TOWN OF DEWEYVILLE ORDINANCE NO. 2006-8

CONSTITUTIONAL TAKINGS REVIEW AND APPEAL

To promote the protection of private property rights and to prevent the physical taking or exaction of private property without just compensation, the City Council and all Commissions and Boards shall adhere to the following before authorizing the seizure of exaction of property:

A. TAKINGS REVIEW PROCEDURE:

- Prior to any proposed action to exact or seize Property, the City Attorney shall review the proposed action to determine if a constitutional taking requiring "just compensation" would occur.
- The City Attorney shall review all such matters pursuant to the guidelines established in subsection B below.
- Upon identifying a possible constitutional taking, the City Attorney shall, in a confidential, protected writing, inform the Council, commission or board of the possible consequences of its action. This opinion shall be advisory only. No liability shall be attributed to the City for failure to follow the recommendation of the City Attorney.

B. TAKINGS GUIDELINES:

- The City Attorney shall review whether the action constitutes a constitutional taking under the Fifth or Fourteenth Amendments of the Constitution of the United States or under Article 1, section 22 of the Utah Constitution.
- The City Attorney shall determine whether the proposed action bears an essential nexus to a legitimate governmental interest and whether the action is roughly proportionate and reasonably related to the legitimate governmental interest. The City Attorney shall also determine whether the action deprives the private Property Owner of all reasonable use of the property. These guidelines are advisory only and shall not expand nor limit the scope of the City's liability for a constitutional taking.

C. APPEAL:

- Any Owner of private Property who believes that his/her Property is proposed to be "taken" by an otherwise Final Action of the City may Appeal the City's decision to the Takings Appeal Board within thirty (30) days after the decision is made. The Appeal must be filed in writing with the City Recorder. The Takings Appeal Board shall hear and approve and remand or reject the Appeal within fourteen (14) calendar days after the Appeal is filed.
- The Takings Appeal Board, with advice from the City Attorney, shall review the Appeal pursuant to the guidelines in subsection B herein.
- The decision of the Takings Appeal Board shall be in writing a a copy given to the appellant and to the City Council, Commission or Board that took the initial action.
- The Takings Appeal Board's rejection of an Appeal constitutes exhaustion of administrative remedies rendering the matter suitable for appeal to a court of competent jurisdiction.

D. TAKINGS APPEAL BOARD:

- There is hereby created a three(3) member Takings Appeal Board. The Mayor shall appoint three (3) members of the Board of Adjustment to serve on the Takings Appeal Board.
- If, at any time, three (3) members of the Baord of Adjustment cannot meet to satisfy the time requirements stated in subsection C above, the Mayor shall appoint a member or sufficient members to fill the vacancies.

EFFECTIVE DATE AND POSTING OF NOTICE. This Ordinance shall take effect on _____, 20___, that being at least 20 days following posting in the manner provided by law and specifically, Section 10-3-711.

PASSED, APPROVED AND ADOPTED by the Town Mayor and the Town Council Members of Deweyville, This 13 day of July, 20 06.

Robert Thayne
Mayor

ATTEST:

Tracie Williams
Recorder

(SEAL)

Members of the Town Council voting "aye":

Richard Williams
Sherie H. Goring
Brad Stevenson

Members of the Town Council voting "no":