Grantsville, Utah

July 15, 1992

A regular meeting of the City Council of Grantsville City was held at the Grantsville City Hall in Grantsville, Utah on Wednesday July 15, 1992 at the hour of 7:00 p.m., there being present and answering roll call the following:

Howard Murray	Mayor
Jerry Hurst	Councilperson
Mary Thornton	Councilperson
Ferris Williams	Councilperson
Lynn Taylor	Councilperson
	Councilperson

Also Present:

Patricia Hunter	City Recorder
Ronald Elton	Attorney

Absent:

Danny Linares	Councilperson
	Recorder
	Councilperson
	Attorney

After the meeting had been duly called to order and the minutes of the preceding meeting read and approved, the following Resolution was introduced in writing, read in full, and pursuant to a motion made by Ferris Williams and seconded by Mary Thornton was adopted by the following vote:

YEA: Unanamous

OPPOSED:

The Resolution was then signed by the Mayor in open meeting and recorded by the City Recorder in the official records of Grantsville City, Utah. The Resolution is as follows:

RESOLUTION NO. 92-_____

A RESOLUTION ENACTING CITY POLICIES REGARDING THE MAINTENANCE AND PRESERVATION OF ACCURATE PUBLIC RECORDS; PROVIDING FOR ACCESS TO RECORDS BY MEMBERS OF THE PUBLIC AND IN ACCORDANCE WITH STATE STATUTE; SETTING OUT RESPONSE TIME REQUIREMENTS AND FEES FOR PUBLIC RECORD ACCESS REQUESTS; AND ESTABLISHING OTHER PROCEDURES REGARDING THE STORAGE OF AND ACCESS TO GOVERNMENTAL RECORDS HELD BY THE CITY.

BE IT RESOLVED BY THE CITY COUNCIL OF GRANTSVILLE CITY AS FOLLOWS:

SECTION 1. FINDINGS

(1) It is in the best interests of Grantsville City and the citizens thereof, and essential for the administration of City government, to maintain and preserve accurate governmental records; to provide ready access to records which are defined by law as open to the public; to maintain the security of records which are defined by law as non-public; and to ensure the preservation of vital and historically valuable records.

(2) As the records of Grantsville City government agencies are a resource containing information which *(a)* allows government programs to function; *(b)* provides officials with a basis for making decisions and ensuring continuity with past operations; and *(c)* permits citizens to research and document matters of personal and community importance; this resource must be systematically and efficiently managed.

(3) It is the policy of the City that all governmental records, which are defined by applicable Utah statutory and case law as public records, shall be made available to citizens as set forth in this Policy.

(4) The City recognizes a public policy interest in allowing the government to restrict access to certain records, as specified in the Act and this Resolution, for the public good.

SECTION 2. COMPLIANCE WITH STATE LAW

In enacting this Resolution, it is the purpose and intent of the City to provide, in accordance with the Government Records Access and Management Act (hereinafter

referred to as "the Act"), Chapter 2 of Title 63 of the Utah Code Annotated 1953, a policy acknowledging and complying with the Act and providing for its application in the City. City agencies shall comply with the provisions of this Policy and with the Act and shall also comply with other federal and state statutory and regulatory record-keeping requirements.

SECTION 3. DEFINITIONS

As used in this Policy, the following definitions shall be applicable.

(1) **"Act"** shall refer to the Governments Records Access and Management Act, §63-2-1, et seq., Utah Code Annotated 1953, as amended.

(2) **"Agency"** shall refer to any office, department, division, section, staff office, board, committee or other division of Grantsville City Government, any public or private entity or person which contracts with the City to provide goods or services directly to the City, or any private non-profit entity that receives funds from the City.

(3) **"Computer software program"** means the series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation, manuals, or other source material explaining how to operate the software program. "Software" does not include the original data or record which is manipulated by the software.

(4) **"Controlled"** records shall be those defined as controlled under the provisions of this Policy and in accordance with the provisions of the Act.

(5) **"Data"** shall refer to individual entries (for example, birth date, address, etc.) in records.

(6) **"Designate"** or **"designation"** means to give an initial or primary classification to a record or record series indicating the likely classification that a majority of such records or record series would be given if classified.

(7) **"Dispose"** means to destroy, or render irretrievable or illegible, a record or the information contained in it by any physical, electronic, or other means, including unauthorized deletion or erasure of electronically recorded audio, visual, non-written formats, data processing, or other records.

(8) **"Non-public"** records shall refer to those records defined as private, controlled, or protected under the provisions of this Policy and of the Act.

(9) **"Private"** records shall refer to those records classified as private under the provisions of this Policy and of the Act.

(10) **"Protected"** records shall refer to those records classified as protected under the provisions of this Policy and the Act.

(11) **"Public"** records shall refer to those records which have not been classified as non-public in accordance with the provisions of this Policy and the Act.

(12) *(a)* **"Record"** means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received, or retained by the City where all the information in the original is reproducible by some mechanical, electronic, photographic or other means.

(b) **"Record"** does not mean:

(i) Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of a person for whom he is working;

(ii) Materials that are legally owned by an individual in his private capacity;

(iii) Materials to which access is limited by the laws of copyright or patent, unless owned by the City;

(iv) Junk mail or commercial publications received by the City or by an officer or employee of the City;

(v) Books and other materials that are catalogued, indexed, or inventoried and contained in the collections of City libraries open to the public, regardless of physical form or characteristics of the material;

(vi) Personal notes or daily calendars prepared by any City employee for personal use or the personal use of a supervisor or such notes, calendars or internal memoranda prepared for the use of an officer or agency acting in a quasi-judicial or deliberative process or pursuant to matters discussed in a meeting closed pursuant to Utah Open Meetings Act; or

(vii) Proprietary computer software programs as defined in subsection 3 above that are developed or purchased by or for the City for its own use.

SECTION 4. PUBLIC RIGHT TO RECORDS

(1) Members of the public shall have the right to see, review, examine and take copies, in any format maintained by the City and subject to Section 17 hereof, of all City governmental records designated as "public" under the provisions of this Resolution and of the Act and any policies and procedures developed hereunder.

(2) The City has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.

(3) When a record is temporarily held by a custodial City agency, pursuant to that custodial agency's statutory and Policy functions, such as records storage, investigation, litigation or audit, the record shall not be considered a record of the custodial agency for the purposes of this Resolution. The record shall be considered a record of the agency or agencies which usually keeps or maintains that record and any requests for access to such records shall be directed to that agency or agencies, rather than the custodial agency, pursuant to procedures established by the City.

SECTION 5. PUBLIC, PRIVATE, CONTROLLED AND PROTECTED RECORDS

(1) Public records shall be those City records as defined in the Act, §63-2-301 (U.C.A. 1953, as amended), as public. Public records shall be made available to any person. All City records are considered public unless they are expressly classified otherwise in accordance with policies and procedures established by this Resolution and the Act, or are made non-public by the Act or other applicable law.

(2) Private records shall be those City records classified as "private", as defined in the Act §63-2-302 (U.C.A. 1953, as amended) and as classified and defined in procedures established pursuant to this Resolution and in accordance with the Act. Private records shall be made available to the following persons: The subject of the records, the parent or legal guardian of an unemancipated minor who is the subject of a record, the legal guardian of an incapacitated individual who is the subject of the record, any person who has a power of attorney or a notarized release dated not more than 90 days prior to the request from the subject of the record or his legal representative, or any person possessed of and serving a legislative subpoena or a court order issued by a court of competent jurisdiction.

(3) Controlled records shall be those City records classified as "controlled", as defined in the Act, §63-2-303 (U.C.A. 1953, as amended) and as classified and defined

in procedures established in this Resolution and in accordance with the Act. Controlled records shall be made available to a physician, psychologist, or licensed social worker who submits a notarized release dated not more than 90 days prior to the request from the subject of the record or any person presenting a legislative subpoena or a court order signed by a judge of competent jurisdiction.

(4) Protected records shall be those City records classified as "protected", as defined in the Act, §63-2-304 (U.C.A. 1953, as amended) and as classified and defined in procedures established in this Resolution and in accordance with the Act. Protected records shall be made available to the person who submitted the record, to a person who has power of attorney or notarized release dated not more than 90 days prior to the request from any persons or governmental entities whose interests are protected by the classification of the record, or to any person presenting a legislative subpoena or a court order regarding the release of the information and signed by a judge of competent jurisdiction.

(5) Under circumstances set out by the Act, it may be appropriate to disclose non-public City records to persons other than those set out in this section. The determination to so release records shall be at the discretion of the Agency Director or elected official or designee, consistent with the Act, and upon the advice of the City Attorney.

SECTION 6. PRIVACY RIGHTS

(1) The City recognizes and upholds the personal right of privacy retained by persons who may be the subject of governmental records. The City also recognizes that the Act and Utah case law establish a presumption that governmental records will generally be considered open and public, with certain specific exceptions. In circumstances where a record's public or non-public status is not specifically

established by the Act or another statute, by this Resolution, or by policies established or designations made under this Resolution, the public's right to access and the record subject's right of privacy must be compared. The City shall not release any records when to do so would constitute a clearly unwarranted invasion of personal privacy, in accordance with the Act and procedures established in this Resolution. Under circumstances and procedures established by this Resolution, certain items of data may be rendered non-public, although other items of data in the record, or the record itself, may be classified public.

(2) The City may, as determined appropriate by the agency director of the agency responding to a request for records, notify the subject of a record that a request for access to the subject's record has been made.

SECTION 7. DESIGNATION, CLASSIFICATION AND RETENTION

All City records and records series, of any format, shall be evaluated, designated, classified and scheduled for retention according to the provisions of the Act and this Resolution. The City may designate or redesignate or classify or reclassify records or data at any time and is not required to classify a particular record or item of data until access thereto is requested. Any records or record series generated in the future shall also be so designated, classified and scheduled for retention. Records designation, classification and scheduling for retention shall be conducted under the supervision of and proposed schedules submitted to the City Records Officer who shall be assisted by a Records Classification and Retention Review Committee consisting of the Records Officer or designee and the agency director of the agency in charge of the record in question, or designee. Assistance may be requested from the City Attorney as needed. Designation, classification and retention scheduling forms and guidelines shall be prepared and promulgated by the Records Officer.

SECTION 8. PROCEDURES FOR RECORDS REQUEST

(1) Under circumstances in which an agency is not able to immediately respond to a records request, the requester shall fill out and present to the agency a written request on forms provided by the City. The date and time of the request shall be noted on the written request form and all times provided under this Resolution shall commence from that time and date. Requesters of non-public information shall adequately identify themselves and, if applicable, their status when requesting access to non-public records.

(2) An agency may respond to a request for a record by approving the request and providing the records, denying the request, or such other appropriate response as may be established by policies and procedures. If a written request is denied in whole or in part, the agency shall provide a notice of denial to the requester. The denial notice shall include the reasons for denial and information regarding the appeals process and such other information as may be required by this Resolution and the Act.

(3) *(a)* An agency shall respond to a written request for a record as soon as reasonably possible, but no later than ten business days after receiving the request or five business days after receiving a request if the requester satisfactorily demonstrates that an expedited response time primarily benefits the public at large, rather than the requester individually. A requester seeking records for publication or broadcast purposes is presumed to be acting primarily for the benefit of the public at large.

(b) The following extraordinary circumstances shall justify an agency's failure to timely respond to a written request for a record and shall extend the time for response thereto to that time reasonably necessary to respond to the request, as determined by the agency director. Extraordinary circumstances shall include:

(i) The agency, another agency, or some other governmental entity is currently and actively using the record requested;

(ii) The record requested is for either a voluminous quantity of records or requires the agency to review a large number of records or perform extensive research to locate the materials requested;

(iii) The agency is currently processing either a large number of records requests or is subject to extraordinary seasonal work loads in the processing of other work;

(iv) The release of a record involves legal issues that require an agency to seek legal counsel for analysis of applicable laws;

(v) The request involves extensive editing to separate public data in a record from that which is not public; or

(vi) Providing the information request requires computer programming or other format manipulation.

(c) When a timely response cannot be made to a record request, the agency shall notify the requester that it cannot immediately approve or deny the request because of one of the extraordinary circumstances listed above, and provide an explanation of the circumstances and an estimate of the time required to respond to the request. If the agency fails to provide the requested record within the estimated time, that failure shall be considered a denial of the request.

(4) The failure or inability of an agency to respond to a request for a record within the time frames set out herein, or the agency's denial of such a request, shall give the requester the right to appeal as provided in Section 10.

(5) Any City record which is subject to litigation, criminal investigation or audit or has been requested in accordance with this Resolution and the Act, that is

disposable by an approved retention schedule, may not be disposed of until the litigation or audit has been resolved or the request is granted and fulfilled, or sixty days after the request is denied if no appeals are filed, or sixty days after all appeals are completed, pursuant to Section 10.

(6) In response to a request for access, an agency may redesignate or reclassify the record or segregate data in the requested record in accordance with this Resolution and the Act.

SECTION 9. FEES

(1) An agency may charge a reasonable fee to cover its actual cost of duplicating a record or compiling a record in a form other than that maintained by the agency.

(2) An agency may fulfill a record request without charge and is encouraged to do so when it determines that:

(a) releasing the record primarily benefits the public rather than a person;

(b the individual requesting the record is the subject of the record; or

(c) the requester's rights are directly implicated by the information in the record, and the requester is impecunious.

(3) Fees for the processing of information requests under this Policy shall generally be set at actual cost or as otherwise established by Resolution of the Grantsville City Council. City agencies shall charge the following fees for requests relating to the Government Records Access and Management Act:

(a)	Reviewing a record to determine whether it is subject to disclosure	No Charge
(b)	Inspection of records by requesting Person	No Charge
(c)	Copy Fees	_____cents per page for City prepared copies

(d)	Computer Disk	Actual Cost including overhead and staff time in preparation of information request
(e)	Other Forms	Actual Cost including overhead and staff time in preparation of information request
(f)	Miscellaneous Fees	Actual Costs including overhead and staff time in preparation of information request

SECTION 10. APPEAL PROCESS

(1) Any person aggrieved by the City's classification of a record or by an agency's response to a record may appeal the determination within 30 days after notice of the City's action to the City Records Officer by filing a written notice of appeal. The notice of appeal shall contain the petitioners name, address, phone number, relief sought and if petitioner desires, a short statement of the facts, reasons and legal authority for the appeal.

(2) If the appeal involves a record that is subject to business confidentiality or affects the privacy rights of an individual, the Records Officer shall send a notice of the requester's appeal to the affected person or entity.

(3) The Records Officer shall make a determination on the appeal within 10 days after receipt of the appeal. During this 10 day period the Records Officer may schedule an informal hearing or request any additional information deemed necessary to make a determination. The Records Officer shall send written notice to all participants providing the reasons for the Records Officer's determination. If the Records Officer fails to issue a written decision within 10 days after receipt of the

appeal, the requester shall have the right to immediately carry the appeal to the City Council.

(4) In addition, if the Records Officer affirms the denial in whole or in part, the denial shall include a statement that the requester has a right to appeal the denial to the City Council within thirty (30) days at a scheduled City Council meeting.

(5) An aggrieved person may file a written notice of appeal from the Records Officer's decision with the Mayor, which appeal shall be heard by the City Council within thirty (30) days of the filing of such an appeal. If there is no meeting scheduled within the next thirty days, the City Council shall schedule a meeting for the purpose of hearing the appeal. The final decision of the City Council shall be by majority vote of a quorum of the Council. The City Council shall prepare a written decision outlining their final determination and reasons for the final determination. Failure of the City Council to issue a written decision within ten (10) days after conclusion of the hearing grants to the requester the right to carry the appeal to the District Court.

(6) The appeal of a decision of the City Council may be made by any aggrieved party to the District Court, in accordance with the Act and the Utah Rules of Civil Procedure.

(7) The decisions of the City Council regarding access to or classification of records shall be forwarded to the City Records Officer for corrective action including any reclassification or designation of data or records which may be necessitated by the appellate decision.

SECTION 11. REASONABLE ACCOMMODATION

Reasonable accommodations regarding access to governmental records shall be provided to persons with disabilities in accordance with policies developed under this Resolution.

SECTION 12. RECORDS AMENDMENTS

Records held by the City may be amended or corrected as needed. Requests for amendments, corrections, or other changes shall be made in writing to the agency having custody of the records and setting forth, with specificity, the amendment or correction requested and the reason for the change. When an amendment or correction of a government record is made, generally both the original record and the amended or corrected record shall be retained, unless the nature of the record indicates otherwise or as may be provided by policies and procedures adopted under the provisions of this Resolution.

SECTION 13. PENALTIES

(1) City employees or other persons having lawful custody of City records who knowingly refuse to permit access to records in accordance with the Act and this Resolution, or who permits access to non-public records knowing that such access is prohibited or who knowingly, without authorization or legal authority, disposes of, alters, or removes records or allows other persons to do so in violation of the provisions of the Act, this Resolution, or other law or regulation may be subject to criminal prosecution and disciplinary action, including termination.

(2) In accordance with the Act, neither the City nor any of its agencies, officers or employees shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

SECTION 14. RECORDS OFFICER

(1) There shall be appointed a City Records Officer to oversee and coordinate records access and management and City archives activities. The Records Officer shall make annual reports of records services activities to the City Council.

(2) Each agency of City Government shall appoint a Records Representative to assist with and be directly responsible for the implementation of this Resolution. Regular training shall be provided under the direction of the Records Officer to Agency Records Representatives.

(3) The Records Officer shall develop and provide records management, maintenance and access standards policies and procedures as approved by the City Council to govern and implement the provisions of the Act and this Resolution. Copies of any rule or policy promulgated under this Policy shall be forwarded by the City Records Officer to the Utah State Division of Archives within thirty (30) days after its effective date. Any agency's internal policies regarding records management and access shall be consistent with this Policy and state law.

SECTION 15. RECORDS MAINTENANCE

(1) Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve City records safely and accurately over the long term. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of City records and shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use, and maintenance of records. Policies and regulations regarding types and formats of papers, inks, electronic media, and other records and information storage media, materials, equipment, procedures and techniques shall be developed and promulgated, subject to the approval of the City Council.

(2) All City records which constitute an intellectual property right shall remain the property of the City unless federal or state legal authority provides otherwise. All other records shall be the property of the State of Utah. Property rights to City records may not be permanently transferred from the City to any private individual or entity, including those legally disposable obsolete City records of City Archives or other agencies. This prohibition does not include the providing of record copies for release or distribution under this Resolution. All records disposals shall be conducted in accordance with policies and procedures.

(3) Custodians of any City records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the City Records Officer.

(4) All records which are in the possession of any City agency shall, upon termination of activities of such agency, be transferred to any successor agency or to the City Archives, provided that such transfer is consistent with the formal provisions of such termination.

SECTION 16. RESPONSIBILITY FOR CITY RECORDS

(1) It is the responsibility of each City agency to receive, store, and preserve City agency records and other materials and to store and to provide reasonable access thereto as may be calculated to accurately and safely maintain City records over a long term in compliance with this Resolution and the Act.

SECTION 17. COMPUTERIZED RECORDS

(1) The City retains and reserves to itself the right to use any type of non-verbal or non-written formats for the storage, retention and retrieval of government records, including but not limited to, audio tapes, video tapes, micro-forms, and any type of computer, data processing, imaging, or electronic information storage or processing

equipment or systems, which are not prohibited by state statute, and do not compromise legal requirements for record storage, retrieval, security and maintenance, to store and maintain City records. All computerized and non-written format records and data which are designated and classified in accordance with the Act and this Resolution, shall be made available to a requester in accordance with this Resolution and the Act.

(2) The methods of access to records in non-written formats or data processing systems shall be as determined appropriate by the agency director of the agency maintaining the records, considering all circumstances. Access may include, but not be limited to the following:

(a) By using a City computer terminal or other viewing or listening device to retrieve data directly from the terminal screen or device; provided, however, that due regard shall be exercised to ensure that any non-public records will not be accessed, retrieved or displayed on the device and that records are not erased or damaged;

(b) By providing paper or "hard" copies of record printouts or by providing magnetic tapes, disks, or other means of electronic storage containing the non-written format or data processing system records; or

(c) By the use, where appropriate, of remote terminals which have access to City computer, data processing or electronic information systems pursuant to a formal two-party contract permitting such remote terminal access and provided that due regard shall be exercised to ensure that non-public records will not be available by remote terminal access.

(3) Computer software programs are not considered a record. Software programs shall not be subject to disclosure under this Resolution or the Act, including copyrighted software and other copyrighted materials which have been purchased by or

licensed to the City and software and other materials which have been copyrighted by the City.

SECTION 18. JUSTICE COURT RECORDS

Records activities of the City Justice Court system shall comply with and be governed by Section 63-2-702 of the Act.

SECTION 19. EFFECTIVE DATE

This Resolution shall take effect upon adoption. After approval and adoption, a copy and summary of this Resolution shall be forwarded by the City Records Officer to Utah State Archives.

IN WITNESS WHEREOF, the City Council of Grantsville City has passed, approved and enacted this Resolution this 15th day of ~~June~~ July, 1992.

GRANTSVILLE CITY

By Howard Murray
Mayor Howard Murray

ATTEST:

Patricia Hunter
Patricia Hunter City Recorder

(S E A L)

State of Utah, County of Tooele§
§ I Patricia O. Hunter, City recorder of Grantsville City, Utah, do hereby certify that the foregoing copy of Public records & access management resolution, has been by me compared with the original thereof, of record in my office and that the same is a full, true and correct transcript therefrom and of the whole of said original, as the same appear of record in my office and in my custody.
IN WITNESS THEREOF I have hereunto set my hand and official seal this 16th day of July, A.D., 1992.

Patricia O. Hunter
Patricia O. Hunter, City Recorder