



MURRAY CITY MUNICIPAL COUNCIL COMMITTEE OF THE WHOLE

The Murray City Municipal Council met as a Committee of the Whole on Tuesday, October 16, 2012, in the Murray City Center, Conference Room #107, 5025 South State Street, Murray Utah.

Members in Attendance:

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

Others in Attendance:

Dan Snarr	Mayor	Tim Tingey	ADS Director
Janet M. Lopez	Council Office	Jan Wells	Mayor's COS
Frank Nakamura	City Attorney	Kim Fong	Library Director
Justin Zollinger	Finance Director	Chad Wilkinson	Community Economic Mgr.

Council Member Shaver called the Committee of the Whole meeting to order at 5:33 p.m. and welcomed those in attendance. He excused Mr. Brass from the meeting.

Minutes

Mr. Shaver asked for any corrections or additions to the minutes for the Council Initiative Workshop that was held on September 18, 2012. Mr. Stam moved approval. Mr. Hales seconded and the motion was approved 4-0.

Business Item #1: Introduction of the new Murray City Library Director – Kim Fong

Ms. Wells introduced Kim Fong and said how happy the City is to have her as the new Library Director. Ms. Wells stated that Ms. Fong has a lot of great experience and that the Library Board did a great job in selecting her. She turned the time over to Ms. Fong so she could introduce and tell a little bit more about herself.

Ms. Fong gave a little bit of background about herself, stating that she has been a librarian since 1993, almost 20 years. The majority of her time as a librarian was spent working for the Salt Lake County Library System where she did a variety of tasks. She has worked as a

reference librarian and a children's librarian. For the last six and a half years she has been a library manager for the libraries and the county jails which was a rewarding experience for her. She learned a lot and had an interesting clientele to work with there. She expressed her appreciation for the opportunity she had to do that kind of work. Ms. Fong said she is excited to be at the Murray Library. She has lived in the valley for a long time and is familiar with Murray. She likes the community feel that Murray has. She is excited to start with Murray Library so she can help promote more of that community feel in the library. She has a lot of ideas she wants to try in the future to promote more of the community into the library. Right now, she's just trying to feel her way around, learn everyone's names, things like that. She said how friendly and helpful the staff has been. They have been more than willing to answer questions for her and she is very appreciative of that.

Mr. Shaver stated that the Board was very enthused in recommending Ms. Fong. He asked Ms. Fong to tell the Council more about her relationship with them and asked her if she feels that they are people that she can work with.

Ms. Fong replied that she does feel like she can work with the Board. She said that the hiring process was really interesting and pretty stressful in a lot of ways because it was a very intense process. She feels that because she went through that process, she got to know the Board members well, which is a good thing. She also got to know the management team through the hiring process. Ms. Fong also said that she's only had one official Board Meeting with the Library Board. She thinks that she and the Library Board members will have a very good working relationship. She said the Library Board is a very dedicated group of people who really want to do good for the Library. She thinks they will be a perfect combination and they will be able to get some good things done.

Mr. Shaver said that he knows that Ms. Fong has a great support group being partnered with the Friends of the Murray Library.

Ms. Fong agreed. She has met with the Friends of the Murray Library as well and she thinks that they will have some great things going on with them too. She said they are another enthusiastic group of people. She and the Friends have some ideas of things they would like to do in the future. Now that they are winding down on the centennial things that have been going on, it's a good thing to move onto the future. The Friends have done a lot of work to get their tax-exempt and non-profit status. The Library wants to keep going with that and not let it die.

Mr. Hales asked Ms. Fong if she is from this area.

Ms. Fong replied that she's not actually from Salt Lake; she's an Air Force brat. The first time she came to Utah was to come here to go to school. As she was growing up, she's lived all over the country and the world. She's lived in Utah for 30 years now. Her Bachelor's Degree is from the University of Utah and her Master's Degree is from BYU.

Mr. Shaver told Ms. Fong that she's in a very unique position because she's actually hired by the Library Board, but she will have a relationship with the Council as well. Although Ms. Fong reports directly to the Library Board, she is welcome to the Department Head meetings and to come before the Council and tell them about what she's doing and what is happening at the Library. Mr. Shaver said how much the Council appreciates the work that she is about to do.

Ms. Fong expressed her appreciation the Council.

The members of the City Council introduced themselves to Ms. Fong.

Business Item #2: **Land Use Ordinance Changes related to Swimming Pools – Tim Tingey**

Mr. Tingey said that staff will be bringing a change to the Council during the first or second City Council meeting in November relating to swimming pools in the City. There have been a couple of issues. The first is over at Fireclay. Hooper Knowlton is putting in a pool and the big issue is with the fencing around the pool. Currently, if a second gate is required, or if they want to put in a second gate, they have to go to the Planning Commission for approval. There are some issues with International Building Code where in commercial projects, there may be a requirement for a second access and to automatically make them go to the Planning Commission makes it difficult for them. This is two simple changes. First, a second gate for maintenance or service may be installed if approved by City staff. So rather than making them go through the Planning Commission if they want to add a second gate, it can be approved by City staff. The second portion of this is we did not have any differentiation between residential and commercial and multi-family developments. We added that clarification for commercial and multi-family developments and also referenced the International Building Code requirements because there are specific requirements for that. Those are the two changes. We think it will streamline processes, especially in these commercial developments. Chad and his staff are the authors of this, they put it together. They worked with developers and Mr. Tingey thinks this is a good idea. Mr. Tingey asked Mr. Wilkinson if there was anything he would like to add.

Mr. Wilkinson clarified that the first change is also applicable to single-family residential. This change will give them discretion on single-family residential to approve a second gate.

Mr. Nicponski asked if single-family residence have to have a second gate.

Mr. Wilkinson responded that most of the time single-family residents do not have to have a second gate. They're finding commercial properties are almost always required to have the second gate, because it's a building code issue. This will streamline both processes. They rarely have a request for a single-family residence to have a second gate. They've maybe had one in the last four years. They have more requests for swimming pools than people wanting a second gate at single family residences.

Mayor Snarr said it is a sensitive issue with him about the spacing being less than four inches. Prior to him becoming Mayor, there was an incident at Clover Meadow Apartments where a child slipped in between the rails and unfortunately drowned. The four inches makes it too narrow for that to happen. It's as safety feature in his opinion.

Mr. Wilkinson noted that he failed to highlight that change. Right now the ordinance says four inches or less, but it has been changed to less than four inches to match the International Building Code (IBC). It has to be less than four inches, not four inches or less.

Mr. Stam noted that was a change in the International Building Code several years ago. It used to be six inches.

Mr. Wilkinson verified that.

Mr. Nicponski asked if the City acknowledges or promotes the use of an automatic pool cover on a pool.

Mr. Wilkinson answered that there is nothing in our ordinance regarding that right now.

Mr. Stam asked if a home owner has a pool in their backyard and their backyard is fenced, then they are not required to have a separate fence around the pool if their backyard is fenced.

Mr. Wilkinson said that was correct as long as they only have one gate opening.

Mr. Stam asked if they could apply for a second gate.

Mr. Wilkinson said that they can. Before it would have to go through the Planning Commission, but this will streamline it to staff.

Mr. Shaver said the Council appreciates the work that was done on this. It streamlines the process and makes it an easier process for the citizens with both commercial and residential properties.

Business Item # 3

Home Occupation Ordinance Changes – Tim Tingey

Mr. Tingey said that this issue was discussed at a Council Initiative Workshop. There was some interest, even at a Committee of the Whole meeting, in revisiting the home occupation standards that the City currently has. Mr. Wilkinson and his staff have evaluated and done some research on home occupations. A proposal will be coming to the Council most likely in November. The proposal is going to the Planning Commission this Thursday night for their consideration. Mr. Tingey was not sure if the Planning Commission will take this recommendation or if they will modify it as they can modify the recommendation before it goes before the Council.

Mr. Tingey stated that he wants to highlight some of the changes. There are some pretty significant changes but staff feels that they are appropriate and will be effective for the City. The main change will be to the process to obtain a home occupation business license. There are standards for home occupation licenses and there are uses that are not allowed. This change would define a new definition of home occupations, known as a major home occupation. A major home occupation would be defined as a home occupation that requires a client to come to the home, may result in neighborhood impacts if not properly managed, and may be authorized as an accessory use through a major home occupation permit. A major home occupation permit would be a whole new process and permit. Permits for these home occupations, including major home occupations, are personal to the applicant. This doesn't mean that if you get a home occupation and move, then that home occupation stands. It is for the applicant only and if that applicant moves, then a whole new process would need to occur. That is a key to this major home occupation.

The changes would allow for these occupations to be classified as major home occupations: barbers; cosmetologists; manicurists; consultant services; counseling; home instruction including musical instruments, voice, dance, acting and educational subjects; swimming, tennis, and other athletic instruction. There is a neighborhood where there have been some concerns from adjacent residents regarding a home occupation for swimming that has been approved there. Right now, a contractor or handyman is not allowed in our code as a

home occupation. This change would allow for a contractor, handyman, landscape contractor, or yard maintenance contractor, to obtain a home occupation permit subject to certain conditions such as there could be no construction materials or equipment stored on the premises.

Mr. Stam stated that a concern that he knows people have is that certain businesses will have a large group of people gather together at the business site prior to sending them out to do their jobs. Mr. Stam asked if there are restrictions to the number of employees that a home occupation can have.

Mr. Tingey responded that there is a restriction on the number of employees.

Mr. Stam stated that if there is a restriction on the number of employees, then a home occupation cannot have ten employees showing up to get their job assignments to go out.

Mr. Shaver said that he thinks it's the disbursement of the employees that come and get their assignments and then leave. Mr. Shaver also said that he thought there was a specific thing that addresses that, if he remembers correctly.

Mr. Wilkinson said that staff has added some language to try to address that a little more clearly.

Mr. Stam said that was what he was wondering. When they said 'special conditions' he was wondering if that was part of the special conditions.

Mr. Hales asked how these changes would affect the people who are offering swimming instruction who residents are already concerned about.

Mr. Tingey replied that they have an existing home occupation permit right now so this will probably not affect them at this point. If they did not already have a home occupation permit, and if there are any new proposals coming forward, they would have to go through this major home occupation process.

Mr. Hales verified that they would not have to go the major home occupation process if they have an existing business.

Mr. Tingey reiterated that they would not have to go through the new process.

Mr. Shaver stated that if someone's permit lapses, they would have to go through the process again and then it would affect them. In other words, it's not just a renewal, if they let that renewal go, then the City does have an opportunity to address this.

Mayor Snarr said that he sees this all the time and he was probably violating the rules of the City, but he would occasionally take his truck and landscaping trailer home at night. He also said there are many landscaping business in Murray that are small, father and son type of businesses, and run the same way that he did. He asked if they were in violation of the code.

Mr. Tingey said that he would go through what the standards will be related to construction type businesses and maybe that will help.

Mayor Snarr said that the change says that 'no construction materials or equipment will be stored on the premises'.

Mr. Shaver said that the specifics are what they're getting to and he thinks that's where things will be explained more clearly.

Mr. Tingey stated that if these changes are adopted by the City Council, the standard would be that if they want to have a contractor or handyman business they have to adhere to certain conditions. Some of those conditions include no construction equipment or materials can be stored on the premises.

Mr. Tingey went on to say that Department Directors or the Planning Commission may require additional conditions to mitigate the impacts of the use on adjacent properties for a major home occupation. These conditions may include: limits on the hours of operation, limits on the number of clients per day and provisions for adequate parking, and other conditions related to mitigating adverse impacts on the surrounding properties.

Mr. Stam asked how staff is defining major home occupations. Are they defining it by the type of stuff or by the dollar amount?

Mr. Tingey replied it is defined by the type.

Mr. Wilkinson stated that a major home occupation is defined by criteria. The criteria would be either a use that requires a client to come to the home or a use which may result in neighborhood impacts if not properly managed. Construction businesses may not have clients coming to a home, but they can have impacts that if are not properly managed, can expand beyond the home occupation. That's the criteria. Our prohibited uses essentially say that these are the types of uses that, based on the nature of use, have the tendency to expand quickly beyond the limits of the home occupation. There might be some businesses in between, but because certain businesses have the potential for impacts, staff wants to review them. It's not a dollar amount it's the characteristics of the business use.

Mr. Stam stated he had a couple of thoughts. For instance, someone in a multi-level marketing group would have clients coming to their home, but they're only making around \$5,000.00 per year. Because they have clients coming to their home, does that make them fall under a major home occupation?

Mr. Wilkinson replied that it does because clients coming to a home are one of the criteria for a major home occupation.

Mr. Stam stated that before it was based on the dollar amount.

Mr. Wilkinson said that no, that's on the business license. The fee that they pay for their business license right now is based on the dollar amount that they make each year. That fee is just to pay for the business license. If they make less than \$10,000.00 per year the business license fee is \$50.00. If they make more than \$10,000.00 per year, they pay \$100.00 for their business license.

Mr. Shaver stated that based on that you have the general sense and these are the specifics. Therefore, it's business by business based on meeting these criteria. Then, you would

set a standard saying that based on what the business owner is telling us, this is not going to work or this could work. He asked if his thinking was correct.

Mr. Tingey said that was correct, depending on the impact on the neighborhood and other things a decision would be made on that application.

Mr. Shaver asked who would make that decision.

Mr. Tingey said the Department Director or the Planning Commission would make that decision and they would explain that a little more about that.

Mr. Tingey went over the application process. On the application, the business owner would have to provide a complete description of the business; propose, including location, of the storage and operations; a listing of the individuals who will be working; expected hours of operation; expected number of clients per hour and total expected number of clients visiting the home per day; and a site plan showing any areas where there would be off street parking for the employees and clients. This would all have to be shown during the application process. In addition, and the big part of this is, the business owner will have to provide the name, signatures, and addresses of all abutting and adjacent property owners including property owners across the street. Staff has fully defined what adjacent means in the new code. Approval of the property management or property owner shall be required if the business is conducted on these properties. Basically, the business owner would need to get abutting and adjacent property owners signatures as part of this application. This will show that the property owners surrounding the potential business location are aware of this use and aware of this proposal. They can either sign it or not. This will hopefully mitigate some of the impacts of the concerns of the adjacent property owners.

Mr. Shaver asked if on the form the neighbors sign is there something that says approved or not approved. If they don't approve it, do they also create a signature?

Mr. Tingey said that if they don't approve, then they probably would not sign the form. He also said that they have not drafted a form yet.

Mr. Wilkinson stated that examples of forms from other communities that he has seen say this use has been explained to me and I consent to it; or something to that effect. Staff will come up with specific language. Most likely, if they weren't okay with the business, they wouldn't sign the form.

Mr. Shaver asked how staff will know if someone was not okay with a particular business.

Mr. Wilkinson replied that staff will be checking those properties when an application comes in.

Mr. Shaver said that based on the business address, the adjacent and abutting properties would be this address, this address, and this address. If you see one that isn't there, it will be noticed and addressed at that time.

Mr. Tingey stated that the applicant will need to provide the name, signatures and addresses when they turn in their application. Staff will use the GIS system to ensure the applicant has all required signatures. If all the required signatures cannot be obtained, the

applicant may request that the application be referred to the Planning Commission. Then the Planning Commission can consider the application. It would be a public, noticed meeting.

Mr. Nicponski asked if you become a major home occupation if you have more than one client come to the home.

Mr. Wilkinson responded that it is if you have any clients coming to the home.

Mr. Tingey stated that businesses have to go through a home occupation process right now. This would be a little more intense to mitigate impacts. This would be the process; the applicant would have to get the abutting and adjacent property owners signatures. If they can't get all of the signatures, the application will be considered by the Planning Commission. Otherwise, the application can be approved by the Community and Economic Development department provided they are comfortable with what the application has in it and it adheres to City standards.

Mr. Tingey said that staff is still proposing prohibited uses. Staff feels that there are still uses within the neighborhoods that they feel do not fit under a home occupation. The new ordinance states that by nature of the investment, operation, or tendency to rapid increase beyond the limits, regardless of their conformance with any of the standards, there are some businesses that staff feels should not be under home occupations. These businesses include: onsite carpentry work, including cabinet making or other similar uses which generate noise, dust or fumes. These types of business do not fit as a home occupation.

Mayor Snarr asked about someone who lives in a house located in an M-G-C zone.

Mr. Wilkinson said that would be fine because that's an industrial zone. Even the City's mixed use would allow onsite carpentry work.

Mr. Nicponski said he wanted to look at the signature part again. He verified that if they can't get a signature there's recourse for them. He said that sometimes neighbors just don't want to deal with something like this; they're just not going to say one way or the other.

Mr. Wilkinson said that if an applicant can get all the signatures, the advantage is they don't have to go through anything besides staff.

Mr. Tingey stated that Mr. Wilkinson and he have both worked in communities where there have been these types of processes, maybe not necessarily for a home occupation, but where people can get signatures for an approval of a minor variance or something else. Sometimes the challenge is getting a signature when someone lives outside the state. Maybe they don't have a property management company and you can't get a signature. There's still a mechanism to get an approval.

Mr. Tingey continued going over the list of prohibited uses, which are already not allowed per code. There are no plans to change any of the prohibited uses in the new code being proposed. Staff has added some new prohibited use such as vehicle sales, limousine or taxi services, sexually oriented businesses, and tattooing.

Mr. Wilkinson mentioned that staff has received requests for limousine and taxi services to operate as a home occupation. The reason that they have been denied up to this point, in addition to the implicit things in the code such as storage or fleet vehicles, etc., is because most

of applicants who have applied for those types or businesses have been 24 hour limousine or taxi services. Staff's feeling is that is not conducive to the nature or a residential neighborhood to have a 24 hour limousine or taxi service that could be coming or going at any hour of the day. The idea is with these types of uses is that you shouldn't notice a difference between them and any other residence. It should protect the residential character of the neighborhood. Mr. Wilkinson asked the Council if this is one that staff has made a correct interpretation on or has staff stepped over the bounds on what they're trying to do here. He reiterated that they have had requests for both limousine and taxi services as home occupations.

Mr. Nicponski asked about someone who comes home in their taxi.

Mr. Wilkinson replied that would not count.

Mr. Nicponski verified that they can come home and park it and then get up the next day and go to work.

Mr. Wilkinson that was correct. If the taxi is their personal vehicle and they go to works somewhere else, they are licensed somewhere else that's different than having the business at their home.

Mr. Stam said that the City doesn't want limousines blocking the sidewalk.

Mr. Nicponski asked if day care was covered somewhere else and was told by Mr. Wilkinson that it was.

Mr. Shaver said that he thinks limousine or taxi goes to hours of operation. The whole point is that the City wants home businesses to maintain very specific hours of operation, so it's not two o' clock in the morning and someone's cutting hair, or whatever it happens to be. It doesn't make a difference if it's a limousine/taxi service or not. We want normal occupancy and normal things happening in the course of a day. We are trying to avoid unusual situations.

Mr. Wilkinson stated that as Mr. Stam had mentioned, today, we have extended Hum V's and all kinds of vehicles that are limousines and staff feels that those types of vehicles do not fit the residential character of the neighborhood. They're big, they block driveways and there are other issues with them.

Mr. Hales said he thought vehicle sales were already part of the code.

Mr. Wilkinson said that it is in the code implicitly but not specifically.

Mayor Snarr said if he goes to the auction, buys a car and then parks it in front of his house and advertise it on KSL, is that okay. You're legitimately able to sell three cars per year personally.

Mr. Tingey asked if there were any other questions or concerns. He noted that tattooing was another one that they have had home occupation requests for and have had one approved. He asked Mr. Wilkinson if there were any concerns with that business.

Mr. Wilkinson said that there have been no concerns from that particular neighborhood, only from staff about whether tattooing as a home occupation is appropriate or not. This was somewhat of a unique situation. The business has limited clientele and it's a neighborhood that probably wouldn't have a lot of concern with the business. It is a concern for the City. Staff felt

uncomfortable issuing the business license because tattooing is a conditional use in other zones, but there was not anything in the code that specifically prohibited the business owner from doing it.

Mr. Shaver had a question about vehicle repair. He has a neighbor that has a shop behind his home. Customers literally have to drive down the driveway to go in the shop, so it's not on the street. However, there's another gentleman that repairs vehicles and he has vehicles and semis in disrepair sitting in the driveway so that you see them. It's unsightly. There are cars with the hoods taken off and that sort of thing. Mr. Shaver is wondering if the City can say if you have a shop or a place to go, they you can do vehicle repair. His concern is that the guy repairing the neighbor's vehicle that pulls in into the driveway, tears it all apart, and it's there sitting in the driveway in various stages of disrepair while he's trying to put it all back together again and it's unsightly. His concern is whether the vehicle is being kept in his garage or encased on enclosed somehow.

Mr. Wilkinson said this is prohibited.

Mr. Stam said this is saying he doesn't get it. They don't get it. There are situations, like the one guy you said, he's a one car fix at a time in a garage in the back. He's not going to be an issue.

Mr. Shaver said that's why he's bringing it up. What the City has said is that you can't do any of it.

Mr. Stam replied, right.

Mayor Snarr stated so there's one guy that is retired, was a mechanic and has a big garage in the back of his yard. He doesn't come in and apply for a license and he's doing it just to be nice to his neighbors and just asking to be compensated fairly for being nice, are we going to go after him?

Mr. Shaver said that is the only issue he would look at. Is the City saying absolutely no vehicle repair under any condition? If we are, then we are literally forcing people to do it on the slide.

Mr. Tingey stated that with this proposal, if they are doing vehicle repair as a business, then it would not be allowed in a residential area. Inoperable vehicles are another issue the City has. If there's a vehicle that's licensed and it's theirs and they're repairing it in their driveway, he doesn't think there's anything the City can do towards that. But if it's related to a business and if someone is working on people's cars for money or profit, then they can't do it.

Mr. Stam asked if staff can look at vehicle repair the same way they looked at construction businesses. The City has said you can run a construction business out of their house now as long as you don't have anything outside. So if somebody has a garage and they want to fix cars one at a time, but they don't leave anything outside of the garage, nobody is going to know.

Mr. Shaver said that he agrees with Mr. Stam, but he thinks the point is that the problem is with businesses that tend to expand. So they'll have one vehicle in the garage and one out of the garage. They have a garage, so they're covered, but there's one car that they need to do a quick repair on. Mr. Shaver can see the situation, but is not certain what the answer is.

Mayor Snarr asked about someone who works for a snow plowing business that pays you to take your vehicle home at night because they don't want you to have to go get it because you live closer to where your work is and there is the potential for you to be called out at one o'clock in the morning to plow snow. Can they have that vehicle at their home?

Mr. Tingey said the City has a standard for size and weight of vehicles that can be in residential neighborhoods. As long as the vehicle doesn't exceed that, then it would be fine. If it does exceed that, if it were a very large dumb truck or something like that, then it would not be allowed.

Mr. Stam said that is a different issue because he's would not be applying for a home based business.

Mayor Snarr said that is true, but he can see many examples right now of people in violation.

Mr. Shaver said he thinks the issue is that a lot of landscapers also do snow removal as a side. He has a neighbor that has three trucks parked at his property. They're all off the street, they're all well maintained. He has a fence and behind that fence is where he puts the plows. When he needs to plow, he pulls the truck in, attaches the plow and he's ready to go. Landscaping and snow removal is what he does.

Mr. Hales asked if this was going to the Planning Commission.

Mr. Tingey responded that it is going to the Planning Commission on Thursday. They will review it and maybe have some suggestions for modifications, maybe not. It will be coming before the Council for consideration most likely in November. Mr. Tingey also gave Mr. Wilkinson and his staff credit for the amount of time they put into the new ordinance.

Mr. Shaver thanked them for their time.

Mr. Shaver adjourned the meeting at 6:12 p.m.

Jennifer Kennedy
City Recorder