

**REGULAR SESSION OF THE
BRIGHAM CITY COUNCIL
September 18, 2014, 7:00 PM**

PRESENT:	Mark Thompson DJ Bott Alden Farr Ruth Jensen Tom Peterson	Mayor Pro Tem Councilmember Councilmember Councilmember Councilmember
ALSO PRESENT:	Rick Bosworth Mary Kate Christensen Jared Johnson Paul Larsen Bruce Leonard Mike Nelsen Derek Oyler Tyler Pugsley Jason Roberts	Human Resource Manager City Recorder Community Development Director Economic Development Director City Administrator Police Lieutenant EMS Deputy Director Public Works Director Finance Director
EXCUSED:	Tyler Vincent	Mayor

Mayor Pro Tem Thompson called the meeting to order and excused Mayor Vincent, who was out of town on business. The Reverence Period was given by Pastor Laura Stellmon, Community Presbyterian Church. The Pledge of Allegiance was recited.

A motion to approve the minutes of August 21, 2014 was made by Councilmember Bott, seconded by Mayor Pro Tem Thompson and unanimously carried.

AGENDA

RECOGNITION OF EMPLOYEES

New Hire, Public Works
New Hire, Emergency Services

PUBLIC COMMENT

COUNCILMEMBER REPORTS

CONSENT

Reappointment to the Appeal Authority Board
Reappointment to the Planning Commission
Reappointment to the Airport Advisory Board
Appointments to the Advisory Council Aging and Appointment of Chair
Proclamation Declaring November 1, 2014 Extra Mile Day
Request to Write-off Accounts Due to Bankruptcy or Being Sent to Collections

PUBLIC HEARING

Recodification of Title 10, Electric, and Title 34, Emergency Services

NEW BUSINESS

Request for Approval of Resolution Requesting Admission into the Utah Retirement System
Firefighter Retirement System
Request Authorization for Mayor to Sign Easements with Sprint Spectrum
Request for Facade Grant at 50 South Main

UNFINISHED BUSINESS

Consideration of Ordinance Approving Recodification of Titles 10, 11, 14, 17, 20, 25, 26, 29, 33 and 34

PLANNING COMMISSION

Consideration of Ordinance Amending Title 29.12, Residential and Multiple Residential Districts to Modify Accessory Building Standards

Consideration of Ordinance Amending Chapter 29.32 Personal Wireless Telecommunications Faculties, to Include Definitions, Incorporate Use of Small Cell Facilities, and Clarify Locating on Facility Owned Power and Light Poles (*tabled*)

Consideration of Ordinance Amending Title 29.02, Definitions, to Clarify "Basement," "Story," and "Half Story" Definitions to Provide Consistency with the Adopted Building Code

RECOGNITION OF EMPLOYEES

Promotion, Public Works

Chris Stucki was recognized for a recent promotion to Public Works Inspector. Ted Sager was also recognized as a new hire as a Wastewater Treatment Collection System Operator.

New Hires, Emergency Services

Dallin Stewart and Joe Humphreys were introduced as recently hired Firefighter EMTs.

PUBLIC COMMENT

Dave Richardson, Brigham City - Mr. Richardson expressed thanks to the City for fiber optics. He is an engineer at ATK and has a strong need to work at home with high speed internet. He did some research on the City's budget and found that the City spends money on the library. He also appreciates the City's support of the library. He does not use the library because he uses his high speed internet, but he appreciates the library. He also appreciates the swimming pool and there is a lot of support of the pool. However, he does not use it a lot. He maybe used the pool once this year and his internet every day. He also appreciates the parks but he does not use them every day, but he uses his fiber optic every day. He had to use emergency services once and he appreciated them. He has only had to use them once in the 23 years he has lived in Brigham City. He also appreciates the airport although he does not use it, but he uses his fiber optics. His point was that he would hate to lose fiber optics. It is a valuable part of his life. There are supporters of fiber optics in Brigham City.

Kraig Jardine, Brigham City - Mr. Jardine said he signed up for UTOPIA when it was first offered. At that time he evaluated the cost with his expenditures and did not find any difference in the cost. However, he gets a better benefit from the upload download than he would from any other service.

Lee Johnson, Brigham City - Mr. Johnson said he appreciated the discussion at the special Council meeting Tuesday, September 16. However, he was disappointed that the law was not discussed. He read from Chapter 10-1-115 of the Utah Code, "*Nothing in this act shall be construed to repeal any section of the various laws of which this act is comprised when the section is the subject of an amendment or new legislation enacted by the 42nd session of the Utah legislature and which becomes law.*" Mr. Johnson said these sections are a recommendation according to the statutes which we are to follow. It was interesting how this was never brought up at the special meeting. This portion of the Code is just a suggestion and not something that is enforceable under the law. He read the first and second paragraph of the Declaration of Independence.

Jack Leavitt, Brigham City - Mr. Leavitt is a subscriber and he loves it, but he was not sure what the future will be and about making a commitment for 30 years. He never heard of cell phones 30 years ago. This technology is rapidly changing. He loves the UTOPIA service but he is not ready to commit for a long period of time because he does not know what will happen in the future.

DeAnna Hardy, County - Ms. Hardy expressed concern with several programs the City is doing. One was the Tape a Trip Program. It is like the City is trying to protect people from themselves. When people live in a free country people will trip and fall at times. If people are suing the City because they trip on uneven sidewalks, then this is frivolous. People need to watch where they are going. If the City wasn't so involved in real estate buying and business coalitions they would have the money to repair uneven sidewalks. When she was around the Community Center during Peach Days the tape was already trying to roll away from the cement. She referred to a recent article on UTOPIA seeking citizens' input on utility questions. She again said that the people have already spoken. She also talked about the facade grant being a nonessential, unconstitutional program. These businesses have not earned this money. Also, the City has a \$50,000 rural business enterprise grant through the U.S. Department of Agriculture to pay for the first phase of the project. This money comes from the people. She discussed the Global Assessment Report by the United Nations. Their objective is to place all land and natural resources under the ultimate authority of the United Nations. There will be no private property rights. They are going to take away these rights through the environment, planning and zoning, conservation programs and other boards and councils, and even by tax increment schemes, which Brigham City and the County are all doing. A book by Henry Lamb, the Rise of Global Governance, helps understand the United Nations box. It is an evil and sinister plan and it must be stopped.

Don Dunbar, Brigham City - Mr. Dunbar referred to the book and movie "Atlas Shrugged" and gave show times at the Ogden Megaplex. At the work session on Tuesday, the Council Chamber audio/video equipment was discussed. It's ironic that this is UTOPIA technology and wiring. The City implemented a lot of money for UTOPIA, he thought the City could pay \$30,000-\$40,000 for audio/video equipment that will work. He expressed concern that it is mandated by state law that there has to be an audio that works, along with the City Recorder's transcript. If any citizen gets up and speaks pro or con on any issue and it doesn't pick it up there is an egregious wrong there. Maybe there is some confusion with the various camera systems, but there have been 4,600 people that have tried to observe what goes on in these City Council meetings and they should be able to. Maybe politicians are afraid of Big Brother watching them; maybe they are afraid of their constituents watching them on camera. There has to be at least one good recording. It seems like the only time the government does anything people's property rights are at stake or their freedoms. If they take away property rights, whether they do it through exorbitant utility bills or property taxes, they are taking the rest of your life simply because if people do not have property rights they have no rights at all. Agenda 21 and what Ms. Hardy discussed is not a theory, it is a fact.

Mark Creager, Brigham City - Mr. Creager works for Century Link and said high speed internet provided by fiber optics is a lost leader product. Google makes up for it on the back end by selling the license - tablets, phones, etc. Comcast makes it up on the backend by selling Xfinity and advertisements on their websites. Most people do not understand how the internet works. The average citizen does not need to have a high upload speed. Having the same

upload speed and download speed is not needed and is a waste of money. The people selling UTOPIA know this. UTOPIA will always lose money. As soon as it almost becomes even, there is "bandwidth exhaust" and will have to buy another OC-3, another OC-12, and it keeps going and going like a drug dealer getting his clients addicted to the drug.

Carol Waddoups, Brigham City - Ms. Waddoups said years ago the community used to get together to solve problems and help families when they need it. Brigham City is a caring, resourceful community. She enjoys the services of UTOPIA; however, she had phone, television and internet before UTOPIA. Should UTOPIA go black, she will find companies to provide these services again. She does not want others to pay for services which she enjoys or needs. She is responsible for taking care of herself for the most part. Others in the community cannot afford to pay these services and do not want or use them. She does not want the City Council to succumb to fear. Brigham City will not roll over and die if UTOPIA fails.

Richard Murphy, Murphy's Appliance, Brigham City - Mr. Murphy said they have been a UTOPIA subscriber for some time and are very happy with it. They can order parts quickly and he hopes something can be worked out so it will continue. He is a very happy customer.

COUNCILMEMBER REPORTS

Councilmember Peterson attended the League of Cities and Towns Conference. They talked about vote by mail which is growing rapidly and will continue to grow. The state is talking about expanding it throughout the state due to costs. The League brought up an interesting point with the City's Tape a Trip Program. Ogden City has \$17M worth of sidewalk issues. The League is looking at the Legislature to resolve the lack of road funds to maintain roads. Mark Eaton talked about four commitments to achieve common goals: 1) know what your job is; 2) do what you are asked to do; 3) make others look good; 3) protect others, and 4) trust those around you.

Councilmember Jensen reminded the Council and those in attendance about the Bar J Wrangler program on November 8 at Bear River High School. Benefits will go the Brigham City Senior Center Meals on Wheels Program. She added that the Senior Center needs volunteers to help make jam and to serve on the Advisory Council on Aging.

Mayor Pro Tem Thompson reported that the Mosquito Abatement employees are working overtime and trying to get to all areas of the community due to the high number of mosquitos recently. Usually they get about 15,000 in their traps per week. Two weeks ago there were 85,000. They have found a few with West Nile Virus. The care they take in eliminating those mosquitos is significant in saving lives. He reminded the Council and those in attendance that the USU groundbreaking is October 9.

Councilmember Bott sits on the Chamber of Commerce Board and reported on the success of Peach Days.

Councilmember Farr serves on the Airport Advisory Board and expressed appreciation to Bruce Leonard who has been serving as the Airport Manager for many years. He has stepped aside and now Tyler Pugsley is the new Manager. The citizens of Brigham should realize the great work Mr. Leonard has done throughout the years to make the airport what it is today.

CONSENT

Reappointment to the Appeal Authority Board

It was recommended Richard Kimber be reappointed to the Appeal Authority Board.

Reappointment to the Planning Commission

It was also recommended Eve Jones be reappointed to the Planning Commission.

Reappointment to the Airport Advisory Board

Gary Bywater was recommended for reappointment to the Airport Advisory Board.

Appointments to the Advisory Council Aging and Appointment of Chair

Betty Bywater and Suresh Kulkarni were recommended for appointment to the Advisory Council on Aging and Barbara Heldreth was recommended for appointment to the same Council. Marge Small was presented to be appointed as Chair of the Council.

Proclamation Declaring November 1, 2014 Extra Mile Day

The proclamation was presented for approval.

Request to Write-off Accounts Due to Bankruptcy or Being Sent to Collections

A list of accounts totaling \$5,774.35 was presented to be removed from the City's system due to customer taking out bankruptcy or being sent to collections.

MOTION: Councilmember Jensen made a motion to approve the Consent Agenda, seconded by Councilmember Bott and unanimously carried.

PUBLIC HEARING

Recodification of Title 10, Electric, and Title 34, Emergency Services

Don Dunbar - Mr. Dunbar said he has not reviewed any of the revised code, but trusts Kirk Morgan and the Council that with recodification of the Electric Title that the City will not impinge any of the citizens' property rights. The Council discussed the Charter on September 16, 2014 and that Charter is basically Brigham City's constitution. It wouldn't be difficult to do things the same way they do things in Tooele, who has a home charter. His concern is the tradition of this country - freedom of property rights. One of the dangers threatening this is no cap on utility bills. He protested the 30% mark up the City has on power bills. He said there is no reason for this; the City should not be in business to make money. He is going to watch his electric bill and he hoped that there is nothing askew there because an ounce of prevention is much better than a pound of U.S. District Court.

There were no further comments.

NEW BUSINESS

Request for Approval of Resolution Requesting Admission into the Utah Retirement System Firefighter Retirement System

Mr. Bosworth came forward and explained that in order for the City to participate in the Firefighter Retirement System, there must be at least one full time firefighter working a minimum of 40 hours per week, and that they be trained as a firefighter. The newly

appointed Fire Chief, Chief Bach, meets these requirements. It also requires that the City submit an application and the Council approve a resolution to allow into this system.

The impact to the budget will be .4% more than the regular municipal employee retirement benefit.

MOTION: A motion to approve the resolution for admission to the URS Firefighter Retirement System was made by Mayor Pro Tem Thompson, seconded by Councilmember Farr.

Councilmember Bott - aye

Councilmember Farr - aye

Councilmember Jensen - aye

Councilmember Peterson - aye

Mayor Pro Tem Thompson - aye

Resolution was unanimously approved.

Request Authorization for Mayor to Sign Easements with Sprint Spectrum

Mr. Bradley approached the Council and explained that Sprint has expanded their service in Brigham City and have gone through two City parcels and these are the easements for these two areas. Sprint has offered to pay for the easements.

Councilmember Bott asked if this work has already been done and, if so, if this is typical. Mr. Bradley replied that the work has been done. It was a misunderstanding because in some communities it is considered a public easement to go through City properties; that is not the case with Brigham City.

Mr. Bradley said Jared Johnson has been working with Sprint and felt that the valuation of \$4,500 for the easements and \$2,500 to cover the City's cost to review the agreements was fair. Councilmember Jensen said if the City pulled up their fiber optic line on the City's property it would cost a lot more than that.

Councilmember Peterson said when contractors work in the public right-of-way they have to get a cut permit and they have to show where they are working and what work they are doing. He asked if this was part of the cut permit. Mr. Leonard explained that the cut permit is issued to the contractor and Sprint has multiple contractors. Syringa was the company working in the public right-of-way. The company that was running the laterals was Sprint, so it was not part of the cut permit. When staff found out the excavation had happened they red tagged the contractor and shut him down.

Councilmember Jensen said it does not sound like Sprint and/or Syringa did anything on purpose or to be harmful, but she asked what can be done to prevent this from happening again in the future. Mr. Leonard replied that they have changed their permitting process so staff is asking if they are a franchised utility with the City.

Councilmember Peterson suggested adding something in the City Code, perhaps in the Telecommunications section, to address this issue.

MOTION: Councilmember Jensen made a motion to authorize the Mayor to sign the Sprint easements, and that City staff check into what other cities do for fees or penalties. The motion was seconded by Councilmember Peterson. Voting was unanimously in favor.

Request for Facade Grant at 50 South Main

Mr. Paul Larsen came forward and explained the location of the building. Along with the grant, the applicants will be paying over \$40,000 on the project.

MOTION: Councilmember Farr made a motion to approve the request for the facade grant at 50 South Main with the stipulation that they comply with the requirements of the City to meet codes, and when the project is done the City will provide assistance for the facade grant. Councilmember Peterson asked if the motion is for the maximum amount of \$10,000. Councilmember Farr stated that he had talked to Mr. Larsen and was told that there is enough money in the fund to provide \$10,000 and still enough for grants for other businesses if they request it. The motion was seconded by Mayor Pro Tem Thompson. Councilmember Jensen asked how much money is left in the account. Mr. Larsen replied that it was budgeted at \$15,000. He explained the two pools of money - the capital fund with about \$12,000 and also money in the RDA budget. Mayor Pro Tem Thompson asked for a vote on the motion. All councilmembers voted aye; unanimously carried.

UNFINISHED BUSINESS

Consideration of Ordinance Approving Recodification of Titles 10, 11, 14, 17, 20, 25, 26, 29, 33 and 34

Mr. Morgan explained that these are the final titles to complete the recodification of the City Code. He added that this is an update, not major changes as indicated during the Public Comment. If there are major changes the Council wants to make it will have to be done through a separate ordinance. There was discussion on whether the suggestions should be given to staff for them to bring to the Council for approval. Mr. Leonard suggested scheduling a work session to go over titles the Council has concern with.

MOTION: Councilmember Bott made a motion to approve the Ordinance recodifying Titles 10, 11, 14, 17, 20, 25, 26, 29, 33 and 34 as presented and schedule a work session on October 16, 2014 at 6:00 to address concerns and suggestions the Council has. *(This was moved to 5:30 during the Planning Commission discussion below.)* The motion was seconded by Councilmember Peterson.

Councilmember Bott - aye

Councilmember Farr - aye

Councilmember Jensen - aye

Councilmember Peterson - aye

Mayor Pro Tem Thompson - aye

The ordinance was unanimously approved.

PLANNING COMMISSION

Consideration of Ordinance Amending Title 29.12, Residential and Multiple Residential Districts to Modify Accessory Building Standards

Mr. Bradley explained that this amendment was generated the end of 2013 when the Council was presented a petition to vacate a utility easement that ran along the sideline. The citizen wanted to build a large accessory building with a garage and shop one foot from the property and run almost the entire length of the property. At that time there was concern from some of the councilmembers on the impact large accessories might have. When this went before

the Planning Commission they had concerns about the proximity of the property, the shading, and drainage onto other properties. This amendment addresses the lot coverage, size and height of accessory buildings, location and design.

CURRENT	PROPOSED
Accessory buildings are allowed to be double the size of the house.	Limited accessory buildings to 25% of the rear lot area.
Height is limited to 20 feet from grade to the highest point of roof and one story.	Eighty square feet or less would be limited to 10 feet; 81 square feet or greater allowed up to 20 feet.
Accessory building is subject to the dwelling front and side setbacks except that once it is located at least 60' back from the front property line, it may be placed within one foot of the side yard setback subject to compliance with utility easements and being able to comply with building code standards. Any building over 200 square feet and is located less than 5' from the property line must have a one hour fire rating wall/eve. Rear yard setbacks are based upon utility easements, at least 5' from any power pole and clearance from overhead primary and secondary power lines.	Building at least 60' back from the front property line have a minimum side and rear yard setback of 5', except for buildings 80 square feet or less may have a one foot setback.
Each residential zoning district has a maximum lot coverage based upon a percentage of the lot.	Establish a 25% rear yard allotment for accessory buildings and maintain the current lot coverage for all structures.
Currently no design standards for accessory buildings.	On corner lots, any accessory building placed within the side yard, which side yard faces a street and is located in any yard area between the dwelling, the side yard setback, and the front yard setback requires the building to have similar materials and roof pitch as the dwelling on the same.

Councilmember Peterson said he had to enforce this ordinance for seven years and felt that it worked well. He disagreed with restricting 25% of the backyard. The current ordinance restricts a lot to not exceed 35% coverage, which he felt was adequate. He recently discussed this with building officials from Davis, Weber and Morgan Counties. He recommended this go

back to the Planning Commission with the setbacks at three feet for a structure under 200 square feet and five feet if the structure is over 200 square feet. He felt that five feet on a larger structure is enough space to provide adequate separation to take care of moisture. A 200 square foot structure is very small and three feet would be adequate.

Regarding design requirements for corner lots, Councilmember Peterson did not feel the City should tell property owners what their shed should look like. He felt that most property owners, especially those on a corner lot, will build so most of their space is in the back and on the other side. He added that he understands what the Planning Commission was trying to achieve with this, but there is a fine line with telling people how they can design something on their own property.

The Council discussed this further and did not come to a conclusion. It was recommended this be added to the work session scheduled above and start it at 5:30.

MOTION: Councilmember Peterson made a motion to table this item until the October 16th work session and start the meeting at 5:30. The motion was seconded by Councilmember Jensen and unanimously carried.

Consideration of Ordinance Amending Title 29.02, Definitions, to Clarify "Basement," "Story," and "Half Story" Definitions to Provide Consistency with the Adopted Building Code

Mr. Bradley explained that these definitions are in conflict with how staff looks at stories. For example, there can be two stories in a residential district but if there is a basement that is defined as a story, it causes complications. This amendment updates the definitions to be consistent with the current adopted building code.

MOTION: Councilmember Peterson made a motion to approve the ordinance amending Title 29.02 to update definitions. The motion was seconded by Councilmember Bott.

Councilmember Bott - aye
Councilmember Farr - aye
Councilmember Jensen - aye
Councilmember Peterson - aye
Mayor Pro Tem Thompson - aye

The motion unanimously carried.

A motion to adjourn to a Municipal Building Authority meeting was made by Councilmember Jensen, seconded by Councilmember Farr and unanimously carried. The motion adjourned at 8:51 PM.

ADJOURN TO CLOSED SESSION

After adjournment of the Municipal Building Authority meeting, the Council reconvened. A motion to adjourn to a closed session to discuss the purchase, exchange or lease of property was made by Councilmember Jensen and seconded by Councilmember Peterson. A roll call vote was taken with all councilmembers voting aye. The meeting adjourned to a closed session at 8:50 p.m.

The Council returned to an open meeting at 10:25 PM and adjourned.