



Tom Dolan  
Mayor

Byron Jorgenson  
Chief Administrative Officer

Michael G. Coulam  
Director

# MEMORANDUM

June 30, 2016

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**To:** City Council via Planning Commission  
**From:** Community Development Department  
**Subject:** Fence Height– Amend Title 15A, Chapter 28, Fencing, CODE-6-16-5097  
Land Use Development Code, Revised Ordinances of  
Sandy City, 2008

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*HEARING NOTICE: This Code Amendment was noticed in the paper at least 10 days prior to the first Planning Commission meeting.*

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### BACKGROUND

Mr. Steven Spencer and Mr. Jeremy Shipler have jointly filed a request to amend Title 15A, Chapter 28, Fencing, Land Use Development Code, Revised Ordinances of Sandy City, 2008. The purpose of the code amendment is to consider changing the allowable height of a residential fence in the side and rear yards. The request is to modify the regulations in order to increase the height of a fence from six feet to eight feet.

### ANALYSIS

Historically, the Land Use Development Code has allowed a six foot fence in side and year yards for corner and interior lots. Within the front yards there are height limitations of three feet for opaque fencing and four feet for open style fencing.

The two applicants have submitted a code amendment request which would allow them to have an eight foot fence in the side and rear yards. Mr. Spencer lives on a corner lot and believes that having a taller fence would reduce the amount of trash being thrown over his fence from pedestrians. Mr. Shipler would like a taller fence to provide more privacy for his family (see attached letters from both applicants).

The Planning Staff is recommending that we continue to have the six foot rule, with the ability to have the Community Development Director (or the Planning Commission if the Director chooses to have them review the request) approve up to an eight foot fence if justified by particular circumstances of the property. If approved, the applicant would then be required to notify the abutting neighbors and obtain a building permit.

Also with this possible code amendment, staff would like to clarify another section of the fencing chapter. A recent residential development was required to install a precast fence around the

perimeter of the project. The developer put in a RhinoRock concrete fence. According to the website, the RhinoRock wall panel outer shell is clad with a high performance concrete that is heavily fiber reinforced. The interior of the panel is an expanded polystyrene foam core. The columns and cap are made of solid precast concrete. This unique structural design yields a panel that is 90% lighter than a typical concrete fence panel.

A concern was raised by a neighbor that the developer was not installing a precast concrete fence. The developer and a representative from RhinoRock met with staff to educate us about this fencing product. It was determined that because the Land Use Code does not identify approved fencing materials, this type of fence should be allowed.

Under Section 15A-28-03 – Fences – Residential Standards, staff would like to add new language clarifying approved fencing materials. These approved materials would include lumber, vinyl, chain-link, wrought iron, precast concrete panel, concrete block, or other solid durable materials as the Director may approve. The RhinoRock type of fence would fall within the other solid durable materials that could be approved by the Director.

### **NON-CONFORMING USES**

This Code Amendment would not create any non-conforming situations.

### **LAND DEVELOPMENT CODE PURPOSE COMPLIANCE**

The Sandy City Land Development Code in 15A-01-03 lists the criteria explaining the intent and purpose of the Ordinance. The purpose is:

#### **15A-01-03 Purpose**

This Code is adopted to implement Sandy City's General Plan and to promote: public health, safety, convenience, aesthetics, welfare; efficient use of land; sustainable land use and building practices; transportation options and accessibility; crime prevention; timely citizen involvement in land use decision making; and efficiency in development review and land use administration. Specifically, this Code is established to promote the following purposes:

#### **1. General**

- a. To facilitate the orderly growth and development of Sandy City.
- b. To facilitate adequate provision for transportation, water, sewage, schools, parks, and other public requirements.
- c. To stabilize property values.
- d. To enhance the economic well being of Sandy City and its inhabitants.

#### **2. Implementation of General Plan**

To coordinate and ensure the implementation of the City's General Plan through effective execution of development review requirements, adequate facility and services review and other goals, policies, or programs contained in the General Plan.

#### **3. Comprehensive, Consistent and Equitable Regulations**

To establish a system of fair, comprehensive, consistent and equitable regulations, standards and procedures for review and approval of all proposed land development within the City.

#### **4. Efficiently and Effectively Managed Procedures**

- a. To promote fair procedures that are efficient and effective in terms of time and expense.

- b. To be effective and responsive in terms of the allocation of authority and delegation of powers and duties among ministerial, appointed, and elected officials.
- c. To foster a positive customer service attitude and to respect the rights of all applicants and affected citizens.

The proposed code amendment will stabilize property values by establishing a system of fair, comprehensive, consistent and equitable regulations, and standards for residential fencing within Sandy City.

### **GENERAL PLAN COMPLIANCE**

The General Plan encourages appropriate development standards for all uses and zoning categories within Sandy City.

### **OTHER**

Besides the purposes set out in the ordinances cited above, one of the stated purposes of the City's land use ordinances is to facilitate the orderly growth and development of Sandy City (Rev. Ord. of Sandy City 2008, Section 15A-01-03(A)(1)). Some of the general purposes of the City's Development Code are to implement Sandy City's General Plan, and to promote the following public policies: public health, safety, convenience, aesthetics, welfare; efficient use of land; sustainable land use and building practices; transportation options and accessibility; crime prevention; timely citizen involvement in land use decision making; and efficiency in development review and land use administration (R.O.S.C. Sec. 15A-01-03(A)).

### **STAFF RECOMMENDATION**

The Community Development Department requests that the Planning Commission forward a positive recommendation to the City Council to adopt the proposed ordinance amendment as shown in exhibit "A", attached, for the following reasons:

1. Compliance with the Purpose of the Land Development Code by creating consistency and equitable standards and procedures for residential fencing within Sandy City.
2. Compliance with the Goals and Policies of the General Plan by establishing appropriate development standards for all uses and zoning categories within Sandy City.

Planner:



Brian McCuiston  
Zoning Administrator

Reviewed by:



## Exhibit "A"

### 15A-28-03 Fences - Residential Standards

- A. **Side Yards and Rear Yards.** In any required side or rear yard on lots, the height of fences shall not exceed 6 feet, unless otherwise allowed herein.
- B. **Front Yards.** Fences in required front yards shall be allowed provided that solid type fences shall not exceed 3 feet, and open type fences, e.g., wrought iron, shall not exceed 4 feet.
- C. **Corner Lots.** In addition to the other provisions contained in this Section, fences located on corner lots shall be subject to the following provisions:
1. Any fence, wall, and/or hedge on the front yard setback shall not exceed 3 feet if opaque construction or 4 feet if open construction.
  2. In the side yard setback that fronts on a street, height up to 6 feet shall be allowed beyond 60 feet from the intersection measured from the intersecting extended curb lines. Height within the 60 foot area shall conform to the requirements of a front yard setback.

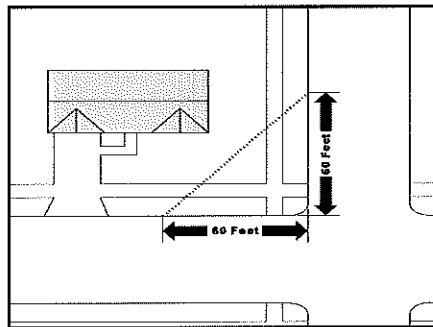
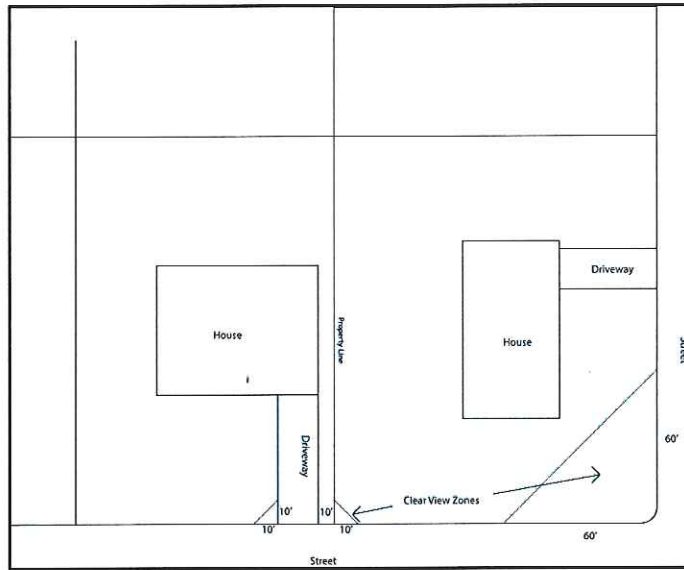
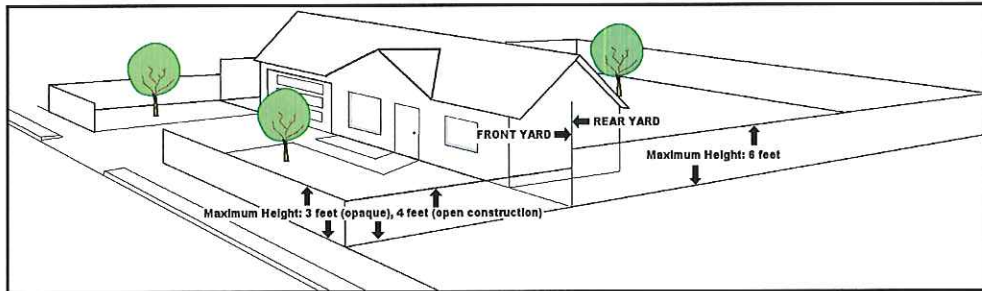


Illustration of a common 60 foot  
Sight Visibility Triangle

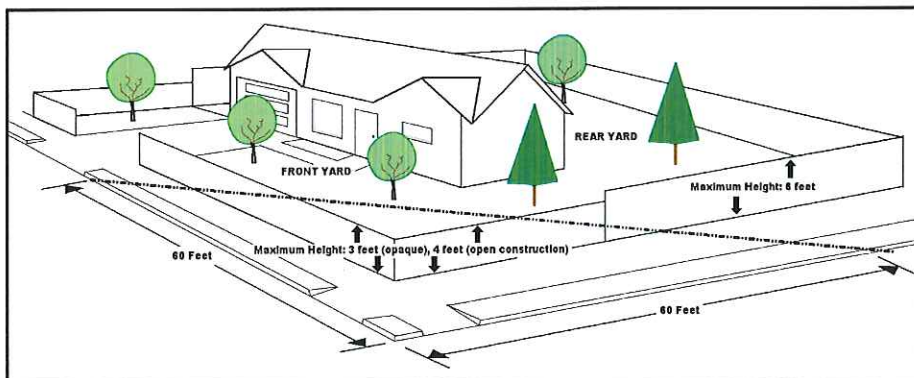
3. A clear view zone shall be maintained free of fencing, except a see through fence or a view obscuring fence no higher than 3 feet in height when a driveway exists on the adjacent lot within 10 feet of the shared property line. The clear view zone refers to the portion of the corner lot lying within a triangular area formed by measuring back 10 feet from the point where the interior property line shared with the adjacent lot meets the property line along the public right-of-way.



- 4. Heights on the rear yard setback and interior side yard setback shall not exceed 6 feet, unless otherwise allowed herein.



Fence Figure #1 - Interior Lot Fence Height Restrictions



Fence Figure #2 - Corner Lot Fence Height Restrictions

- D. **Fences on Slopes.** May be a maximum of 7 feet if the average height of such fence is no greater than 6'6" feet, unless otherwise allowed herein (see Figure #3).

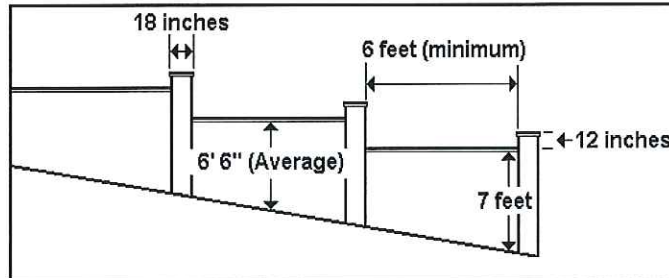


Figure #3

- E. **Fence Posts, Gate Posts, Pillars, and Support Columns.** Such structures may extend 12 inches above the maximum fence height when separated by at least 6 linear feet of fencing (see Figure #3). Gate posts may be as close as 3 feet of each other with no more than one gate per fence frontage. Structures may not exceed 18 inches in diameter or width.

F. **Measurement of Fence Height.**

1. The height of a fence shall be measured from the highest grade.
2. The combined height of a fence and retaining wall shall not exceed 11 feet, unless otherwise allowed herein (See Figure #4).

- G. Approved Fencing Materials. Acceptable construction materials for fences shall be lumber, vinyl, chain-link, wrought iron, precast concrete panel, concrete block, or other solid durable materials as the Director may approve.

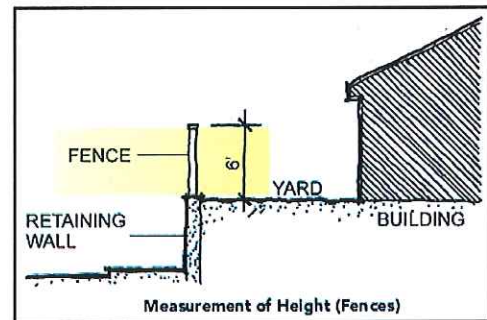


Figure #4

**15A-28-10 Exceptions**

- A. Sports Court Fencing. The provisions of this Section shall not apply to certain other fences such as sports court fences, tennis court backstops, or patio enclosures in the front, side, or rear yards if the Director finds that it meets the following conditions: approved by

Figure #4

~~the Director. During the review of such requests, the Director need only determine if in his opinion:~~

~~A1.~~ The proposed fence does not create a hazard for the subject property or adjacent properties.

~~B2.~~ The proposed fence does not create a violation of other ordinances.

B. Additional Height Request. The Director is authorized to approve the installation of a fence up to eight (8) feet in height in the side and/or rear yard of any lot or parcel provided the following conditions are met:

1. The Director finds the additional height is justified by the particular circumstances of the property such as, safety, lot configuration, building placement on the lot, topography, and/or negative impacts to the property from adjacent uses.

2. The proposed fencing is outside of the 60 foot sight visibility triangle and other clear view zones for corner lots.

3. At least two weeks prior to construction of the fence, the abutting property owners shall be notified of the intent to build an 8' fence. Proof of this notification and any responses from the neighbors shall be provided to the Planning Division.

4. A building permit is applied for and approved.

If the Director so desires, this type of request may be forwarded to the Planning Commission for approval as a special exception.

RECEIVED  
JUN 10 2016  
SANDY CITY  
COMMUNITY DEVELOPMENT

June 10, 2016

Sandy City Community Development  
10000 Centennial Parkway  
Sandy UT 84070

To Whom It May Concern:

I am one of three homeowners living in Sandy City making this request. Please consider our collective requests for this change.

I am requesting an amendment to code 15A-28-03(A) and 15A-28-03(C.2) to allow an eight (8) foot fence. Current code specifies the following:

15A-28-03(A): Side Yards and Rear Yards. In any required side or rear yard on lots, the height of fences shall not **exceed 6 feet**, unless otherwise allowed herein.

15A-28-03(C.2): In the side yard setback that fronts on a street, **height up to 6 feet** shall be allowed beyond 60 feet from the intersection measured from the intersecting extended curb lines. Height within the 60 foot area shall conform to the requirements of a front yard setback.

The requested changes would be:

15A-28-03(A) Side Yards and Rear Yards. In any required side or rear yard on lots, the height of fences shall not **exceed 8 feet**, unless otherwise allowed herein.

15A-28-03(C.2): In the side yard setback that fronts on a street, **height up to 8 feet** shall be allowed beyond 60 feet from the intersection measured from the intersecting extended curb lines. Height within the 60 foot area shall conform to the requirements of a front yard setback.

There are two reasons for this request:

I live on a corner lot, with my backyard bordering Falcon Way. Several times a week passersby throw trash over my fence into my backyard. Some of this trash is beer bottles/cans. Most of is plastic bags containing dog poop, tossed by owners walking their dogs.

I believe that by increasing the height of the fence the number of incidents will be reduced significantly.

Also, my backyard slopes downward to the street. This slope eliminates any privacy to my yard. This additional 2' will provide more privacy for my family.

Thank you,  
Steve Spencer



RECEIVED  
JUN 10 2016  
SANDY CITY  
COMMUNITY DEVELOPMENT

Jeremy & Crystal Shipler  
10493 S. Weeping Willow Dr.  
Sandy, UT 84070

Sandy City Community Development  
1000 Centennial Parkway  
Sandy, UT 84070

To Whom It May Concern:

I am writing a letter, requesting a Code Amendment for an 8ft tall fence in my backyard. The general plan of this request for an 8ft tall fence is to provide more privacy to my yard and for my family.

Recently, we have had a transitional or sober home move in behind us which houses multiple people at a time and these people are constantly changing in terms of people moving out and new people moving in (i.e. a revolving door) so it's never the same face you see out on this particular homes back deck. These individuals are on the back deck regularly, smoking and starring into my yard and at my family. Due to the elevation and slope of the yard and property this allows these individuals no other place to stare other than my backyard which allows little privacy for me and my family. My plan and goal includes placing an 8ft vinyl fence along the back of my property which is tall enough to provide the privacy for myself and my family and prevents the uncomfortable starring of these individuals who are constantly coming and going.

I appreciate your time in reading this letter and ask that permission is given for this code amendment so that my family and I can have the privacy we deserve.

Sincerely,

Jeremy & Crystal Shipler

**Planning Commission Minutes  
July 7, 2016**

Field Trip

THOSE PRESENT: Joe Baker, Monica Collard, Jared Clayton, Ron Mortimer, Cheri Burdick, Members; Lisa Hartman, Alternate Member; Maren Barker, City Council; James Sorensen, Assistant Community Development Director; Darien Alcorn, Senior Attorney; Mike Gladbach, City Engineer; Ryan Kump, City Transportation Engineer; Dan Medina, Assistant Parks and Recreation Director; Brian McCuistion, Zoning Administrator; Andrew King, Senior Planner; Wade Sanner, Planner

THOSE EXCUSED: Scott Sabey, Nancy Day, Doug Haymore

Executive Session

Presentation by IBI Group regarding East Village Apartments Building 4

Regular Session

THOSE PRESENT: Joe Baker, Monica Collard, Jared Clayton, Ron Mortimer, Cheri Burdick, Members; Lisa Hartman, Alternate Member; Maren Barker, City Council; James Sorensen, Assistant Community Development Director; Darien Alcorn, Senior Attorney; Mike Gladbach, City Engineer; Ryan Kump, City Transportation Engineer; Dan Medina, Assistant Parks and Recreation Director; Brian McCuistion, Zoning Administrator; Andrew King, Senior Planner; Wade Sanner, Planner; Amy Thomas, Planning Secretary

THOSE EXCUSED: Scott Sabey, Nancy Day, Doug Haymore

**1. Fence Height – Ament Title 15A, Chapter 28, Fencing, Revised Ordinances of Sandy City, 2008 CODE-6-16-5097**

Mr. Steven Spencer and Mr. Jeremy Shipler have jointly requested to amend Title 15A, Chapter 28, Fencing, Land Use Development Code, Revised Ordinances of Sandy City, 2008. The purpose of the code amendment is to consider changing the allowable height of a residential fence in the side and rear yards. The request is to modify the regulations in order to increase the height of a fence from six feet to eight feet.

Historically, the Land Use Development Code has allowed a six foot fence in side and rear yards for corner and interior lots. Within the front yards there are height limitations of three feet for opaque fencing and four feet for open style fencing.

The two applicants have submitted a code amendment request which would allow them to have an eight foot fence in the side and rear yards. Mr. Spencer lives on a corner lot and believes that

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having a taller fence would reduce the amount of trash being thrown over his fence from pedestrians. Mr. Shipler would like a taller fence to provide more privacy for his family.

The Community Development Department requests that the Planning Commission forward a positive recommendation to the City Council to adopt the proposed ordinance amendment as shown in exhibit "A", attached, for the following reasons:

1. Compliance with the Purpose of the Land Development Code by creating consistency and equitable standards and procedures for residential fencing within Sandy City.
2. Compliance with the Goals and Policies of the General Plan by establishing appropriate development standards for all uses and zoning categories within Sandy City.

Brian McCuiston presented this item to the Planning Commission.

Jeremy Shipler, 10493 S. Weeping Willow Drive, Sandy, stated that he has a sober living home that has moved in behind him. He commented that his home is directly in line with each other. He believes if he could put up an 8-foot tall fence it would block some of the view of the guys that are on the deck, smoking and staring into his yard. He stated that they allowed a registered sex offender in that house and he has a 2-year old and 5-year old daughter. He indicated that he will have to move or try this fence first.

Commissioner Monica Collard asked Mr. Shipler if there is a retaining wall in the back yard.

Mr. Shipler responded that there is no retaining wall. He indicated that the home behind him is above his just by natural grade and they also built a deck, which is an issue. He stated that for now, he parked a trailer there to block them out for now.

Commissioner Ron Mortimer asked him how big of a difference 2 feet in the fence will make.

Mr. Shipler responded that he put up an 8-foot tall 2 x 4 to judge when the neighbors were out standing on the deck to make sure he wouldn't be able to see them.

Commissioner Joe Baker asked Mr. Shipler commented that he is opposed to the tall fences and asked Mr. Shipler if he has tried anything else, like a retaining wall and a fence on top of that, or a couple of mature trees.

Mr. Shipler responded that he is trying do this the right way and ask for the code amendment and not do a retaining wall. He stated that he has thought of trees, but in the fall the leaves fall off and you can see right through them. He believes that 2 feet will make a big difference and indicated that it does block the neighbors out when they are on the deck. He has already checked it.

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**July 7, 2016**  
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Steve Spencer, 9264 South Winter Wren Drive, Sandy, commented that he is on a corner lot and stated that the south side of his yard goes right against Falcon Way. He is not worried about the north side or the west side. He stated that on the south side he has to pick up trash repeatedly. He has considered a second fence up on a berm behind his first fence, but he would rather have an 8-foot fence to allow for a reduction in the amount of trash that he has to pick up. He stated that if that doesn't work, he may have to move back about 3 feet on his property line and put in a secondary fence and because of the elevation, if you're standing about 3 or 4 feet in on his property line, his knees are at about a 6-foot level from the street. He would really appreciate the Planning Commission's consideration to allow an 8-foot fence.

Chairman Jared Clayton opened this item to public comment.

Steve Van Maren, 11039 Lexington Circle, Sandy, stated that when he read the packet, he was opposed to this. But now he believes that both applicants have valid reasons for a higher fence. He pointed out item (g) on page 6 of the Code Amendment. He questioned whether it should be a solid durable material or an opaque durable material. He believes a distinction should be made as to what type of durability is wanted. He suggested the use of opaque instead of solid because some of items are not as durable as others.

Brian McCuiston responded that one of them is just a text change. He pointed out the graphic on page 6 under figure 3, where it talks about fencing on a slope, and states that the maximum height is 7 feet as long as you average 6. He indicated that Mr. Van Maren also recommend a change on page 7, on the last sentence that reads: "If the director so desires this type of request may be forwarded to the Planning Commission for approval..." He recommended that the word "of" be removed and replaced with the word "as" to read: "for approval as a special exception."

Chairman Jared Clayton closed this item to public comment.

Commissioner Lisa Harman commented that she does not agree with Commissioner Baker because she believes that there are different elevations on different properties and believes that you get the same effect as the 6 feet by doing the 8 feet in terms of what's separating the two, but it is on a lot where it would close it off, but rather just give them more privacy. She stated that she is speaking in favor of the 8-foot fence. She commented that this is giving them the option to do it right.

Commissioner Joe Baker commented that there are 8-foot fences throughout the City, primarily on boulevards and main roads.

Brian McCuiston responded that the City requires an 8-foot masonry fence when you have commercial property next to a residential property. He stated that the 12 foot fences he sees are UDOT sound walls.

Chairman Jared Clayton commented that the main concern he has with the 8-foot fence is to make sure that they are built the right way.

James Sorensen commented that once a fence goes to 8 feet high, a permit has to be taken out and an engineering has to be done and reviewed by staff.

**Monica Collard moved that the Planning Commission forward a positive recommendation to the City Council to adopt the proposed ordinance amendment as shown in Exhibit "A" of the staff report, based on the 2 reasons outlined in the staff report.**

Lisa Hartman seconded the motion. The vote was as follows: Monica Collard, yes; Lisa Hartman, yes; Cheri Burdick, yes; Ron Mortimer, yes; Joe Baker, yes; Jared Clayton, yes. The vote was unanimous in favor.

DRAFT