



MURRAY CITY MUNICIPAL COUNCIL RETREAT

The Murray City Municipal Council met for a retreat on January 17, 2019 at Twiggs Bistro at Fashion Place Mall, 6223 South State Street #4, in Murray City.

Council Members in Attendance:

Dave Nicponski - Chair	District #1
Dale Cox – Vice Chair	District #2
Jim Brass	District #3
Diane Turner,	District #4
Brett Hales	District #5

Others in Attendance:

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Jan Lopez	Council Director	Pattie Johnson	Council Office
Kerri Nakamura	KNA (Kerri Nakamura & Associates)	Michael Nakamura	KNA
G.L. Critchfield	City Attorney		

Call to Order - Council Chair Nicponski called the retreat to order at 10:30 a.m. and welcomed those in attendance. The following discussions occurred:

Separation of Powers Training - G.L. Critchfield

Mr. Critchfield shared valuable information and led the following discussions:

Stay in Your Own Lane

Mr. Critchfield asked what keeps two cars from colliding when driving the same direction, in separate lanes on the freeway, other than white lines, common rules and regulations. He said the overall answer was self-restraint, because while abiding by rules, and fear of collision, drivers must have a common respect for each other.

A recording was shared from an AT&T Wireless advertisement involving a conversation between a customer and a tattoo artist. After the customer questions the artist's abilities about how the procedure should begin, the artist calmly says "stay in your lane bro." Therefore, as related to separation of powers, Mr. Critchfield said it was important to remember this phrase, and explained when the customer questioned the artist, he technically crossed into the artist's lane. The customer was really saying: 'let me do your job for you.' Mr. Critchfield encouraged the council to consider the phrase throughout the training and ask them what the term *separation of powers* meant to them.

Ms. Turner said the council and administration are separate entities, however, equally important, because they have separate power authority.

Mr. Hales said separation of powers was important, but it did not mean two entities could not communicate effectively – because they should be.

Mr. Cox thought separation of powers provided good checks and balances between the two branches of government.

Mr. Critchfield shared personal observations, and described a pure, traditional, orthodox view that an impenetrable barrier exists between the two branches of government. Conceptually, and theoretically this was true, however, in practice this was not how things literally worked out. He said separation was more of an intermixture than a complete and total separation, since overlap occurs as both branches interact together by coordinating and communicating. Yes, each branch should 'stay in their own lane' but they always come together to serve citizens.

He said there should be no checks and balances – if entities were truly separate - because a check, essentially means an invasion of the other side.

Ms. Turner asked Mr. Critchfield to define the term 'co-equal.' He welcomed the question and proposed that thought to the group.

Mr. Hales said co-equal was being on the same level. He shared a personal example about his spouse, where all personal decisions are made together.

Mr. Critchfield agreed it was difficult to form one precise definition. He said with five council members, and one mayor, how could that be equal, and proposed co-equal meant equal respect for the other. The law says the council and mayor are equal branches of government, but their roles and powers are not. As a result, if each branch has respect for the other, by 'staying in their own lanes, as they work together, this was how the term separation of powers should be viewed.

Roles of each branch of government - Mr. Critchfield led a lengthy discussion.

When overlap occurs it is important to understand different and similar roles of each entity, for example, when devising a General Plan to achieve a vision for the city. First, staff on the administrative side begins the process with a vision; as the plan moves forward, meetings occur with both city council, and mayor's office. Next, the planning commission provides their own final vision, so ultimately, by the time the plan gets to the council, it is in extensive written form, and the council is expected to amend, adopt, approve or disapprove recommendations.

Mr. Critchfield explained in essence, the administrative side proposes policy to the council, as to what they think should be in place, therefore, he asked the council how and why that worked successfully. The reason was because the mayor and staff work together daily, with citizens regarding day to day operations. In addition, a good mayor looks down the road and questions what the long-term goals and policies of the city should be. Mr. Critchfield said policy was not made in a vacuum - but only by collaboration. In the end, the city council approves, adopts and passes policies that become their own. However, that only occurs after policy has come through a long process from the administrative side. As a result, when both entities 'stay in their own lanes,' they ultimately overlap, and work together on the same issues.

Roles of the Mayor

Mr. Critchfield said an effective mayor stakes out policy direction that is well communicated and discussed with a city council to determine good policies. The following duties and attributes were noted:

- Facilitates teamwork, attends ceremonial duties, like ribbon cuttings, and public engagements.
- The mayor is the face of the city responsible for answering complaints of citizens.
- Overall, the administrative branch resolves issues.
- Works with governmental entities, often out-front talking to other governmental officials.
- Handles public relations, media relations, and acts as chief executive.

Mr. Critchfield asked in terms of a mayor, what the words 'chief executive' meant.

Mr. Hales said as mayor, head of the city and the mayor's job was to protect and police the city.

Mr. Nicponski said the chief executive runs the city.

Mr. Critchfield explained the word 'executive' means an executive executes policies that are passed. For example, the mayor brings forth policy to the council by ordinance, to be discussed, reviewed and approved, which is carried back to be implemented and executed by the mayor these are the day to day operations of the administration. Therefore, it is perfectly appropriate for a mayor to make policy recommendations, and a check and balance from the council - is a vote - when they actually approve the policy.

He said this made sense because a city council with a small staff cannot be asked to prepare a General Plan, review a Master Transportation plan, or formulate a budget. He said it does not work that way, which is why there is an intermixture of functions, and without that intermixture, nothing could be accomplished, therefore, it was important for the council to accept that part of the mayor's role is to help formulate policies.

Mr. Critchfield clarified the roles of budget officer and finance director because language within City Code was different from that of the Council Rules.

Mr. Hales confirmed Ms. Steck is the *budget officer*.

Mr. Critchfield confirmed, however, fundamentally, the *budget officer* is actually Mayor Camp. He said this was confusing because roles are based on each branch of government's relationship to those titles, and titles are interchanging. For example, City Code states a *finance director* will act as *budget officer* - when reporting to the mayor and the city council. And, Council Rules state a *finance director* reports to both the mayor, and city council members - equally. As a result, Ms. Steck prepares a budget as the *budget officer* for the mayor; and at the same time, she is the *finance director* to the city council, which is how confusion occurs. He noted the Council Rules also state the *city attorney*, reports to both mayor and council.

Terminology is not wrong in either source, or exactly right - because interpretation depends on which branch of government is being referred to. Ideally, everyone works well by collaborating, even though separate work is conducted. For example, the lengthy process of preparing a tentative budget – it must meet legal requirements, involves lots of staff, and has several required deadlines. As a result, the short amount of time the council has to review and consider a budget, does not equal preparation time.

Mr. Critchfield provided copies of Utah Code to note references about the budget officer, and the extensive process of budget preparation. He noted the reason Utah Code was applied to both the Council Rules, and City Code, was to overcome the prohibition that the council is not supposed to order or direct city staff. However, the city council has every right to speak to their city attorney without the mayor's permission, because the attorney represents the city with an overarching duty that includes communicating with both branches.

There is a similar overarching thought about the role of the *budget officer*, because once the budget is complete, and meetings occurred with the council, the council provides input, asks related questions, and addresses budget issues. As a result, the budget officer makes amendments and adjustments as necessary, however, Mr. Critchfield pointed out the council does not oversee the budget officer, or finance director.

Mr. Hales wondered if council members had to ask permission from the mayor before speaking with staff. For example, if they had specific questions for Mr. Haacke. Mr. Critchfield affirmed the difference between law and practice. The law says the council cannot direct or order city

employees to do things, but, that did not mean they could not make recommendations or communicate for good practice.

Mr. Critchfield said typically with Murray's form of government, council members ask the mayor what is preferred in that regard. Some mayors would say go directly to staff, others prefer not. But even when a mayor instructs council members to speak directly to staff, too often difficulty and confusion occurs because a department director fails to tell the mayor about a conversation. As a result, when a mayor becomes aware of something, it brings about unknown reasoning and confusion. Therefore, there is a decorum for the council to establish with Mayor Camp what is preferred by him, and respect that request.

Mr. Hales thought if a mayor trusted a city council, a mayor would not mind council members contacting city employees about issues and concerns - if they needed specific answers quickly. However, he understood protocol should come from the mayor.

Ms. Turner said what if a mayor did not trust an employee, therefore, a lack of trust might not always be in relationship to the city council.

Mr. Critchfield described a scene from the movie *Designated Survivor*, when an off-sight survivor becomes president of the United States and is sitting among advisors; the man throws his arms up and says: "Are you telling me my hands are tied?!" Mr. Critchfield noted this as a prime example of how the system really works - the city council should not get involved with city employee issues - because their hands are tied. However, from a department perspective, their hands are not tied. As a matter of respect for Mayor Camp the council should ask his preference first, which in effect is helpful so the mayor might understand issues he might not be aware of.

Mr. Brass frequently forwards emails regarding city issues and citizen complaints to Mr. Hill. He wondered about communication aspects related to the Power Department or sharing interesting issues because he often meets certain staff members for breakfast and does not tell the mayor. He said some issues are not city related, therefore, he thought it was easier for him to handle minor matters that way.

Mr. Critchfield said when council members speak to city employees first hand, they put staff in a difficult position, especially when there is a conflicting matter. He said employees do not want to offend council members, or the mayor, and most want to work effectively with both branches.

Mr. Hales confirmed he contacts Mr. Hill about issues and thought there was an understanding that Mr. Hill would inform the mayor about their communication and related concerns. Mr. Critchfield said that arrangement was perfect- but when a department director or employee is reluctant, it is generally because they want to communicate with the mayor first.

Ms. Turner goes directly to Ms. Steck with issues and thought it was important to have that direct contact, because the budget is one of the council's biggest responsibilities.

Mr. Hales agreed Ms. Steck is the council's finance director.

Mr. Nicponski confirmed by City Code, the finance director, and legal counsel report and belong to the them, and the administration.

Ms. Turner thought there was question about that recently, related to the council.

Mr. Critchfield reiterated functions absolutely overlap. He said for example, as city attorney he did not represent any single council member, or just the mayor. Conceptionally, he represents the city organization itself, as a corporation. In addition, Finance Director, Ms. Steck, when acting as *budget officer*, or when Mayor Camp is acting as *budget officer*, their functions overlap. He said the mayor and finance director do not work for the city council - in the sense that the council could fire or direct them – because the relationship was completely different.

Council members confirmed.

Mr. Critchfield said if it was working well for Ms. Turner to speak directly to Ms. Steck, that method was satisfactory. However, as a general rule, related to all department heads, it is important to establish good communication standards so employees, the mayor and the council all feel comfortable.

Mr. Nicponski agreed legal counsel represented the council, as well as, fulfilling duties for the administrate branch. Mr. Critchfield reviewed the best way as a lawyer to describe ethical duties to the public, and to elected officials, is to say the city attorney represents the city council, the mayor, department heads, and all employees. But, only in terms of the interest of the corporation. For example, he cannot represent a council member individually, or the mayor on personal matters because he represents the city as a whole regarding city issues.

Ms. Turner noted should the council ever decide it was necessary, could they hire their own representation. Mr. Critchfield hoped the city would never get to that point. Ms. Turner agreed.

Mr. Cox addressed communication with Ms. Steck, and all city employees and thought the council should exercise caution when employees want to provide favors or do something for them. He hoped employees would clear all matters with the mayor prior, because the council would have no idea if that occurred. As a result, they could be putting employees in jeopardy of losing their employment, or put them in a bad light, so he thought the council should be very careful about those types of situations. Mr. Critchfield agreed.

Council Relations – Anti-sexual harassment policy.

Ms. Turner requested the review in order for council to decide whether it should be adopted into the Council Rules.

Mr. Critchfield said the city has policy on sexual harassment and harassment in general, however, it applies to city employees on the administrative side. He explained if an employee sexually harasses somebody, and it rises to the level of termination the mayor handles it. However, if a council member harasses someone, the remedy would be different, because the mayor cannot terminate a council member. Council members are only dismissed by losing during re-elections, which could potentially be years later, and only some censorship by the council could be administered.

Therefore, written policy was reviewed to address those concerns. The policy proposed, that if perceived that a council member committed sexual harassment, council members could seek advice from Mr. Critchfield, or Council Director, Ms. Lopez. At that time, a decision would be made as to whether a further investigation was necessary, or if outside assistance would be needed. The council would discuss and approve the outcome amongst themselves. He noted this was also an example of how the separation of powers worked effectively.

Mr. Nicponski confirmed the council encompasses four general areas: Ordinances, policy, budget and advice and consent. Mr. Critchfield agreed.

Oversight and Authority of the City Council

Mr. Critchfield said oversight and authority details of the city council were very well written in the Council Rules.

He explained policy covers whether a committee should be formed to review questionable issues for things like; improper tax spending, department concerns, or whether a mayor received a questionable payoff; these types of things were noted as only examples of when something has been done wrong and need investigating.

The committee could be made up of just council members or include the administration as well. He said this approach should not be taken lightly, and unless there was valid compelling information, it was typically not even invoked.

Closing comments

Mr. Critchfield appreciated the opportunity to spend time with the council and serving with them. He said he learned a lot from each council member and continues to learn with them

Mr. Nicponski and all council members appreciated Mr. Critchfield as a valuable asset to the council.

Mr. Brass noted there was no time to review the RDA (Redevelopment Agency) related to the executive director in state law and city code and requested a further training and discussion.

Council Initiative Discussion – Jan Lopez

- Plastic Bag Ordinance

Ms. Turner researched thoroughly to propose a plastic bag fee ordinance. Mr. Critchfield stated a draft was available for review and he would send it to her. She said she did not want to pursue the issue, unless she had support from other council members and confirmed she had more information for their review.

Mr. Brass was curious about the ordinance and would like to review it. He noted Smiths grocery stores credit grocery bills when reusable bags are brought in, which is a great incentive for getting away from using plastic bags. He agreed somehow plastic bags must be removed from the stream of waste because he witnessed people using them to bag up recycled material that ends up their recycling can, which was an immediate rejection for a truck load.

Ms. Turner agreed and thought citizens should understand the significant cost to the city, the environment, and overall recycling – she stressed the need for continued education.

Mr. Nicponski suggested discussing the issue further during a Committee of the Whole meeting.

Ms. Turner appreciated that and said cost and fee allocations could be determined at that time.

- Construction Requirements.

Mr. Cox discussed the construction industry related to the new city hall project. He wanted to be sure the city's pre-qualification language related to contractors was adhered to. In order to protect labors who would be working on the project he wanted to ensure they would be working for reputable contractors who paid employees well and provided health care. He was satisfied with the new ordinance except he was unable to locate health care provisions.

Mr. Brass thought Layton Construction, hired as the construction manager by the city, was a reputable organization. He agreed finding qualified subcontractors was critical and noted the Park Center where repairs occurred, due to poor construction at the beginning.

Mr. Cox agreed and discussed the St. George airport with ongoing costly repairs and mentioned other bad projects he witnessed over his career - he did not want to see this happen to city hall. He said if a project costs more to begin with and is constructed right the first time, it does not need repairs and can benefit in the long run.

Mr. Nicponski agreed and asked Mr. Critchfield to see that the ordinance included health care. Mr. Critchfield would include the provision and send it to Mr. Cox for his review.

- Council Contract Authority.

Ms. Lopez attended a council director's meeting recently, where council contract authority was discussed. Other cities implemented the related code, and Sandy just passed the ordinance. At this point in time, Mayor Camp is the only person who can sign a contract, therefore, should the council ever want to hire a consultant on their own behalf, in the future, the council would not be able to. She discussed the matter with Mr. Critchfield and inquired if the council wanted that authority written in code.

Mr. Brass said yes it would be beneficial, because Utah State law gives that right. He said state code also says the council has the right to audit departments as they see fit, and the council may one day want to hire someone to assist them in doing so.

Ms. Turner agreed. There was a consensus among all council members.

- Legislative Report

Ms. Lopez requested Mr. Cox share a brief legislative report prior to the mayor's report during council meetings relating to pertinent issues – once a month. Citizens would be informed via video streaming, about important issues to contact legislators about. Mr. Nicponski confirmed.

Mr. Cox explained residents would understand the impact of property tax, sales tax, and utility fund transfer issues that could greatly affect them. All council members agreed the report would be beneficial.

Break

Budget and Finance Training - Kerri Nakamura

Ms. Nakamura shared personal background information related to her past career, and shared governmental experiences similar to those of the Murray City Council, where she helped the Salt Lake County Council members exercise the legislative role by utilizing specific tools available. She agreed with the concept of 'staying in your lane' but also noted additional tools available for appropriately influencing the speed, flow of traffic, and priorities of the other lane.

Ms. Nakamura encouraged a frank discussion and reviewed the city's information policies prior to the meeting. She gave approval of the current system the city had in place, and took some credit for that, due to years of her training local officials and noted many of the city's ideas were there because of her suggestions over time. She said Murray was a text book case, that had the framework of what she always taught legislative bodies, and of what she encouraged other legislative officials to do. She encouraged the council and Mr. Critchfield to push back effectively, ask questions, and thought by the end of the day the council would realize whether they were fully maximizing their legislative role.

Mr. Nakamura shared his credentials and experience working on financing large infrastructure projects for government entities and others. A governmental program tool he designed through Excel was shared. The tool was presented to the Sandy City Council and other municipalities, which helps elected officials make and track projections. During the meeting he assisted by charting thoughts and inquiries for determining goals of the council.

The KBTS (Keirsey-Bales Temperament Sorter)

The council participated in an exercise about discovering personality types, in relationship to leadership and decision-making style. The group analyzed how their personality types interact, react, communicate and address various situations. A lengthy discussion occurred to gain insight about strengths and weaknesses and understand that everyone resolves issues and conflict differently. She said being aware of other's attributes was beneficial when working with groups of people, especially when perceptions are not the same.

Ms. Nakamura explained as a city council, exercising power was important to understand, because any single council member cannot make policy, or set direction, unlike the mayor, who can make broad policy recommendations on his own, and then convey to staff what is desired. So, since the council operates as one body, their power must function that way. The focus on harnessing authoritative power as one body involves understanding each other's decision-making style, because not all voting results end up 5-0, and often a council member ends up in the minority vote. Therefore, she stressed their power comes from one body - acting as a group – not as individuals.

The following quote was shared: *"It is well to remember that the entire population of the universe, with one trifling exception, is composed of others."* - John Andrews Holme

Today's Goal - Examine the Council's Policy Setting Role

A power point was utilized for budget training in the following areas:

- Develop deeper understanding of the municipal budget process and the Council's role in the council/mayor form of government.
- Gain additional proficiency in using financial reports, audit reports, and other tools to monitor implementation of the Council's policy objectives.
- Identify areas where Murray Council's broad budget policy direction could be clarified/better defined.
- Deep-dive capital project financing: Pay-as-you-go vs. Bonding.
- Deep-dive revenue policy issues and explore how a 5-year plan can guide:
 - Property tax increases: Small regular or large infrequent.
 - Use of reserve funds.
 - Other tax/fee issues.

What Is A Budget – Ms. Nakamura ask what a budget means.

Ms. Lopez said a budget was a spending plan. Mr. Hales agreed. Ms. Turner said a budget is how you define spending.

Ms. Nakamura said looking at the city's budget, she could easily determine Murray's priorities. She conducted a lengthy conversation about the council's priorities, as listed in the budget book, and encouraged thought about whether their priorities were well represented in the spending plan. Overall, it was agreed the budget is:

- The way the city demonstrates how goals are being met.
- The most important item the council is responsible for.
- The way the council sets policy direction.
- Is not a once a year process but should be ongoing all year long – when used as a policy setting tool.
- Clear mechanics and framework of how the city manages money.
- Significant to the council, is the budget and finance committee within the council, especially with Murray's form of government.
- Something the council could infuse further, because the council is a separate AND equal branch, and while many functions intertwine, they do not always have to.

Budget Message - Ms. Nakamura noted the Budget in Brief document and noted the clear message from the council. She said the council did a very good job with their message, and suggested once the next budget was approved, both the mayor and the council should provide additional messages related to how the budget message should:

- Reveal major assumptions used in the budget –both revenue and expenditure.
- Identify financial, economic, and inflation factors.
- Identify opportunities.
- Focus attention on the changes from the prior year budget.
- Establish an overall message.

Budget Policy – The legislative branch has different values, ideas and goals that all come together to establish clear direction. Ms. Nakamura led discussions regarding details about establishing policies and noted:

- There is no right or wrong answer, but there might be best practice guidance. For example, the council gets to set the value, by saying this is what we do, this is how we want it financed.
- Legislative staff could help the body unite around a general direction, which is easier said than done.
- If your personal policy goals are not aligned with the direction established by a majority of the Council, what do you do?

Mr. Hales explained he could be flexible about non-pressing issues, however, if something was very important to him, he would pursue it. Ms. Nakamura stressed the importance of picking up votes from other council members to support those convictions– by gaining power with three votes. She noted often times council members do not agree, which was a time to voice those important views to gain needed support to make deliberate decisions.

Taking the Temperature - Ms. Nakamura said it was important not to take the middle ground on issues, therefore, the council took an anonymous survey to determine how they all agree and disagree.

Council members agreed 5-0 on the following:

- The Murray City Council should implement a budget process that includes more extensive review during the year, even if such a process results in more frequent/longer Council meetings.
- The Murray City Council should exercise greater legislative oversight of programs with a focus on improving efficiency and identifying cost savings.
- Interfund transfers should be used to hold down property tax increases.
- Murray City enjoys a business-friendly fee and regulatory environment.
- Murray City’s tax structure is fairly balanced between citizens and businesses.

Council members agreed 4-1 on the following:

- Murray City is headed in the right direction.
- Property tax increases should be small and frequent.
- The landscape of sales tax probably will change in Murray in the next 5 years.
- The services presently provided by Murray are what the citizens want.
- Public investment in private development is appropriate as an economic development strategy.

All council members disagreed with the following statement:

- Murray City should more aggressively pursue contracting out services.

Ms. Lopez would follow up with the results to help provide further direction to the council.

Mayor/ Council Form of Government - Transparency - Checks & Balances - Mirrors State and Federal Models.

Ms. Nakamura read the following quote and reviewed again the complete separate, independent and equal branches.

“The optional form of government known as the council-mayor form vests the government of a municipality which adopts this form in two separate, independent, and equal branches of

municipal government—the executive branch consisting of a mayor and the administrative departments and officers; and the legislative branch consisting of a municipal council. There is a complete separation of powers with the executive powers vested in the mayor and the legislative powers vested in the city council. This is contrasted to the non-optional form of government where there is no separation of powers and the executive and legislative is all contained in a governing body consisting of the mayor and council.” - *David Church, ULCT Legal Counsel*

Utah Municipal Budget Process – Putting the Pieces Together.

- Prepare Tentative Budget – Ms. Nakamura asked if the council thought they had any influence over any of the following during the budget preparation – as prepared by the mayor’s delegated staff, who is finance director to the council:
 - Review services and align with organization goals
 - Review service delivery options
 - Cost next year’s services
 - Review fees
 - Prepare revenue and expenditure estimates
 - Prioritize budget
 - Submit revenue and expenditure request to Budget Officer
 - Budget officer prioritizes organization budget

Mr. Brass understood the council had influence with the agreement of the mayor in the past, however, technically he realized the mayor did not have to allow for that. He thought it was possible, for the administration to withhold the budget if desired, and not allow any council input - until it was finished, which was not the best way to go about it.

Mr. Hales thought the council should and could influence the budget according to what laws allowed. Ms. Nakamura confirmed the legislative bodies she worked with heavily influence the budget – through policy statements.

She explained with clear policies in place before January, prior to budget preparations, city staff would clearly understand the council’s philosophy about certain issues, for things like service delivery options. Therefore, staff would be responsible to those council policies. She said at the end of the day, council members are the policy setters – no right or wrong. What the council decides is the direction the organization goes. For example, setting policy for how often fees are reviewed systematically, and if fees fully recover the cost of service. By forming policies, it forces the administration to look at city services in keeping costs down. By setting this type of guidance, the council’s policy code would be implemented.

Mr. Brass said fees were reviewed regularly and adjusted as necessary.

Mr. Hales said it occurred only when fee reviews were brought to the council.

Ms. Nakamura stressed the council could have broad policy guidance for preparing revenue and expenditure estimates. For example, she noted the CAFR policy for preparing sales tax estimates, which was an increase of 1% of what was received the prior year. She said she did not test the information to see if the current report followed that policy, but would encourage the council, as a legislative body, to keep an eye on revenue as a way of confirmation.

She said monitoring expenses was important, however, the council should not divorce themselves from tracking revenue. For example, if there was an extra amount of money in the budget to do all kinds of mayoral priorities, the council should question where cuts might have been made, because often times, revenue estimates are pushed higher, allowing the ability to put expenditures into the budget. Another example for setting broader policy guidance was to ensure the budget includes clear measures for employee compensation, which was noted as the most important expenditure that could be directed by the council in policy form. Other policies might affect things like raises, funding healthcare, employer standards for meeting benefits, and other organizational directives.

Group Discussion - Should the council provide legislative/policy direction to the administration regarding assumptions?

Ms. Lopez explained provisions were provided by the budget officer.

Mr. Brass noted the Intent Document and was advised many times to make it stronger. Ms. Nakamura agreed. Mr. Brass confirmed. As follow up for Ms. Lopez, Ms. Nakamura charted goals for the council to strengthen their direction regarding assumptions.

Ms. Nakamura asked the council if they thought they used tools effectively to operate separately.

She noted Mr. Brass contacting department heads directly, and stated if Mayor Camp did not sanction it, Mr. Brass should honor that standard - because it was a negotiated relationship. She thought the relationship between Mr. Brass and Mayor Camp would work best if he respected the Mayor's wishes.

Ms. Nakamura shared personal related examples and stressed the importance of copying the mayor, and related administration on emails to keep employees from odds with the mayor.

Mr. Hales worked for three mayors over time, and agreed honoring a mayor's request builds trust, which might not happen if council members did otherwise. Ms. Nakamura confirmed keeping the mayor informed of things was essential, as well as, maintaining open conversations with the administrative staff, because breakdown occurs when there is a lack of communication.

Ms. Turner perceived the council's power as being with budget and policy, and not with micro-managing employees – because that was not the council's job. Ms. Nakamura agreed.

Mr. Nicponski thought, for example, if he contacted Chief Burnett to request a patrol increase along the Jordan River Parkway, but the only way it could be achieved was to hire two more police officers; he wondered if a directive policy was needed to fulfill his request.

Ms. Nakamura explained if the mayor was aware of the request and the issue was never addressed in the mayor's budget, the council should discuss the matter as a body, be clear, transparent and open in communicating to the mayor and his staff that the council is not satisfied with a service level, as currently constituted. This can be allocated in the council's budget.

Mr. Brass noted issues in the past that were put on contingency for further discussion.

Group Discussion - Does the council have the tools and resources it needs to fully operate as a separate and equal branch of government?

Ms. Nakamura noted resources and confirmed Ms. Lopez worked hard to assist the council but wondered if she and her assistant had all the resources, they effectively needed to help exercise the role of the council.

Mr. Hales did not think so.

Mr. Lopez said having time and resources to analyze the budget prior to adoption was a struggle.

Mr. Hales agreed, Ms. Lopez and her assistant were responsible for many things, and often Ms. Lopez realized concerns before the council understood specifics. He thought if Ms. Lopez had more time and resources, she could make more information available to the council, benefiting them all.

Ms. Nakamura agreed and suggested the possibility of the council contracting their own budget person – on the council side of government. Because when a finance director is playing a dual role, and is not always communicative, the benefit of independent council staff could be of great value to the council. She noted not everyone understands Murray's form of government, so the value of providing another resource to council staff would be justified by the separation of powers.

Mr. Hales wondered if the new council budget person would work alongside the council's finance director. Ms. Nakamura confirmed as a colleague who reports to Ms. Lopez.

Ms. Nakamura stressed contracting a budget person for the council was a mere suggestion, as another resource the council, which was an important tool missing from their staff. It would make a significant difference by having someone there all year, as opposed to the council looking over documents for six weeks in total comprehension.

Mr. Brass agreed budget issues exist all year long, and there were times in the past when budget meetings were held monthly.

Municipal Budget Process

Ms. Nakamura referred to her slides on the municipal budget process and explained:

- Administrative Responsibility:
 - Prepare the Tentative Budget.
 - Present to legislative body by the first meeting in May.

- Legislative Responsibility:
 - Public deliberations and make adjustments to the tentative budget.
 - Working meetings with departments.
 - Prepare intent language.
 - Adopt Tentative Council Budget.
 - Notice public hearing.
 - Tentative budget available to the public.
 - Hold public hearing.
 - Adopt final budget before June 30.

Ms. Nakamura noted budget deliberations and said when the legislative body is willing to put in more meetings and more time, the conversations and issues become more meaningful – than just talking at the high level.

Shift the Focus

Presently, 95% of all spending decisions are based on what was done the previous year, and focus tends to only be on new money and programs. Ms. Nakamura said once new items are realized, attention is often not drawn back to revenue or expenses for discussion, therefore, when conversations occur about needing resources for different policy directives, funding can actually be found in base budget.

She said this answers the earlier hard question about what services, or programs could be cut that people would not notice as a strategy for funding because once a service fee is instated, it typically continues on and on without further regard. As a result, new projects and programs seem challenging when in actuality cutting outdated services could meet new needs of the citizens. She noted employee jobs should never be cut if a service was eliminated, however, if a position went vacant, it should be analyzed as to need. She said this strategy provides great success when a council practices broad direction to request the analysis of Murray programs, or requires a customer survey to find out what services citizens prefer. She said this was a completely appropriate legislative role to lead conversations in this direction, and reviewed points to consider when reviewing the tentative budget.

Group Discussion – Ms. Nakamura confirmed council members wanted to be more satisfied with their impact on the budget and priorities of Murray. All council members agreed. Mr. Nicponski said in addition, he wanted a better understanding of the priorities. Ms. Nakamura agreed. She asked council members as a body, if they are willing and able to spend additional time in May to have a larger impact on the final budget. All council agreed. Ms. Nakamura reviewed the following timeline:

- File Budget with State Auditor
 - Within 30 days of adoption
 - Financial Reporting
 - Greater than \$500K = Audit - Legislative Responsibility
 - In Mayor/Council form of government, the Council hires the external auditor and the Council is the client.

- Monitor and Amend
 - Administrative Program Managers monitor monthly
 - Adjust as necessary within appropriation levels
 - Legislative body monitors
 - Monthly and/or Quarterly (set by ordinance)
 - Amend as necessary between appropriation levels.
 - *Administration monitors to ensure they are implementing properly. Legislative body, however, has large monitoring role for policy compliance.

Ms. Nakamura reviewed the council's budget process, and noted their procedure ended in August, after a Truth and Taxation hearing if needed, and then did not discuss or monitor the budget again until January or February the next year. She stressed to the council this was losing fertile ground as a legislative body – by operating this way budgetarily. Therefore, follow-up and continued monitoring is essential throughout the year to ensure the council's policy directive was adhered to with continued conversation.

Group Discussion – Should the Murray Council deep dive budget/programs from August – March to better prepare for the budget process in May? Ms. Nakamura noted budget meetings occurred when department heads report for 30 minutes to the council in one setting, which she thought would be difficult when there were so many things to consider.

Mr. Nicponski agreed and requested a change in the council's future procedure. He thought it would be more effective for council to ask the same questions of each director, rather than department heads reporting only on things they choose to share.

Ms. Nakamura said this was spot on for the council setting the agenda for what a budget meeting looks like. She said a dog and pony show often results when expectations are not set, because the council might already know in fact about amazing successes within each department, however, this was not the

type of conversation they should be having in budget meetings. Therefore, the council should request specific issues they want to know about and discuss. She said not every entity would provide the same information and implemented direction would be achieved.

Ms. Turner agreed and said the council had been more specific recently with expectations.

Ms. Lopez confirmed instructions were sent to the administration for the mid-year budget meeting, requesting from each department head:

- CIP Budget details about project impact, whether excess in funds, or if the project went over budget.
- A staffing report.
- Concerns in their budget that needed to be discussed.
- Next year's goals or needs.

Ms. Nakamura agreed it was imperative to focus on CIP and explained how because of good strategies Salt Lake County easily found \$2.5 million in the CIP.

Monitoring Implementation of Policy – Legislative review of financial reports and audit reports. The following tools were discussed to monitor implementation of policy:

- Periodic Financial Reports
- Audit Reports
 - How often do you re-bid professional services? Policy?
- Legislative Intent Reports
 - Does the Council issue LI and expect follow up?
- Performance Audits
 - Does the Council fund performance audits of programs/systems?
- Historic Revenue and Expenditure Analyses – 5-year model

Ms. Nakamura reviewed the city's periodic financial report and thought it was sufficient. She noted state law only requires actuals from previous years on governmental funds – not for proprietary (non-governmental) funds and thought it should still be provided to the council. She suggested creating an agreement for negotiating with the administration for that provision. In addition, she suggested the council set funding goals, and require from the administration that ongoing maintenance funding be set in place at the time of request for funding projects. She said if a city cannot afford to operate and maintain a facility, the city most likely cannot afford to build the facility. She noted when both branches agree to such agreements conflict is avoided.

A copy of Salt Lake County's legislative intent report was reviewed. Ms. Nakamura noted because that legislative body wanted to be honest with the administration, clarification was made that if the administration moved in a different direction, they should expect the council to cut the budget.

For example, compensation issues that are not fully vetted with the council, could be reduced. She explained if the council does not agree with what the administration is spending, funds could

be taken away, however, if the administration disagrees, they could still move forward, which causes continued conflict. Therefore, to avoid ongoing conflict the legislative intent process is a powerful tool that clarifies specific desires of the council and requires a report of transparency by the administration whether policy was implemented. As a result, the council could expect these reports on proprietary funds.

Ms. Nakamura told the council to be certain when looking back over five-year budget numbers, they should look at actuals – not what was budgeted – because when comparing the differences, budget is not as meaningful as actuals.

Know your CAFR - A lengthy discussion occurred as the group took a true or false questionnaire that included 10 questions regarding the city's CAFR report.

1. The CAFR covers the period January 1 –December 31. **FALSE (July 1 – June 30)**
2. Murray's 2018 CAFR states, "At June 30, 2018, the City's combined governmental fund balance is \$34,649,850." **TRUE**
3. In 2018, Murray City had to increase its transfer to the Capital Projects fund by \$2.1 million, exceeding the amount budgeted, as a strategy to stay below the 25% general fund balance maximum allowed. **TRUE**
4. The general fund transferred \$75,000 to the Murray Parkway Fund to subsidize operations in 2018. **FALSE** (\$34,000 plus another \$212,000 from the Capital Projects Fund)
5. Taxes represent 55% of all revenue in the general fund. **FALSE (78%)**
6. At the end of 2018, the power fund's \$19,694,913 restricted and unassigned net position is 53% of current annual revenue. **TRUE**
7. For government-type activities, Murray City owes \$771,000 in long term debt payments in 2019. **TRUE**
8. For business-type activities, Murray City owes \$866,000 in long term debt payments in 2019. **TRUE**
9. The CAFR includes a detailed description of Murray's obligations to the Employee Retirement System and pension plans. **TRUE**
10. General fund budgeted expenditures were amended upward by 3% in 2018. **TRUE**

Group Discussion - Is the council interested in making better use of legislative intents as a directional monitoring strategy? Are performance audits necessary?

Ms. Turner noted Ms. Nakamura's suggestion to hire a budget person for the council to help interpret the CAFR. She thought the position of Finance Director, Danyce Steck was supposed to be fulfilling that need, and asked if this was inaccurate.

Mr. Nicponski agreed he thought Ms. Steck was dedicated to the council for that reason, as well as, to Mayor Camp – like the city attorney.

Ms. Nakamura stated at a high level yes, but in terms of spending quality time in understanding, it was up to council staff to help the council.

Ms. Turner said Mr. Zollinger, the previous finance director, used to help the council regularly, so hiring additional help was never considered.

Ms. Nakamura suggested a legislative agreement could be written requesting the administration provide the help – because if it is not stated in City Code – they should not expect it on a deeper level.

Mr. Nicponski confirmed legislative agreements pay for themselves repeatedly. Ms. Nakamura agreed they are valuable for council to creatively realize how to finance priorities. She gave examples of how agreements helped Salt Lake City with specific projects. She said if the council was relying only on administrative staff, solutions do not always happen.

Ms. Turner shared confusion because she thought Ms. Steck was staff shared with the council.

Mr. Brass agreed there was confusion with her role and position, due to their perception from the past finance director. All of council agreed it was different working relationship.

Mr. Critchfield confirmed Council Rules state the city council wants the finance director to work with them. He said the question is and issues are, how much detail should be provided, how much information should be explained, and how much time can the finance director spend with the council.

Ms. Turner expressed her desire for the finance director to represent the council in the same way as the administration, which was how she thought it had always been.

Mr. Nicponski wondered if this position was one Mayor Camp could require council members talk with him first, before contacting. Mr. Critchfield said no, however, it was not explicit.

Mr. Hales agreed there was confusion because he thought the finance director represented each branch equally, but recently found out otherwise.

Ms. Lopez noted language in the Council Rules stating the finance director *reports* to the council, which is a different representation from the administration.

Mr. Brass agreed, however, by ordinance, and by statute, the position is budget officer, and the administration does not follow the Council Rules – he thought this was where the disconnect occurred. He noted Mr. Zollinger, the previous finance director, did everything to represent both branches equally, however, the current finance director interprets that role and representation differently. He thought good communication could resolve the current challenges, but if not, hiring a council budget staff member, as Ms. Nakamura suggested might be necessary, because their perception was not reality.

Ms. Nakamura suggested the council consider creating a finance director agreement to provide key position. In addition, since overseeing the budget was their most important function, a legislative body should have full-time fiscal staff, which was common among other city council offices.

Mr. Hales agreed hiring budget staff would not be an insult but thought it would be beneficial to the council, because Ms. Lopez often brought to their attention later, things they had not realized during meetings and after adoption. Therefore, by having budget staff matters of concern would be recognized quicker.

Ms. Lopez agreed information received in budget meetings was at a high level. All council members agreed and thought Ms. Lopez was doing an amazing job in keeping them informed with the little time she had to review the budget, not being an expert in government financial standards and rules.

Ms. Nakamura thought it was baffling the city council did not have their own budget representation.

Mr. Nicponski agreed council staff could set standards to be utilized in interfacing with finance on a regular basis to keep council informed. Ms. Nakamura agreed the CAFR contained very good information for monitoring the finance side of things, however, she thought there was not as much information for monitoring the policy side.

Ms. Nakamura stressed, if broad budget policy direction was not given to the finance director, whose day to day representation was with the administration, it would be valuable for council to have their own dedicated fiscal staff whose sole focus was to ensure the council's own policy direction was implemented. She said Murray's form of government works very well, when both branches have an advocate on policy.

Mr. Cox agreed and noted two things to consider, which were funding, and proper implementation, as not to create further negative division. He stated the reason was because the council needed someone to help them better understand what the administration was trying to achieve. Because trying to review the CAFR within the period of time they had was overwhelming. All council members agreed.

Mr. Nicponski agreed having advice at the ground level would be helpful.

Murray Council's commitment to Policy Making Authority.

Ms. Nakamura read the council's current policy as:

"The Murray City Municipal Council (the 'Council') adopts the City's final budget (the 'Budget') for fiscal year 2018 -2019. Under Utah law, the Council has policy-making authority and responsibility. The Budget is a means by which the Council directs City policy. The City Administration

(‘Administration’) must, therefore, implement the Budget consistent with the intent and general policy direction of the Council. The following are the Council’s intent and general policy direction underlying the adoption of the Budget...” - Murray City 2018-19 budget

Ms. Nakamura addressed the *Murray Council’s 2018-19 Policy Guidance* list – within the booklet called *A Citizen’s Guide to the 2019 Budget*. She noted disconnect because there was no written statement for each of the items listed below and suggested including strategies explaining goals and how they would be accomplished. (These goals are listed with details in the FY 2019 Intent Document.)

- Property Tax
- Employees
- Utopia
- New City Hall
- Downtown Development
- Public Safety
- Capital Improvement Program
- General Fund Reserve – 21% target
- Environmental Education
- Clean Energy Vehicles
- Fee Waivers for Non-Profit Entities

Deep Dive: Capital Project Funding - Pay-as-you-go versus Bonding

Ms. Nakamura said there was no right or wrong way of funding, but as a group the council could decide what they believe would be best. The following was discussed at length:

- Pay-as-you-go

Pros

- Future funds are not tied up in servicing debt payments.
- Interest savings can be put toward other projects.
- Greater budget transparency.
- Avoid risk of default.

Cons

- Long wait time for new infrastructure.
- Large projects may exhaust an agency’s entire budget for capital projects
- Inflation risk.

- Bonding

Pros

- Infrastructure is delivered when it is needed.
- Spreads cost over the useful life of the asset.
- Increases capacity to invest.
- Capital Investment’s beneficiaries pay for projects.

Cons

- Potentially high borrowing rate.
- Debt payments limit future budget flexibility.
- Diminishes the choices of future.
- Generations forced to service debt requirements.

Mr. Brass said balance was important, and either way a bill must be paid. He said comparatively Murray's debt service was significantly less than a city like West Valley City. He noted once a bond was in place, that payment must be paid prior to paying city employees. Ms. Nakamura agreed and stressed the council gets to set the policy for what they believe to be a good balance, which is an important role in what is tolerated.

Mr. Nicponski agreed and noted the bond for the new city hall facility, which was significant and estimated at \$31 million.

Ms. Nakamura led a lengthy conversation about each item below and described the list as a guiding resource for decision making:

Considerations

- Is there an immediate need for the asset?
- What is the asset's expected useful life?
- Does the length of obligation exceed the asset's useful life?
- What is the current availability of funds relative to the project's size?
- Are there multiple projects that need to be completed simultaneously?
- Is inflation expected to increase?
- Is the borrowing rate expected to increase?
- Do you have a debt management policy?

Deep Dive: Revenue Policy Issues and the 5-Year Plan

Various bar graphs and pie charts were presented and discussed using actual figures from the CAFR, reviewed revenue sources, the upcoming property tax increase, and the 2018 year-end revenue balance. The following was noted:

- Murray's General Fund Revenue History – Reflecting sales, property, franchise taxes and licenses - Actuals from CAFR.
- Murray Fund Balance History – 21%
- Murray 2018 General Fund revenue percentages.
- Annual Growth Rate Sources and percentages – 2015-2018
- Decrease in license and permits revenue
- Sales tax growth sustainability analysis
- If sales tax growth declines, what expenses can be reduced?

Ms. Nakamura calculated ending fund balances as a percentage for General Fund revenues for each year 2014 to 2018 using the CAFR data. She wondered if the city received notice from the Utah State auditor's office in 2014 and 2015, because funds exceeded the requirement. Council members agreed the city was written up.

Ms. Nakamura noted the city's policy of maintaining 21% of the ending fund balance. She said in 2018 the books were closed at 25%, when Ms. Steck moved \$2 million to a capital project fund. Ms. Nakamura described this as opportunity costs, because if projects did not get accomplished in the budget that year, it was because each 1% of that transaction cost \$414,000. Meaning there was \$1.6 million dollars' worth of opportunity cost that was kept along with \$2 million dollars, which was transferred off this year to the Capital Project Fund.

Therefore, when asking where money would come from to pay for things such as staffing, there was plenty of money and decreasing elsewhere was not necessary. She would argue that when consistently exceeding your target money is growing and money is available.

Mr. Hales wondered if Ms. Nakamura was concerned about sales tax revenue being half of Murray's revenue source. Ms. Nakamura confirmed it was worrisome when comparing expenditures because the resource could be volatile.

A lengthy discussion occurred about the past distribution change in 2006, and how the city maintained its finances during the downturn from 2008 – 2014. In addition, they discussed at length the current upcoming House Bill to lower rates and broaden the base on sales taxes, which would be detrimental to the city, because the revenue is in large part based on car sales.

Mr. Brass noted the disproportioned amount of property that was tax exempt, due to the hospital, other medical facilities and other public facilities. Ms. Nakamura confirmed, however, the city does have one of the most successful malls in the nation and she thought the council should focus on the future of auto industry, which would have a huge impact on the city.

Mr. Cox noted how new construction of high-rise apartments and townhomes, where agriculture once existed would offset property tax revenue.

Mr. Nicponski agreed there were three new developments in his district, which were relatively large.

Ms. Nakamura discussed her calculations and determined from 2014 to 2018 the average growth rate was 1% in property taxes, and 11% on sales tax, which was not favorable. She noted sales tax, property tax, franchise taxes and charges for services that make up 85% of the city's revenue. The following was reviewed at length:

Should Property Tax Play a Larger Role

- 16.5% of 2018 revenue
- Average Growth Rate is < 1% annually
- Proportion of business properties to residential properties?
- Public Safety is 50% of GF expenditures

Mr. Brass noted the denser a residential area was, the more services were provided, which was costly.

Ms. Nakamura explained that public safety comprises 50 % of General Fund expenses, and property tax revenue, the most stable source of revenue, is only 16%. Sales tax revenue, over 50% of proceeds, can rise and fall with the economy, however, public safety expenditures cannot. She suggested trying to close that gap, which would mean more property tax increases. Knowing the future of the auto industry, possible changes in tax rate distributions, it meant the council was becoming more financially responsible.

Mr. Nakamura reviewed a chart suggesting expenses could possibly be reduced, as well as, transfers in, and transfers out, in relationship to bonding and bond payments, and revenue and expenditure comparisons.

A discussion occurred about understanding the way property taxes work in Utah. It was noted that if a city wants more new revenue that would require new growth, tax rate increases and annex in of new tax areas.

Ms. Nakamura provided a demonstrative chart to explain the house market values, related to tax values as they are calculated on a property tax bill. She reviewed how property tax increases are affectively different for everyone based on market values and explained calculation on those values over a five-year period.

Adjourned 4:00 pm

**Pattie Johnson
Council Office Administrator II**

Adjournment