



MURRAY  
CITY COUNCIL

## MURRAY CITY MUNICIPAL COUNCIL COMMITTEE OF THE WHOLE

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The Murray City Municipal Council met as a Committee of the Whole on Tuesday, May 16, 2017, in the Murray City Center, Conference Room #107, 5025 South State Street, Murray Utah.

### Council Members in Attendance:

Diane Turner, Chair	District #4
Dave Nicponski, Vice-Chair	District #1
Blair Camp	District #2
Jim Brass	District #3

### Excused:

Brett Hales	District #5
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### Others in Attendance:

Ted Eyre	Mayor	Jan Lopez	Council Administrator
Janet Towers	Chief Admin. Officer	Jennifer Kennedy	City Recorder
Pattie Johnson	Council Office	Craig Burnett	Police Chief
Brent Davidson	Purchasing Agent/Deputy Recorder	Frank Nakamura	City Attorney
Sherrie Willden	Business License Specialist	Briant Farnsworth	Senior City Attorney
Tim Tingey	ADS Director	Jim McNulty	Development Services Mgr.
Jennifer Brass	Resident	Danyce Steck	Finance Director
Kathleen Stanford	Resident	Stan Hoffelmeyer	Resident
Elliot Setzer	Resident		

Ms. Turner called the Committee of the Whole meeting to order at 5:00 p.m. and welcomed those in attendance.

### 1. Approval of Minutes

Ms. Turner asked for action on the minutes from April 18, 2017. One correction was noted by Mr. Camp. Mr. Brass moved approval with corrections. Mr. Nicponski seconded the motion. All were in favor.

### 2. Discussion Items

## **2.1 Proposed modifications to the Business Licensing Ordinance - Tim Tingey**

Due to size of the ordinance, which contains a significant amount of information the city must adhere to, the process to update the Business License ordinance required the formation of a subcommittee. Mr. Tingey praised Ms. Willden for her hard work and expertise in the department of business licensing, as well as, her professionalism and knowledge at the state level. He gave credit to Mr. Nakamura, and commended Mr. Farnsworth for leading the way in drafting ordinance changes. He thanked the subcommittee, Ms. Willden, Mr. Hall and Ms. Heaps for dedicated assistance during the long process.

Mr. Tingey explained the state legislature adopted significant changes to the business licensing state code, while the subcommittee was making city ordinance modifications. A few major changes were highlighted:

- **Home Occupation Businesses** - State legislature prohibits the city from requiring business license fees on home occupations, with the exception now being, if a business *"materially exceeds the offsite impact."* As a result, a significant reduction in revenue was anticipated for the upcoming year.

Mr. Tingey felt the meaning of the exception was not clearly defined, therefore, the subcommittee worked to better define those terms. For instance, if employees and customers of home businesses create a steady flow of traffic, impact on the neighborhood would be considered. Therefore, the staff recommended the updated definition relate to the substantial *excess traffic* impact on neighborhoods.

Ms. Willden reported 670 active home occupations where business license fees were collected. However, many other home businesses in the city do not pay fees.

Mr. Nicponski affirmed, there would be no business license requirement for a consultant-type business whose customers were not coming and going constantly from houses. Mr. Tingey said that was correct.

Mr. Farnsworth clarified, low impact businesses are required to attain business licenses, although, business license fees were no longer required. Mr. Tingey confirmed the business license would be free of charge for home occupations of low impact.

Ms. Tuner asked what the loss in revenue would be. Mr. Tingey replied, conceivably tens of thousands of dollars. Ms. Willden confirmed approximately \$60,000 in revenue.

Mr. Brass wondered if the reduction in revenue was considered when new budget projections were calculated for the upcoming year. Mr. Tingey could not confirm.

- **Mobile Food Truck Regulations** – State legislature requires Murray City to acknowledge and accept food truck business licenses approved and attained in other jurisdictions and political subdivisions, as well as, current health department permits. Therefore, city code would change from the recent adopted city ordinance. As a result, the city would be limited on evaluating permits, related to fire safety or health inspections for the Murray community.
- **Penalty Fees** – Ms. Willden explained current code requires a 50% penalty of base license fees for 30 days late, with a second payment of 100% the next month. The new proposal, would allow the city to charge a penalty fee of \$100 for those not in compliance with a current business license. The reason for the proposed change, was due to the number of nonprofit charitable organizations, insurance

agencies and real estate agents, who cannot be charged a fee for obtaining a business license according to state code. It was realized organizations and charitable businesses often fail to attain a business license in a timely manner, and are slow in renewals.

Mr. Tingey added, a grace period was built into the licensing process as well, which would allow ample time for licensing prior to any penalty fee.

Ms. Willden felt the city was very generous on fees and said on a positive note, licensing fees, which are comparatively lower than other cities, would not increase.

- **Bonding** - Provisions would be deleted from the code.
- **Inspections** - New code would clarify inspection requirements and adds the inspection process with certain land uses. Code would include police investigations related to inspections.
- **Liquor licensing** - Many code changes occurred at the state level, therefore, the city was required to clarify significant changes related to alcoholic beverages. Specifics were not addressed, although, Mr. Tingey gave credit to Mr. Nakamura and Mr. Farnsworth for their detailed work related to liquor licensing.

Mr. Farnsworth added many city code changes stemmed from previous legislative sessions, as far back as 2009, therefore, in order to match state code, classifications of licenses were updated and clarified.

- **Special Events** - Changes related to liability insurance occurred.

Mr. Tingey said fine tuning a few more minor points would bring the project of modifying the business license ordinance to completion, and would provide better clarity and bring the city current with state laws. Again, he noted the extensive hard work and great effort by everyone involved in completing code changes. The proposal would go before the council for their consideration in June.

## **2.2 Development Agreement for the project on the corner of Jones Court and Vine Street – Tim Tingey**

Plans for a proposed senior living facility transferred to the planning and zoning commission in May of 2017. The facility would be located on Jones Court and Vine Street, where currently five historic buildings are situated. Four of the five buildings would be demolished leaving the Carnegie Library intact. Mr. Tingey reviewed the proposal, site plans and significant details related to architectural concepts for the senior living facility.

- The site plan is located on Vine Street adjacent to Center Street, wraps around the corner of Arlington and Jones Court, and would enclose an inner court area behind the facility.
- Renderings convey retail space on site as well, replicating demolished structures with features, such as, the iconic church tower and gable rooftops outside, providing a look and feel of historic architecture.
- Renderings of the old historic buildings are reflected in wall pictures throughout the facility. Inside amenities provide a chapel, catering, dining, bistro, physical therapy, and salon areas on the main level.
- Upper levels provide living units.
- Distance between the new facility and the Carnegie Library was noted.

Mr. Tingey explained detailed information and reasons for demolishing existing structures, which could not be retrofitted into the project, were provided with the developer's application. The decision was Carnegie Library would be retained and repurposed.

The council would consider the demolition requirements within the development agreement during a council meeting in June 2017. The following information was noted:

- A historical marker or monument must be positioned on the site if historical buildings are demolished.
- With planning commission approval, the history advisory board must approve of the monument inscription for the site.

The planning commission approved the certificate of appropriateness with the following conditions:

- Applicants must enter into a development agreement with Murray City in order to demolish existing structures.
- As per code, the city council would determine approval of the development agreement.

Mr. Tingey provided an outline of the development agreement and explained under code conditions, an exception process would be allowed to demolish a significant structure. Stipulations were noted as:

- The applicant must demonstrate to the planning commission the incorporation of historic elements. (noted above)
- A new proposal must demonstrate adherence to the goals and objectives of the Murray City Center District (MCCD).
- Applicant must demonstrate and comply with design guidelines of the ordinance.

Mr. Tingey read #5 of the city code stating: *A development agreement must be executed between the city and property owner regarding the project. The development agreement shall be approved by the city council prior to the license of appropriateness and shall include the following elements:*

- a) There must be immediacy of the project and a development time line must be submitted within a 24 month project completion period.
- b) If demolition is approved, applicant/owner must provide a performance security and financial guarantee equal to 125% of the estimated cost of the project to ensure project completion if demolition is granted.
- c) Demolition shall not be approved until a building permit has been issued for the proposal development and evidence of adequate financing has been submitted to the city.
- d) The project must be at least five times the current assessed valuation of the property.
- e) Project must include all commercial or a mix of residential and commercial equal to square footage amounts of 100%. (Mr. Tingey stated the requirement had been met.)
- f) Demonstration of the proposed number of jobs created and quality of jobs (including wage and benefit projections) must be provided as part of the development proposal
- g) Public benefit must be substantiated.

Mr. Tingey said the above information would be included in the development agreement packet, which was imperative to the council's approval of the agreement. The agreement would be sent to the developer as well.

Mr. Brass asked if attachments included renderings, elevations and site plan details. Mr. Tingey replied yes.

Mr. Brass commented members of the Historic Advisory board saw the proposal and site plan details, as had, the Wasatch/Center Street neighborhood; he noted all were in favor of the project. However, he received numerous phone calls from others who opposed the loss of the chapel.

Mr. Tingey explained a public hearing was held at a recent planning commission meeting, where public comments were heard and collected by the planning commission; all of which were taken into consideration prior to the determination on the certificate of appropriateness.

Mr. McNulty confirmed and reported the minutes from the planning commission, and all of the findings from the hearing would be included in the packet for council consideration.

Mr. Camp shared a concern he observed from constituents, which was related to design and appearance of the project and the assurance that the facility would fit well into the area.

Mr. Brass noted another expression he received from constituents was excitement about how soon the new project would be completed.

Mayor Eyre asked if the facility was four stories high. Mr. Tingey replied yes.

Mr. Nicponski felt #b, #c and #d of the code requirements served a reasonable purpose. Related to the required 125% of the project cost, he asked Mr. Tingey to clarify what the guaranteed total could be.

Mr. Tingey explained, according to the agreement, for example, if a project was worth \$10 million, the performance security would insure a financial guarantee, whereby the developer would pay the city \$10 million, plus 25% of the cost should the developer abandon the project.

Mr. McNulty said there was more risk involved with the Vine Street project, due to demolition; therefore, should the project be abandoned, the performance security would provide a way for the city to hire another developer to finish the project.

Ms. Turner noted the approval of the project by the surrounding neighborhood, however, she mentioned a letter to the editor, which conveyed disappointment in losing the Murray First Ward.

Mr. Tingey noted concerns from constituents about losing the ward house were from residents who resided further east of Vine Street, because Wasatch and Atwood neighborhoods highly favored the project.

### **2.3 Proposed amendments to Title 6 of the Murray City Municipal Code relating to Animal Control – Frank Nakamura**

Mr. Nakamura reported Title 6 was updated and brought to current standard, which required technical, punctuation and grammatical changes, as well as, the elimination of obsolete language. He commended Mr. Farnsworth for his superb work as a transactional lawyer, who drafted city ordinances. Although

certain technical changes could be made by the attorney's office, substantive changes would be considered by city council.

Mr. Farnsworth reported the only substantive change made to the animal code was the limitation of dogs per household, where current code allows the limit of two dogs per household. The provision reflects requirements under state law, which amends the city code by allowing a service animal, or a retired service animal to be kept, in addition to the two dog limit. State code defines a service animal as a police service canine, therefore, an officer would be allowed to keep his retired canine along with two additional dogs.

Mr. Nicponski noted several dog breeds could be considered service dogs and asked if city code related to police canine only. Mr. Farnsworth confirmed, changes were made to match state code, which defined service dogs as police canines only.

#### **2.4 Proposed amendments to Murray City Municipal Code chapters relating to Financial Administration**

– Briant Farnsworth

Many changes were technical in nature and could be changed by the city attorney's office. In addition, language was updated and renumbering occurred for better organization. Mr. Farnsworth noted changes to the following:

- **Accounting Standards** - As required under state law, substantive changes were made to clarify that accounting procedures are now in accordance with the Uniform Fiscal Procedures Act.
- **Accepted Payments** - A change intended to clean up antiquated language was made, relating to receiving payments and charging service fees for returned checks and dishonored payments. Original and current code stated the city could accept cash payments only, if certain conditions were met, which would allow the city to accept any form of payment. That condition was an oral or written statement accepting a \$20 service fee on non-cash payments. Mr. Farnsworth felt it was cumbersome to require cash only, unless certain provisions were made, therefore, an oral or written agreement was no longer necessary prior to accepting payments by check or debit cards. He noted the city would correlate service fees with Title Seven of Utah State Code, which does not require any oral or written agreement by the payer for dishonored payments.

Mr. Nakamura explained ordinance changes were made as a matter of catching up with technology, because means of payment overall has greatly changed.

#### **2.5 Proposed amendments to Murray City Municipal Code Chapter 3.10 relating to Procurement –**

Frank Nakamura

Mr. Nakamura said procurement code amendments were much more involved, due to ongoing daily processes within the state and city, which require careful monitoring in order to adhere to procurement laws. This year, with the efforts and input of Mr. Davidson, Mr. Tingey, staff in public services, and several others, procurement ordinances are up to date and correlate with state code changes.

The proposed ordinance would be given to the council for consideration. Mr. Farnsworth noted various substantive changes to a few code items.

- **Purchasing agent** - Clarification of authority and duties were fully defined.
- **Bid limits** - As a guideline, the Utah Administrative Code was used for implementing increases to minimum and small purchases. Minimum purchases require no formal procurement process, except a purchase order requiring at least three quotes. Quotes received by phone, fax or email would be acceptable. In addition, although the procurement process was not particular, a contract agreement would be required to protect the city.
- **Definitions** – Limit changes were noted: Professional Services would increase from \$25,000 to \$50,000 on minimum purchases, and from \$50,000 to \$100,000 on small purchases (which includes construction agreements on small purchases).

Architectural and engineering services would increase from \$50,000 to \$100,000 on minimum purchases.

- **Agreements with Other Governmental Entities** - Clarification was made, in that, the city can enter into state cooperative contracts, by interlocal agreements in order to join purchasing organizations inside and outside of state.
- **Sole Source Procurement** - Clarification was made by defining requirements, which would allow Mr. Davidson to better determine when a purchase qualifies for a sole source.

Mr. Tingey confirmed and stressed the importance of the sole source procurement clarification because it was easier for him, Ms. Heaps and Mr. Davidson to make better decisions related to the definition of a sole source entity, as one who could provide a service, need or information. Having clarity would benefit them in better administrative tasks.

Mr. Brass stated by working for a company who does business with the city of Murray, the only customer he had resides in the state of Nevada. He wondered under sole source procurement how this clarification would apply to enterprise funds.

Mr. Nakamura said the same type of clarification would relate to enterprise funds because procurement laws apply in the same fashion.

- **Construction Management** - Mr. Farnsworth said city code would clarify that the city is able to use any type of lawful construction management method. Lawful construction methods include general contracting, multiple price contractors, design build, and construction manager not-at-risk. Construction manager/general contractor or construction manager at risk, are all identical to state procurement and administrative codes.

Substantive changes would outline the assessment factors in determining, when to choose the best method, who would provide the best value for the city, and what method of construction management to select.

Mr. Tingey confirmed substantive changes were very important to construction management with regard to saving costs, especially associated with upcoming projects, such as, the new city hall and fire station. He felt the proposed ordinance was critical to future planning.

Mayor Eyre stated when it comes to procurement and lawful methods of construction types, many new properties in the new downtown area would be similar as public buildings. He wondered if it would be wise to determine construction types for each individual building, such as, design build and construction management, or, could design build be chosen as the lawful method for the entire downtown area.

Mr. Nakamura felt individual projects would require its own type of lawful method selection, because some projects might be larger than others.

Mr. Tingey confirmed project scale would be taken into consideration as to what constituted to the lawful method type.

Mr. Nakamura agreed, it would depend on scale and time elements as to what would be selected.

- **Cost Estimate for Building Improvements and Public Works Projects** - Changes would remove definitions and requirements for health benefit plans and qualified health insurance coverage. The reason for the change was based on current understanding of the political and legal environment discouraging cities from making such demands and requirements of contractors.

Mr. Nicponski asked if the city would no longer require contractors to provide health insurance. Mr. Nakamura said as far as administering contracts, the city would rather not get deeply involved in construction company operations, or be required to monitor whether companies provide coverage. Up to this point, the city confirmed whether health insurance coverage was provided by construction companies under the lowest responsive responsible bidder ordinance. However, it was believed that construction companies provide construction services to the city and other types of issues, such as, benefits should be regulated by other agencies, therefore, the ordinance would be altered due to the difficulty of dealing with it.

- **Exemptions** - The procurement exemption for elevators, escalators and moving walkways was removed, as there appeared to be no rational justification to exempt those supplies and services from the general procurement process.
- **Purchase of Real Property** - In order to comply with Utah Code, changes would require the city to hold a public hearing before the surplus and disposition of any "significant parcels of real property." Mr. Farnsworth explained, in the past, state legislature did not define the term, therefore, with the council's approval, "any city property" would define "significant parcels of real property". The ordinance would require property to be deemed surplus, prior to the mayor selling or disposing of property. The surplus and disposition hearings maybe held at the same time.

A second part of the update would require the city to provide reasonable notice for the sale of real property within 14 days of the hearing. The city would define the term reasonable notice, therefore, it was felt current methods used by the city, such as, publishing notices on the city website, publishing in newspapers, and notifying adjacent property owners was a sufficient method and would be defined as such.

Requiring the city to sell property for fair market value was important and part of Utah law. However, an exception was noted in the ordinance, that the city council, through resolution, could authorize the sale of property for less than fair market value, if intangible benefits to the city could be identified.

Thirdly, no reason was found to strictly require a public bid process in the sale of property, therefore, a change was noted, whereby, the ordinance would allow the mayor to sell property in any matter that would bring the highest economic return to the city.

Mr. Nicponski asked, if the bid process was a requirement.

Mr. Nakamura confirmed a bid was not required and land could be sold to an individual, provided the council deems property as surplus. After which, as an executive function, the mayor would decide to bring the highest economic value to the city. He explained over the past several years, his staff wrestled with current bid processes, every time a piece of property was sold by the city, due to the confusing bid processes and working with property owners. In order to decide the best interest of the city, the change would not preclude the mayor, from choosing to use the bid process. However, it would allow the mayor to utilize the parameters of fair market value and appraisals, once property was labeled surplus.

Mr. Nicponski affirmed fair market value would be utilized for appraisals. Mr. Nakamura confirmed an appraisal would be required, which he felt was the best way to update the ordinance, providing a more flexible way for the mayor to meet fair market value for surplus property.

Mr. Farnsworth added, state law requiring reasonable notice about the sale of property would ensure transparency.

Mr. Nakamura said provisions to the ordinance would not apply to RDA property.

Mr. Nakamura appreciated the tremendous work done by Mr. Farnsworth, particularly on procurement and felt glad to have codes updated because lawful compliance was important to him.

**3. Announcements:** Ms. Lopez made the following announcements:

- Thursday, May 18, 2017, a ribbon cutting located at the Mike Acura Dealership, 3:00 p.m.
- Friday, May 19, 2017, IPP Plant tour, located in Delta, Utah.
- Wednesday, May 24, 2017, a Canal Trail Open House to discuss fencing options, located in the council chambers, 5:00 p.m. to 7:00 p.m.
- Saturday, May 24, 2017, EMS Open House, located at Station #84 on 192 East 5900 South, 11:00 a.m. to 2:00 p.m.
- Tuesday, May 30, 2017, Open House for Mr. Zollinger. Located in the council chambers, 2:30 p.m. to 4:00 p.m.

**4. Adjournment:** 6:15 p.m.

**Pattie Johnson  
Council Office Administrator II**