



MURRAY CITY MUNICIPAL COUNCIL COMMITTEE OF THE WHOLE

The Murray City Municipal Council met as a Committee of the Whole on Tuesday, July 17, 2012, in the Murray City Center, Conference Room #107, 5025 South State Street, Murray Utah.

Members in Attendance:

Jim Brass	Council Chair
Dave Nicponski	Council Member
Darren V. Stam	Council Member
Jared A. Shaver	Council Vice Chair
Brett A. Hales	Council Member

Others in Attendance:

Justin Zollinger	Finance Director	Dan Snarr	Mayor
Janet M. Lopez	Council Office	Jan Wells	Mayor's Chief of Staff
Frank Nakamura	City Attorney	Doug Hill	Public Service Director
Tim Tingey	ADS Director	Chad Wilkinson	Comm & Econ Development
Juliette Dorsett	Police	Pete Fondaco	Chief of Police
Craig Burnett	Assistant Chief of Police	Mike Fernandez	Police

Chairman Brass called the Committee of the Whole meeting to order at 5:33 p.m. and welcomed those in attendance.

Business Item #1: Development Benefits Assessment Overview and Zoning Code Modifications – Tim Tingey

Mr. Tingey reviewed the conversation in the Redevelopment Agency (RDA) meeting about possible funding for public improvements for the project on the corner of State Street and Vine Street, if that comes to fruition. Whenever the City utilizes public funds to benefit a specific project, or acquiring property, the landmark case of Price versus Orem City outlines requirements that the City must complete to expend public funds. As part of that an outside organization is hired to do a benefits assessment to determine if there are benefits for the public purpose of the City related to a specific project. Murray hired Zions Bank Public Finance to complete that study. They have outlined a number of elements of the assessment that related to direct and indirect economic benefits and made a determination that there are significant direct and indirect economic benefits that justify these funds going toward public improvements that impact this project. If the project moves forward, then on August 17 a public hearing would be

held with a 14 day public notice to present the benefits assessment and have it available for public review.

Mr. Shaver asked if this was something done when using RDA money or just General Fund money. Mr. Tingey replied that it is for General Fund dollars. When the property was purchased on the corner of 4800 South a benefits assessment study was completed to determine if there were public benefits. Mr. Shaver commented that it would be helpful for the Council to see how the benefits assessment is completed and the results so that whether this particular project goes forward or not, the Council would understand this process.

Mr. Nakamura stated that this is necessary only in the case of a private entity benefit. That was why the Price versus Orem City case prevailed to determine value for value that is shown in the completed assessment. The assessment proves that the City is getting equal value for value spent that benefits the private entity. Mr. Brass added that it would be a good learning experience for the Council to see that.

Mr. Wilkinson addressed the zoning issues that would come before the Council. Over the last year since the MCCD (Murray City Center District) ordinance was adopted, the department had found several sections of the Murray Municipal Code that still refer to the DHOD (Downtown Historic Overlay District). Some of these occurrences are in the zoning ordinance but most outside the zoning ordinance. At the next Council Meeting there will be an ordinance amendment, called a clean-up amendment, to reflect the changes to the MCCD zone. There are also some items that still refer to the MU (Mixed Use Zone) that will be included, as well.

Sterling found some of those sections and some were identified by the department.

Mr. Wilkinson explained that the landscaping ordinance is the other area of focus. For the last couple of months the department had worked with the Planning Commission to give them a couple of versions of the changes. The reasons for looking at the landscaping ordinance and suggesting an amendment is to accommodate people who want to landscape with something other than lawn. The code now requires 40% to 60% turf for commercial and industrial development. There are also concerns about consistency and interpretation. There is not a lot of guidance as far as minimum landscape materials. Additionally, the department has had complaints about residential park strips. There is no clarity regarding the requirements for residential park strips. The subdivision ordinance requires trees as part of the park strip, but past the new subdivision requirements not much exists as guidance for the department on what is and is not appropriate.

The landscape ordinance for commercial had been to the Planning Commission and one idea is that rather than a minimum percentage of lawn required a minimum percentage of materials would be dictated. That would include trees, shrubs and ground cover. It gives people flexibility to do something other than lawn. They had looked at a minimum number per hundred linear feet of landscape required. Parking lot interior landscape is not currently in the code and staff recommends inclusion of some guidelines. It would be limited to large parking lots with over 100 spaces. A good example of positive benefits of parking lot landscaping is at Costco. This is part of the proposal.

Many people have wanted to implement xeriscaping in their landscaping. This is low water use landscape materials. Some people have misinterpreted this to mean rock with no landscape materials at all. The staff feels the minimum number of landscape materials can still

be met in a xeriscape scenario. A good example of that is the hospital where there is lots of plant material and not just rock.

Mr. Shaver mentioned the fertilization of lawns is running off into the Jordan River and anything the City can do to reduce that water runoff would be helpful. Low water usage also contributes to our issues of the water crisis. Mr. Wilkinson mentioned that usually a drip system of watering is used so that there is no evaporation or runoff and the minimum landscape materials does not have to be separate and can exist in the same ordinance.

Mr. Brass mentioned the fact that rocks seem to grow weeds and maintaining that look is very important. It is low maintenance, but not no maintenance, Mr. Wilkinson commented.

On the residential park strips an enforcement issue came up that had to be addressed. The standards came from the subdivision standards with a tree every 30 feet along the frontage of the property installed at the time the subdivision is constructed. The builder is required to bond for that until the subdivision is complete. This discussion will take place in the next Planning Commission meeting. The issue is when and where to enforce that. It is not good policy to create an ordinance that cannot be enforced. With other parts of the code, enforcement takes place at application for a building permit and upon complaint. It cannot be enforced on every property in the City right now. That is where the discussion will begin.

Mr. Shaver asked if there would be public input on this discussion. Mr. Wilkinson responded there would be. He continued detailing that for the park strip the homeowner is required to maintain it, watering, mowing, pruning, etc.

Next steps will be to slow down and make proper consideration, because this ordinance will have more impact on the public than most ordinances adopted. It will apply to just about every residence in the City and taking time to hear input, including from landscape architects, will take place before bringing the final ordinance to the City Council.

Mr. Tingey added that the original intent on the DHOD subject was to have that wording eliminated from the code and it was inadvertently not eliminated in every instance. That is the reason for the clean-up on that. Mr. Nakamura said that it was merely an oversight and the intent was to have MCCD where the DHOD was used.

Business Item #2:

Salt Lake County Jail Update – Sheriff Jim Winder

Sheriff Winder explained that in his role as Sheriff it is important to him to get out to the communities to update on initiatives underway and also seek comments and concerns from the City officials relative to the organization and how City needs are being met. Services are provided to every community.

He commented that a couple of years prior he sought support on the Oxbow facility. The Salt Lake County Sheriff's office manages two jails. The main jail is the ADC (Adult Detention Center) which is located at 3365 South 900 West. It is a 2000 bed facility and about 60,000 people are processed through it every year. For the last ten years it has been full and overcrowded. For many years inmates would come in the back door for photographing, fingerprinting, and processing and then walk out the front door. This is referred to OCR (overcrowding release). The physical space was not available to house them and the program providing for release was called the Jail Cap Management Plan authorized by statute. It is not a good way to manage a jail. It puts the Sheriff's office in a position to determine which offenses

are more egregious than another. It makes street law enforcement difficult, as suspects realize that there is not room to retain all the detainees.

It also began to degrade the effectiveness of justice and district courts. You can imagine the difficulty of a judge issuing a warrant for someone who has not been complying and when that person was arrested and transported to jail they would be let out after processing, the Sheriff said.

The Oxbow Jail just two blocks away sat idle while all that was going on. Receiving the support of municipalities the County Council authorized the opening of the Oxbow Jail. Although, the opening was approved the down side was that it would be necessary to operate on the existing budgeted funds. Oxbow was opened in 2009 and the county provided some infrastructure support to rebuild the interior to make it more usable but the operational expenses were not increased. There have been some internal alterations and civilian help in the control room, reductions in internal backup support and some capital projects were amended in order to open and operate. The net effect was an increased capacity of 200 beds and undertaking a series of issues by the Criminal Justice Advisory Council to try to divert inmates. With the initiatives and increase at Oxbow the OCRs have been reduced down to four the last month. Some months there are no OCRs and that is down from 900 previously. He was pleased to have accomplished this for the first time in a decade.

A secondary benefit is a decrease in crime rates. With a downswing in the economy, usually crime increases; however, that has not been the case. One of the arguments is the reduction in police officers. The level is manageable; however, the next question is what will be done over the next two to three years. Current strategic plans are to build another 1000 bed unit on the north side of the existing ADC. In today's construction dollars it is an \$80 million project. There is a tendency to utilize all space available; therefore, he is trying to think of things a little smarter, like initiatives using early case resolution and video arraignment. A conversation is going on at the legislative level analyzing the driver for jail population, which is length of stay. Crimes that used to be class C are now a B and those B crimes have become A crimes. This is sentencing creep done for political purposes. Studies have proven that a longer jail sentence does not reduce recidivism. Talk about a comprehensive review of the statutes with the possibility of downgrading sentencing and crime levels is taking place. It was done about 15 years ago. Keeping people incarcerated for long periods costs citizens money and efficiency for the courts. He encouraged the Council body to be thinking about what is most efficient as these discussions come forward. Over the last decade sentencing has been increasing.

There was some discussion in the meeting of the three strikes and you are out idea of sentencing. Mr. Nicponski mentioned the opportunity he had of touring the jail and he pointed out the impact of the overhead that goes into supporting those trustees. It is run effectively with an eye toward humane treatment. Certain inhabitants need protection and they do a great job of that. Officers stay inside the pod as inmates move around. The food, laundry and overhead are overwhelming, he said. Drug related offenses are most prevalent.

The Sheriff addressed the topic of release times of inmates. Some are let go in the middle of the night with women only released at that time if they are directly met by someone. Another program is with SPMI (seriously persistent mentally ill). The jail is the largest mental health facility in the state. These individuals are required to get back on medication and the jail has a shuttle to coordinate delivery of these inmates to service handlers. He would strongly suggest visits to the jail to see the logistics and issues dealt with.

Mr. Shaver asked how the Council could get involved in that dialogue with the legislation, as he believes in and is a strong proponent of alternative forms of punishment. The Sheriff mentioned several opportunities, one being the Criminal Justice Advisory Council, which meets on a regular basis. There is municipal, state and county representation on that board. The legislative initiatives will come up in the interim and stems from concern about justice courts. The deliberation includes several concepts and heading toward the General Session they will begin more discourse on that. At some time the cities will be asked how misdemeanor reduction would affect the municipality. That will kick off these discussions and is the time to get engaged.

Business Item #3:

Murray Municipal Handbook Discussion

Mr. Brass asked for comments on the proposed handbook, if the Council is ready to adopt, or if changes are needed. He added that he asked Mr. Nakamura to take a look and he found some items to speak to.

Mr. Shaver and Mr. Stam both said they had changes to suggest. Mr. Shaver asked to make the Forward generic rather than personal.

Mr. Stam mentioned the Capital Improvement Fund (page 21) and planning and he felt it would be important to add that the Council meets and reviews recommendations for CIP approval. Mr. Brass agreed.

Mr. Stam suggested that as the Council Chair directs staff and signs timesheets, it would be wise to include the Vice Chair in those duties for any circumstance when the Chair is not available. (Page 23)

Another item that Mr. Stam shared was the Council Code of Conduct that Mr. Wagstaff had sent out two years prior. Mr. Stam thought this could be included as an addendum in the back of the handbook. Mr. Brass asked that Mr. Stam get that to Ms. Lopez who could send it out to the Council Members for perusal.

Mr. Shaver referred to the Advice and Consent section of the handbook. His suggestion was that the City Council Office sends an invitation to these individuals inviting them to attend the meeting so that the City Council Members could meet them personally.

Mr. Hales asked if the handbook was policy or procedure. As a policy, he suggested that the wording "may invite" be used because if you include stipulations that are not followed it becomes more critical.

Mr. Stam said that a big advantage of the handbook is that any new Council Member or those considering candidacy may read through to see the expectations and duties. Others agreed.

Mr. Shaver directed attention to page 13 stating that he would like to strike the line under Council Meeting Rules reading, "The Executive Director has customarily served as parliamentarian." He pointed out that the City Attorney does an excellent job of keeping the Council on track.

Mr. Nakamura noted that the Mayor's Veto Authority has only three areas of application, which are tax levy, appropriations and ordinances. (Page 15) Resolutions cannot be vetoed by

the Mayor. Ordinances are those actions that codify and become law for quite an extended period of time. Resolutions are usually temporary measures that are in effect for a short period of time without the seriousness of an ordinance.

On the appointment process the advice and consent applies to department directors, City Engineer, City Recorder and boards and commission members. Those are the only positions that the advice and consent applies to. The Mayor has a lot of other appointments that do not come before the Council. (Page 10)

Mr. Nakamura referred to the receipt of the Tentative Budget, changes that may be made and the reasons therefore. (This is on page 7, first paragraph under Adoption of the Annual Budget.) Once the Tentative Budget comes to the Council it is up to the Council to make changes and the reasons listed there have no bearing, as the Mayor's budget will balance and have his ideas on reflecting the Strategic Plan. The Council looks at the Mayor's Budget as a base budget and the changes it makes doesn't mean that the budget did not come that way, it just means that the Council has a different direction it wants to go. Mr. Brass said that over enumerates the process.

Mr. Nakamura asked about an audit committee that was detailed in the handbook and if it existed. Mr. Shaver said there is no audit committee, it was only a suggestion. As Mr. Hales said you do not want to have a procedure in place with no follow through, he reiterated.

Mr. Nakamura may also submit some wording changes.

Mr. Shaver suggested removing the word "the" on page 23, near the center of the page on the end of the following sentence, "The Chair is also elected to represent the Council and is considered the Council's spokesperson to the:" He added that it is critical for all Council Members to understand that if there is information for the public that it be done through the Chair.

Mr. Brass added that if it is Council business it would be referred to the Council Chair, however, if it is RDA business it would go to the RDA Chair because these are separate entities.

Mr. Nakamura brought up some wording the in paragraphs specifying information on the RDA. It was decided that it was only important to mention that the Council Members serve as Trustees for the RDA and leave off the explanation on RDA responsibilities and purpose. Mr. Brass suggested another RDA handbook be created by Mr. Tingey to explain those tasks.

Ethics Rules are under section VII in the handbook. Mr. Brass said that should correspond with City ordinance. Code of Conduct can go into this section.

Mr. Shaver mentioned the Public Relations Account and said that some conversations had taken place recently regarding how those monies are to be spent. Page 28 lists specific things. Others added that the wording also includes, "secondary uses not listed and the donation amounts shall be informally approved by a majority of Council Members." Mr. Brass felt that was worth keeping that way. Mr. Stam asked if it should be majority vote or full Council vote because it is everyone's money. Mr. Hales said he trusts the other Council Members to make those decisions with that small amount of money. It is only \$5 each per Member. It is a matter of flexibility, Mr. Brass mentioned and typically it has been done it that way. If the Council would have used that for the \$6 for the Heritage Center then Mr. Hales said he would have been fine with that. Mr. Shaver said that the majority usually is good, but sometimes it can create

rancor when it comes to spending money and he pointed out it is the Council's money as a whole. Just as in a marriage, if one party spends without the other agreeing it creates conflict. He feels that conflict should be avoided. In this case two people could be giving their money to something they do not agree with. He believes expenditures from that account should have the total agreement of the five Council Members. Mr. Brass pointed out that under the laws of unintended consequences, one day someone will come along that will say no to everything. He asked if anything had come up that created a problem. Maybe a super majority of four Council Members in agreement should be used, Mr. Shaver noted. Mr. Nicponski reviewed that it is only \$60 per person per year. After this discussion, it was decided to leave the majority as the deciding factor for expenditures. A calendar could be decided twice a year for expenditures, if desired.

Mr. Brass asked Mr. Nakamura to write up his changes and everyone else to get their changes to Ms. Lopez. This can be approved in a Committee of the Whole as it is internal.

Mr. Brass also mentioned the Travel Policy that is included as an addendum. He stated mixed feelings and issues on this most recently. He commented that travel should be used for educational purposes. More than one person or two people may attend meetings; there should not be a limit on numbers unless it is a question of funds and who pays for it. The other issue is timing. He had a discussion about this when the budget crisis hit, saying that if travel is limited for employees the Council should live by that and be an example. When the Council travels the employees are very aware of it and that should carry weight. Education is important. Going to APPA and learning about power is something everyone should do; and going to ICSC and showing potential businesses, in a very competitive environment, that the Council is supportive of business is important. Critical deals can be made. Having people present if affordable is important. ULCT (Utah League of Cities and Towns) the Council goes to for major Council training. UAMPS meetings in Ephraim are important. Each potential travel opportunity should be up for discussion on how many people should go and why. Also, it is important to be sensitive to the organization that is going to be paying the bill. Others agreed with the concept of discussion. Mr. Stam agreed that when staff travel is cut, the Council travel should be evaluated because it does set an example. Mr. Brass said that he always holds himself to a higher standard than people he deals with and he feels the Council should hold itself to a higher standard than the City employees. He knows how much he has learned because of travel. He detailed the chemistry of water and storm water runoff that he learned on a Central Valley trip. It is important to learn these things to speak intelligently to the citizens. He does not want the council to be bound by the travel policy. He would like to revisit it in the future.

Mr. Shaver mentioned that these travel opportunities should be taken into consideration when the Council Meeting calendar is put together each year. A quorum must be in attendance at each meeting and preferably four in case of emergency. The meetings to work around are the UAMPS Christmas dinner, UAMPS summer conference, APPA, ICSC and ULCT meetings.

Mr. Brass asked that the adjustments be made and sent out to the Council. He asked that the handbook be put back on the next Committee of the Whole agenda for approval.

Janet M. Lopez
Council Office Administrator