



MURRAY CITY MUNICIPAL COUNCIL COMMITTEE OF THE WHOLE

The Murray City Municipal Council met as a Committee of the Whole on Tuesday, May 1, 2012, in the Murray City Center, Conference Room #107, 5025 South State Street, Murray Utah.

Members in Attendance:

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

Others in Attendance:

Justin Zollinger	Finance Director	Dan Snarr	Mayor
Janet M. Lopez	Council Office	Jan Wells	Mayor's COS
Frank Nakamura	City Attorney	Doug Hill	Public Service Director
Tim Tingey	ADS Director	Sally Hoffelmeyer-Katz	Citizen
George Katz	Citizen	Peri Kinder	Murray Journals
Starlyn Nockos	Murray High School	Brandon Elwell	Murray HS Student
Alex Nixon	Murray HS Student	Adam Ebling	Murray HS Student
Taylor Palmer	Murray HS Student	Russ Kakala	Public Services
Mike Terry	HR Director	Chandler Page	Murray HS Student
Matt Dahle	Murray HS Student	Kolten Cooke	Murray HS Student
Jennifer Kennedy	City Recorder	Craig Burnett	Assistant Chief of Police
Maxwell Dunbar	Scout		

Chairman Brass called the Committee of the Whole meeting to order at 5:50 p.m. and welcomed those in attendance.

Minutes

Mr. Brass asked for corrections or action on the minutes from the Committee of the Whole meeting held on April 3, 2012. Mr. Shaver moved approval as written. Mr. Stam seconded and the motion was approved 5-0.

Business Item #1:

**Salt Lake Valley Health Department – Linda Bogdanow
and Tom Trevino**

Ms. Bogdanow stated that the presentation was to introduce themselves as liaison from the Salt Lake Valley Health Department. If the Council had any questions or concerns they noted their availability to communicate by email or at future meetings.

Mr. Trevino said that Mayor Snarr had received a letter from Gary Edwards pertaining to meth houses and he pointed out that type of information can be expected in the future relating to all the cities. He works for Environmental Health off of Vine Street and is a resident of Murray City. His information addressed chemically contaminated properties and environmental health including the four bureaus that exist related to environmental programs. This packet gives an outline of what each of the bureaus do and he gave that to Ms. Lopez, who would copy and distribute to Council Members.

Mayor Snarr added that this is a serious problem and it is important for anyone moving into those houses to be protected from a health perspective.

Mr. Shaver asked for further explanation of what environmental issues are covered by the organization. The Bureau of Protection is involved in inspecting restaurants, nursing homes and any public facilities, as well as, mass gatherings, such as festivals and temporary food vendors, Mr. Trevino responded.

The Bureau of Safety and Sanitation work on housing issues, cosmetology, tattoo parlors, waste problems and the meth houses. The Bureau of Air Control monitors cars and pollution from permanent non-movable locations and are looking to advance in that area.

Mr. Trevino said the Bureau of Hazardous Waste and Water Quality, which is probably most recognizable for swimming pool inspections, deal with drinking water issues and chemical waste spills. Through this bureau is the emergency response team.

Mr. Shaver noted that they coordinate with local cities and county. Mr. Trevino confirmed that and said that the following day an environmental task force meeting would be held to review waste water issues that may be under notice of violation or heading in that direction. All agencies in the valley have representatives that attend this meeting to discuss these issues and determine how to handle future problems that may occur. Mr. Shaver asked if they have oversight for the work that is done by Murray City. He agreed with that concept.

Mr. Brass mentioned an issue in his district involving creatures and the SL Valley Health Department had been very involved and helpful in addressing that to make sure it was cleaned up. He spoke very highly of their work.

Mr. Nicponski commented that one area that affects everyone is the restaurant policing. He asked if Mr. Trevino considers the enforcement capability resource adequate. Mr. Trevino said that great improvements had been made in just the last couple of years. A good working relationship had been established with the District Attorney's (DA) office with individuals who are dedicated to working with the Department in all issues of environmental health. Most cases involving the DA office are concerning waste water, storm drain or chemical spills. They utilize the DA office, pointing out the Queso Fresco Mr. Cheese fiasco that has been ongoing for two years. Mr. Nicponski asked if the manpower for inspector level resources were adequate. Mr. Trevino said they are not. He thinks they were probably at about 80% of the needs. He can speak to this because he serves in management for the Bureau of Food Protection; however, he cannot speak for the other agencies accurately.

Business Item #2: **“Project Citizen” Recycling Presentation - Murray High School Speech and Debate, Starlyn Nockos**

Ms. Nockos is the Speech and Debate Coach at Murray High School and she presented a select group from her class who was in attendance to make the recycling presentation. The class had been exploring the theme of activism because they want to teach the students to use their skills acquired from speech and debate to make a positive impact on the community. They have compiled a lot of research and left a folder with Mayor Snarr. She introduced each student.

Mr. Palmer addressed problems stating that the earth is suffering. Recycling is vital because of its effects on the environment. He said that the citizens of Murray do not know enough about what to recycle and what not to recycle. It costs Murray City more when something is improperly recycled. That money comes from the citizens.

Adam Ebling addressed the alternatives to solving this problem. He suggested switching to a dual stream recycling collection, using other mediums of education or staying with the current system. The dual stream recycling would utilize a box for plastics, one for paper and one for specific types of plastics. Studies have shown that the single stream recycling system, like Murray's, results in improved recycling. Therefore, the current system will work best. Another alternative is education. Some mediums have been ignored such as public service announcements, television, radio and newspapers. Signs, public speakers and door to door campaigns may also prove helpful, he said. It has been recorded that 2.7 % of garbage is recycled in the state of Utah. This is drastically low compared to the EPA estimate that approximately 75% of garbage can be recycled. Another study shows that 20% of people contaminate recycling with garbage. Because the current situation cannot be sustained the Murray High School Debate Team offers a policy as the best alternative.

Alex Nixon stated that the Debate Team proposes a recycling education program to better inform the Murray community on the do's and don'ts of recycling, how to properly recycle and make it more accessible to residents. The main end goal is to adapt the Salt Lake City policy to Murray. They have free bins and pick up on a weekly basis and make a large positive balance off the recyclables. Since Murray is much smaller, it has a hard time with this. The students believe that if they can educate the population and get them involved in hands-on projects it will motivate them to recycle more giving a bigger incentive to change the current program. At this time, the students are trying to get the ball rolling to reach that stage.

Ms. Nixon stated that a study was done at Bentley College on recycling techniques comparing the results of flyers, campaigns, television announcements, or fairs. Many were shown to be very beneficial. She stated that the program and proposal for Murray City is completely constitutional both in Utah and the United States. Utah Code Section 76.10.20.101 states only what recycling is and the penalty. The maximum penalty for incorrect recycling is \$750. She feels this is hard to track and education of the citizens would be a better alternative than charging this fee thus bettering the community. The final part of the proposal would be to have the public service department put the program into action.

Brandon Elwell communicated how the Murray High School Speech and Debate Team proposed to accomplish the goal of better educating the public on recycling. The program has been outlined into five steps.

1. Working with the public service department, create a precise list of the biggest mistakes made by Murray residents when recycling.

2. Distribute the list to Murray residents informing them of improper recycling using flyers, speakers at the local schools, a website and an article in the Murray Journal. Educating students will affect the parents' education.
3. Take a more active role by having a recycling fair. Mr. Elwell suggested that the recycling fair would give people a chance to see and practice recycling properly while enjoying an entertaining activity.
4. Pull additional data to determine if there had been a reduction in the contamination of recycling products, if more fines were paid or if the recycling had improved. Getting this list out to residents would encourage continued improvement in recycling efforts.
5. Annually, go back through steps 2-4 as a reminder to residents. Another meeting such as this can take place with the City Council to determine if changes to the City recycling policy were necessary.

That was how the Murray High School Speech students felt they could better educate the public about recycling, Mr. Elwell said, in closing.

Mr. Shaver asked how the students chose the topic of recycling. Ms. Nixon said that they discussed several problems they saw in the community. As a class it was felt that recycling was very important, beneficial and impacts a lot of people.

Mayor Snarr commented that the City officials tried for five years before instituting the current recycling program. Ace Disposal has a recycling cop who checks the cans for improper recycling products and when found the cans are tagged with a list. He likes the students' ideas.

Other Council Members agreed that recycling has picked up greatly and Mr. Brass said that he was informed that pizza boxes are not recyclable because the oils in the box harm the recycling process for paper. The oils clog up the filters when broken down and made into paper again. Educating the public is a good thing.

Mr. Shaver asked that the students return to report when they are ready to implement. He suggested that for step four the City could help with data from Ace Disposal and he would be interested in the results.

Mayor Snarr proposed that the recycling fair would work simultaneously with the Health Fair. They get a lot of people there.

Business Item #3

Open and Public Meeting Training – Frank Nakamura

Mr. Nakamura stated that under Utah law the City is required to provide the Council members annual training on the Open and Public Meetings Act. The purpose is to make sure that all action and business is taken out in the open. If there is any question as to whether or not there is a meeting that should be noticed and published, we always err on the side of openness. We have a very good reputation in this area. Under the Open and Public Meetings Act, which he has provided a copy of for each Council member, the only issue raised with him was social meetings that are allowed without the requirement of notice. A social meeting is narrowly

construed and as a word of caution in a social setting the intent is not to transact or discuss business.

The notice is required to be sent out 24 hours in advance and to publish on the website and in the newspaper. He has seen no issues in regards to our publication notices and public hearings. Our agendas, openness and publications have never been challenged and he thinks Murray is one of the better cities on that.

One issue that has come up is the agenda. You want to err on the side of specificity and to be able to notify the public what it is that will be discussed during that meeting.

Mr. Shaver asked if the public notification can be done within 24 hours. Mr. Nakamura said that Murray has established a practice of notice anywhere from two weeks to 10 days or one week, and rarely do we publish a 24 hour notice. In meeting the criteria of an open meeting for creating the agenda, Mr. Shaver asked if there is a timeline specified as to how much time must be given. Mr. Nakamura said it is 24 hours. Therefore, if the Council would like to alter or change the agenda previous to the day of the meeting, a public notice can be made and still include it on the agenda. Mr. Nakamura confirmed that the agenda could be amended as needed and he would hope the changes would fit into the original agendaed notice. It must occur within 24 hours.

Mr. Brass said that typically Murray operates on the side of caution. It is not a good idea to drop a major budget hearing or budget change as a 24 hour notice. Citizenry complains that government does not give them enough time.

Mr. Shaver said that issues do arise that the Council would like to discuss. Usually budget hearings are scheduled well in advance; however, other issues can be noticed with a 24 hour period to meet legal requirements. He asked about areas in which a vote may be taken. In retreats or other discussions a vote may not be taken, but a vote should be taken only in an open meeting. Mr. Nakamura said a vote may not be taken in a closed meeting. Votes must take place in an open meeting in front of the public. Mr. Shaver asked if there must be discussion. Mr. Nakamura said that discussion can take place on a closed meeting item, but deliberation and the vote must occur out in the open.

Mr. Stam said that a point of record must be established with a reason why a decision is made. Mr. Nakamura said that is with any decision that is made and he admitted to being somewhat of a stickler particularly on land use decisions; however, the record is so important. It becomes what the public and courts can review. Matters and reasoning must be on the record. Mr. Shaver noted that on the reasoning, when a motion is given and a vote taken, the reasoning must also be there. That reasoning becomes a critical part of the record, is that correct, he asked. Mr. Nakamura confirmed that it is and the discussion prior to the vote becomes part of that reasoning. As a whole, it is viewed as the record.

Mr. Nakamura pointed out that closed meetings are legal and have taken place for real property purchase and sale and to avoid disclosing sale price or proposed purchase price. The City has the right to close the meeting and, also, at times, for litigation that is imminent and pending. The case must be very specific. Matters discussing the character and professional competence of an individual may also be closed. All these matters can be public, but there is a right to close the meeting on a two-thirds vote. The vote needs to be in the public.

Moving into a closed or executive session, Mr. Shaver noted, needs to be in an open forum before going into closed session. Then it comes back into the open meeting to adjourn, Mr. Stam added.

Mr. Nakamura advised that the final issue is something he has not alluded to in prior trainings, and that has to do with social networks and other electronic communications. He was not sure that the law had caught up to it, emails, texting, blogs, Facebook, and how they relate to the Open and Public Meetings Act. With citizens and other Council members responding brings up some issues as to whether or not that is undermining the Act. He has provided an article on this and he feels the law will have to deal with it as the new public forum. The existing Open and Public Meetings Act has not quite adjusted to how to deal with these electronic communications. If a Council member is making a decision with texting or emails going on then it does undermine the Open and Public Meeting Act. It cannot be done and is a little easier to identify than Facebook or other websites. He will be watching how the law adjusts to that. He asked that Council members be cognizant of texting and email and not do that to subvert the open meeting.

Mr. Shaver asked if the Council could establish its own rules until there is legislation regarding that. Mr. Nakamura said that could be done.

Mr. Stam said that the Council makes decisions in open meetings and takes votes. As time goes by, Council members and their feelings change. If a Council member decides he no longer agrees with that vote and wants to pursue a change, he may talk individually with other Council members, as is allowed. If a consensus is formed and then one acts on that is it legal for them to act on it, even though the issue had been voted on in a previous meeting?

Mr. Nakamura said that the only way an official decision can be made, even though discussions take place, is by a majority of three votes in a Council meeting. It is not an action by the Council if that takes place.

Mr. Stam remarked that if two Council members do something to take an action and state they are taking an action, then it becomes illegal. Mr. Nakamura said it is not illegal, they have no ability to take an action, they have no authority, and it must be an official Council action by a vote. They cannot possibly or legally take any action without a vote of the Council in an open meeting. They have no authority.

With no other business the meeting was adjourned at 6:37 p.m.

Janet M. Lopez
Council Office Administrator