

**REGULAR SESSION OF THE
BRIGHAM CITY COUNCIL
September 17, 2015
7:09 PM**

PRESENT:	Tyler Vincent	Mayor
	DJ Bott	Councilmember
	Alden Farr	Councilmember
	Ruth Jensen	Councilmember
	Tom Peterson	Councilmember
	Mark Thompson	Councilmember
ALSO PRESENT:	Joseph Bach	Fire Chief
	Mark Bradley	City Planner
	Dave Burnett	Public Power Director
	Paul Larsen	Economic Development Director
	Bruce Leonard	City Administrator
	Kirk Morgan	City Attorney
	Derek Oyler	Building Official
	Mike Nelsen	Police Chief
	Marge Porter	Deputy City Recorder

Mayor Vincent called the meeting to order. The Reverence Period was given by Councilmember Peterson. The Pledge of Allegiance was recited.

Approval of Minutes: A motion to approve the minutes of the September 3, 2015 Council meeting was made by Councilmember Jensen, seconded by Councilmember Bott and unanimously approved as distributed.

AGENDA

RECOGNITION OF EMPLOYEES

New Hires, Fleet Division and Public Works

PUBLIC COMMENT

COUNCILMEMBER COMMENTS

CONSENT

New Employee Position in the Police Department

Reappointments to the Planning Commission and Appeal Authority Board

PUBLIC HEARING

Petition to Amend Silver Pointe Subdivision PRUD Phase 1 Located at 966 West 1075 South to Modify the Design and Location of Unbuilt Units 9-16 and Add an Additional Four Units

Resolution to Transfer Property to the Brigham City Redevelopment Agency

SCHEDULED DELEGATION

Request for Variance on Noise Ordinance for Homecoming Dance at City Plaza

Discussion on Merrill Planing Mill

NEW BUSINESS

Consideration of Ordinance Amending City Code Section 2.020.030, Appointments and Removal of Officers by Mayor to Eliminate Several Appointed Positions

Amendment to Employee Policy and Procedure Manual Chapter 401, Appointed Positions, to Reflect Recent Changes to City Code (*Tabled*)

Schedule Work Session to Discuss Façade Grant Program

PLANNING COMMISSION

Authorization to Remove Contingency of 55 Years of Age and Older from Orange Grove
PUD Located at 540 South 1050 West
ADJOURN TO CLOSED SESSION

RECOGNITION OF EMPLOYEES

New Hires, Fleet Division and Public Works

Jason Jensen was recently hired as an Apprentice Mechanic. Kyler Hardman was also recently hired as a part-time Compost/Greenwaste Facility Laborer and Marcus Wager was hired as a part-time Building Custodian.

PUBLIC COMMENT

Lee Johnson, Brigham City - Mr. Johnson compared finding pearls in oysters, being irritated with a tiny piece of sand to what Brigham City is doing to its citizens - putting little pieces of sand in citizens' mouth over and over again trying to build a beautiful necklace to show the world, but at the same time irritating residents. It adds to the work they have to do.

DeAnna Hardy, County - Ms. Hardy cautioned the councilmembers on United Way. United Way is associated with the United Nations. The country needs to get out of the United Nations because they are not concerned about our freedoms; they want us to be a one world government. People need to be careful when they donate to the United Way. In the 1912 dictionary the definition of terrorism was "a system of government by terror." The definition of terrorist in the 1912 dictionary was "one who governs by terror." In 1995 the definition of terrorism was changed to "a systematic use of violence, terror and intimidation to achieve an end." Under terrorist it just says it's a noun. She felt that the government is becoming a system of government by terror because they keep taxing the people and putting so many regulations on the people and denying them of their freedom and property. Ms. Hardy spoke about the "Christmas in Brigham City" Program discussed at the last meeting. She liked the idea if the private businesses get together and do it, but the government should not be included.

COUNCILMEMBER COMMENTS

Councilmember Farr said he attended the Utah League of Cities and Towns Conference. It was very enlightening.

Councilmember Jensen said she also attended the League meetings. Paul Larsen and Mark Bradley also attended, which she felt was instrumental in helping the City focus on what needs to be done while planning.

Councilmember Thompson said Brigham City is beginning work on a new General Plan. The citizens will have opportunities to share their thoughts on where the City should be heading. The Council would love to hear citizen comments. He attended the USU Extension Advisory Board where they reviewed the new building. Its substantial completion will be October 15 and will be moving in after that. An open house will be held the first week of December. Classes will begin in January. A citizen made a recommendation to him which he liked, that a roundabout be installed on 500 West and Forest rather than a stop light. He recommended this be looked into if possible.

Councilmember Peterson also attended the League meetings. He felt it was well worth their time to attend. It was excellent training. He was able to talk to the previous mayor of Farmington about some of their success and how they did it. He also attended a UTOPIA meeting. In the fiscal year 2014-15 their revenue was up 112% of projected. The operating expenses came in at 100% of what they estimated. UIA was up 13% above projected revenues and operating expenses was only 78%. They came in at a net savings of \$2M above their projections. UTOPIA is finally revenue neutral and exceeding rapidly toward being fully staffed and being able to begin the marketing process.

Mayor Vincent said it is important that the citizens get involved in updating the General Plan to help determine what the future will look like in Brigham City. Mayor Vincent said Peach Days was a great celebration and a great opportunity to spend time with family. He expressed his appreciation to the employees who worked so hard to make Peach Days a great event. It is amazing that by 6:30 on Sunday morning the streets are all clean and it doesn't look like there has even been a celebration.

CONSENT

New Employee Position in the Police Department

It was recommended a new position of Assistant Police Chief be created.

Reappointments to the Planning Commission and Appeal Authority Board

It was recommended Larry Jensen be reappointed to the Planning Commission and Leisa Bertine be reappointed to the Appeal Authority Board.

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

PUBLIC HEARING

Petition to Amend Silver Pointe Subdivision PRUD Phase 1 Located at 966 West 1075 South to Modify the Design and Location of Unbuilt Units 9-16 and Add an Additional Four Units

Mr. Bradley explained that a portion of this development has been completed and the remaining portion has been vacant for several years. These lots have recently been purchased. The zoning is R-M-15, which means 15 dwelling units per acre. The new owner is requesting 16-20 dwellings on two acres, which would still be in harmony with the zoning. The new units will be harmonious with the existing units.

The Planning Commission also held a public hearing on this. Notices were sent to the surrounding property owners for both public hearings, as well as to the public utility providers.

A motion to open the public hearing was made by Councilmember Bott, seconded by Councilmember Peterson and unanimously carried.

Afton Jacobsen, Brigham City - Ms. Jacobson is the secretary of the Silver Pointe Home Owner's Association. They are pleased that they won't have to fight the weeds from the vacant lots. She and her husband met with Brad Wilkes, the developer and they were happy with how professional he was and liked the designs of the homes. He has been extremely

willing to work with the HOA on several things. In addition, Mr. Bradley contacted the HOA and asked if they were happy with the new development.

Brad Wilkes, Developer and Builder - Mr. Wilkes said they have spent five months on this and have met all the conditions from Mr. Bradley, the Planning Commission and the HOA.

Dave Mickelsen, Brigham City - Mr. Mickelsen expressed concern with the crash gate. He asked if there will be a sign that states no parking is allowed in front of the gate. Ms. Jacobsen said there will be no parking allowed by the crash gate. Mr. Mickelsen asked if the gate is necessary. Ms. Jacobsen said all the apartment traffic would be going through their driveway without it. Mr. Mickelsen said if a home catches on fire and they cannot get out or do not know there is a way to get out, or if there is a car parked in front of the crash gate, they would not be able to get out. He was concerned with the flow and felt it would be better not to have the crash gate. He felt it was a safety concern.

Afton Jacobsen - Ms. Jacobsen asked if the City will pick up individual garbage cans in this area.

Mr. Bradley said he talked with Public Works and they will not drive in and pick up individuals garbage cans. Residents will have to bring their cans to the street which is what is currently being done.

Mr. Bradley responded to Mr. Mickelsen's concerns with the crash gate. This is not the ideal situation and it would be better to have the continuous flow of vehicles without the gate. However, this was discussed with previous City Council, staff and Planning Commission members and this is what they have to work with.

A motion to close the public hearing was made by Councilmember Farr, seconded by Councilmember Thompson and unanimously carried.

MOTION: Councilmember Farr made a motion to approve the ordinance to amend Silver Pointe Subdivision PRUD Phase 1 as discussed, seconded by Councilmember Peterson. A roll call vote was taken.

Councilmember Bott - aye
Councilmember Farr - aye
Councilmember Jensen - aye
Councilmember Peterson - aye
Councilmember Thompson - aye

The motion unanimously carried.

Resolution to Transfer Property to the Brigham City Redevelopment Agency

Mr. Larsen came to the table and explained that staff is working on a subdivision plat to memorialize all the property lines on the north end of the City Hall block. Four of the properties belong to Brigham City Corporation; three properties are in the ownership of the RDA. The intent is to bring all these properties together as a single lot through the subdivision process and be under one ownership, preferably the RDA.

A motion to open the public hearing was made by Councilmember Bott, seconded by Councilmember Jensen and unanimously carried. There were no comments from the public. A

motion to close the public hearing was made by Councilmember Farr, seconded by Councilmember Jensen and unanimously carried.

MOTION: Councilmember Thompson made a motion to approve the resolution to transfer the properties indicated to the Brigham City Redevelopment Agency, seconded by Councilmember Bott. A roll call vote was taken.

Councilmember Bott - aye
Councilmember Farr - aye
Councilmember Jensen - aye
Councilmember Peterson - aye
Councilmember Thompson - aye

The motion unanimously carried.

SCHEDULED DELEGATION

Request for Variance on Noise Ordinance for Homecoming Dance at City Plaza

Ms. Lena Gillies and Ms. Rylie Braegger came forward. Ms. Gillies said for the past few years the Box Elder Homecoming Dance has been held at the Bill of Rights Plaza from 8:30-11:00. She requested a variance on the noise ordinance to allow this event to go past the 10:00 limit. The dance will be held October 10.

MOTION: Councilmember Jensen made a motion to approve a variance on the noise ordinance for the Homecoming Dance at City Plaza on October 10, seconded by Councilmember Peterson and unanimously carried.

Discussion on Merrill Planing Mill

Mr. Soren Simonsen came forward and read from the City's General Plan regarding preservation. There is an entire chapter dedicated to historic preservation. He showed slides of the building when they purchased it in 2009. He said it looks better now than it did then. Shortly after they purchased it they spent \$20,000 to clean it up. After that, the recession started and they have been unable to do anything else.

He reviewed the intended use of the building - to be a gallery and reception center.

Mr. Simonsen discussed the possibility of a partnership. He explained several examples he has done through similar partnerships cities, such as the Chase Mill at Tracy Aviary. They have been asking for a similar partnership with Brigham City to develop the Planing Mill and Baron Woolen Mill. They have been operating over the years with the assumption that this will happen. They have no recourse to meet the demands Brigham City has put on them in the last few months. They have very little funding. They have soft commitments from a number of investors who believe the Merrill Mill can be a money generating entity, but they are reluctant to commit any further funds because the property is in jeopardy of demolition and further action by the City. He added that they are not necessarily asking for funding; they are asking the City to hold off on the threat to demolish these buildings so they can do the work they have been waiting six years to do. They did not create the problem but they want to be part of the solution. He asked the Council to be part of this solution by staying any further action or demolition to give them a chance to move forward with this market now that the market forces have returned. If the City places a lien on the property and demolishes the building, the City will likely have properties that have no value and can do nothing with.

Mr. Simonsen continued that the letter they received from the City said they have 60 days to either have a demolition permit or construction permit in hand. He said the conditional use permit alone with take 3-4 months. They think they have the funding secured to begin this process. He estimated Spring 2016 is a realistic timeframe to be under construction.

Councilmember Farr said he was a former Councilmember when Mr. Simonsen came to the Council asking the City to create a partnership. The Council was willing to do that at that time, but they never heard from Mr. Simonsen after that. In his presentation, Mr. Simonsen discussed several projects he has been doing in Salt Lake and getting money to assist with those projects. He asked why they have not taken some time to work on this project rather than doing all those projects in Salt Lake.

Mr. Simonsen said they created a non-profit entity for this property. Looking back, this may not have been the best thing to do because non-profits have a harder time raising capital because they cannot provide a return on investment like a for-profit company can. However, at the time it was the only way to purchase the Merrill Mill. It has only been in the last 6-8 months that they have had any interest in the investment market place.

Councilmember Peterson asked why they don't change the entity. Mr. Simonsen explained that the new entity would have to come up with the funding to buy the building. It is something they are actively looking at.

Mayor Vincent said his concern is trying to keep the Baron Woolen Mills and Merrill Planing Mill properties safe. Youth are getting through the fence around the Baron Building, which has asbestos in it. If the Merrill Building catches fire, Brigham City's fire chief has told him that there will be structures lost.

Mr. Simonsen said they have had the property for six years and five of those years have been the worst recession since the Great Depression.

Mayor Vincent said Mr. Simonsen talks about a partnership, but the only time they did something was when the City put up the fence, then the non-profit reimbursed the City. He asked why Mr. Simonsen's company did not secure the property after the fire.

Councilmember Farr said he struggles with the idea of restoring these buildings, even if they are historical buildings. He did not think Brigham City has the base to support this like Salt Lake would. Councilmember Bott added that this is probably why the projects were done in Salt Lake rather than these buildings.

Mr. Simonsen said the Baron Building is no longer a viable project after the fire. The Merrill Building is still viable. With the new LDS temple and a new conference center, there is a lot of interest in Brigham City as a destination community for conferences, exhibits and programming. This would complement the Academy Building very well.

Councilmember Bott said he understands where the Council and Mr. Simonsen is coming from, but he would be the descending voice; there is a rich history in Brigham City. Except for the Relief Society Granary and the Academy Building, there are only two buildings that are partially standing that have any historical significance that pre-date County and State. He has also been asking for more leniency on the Bott Building to preserve as much of Brigham City's history as possible because it is so individual to Brigham City and the State.

Councilmember Jensen asked if Mr. Bradley could come to the table and explain the time it takes to get a conditional use permit. She added that the City does not want to own their property; they want them to do something with it.

Mr. Bradley said depending on the plans, once the plans are submitted to the Community Development Department by the deadline it would be before the Planning Commission within two weeks. Depending on their approval, it may need to go back to staff for certain items to be addressed.

Mr. Leonard reminded the Council that the City is in a legal abatement process that is being handled by the City Attorney with other businesses involved. He recommended the Council take Mr. Simonsen's presentation under advisement and confer with legal staff before any decisions are made.

Mr. Simonsen said it will take them 3-4 months to get the detailed application submitted to Mr. Bradley. He expected 15-45 days for the review, then the application to go through the Planning Commission. Once the conditional use approval is made they will need 60-90 days to have construction documents ready for a permit. They assume the permitting process will take 4-6 weeks. This would be seven months before construction can begin.

Mayor Vincent suggested the Council address the City Attorney regarding this and then move forward.

Councilmember Jensen asked if Mr. Simonsen has money to do a project. Mr. Simonsen replied that they do not have money in the bank but they have soft commitments from three investors who are potentially willing to loan money on the project. They are waiting to see what the attitude of the City is regarding renovating the building. He felt strongly that they are in the best position they have ever been to renovate these properties and the market supports this, which is why they now have people willing to loan money for the project.

Councilmember Jensen asked if these lenders have set a certain amount. Mr. Simonsen said there is one that could potentially finance the entire project. They estimate the renovation costs will be \$350,000-\$450,000.

Councilmember Jensen asked if these investors are expecting the City to collaborate with the project. Mr. Simonsen said at this point the only thing they are expecting is that there is a project that is viable and can move forward. If they don't have this within 30 days these investors will no longer be interested. He added that they are not asking for any money from the City. They may ask the City for support in grant applications for some funding resources.

NEW BUSINESS

Consideration of Ordinance Amending City Code Section 2.020.030, Appointments and Removal of Officers by Mayor to Eliminate Several Appointed Positions

Mr. Leonard said this was discussed with the Council a few months ago. The Council gave direction at that time and the proposed ordinance is for the Council's consideration.

Councilmember Farr said when the Council discussed this previously, he was in favor of leaving it the way it was, mainly because there have been no problems with the process in the past and he did not see any potential problems for the future, unless there was a mayor

that wanted to get rid of people. If so, the way it currently is the Council would have to consent to it.

Councilmember Peterson said he agreed with the Chief Financial Officer and Fire Chief being added and removing Finance Director. Other than those changes he felt it should stay the way it is.

Mr. Leonard asked about the Mayor's Executive Assistant being added. This was not previously an appointed position. The Council felt this should be added as an appointed position.

Mr. Leonard explained that times have changed since this code was enacted. The Fair Labors Act and other laws have come into play. He felt that the Council was encumbering themselves individually to want to vote and appoint these positions. He added that there is value in having the main leaders of the City appointed. He thought the Personnel Committee agreed to these changes.

Mayor Vincent said he thought the Council agreed with these changes the last time this was discussed.

Mr. Leonard said if the Council is concerned about someone not doing their job, it is the City Administrator that will take action on it.

Councilmember Jensen felt that it is premature to do anything until after the reorganization is completed.

Councilmember Peterson recommended tabling this until the reorganization has been finalized. Councilmember Bott agreed.

MOTION: Councilmember Jensen made a motion to table this item, seconded by Councilmember Bott and unanimously carried.

Schedule Work Session to Discuss Façade Grant Program

Mayor Vincent suggested holding a work session on October 1, 2015 at 6:00. The Council agreed.

Councilmember Peterson said the Council received an email from someone who applied for a grant which has not been processed. He asked if a moratorium has been placed on these grants. Mr. Larsen replied that the application was put on the August 6th agenda and was removed by staff so the Council could go through the process of updating the policy.

Mr. Leonard said depending on what the Council decides on the grant, this individual could be eligible for a larger grant. Mr. Larsen said he has had several conversations with her and explained that the City is going through this process.

Mayor Vincent invited Cindy Tugaw to the table.

In response to Councilmember Peterson's question on a moratorium, Mr. Larsen explained that staff has told people that are interested in a grant that the Council is going through this process. One of the decisions Council needs to make is the amount of the grant. The limit for grants outside RDA #1 has been \$10,000. The total amount in the fund is \$10,000. There has

been discussion on limiting the grant to \$2,500. If the Council approved the \$10,000 for this grant request there would be nothing available for any grants for the rest of the year.

Ms. Tugaw said at the time she applied for the façade grant it was based on the current grant program. The only person who knows she turned in her application is Paul Larsen. She was on the agenda in July to get the grant approved and was taken off the agenda, not by her request. The next thing she knows about it is that the Council is reviewing the grant process. The Council had already approved funding for the grant. She is the only person that has applied for the grant. No one has ever told her there was a moratorium on the grant. She has been waiting for the grant approval before upgrading the outside of her building. This has delayed the opening of her business and made it so construction will be later in the year. She did not understand why the Council is scheduling a work session when there is already a grant in place. Her application has been submitted and it is the only one the City has received. If the Council wants to modify the process, it should be done in the 2016 fiscal year.

Mr. Leonard said Ms. Tugaw submitted the application at the end of the 2014-15 fiscal year and there was no longer any money available. The application was brought before the Council and there was a lengthy discussion on the items being asked for reimbursement, what was eligible and what was not. Ms. Tugaw added that she was trying to get permission to do the work and if the grant was funded in 2015-16 she would be reimbursed. Mr. Leonard said the Council told staff that they wanted to change the application and grant. Councilmember Jensen added that the Council was working on the 2015-16 budget at the time and they were considering adding money from the general fund into the grant program. They also discussed the possibility of expanding it to more businesses if it was coming from the general fund. Mr. Leonard agreed, continuing that staff brought it back to the Council in July and Ms. Tugaw's application was the next item on the agenda. During staff meeting when they reviewed the agenda, Mr. Leonard suggested removing Ms. Tugaw's item in case the Council decided to change the application process. He recommended during that meeting that the program be approved before Ms. Tugaw's application was on the agenda. When staff looked at the application, Mr. Leonard suggested looking at increasing the grant footprint to match the RDA footprint. This would make Ms. Tugaw eligible for more funding and allow more businesses to apply for the grant.

Mr. Leonard said staff can bring Ms. Tugaw's application to the next Council meeting if the Council instructs them to do so.

Councilmember Bott asked Ms. Tugaw if she wants to proceed with her current application or reapply under the new program. Ms. Tugaw said she would like to proceed with her current application. Councilmember Bott asked her if she understood that this is up to \$10,000; it is not necessarily for \$10,000. She said her application is complete and she is asking for the full \$10,000. She said she will not be able to proceed without the \$10,000 from the City.

Ms. Tugaw's application will be brought to the October 1st Council meeting.

MOTION: Councilmember Jensen made a motion to place a moratorium on any future façade grant applications until the Council finalizes this program. The motion was seconded by Councilmember Peterson and unanimously carried.

PLANNING COMMISSION

Authorization to Remove Contingency of 55 Years of Age and Older from Orange Grove PUD Located at 540 South 1050 West

Mr. Bradley explained that when the developers first came to the Planning Commission about this development it was as a 55 years and older Planned Unit Development, and that is what has gone through the process. They would now like to remove the 55 and older restrictions and allow any age. The Planning Commission supported the petition.

MOTION: Councilmember Bott made a motion to authorize removal of the contingency of 55 years of age and older from the Orange Grove PUD located at 540 South 1050 West. The motion was seconded by Councilmember Thompson and unanimously carried.

The meeting adjourned at 9:15 PM.