



MURRAY
CITY COUNCIL

Committee of the Whole Meeting February 20, 2024



Murray City Municipal Council Committee of the Whole Meeting Notice February 20, 2024

PUBLIC NOTICE IS HEREBY GIVEN that the Murray City Municipal Council will hold a Committee of the Whole meeting beginning at 4:00 p.m. on Tuesday, February 20, 2024 in the Poplar Meeting Room #151 located at Murray City Hall, 10 East 4800 South, Murray, Utah.

The public may view the Committee of the Whole Meeting via the live stream at www.murraycitylive.com or <https://www.facebook.com/Murraycityutah/>.

Meeting Agenda

4:00 p.m. **Committee of the Whole** – Poplar Meeting Room #151
Pam Cotter conducting.

Approval of Minutes

Committee of the Whole – January 16, 2024

Discussion Items

1. Fire Department Report. Joey Mittelman presenting. (30 minutes)
2. Open and Public Meetings Act and Anti-Harassment Training. G.L. Critchfield presenting (20 minutes)
3. Legislative Update. Pam Cotter presenting. (10 minutes)

Adjournment

NOTICE

Supporting materials are available for inspection on the Murray City website at www.murray.utah.gov.

Special accommodations for the hearing or visually impaired will be made upon a request to the office of the Murray City Recorder (801-264-2663). We would appreciate notification two working days prior to the meeting. TTY is Relay Utah at #711.

Council Members may participate in the meeting via telephonic communication. If a Council Member does participate via telephonic communication, the Council Member will be on speaker phone. The speaker phone will be amplified so that the other Council Members and all other persons present in the Poplar Meeting Room will be able to hear all discussions.

On Friday, February 20, 2024, at 9:00 a.m., a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Murray City Hall, Murray, Utah. Copies of this notice were provided for the news media in the Office of the City Recorder. A copy of this notice was posted on Murray City's internet website www.murray.utah.gov and the state noticing website at <http://pmn.utah.gov>.

Jennifer Kennedy
Council Executive Director
Murray City Municipal Council



MURRAY
CITY COUNCIL

Committee of the Whole Minutes

**MURRAY CITY MUNICIPAL COUNCIL
COMMITTEE OF THE WHOLE**

Work Session Minutes of Tuesday, January 16, 2024

Murray City Hall, 10 East 4800 South, Poplar Meeting Room, Murray, Utah 84107

Attendance:

Council Members:

Paul Pickett	District #1
Pam Cotter	District #2 – Council Chair
Rosalba Dominguez	District #3 -
Diane Turner	District #4
Adam Hock	District #5 – Council Vice-Chair

Others:

Brett Hales	Mayor	Jennifer Kennedy	City Council Executive Director
Doug Hill	CAO (Chief Administrative Officer)	Pattie Johnson	Council Administration
G.L. Critchfield	City Attorney	Brenda Moore	Finance Director
Phil Markham	CED Director	Brooke Smith	City Recorder
Rob White	IT Director	Elvon Farrell	CED
Greg Bellon	Power Director	Aaron Frish	Public Works
Jeff Puls	Fire Department	Rob Hughes	Intermountain Power Agency
Zac Smallwood	City Planner CED	Anthony Semone	NeighborWorks
Camron Kollman	IT	Citizens	

Conducting: Council Chair Cotter called the meeting to order at 3:30 pm.

Approval of Minutes: None scheduled.

Discussion Items:

• **Intermountain Power Agency Legislative Update**

Power Director Greg Bellon invited Rob Hughes and Eric Bawden to speak about IPA (Intermountain Power Agency) and IPP (Intermountain Power Project). Mr. Hughes said he works for Parsons Behle & Latimar and Eric Bawden works for Holland and Hart and together they represent IPA.

Mr. Hughes shared basic information about IPA. IPA is an interlocal entity that Murray has been part of for 40 years. There are 23 municipal members of IPA, including Murray and 35 power purchasers which include the 23 municipal members, six California cities and six rural cooperatives. IPA owns IPP and IPA and IPP are different. IPP is the project that includes an 1,800 MW (Megawatt) coal-fired plant, a Northern Transmission System, and a Southern Transmission System. The project is funded by bonds issued by IPA and backed by the power sales contracts. IPA has never received State or taxpayer funding, so it is the municipal rate payer that backs the bonds.

IPA has power sales contracts with each of their 35 power purchasers. He explained how take-or-pay power sales contracts work noting that every six months Utah municipalities are allowed to lay off unused energy without cost. Murray being the largest Utah purchaser of IPP energy currently gets 4%,

or 72 MW, of the coal-fired generation and only pays for energy when power is needed. He noted most of the time it has been more economical for Murray to lay off its power.

Mr. Hughes said IPA is in the middle of IPP Renewed, which is a project to build new natural gas units, the decommissioning and retiring of two coal units, a transmission project for the California members, and a hydrogen project. In 2015 all power sales contracts were amended and in 2017 they entered into new power sales contracts. The new plant once completed would produce 840 MW of natural gas. Over the next 30 years, construction contracts will cost over \$4 billion and long-term contracts with gas and hydrogen providers will cost an additional \$3.5 billion.

Ms. Turner asked why the project was now under scrutiny if it began in 2012. Mr. Hughes explained IPA approached Utah Legislators when California legislation prevented California cities from bringing coal energy into their state in 2012. With Los Angeles being the largest purchaser of IPP capacity at 48%, IPA believed shutting down coal was the best way to accommodate the largest purchasers of IPP energy. He said the request to Utah legislators was not specific about coal or gas, it was a request to create replacement project capacity.

Mr. Bawden clarified the request in 2012 was very clear about switching the plant from coal to natural gas and significant information was distributed in 2017 to all Utah leadership, legislative leaders and the governor, including a press release.

Mr. Hughes said the scrutiny was coming from State representatives who were not in office in 2012 that are concerned about the large coal plant going away. He explained the coal units could never be moved due to their massive size and that due to federal regulations within the Clean Air Act, implemented by Utah through the Environmental Protection Agency and approved SIPs (State Implementation Plans), coal operations must end. He said if the State did not comply to federal laws or their own SIPs about air quality, permitting regulations, regional haze and CCR (coal combustion and residual) waste issues, the State would be in violation. This means that IPA cannot operate the new gas units under the current permit if coal units remain in service. In addition, language in 35 power sales contracts state that once natural gas re-powering is complete, the coal units must be shut down.

Mr. Hughes discussed how HB (House Bill) 425 – Energy Security Amendments that passed in 2023 was the biggest threat to finishing the project because it has currently stopped the decommissioning of the coal units. Many State legislators who come from coal communities with concern over job loss in rural Utah supported the bill as an effort to preserve the coal plant. With the gas re-powering project reducing the demand for coal in Utah, and supply problems already existing due to other coal plants permanently closing in Utah, many were left scrambling to get coal. HB425 was a way for many legislators to express their desire to preserve the coal units and support the coal industry.

HB425 also called for a continued operation study to establish that IPP coal units should remain in operation. Jackson Walker, LLP completed the study that was presented to IPA on November 15, 2023 and indicated the cost for keeping IPP coal units running would be about \$1 billion. Mr. Hughes described how this includes re-tubing boilers, installing selected catalytic reduction technology and a new CCR handling system. He agreed the coal units are in great shape because the plant has been maintained but it is 35 years old.

Challenges noted in the study are not having a purchaser for 1800 MW of coal power, and not having new transmission lines, data centers, or water rights. Alternative uses for the coal units suggest implementing coal to graphite, or carbon capture for a cost of \$1 billion each, or Syngas which is synthesis gas. Mr. Hughes did not think any of these suggestions were doable.

Recommendations include making IPA subject to the Utah Public Service Commission, which puts municipal bonds at risk. Taking coal units from IPA and transferring them to a new entity. Enacting Utah legislation that would automatically transfer IPA's coal-fired power plant to the State, following the decommissioning, without cost; and if the State cannot take the coal unit property, the State should dissolve the existing IPA board and replace it with a new board. Mr. Hughes said dissolving the IPA board would impair IPA's Organization Agreement. It was noted that a committee bill was proposed to implement this recommendation, however it has not been moved forward for a vote. A final recommendation is that the State direct the Utah Division of Air Quality to change IPA's current air permit to allow coal production.

Ms. Dominguez asked if the State could be successful in their efforts and would the City still be responsible for existing IPP bonds. Mr. Hughes said yes, IPA was two-thirds of the way through the bonding process that currently totals \$1.6 billion and next year \$800 million more is required. He said the last phase of bonding is now at risk to finish the project and he was not certain what would happen if IPA cannot get the money to finish the project.

Mr. Hock asked if the State was trying to separate the coal plant into a new State entity and let the hydrogen plant fall under IPA. Mr. Hughes clarified the hydrogen plant was not threatened because hydrogen caverns would be located on land belonging to SITLA (State Institutional Trust Lands Administration), and SITLA would lease property to Aces, a private company who would develop the hydrogen storage project.

Mr. Hughes said moving into the 2024 Legislative Session several legislators are now understanding the problem at IPP, but others are proposing a second study to see if anything can be done to find use for 1800 MW of coal-fired energy. For now the project is delayed but the recommendations could impact Murray's cost of power and municipal control if brought forward. He asked that Murray City stand with IPA, be vigilant in following the issue closely and voice concerns to Murray representatives.

Mr. Hill asked how the City should use its voice in contacting Murray legislators. Mr. Hughes felt it is important to help all parties realize the situation is not simple, it could be very costly, and they needed to be armed with current information. Mr. Critchfield noted both of the City's lobbyist are well informed and aware of the situation.

- **CED (Community and Economic Development) Department Report.**

CED Director Phil Markham discussed overall operations of CED and reviewed the functions of each division including Building Services, Business Licensing, Code Enforcement, Planning and Zoning and the RDA (Redevelopment Agency). He introduced each staff member and outlined the scope of all their job responsibilities. Mr. Markham said his entire team was remarkable and he greatly appreciated each staff member.

Economic Development Specialist Elvon Farrell was invited to share about a new project that would

be launched soon. Mr. Farrell explained he and City Planner Mustafa Al Janabi created an on-line tool to help Murray citizens learn about current city, residential, industrial, mixed-use and commercial projects. A demonstration was given about how to use the interactive map that helps answer questions regarding development. All information is public and has gone through the planning commission process which would also be helpful for real-estate professionals, business owners and developers. The online tool would also provide information about remodel projects and renovations.

- **Discussion on an ordinance amending the City's FY (Fiscal Year) 2023-2024 Budget.**

Finance Director Brenda Moore presented proposed budget changes for FY 2023-2024. She provided the proposed ordinance and reviewed language allowing her to transfer Transportation Sales Tax revenue to the CIP (Capital Improvement Projects) Fund for this year and next fiscal year; and language that allows her to make proper transfers from the GF (General Fund) to ensure that reserves are kept between 25% and 26% of revenue. Ms. Moore reviewed all budget adjustments needed for receiving and allocating several grants. She discussed reimbursements and all financial requirements for funding new projects and various needs related to increased costs for FY 2024. Items affecting the GF, Library Fund, CIP Fund, Water Fund and Solid Waste Fund were outlined.

- **An ordinance amending Sections 17.152.020 and 17.152.030 (M-G Zoning District) to allow Land Use No. 6600 (Contract Construction Services) as a permitted use instead of a conditional use.** Planning Manager Mr. Smallwood said the text amendment was needed years ago. He shared a map to pinpoint the City's M-G (manufacturing/industrial) zone. Currently Contract Construction Services is listed as a conditional use in the M-G zone and the request would change that to a permitted use. Mr. Smallwood explained the proposed change did not affect any other code regulations, other than skipping the planning commission process. He shared the findings which confirmed that the text amendments are in harmony with the General Plan and are consistent with the M-G zone requirements. He said based on background analysis and the findings, the Planning Commission and City staff recommended that the City Council approve the proposed text amendment.

Adjournment: 5:00 p.m.

**Pattie Johnson
Council Administrator III**



Discussion Items



Discussion Item #1



MURRAY

Murray City Council

Fire Department Report

Council Action Request

Committee of the Whole

Meeting Date: February 20, 2024

Department Director Jennifer Kennedy	Purpose of Proposal Monthly Department Report
Phone # 801-264-2622	Action Requested Information only.
Presenters Joey Mittelman	Attachments
	Budget Impact None
	Description of this Item The Fire Department will provide an update on their department.
Required Time for Presentation 30 Minutes	
Is This Time Sensitive No	
Mayor's Approval	
Date February 5, 2024	



MURRAY
CITY COUNCIL

Discussion Item #2



MURRAY

Murray City Council

Open and Public Meeting Act and Anti-Harassment Annual Training

Council Action Request

Committee of the Whole

Meeting Date: February 20, 2024

Department Director Jennifer Kennedy Council Director Phone # 801-264-2622 Presenters G.L. Critchfield	Purpose of Proposal To review the Open and Public Meeting Act requirements as it applies to municipal government. Action Requested Information only. Attachments Presentation Slides Budget Impact None Description of this Item This is an opportunity to review all aspects of the State of Utah Open and Public Meeting Act requirements as it applies to municipal government and elected officials. The council will also review the City's Anti-Harassment Policy and how someone should report discrimination or harassment.
Required Time for Presentation 30 Minutes Is This Time Sensitive Yes Mayor's Approval Date February 5, 2024	

OPEN AND PUBLIC MEETINGS ACT

2024 City Council Annual Training

- ▶ The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

ANNUAL TRAINING REQUIRED

▶ **52-4-102 Declaration of public policy.**

- ▶ The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.
- ▶ It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
 - ▶ take their actions openly; and
 - ▶ conduct their deliberations openly.

PUBLIC POLICY

- ▶ “Openly” refers to the fact that every Library Board meeting must be open to **public observation**. While many entities have a “citizen comment” period, members of the audience may not participate in the deliberations of the Board without express invitation by the Board.

ACTING AND DELIBERATING OPENLY”

- ▶ “Meeting” means the convening of the Board, with a quorum present whether in person or by electronic means, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the Board has jurisdiction.
- ▶ Chance gatherings or social gatherings are not meetings *unless*

WHAT IS A MEETING?

- ▶ “Quorum” means a simple majority of the membership of a public body, unless otherwise defined by applicable law.
- ▶ Three City Council members

QUORUM DEFINED

- ▶ One annual notice published of regularly scheduled meetings
- ▶ Give at least 24 hours notice of each public meeting
 - ▶ Agenda, date, time and place
- ▶ Post notice at principal office and on Utah Public Notice Website, and provide notice to media
- ▶ The 24-Hour notice requirement may be disregarded if:
 - ▶ due to unforeseen circumstances, an emergency meeting is necessary to consider matters of an emergency or urgent nature; and
 - ▶ Council gives the best notice practicable of the time, place, and topics to be considered at the emergency meeting.

NOTIFYING THE PUBLIC

- ▶ reasonable specificity to notify the public as to the topics to be considered at the meeting
- ▶ each topic shall be listed under an agenda item
- ▶ topic raised by the public may be discussed during an open meeting, even if not included in the agenda; but no action may be taken

AGENDA

- ▶ Closed Meeting may be held if:

- ▶ A quorum is present, and
- ▶ 2/3 of the Council present at the Open Meeting, vote to approve closing the meeting.

The reasons for closing a meeting, the location of the Closed Meeting, and the vote by name of each Council Member either for or against the motion to hold the closed meeting, must be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved.

CLOSED MEETINGS

- ▶ Discussion of the character, professional competence, or physical or mental health of an individual.
- ▶ Strategy sessions to discuss pending or reasonably imminent litigation.
- ▶ Strategy sessions to discuss the purchase, exchange, or lease of real property if disclosure of the transaction would disclose the appraisal or value of property, or prevent completion on best possible terms.
- ▶ Strategy sessions to discuss the sale of real property.
- ▶ Discussion regarding the deployment of security personnel, devices, or systems.
- ▶ Investigative proceedings regarding allegations of criminal misconduct.

REASONS TO CLOSE A MEETING

- ▶ A closed meeting shall be recorded and may have detailed written minutes.
 - ▶ Exceptions: discussion of character, professional competence or physical or mental health of an individual or the discussion regarding the deployment of security personnel, devices, or systems need not be recorded. However, in such cases, a sworn affidavit needs to be signed regarding the purpose of the closed meeting.
 - ▶ Closed Meeting Minutes or the Recording are protected records under GRAMA, subject to disclosure by court order.

MINUTES OF CLOSED MEETINGS

- ▶ Electronic Meetings With Anchor Location: Authorized if done pursuant to an adopted resolution, rule, or ordinance and is properly noticed.

- ▶ Electronic Meetings Without Anchor Location: Authorized if:
 - ▶ The Chair makes a determination that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location; or
 - ▶ The location where Council meets is ordered closed for health or safety reasons and
 - ▶ Public notice for meeting includes:
 - ▶ Statement describing Chair's determination;
 - ▶ Summary of facts supporting Chair's determination; and
 - ▶ Information on how public may attend remotely or electronically
 - ▶ Chair's determination expires 30 days after the day the Chair makes the determination.

ELECTRONIC MEETINGS

- ▶ Disruptions of Meetings: Individuals can be removed from a public meeting if they willfully disrupt the meeting to the extent orderly conduct is seriously compromised.
- ▶ Final Actions Voidable: Any final action taken in violation of Section 52-4-201 (meeting not open but should have been), 52-4-202 (notice provisions, including closed meetings), or 52-4-207 (electronic meetings) is voidable by a court. Statute of limitations is 90 days, except challenge to approval of bonds is 30 days.
- ▶ Public Enforcement: Utah Attorney General and District Attorney may enforce chapter.
- ▶ Private Enforcement: A person denied any right under this chapter may commence suit in court to:
 - ▶ compel compliance with or enjoin violations of this chapter; or
 - ▶ determine the chapter's applicability to discussions or decisions of a public body.
- ▶ Closed Meeting Violations: Class B misdemeanor.

ENFORCEMENT

- ▶ Transparency laws (open meetings, open records) are referred to as Sunshine Laws, meaning that the business of the public body is to be conducted “in the sunshine,” or in the open, and the public may attend, observe, and scrutinize.
- ▶ Utah enacted the very first Sunshine Law in 1898, the Utah Open and Public Meetings Act.

UTAH'S HERITAGE OF TRANSPARENCY

- ▶ When government begins closing doors, it selectively controls information rightfully belonging to the people. Selective information is misinformation.
- ▶ Without question, the events of September 11, 2001, left an indelible mark on our nation, but we as a people are united in the wake of the destruction to demonstrate to the world that we are a country deeply committed to preserving the rights and freedoms guaranteed by our democracy. Today, we reflect our commitment to those democratic values by ensuring that our government is held accountable to the people and that First Amendment rights are not impermissibly compromised. Open proceedings, with a vigorous and scrutinizing press, serve to ensure the durability of our democracy.
- ▶ Detroit Free Press v. Ashcroft (6th Cir., 2002)

DEMOCRACIES DIE BEHIND CLOSED DOORS

CITY COUNCIL HARASSMENT TRAINING

POLICY

- To foster and maintain a work environment that is free from discrimination and intimidation. Toward this end, the City Council will not tolerate harassment of any kind that is made by City Councilmembers toward fellow Councilmembers, City Council Staff, City employees or members of the public.

Who is Covered By City Council Policy?

- Rule IX, Council Relations, Anti-Harassment Policy Applies to Councilmembers.

Harassment Defined

- Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy, childbirth and related medical conditions), national origin, age (40 or older), disability, genetic information, marital status, sexual orientation, honorably discharged veteran or military status or the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a person with a disability.

What Conduct is Harassing Conduct?

- The making of demeaning comments, whether verbally or in writing, or use of unwelcome epithets, gestures or other physical conduct, based on the protected classes.
- Harassment does not have to be of a sexual nature in order to be illegal. Offending conduct based on a victim's gender that is severe or pervasive enough to create a hostile (abusive) work environment is also illegal.

What is Sexual Harassment?

- Sexual harassment is a form of sex discrimination. EEOC guidelines define sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
- Submission to such conduct is a term or condition of an individual's employment. The requirement may be stated outright or may be implicit, or implied.
- Submission to or rejection of the conduct is a basis for employment decisions
- Conduct of a sexual nature has the purpose or effect of unreasonably interfering with work performance
- Conduct of a sexual nature creates an intimidating, hostile, or offensive working environment.

Unwelcome Conduct

- Unwelcome means unwanted. Sexual conduct is unwelcome whenever the person subjected to it considers it unwelcome.

Either Gender May Harass, Either Gender May be a Victim of Harassment

- To constitute harassment, the conduct does not need to be sexually motivated. The harassment just needs to be based on a victim's gender.

Inappropriate Conduct

- What constitutes sexual harassment can vary depending on the situation and people involved.
- Examples of actions that could be sexual harassment if they happen often enough or are severe enough to make one uncomfortable, intimidated, or distracted enough to interfere with their work:
 - unwelcome sexual advances or requests for sexual favors
 - direct or indirect threats or bribes for sexual activity
 - sexual innuendos and comments, or sexually suggestive jokes may be sexual harassment in some contexts
 - unwelcome touching or brushing against a person

Inappropriate Conduct (continued)

- compliments of an employee's appearance
- commenting on the attractiveness of others in front of an employee
- asking an employee about his or her sex life
- circulating nude photos or photos of women in bikinis or shirtless men in the workplace
- sexually suggestive text messages or emails
- leaving unwanted gifts of a sexual or romantic nature
- repeated hugs or other unwanted touching (e.g., a hand on an employee's back)
- Finally, attempted or completed sexual assault would be sexual harassment

Laws that Apply

- These laws protect individuals from discrimination based upon sex.
 - Federal Law: Title VII of the Civil Rights Act of 1964. protects individuals from discrimination based upon sex.
 - State Law: Chapter 5 of title 34A of the Utah Code, known as the Utah Antidiscrimination Act.
- Council Rule IX.

Reporting Inappropriate Conduct

- If the incident involves a city employee, or an appointee to an advisory board or a commission, the incident should be reported as soon as possible to the Mayor.
- If the incident involves a Councilmember or Council Staff, the incident should be reported as soon as possible to the City Attorney.

Investigation

- Prompt investigation
- Confidential investigation to fullest extent possible

Corrective Action

- Anyone who is found to have violated this policy is subject to corrective action. Corrective action will depend on the gravity of the offense. The City Council will take whatever action it deems necessary to prevent an offense from being repeated.

No Retaliation

- The City Council will not permit retaliation against anyone who makes a complaint or who cooperates in an investigation.



Discussion Item #3



MURRAY

City Council

Legislative Updates

Council Action Request

Committee of the Whole

Meeting Date: February 20, 2024

Department Director Jennifer Kennedy Phone # 801-264-2622 Presenters Pam Cotter Required Time for Presentation 10 Minutes Is This Time Sensitive No Mayor's Approval Date February 5, 2024	Purpose of Proposal Update on the 2024 Legislative Session Action Requested Information Only Attachments None Budget Impact None Description of this Item Provide the council with an update on the 2024 Legislative Session.
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MURRAY
CITY COUNCIL

Adjournment