

Murray City Municipal Council Chambers Murray City, Utah

The Municipal Council of Murray City, Utah, met on Tuesday, the 2nd day of April, 2013 at 6:30 p.m., for a meeting held in the Murray City Council Chambers, 5025 South State Street, Murray, Utah.

Roll Call consisted of the following:

Brett Hales	Council Chair
Jim Brass,	Council Member
Darren Stam,	Council Member
Jared Shaver,	Council Member - Conducted
Dave Nicponski,	Council Member

Others who attended:

Daniel Snarr,	Mayor
Jan Wells,	Chief of Staff
Jennifer Kennedy,	City Recorder
Frank Nakamura,	City Attorney
Pete Fondaco,	Police Chief
Chad Wilkinson,	Community & Economic Development Division
Kevin Potter,	Fire Department
Citizens	

6. OPENING CEREMONIES

6.1 Pledge of Allegiance- Councilman Jared Shaver

6.2 Approval of Minutes

6.2.1 Approval of the Minutes for February 05, 2013.

Mr. Brass made a motion to approve the minutes for February 5, 2013.
Mr. Hales second the motion.

Voice vote taken, all 'ayes'.

6.3 Special Recognition:

6.3.1 None scheduled

7. CITIZEN COMMENTS (Comments are limited to 3 minutes unless otherwise approved by the Council.)

None given.

Citizen comment closed

8. CONSENT AGENDA

8.1 None scheduled.

9. PUBLIC HEARINGS

9.1 Public Hearing #1

Mr. Shaver noted that the sponsor, Camter Development, was not able to attend tonight's meeting. Because the Public Hearing was already scheduled, public comment will be taken. Mr. Shaver encouraged everyone to return on April 16, 2013 when this issue will be addressed. The sponsor needs to hear the public comment and the public needs to make their comments known to him. Mr. Shaver add that those who want to make a comment tonight regarding this issue are invited to do so.

9.1.1 Staff and sponsor presentations and public comment prior to Council action on the following matter:

Consider an Ordinance relating to land use: amends the General Plan from Residential Single-Family Low Density to Residential Business and amends the Zoning Map from A-1 (Agricultural) to R-N-B (Residential Neighborhood Business) for the property located at approximately 6271 South 900 East, Murray, Utah. (Camter Development)

Frank Nakamura, City Attorney, asked Chad Wilkinson, Community and Economic Development Division Manager, to address this issue.

Staff presentation: Chad Wilkinson, Community & Economic Development Division Manager.

Mr. Wilkinson stated that there has been a request for a postponement from the applicant, Jared Cameron. That request was received too late for the City to issue a new notice to let the public know that the Public Hearing would be postponed until April 16, 2013.

Mr. Wilkinson reiterated Mr. Shavers comment and encouraged those who would like to comment on this issue wait until that time. The City feels that the discussion that they need to have related to this issue would be better served if all parties were present at the same time. Mr. Wilkinson recommended that the public comment be postponed. If the Council feels that they would like to take some public comment tonight that could happen. The City feels that it is appropriate for the applicant to be present so that he can respond to any concerns raised by the neighboring property owners. Mr. Wilkinson said that staff would recommend postponing the public hearing until April 16, 2013.

Mr. Nakamura apologized for the postponement. For those that are here to speak, he feels that the comments would mean much more if there is a background provided by the applicant. The City will take comments on April 16, 2013. It is the City's recommendation that the public wait until April 16, 2013 to make comments to allow the other side to speak. This will provide the Council a background of this issue and will make the public comments more meaningful to the Council as the decision makers. It will be duplicative if the public decides to make comments now and again on April 16, 2013. The applicant will be here on that date and there will be another Public Hearing on this matter. It is a matter of fairness. The applicant put the City in an awkward position by not letting them know. The City is about providing fundamental fairness to everybody. Without hearing both sides it could provide an unfairness to the applicant. Though the City can't prevent you from talking, what they are asking is for people to come in on April 16, 2013 and at that time present their comments with the background

that the applicant will provide. It will then be more meaningful for the Council to evaluate it and make a decision.

Mr. Nicponski asked Mr. Nakamura if the Council wanted to stay after the meeting and speak to some of these people, would there be any objection to that.

Mr. Nakamura stated that the Council be allowed to do that but they would like to have a fundamentally fair process. That means that everyone has the opportunity to present their views. The City likes to do that out in the open. He would discourage the Council from doing that. The City has transparency requirements. That is what the Government is required to do. As much business as the City can do out in the open and transparent, so everybody can see it, that is the way that the City would like to do business.

Public Comment

Joyce Swan, 989 Wheeler Farm Cove, Murray, Utah

Ms. Swan said that there are two partners with Camter Development and she understands that Jared Cameron cancelled. Is the second partner no longer a part of this?

Mr. Shaver stated that for the record, Jared Cameron was the one who was going to make the presentation to the Council. The other partner is not available. He added that if comments are being made, the Council has still not heard Mr. Cameron's portion of this.

Mr. Stam noted that he had heard from Mr. Cameron that the other partner was out of town.

Ms. Swan reiterated what she had said at the last meeting. The property was zoned for agricultural. She doesn't think that anyone is naïve to the fact that something is going to be built there. They would just like to see something built there for what it is zoned at as planned by the City. There seems to be some discrepancy that the neighbors don't want to see anything built there. They would just like to see something built there that it is zoned for.

James Pollock, 980 Wheeler Farm Cove, Murray, Utah

Mr. Pollock said that this is the second time that they have gone through a rezoning issue with Camter Development. At what point do they come to some sort of a conclusion where that is the way it stands and they don't have to continue to go through the same process wasting everyone's time? He would like to know how long of a process this can be with Camter Development. This is just another attempt to rezone the same property.

Karl Lind, 6181 So. 900 E., Murray, Utah

Mr. Lind lives immediately adjacent and to the north of the property which is being proposed for rezoning. If he is not mistaken, this has been attempted three times, this being the third effort. The City Council will have heard this twice on the next presentation. His question is, having heard the developer's plans and intentions as well as his aspirations, doesn't the Council have a fairly adequate knowledge of what it is that he desires? Why shouldn't this proceeding proceed? Some of the public are in and out of the State of Utah and though he is not incapable of being at the next meeting it is of some inconvenience that they make plans to be there. He is not certain that this is not a tactic. He feels that the Council may be tiring of this as the citizens are. Mr. Lind wanted to submit a letter which the Council may have already received previously.

The Council stated that they had received that letter. Mr. Stam verified that Mr. Lind's letter was the one about the exchange of property.

Mr. Lind responded that it was.

Mr. Stam said that the reason that this was pulled was at his recommendation. He had met with Mr. Cameron last week and spoke to him about it. His family had gone on vacation and he was going to fly back from Disneyland, leave his family there and fly back down tomorrow morning just to be here for this meeting. Mr. Stam spoke to him about the different possibilities and the different things over there. He walked the property and knows that all of that property is future zoned, with the exception of Mr. Lind's property, to be General Office. South of that is open-space. That is the future map. Mr. Stam recommended that Mr. Cameron pull the application until they had a little more time to discuss the possibilities and not ruin his vacation with his family.

Mr. Lind asked Mr. Stam to clarify which properties have been zoned for commercial outside of the nine acres which are currently Lind Ranches property.

Mr. Stam said that he did not say these properties were currently zoned, but that they are planned in the future zoning in the General Map. The property that is north of Mr. Lind's property is already planned to be zoned General Office.

Mr. Lind said that he was aware of that. He asked about the Sam Skaggs property.

Mr. Shaver interrupted stating that this is an opportunity for making public comment. If they are going to have dialogue, there are others who would like to make comments and the time needs to be kept under three minutes.

Mr. Nakamura added that it should be kept to the agenda items. They are not allowed to go beyond what is on the agenda.

Mr. Shaver said that as far as how the area will be zoned in the future is not an item for discussion at this particular meeting. All they are looking at is the zoning for the R-N-B change tonight.

Mr. Stam added that this was not a ploy on Mr. Cameron's part.

Kae Lynne Nielson, 986 E. Wheeler Farm Cove, Murray, Utah

Ms. Nielson stated she went through a lot to be here tonight. They have all had notice of this meeting for two or three weeks. Mr. Cameron knew when the hearing was, so why would he plan a trip for this particular time?

Mr. Stam said because it is Spring Break.

Mr. Hales said that he met with Mr. Cameron about a day before Mr. Stam and he had no idea that Mr. Cameron would not be here until Jan mentioned it to him. When he heard that, his first question was did he notify the neighbors? It would be the respectful thing to do.

Mr. Shaver said that was true. Unfortunately, the only person that can answer Ms. Nielson's question is Mr. Cameron. It is not a question that the Council can answer or address. She will need to ask him why he made that decision. Mr. Shaver can understand Ms. Nielson's frustration.

Mr. Nakamura interjected saying that the Council will take public comment if they want but it has been explained that without the applicant available it will not be meaningful and the City will always err on the side of process. As far as answering that question....

Ms. Nielson interrupted, saying she respects that and that's fine. They will make their comments on April 16, 2013. She just needed to voice that frustration.

Mr. Shaver asked Mr. Wilkinson to address the process of how items are brought to the Council.

Mr. Wilkinson stated that a zone change is a two-step process. The first step is for the request to go before Planning Commission. This is not just a Murray City process it is outlined in State law under the LUDMA provisions. The zone change is submitted to the Planning Commission for a review and recommendation and then it comes before the City Council. The Code does limit the ability for someone to come back on the same zone change request. You cannot be denied a

zone change request and then come back with the exact same request until a certain amount of time has passed. However, if someone wishes to come forth with a different zoning designation, which is the case tonight, that can occur. Whether or not the Council decides to approve that or not is up to them.

Mr. Wilkinson added that this is not without cost to the applicant. It does cost them the same amount of application fees every time that they consider this. A Zone Map amendment is \$500.00, a General Plan amendment is \$500.00. The combined application fee is \$1,000.00 which is non-refundable. That is something that an applicant would bear each time they come forward with a new zoning designation for review. This is the third time the applicants have applied. The first time was for Single-Family Residential which is allowed and designated in the General Plan. They did receive a positive recommendation on that first application.

Mr. Shaver wanted to know if he understands this correctly. Once they submit the application, it goes to Planning and Zoning for consideration of a zone change.

Mr. Wilkinson said that was correct. It goes to the Planning Commission for review and everyone was present for that recommendation meeting. That is a requirement of State law that they make a recommendation on any amendment to the General Plan.

Mr. Shaver asked if the only reason it would come before the Council is if it were denied by the Planning Commission.

Mr. Wilkinson stated that it would come before the Council no matter what. In this case the Planning Commission did recommend denial. Often they recommend approval and the Council sees those as well.

Mr. Nicponski asked if this was sort of a technique. The applicant starts at one level with Planning and Zoning which is most profitable and if that is denied, he goes to the next one and the next one.

Mr. Wilkinson stated that would be a question for the applicant and not for staff. Staff only processes the requests.

Mr. Nicponski said that he wanted the public to know that it is not only their frustration.

Mr. Wilkinson stated that he understands the frustration. They wish that they would have received a little more notice of the cancellation as well. They would have liked to have the time to make some notices but they did not have the time and apologize for the inconvenience.

Mr. Shaver stated for the record that no matter how frustrated the Council gets

with issues, and they do get as frustrated as some of those in attendance, they still have to look at the issues with as much unbiasedness and prejudice as they can. They hope that the public does as well. The Council appreciates that people came out to make comments because the Council wants to hear those. They would encourage everyone to come back on April 16, 2013. There may be some recommendations from some of the Council that may be beneficial to people from that.

Mr. Brass said that land use is difficult and the Council is the legislative body on this. What they need to do on every issue is create a record that will stand up in court. It is the way they proceed. The last time they went through this they said it was not the applicant or the project but is the zone appropriate for the area. At the time, the zone was not. Those are the rules that they will work under on this.

Mr. Brass has seen decisions where the record was very good yet it was turned over in court because the judge did not like the way the Planning Commissioners stated their motion. It is critical that this is done properly. Whether you like it or not, the City has to give the applicant a chance to speak and be able to hear what the public is saying. It is almost like a court of law in being able to confront your accusers. That may be a bad choice of words but it still applies. They need to be very, very careful on that because courts tend to go with the property owner and against the City on these issues. Sometimes that is not a good thing.

Mr. Hales said that they respect everyone's time and knows it can be frustrating when they aren't notified when the City was notified and the public wasn't.

Mr. Nicponski echoed Mr. Hale's sentiments. He feels their frustration and angst. He knows that everyone has busy schedules and the Council respects that. It is unfortunate that this needed to be postponed but they will do the right thing.

Mr. Shaver paid everyone in attendance a compliment. The Council loves it when citizens are involved, when they come, when they comment and it really means something to them. It makes the Council feel that they are not up there by themselves. He thanked everyone for their involvement.

Mr. Nakamura asked if they could have a motion and asked if there were any more comments to be made before they continue the hearing. He asked for a motion to continue, not close, the Public Hearing until April 16, 2013.

Public Comment closed.

Mr. Brass made a motion to continue the public hearing until April 16, 2013.

Mr. Nicponski 2nd the motion.

Call vote recorded by Jennifer Kennedy.

 A Mr. Hales
 A Mr. Nicponski
 A Mr. Stam
 A Mr. Brass
 A Mr. Shaver

Motion passed 5-0

10. UNFINISHED BUSINESS

10.1 None scheduled.

11. NEW BUSINESS

11.1 Consider an Ordinance amending Sections 2.66.020(D) and 2.66.030 of the Murray City Municipal Code relating to elections.

Staff Presentation: Frank Nakamura, City Attorney

Mr. Nakamura stated that in this last legislative session, House Bill 403 was passed. Part of what it did was to change the deadline for declaration of candidacy in a City Election from June 15th to June 7th and change the deadline for filing a declaration of candidacy for becoming a valid write-in candidate from 45 days before a Municipal General Election to 60 days before a Municipal General Election. The City needs to change those dates from June 15th to June 7th for filing a declaration of candidacy and for a write-in candidate from 45 days to 60 days prior to a Municipal General Election.

Mr. Nicponski stated that cuts the time down to one week.

Mr. Nakamura stated that very much shortens up the time for filing a declaration of candidacy. There are provisions in regards to whether those days fall on a weekend, moving it to the next weekday. He asked Ms. Kennedy to explain the filing dates for this year.

Ms. Kennedy said that it would be June 3rd to June 7th, 2013 for the filing dates.

Mr. Nakamura said that it was very much shortened this year.

Mr. Nicponski made a motion to adopt the Ordinance.
Mr. Stam 2nd the motion.

Call vote recorded by Jennifer Kennedy.

 A Mr. Hales
 A Mr. Nicponski
 A Mr. Stam
 A Mr. Brass
 A Mr. Shaver

Motion passed 5-0

12. **MAYOR**

12.1 **Mayor's Report**

Mayor Snarr encouraged everyone to look across at the beautiful new signage at the Ken Price Ball Park. That sign was donated in honor of the 100 Year recognition of Murray City Power. It is a beautiful sign and something that we should all be proud of. He has already heard a lot of great comments from the residents on the sign.

Mayor Snarr said that the UTA airport TRAX line will open on April 13, 2013. Rides for a can of food will be available that afternoon to celebrate this new transportation option. If people would like to take their families down and take a ride for a can of food they can do so. The Mayor is very excited about this. They will have a special opportunity for Murray to come on Saturday at 2:00 p.m. and recognize the work that it took to make this happen.

By the end of this year, UTA will have the completion of the five major projects that they funded with the completion of the Draper Line, Trolley Square and Sugar house projects. The next major project will probably be a trolley up to Alta Canyon, which is several decades away.

The Mayor stated that as part of the Joint Resolution on Child Prevention that was passed at the last Council meeting, there will be an event on the front lawn of City Hall this coming Monday, April 8, 2013 to tie ribbons in the trees and place pinwheels on the grounds. The group would welcome your participation in this and if you would like to participate, it will be at 6:30 p.m.

Mayor Snarr said that because of Zoning, we were able allow for another beautiful facility for Recovery Way in addition to the one they already have. They have located a new rehabilitation center on Allendale Street. The ribbon cutting will be this Friday at 2:00 and Ms. Wells made a note that you can go visit the location between 12:00 -4:00 p.m. when they will hold an open-house for the new facility.

The Mayor noted that they have not come to stopping the construction on the new Marriott hotel. He was over there early this morning and thought someone was stealing the wire out of a light post. After the incident that happened on the freeway, the Mayor asked him what he was doing and found that he was cutting the wire off so that no one gets electrocuted when they start excavating the north wall. There are some challenges that the Building Department has and the Mayor spoke with Gilbert Gonzales to find out if there was some interconnectivity between multiple lights and where it was coming from. It comes out of the County Complex because they put in all of the lighting when they built the complex with the additional parking resources. The Mayor was able to get to the bottom of this and got Tom Harvey from the Power Department to go over and help get the issue taken care of so no one gets hurt.

The big issue is shoring up that property so that the road doesn't have issues moving to the south. It is the road that accesses the property to the County Ice Center. You can envision that it goes up to the east off of Murray Park Lane and it is critical to shore that up correctly. Gary Howland had that same issue and had to drive piles all the way down along that side of Murray Park Lane and eventually put curb and gutter in. It had never had that before until that development was completed. They are working on all of that and are very excited about all of it.

Mayor Snarr looked over the plans this morning and feels that this is going to be a very nice addition to the City. They are going above and beyond what they originally intended to do with some very elaborate landscaping and nice water features. The Mayor is glad to see that project well underway before he leaves office.

12.2 Questions of the Mayor

Mr. Nicponski asked for an update on the Hilton Hotel area. It looks like some of the businesses in that area are now closed.

Mayor Snarr said that Alberto's has gone. He noticed yesterday that they were removing the signage and getting what they could out of the building. They did not take a lot as far as the refrigeration and cooking units, but they are gone. Wasatch Broiler is gone and Subway indicated that they would be there until this Friday.

Mayor Snarr said he did not know how fast they would pull the demolition permits. They indicated that they would like to start this month but it may be in May. There are issues that the City has to work with them simultaneously, including burying the overhead lines. They can demolish it carefully, avoiding the overhead lines. After the demolition the City can go in and begin the process of burying the line underground.

Mr. Stam thought that Mr. Tingey had mentioned that they have already pulled the permit.

Mayor Snarr said that supposedly everything is in place. Marriott was supposed to have the plans in on a Friday and didn't get them in until the following Monday, so the City has really pushed hard to get everything addressed. The concern was that they got the demolition permit and then said that they had questions concerning how they would shore up that driveway line where they will put in the terraced parking structure and retaining wall so that it wouldn't collapse. They just need to meet with their technical people and the City's Engineers to understand exactly how to do that to protect the integrity of the road. The Mayor would rather have them be safe than sorry and have an issue. You have to understand, particularly the public, that if something goes wrong they can come back and sue the City for not doing its due diligence. Just ask Draper City how they feel about all the roads that were put in and are now slipping. We need to do our homework as well.

Mayor Snarr added that he appreciates the Council for trying to encourage the people to come back and give Camter Development a fair shot. Whether you like it or not, things happen in life. He feels bad about it but at the same time would rather have the comments made and give him a chance to make his comments as well.

13. ADJOURNMENT

Jennifer Kennedy, City Recorder