, the vice chair shall succeed to the office of chair for the remainder of the term. If the vice chair leaves the Committee or succeeds to the office of chair, the Committee, at its next regularly scheduled meeting, shall hold an election to fill the vacancy of vice chair.

2-34-4: PROCEDURE FOR GRANT ISSUANCE AND OTHER DUTIES:

A. Scoring System: The Committee shall create a scoring system whereby agricultural lands and/or open lands can be evaluated in relation to their potential importance to eastern Summit County. Such scoring system shall include the setting of a minimum score upon which real properties can become eligible for funding under this chapter. The scoring system shall be recommended to the county manager for final approval.

B. Notification of Interest:

1. Application Submittal and Presentation: Landowners who desire to nominate real property for agricultural lands and/or open lands preservation, whether in exchange for compensation or otherwise, may do so by filing a Notification of Interest (the "NOI") with the Committee on forms provided for that purpose (the "NOI"). Upon receipt of an NOI, County staff will review the NOI and verify

completeness of required information. The NOI will then be scheduled on the ESAP agenda for an initial presentation by the landowner and/or representative.

2. Site Visit and Evaluation: Following the initial presentation, the Committee may conduct a site visit to review and verify the evaluation criteria related to the real property.
 3. The Committee shall score all NOI's as eligible or ineligible for grant funding based upon the Scoring System established under Section 2-34-4(A) above and shall make a recommendation to the county manager with respect to proposed grants of Summit County as follows:
 - a. Conservation Easements: In the case of the purchase of conservation easements, the recommended grant by Summit County shall be limited up to the lesser of \$250,000 or up to 10% of the appraised value of the conservation easement, including all phases, if the purchase is in phases.
 - b. Land Acquisitions: In the case of the purchase of fee title to land for conservation purposes, the recommended grant by Summit County shall be limited up to the lesser of \$250,000 or up to 10% of the fair market value of the land.
 - c. The recommended grants proposed in Section 3(a) and (b) above are guidelines and are not intended to fix the amount of County participation in any given instance. The Committee may waive the provisions of Section 3(a) and (b) above on a case-by-case basis upon the finding of extenuating circumstances. However, in no case shall the recommended grant be greater than the lesser of \$250,000 or 15% of the appraised value of the conservation easement, including all phases, if the purchase is in phases (conservation easements) or 15% of the fair market value of the land (land acquisitions).
 4. The Committee's recommendation to the county manager is valid for twenty-four (24) months from the date of issuance.
- D. Grant Award: Grant awards issued by the county manager are valid for six (6) months from the date of award. Upon a showing of due diligence, the applicant may request and the county manager may extend the award for up to three (3) additional six (6) month periods. In no event shall an award be valid for any period exceeding twenty-four (24) months. Failure to satisfy the conditions of the award within the allotted time period will result in its expiration without further action by the county.
- E. Final Authority: Neither the determination of eligibility nor the recommendations on grants are binding on the county manager. The county manager retains all final authority regarding such transactions and if deemed necessary for the health, safety, or welfare of citizens of the county, the county manager may take direct action on any acquisition or grant without obtaining a recommendation or ranking from the

Committee. In such cases, the county manager may notify and meet with the Committee prior to taking such direct action on any acquisition or grant.

- F. The Committee shall also develop recommendations for the county manager on different methods that may be used to preserve and acquire agricultural lands and open lands including, but not limited to, transfer of development rights, donated or purchased conservation easements, and public (including federal, state, and local) and private funding sources and mechanisms.

2-34-5: CONDUCT OF COMMITTEE MEMBERS:

A. Ethical Principles: The following ethical principles shall guide the actions of the Committee and its members in carrying out the powers and duties described above:

1. Serve The Public Interest: The primary obligation of the Committee and each member is to serve the public interest.
2. Support Citizen Participation: The Committee shall ensure a forum for meaningful citizen participation and expression in the process of promoting agriculture land and open land preservation, and assist in the clarification of community goals, objectives, and policies.
3. Recognize The Comprehensive And Long Range Nature Of Their Decisions: The Committee and its members shall continuously gather and consider all relevant facts, alternatives and means of accomplishing them, and explicitly evaluate all consequences before making a recommendation or decision.
4. Facilitate Coordination: The Committee shall ensure that individuals and public and private agencies possibly affected by a prospective decision regarding agriculture land or open land receive adequate information far enough in advance of the decision.
5. Avoid Conflict Of Interest: Committee members shall avoid conflicts of interest and even the appearance of impropriety. At the commencement of any matter before the Committee, members shall divulge in public, any past, present, or expected relationship with any party affiliated with such matter. A member with a potential conflict of interest shall abstain from voting on the matter, not participate in any deliberations on the matter, and leave the Committee table, but may remain in the chamber. The member shall also not discuss the matter privately with any other official voting on the matter.
6. Render Thorough And Diligent Service: If a Committee member has not sufficiently reviewed relevant facts and advice affecting a public decision, that member should not participate in that decision.
7. Not Seek Or Offer Favors: A Committee member must not directly or indirectly solicit any gift or accept or receive any gift (whether in money, services, loans, travel,

entertainment, hospitality, promises, or in some other form) under circumstances in which it could be reasonably inferred that the gift was intended or could reasonably be expected to influence them in the performance of their duties or was intended as a reward for any recommendation or decision on their part.

8. Not Disclose Or Improperly Use Confidential Information For Financial Gain: A Committee member shall not disclose or improperly use confidential information for financial gain, and must not disclose to others confidential information acquired in the course of their duties or use it to further a personal interest.

9. Ensure Full Disclosure At Public Meetings: The Committee shall ensure that the presentation of information occurs only at the scheduled public meeting, not in private, unofficially, or with other interested parties absent, and must make partisan information received in the mail or by telephone or other communication part of the public record.

10. Maintain Public Confidence: A Committee member must conduct himself/herself publicly so as to maintain public confidence in the Committee.

11. Respect For And Courtesy To Other Committee Members, Public And Staff: Each Committee member has the same rights and privileges as any other member. Any member has the right to be heard and to hear what others have to say about items being considered by the Committee.

B. Representation Of Applicants Or Petitioners: No member of the Committee shall represent for consideration applicants or petitioners before the Committee on matters on which the Committee is to make determinations or recommendations.

C. Ex Parte Communication: Prearranged private communications and/or meetings between a Committee member and an individual(s) and, their agents, or other interested parties with a matter pending before the Committee are prohibited, unless authorized by the Committee in advance. When such communication does occur it must be made part of the public record by the Committee member.

D. Attendance: Each Committee member shall be responsible for attending all scheduled meetings of the Committee. Should circumstances arise where a member is unable to attend a scheduled meeting, the member shall be responsible for notifying the chair, the director of community development, or his/her designee, as soon as possible. Committee members who fail to attend three (3) regular meetings of the Committee within any consecutive three (3) month period may, at the discretion of the manager, be removed from the Committee. (Ord. 749-A, 12-15-2010)

2-34-6: MEETINGS AND ORGANIZATION:

A. Regular Meetings: Regular meetings of the Committee shall be scheduled as needed.

- B. Special Meetings: Special meetings, work sessions and field trips, for any purpose, may be held at the call of the chair of the Committee. Work session and field trip meetings shall be for discussion and informational purposes only; no action shall be taken on any item.
- C. Public Notice: All regular, special, work session and field trip meetings of the Committee are open to the public and will be noticed in accordance with the requirements of the development code and the Utah Open Meetings Act.
- D. Action: All recommendations shall be made at a public meeting by motion, made and seconded and by a voice vote. The motion shall be in the form of findings of fact and shall state the reason for the findings by the Committee and a statement of any conditions to be attached to the action.
- E. Executive Session: Closed or executive sessions may be held for any purposes allowed under the Utah Open Meetings Act, including, but not limited to, property acquisition.
- F. The Committee shall conduct its business according to this chapter and the Committee may make recommendations to the county council for amendments.
- G. Quorum: A majority of the Committee members shall constitute a quorum and the action of the majority of the members present shall be the action of the Committee.

Consideration and possible approval of a Franchise Agreement Between a Summit County, Utah and TDPFA Fiber for placement of fiber communication lines in the County Right-of-Way: Derrick Radtke

Derrick Radtke, County Engineer, Works Fiber, on a review of the following staff report regarding a Franchise Agreement proposed between TDPFA Fiber, Derrick Radtke, County Engineer, Summit County, Utah, advised the agreement is in accordance with State and Federal Law.