

RESOLUTION NO. 3246 (2020)

**A RESOLUTION AMENDING THE QUALIFICATIONS OF
THE ADMINISTRATIVE CONTROL BOARD OF
ARCHES SPECIAL SERVICE DISTRICT**

WHEREAS, the Grand County Commission (formally “Council”, hereinafter the “Commission”), adopted resolutions during 2011 in the formation of Arches Special Service District, located in Grand County, State of Utah, for the purpose of providing water, sewerage, drainage and flood control within the boundaries described in Exhibit A attached hereto;

WHEREAS, Resolution No. 2954 adopted May 3, 2011 proposed the creation of the Arches Special Service District, defining the boundaries of said special service district and the services to be provided therein; providing for a hearing regarding the creation of said special service district; providing for notice of said hearing, and providing a Notice of Intention;

WHEREAS, a public hearing was held June 7, 2011 in the Grand County Commission Chambers at 7:00 p.m. and found to provide sufficient notice to the owners of property within the proposed district while providing opportunity for citizen input or protest;

WHEREAS, Resolution No. 2956 adopted July 5, 2011 created the Arches Special Service District, authorizing the improvements, purposes and services of the district with scope of services downsized from the originally proposed district;

WHEREAS, Resolution No. 2961 adopted September 20, 2011 attempted to correct the boundary description of the Arches Special District using a parcel legal description recorded October 14, 2011;

WHEREAS, the Lieutenant’s Governor’s Office filed a Notice of Rejection dated October 21, 2011 regarding Arches Special Service District for the following reasons:

- “Plat or final local entity plat that has not been certified as a final local entity plat by the county surveyor under Section 17-23-20” (See 67-1A-6.5(2)).
 - Plat is missing the approving signature and seal of the Grand County Surveyor, or appropriate authority.

WHEREAS, The Commission adopted Vacation of Resolution No. 2961 on February 13, 2012 to remove recordation records pertaining to the parcel legal boundary description;

WHEREAS, clarifying Resolution No. 2975 adopted January 17, 2012 authorized removal of the October 14, 2011 recordings of Resolution No. 2961 from the County records in favor of proper recording of metes and bounds legal description thus correcting the boundary description of the Arches Special District and final local entity plat; authorized County Clerk to replace legal descriptions of Resolutions 2954 and 2956; and authorized County Recorder to record a plat vacation to vacate the final local entity plat and Resolution No. 2961.

WHEREAS, the final local entity plat containing the correct metes and bounds legal description was filed with the Lieutenant Governor’s Office in January 2012 for creation of Arches Special Service District.

WHEREAS, Arches Special Service District was authorized via a Certificate of Creation by the State of Utah, Office of the Lieutenant Governor on January 24, 2012, with the corrected property description and corrected map, pursuant to the provisions of the Utah Special Service District Act, Utah Code Ann. § 17D-1-101 *et seq.*, as amended;

WHEREAS, the Commission adopted Vacation of Resolution No. 2961 on February 13, 2012 which referred to Resolution No. 2975, that authorized the vacation of Resolution No. 2961, and included the corresponding description of Arches Special Service District to be vacated.

WHEREAS, Resolution No. 2956 states, “The Commission shall control and have supervisory authority over all activities of the District, but may, in its discretion, delegate certain of its powers to an administrative control board as permitted by the Special Service District Act, Title 17D, Chapter 1, Utah Code Annotated 1953, as amended.”

WHEREAS, Resolution No. 3023 delegated the Commission’s authority to the Administrative Control Board stating, “The District shall be administered by an Administrative Control Board (hereinafter the “**District**” or “**Board**”), which is hereby delegated, without limitation, the power to act as the governing authority of the district and to exercise all or any of the powers provided in accordance with Utah Code Ann. § 17D-1-103”

WHEREAS, Resolution No. 3023 also states [emphasis added], “The membership of the Administrative Control Board of Arches Special Service District shall consist of three (3) members, each of whom is a registered voter of the District, but only one (1) of whom may be a member of the County Council, and all of whom shall be appointed by the Council.”

WHEREAS, Utah Code Ann. § 17D-1-304(1)(b)(i) states,

“Subsection (1)(a) does not apply if:

- (i) at least 90% of the owners of real property within the special service district are not registered voters within the special service district; or

WHEREAS, It has been determined that Utah Code Ann. § 17D-1-304(1)(b)(i) is applicable at the time of the passage of this resolution and that at least 90% of the owners of real property within the special service district are not registered voters within the Arches special service district.

BE IT RESOLVED, by the Grand County Commission as follows:

Section 1. The District shall be administered by an Administrative Control Board (hereinafter the “**District**” or “**Board**”), which is hereby delegated, without limitation, the power to act as the governing authority of the district and to exercise all or any of the powers provided in accordance with Utah Code Ann. § 17D-1-103;

Section 2. The membership of the Administrative Control Board of Arches Special Service District shall comply with the provisions of Utah Code Ann. § 17D-1-304, consist of three (3) members, but only one (1) of whom may be a member of the County Commission, and all of whom shall be appointed by the Commission.

One (1) of the Board members shall have an initial term of two (2) years, and two (2) of the Board members shall have terms of four (4) years. The Board member with the term of two (2) years shall be determined by lot. After the conclusion of the first terms of office, all terms thereafter shall be four (4) year terms pursuant to Utah Code Ann. § 17B-1-301 *et seq.*

The Commission has considered the appointments to the Board who are most familiar with the needs of the District.

The initial appointees of the Board are as follows:

Name	Seat term ends
Gene Ciarus, term of office ending 12/31/2014	12/31/2016
Norman Moore	12/31/2018
Preston Paxman	12/31/2018

The appointees are hereby appointed effective as of the 1st day of July, 2014, to organize for the commencement of operations beginning the 1st day of July, 2014.

Section 3. The District's status, powers, and duties are as follows:

- The District shall have all power and authority allowed by the Special Service District Act contained in the Utah Code unless other prohibited by this Resolution.
- The District shall not assume or undertake responsibility for functions that are the primary responsibility of the County.
- The District alone shall be responsible for all of the projects undertaken solely by the District, without any recourse to the County or other local government entities. Notwithstanding the foregoing, the District, acting in its sole discretion, may at times cooperate with other local government entities and enter into contracts to carry out special service district functions as allowed by Utah Code Ann. § 17D-1-103 (2)(b) and to perform projects through Interlocal Agreements pursuant to Utah Code Ann. § 11-13-101 *et seq.* If the District uses an officer, employee, property, equipment, office, or facility of Grand County, the District shall reimburse Grand County a reasonable amount for what the District uses subject to Utah Code Ann. § 17D-1-103 (2) and (3). The District shall avoid any action that could jeopardize the perceived independence of the District from the County or other local government entities.

- Pursuant to State Code 11-8-1, to enter into long-term contracts with any other public owner or public owners pursuant to which sewage lines, sewage treatment and sewage disposal facilities, or any part thereof, of one or more public owners shall be available for collection, treatment and disposal, or any part thereof, of the sewage collected by one or more other public owners, or of sewage collected jointly, pursuant to such terms and conditions and for such consideration as may be provided in such contracts. Annual payments due by any such public owner for services received under any such contract may not be construed to be an indebtedness of such public owner within the meaning of any constitutional or statutory restriction, and no election shall be necessary for the authorization of such contract. Any public owner or owners so contracting to make available sewage collection, sewage treatment and disposal facilities, or any part thereof, may in any such contract agree to make available to such other public owner or owners a specified part of its facilities, without regard to its future need of such specified part for its own use, and may in such contract agree to increase the capacity of its facilities from time to time in the future if necessary in order to take care of its own needs and to perform its obligations to the other parties to such contract.
- Pursuant to State Code 11-8-1, to construct or otherwise acquire joint interests in, and to own jointly, sewer lines, sewage treatment and disposal facilities, or any part thereof for their common use. To such end, any public owner may sell to any other public owner or owners a partial interest or interests in any of its sewer lines, sewage treatment and disposal facilities. Any public owner may issue its bonds for the purpose of acquiring such joint interest in sewer lines, sewage treatment and disposal facilities, or any part thereof, whether such joint interest is to be acquired through the construction of new facilities or the purchase of such interest in existing facilities, which bonds may be issued under the provisions and in the manner provided in any available law authorizing the issuance of bonds for the acquisition of sanitary sewer facilities by such public owner.
- Pursuant to State Code 11-8-1, to operate jointly with any other public owner or owners, sewer lines, sewage treatment and disposal facilities, or any part thereof, which they may own jointly.

Section 4. The members of the Board shall serve without compensation except that they may be reimbursed for reasonable expenses consistent with Utah Code Ann. § 17D-1-305 and 307.

Section 5. The Board is encouraged to create Bylaws in accordance with Utah Code Ann. §§ 17B-1-301(h) and 17B-1-310(1)(b).

Section 6. Subject to Utah Code, the Commission may dissolve the District in accordance with the process contained in the Utah Code Ann. §§ 17D-1-601 through 603.

Section 7. If any one or more sections, sentences, clauses or parts of this resolution shall, for any reason, affect, impair or invalidate the remaining provisions of this resolution, but shall be confined in its operation to the specific sections, sentences, clauses or parts of this resolution so held unconstitutional and invalid, then such offending sections, sentences, clauses or parts shall be severed, and shall not affect or prejudice in any way the applicability and validity of this resolution in any other instances.

Section 8. All resolutions, by-laws and regulations of Grand County, Utah, in conflict with this resolution, are hereby repealed to the extent only of such inconsistency. This repeal shall not be construed to revive any resolution, by-law or regulations, or part thereof, heretofore repealed.

APPROVED this 20th day of October, 2020 by the following vote:

AYE: McGann, Hawks, Woytek, Halliday, Clapper_____

NAY: _____

ABSENT: Wells, Paxman_____

ATTEST:



Quinn Hall
Grand County Clerk/Auditor



Mary McGann
Grand County Commission Chair