

MURRAY
CITY COUNCIL

**Council Meeting
August 6, 2013**



NOTICE OF MEETING
MURRAY CITY MUNICIPAL COUNCIL

PUBLIC NOTICE IS HEREBY GIVEN that there will be a meeting of the Murray City Municipal Council on Tuesday, August 6, 2013, at the Murray City Center, 5025 South State Street, Murray, Utah.

6:00 p.m. **Committee of the Whole:** To be held in the Conference Room #107
Brett Hales conducting.

1. **Approval of Minutes**

- 2.1 Committee of the Whole – June 4, 2013
- 2.2 Council Initiative Workshop – June 19, 2013

2. **Business Items**

- 2.1 Regulating Door-to-Door Solicitation – Darren Stam & Frank Nakamura

3. **Announcements**

4. **Adjournment**

6:30 p.m. **Council Meeting:** To be held in the Council Chambers
Jim Brass conducting.

5. **Opening Ceremonies**

- 5.1 Pledge of Allegiance
- 5.2 Approval of Minutes
 - 5.2.1 June 4, 2013
 - 5.3.1 June 19, 2013
- 5.3 Special Recognition
 - 5.3.1 None scheduled.

6. **Citizen Comments** (Comments are limited to 3 minutes unless otherwise approved by the Council.)

7. **Consent Agenda**

- 7.1 None scheduled.

8. **Public Hearings**

- 8.1 Public Hearing #1
 - 8.1.1 Staff and sponsor presentations, and public comment prior to Council action on the following matter:

Consider an ordinance relating to land use; amends the Zoning Map for property located at 6358 South 900 East, Murray City, Utah from A-1 (Agricultural) to R-N-B (Residential Neighborhood Business) and to R-1-8 (Single Family Low Density Residential). (Clarus Vision) (Tim Tingey presenting.)

8.1.2 Council consideration of the above matter.

9. Unfinished Business

9.1 None scheduled.

10. New Business

10.1 Consider a resolution authorizing the execution of an Interlocal Cooperation Agreement between Murray City School District ("District") and Murray City ("City") for permanent advertising for the City Power Department on the new Murray High School football scoreboard and other advertising in District facilities. (Greg Bellon presenting.)

10.2 Consider an ordinance amending Chapter 2.42 of the Murray City Municipal Code relating to the Personnel Advisory Board. (Mike Terry presenting.)

10.3 Consider an ordinance amending Chapter 2.62 of the Murray City Municipal Code relating to personnel policies and regulations. (Mike Terry presenting.)

11. Mayor

11.1 Report

11.2 Questions of the Mayor

12. Adjournment

NOTICE

SPECIAL ACCOMMODATIONS FOR THE HEARING OR VISUALLY IMPAIRED WILL BE MADE UPON A REQUEST TO THE OFFICE OF THE MURRAY CITY RECORDER (801-264-2660). WE WOULD APPRECIATE NOTIFICATION TWO WORKING DAYS PRIOR TO THE MEETING. TDD NUMBER IS 801-270-2425 or call Relay Utah at #711.

Council Members may participate in the meeting via telephonic communication. If a Council Member does participate via telephonic communication, the Council Member will be on speaker phone. The speaker phone will be amplified so that the other Council Members and all other persons present in the Council Chambers will be able to hear all discussions.

On Friday, August 2, 2013, at 10:00 a.m., a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Murray City Center, Murray, Utah. Copies of this notice were provided for the news media in the Office of the City Recorder and also sent to them by facsimile copy. A copy of this notice was posted on Murray City's internet website www.murray.utah.gov and the state noticing website at <http://pmn.utah.gov>.

Janet M. Lopez
Council Administrator
Murray City Municipal Council

Committee of the Whole

**Committee
of the Whole
Minutes**



DRAFT

MURRAY CITY MUNICIPAL COUNCIL COMMITTEE OF THE WHOLE

The Murray City Municipal Council met as a Committee of the Whole on Tuesday, June 4, 2013, in the Murray City Center, Conference Room #107, 5025 South State Street, Murray Utah.

Members in Attendance:

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

Others in Attendance:

Janet M. Lopez	Council Office	Jan Wells	Mayor's COS
Frank Nakamura	City Attorney	Doug Hill	Public Service Director
Blair Camp	Resident	Diane Turner	Resident
Dave Stewart	Lobbyist	Kellie Challburg	Council Office
Jennifer Brass	Resident	George Katz	Resident
Sally Hoffelmeyer-Katz	Resident	Cami Hamilton	LYRB
Captain Simmons	Army National Guard	Ted Eyre	Resident
Chad Wilkinson	Community Ed	Jennifer Kennedy	Recorder
Peri Kinder	Murray Journal		

Chairman Hales called the Committee of the Whole meeting to order and welcomed those in attendance.

Minutes

There were no minutes scheduled for approval.

Business Item 2.1

Canal Task Force Committee Selection- Brett Hales

Mr. Stam stated that the Council Chair should have the first option to attend the meetings, because of the strong possibility that the media would attend. Secondly, he believes Mr. Nicponski should be on the committee because the canal breach was in his district. Mr. Stam said he would give preference to Mr. Hales and Mr. Nicponski to be on the committee. Mr. Hales said he would be happy to be on the committee. Mr. Stam volunteered to be on the

committee, if one of the two Council Members mentioned above did not want to be on the committee. Mr. Stam said the area of the canal breach used to be in his district. Mr. Brass and Mr. Nicponski said they were both comfortable with that idea, and suggested that Mr. Stam act as an alternate member. Mr. Nakamura stated that if all three Council Members decided to attend at once, the meeting would have to be noticed.

Mr. Stam suggested that if either Mr. Nicponski or Mr. Hales couldn't attend, to let him know and he would fill in for them.

Mr. Hales asked about the selection of the committee from the residents. Mr. Nicponski said that could be done later, with the help of Ms. Lopez. Mr. Shaver suggested getting Mr. John Dye involved in the committee. He commented that there were several residents already quite involved and having discussions with the insurance company.

Mr. Nicponski said that probably only one representative from each family would be needed. He believes five residents would be a good number to have on the committee. Mr. Stam suggested choosing the committee chair in the first meeting. He said to keep the number of residents on the committee to a small number.

Mr. Nicponski noted there would be staff present at the meeting also. Mr. Shaver asked if staff would be on the committee or simply taking recommendations from the committee. Mr. Nicponski said he would speak to Ms. Wells about that. Mr. Brass said that the Council involvement had been covered. Mr. Shaver mentioned that there may be other people involved that would like to be on the committee. Ms. Wells suggested that if there are specific needs, then possibly sending staff to that meeting to help on that topic, but not having staff be committee members. Mr. Nicponski thanked Ms. Wells for the advice.

Business Item 2.3

Lobbyist Report- Dave Stewart

Mr. Stewart mentioned that he met earlier with Mr. Hales and Mr. Nicponski, and gave a history of his efforts and the efforts on the Hill. They asked Mr. Stewart to come and give a full report to the Council.

Mr. Stewart stated that in 2008, he was involved in drafting a transportation bill, House Bill 242. There are a lot of different transportation buckets of money. There are TIP (Transportation Improvement Program) funds and SHEF funds for different state projects. In Salt Lake County, the sales tax rate is made up of the following: 1% of City sales tax, .25 cents is the County sales tax, 4.75 is the State tax, and also the Legislature has imposed three different .25 cent taxes for transportation, and a ZAP (Zoo, Arts & Park) tax also.

Mr. Stewart said he would refer to three different quarters: the first quarter was put in a long time ago, the second quarter was put in when Craig Moody was the Speaker of the House. Mr. Moody didn't like the fact that the bill was going to pass, therefore he captured a quarter of a quarter into a restricted account. It was voted on and imposed by some of the different counties.

This amount went into a specific fund and that fund could only be used for specific projects inside of Salt Lake County. Those projects were prioritized at the State level. Those people that purchase inside of Salt Lake County are paying this quarter of a quarter that goes to regional roads.

The third quarter was done under Speaker Greg Curtis, he liked the same idea that Mr. Moody had established. Mostly these quarters are consumed by transit. Both Speakers mentioned were big fans of transportation. Mr. Curtis championed grabbing another quarter of a quarter for transit and to help solve some of the road needs in the County. Now, there are two quarters of a quarter going into this fund.

In 2005, a \$10 registration fee was authorized for each County to impose. Salt Lake County imposed this fee and was given \$3 of the \$10, and the other \$7 stayed with the State and was prioritized by the State for projects within the County. The Registration fee went into the same fund as the two quarters of a quarter.

There was a transportation bill that Mr. Stewart worked on in 2008 regarding the transit line going to the Salt Lake City Airport. The option of using PFC charges, which are small facility charges that the airlines are charged, was discussed. Delta and other airline companies disagreed about the use of the PFC funds and ran a bill to stop that. Mr. Stewart went and made a pitch and grabbed \$2 of this and sent it to Salt Lake City directly to offset and bridge that gap to get light rail to the airport. Each dollar raised is about \$800,000 a year in Salt Lake County. The registration fee originated in 2005, and the \$2 increase was in 2008, Mr. Stewart clarified. Of the \$10 registration fee, \$5 remained with the state, \$2 went to the airport expenditures to get light rail there, and \$3 to the County for corridor preservation. That created a fund that kicks in a little over \$20 million a year.

Different projects have been funded through this registration fee. In 2008, HB 242 was introduced. Mr. Stewart said if he wanted to get money for Murray City, he would package the bill with a strong ally or supporter so that everybody gets something that would benefit their community. That is the way that one gets the votes, stand-alone bills don't get much support without a coalition. He put this together for a few other cities also, but in 2008 Murray received \$1 million from this fund that was to go towards Cottonwood Street.

In 2009, Mr. Stewart was hired largely to protect that \$1 million, due to the downturn of the economy. One thought was that the \$1 million could get reallocated and used elsewhere because it had not been bonded. The language was broadened to the City's needs and the \$1 million stayed with Murray.

In 2010, the economy was still struggling, but another bill SB 215 was introduced. That bill was run by Senator Niederhauser and Senator Harper. That bill enabled \$1.5 million to go to Murray City and other amounts to other cities. Ultimately, one thing that required him to be creative was to work with the County and use their bonding, because the limit at the State was tapped out.

In 2011, there was no money dedicated to transportation. There were several other issues that he worked with the City on. He worked closely with Ms. Wells and Mr. Fountain. The City essentially managed the relationships of the representatives. Whenever a bill would come up that could involve Murray, he would contact either Ms. Wells or Mr. Fountain and ask them to contact their representatives and let them know that this would be good for Murray, and make sure they were supportive. Mr. Stewart worked on his relationships with leaders and others to get bills passed. The first draft of another bill did not have anything in it for Murray City. Mr. Stewart was able to use his relationship with Mr. Kevin Garn to insert Murray City into the bill. Some of the broader issues that affect the League of Cities and Murray City, the staff has been able to work on, but Mr. Stewart has always been there for questions. At times, he has been farmed out on billboard issues and other issues important to the League, as a representative for Murray City.

Mr. Stewart is willing to do as much or as little as Murray would like, especially now with the absence of Mr. Fountain. He understands that position would not be filled until the new Mayor is elected. He is happy to work with staff during this interim. Some of these bills require hundreds of hours behind the scene working on these issues. The first thing needed is to find a strong sponsor willing to carry the bill. The sponsor often doesn't have time to do a lot of the legwork, so it takes support from many different people.

In 2012, another bill, similar to others secured some money for Murray from the County. This bill was HB 173, and was for 5900 South State Street. This bill gave Murray \$1.2 million and was carried by Majority Leader Brad Dee.

Over the last few years, with the rebuild of I-15 in Utah County and large projects such as SR 92 in Utah County, 2100 North, and other large projects in Washington County; there was almost \$3 billion worth of projects funded. A nice thing about the dip in the economy was that UDOT was able to do these projects cheaper and came in about \$250-\$300 million under budget.

In 2012, the bonding authorization was reduced by about \$200 million and then spent a chunk of that for other different projects. Every time that Murray has received money, it has come from this fund. It is usually packaged in with other state projects. Some of the sponsors, like Brad Dee that represents Weber, may not seem to care about Murray or Salt Lake County. He may not, but he does care about his district and there was a few million for Riverdale Road, which is in his district. That was something that he championed and helped bring support to. This fund is able to support a lot of different projects in the County.

The State is all about building hundreds of millions worth of projects. Often, the smaller road fixes and expansions are too expensive at the municipal level but get overlooked at the State level. This fund has been able to help a lot of those smaller projects that are critical to the cities and the constituents but do not rise to the level of the State. Mr. Shaver noted that the focus may not be on Murray, but would impact a lot of different places and get a lot of support.

Mr. Stewart said his focus is on Murray. He works for Murray, West Valley City, Park City, and Salt Lake City. One thing that all these cities have in common is that niche that he fills of having a supporter on the Hill. This agreement utilizes Mr. Stewart's relationships with leaders, combined with the City's efforts to get the final deal put together. Certainly, leaders that are not in this room are important in getting the votes; which is 38 in the House and 15 in the Senate and of course, the Governor's signature, but they are not the ones negotiating the deal. The value that Mr. Stewart brings is the fact that he is in the room during negotiation.

In 2013, \$2 million was requested, the end result was \$1.8 million from the bill. This bill was supported by Brad Dee and Stuart Adams. That bill generated enough money, but mostly geared for regionally significant projects. It also helped with medium projects that UDOT had not been able to fund. There have been nearly \$220 million of projects on State roads inside the County that were funded by this tax. Essentially, what UDOT normally would have spent State dollars on, this fund allowed UDOT to do immediate renovations, such as the critical interchange on Bangerter. This fund is largely bonded against. In this bill, similar to 2012, the bonding authority at the State level was reduced even more; the coalition was organized and several projects were done around the State. Later, \$50 million was taken from State dollars and a portion of the \$220 million fund that had subsidized State roads was paid back. That was largely misunderstood, but the rationale was to pay that back. Of that \$50 million, there was \$35 million prioritized for many different jurisdictions, including Murray. There was an opportunity with the remaining \$15 million to get the additional \$200,000 to the full \$2 million so that a full project could be done.

There still remains \$5 at the State of that fee, which \$5 goes back to the County. So the \$3 goes to corridor preservation, and this \$5 could be spent on transportation and other roads that the County would like it to go towards. That is about \$800,000 to \$850,000 additional money. The total per year flowing to the County is \$4 million to \$4.5 million to be spent on projects.

Mr. Stewart stated that he has a great relationship with Ben McAdams and Salt Lake County, and feels confident in his ability to get the \$200,000 from this revenue stream to bridge that gap. Mr. Hales asked if that applied to this year. Mr. Stewart responded yes. He believes that sometime early next year, the County would bond against this. If a bond is taken out, over 10 to 15 years, many projects could be done. This fund was somewhat bonded against, so in order to release the \$5 that was paying the bond, the State had to kick in \$15 million.

Ms. Wells asked if the COG (Council of Governments) had to approve the County pot, or if it was just Salt Lake County money. Mr. Stewart replied that this was just Salt Lake County money. She thought that there was a percentage that the cities had a part in, and with the \$5 left, it seemed like the cities should have a say in where those dollars go. Mr. Stewart said he would check into that. He confirmed that the \$3 flows to the COG, and Ms. Wells stated that she agreed, but that this was different. She doesn't see why it would be just for Salt Lake County projects, and why the cities wouldn't weigh in on those decisions. Mr. Stewart said the cities can always weigh in, but the decisions would be made by the County Council. COG doesn't have

official authority. Certainly COG could make recommendations, but the County Council would make the determination of how the money is to be spent. Ms. Wells stated that something seems wrong with that. Mr. Stewart said it comes down to perspective and the reality is that if it went to COG, there would be other projects higher on the priority list.

Mr. Stewart said there are still two quarters of a quarter at the State level. In a nutshell, that is the transportations game. There are also other pockets of money.

In 2011, Mr. Stewart worked on SB229. This was a transportation bill that got vetoed by the Governor, and his veto was overridden. This captured the growth percentage as the sales tax comes back and puts it into a specific fund marked for State transportation. It should be looked into to see if any State road projects inside of Murray City are in need of repair, and advocate for those projects to be paid out of this fund. This bill was passed in 2011, so there is money there now from the growing sales tax.

Mr. Stewart also worked on billboards. A year or two ago, there was a fight with Reagan Billboards. Ultimately, the bill died and nothing happened. He is sure there will be another billboard bill this next session.

Mr. Stewart worked with Mr. Fountain on other issues, including guns. He said it is up to Murray to decide where else they would like to see his efforts. He would hope that there would continue to be a couple million dollars for transportation every year.

Mr. Stewart believes there are other important issues coming down the pipe. There is the Main Street fairness tax, where Congress keeps entertaining the idea of taxing internet sales. This could be the year for that. The State passed a bill that sequesters the money if it comes to Utah; it could be about \$100 million to Utah if it happens. Obviously, that could have a big impact on Murray. This money wouldn't flow directly like regular sales tax does. It would go to the State and then have to be farmed out back to the cities.

The discussion of distribution always comes up also. He said it is up to one's perspective when discussing policies. There is no right or wrong, or black or white answer. He has yet to see a key member in leadership dig in and address the issue. Until that happens, there will be posturing and hearings. The second part is that the State would need to have a new pot of money to help with the creations of winners and losers. Perhaps, if the Main Street Fairness Act passed and brought millions to the table that would help bridge that gap, then the topic could get more support. Mr. Shaver said that Murray has had a huge positive impact in retail sales of the City with the mall and auto dealerships; the retail tax should be flowing greater, and that seems to make the State get interested in that also. Mr. Stewart said that under the current formula, Murray is a big winner. Ms. Wells mentioned that the ULCT is reconstituting the tax team that they had a few years ago. The distribution is always going to be an issue. Murray needs to have a seat at the table to help with those discussions; Murray has a lot to lose.

Mr. Stewart said that the same task force is looking into taxes in general; whether or not to pursue a local option gas tax. There was strong support for that, but some people got squeamish and it isn't going to happen this year. A year from now, that local option gas tax has the highest rate of success if cities and counties can get on board and decide how it would be shared then come to the Legislature as a unified body. The latest thing that has been discussed is a 5 or 10 cent gas tax, and have the County impose it; of that amount a percentage would go to the County for them to prioritize and at least half of it would go into a formula to be dispersed that way. The other portion would probably go through the COG. The County is saying that if they are taking the hit to push this bill, then they want to be able to prioritize the money. The key would be whether everyone could work together on this. If there is another 5 cent County imposed tax it would nearly double all of the money that the cities receive. There would be additional resources prioritized by COG, as well. That would be the biggest potential winner for transportation funding in the near future.

Mr. Stam noted that cars are getting better gas mileage and the addition of hybrid cars mean less tax money. Mr. Stewart said there is always the debate of a vehicle- miles traveled tax. Part of the issue is that the general fear in Utah is that the government would actually be able to track your vehicle and the distances traveled. The technology is there to do it, but there is the hurdle of letting big government track personal vehicles. He stated that the gas tax still raises a lot of money, but it is declining. It is still the best resource and the bill most likely to pass. Mr. Stam suggested a tax on the tires instead of the gas. Mr. Stewart said he doesn't see the State raising the tax in the near future. He does see a lot of support for this if the cities were unified. The likelihood for tax increases for funding would most likely be at the local level. Mr. Shaver said that part of the challenge is that if it is not run by the County, you have problems similar to those Oregon faces. When driving in to Oregon and purchase diesel at the outside border, you are charged for the amount that you would have paid if you had purchased within the state. Mr. Stewart said that if the 5 or 10 cent tax is authorized and if some counties impose it and some do not, it will cause similar issues. There was talk about how to encourage counties to impose this tax. He doesn't think it will happen this year, because it is an election year. The next year should be a great window of opportunity and hopefully the cities and counties will have worked out the details by then. There will be the new leadership team elected at that point.

Mr. Hales said he appreciated Mr. Stewart's explanations of the bills and where the money is spent. Mr. Stewart stated that he thinks the amount is around \$5.5 million dollars that he has gotten for Murray transportation. Mr. Nicponski noted that Mr. Stewart would be available for other projects also. Mr. Stewart said that a shorter contract is probably the right thing to do. The original contract was right before a session, so the timing made sense. Mr. Stewart has worked with other cities and changed the contract terms because it is a fast 45 day session at the legislature. Still, a lot of the work needs to be done now to build things up for the Legislature. It doesn't make sense to do the work leading up, and then have the contract end in January. It doesn't put the City in a good position. The contract should really follow the fiscal year, he noted. That is when the City should be engaged and working the issues, if the City waits until January it would be too late.

Mr. Shaver said part of the challenge for Murray is that the new administration would need to catch up. The timing of the contract puts the City in a much better situation to help bridge that gap. As far as the Legislature goes, there won't be any leadership elections, noted Mr. Stewart. Everyone has been following the Swallow/Shurtleff happenings, and that will be a big discussion item this month. He would be surprised if there ever was actually an impeachment. If the House Majority Caucus decides that is what they are going to do; he assumes Swallow would probably resign. He could also see the House in favor, but the Senate not in favor. There are constituents on both sides, and there are already three to four entities investigating the issues. Nothing moves very fast, unfortunately. This topic will probably dominate the summer, and not much will be done in the interim. It will be interesting to see, and may put the other issues largely behind the ball. Mr. Nicponski and Mr. Hales thanked Mr. Stewart for his presentation.

Mr. Nicponski commented that if the Council is in favor, he is in favor of renewing Mr. Stewart's contract and asked Mr. Nakamura how that needs to happen. Mr. Nakamura said that the decision could be made in the Intent Document on June 19th and staff could prepare any necessary documents. Mr. Nakamura said to first make sure the funding is in the budget and then move forward. Mr. Stam noted that the money would not be available until after the first of the fiscal year anyway. Mr. Nakamura mentioned that it should be stated in the Council Meeting for the public to hear.

Ms. Wells noted that staff is still tracking legislation and staying on top of it, even in the absence of Mr. Fountain.

Business Item 2.2

**Community Covenant Program of the Utah Army
National Guard- Captain Joseph Simmons**

Captain Simmons passed out copies of his slide presentation. He works with the Utah National Guard, specifically with the Family Programs Department.

He would like to establish a military liaison at Murray City, if this is something that the Council and Mayor would like to be involved in. This person would work with his office to establish the Community Covenant Program in Murray.

The Community Covenant Program was started in 2008 by the Secretary of the Army. The Country had been at war for a few years at that time, at there was the need to communicate with City leaders much better than was currently happening. The Secretary of the Army created this program for the Community leaders that surrounded large military installations. He felt like if he communicated better, he could serve those and their families' better, especially while in deployment.

In 2010, the National Guard saw the program and decided to adopt the program, largely based on the success that it was having. Utah was one of the states that adopted the program at that time. The first governing body here in Utah to sign a Community Covenant was the Utah

State Legislature. The goal of their office became to approach every city, town, county and even universities and ask them to join in this program.

The program is designed to bridge that gap and make communication better between the military and community leaders. This program is run and facilitated by the National Guard but the goal is to help all veterans regardless of the branch of service or when they served. As a former Marine, Capt. Simmons noted that he really appreciates that and that the work he is doing is benefitting his Marine brothers and sisters.

One of the main things that this accomplishes is to educate community leaders. The military is facing many problems, such as suicide, sexual assault, and unemployment. There is a uniqueness that the military members have in those areas.

There have been very positive impacts in the last 18 months especially. The program has evolved and they have been able to find veterans that weren't previously being helped. There have been opportunities to help family members that have loved ones overseas. Richfield City was nominated for a National Award because they took this program and became the poster child for it. This is a good way to share the "best practices" that other cities are doing and lessen the stress that deployment has on military members and families.

This program doesn't require any monetary funds from the communities. It is basically an idea sharing program. It shouldn't put any pressure on the cities to do something that they do not want to do.

The important thing is to establish a person as the military liaison, usually this is a member of the City Council or a full time employee of the City. Some of the smaller cities have a representative that is possibly a veteran that attends the Council Meetings. It is recommended in the larger cities to have a Council Member be the liaison. It should only take a couple hours a month, but more importantly they would be the point of contact to disseminate information at any meetings. Training is also provided. Some of the successes that come are from the military liaison coming to the National Guard with names of veterans in the community that are in need of assistance. There are resources available to help those military members.

There is a quarterly training meeting that the liaison would be invited to; as well as quarterly newsletters distribution. The training meeting has been at Utah State Extension Centers in the past and is also available as a webinar. This training initiative came from the efforts of Michelle Obama and Jill Biden that originated about a year ago. It trains the liaisons on current issues the military may be facing, and makes them aware of different resources available.

After a city agrees to do this program, there is typically a signing ceremony. Sometimes it is done at City Council Meeting, or a larger function, it is up to the city. The National Guard does offer its services, such as Honor Guards, or anything to help and create excitement about the program. The cities are encouraged to create an 11x16 document that is signed by the

community leaders showing their support. Sometimes it is signed by the Mayor and City Council and sometimes by Chiefs of Police and even ecclesiastical leaders. There is a template provided for that. The National Guard is also willing to create the form, and print copies and get it framed. There are no promises asked of the City, just a pledge to support the military members in the community. Community leaders would be invited to the signing ceremony. It often takes place at city festivals, or patriotic events.

Mr. Nicponski asked for clarification on the program. Capt. Simmons said it is a program created to help educate and improve communication with city leaders and the military. Mr. Nicponski asked if the City was a conveyance between the military and such organizations as United Way or the Boys and Girls Club. Capt. Simmons said they are trying to invite those organizations also. He replied that it is mainly a conveyance between the military and the citizens of Murray. There is no funding required just a time requirement. The cost of producing the documents could be the only possible expense, and the National Guard could help offset that.

Mr. Stam asked if this provides resources to those families that have someone who is deployed. Capt. Simmons replied yes. Mr. Stam said that is a big problem when one is deployed because of the loss of income and other things. Mr. Shaver said that it would help with those that have come back from deployment in finding employment. Mr. Hales asked if there was any involvement with a military spouse for example and intervention with financial institutions. Capt. Simmons agreed and said the military has the ESGR (Employer support of the Guard and Reserve). Mr. Hales commented that he has worked with some veterans that possibly weren't aware of the resources available to them. Capt. Simmons said he often directs them to the proper departments. Mr. Brass asked how this compares to the ESGR and if that was still around. Capt. Simmons said they still have an office in the Draper headquarters building. The ESGR is doing a lot with the H2H (Hiring our Heroes) program. They are holding a lot of job fairs and trying to get the employers in there to hire veterans. Capt. Simmons stated that they do work with the ESGR when a military liaison notifies them of a veteran with work-related issues or unemployment. There are also 13 family assistance centers across the state. The closest to Murray would be in Draper and West Jordan. They are a great asset and have wonderful people working there. There are food pantries available for military members in distress. Mr. Shaver asked if counseling was available there. Capt. Simmons said they are not counselors but can still help out.

Mr. Shaver stated his support but asked if it needed to take place in a Council Meeting. Mr. Nakamura questioned if it was an administrative decision. Mr. Stam asked if this would become part of the assignment distribution that takes place in January. Mr. Shaver said that it may be a discussion for the Mayor, staff and Council Chairman to have. Mr. Nicponski asked who the contact was for Capt. Simmons. He replied that it was Ms. Lopez and thanked the Council for their time.

Current Land Use Issues Discussion-

Tim Tingey

Mr. Tingey said currently there are four existing issues. Three of the four have been previously discussed. This is mostly a status report on those issues. The variety of topics is very wide. They include: chickens, bees, planter strips, and e-cigarettes.

There have been multiple public open houses to discuss planter strips, chickens and bees. There has been a lot of input, as well as an online survey. Mr. Wilkinson would discuss the results of the survey later. There was not a clear consensus on those issues in the community. There are people strongly in favor of chickens, and those who are not. There are continual enforcement issues. As far as bees, there is a lot of support to allow bees in residential neighborhoods, but also those residents that have concerns. Planter strips and what they should contain are all across the board.

Mr. Wilkinson said the public open houses were very successful. The first one at City Hall had over 100 people attend. The second one was held at Murray High and over 60 people attended that one. It was a very good turnout for that type of an effort. A number of people filled out the paper survey and staff is in the process of digitizing that information so that statistical work could be done. There have been a few key staff in the department leave the City for other opportunities so there has been an unanticipated delay. The hope is to get back on schedule within the next few weeks. Some new people have been hired that will start within the next few weeks.

The results are in from the online surveys. Of the three topics, 194 people responded online to the chicken survey, 114 for the bee survey and 106 for the planter strips. The level of interest was a little higher for chicken and bees. As the results were reviewed, there are a variety of different opinions in the community. For the most part regarding chickens and bees, most were in support of allowing them. This is just the result from the online survey. Yet, there were quite a few against them also. Mr. Tingey noted that this wasn't a scientific survey; there wasn't a random sample and those that responded are passionate about these issues.

Some of the comments included statements such as:

- "I believe allowing chickens and bees within the Murray City limits would cause property values to go down."
- "Chickens are great, and should be allowed. Hens should not be allowed; they are aggressive. They promote self-reliance and sustainability."
- "Disease, smell, noise, and attraction of other pets are a distraction from enjoying the yard in peace after a long day at work. That is why we don't live on a farm."
- "In case of disaster, I would rather my neighbors have chickens than dogs. "
- "Lettuce raised chickens are quiet and clean when taken care of properly. They produce eggs to help out with food costs and should be allowed."
- "No chickens at all. They stink, attract rodents, are farm animals and don't belong in subdivisions."

- “My neighbors have chickens, they are interesting and keep the bugs down. They did have to get rid of some roosters as they were obnoxious to a few of the neighbors.”
- “People who own houses in Murray should be allowed to have chickens if they desire.”

These are a few of the cross sections of comments. In the last few days, there have been several complaints about people that have chickens without any kind of authorization from the City. Neighbors have complained about residents having chickens in neighborhoods that are not currently zoned for them. In one of those cases, a resident had 15 to 20 chickens in their backyard, very close to the adjacent neighbor's property. There are strong feelings on both sides of this issue. He believes that those strong feelings will be apparent in the next steps of the process also.

The chickens and bees survey clearly showed support for them to be added to the ordinance. The park strip survey showed no clear consensus; possibly the only clear consensus was that residents didn't want the government in their lives. There are a wide variety of opinions. There are those that believe park strips should be tree lined with grass, some believe just vegetation, or also anything goes. This is a much more complicated issue than the chickens and bees. There is such a wide array of opinions about what should be done in those areas. The subject of park strips came up as a result of a complaint. Whereas, chickens and bees came about as part of a request. The complaint came from a neighbor not pleased with what his neighbor had done with his park strip, and wondered what the Murray rules were.

In terms of chickens and bees, it is apparent that the residents want to attend the meetings and be involved in this process. All of the results are not in yet, but residents have expressed their desire to be at the meeting when the City Council makes a decision on this topic. Hopefully, within the next few weeks, all the results would be digitized and staff can prepare some graphs that would help visualize the results. Mr. Wilkinson would like to come to this kind of setting or a public workshop with the Council Members and the interested residents, possibly in July and let them hear what the Council has to say on the subject. After that the decision could be made about going forward with an ordinance, or whatever the next steps would be. Mr. Tingey thanked Mr. Wilkinson and his staff for this process. It wasn't the intent to persuade people one way or the other, simply just to give out the information and educate them on the issue. The staff has put in a lot of time and effort and it is appreciated.

Mr. Brass said he would like to see some experts in the field involved in this. Some people have expressed fear about bees in the neighborhood. People that are interested will have their opinion, but he would like to see an expert discuss chickens and bees. Other cities could be looked at also, to see what their experiences have been. Mr. Wilkinson replied that volunteers from the Salt Lake County Health Organization, as well as a state beekeeping organization have agreed to come and talk about the topics. Mr. Brass said it is his understanding that beekeeping is a difficult process and hives can be easily lost. Philosophically, bees pollinate 30% of the food crops, if he remembers his numbers right, noted

Mr. Brass. That is a little different than chickens. Either way, because of the passion, he would like facts interjected into this discussion.

Mr. Shaver said that part of the challenge is inviting them to a Committee of the Whole, instead of a public forum. He suggested having a public forum where the experts speak that is publicly noticed and a process is followed. Then, it could be brought back to a Committee of the Whole. Mr. Brass noted that you can never go wrong when communicating with the citizens. He believes that an expert needs to give the facts or there may be regrets. Mr. Wilkinson said there has been a lot of dialog between residents and staff, but they would like to talk to the elected officials. Staff is not trying to advocate either way, but just asking the residents for their opinions.

Mr. Hales said that his opinion changed after seeing the video showing a resident that had 15 chickens and they were all over the place. Mr. Stam said he has received 4 calls on the topic; one was adamant about not allowing chickens, and 3 were in favor of chickens. He hasn't received any calls on bees or park strips, except one complaint about a specific park strip. He is very interested to see the results. Mr. Shaver said his experience is the opposite. He hasn't heard anything about chickens, but has heard a lot about bees. Mr. Brass noted that this would be a land use decision that will make some happy and some unhappy, so it would be best to get recommendations. Mr. Shaver mentioned that a Cottonwood Heights Council Member raises chickens and he talked to him about the subject at a ULCT meeting. Mr. Wilkinson said that a comprehensive survey of surrounding cities has been done, and they have a good idea of what other cities are doing. That information was available at the public open houses and would continue to be available. Mr. Tingey said they would proceed on working on having a public forum.

Mr. Wilkinson said there is an existing ordinance that limits the number of tobacco retailers in the City. The tobacco retail ordinance is very specific to tobacco. In the last two weeks, there have been about three dozen requests or inquiries about opening an e-cigarette location in Murray City. The question is whether it is the Council's intent to limit those type of facilities also. The existing tobacco ordinance limits are based on the City's population, but it does not mention these e-cigarettes. The e-cigarettes are a vapor instead of smoke. It isn't tobacco, but it does contain nicotine.

It is anticipated that a large number of these facilities would be established in the City in the next few weeks. There has been one application so far, but right now the number of e-cigarette retailers is not limited by the ordinance. Staff would like to know if the Council would like to add e-cigarette retailers to the existing tobacco ordinance. Mr. Hales asked if they were considered the same as cigarettes in public places, for example. Mr. Wilkinson said they are subject to the same clean air act as tobacco. The Legislature voted to include e-cigarettes in the same limitations as tobacco in the last session.

Mr. Shaver said he raised the issue in a conversation with Police Chief Fondaco questioning some of the drugs that contain an herbal element. People are changing substances, taking the drug outside of what the ordinance actually states. The difficult part is finding

language that would encompass all of the drugs. There is no way to do that when looking at the chemical composition.

Mr. Wilkinson said the existing ordinance only affects the number of retailers. Mr. Shaver asked if Mr. Wilkinson had spoken with any other communities about the subject. He said they have only heard from the applicants and have been told that every other city has had a different approach to this. The tobacco ordinance was instituted because of proliferation of these types of uses within the City.

Mr. Shaver asked if the State taxes them similar to the tax on tobacco. Mr. Wilkinson said he didn't know that answer. Mr. Brass said he feels it is important to see how the State views them within the law. If the State is treating them like tobacco, it may not be a big stretch to include them in the existing ordinance.

Mr. Brass asked Mr. Nakamura his opinion. Mr. Nakamura said he believes that more information is needed and is concerned that this forum may not have the information they need to make a decision. Mr. Shaver said it is important to look at how the State is taxing e-cigarettes and that would be a guide for them. Mr. Nakamura said that it should be looked into further. Mr. Tingey said that they would get more information and bring it back. Mr. Stam said that they need to know what the state recognizes them as, and also what other cities are doing, then a discussion could be scheduled.

Mr. Wilkinson said that they are issuing licenses right now without any restrictions so a decision would be helpful. Mr. Nicponski clarified that the ordinance regulated the number of smoke shops, and the question is whether these e-cigarettes should be regulated in a similar fashion. Mr. Nakamura said the City has the authority to issue a moratorium pending legislation to prevent applications from being accepted while the subject is being researched. That may be a possible approach, he stated. Mr. Wilkinson said that once the application has been submitted, it is hard to go back. Mr. Brass said it is a gray area, and this wasn't an item that was openly agended. Mr. Wilkinson said he wants direction to do further research. Mr. Tingey said that his staff would do some research and come back. Mr. Nicponski asked about a possible run for the licenses in the meantime. Mr. Tingey said that they are experiencing a run, and another purpose of this discussion was to make the Council Members aware because they may receive phone calls. Mr. Stam asked if the State is treating them like tobacco, should the City temporarily treat them as tobacco as well. Mr. Tingey said that the ordinance is very specific on tobacco, and doesn't include e-cigarettes which are not tobacco. Mr. Shaver recognizes that the City would have to deal with any licenses being granted in the meantime.

Business License Fee Discussion-

Tim Tingey

Mr. Tingey introduced Cami Hamilton from Lewis Young Robertson & Burningham, Inc. who would present on the development of a business license fee study, and the possibility of introducing new fees.

Mr. Wilkinson explained that this was the second part of the business license fee study. The first part looked at whether or not to pursue a good landlord program and whether or not there was a disproportionate service fee for multi-family residential. As a side note to that, there were some areas discovered of disproportionate service in the commercial side, as well. Murray asked Lewis Young to engage in the second step of the process that looked into the disproportionate services that are provided to commercial uses. There may be a desire to look at an ordinance changing the fees to a more equitable rate based on the services that the City actually provides to the businesses, rather than a flat regulatory fee. That was the purpose of the study that Ms. Hamilton introduced.

Ms. Hamilton mentioned that some of the power point presentation would look similar to the first study done. This study was for commercial businesses. There are three major cost components:

- Base Services
- Disproportionate Services
- Enhanced Services

The Utah Code states that fees charged should reflect the amount necessary to reasonably regulate business activity. That includes any disproportionate regulatory or disproportionate service call costs, including police and fire service calls.

Base services would be the administrative services of processing the license, and taking it through the different steps before the license is given.

Disproportionate service costs would be any additional regulatory requirements that are involved, such as, alcohol licensing that requires additional regulation by either fire inspections or business licensing. Mr. Shaver clarified that disproportionate literally means that the City has to do something additional to regulate some ordinance or statute. Mr. Wilkinson stated that in this case disproportionate would mean the number of service calls that the City provides to a certain business. It is disproportionate in the number when comparing it to a single family unit, as far as police or fire calls.

Enhanced services is any higher level of service that is being provided. Some cities have areas that are provided snow removal, or planter boxes for example. Murray City doesn't currently have any of these enhanced service properties. Mr. Shaver noted that if the City was to provide snow removal to a neighborhood that wasn't currently receiving snow removal that would be an enhanced service. Mr. Wilkinson said it would be similar to using City snow plows to plow a private parking lot, not streets.

Ms. Hamilton said she had been working with the Police and Fire Departments to get the number of service calls to different businesses, so that number could be analyzed. All of that information was looked at and the businesses were grouped into different categories. According to Utah Code, all the businesses in the same class must be charged the same fee. Certain businesses can't be charged more than a similar business, such as restaurants.

The Base Cost Analysis is made up direct and indirect costs. The direct costs would be the salary, benefits and an allocation of department overhead for the different departments. Indirect costs would be an allocation of the overall administrative and legislative costs that the City pays for services allocated to the different departments. Ms. Hamilton presented a table which breaks down the cost by the individuals involved in the licensing process. It was important to discover how much time each individual spent in the business license process. This gave a cost per minute for each employee that was involved. For a new license, a temporary rental cost about \$107. A home occupation license cost about \$100, and to renew the license was approximately \$30.

If the City were to enact some new fees and change the fee structure, these would be the proposed based fees. The fee structure would be the base fee plus any disproportionate regulatory costs plus disproportionate service costs. Depending on the type of business, it could be a combination of those three costs. Mr. Shaver asked if the resident would see the fee split up like that. Mr. Wilkinson said yes. Ms. Hamilton said that some cities choose to average some of those together to make it easier. The purpose of this study is to show the residents the actual costs that the City pays to set up a business license. That is different from the current fee structure in place.

Business license fees have two disproportionate aspects: regulatory and service calls.

Regulatory are any additional services required by administration. For example, alcohol licenses take more time to process. Also, any license requiring a background check, a sexually oriented business, on premise alcohol, and automotive repair and auto body shops would fall under disproportionate regulatory costs. These businesses would pay the base fee plus this regulatory fee.

Service calls include any disproportionate service calls to the business. There was a sampling taken of the calls from a single family home. There were 359 units looked at and the fire calls and the law enforcement calls were compared. Any number above this would be considered disproportionate and the call ratio would be multiplied by the cost per call. The number of annual calls that the City receives for fire, medical and police were compared to the City's budget for 2012, and the cost of the call was calculated. A map was shown of the City indicating all the calls for last year, linking them to a business or a house.

Mr. Wilkinson assisted with categorizing all of the businesses, and putting them into categories. Then, the number of police and fire calls were looked at and compared to the number of a single family home. That number was multiplied by the cost per call. Some businesses that stand out with higher service calls were convenience stores and drinking establishments. Maverick gas stations for example have a higher number of service calls because the customers aren't required to pre pay for their gas. Mr. Shaver asked how the service calls for Murray businesses compared to other cities. Ms. Hamilton could not recall any major differences.

Also, there were a number of businesses that drove this list, the ones with the really high call volumes were removed. They didn't want to penalize all the businesses by the extreme businesses that had an unusually high number of calls.

One other aspect of the study was separating out an inspection fee. Cities do this differently; some roll the inspection fee in with the license fee, and others charge a separate inspection fee. Murray does have businesses that require inspections but are exempt from business license fees. Staff asked Ernst and Young to analyze possibly charging an inspection fee but not a business license fee. That would allow the City to capture the cost of doing inspections, even though they are not collecting a business license fee. The study removed all the inspections and put them into the separate fee. If it was decided to leave the inspection fee as part of the business license fee, then it would have to be pulled back into the analysis so the numbers would change.

A general business license requires an inspection every other year, about \$17, and that fee would be charged every year. This could be done a number of different ways, but most cities prefer to do it every year for administrative purposes. If it was charged only during the year of the inspection, then the \$17 cost would double. Some businesses, such as childcare, healthcare, and education require annual inspections. Those would have a \$70 charge because these inspections by the fire personnel take more time, typically over an hour versus an average 30 minute inspection. Automotive repair shops typically cost around \$30 for inspections due to hazardous material inspections. Some cities charge a one-time inspection fee, while others charge it every year.

A revenue analysis was done showing the difference in revenue if the City were to adopt this fee structure. The City can always choose to adopt lower fees than are recommended. If the City were to adopt this fee schedule, the revenue for licenses, including new, renewals, and inspection costs would be a total of \$637,331 compared to approximately \$625,000 budgeted for this year. Mr. Stam asked if this included the inspection fees, and Ms. Hamilton said that it did. Mr. Wilkinson added that the renewal fee would go down substantially for those businesses that didn't have disproportionate fees. Currently, they pay the same fee as a new business each year. The current rate is \$100 for both a renewal and a new license. This study would take the base fee of a renewal to about \$30. That is one significant difference. The new license fee would remain the same due to the processing costs.

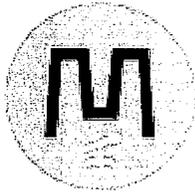
Mr. Wilkinson noted that the existing fee structure is similar and does include regulatory fees. The difficult aspect was knowing what those regulatory fees were based on. This study gives the City the information that they need to explain the costs to residents. Mr. Wilkinson looked at a typical convenience store and currently they pay approximately \$900 for a renewal when the different regulatory fees were added in. That includes regulatory fees such as alcohol, and tobacco. Mr. Shaver commented that the difference in revenue is only about \$12,000 but this explains the fees and different costs. Mr. Wilkinson said if the Council chooses to change these fees, it would have to go through a public process.

He also noted that these are revenue producing businesses outside of the business license fee with sales tax revenues coming in and that needs to be balanced also. The City doesn't ever want to discourage new businesses from coming to Murray because of an overly high regulatory business license fee. Mr. Brass said he was curious to see the different business classes and the ones that would go down in cost. Mr. Wilkinson said some of those would include construction.

Mr. Stam commented that the big difference is found in renewal fees, and if you didn't lower the renewal fee, it would be a substantial increase in revenue. Mr. Wilkinson agreed but said the fee is based on the amount of time it takes to process the renewal. Mr. Brass reiterated that the City doesn't want to discourage the businesses that help the City. Mr. Wilkinson asked if the Council would like to go forward with the process and come back with a potential ordinance. The Council stated that they would like to see more information. Mr. Wilkinson said he appreciated the efforts from all the departments involved in the study.

Mr. Hales adjourned the meeting.

Kellie Challburg
Council Office Administrator II



MURRAY CITY MUNICIPAL COUNCIL
COUNCIL INITIATIVE WORKSHOP

A Murray City Council Initiative Workshop was held on Wednesday, June 19, 2013 in the Murray City Center, Conference Room #107, 5025 South State Street, Murray, Utah.

Members in Attendance:

Brett Hales
Dave Nicponski
Darren Stam
Jim Brass
Jared Shaver

Council Chairman
Council Vice Chairman
Council Member
Council Member
Council Member

Others in Attendance:

Frank Nakamura	City Attorney	Janet M. Lopez	Council Staff
Jan Wells	Mayor's office	Tim Tingey	ADS
Justin Zollinger	Finance	Kellie Challburg	Council Office
Sage Fitch	Resident	Diane Turner	Resident
Russ Kakala	Public Works	Larry Walters	Centurylink
Georganne Weidenbach	Centurylink		

Mr. Hales called the Council Initiative Workshop to order at 5:02 p.m. and welcomed those in attendance.

Discussion Item 1.1

Murray City Center District (MCCD) Zoning
Amendment- Jim Brass

Mr. Brass stated that he brought attention to this topic a little while ago after the subject came up with the Oasis Apartments. Mr. Brass noted that Center Street is in his district and has always felt like Center Street should be looked at, because it is such a unique area. Many of the homes have historic value; and many neighbors are restoring their homes. He has spoken with the majority of the home owners on the west side of Center Street. They are supportive of a height limitation; but not supportive of changing the existing zoning away from commercial. Two of those residents were running businesses out of their homes and that change would negatively impact them. He has had similar concerns on Glen Street. Many residents are concerned with those neighborhoods in relation to their own neighborhood.

Neighborhoods with smaller homes are feeling a bit vulnerable. He stated that it isn't the City's intent to have any designs on Center Street or Glen Street. He believes this should only affect that specific area of Center Street within the M CCD, because of the unique nature.

Mr. Shaver asked if all of Center Street from north to south was facing restrictions or just the location of the Oasis Apartments heading north. Mr. Shaver clarified that the height restriction would be from that point and on to the north. Mr. Brass said the other end of it has been zoned commercial and R-M-10 so that it allows for both. His feeling is that the area of concern begins with the Oasis Apartments and heading north. Mr. Brass said the area currently has a height restriction of 50 feet, and the proposed restriction would be 35 feet. Mr. Brass said it is a CIW topic so the decision is whether or not to move forward. He stated that Mr. Tingey has some information also.

Mr. Tingey wanted to give a quick background on the area. He showed the M CCD boundary from Center Street running up Vine Street to 4800 South. The zoning is R-M-10 and R-1-8. The interesting thing about the west side of Center Street is that it was commercial for over 55 years. Mr. Shaver noted that the idea was that State Street would eventually encroach on the east until it reached Center Street. Mr. Tingey said that Center Street is one block off of State Street and has been commercial for 57 years.

Prior to the M CCD, there was a requirement under the downtown historic overlay district of three stories. That was not a limitation on height, and three stories could potentially be up to 45 feet, if it included a roof. This area currently has home owners and property owners that control their future. It can remain zoned for residential uses for a long time. Since the M CCD was adopted, and additional density was allowed, it has prompted some development. Mr. Tingey said that a typical downtown area should be vibrant. The focus of the M CCD was to create an economic, social, cultural and vibrant area that enhances surrounding neighborhoods. If there are nice retail or cultural opportunities, that opportunity for investment is important. Density is an important part of that. Originally, the M CCD did not have a height restriction. That has been reevaluated and worked on with the consultants because Council Members did have a concern because of Center Street and the adjacent neighborhood. That prompted the 50 foot height to still allow for some density to prompt investment, in this area where properties don't have a lot of depth. Currently, a 50 foot restriction is 15 feet higher than what is allowed in a residential R-1-8, single family residential area. A typical R-1-8 residential area anywhere in the community has a height restriction of 35 feet.

Mr. Nicponski asked for the location on the map of the apartment building. Mr. Tingey pointed it out and showed the single story structures across the street, although that could change. Currently there is a structure adjacent to this area that is 50 feet; the bell tower on Mount Vernon. The idea was that since it was a commercial area, it could allow for a little higher height than a single family residential. Currently, there hasn't been a project that was fully constructed in this area. With the vision of the M CCD in this district, as well as the potential for future development, Mr. Tingey feels like 50 feet is reasonable. Throughout the country, there are residential areas adjacent to vibrant downtown areas that have more height.

Mr. Shaver asked about Desert Star Theater. He asked about the cars exiting from the parking

lots out to 4800 South, and then on to Division, and possibly headed straight to Center Street while trying to find State Street.

Mr. Stam asked how a height restriction could be changed for an area, without creating a new zone. Mr. Brass stated that the DHOD in that area had a note on the west side of the Center that spoke to that specific height restriction.

Mr. Nicponski clarified that that apartment complex was called the Oasis Apartments. Mr. Brass said that the apartments are a done deal, and this doesn't affect that at all. This would affect any future development going north on Center Street. Mr. Shaver asked about 4800 South and Center Street, and a business that is a dog neutering business. That business is right on the corner and is not in a home. He said that R-1-8 gives a definition of 35 feet, but there are homes in the City with three stories and that is covered within the 35 foot limit.

Mr. Tingey said the issue is looking at future redevelopment areas, and if these property owners decide to change the height. The current residents could live there forever and the City isn't pursuing these areas. If the area is redeveloped at any time, without some height allowance, there isn't a lot of depth in this area and it would be difficult to develop something without room for density. That might be considered an advantage for a property owner to have additional height opportunities.

Mr. Shaver asked about other requirements such as the setback from the street. Mr. Tingey said in this area the structures are to be closer to the street and have parking in the rear or underneath. There is some setback allowance, but anything that is developed along Center Street would be required to have additional property space to allow for more width for parking and other things. Mr. Brass noted that he understands all this, but still maintains that Center Street is a different street. It is a neighborhood, and is a big block off of State Street.

The other thing that was heard with the Fireclay Development, was that rooftops were needed if commercial was wanted. It strikes him as odd to remove commercial rooftops to future potential customers. He would rather incorporate these neighborhoods into the downtown plan. The desire to redevelop downtown is to give the citizens a reason to go downtown. This area is in his district and everybody he talks to would like a reason to go downtown. If he was hearing that the people on Center Street don't want any changes, he would go with that, because it is their property, but they are saying they are concerned about it. The gentleman that owns the oldest home on the street said he wants to live there, even though he is right next to the Oasis Apartments. Mr. Brass feels strongly that by limiting the height to 35 feet, it would meet the needs of the people he has talked to, and doesn't feel like it would hurt the downtown area.

Mr. Stam clarified that Mr. Tingey may be in favor of keeping the height limitation to 50 feet, in case these people move away and that would give the City a greater chance for redevelopment. Mr. Tingey agreed and added that the residents may live there for 100 years and that is fine. If they look at selling, it makes any investment much less viable with a 35 foot height limitation.

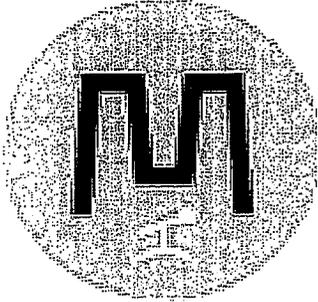
Mr. Nicponski asked to see the photo of the Oasis Apartments, and asked how it would appear

with a 35 foot requirement. It was decided it would be midway up the third story. Mr. Stam said it would be more difficult on a building such as this with 12 foot ceilings. Mr. Tingey said that it would need to be commercial, which would include a 12 foot ceiling requirement. Mr. Stam said that requires a 15 foot section at the bottom, so a 35 foot requirement would cut it off a little.

Mr. Brass said that a concerted effort has been made to come up with an RNB zone, so the commercial element didn't impact neighborhoods. That was on Winchester and 9th East, which was near a six lane highway. Center Street isn't Winchester or 9th East, it is different. Mr. Shaver stated the difference between now and 1950, and if a neighbor wants to change the height in the future, they could always come back to the Council and make a request. Mr. Brass agreed and added that way the property would still have value as a commercial zone in the meantime. Mr. Shaver said he would recommend moving it to 35 feet, and allow the opportunity to make the change in the future if needed. Mr. Brass said the Council simply makes a recommendation to move forward at this point. Mr. Stam would like the residents to be advised that they can bring the issue back to the Council, if needed.

Mr. Hales adjourned the meeting.

Kellie Challburg
Office Administrator II



MURRAY
CITY COUNCIL

**Discussion
Item #1**

Murray City Municipal Council Request for Council Action

INSTRUCTIONS: The City Council considers new business items in Council meeting. All new business items for the Council must be submitted to the Council office, Room, 112, no later than 5:00 p.m. on the Wednesday two weeks before the Council meeting in which they are to be considered. This form must accompany all such business items. If you need additional space for any item below, attach additional pages with corresponding number and label.

1. **TITLE:** (Similar wording will be used on the Council meeting agenda.)

REGISTRATION AND PERMIT PROCESS FOR INDIVIDUALS AND BUSINESSES DESIRING TO SOLICIT GOODS OR SERVICES IN MURRAY CITY NEIGHBORHOODS.

2. **KEY PERFORMANCE AREA:** (Please explain how request relates to Strategic Plan Key Performance Areas.)

SAFE AND HEALTHY NEIGHBORHOODS

3. **MEETING, DATE & ACTION:** (Check all that apply)

Council Meeting OR Committee of the Whole

Date requested August 6, 2013

Discussion Only

Ordinance (attach copy)

Has the Attorney reviewed the attached copy?

Resolution (attach copy)

Has the Attorney reviewed the attached copy?

Public Hearing (attach copy of legal notice)

Has the Attorney reviewed the attached copy?

Appeal (explain) _____

Other (explain) _____

4. **FUNDING:** (Explain budget impact of proposal, including amount and source of funds.)

This process would have an impact on the Business License Division for the time and effort to take applications, complete background checks and oversee whatever requirements might be developed under a proposed ordinance.

5. **RELATED DOCUMENTS:** (Attach and describe all accompanying exhibits, minutes, maps, plats, etc.)

Cottonwood Heights model ordinance for Residential Solicitation.

6. **REQUESTOR:**

Name: Darren Stam

Title: Council Member District 2

Presenter: Darren Stam

Title: Same

Agency: Murray City Council

Phone: 801-747-9132

Date: July 19, 2013

Time:

7. **APPROVALS:** (If submitted by City personnel, the following signatures indicate, the proposal has been reviewed and approved by Department Director, all preparatory steps have been completed, and the item is ready for Council action)

Department Director:  Date: July 19, 2013

Mayor: N/A

Date:

8. **COUNCIL STAFF:** (For Council use only)

Number of pages: _____ Received by: _____ Date: _____ Time: _____

Recommendation: _____

9. **NOTES:**

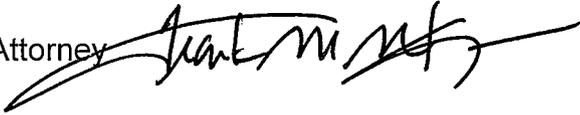


ATTORNEY – CLIENT COMMUNICATION

MEMORANDUM

TO: Murray City Municipal Council

CC: Tim Tingey, Director of Administrative and Development Services

FROM: Frank Nakamura, City Attorney 

DATE: July 29, 2013

RE: Draft Ordinance regarding residential solicitation

Based on your request following a Council Initiative Workshop, attached is a draft ordinance governing residential Door-to-Door solicitations. The draft is a model ordinance initially presented to the City and other municipalities in 2007 with minor changes we made to reflect consistency with other City Ordinances. We also tailored the model ordinance to the City's Mayor-Council form of government.

As we stated at the Council Initiative Workshop and in a Memorandum dated July 8, 2013, a copy of which is attached as Appendix 1, we were presented the model ordinance in 2007 following a lengthy litigation involving several Utah municipalities. The model ordinance was approved by Pacific Frontier, the plaintiff in the case against the City and other municipalities. It is a watered down version of the City's prior Door-to-Door solicitation ordinance. Due to adverse rulings in the Federal Courts against other municipalities involved in the Pacific Frontier litigation, the City repealed its Door-to-Door solicitation Ordinance.

On January 16, 2007, we submitted a Memorandum to the City Council regarding a decision to either adopt the model ordinance or decline to pass specific legislation regulating Door-to-Door Solicitation. A copy of the January 16, 2007 Memorandum is attached as Appendix 2. We represented to the City Council at that time that under the City's prior Door-to-Door Solicitation Ordinance, no citations were issued and most of those involved in the Door-to-Door sales were either exempt or neglected to comply with the registration requirements of the Ordinance. We believed then as we do now that the model

ordinance still raises issues that are subject to Constitutional challenge due to the generality of the definitions regulating commercial and non-commercial speech. We believe then as we do now that the City has adequate Ordinances in place that deal with sales persons who cross the line by either ignoring "No Solicitation" signs on residential property or escalate their sales methods to the point of harassment.

The City Council, at that time, declined to adopt the model ordinance or to enact any further legislation regarding Door-to-Door Solicitation. We believe, as does other City Departments involved with the proposed regulation, that the increase in administrative time and cost outweighs any benefits gained by implementing the registration and other requirements for Door-to-Door solicitors. You may want to consider enacting only those provisions that deal with "No Solicitation" signs on residential properties and violations of those requests. This may enhance the existing trespass Ordinances that City has while foregoing the institution of an administrative process and all the burdens that go with it.

If you have any questions please feel free to contact us. Thank you

APPENDIX 1



ATTORNEY-CLIENT COMMUNICATIONS

MEMORANDUM

TO: Murray City Municipal Council

FROM: G.L. Critchfield, Deputy City Attorney
Frank Nakamura, City Attorney 

DATE: July 8, 2013

RE: Regulating Door-to-Door Solicitation

Council Member Darren Stamm asked our office to review the "Solicitation Ordinance" passed by Cottonwood Heights, a copy of which is attached at Exhibit A. This ordinance purports to regulate door-to-door solicitors in Cottonwood Heights.

The Cottonwood Heights ordinance is not new to us. This ordinance is a newer "model" ordinance that has been passed by Cottonwood Heights and several other Utah cities. (See examples attached at Exhibit B.) This model ordinance came about, at least in part, as a result of a lawsuit filed by the distributor of Kirby Vacuums against eleven Utah cities, including Murray City. The lawsuit alleged several violations of the United States Constitution, including a violation of the First Amendment right of free speech. Several of the challenged ordinances were, themselves, based on an older "model" ordinance.

Two cities received unfavorable Court rulings declaring their door-to-door solicitation ordinances unconstitutional. The Federal District Court enjoined Pleasant Grove from enforcing its door-to-door solicitation ordinance. On appeal, the Tenth Circuit Court of Appeals agreed that the injunction was proper. (See attached, the Tenth Circuit Court of Appeals decision affirming the Federal District Court's decision to enjoin Pleasant Grove City from enforcing its ordinance, at Exhibit C.)

Kaysville City also unsuccessfully defended its ordinance in Federal District Court. Kaysville City drafted four variations of door-to-door solicitation ordinances to avoid further litigation and each was ruled unconstitutional. (See Federal District Court decision at Exhibit D.)

We believe that each of the eleven Utah cities ultimately settled out of court, paying significant sums of money. New ordinances were passed, including the model ordinance passed by Cottonwood Heights, to replace the old model ordinances that were found to be unconstitutional.

To our knowledge, the new model ordinance passed by Cottonwood Heights has not yet been challenged in court.

As a result of the litigation, the City chose to repeal its existing solicitation ordinance (known as the "Transient Merchant" ordinance) and decided not to pass a new (model) ordinance. The City believed that it was prudent to limit its exposure to further lawsuits and that there were laws existing that would provide citizens protection. (See excerpted Council Minutes for February 20, 2007, at Exhibit F.) For example, the law of trespass prohibits one from remaining on private property after the person has been asked to leave. Further, a sign at the door of an occupant prohibiting solicitation must also be obeyed under the same trespass law.

The law of door-to-door solicitation is a complex area of municipal law that has undergone significant challenges over the last thirty years. Cities across the country have been grappling with how to balance the governmental interest of protecting its citizens' privacy and protecting them from crime, against the rights of merchants to disseminate information and goods and the rights of citizens who welcome door-to-door solicitations to receive information and goods. (See a sample of articles from across the country, at Exhibit E.) The United States Constitution requires that, in this area of the law, regulations must be narrowly tailored to restrict no more speech than is necessary and they may not violate the rights of those wanting to engage in door-to-door solicitations, whether that be the solicitor or the recipient of the solicitation.

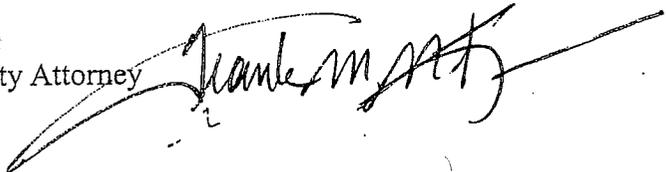
We believe nothing has changed in the law of door-to-door sales since the repeal of the City's ordinance. However, if the Council wishes to adopt an ordinance similar to Cottonwood Heights, the Council should know that there is a risk that any such Ordinance may be found unconstitutional.

Please contact our office with any questions or concerns.

APPENDIX 2

**ATTORNEY - CLIENT COMMUNICATION****MEMORANDUM**

TO: Murray City Municipal Council

FROM: Frank M. Nakamura, City Attorney 

DATE: January 16, 2007

RE: Door-to-Door Solicitation Ordinance

On September 1, 2004, Pacific Frontier and other sales distributors (hereinafter referred to as "Kirby") filed suit against the City alleging that the City's door-to-door solicitation ordinance had constitutional flaws that resulted in damages to them. Similar lawsuits were filed against twenty-one other Utah cities. Following the filing of the case, the Murray City Municipal Council amended the City's door-to-door solicitation ordinance to remove any constitutional concerns, including providing for prompt judicial review of a license denial or revocation.

It is important to note that prior to the lawsuit, the City had not denied a license, nor had anyone been cited for violation of the door-to-door solicitation ordinance.

The City was advised that the law firm of Snow, Christensen and Martineau was handling the Kirby case for Farmington City, Centerville City, Draper City, Orem City, Cedar City, South Jordan City, and Sandy City. Following service of the lawsuit, Snow, Christensen and Martineau suggested to our office that it would be cost effective if they handled the Kirby case for all of the cities because the issues were the same. In discussion with the Finance Director and Mayor, the City retained Snow, Christensen and Martineau to represent the City along with seven others. A copy of the communication from Snow, Christensen and Martineau to our office regarding the case is attached for your information. The attached memorandum discusses the issues in the Kirby case. It was the opinion of this office that since no person or business had been denied a license by the City or had been cited for violation of the City's door-to-door solicitation ordinance, there were no damages and, therefore, no case.

There were fifteen Kirby cases pending against other Utah cities prior to the date the case was filed against the City. Snow, Christensen and Martineau was monitoring the progress of the

Re: Door-to-door Solicitation Ordinance

January 16, 2007

Page 2

lawsuits filed against the other fifteen cities. Unfortunately, the Federal Court issued rulings favorable to Kirby and against the other cities. With the Federal Court decisions, we needed to assess the lawsuit against the City differently despite the absence of damages.

In a letter to this office from Snow, Christensen and Martineau, dated September 19, 2006, a copy of which is attached, we were advised that thirteen cities settled for damages, attorney's fees and costs in the amount of approximately \$1,000,000. The settling cities included Kaysville and Pleasant Grove. We were advised in the September 19, 2006 letter that St. George, American Fork and Salt Lake County were also in the process of settling their cases. We, however, wanted to stand by our position since there were no damages and thus no case. Furthermore, any constitutional flaws in our ordinance were immaterial and cured.

In December, 2006, we were advised by Snow, Christensen and Martineau that Sandy had settled its case for a nominal amount. We are still interested in knowing why Sandy was able to settle although five other cities remained. Nonetheless, we were also advised that the other six cities represented by Snow, Christensen and Martineau decided to settle leaving the City to stand alone. Subsequently, our office had discussions with the Mayor, the Finance Director, the Chief of Police, and the City Recorder to decide how we should proceed. In order to settle, we would need to pay to Kirby \$37,000 and agree to adopt Kirby's model door-to-door solicitation ordinance or have no ordinance. We advised Snow, Christensen and Martineau that we cannot bind future City Councils in regards to legislation. Accordingly, if we were to adopt Kirby's model ordinance, we could not agree that a future City Council would not amend it. Further, there is no guarantee that other distributors would not sue the City under Kirby's model door-to-door solicitation ordinance. Additionally, it is the opinion of Snow, Christensen and Martineau and our office that Kirby's model ordinance is of no value. The other alternative is to adopt a model ordinance proposed by Snow, Christensen and Martineau, however, there are no guarantees that Kirby or other distributors or sales people would not file a similar claim against the City under that ordinance. It is our belief that Kirby would not likely file additional lawsuits upon settlement nor do we anticipate others, however, there will always be that risk.

A final alternative is to have no ordinance licensing or directly regulating door-to-door solicitation. Chief Fondaco and City Recorder Carol Heales advised us that very few persons or businesses have applied for licenses from the City under the door-to-door solicitation ordinance. Further, the City has never issued a citation under the ordinance. Finally, if there are issues related to unruly sales people, the City has other laws such as those prohibiting trespassing or harassment that would allow law enforcement to deal with the problems. With no ordinance, there is no risk that the City would be sued by other sales people or distributors. Accordingly, we will be presenting to you legislation repealing the door-to-door solicitation ordinance.

Re: Door-to-door Solicitation Ordinance

January 16, 2007

Page 3

Like the alarm ordinance, the public may misunderstand the repeal of the door-to-door solicitation ordinance. They may feel that the City has decided not to protect the residents from the door-to-door sales people. Although the ordinance had no effect in the past, the public may not understand it. We will be prepared to state for the record the reasons and provide assurances that the public will receive the same protections they had in the past regarding door-to-door sales.

Finally, we are disappointed with the result of the Kirby case. In the last eight years, we have not paid more than \$25,000 on a claim. The lesson we have learned is that even if there is a savings in attorney's fees, joint representation of several cities together may not be the best for our City.

If you have any questions, please feel free to contact us.

CHAPTER 5.32

RESIDENTIAL SOLICITATION

SECTION:

- 5.32.010 Purpose
- 5.32.020 No Other City License or Approval Required
- 5.32.030 Definitions
- 5.32.040 Exemptions from Chapter
- 5.32.050 Solicitation Prohibited
- 5.32.060 Registration of Solicitors
- 5.32.070 Application Form
- 5.32.080 Written Disclosures
- 5.32.090 When Registration Begins
- 5.32.100 Issuance of Certificates
- 5.32.110 Form of Certificate and Identification Badge
- 5.32.120 Maintenance of Registry
- 5.32.130 Non-Transferability of Certificates
- 5.32.140 Denial, Suspension or Revocation of a Certificate of Registration
- 5.32.150 Appeal
- 5.32.160 Deceptive Soliciting Practices Prohibited
- 5.32.170 "No Soliciting" Notice
- 5.32.180 Duties of Solicitors
- 5.32.190 Time-of-Day Restrictions
- 5.32.200 Buyer's Right to Cancel
- 5.32.210 Penalties

5.32.010 Purpose:

A. Residents of the City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

There must be a balance between these substantial interests of the City and its citizens, and the effect of the regulations in this Chapter on the rights of those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding Door-to-Door Solicitation, the experience of its law enforcement officers and those affected by Door-to-Door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded

and denied persons seeking to engage in Door-to-Door Solicitation, the City adopts this Chapter to promote the City's substantial interests in:

1. respecting citizen's decisions regarding privacy in their residences;
2. protecting persons from criminal conduct;
3. providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and
4. permitting truthful and non-misleading Door-to-Door Solicitation regarding lawful goods or services in intrastate or interstate commerce.

B. The City finds that the procedures, rules, and regulations set forth in this Chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.

5.32.020: NO OTHER CITY LICENSE OR APPROVAL REQUIRED:

A. Registered Solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit, or registration from the City to engage in Door-to-Door Solicitation.

B. Any business licensed by the City that uses employees, independent contractors, or agents for Door-to-Door Solicitation in an effort to provide any tangible or intangible benefit to the business, shall be required to have such Solicitors obtain a Certificate, unless otherwise exempt from registration.

C. Those responsible persons or entities associated with registered Solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.

D. Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permits, or certificate that a registered Solicitor is otherwise required to have or maintain.

5.32.030: DEFINITIONS:

For the purposes of this Chapter, the following definitions shall apply:

"Advocating": speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

"Appeals Officer": the City Mayor or designee responsible for receiving the information from the City and Appellant regarding the denial or suspension of a Certificate and issuing a decision as required by this Chapter.

“Appellant”: the person or entity appealing the denial or suspension of a Certificate, either personally as an Applicant or registered Solicitor, or on behalf of the Applicant or registered Solicitor.

“Applicant”: an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a Certificate permitting Door-to-Door Solicitation.

“Application Form”: a standardized form provided by the City to an Applicant to be completed and submitted as part of registration.

“B.C.I.”: an original or copy, dated no older than 180 days prior to the date of the Application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the Applicant; or (2) verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a disqualifying status exists for the Applicant.

“Business”: a commercial enterprise licensed by the City as a person or entity under this Chapter 5.32, having a fixed or temporary physical location within the City.

“Certificate”: a temporary, annual, or renewal Certificate permitting Door-to-Door solicitation in the City applied for or issued pursuant to the terms of this Chapter.

“Charitable Activities”: Advocating by persons or entities that either are, or support, a charitable organization.

“Charitable Organization”

A. Charitable Organization includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity that is:

1. a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious, or charitable, social welfare or advocacy, public health, environmental or conservation, or civic organization;
2. for the benefit of a public safety, law enforcement, or firefighter fraternal association; or
3. established for any charitable purpose; and
4. is tax exempt under applicable provisions of the Internal Revenue Code and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.

B. Charitable Organization includes a chapter, branch, area, or office, or similar

affiliate or any person soliciting contributions within the State for a charitable organization that has its principal place of business outside the City or State.

“Competent Individual”: a person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

“Completed Application”: a fully completed Application Form, a B.C.I, two copies of the original identification relied on by the Applicant to establish proof of identity, and the tendering of fees.

“Criminal Convicted”: the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the Applicant or registered Solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole and charges dismissed under a plea in abeyance or diversion agreement.

“Disqualifying Status”: anything specifically defined in this Chapter as requiring the denial or suspension of a Certificate and any of the following:

A. The Applicant or registered Solicitor has been criminally convicted of:

1. felony homicide
2. physically abusing, sexually abusing, or exploiting a minor,
3. the sale or distribution of controlled substances, or
4. sexual assault of any kind.

B. Criminal charges currently pending against the Applicant or registered Solicitor for:

1. felony homicide
2. physically abusing, sexually abusing, or exploiting a minor,
3. the sale or distribution of controlled substances, or
4. sexual assault of any kind.

C. The Applicant or registered Solicitor has been criminally convicted of a felony within the last ten (10) years;

D. The Applicant or registered Solicitor has been incarcerated in a federal or

state prison within the past five (5) years;

E. The Applicant or registered Solicitor has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of:

1. moral turpitude, or
2. violent or aggravated conduct involving persons or property.

F. A final civil judgment been entered against the Applicant or registered Solicitor within the last five (5) years indicating that: (i) the Applicant or registered Solicitor had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the Applicant or registered Solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19);

G. The Applicant or registered Solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;

H. The Applicant or registered Solicitor has an outstanding arrest warrant from any jurisdiction; or

I. The Applicant or registered Solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

“Door to Door Solicitation”: the practice of engaging in or attempting to engage in conversation with any person at a residence whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and/or services.

“Entity”: includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

“Fees”: the cost charged to the Applicant or registered Solicitor for the issuance of a Certificate and/or Identification Badge, which shall not exceed the reasonable costs of processing the application and issuing the Certificate and/or Identification Badge.

“Final Civil Judgment”: a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

“Goods”: one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

“Home Solicitation Sale”: to make or attempt to make a sale of goods or services by a Solicitor at a residence by means of Door-to-Door solicitation, regardless of the means of payment or consideration used for the purchase; the time of delivery of the goods or

services; or the previous or present classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

“Licensing Officer”: the City employee(s) or agent(s) responsible for receiving from an Applicant or registered Solicitor the Completed Application and either granting, suspending, or denying the Applicant’s Certificate.

“No Solicitation Sign”: a reasonably visible and legible sign that states “No Soliciting,” “No Solicitors,” “No Salespersons,” “No Trespassing,” or words of similar import.

“Political Position”: any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

“Registered Solicitor”: any person who has been issued a current Certificate by the City.

“Registration”: the process used by the City Licensing Officer to accept a completed application and determine whether or not a Certificate will be denied, granted, or suspended.

“Religious Belief”: any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

“Residence”: any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the land use laws of the City, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public rights of way.

“Responsible Person or Entity”: that person or entity responsible to provide the following to an Applicant, registered Solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:

- A. maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;
- B. facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and
- C. refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

“Sale of Goods or Services”: the conduct and agreement of a Solicitor and the competent individual in a residence regarding a particular good(s) or service(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.

“Services”: those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

“Soliciting, or Solicit, or Solicitation”: means any of the following activities:

- A. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
- B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
- C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;
- D. Seeking to obtain orders of prospective customers for goods or services.
- E. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale.
- F. Other activities falling within the commonly accepted definition of Soliciting, such as hawking or peddling.

“Solicitor or Solicitors”: a person(s) engaged in Door-to-Door solicitation.

“Submitted in Writing”: the information for an appeal of a denial or suspension of a Certificate, submitted in any type of written statement to the City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

“Substantiated Report”: an oral, written, or electronic report:

- A. that is submitted to and documented by the City by any of the following:
 - 1. A competent individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;
 - 2. City law enforcement or Licensing Officer; or

3. Any other regularly established law enforcement agency at any level of government;

B. that provides any of the following information regarding a registered Solicitor:

1. Documented verification of a previously undisclosed disqualifying status of a registered Solicitor;
2. Probable cause that the registered Solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;
3. Documented, eye-witness accounts that the registered Solicitor has engaged in repeated patterns of behavior that demonstrates failure by the registered Solicitor to adhere to the requirements of this Chapter; or
4. Probable cause that continued licensing of the registered Solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

“Waiver”: the written form provided to Applicant by the City wherein Applicant agrees that the City may obtain a name/date of birth BCI background check on the Applicant for licensing purposes under this Chapter, and which contains Applicant’s notarized signature.

5.32.040: EXEMPTIONS FROM CHAPTER

A. The following are exempt from registration under this Chapter:

1. Persons specifically invited to a residence by a competent individual prior to the time of the person’s arrival at the residence;
2. Persons whose license, permit, certificate or registration with the State permits them to engage in Door to Door solicitation to offer goods or services to an occupant of the residence;
3. Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;
4. Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and

5. Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.

B. Those persons exempt from registration are not exempt from the duties and prohibitions outlined in Sections 5.32.170, 5.32.180, and 5.32.190 while advocating or soliciting.

5.32.050: SOLICITATION PROHIBITED:

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon a private residence within the City by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this Chapter.

5.32.060: REGISTRATION OF SOLICITORS

Unless otherwise exempt under this Chapter, all persons desiring to engage in Door-to-Door solicitation within the City, prior to doing so, shall submit a completed application to the Licensing Officer and obtain a Certificate.

5.32.070: APPLICATION FORM:

The Licensing Officer shall provide a standard Application Form for use for the registration of solicitors. Upon request to the Licensing Officer, or as otherwise provided, any person or entity may obtain in person, by mail, or facsimile, a copy of this Application Form. Each Application Form shall require disclosure and reporting by the Applicant of the following information, documentation, and fee:

- A. Review of Written Disclosures. An affirmation that the Applicant has received and reviewed the disclosure information required by this Chapter.
- B. Contact Information.
 1. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;
 2. Applicant's telephone number, home address and mailing address, if different;
 3. If different from the Applicant, the name, address, and telephone number of the responsible person or entity; and

4. The address by which all notices to the Applicant required under this Chapter are to be sent.

C. Proof of Identity. An in-person verification by the Licensing Officer of the Applicant's true identity by use of any of the following which bear a photograph of said Applicant:

1. A valid driver's license issued by any State;
2. A valid passport issued by the United States;
3. A valid identification card issued by any State;
4. A valid identification issued by a branch of the United States military. Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the Applicant.

D. Proof of Registration with Department of Commerce. The Applicant shall provide proof that either the Applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce;

E. Special Events Sales Tax Number. The Applicant shall provide a special events sales tax number for either the Applicant, or for the responsible person or entity for which the Applicant will be soliciting;

F. Marketing Information.

1. The goods or services offered by the Applicant, including any commonly known, registered or trademarked names;
2. Whether the Applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or tender advice regarding the offered goods or services.

G. BCI Background Check. The Applicant shall provide:

1. An original or a copy of a BCI background check as defined in section 5.32.030; and
2. A signed copy of a waiver whereby Applicant agrees to allow the City to obtain a name/date of birth BCI background check on Applicant for purposes of enforcement of this Chapter.

H. Responses to Questions Regarding "Disqualifying Status." The Applicant shall be required to affirm or deny each of the following statements on the Application Form:

1. Has the Applicant been criminally convicted of: (a) felony homicide, (b) physically abusing, sexually abusing, or exploiting a minor, (c) the sale or distribution of controlled substances, or (d) sexual assault of any kind.
 2. Are any criminal charges currently pending against the Applicant for: (a) felony homicide, (b) physically abusing, sexually abusing, or exploiting a minor, (c) the sale or distribution of controlled substances, or (d) sexual assault of any kind.
 3. Has the Applicant been criminally convicted of a felony within the last ten (10) years;
 4. Has the Applicant been incarcerated in a Federal or State prison within the past five (5) years;
 5. Has the Applicant been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: (a) moral turpitude, or (b) violent or aggravated conduct involving persons or property.
 6. Has a final civil judgment been entered against the Applicant within the last five (5) years indicating that: (a) the Applicant had either engaged in fraud, or intentional misrepresentation, or (b) that a debt of the Applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6) or (a)(19);
 7. Is the Applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
 8. Does the Applicant have an outstanding arrest warrant from any jurisdiction; or
 9. Is the Applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.
- I. Fee. The Applicant shall pay such fees as determined applicable by the City, which shall not exceed the reasonable cost of processing the application and issuing the Certificate and/or Identification Badge.
- J. Execution of Application. The Applicant shall execute the Application Form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the Applicant, the information provided is complete, truthful and accurate.

5.32.080: **WRITTEN DISCLOSURES:**

The Application Form shall be accompanied by written disclosures notifying the Applicant of the following:

A. The Applicant's submission of the Application authorizes the City to verify information submitted with the completed application including:

1. the Applicant's address;
2. the Applicant's and/or responsible person or entity's state tax identification and special use tax numbers, if any;
3. the validity of the Applicant's proof of identity;

B. The City may consult any publically available sources for information on the Applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.

C. Establishing proof of identity is required before registration is allowed;

D. Identification of the fee amount that must be submitted by Applicant with a completed Application;

E. The Applicant must submit a BCI background check with a completed Application;

F. To the extent permitted by State and/or Federal law, the Applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection;

G. The City will maintain copies of the Applicant's Application Form, proof of identity, and Identification Badge. These copies will become public records available for inspection on demand at the City offices whether or not a Certificate is denied, granted, or renewed.

H. The criteria for disqualifying status, denial, or suspension of a Certificate under the provisions of this Chapter.

I. That a request for a temporary Certificate will be granted or denied the same business day that a completed Application is submitted.

5.32.090: **WHEN REGISTRATION BEGINS:**

The Licensing Officer shall not begin the registration process unless the Applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the Licensing Officer verifies the Applicant's identity. A copy of the identification may be retained by the Licensing Officer. If an

original B.C.I. background check is submitted by the Applicant, the Licensing Officer shall make a copy of the B.C.I. and return the original to the Applicant.

5.32.100 ISSUANCE OF CERTIFICATES:

The Licensing Officer shall review the completed Application submitted by the Applicant and issue a Certificate in accordance with the following:

A. Temporary Certificate.

1. A temporary Certificate shall issue allowing the Applicant to immediately begin Door-to-Door solicitation upon the following conditions:

- a. Applicant's submission of a completed Application;
- b. Applicant's submission of the required fee;
- c. Applicant establishes proof of identity;
- d. the Applicant's representations on the Application Form do not affirmatively show a disqualifying status;
- e. the B.C.I. does not affirmatively show a disqualifying status; and
- f. the Applicant has not previously been denied a Certificate by the City, or had a Certificate revoked for grounds that still constitute a disqualifying status under this Chapter.

2. A temporary Certificate will automatically expire after twenty-five (25) calendar days from issuance of upon grant or denial of an annual Certificate, whichever period is shorter.

B. Annual Certificate. Within twenty-five (25) calendar days of the issuance of a temporary Certificate the City shall:

1. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the Applicant, including, but not limited to those disclosed with the Application Form.
2. Issue written notice to the Applicant and the responsible person or entity, if any, that the Applicant either:
 - a. will be issued an annual Certificate, eligible for renewal one year from the date of issuance of the temporary Certificate; or

- b. will not be issued an annual Certificate for reasons cited in section 5.32.140 of this Chapter.

C. **Renewal Certificate.** An annual Certificate shall be valid for one year from the date of issuance of the temporary Certificate and shall expire at midnight on the anniversary date of issuance. Any annual Certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered Solicitor and the submission of a new completed Application and payment of the fee, unless any of the conditions for the denial, suspension or revocation of a Certificate are present as set forth in section 5.32.140, or a disqualifying status is present.

5.32.110: FORM OF CERTIFICATE AND IDENTIFICATION BADGE:

A. **Certificate Form.** Should the Licensing Officer determine that the Applicant is entitled to a Certificate, the Licensing Officer shall issue a Certificate to the Applicant. The Certificate shall list the name of the registered Solicitor and the responsible person or entity, if any, and the date on which the Certificate expires. The Certificate shall be dated and signed by the License Officer. The Certificate shall be carried by the registered Solicitor at all times while soliciting in the City.

B. **Identification Badge.** With both the temporary and annual Certificates, the City shall issue each registered Solicitor an Identification Badge that shall be worn prominently on his or her person while soliciting in the City. The Identification Badge shall bear the name of the City and shall contain

1. the name of the registered Solicitor;
2. address and phone number of the registered Solicitor, or the name, address, and phone number of the responsible person or entity is provided
3. a recent photograph of the registered Solicitor; and
4. the date on which the Certificate expires.

5.32.120: MAINTENANCE OF REGISTRY:

The Licensing Officer shall maintain and make available for public inspection a copy or record of every Completed Application received and the Certificate or written denial issued by the City. The Applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The Licensing Officer may furnish to the head of the City's law enforcement agency a listing of all Applicants, those denied, and those issued a Certificate.

5.32.130: NON-TRANSFERABILITY OF CERTIFICATES:

A. Certificates shall be issued only in the name of the Applicant and shall list the responsible party or entity, if any. The Certificate shall be nontransferable.

B. A registered Solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different:

1. goods or services; or
2. responsible person or entity,

from those designated in the originally submitted Completed Application, shall submit a written change request to the Licensing Officer. A new Certificate based on the amended information shall issue for the balance of time remaining on the registered Solicitor's previous Certificate before the amendment was filed. Before the new Certificate is given to the registered Solicitor, the registered Solicitor shall obtain a revised Identification Badge from the City after payment of the fee for the Identification Badge.

5.32.140: DENIAL, SUSPENSION OR REVOCATION OF A CERTIFICATE OF REGISTRATION:

A. Denial. Upon review, the Licensing Officer shall refuse to issue a Certificate to an Applicant for any of the following reasons:

1. Denial of Temporary Certificate
 - a. the Application Form is not complete;
 - b. the Applicant fails to
 - (i) establish proof of identity,
 - (ii) provide a B.C.I. or
 - (iii) pay the fees;
 - c. the Completed Application or B.C.I. indicates that the Applicant has a disqualifying status; or
 - d. the Applicant has previously been denied a Certificate by the City, or has had a Certificate revoked for grounds that still constitute a disqualifying status under this Chapter.
2. Denial of Annual Certificate.

- a. The information submitted by the Applicant at the time of the granting of the temporary Certificate is found to be incomplete or incorrect;
- b. Since the submission of the completed Application, the Applicant is subject to a previously undisclosed or unknown disqualifying status;
- c. Failure to complete payment of the fees;
- d. Since the submission of the Application, the City has received a substantiated report regarding the past or present conduct of the Applicant;
- e. Since the submission of the Application, the City or other governmental entity has either criminally convicted or obtained a civil injunction against the Applicant for violating this Chapter or similar Federal, State, or local laws in a manner rising to the level of a disqualifying status; or
- f. Since the submission of the Application, a final civil judgment has been entered against the Applicant indicating that: (I) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).

3. Denial of Annual Certificate Renewal.

- a. The information submitted by the Applicant when seeking renewal of a Certificate is found to be incomplete or incorrect;
- b. Since the submission of the renewal Application, the Applicant is subject to a previously undisclosed or unknown disqualifying status;
- c. Failure to complete payment of the fees;
- d. Since the submission of the Application or granting of a Certificate, the City has received a substantiated report regarding the past or present conduct of the Solicitor;
- e. The City or other governmental entity has either criminally convicted or obtained a civil injunction against the Applicant for violating this Chapter or similar Federal, State, or local laws in a manner rising to the level of a disqualifying status; or
- f. Since the submission of the Application, a final civil judgment has been entered against the Applicant indicating that: (I) the Applicant

had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).

B. Suspension or Revocation. The City shall either suspend or revoke a Certificate when any of the reasons warranting the denial of a Certificate occurs.

C. Notice of Denial or Suspension. Upon determination of the Licensing Officer to deny an Applicant's completed Application or to suspend a registered Solicitor's Certificate, the City shall cause written notice to be sent to the Applicant or registered Solicitor by the method indicated in the completed Application. The Notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by Applicant upon one (1) business day notice to the City, and the date upon which the denial or suspension of the Certificate shall take effect. It shall further state that the Applicant or registered Solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the Certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section 5.32.030; a substantiated report, (B)(4), in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a Certificate automatically results in its revocation.

5.32.150: **APPEAL:**

A. An Applicant or registered Solicitor whose Certificate has been denied or suspended shall have the right to appeal to the City Mayor or designee. Any appeal must be submitted by either the Applicant, the responsible person or entity, or legal counsel for either who:

1. documents the relationship with the Applicant or responsible person or entity; or
2. is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship.

B. The following procedures and requirements shall apply:

1. Any appeal must be submitted in writing to the City Recorder with a copy to the License Officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

2. Upon request of the Applicant or registered Solicitor, within one (1) business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the Certificate.
3. The Appeals Officer shall review, de novo, all written information submitted by the Applicant or registered Solicitor to the Licensing Officer, any additional information relied upon by the Licensing Officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, Applicant or registered Solicitor. Any additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.
4. The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 5.31.150(B)(3), the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.
5. The denial or suspension of the Certificate shall be reversed by the Appeals Officer if upon review of the written appeal and information submitted, the Appeals Officer finds that the Licensing Officer made a material mistake of law or fact in denying or suspending the Applicant or registered Solicitor's Certificate.
6. If the written appeal and information submitted indicates that the Licensing Officer properly denied or suspended the certificate of the Applicant or registered Solicitor, the denial or suspension of the Certificate shall be affirmed and constitute a determination that the suspended Certificate is revoked.
7. The decision of the Appeals Officer shall be delivered to the Applicant or registered Solicitor by the means designated in the completed Application, or as otherwise agreed upon when the Appeal was filed.

C. After the ruling of the Appeals Officer, the Applicant or registered Solicitor is deemed to have exhausted all administrative remedies with the City.

D. Nothing herein shall impede or interfere with the Applicant's, registered Solicitor's, or City's right to seek relief in a court of competent jurisdiction.

5.32.160: **DECEPTIVE SOLICITING PRACTICES PROHIBITED:**

A. No Solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.

B. A Solicitor shall immediately disclose to the consumer during face-to-face solicitation:

1. the name of the Solicitor;
2. the name and address of the entity with whom the Solicitor is associated; and
3. the purpose of the Solicitor's contact with the person and/or competent individual. This requirement may be satisfied through the use of the Identification Badge and an informational flyer.

C. No Solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

D. No Solicitor shall represent directly or by implication that the granting of a Certificate implies any endorsement by the City of the Solicitor's goods or services or of the individual Solicitor.

5.32.170: "NO SOLICITATION" NOTICE:

A. Any occupant of a residence may give notice of a desire to refuse Solicitors by displaying a "No Solicitation" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence.

B. The display of such sign or placard shall be deemed to constitute notice to any Solicitor that the inhabitant of the residence does not desire to receive and/or does not invite Solicitors.

C. It shall be the responsibility of the Solicitor to check each residence for the presence of any such Notice

D. The provisions of this section shall apply also to Solicitors who are exempt from registration pursuant to the provisions of this Chapter.

5.32.180: DUTIES OF SOLICITORS:

A. Every person soliciting or advocating shall check each residence for any "No Soliciting" sign or placard or any other notice or sign notifying a Solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted such Solicitor shall desist from any efforts to solicit at the residence or

dwelling and shall immediately depart from such property. Possession of a Certificate does not in any way relieve any Solicitor of this duty.

B. It is a violation of this Chapter for any person soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, Door-to-Door soliciting, or soliciting.

C. It is a violation of this Chapter for any Solicitor through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.

D. Any Solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.

E. The Solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent;

F. The Solicitor shall not follow a person into a residence without their explicit consent;

G. The Solicitor shall not continue repeated soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the Solicitor.

H. The Solicitor shall not use obscene language or gestures.

5.32.190: **TIME OF DAY RESTRICTIONS:**

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 9:00 p.m. Mountain Time, unless the Solicitor has express prior permission from the resident to do so.

5.32.200: **BUYER'S RIGHT TO CANCEL:**

In any home solicitation sale, unless the buyer requests the Solicitor to provide goods or services without delay in an emergency, the seller or Solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by § 70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any State or Federal law modifying or amending such provision.

5.32.210: **PENALTIES:**

Any person who violates any term or provision of this Chapter shall be guilty of a Class B Misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and/or a jail sentence of not to exceed six (6) months.



Adjournment

Council Meeting

6:30 p.m.

Call to Order

Opening Ceremonies:

Pledge of Allegiance

Council Minutes

DRAFT

Murray City Municipal Council Chambers Murray City, Utah

The Municipal Council of Murray City, Utah, met on Tuesday, the 4th day of June, 2013 at 6:30 p.m., for a meeting held in the Murray City Council Chambers, 5025 South State Street, Murray, Utah.

Roll Call consisted of the following:

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

Others who attended:

Daniel Snarr,	Mayor
Jan Wells,	Chief of Staff
Jennifer Kennedy,	City Recorder
Frank Nakamura,	City Attorney
Craig Burnett,	Deputy Police Chief
Tim Tingey,	Administrative & Development Services Director
Brenda Moore,	Finance Controller
Gil Rodriguez,	Fire Chief
Citizens	

5. OPENING CEREMONIES

5.1 Pledge of Allegiance - Craig Burnett, Deputy Police Chief

5.2 Approval of Minutes

5.2.1 Approval of minutes.

None scheduled.

5.3 Special Recognition

None scheduled.

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

Jack DeMann, 6086 Glen Oaks, Murray, Utah

Mr. DeMann said that as the Council deliberates the budget, which he knows they do carefully, he would appeal to them to be as thrifty as possible. The Council has some considerations that they are making for new expenses, new areas of activity, and even some old ones that might be approached a little bit better in terms of cost and in terms of truly serving the citizens. He does not need to remind the Council that it is tough economic times. Mr. DeMann has some grandchildren who live in Murray and some just outside of Murray and they are struggling. Any additional costs in the way of property taxes or fees will certainly be felt. He is hoping that as the Council discusses new things such as the health insurance for the Council, that they will take that into consideration. He does not feel that this is a good time, particularly with the uncertainty in the area and ObamaCare right around the corner. He has an extensive and long affiliation with the hospital people. He knows there is a great concern there because they don't know. To open the doors and start a program where we don't know where it will lead is probably not wise.

Mr. DeMann said that in other areas, if the Council can find ways to cut expenses; and he will pick on his old friend, Mr. Nicponski; the Council has a consideration in the budget for a lobbyist. He would like to say that he has worked with Mr. Nicponski as a lobbyist together for Hercules 30 years ago. It would seem to Mr. DeMann, as Mr. Nicponski is serving his other clients he could probably just as well serve the interest of Murray City and chock it up to service. Mr. DeMann would suggest that the Council consider that and Mr. Nicponski consider offering it. It would save the City \$40,000.00 or \$50,000.00 a year. Mr. DeMann again asked that the Council be careful and prudent and not take us down the street for more expense or costs. He feels that the Council has done a pretty good job with that and he is not complaining about that. In fact, he is not complaining at all, only making some suggestions on what he thinks. What the Council has done, they have done very well

and could even be done better.

Mr. Shaver addressed Mr. Nicponski asking him to bear in mind that the public hearing comments need to be contained within the public hearing forum. So those that wish to make a comment during the public hearing need to do so when it is addressed in the public hearing.

Mr. Nakamura asked if there were any public comments outside of the budget.

Mr. Nicponski stated that if the comments are pertinent to the budget, they will wait for the public hearing on the budget.

Jeri Jensen, 404 East 6360 South, Murray, Utah

Ms. Jensen stated that she has lived in Murray since 1940 and bought their home in June of 1957. She said that they have never had a problem with parking before. But for over a month now, they have between 50 and 100 cars parked in their subdivision during the day, during working hours. This is just not good. Her husband has senior dementia right now and he has even noticed that there are cars parked on the street that shouldn't be there. That is how bad it is. In the beginning, she spoke to the police. She not bothered the good Mayor with this, but she has spoken to Brett Hales from her district, Chad Wilkinson in Planning, Mark Boren in Planning, and Tim Tingey in Planning about this. She worked for Salt Lake County for 21 ½ years in Public Works and has worked with budgets and all of these other things so she may have more knowledge than the normal animal running around. Because of this, she would like to know how many employees this company put on their business license application that they were going to have. In turn, she understands that the company that they are leasing from is Workers Comp. She contacted Workers Comp and found out who the property manager was. Mr. Mike Willardson is the property manager and she has his phone number if anyone would like it. She spoke to Mr. Willardson about the situation and he informed her that it really wasn't the Workers Comp problem but Sutter's problem. When she spoke to Murray City about it, Murray says it is not Sutter's problem it's the Workers Comp problem. All of a sudden, it turns out that they also have the Social Security office in that same area and they are complaining because the parking isn't sufficient for their people. This only came up a couple of months ago and at that point they made a decision in the Workers Comp area to start enforcing the number of parking places they have for the Sutter Company. This is what has thrown it all; they started to enforce the parking about a month ago and that is when all the cars began parking in the neighborhood.

Whatever we can do to get this issue solved needs to be done. The police are coming in and ticketing those who are illegally parked. She has warned a couple of people who come in there that sometimes it is dangerous to park in her neighborhood. You never know what is going to happen to their cars. She was asked what that means and she said that she is just warning them and would suggest they go down and park

at the mall if they can. This is a residential area, not a business parking lot. Whatever the City can do, it would be appreciated.

Mr. Hales stated that there was an accident there yesterday. He asked Tim Tingey, Administrative and Development Services Director, to come up and discuss what he has done on this issue.

Mr. Tingey said that they have met individually with the Sutter Health management; he has also spoken with Ms. Jensen and appreciated the time that they were able to take to discuss this issue. The City is doing a number of things to address this issue. First, this is a landlord issue and a Sutter Health issue. Parking on-site is critical and having enough parking spaces is critical. Whether you allocate some for one tenant or another, there has to be enough parking. One of the issues that Sutter Health has talked about is that they have been talking with the landlord because there is this enforcement issue. The question is whether the other tenants need all of the parking that they are using. They are working in those negotiations right now. Mr. Tingey spoke with them last night and they are supposed to get back with him after the landlord talks with all of the tenants. The City is trying to work through this issue. The bottom line is that they need to have enough parking for all of their tenants on site. It is a landlord issue and it is a Sutter Health issue. That is what the City has communicated. Mr. Tingey has even talked to them about saying that if the City needs to have those specific conversations with the landlord, we will.

Mr. Tingey added that he has been working with Assistant Police Chief Craig Burnett and they are going out and ticketing individuals who are not parked legally on the streets. The City is working and doing all that we can to address this issue and resolve the problem. We recognize the concern it has caused and we want to be able to have Sutter Health be effective and have their employee's park on those sites. Sutter Health has also been contacting other businesses in the area to hopefully get additional parking. Those are the negotiation conversations that the City has had.

Mr. Hales stated that they will follow up with Ms. Jensen in the next week or two.

Mr. Tingey added that there were some individuals who were going to be out of town and he has spoken with Ms. Jensen about this. Hopefully, by early next week there will be a decision on the allocation of the parking spaces.

Burt Milano, 6380 South 370 East, Murray, Utah

Mr. Milano stated that he lives right across the street from the circus that is being discussed. These cars are parked, some illegally, some not. Right now there is no question that they park legally there during the day. The only issue that he has, and has brought this up to the Streets Department, is that there is a raised sidewalk right in front of his house. The traffic there is coming and going with those people that work at Sutter Health. He is concerned that someone is going to fall there. He has brought this to the City's attention twice now about that sidewalk. What if

somebody falls there? They will sue the City and sue him as well because he owns the house right there. All he is asking is for a "get out of jail free card" because he has brought this to the City's attention twice. Someone came out from the Street Department and was told Mr. Milano that the City just didn't have the money to make the repairs right now. The City doesn't need to do a lot to fix it. They just need to bring out someone to grind that hump down or something. The City has fixed the sidewalk there eight to ten years ago. They put new sections in along there. This one is dangerous and somebody is going to fall because of the traffic going back and forth across that street now, especially with the cars. There must be about 20 cars parked along that neighborhood every day. The Street Department has come out and looked at that twice and all they said was they do not have the money to do anything right now. They made him the offer that Murray would come in and haul all that stuff away if he gets someone to come and put the cement in. He has called some contractors but they want a thousand dollars to do that. That is what he pays property taxes for. What caused that sidewalk to rise was a tree that the City planted in the expansion strip, which the arborists took out, but the sidewalk and the problem is still there. The parking problem is still there as well. It is an annoyance.

Carlyle Clarke, 6074 South Fountain Bleu Drive, Murray, Utah

Mr. Clarke had spoken to someone in the City regarding striping. If you go west on Vine Street from his house, there is striping once in a while. Like, you get down from 900 East to State Street there is some striping but then there is not some striping. About two years ago that area was repaved and there is still no striping there. He is a big bike enthusiast. He always wears a helmet and he has lights on the front and back of his bike, but it is difficult sometimes to stay where he is supposed to stay in the lanes because there is no striping. He was wondering if the City has in its budget the funds to stripe those areas, particularly on the busy roads such as Vine Street and 5900 South. He would like to see those striping zones connected.

Mr. Shaver said that was a marvelous question. As a quick answer, that very street that he is talking about is also slated to have some work done on the street and striping is something that they may want to look at.

Mr. Clarke said that on the south side of the street from 900 East, there are some markings on the pavement. He doesn't know what they are going to do or who he spoke to.

Mr. Shaver asked Mr. Clarke is they could chat about this issue after the meeting as this is in his district and he could explain what is going to happen in that area.

Mr. Clarke added that there are a lot of bikers and it helps them to know where they belong.

Citizen comment closed

7. **CONSENT AGENDA**

7.1 None scheduled.

8. **PUBLIC HEARINGS**

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

Consider an Ordinance adopting the Final 2013 – 2014 Fiscal Year Budgets for Murray City including the Library Fund Budget.

Staff presentation: Brenda Moore, Controller.

Ms. Moore stated that they made this budget neutral. The budget was raised by approximately \$300,000.00 mostly due to health insurance for current employees, retirement, and costs that are not within the City's control. She welcomed discussion on this and stated that if there is anything she is unable to answer, she will get back with to them with the answers.

Mr. Nicponski asked Mr. Hales to discuss the health insurance benefits that are included in this budget.

Mr. Hales stated that Mr. Nicponski will read into the record an e-mail that was sent to the Council by a citizen. Mr. Hales was speaking with Jack DeMann a few minutes ago. The letter is great but it says that this individual was disappointed. Mr. Hales told Mr. DeMann that there is nothing wrong to be able to discuss these things. That is what a democracy is; that is what the Council is all about, to discuss. But now, to be disappointed if something goes away that you don't want to, he understands. After the Council has listened and talked about this, he will recommend that the health insurance for the City Council is not allotted, even though they are qualified employees. Mr. Stam had mentioned a couple of weeks ago that maybe the timing is not right and Mr. Hales would recommend that they do not go in that direction for the City Council.

Mr. Shaver said that by statute, according to the State of Utah, we have to have a balanced budget and cannot go into debt. But we are thinking that in this next year the amount of reserves that we can hold can also be increased. He asked Ms. Moore if that was correct.

Ms. Moore stated that was correct.

Mr. Shaver stated that the City has been held at 18% and in this budget the intent that the State Legislature said was that we can increase our reserves up to 25%.

Ms. Moore stated that it is correct, we can 'save for a rainy day.'

Mr. Shaver said that when we have an economic down-turn like we have experienced in the past several years, we have the reserves necessary to maybe get us through some of that while we get back on our feet again as we are so dependent upon retail tax.

Ms. Moore said that was correct. Retail is the majority of our revenue.

Mr. Shaver asked, in light of that, have we created a balanced budget for this next fiscal year?

Ms. Moore stated that we have a balanced budget. There are a couple of things that the City is planning on possibly using these reserves for. Those are long-term things that will benefit the City for more than one year.

Mr. Shaver said that one example of that is that we are paying off some bonds.

Ms. Moore agreed, saying that these are Power Bonds, which is the big one. The bond is at 4.5% and if we pay that off we are basically making 4.5%. Anything that we invest in is less than 1% right now.

Mr. Shaver said that if we take Mr. DeMann's earlier comment about being wise, we are trying to do the best that we can in being wise and paying off expensive debt.

Ms. Moore said yes we are paying off expensive debt in order to keep the budget balanced. We will use the reserves to pay off expensive debt and if revenues come in higher and everyone holds to their budget which is balanced, we will increase our reserves.

Mr. Shaver stated that the reserves we take out are put back in. This past year, we saw an increase based on what our budget had been estimated for in revenues. We actually saw an increase in sales tax over what we had estimated. Because we are seeing an increase in revenues, we are being very cautious in the use of those funds.

Ms. Moore agreed saying that the City is not going to count on the amount that we are seeing increases stay that way. They are going to budget a bit less than that to make sure that we have that. Because we have a balanced budget, it keeps our expenditures down and if it comes in higher, great, it adds to reserves and maybe next year we can use that for something else or it will continue to increase the fund for that bad day when something happens and everything tanks.

Mr. Shaver said that much of what we have been able to do as a City, as far as the budget is concerned, has been literally laid on the backs of our employees. They have not had increases, merit or cost of living increases, and this year the Council did the very best that they could to rectify that. Many of the employees have gone several years without any kind of a cost increase and that puts them at a risk. It means that they start looking for someplace to do that and we then take that as part of the budget to make that possible. He asked Ms. Moore if that was correct.

Ms. Moore said that was correct. They are doing slight increases and adjustments for those people who are way below market, have been here for three or four years and have never gotten a raise. The employees can go to other cities and make more money so the City is trying to adjust that up a little bit and give those people some compression adjustments to kind of get them from being below the level that others are paying so that the City can stop some turnover and decrease training costs. If you keep people here, it saves the City money in the long run more than if you have a lot of turnover and having to train new people.

Mr. Brass said that he had the pleasure of serving as Budget Chair this year. The discussion on the compression was as Ms. Moore explained. We train our Police Officers and it takes an officer off the street to train them too. That cuts the number of officers available for patrol down and the City is still somewhat short as it is. We seem to do that at an alarming rate. We get them trained; they get to a certain point and some other City hires them away. We had to address that issue.

In 2008, when the economy went off a cliff, we lost about \$3 million in sales tax revenue pretty quick. Our budgets are not that large and that is a substantial reduction in revenue. As Councilman Shaver said, our employees worked very hard with them. The City did not raise property taxes, we did not lose any employees. The City did offer an early retirement and cut our workforce, which saved \$2 million. This Council and previous Councils have always been good stewards of the budget. There are expenses that hit us and they continue to. We have all watched the cost of fuel go up; we drive police cars, fire engines and ambulances and the fuel costs have increased. Oil is a direct cost in asphalt for paving roads and roads have become a big issue for us. Our poor, failing road inventory doesn't go down. It is not because we are not paving roads it is just that it has become impossible to keep up with it under the current funding mechanisms. At some point, somebody has to adjust that or we can go back to driving on gravel roads. Now, tongue in cheek, Mr. Brass has always said that you can achieve speed control through road disrepair. The reality is that the biggest complaints that they get is about the roads and ironically, weeds and speeding. To take care of any of those things, requires money. The City is doing the best it can and continue to do that. This budget is relatively flat. The Mayor put forth an excellent budget. His staff worked very hard at it and the Council looked at it and may have made some minor adjustments. But again, State law requires that any entity within this State balance their budget and he feels that is an excellent law. You look at some of the other states where you hear of them going bankrupt, they are deeply in debt. We don't have that issue in Utah. It is painful but we took this very seriously, as we always do. Mr. Brass wanted to thank everyone for their contributions.

There comes a time though that they do have to give back to the employees. When citizens call the Council to get something fixed, they call the employees. They are the ones that go out and fix things. When that canal collapsed, our people were over there pumping out water, cleaning up streets, etc. He has seen this repeatedly where the employees will work through the night and still show up at 8:00 in the morning for their regular shift and work the entire shift. Those people need to be taken care of, they are our

asset and that is what makes Murray what it is. Those are the issues that we have and he feels that they have handled it the best that they could.

Mr. Stam added that we had two floods in Murray Park where the employees spent a lot of hours.

Mr. Brass said that he drove through there in the middle of the night and saw Russ Kakala, Streets Superintendent, there. He doesn't believe that guy slept for a week or more. Again, Mr. Brass would like to extend a big thank you to the City employees and everyone who worked on the budget.

Mr. Stam added that with the addition of the Capital Improvement Plan and the efforts of the employees to save money in their budgets and giving money back to departments for their projects, it has given them incentive to try to save. That has had a big impact on what they have been able to do in their different departments. We are still coming out of a big hole through not being able to fund repair and our infrastructure for several years. We are still short but with the help of the different departments and the money that they are saving, we are making progress.

Mr. Nicponski stated that consistent with legal's direction he is going to ask staff in anticipation of the June 19th budget meeting to draft some intent language regarding the renewal of the lobbyist contracts so that they will have that for discussion. At this time, he would also like to enter an email letter from former Councilwoman Pat Griffiths (Attachment 1).

Mr. Stam asked to speak on the lobbyist issue so that everyone is aware of it. The City retained a lobbyist in 2008 for the first time. Since 2008, in the contracts with the City we have paid him approximately \$150,000.00. In return, he has brought us \$5.5 million in transportation funding to help with the roads and repair of roads. That was money very well spent because it kept our people busy and it gave us a lot of money to do a lot of road repair that we were not able to do without that money.

Mr. Nakamura, City Attorney, stated that it is his understanding that they will be preparing some changes to the intent document regarding the health insurance for Councilmembers, essentially deleting that from the intent document. Of course, the final decision on that will be made on June 19th, 2013 but they will go ahead and prepare something.

Mr. Shaver asked if it would not also require a change in the budget as well as the intent document.

Mr. Nakamura stated that was correct. The question arises as to where those funds are going to go.

Ms. Moore said that if they have the costs that were allocated for the insurance, do we decrease our revenue expectations on something that we think might not come in at

where we are projecting or do we apply the funds to something else such as the lobbyist that they are talking about and move those expenditures to that. There are funds allocated for the lobbyist. Then, to maintain the budget, we would just lower our revenue expectations. If the revenue comes in higher we will put that into reserves.

Public Hearing opened for public comment.

Virginia Talbot, 5926 Lupine Way, Murray, Utah

Ms. Talbot stated that she hasn't had a raise in the last ten years either. In fact she has had a lowering of her wages because she is retired. She thinks that many of the people here haven't had a raise in the last ten years either. She would like to discuss a couple of items on the budget. On garbage pickup the City has given them, or at least her, a \$153.00 a year increase in the cost of something that used to come out of her taxes.

Mr. Brass interrupted, stating that the City does not do the garbage service east of 900 East; that is Wasatch Waste and Recycling.

Ms. Talbot agreed that it is Salt Lake County and not Murray. The thing that she most objects to is the Storm Water Fund, which used to come out of her taxes and that the City wants to use 8% of that money for general tax use. She thinks that if the City puts in a special fund for Storm Water, the tax payer has no control over voting in or out. They are told how much they will pay and they have no control over the increases in that. She does not feel that is a good way for the City to increase its budget. She would rather have the City put it in the taxes where they know what it is and what it is going for.

David Hatch, 6507 River Edge Lane, Murray, Utah

Mr. Hatch stated that he is also under the opinion that utilities should pay for utility projects and not for roads, sidewalks, etc. It should be going to the Capital Improvement Plan. Mr. Stam mentioned that they are having a problem funding projects and Mr. Hatch doesn't believe that taking 8% off of water, off of sewer, off of power or off of the Storm Water fund is right. That money has been designated to those projects. The citizens complain about things that are visible, such as roads, but what they don't realize is that sewer is also a public service and we should also be investing in the utilities. We have a good example in what happened with the canal breaking. If the canal company would have taken their profits and invested in the infrastructure that canal would not have broken. The City should also use the money that has been slated towards utilities and invest in utilities.

Mr. Hatch wanted to pass out a map that shows the average sewer rate for this district. Murray City discharges to Central Valley Water Reclamation Facility, which he has outlined in red. You can see how it compares to other cities and districts and in the same vicinity. He said that you can see that Murray City is one of the top charging of the sewer rates. He feels that if there is a surplus the City should adjust the sewer rates and get them more in line with its neighbors. Mr. Hatch also attached an article from the Deseret News

about how the sewer rates are slated to increase based off of a study that the State has done based on increased costs that the State is going to mandate for nutrient removal. They are saying that it is going to raise the sewer rates another \$3.00 which is about 10%. If we know that is coming down from the State we shouldn't be taking 8%. We should be saving that for when that future budget happens. That is his opinion on using money for what it is slated for.

Wade Marshall Miller, 775 Chaparral Drive, Murray, Utah

Mr. Marshall said that even though he is fiscally conservative, he thinks that what they need to do is this. The library is very small and he thinks what they are going to end up having to do is get a new library soon. He proposes that the old library be converted...he had a structural engineer come up from Boise, Idaho and look at it. The engineer told him that you can't build onto it or change it. Murray is going to have to tear it down. The parking is a problem because a lot of meetings are going on there and parking is tight. There is property is available near the TRAX train not far from the hospital. He suggests that the Murray Library is given to the Police Department for their offices and build a new multi-level library. They can charge \$5.00 per card which is a modest fee that will, over time, pay for it. He understands that taxes will have to be raised a little bit for a new library but he's afraid that it is going to have to be. He has given brand new books to the library only to find, when he goes through the library lobby, that his books are for sale. These are brand new books but they won't put them on the shelves because they do not have the space for them. So they sell them in the library for \$.25. He has been buying back his books because Murray library refuses to put them on the shelf because they say they don't have the space. You can't build onto that library, you can't add a second floor or a basement. The library will have to be torn down and a new one built or build it out someplace else but it is going to have to be bigger.

Public comment closed.

8.1.1 Council consideration of the above matter.

Mr. Nakamura noted that the public hearing for the 19th has not been noticed yet. They will close the public comment. The Council will take into consideration all input provided today for the next meeting.

Mr. Hales said it was brought to his attention that there is some question about UTOPIA being funded through the Murray Power Department. He wanted to make it known that UTOPIA had asked for \$300,000.00 and it was turned down by the Council 4-1.

Mr. Brass said that was correct.

Mr. Shaver said that part of the difficulty with the Library is that the City does not own the land, only the building. The land itself belongs to the School District and if you drive by the library you will notice that they have built some mountains over there with dirt.

We have considered all of those things. One of the things in consideration is that this building in which we reside is not structurally sound, it is falling apart. The City spends a great deal of money trying to keep it up, just trying to maintain it and hold it up. It is an old building. There is a committee formed of administration and Council members as well as Department Heads who are looking at creating a new City Hall. That is not something that is today, it is not in this budget but it is under consideration. Some of the things that the committee has talked about is how to incorporate a library into that structure as one of the possibilities.

Secondly, Mr. Shaver asked Mr. Marshall if he is aware of the Friends of the Murray Library. The City is having these conversations as well. We recognize that the library has served Murray for many, many years but it is tight on space. There are a lot of people who are using those rooms continually for their meetings, etc. There are a lot of things that they have looked at. Obviously, Mr. Marshall's suggestions are taken in kind and will be a part of those discussions.

Mayor Snarr remarked on Mr. Hatch's sewer rate concerns. The City is strictly a user-based fee enterprise fund type of operation. Whatever amount of our sewer capacity you are using during the off season is what you are charged for throughout the year. They amortized that over the entire year. Most of the other cities are represented by improvement districts, except for South Salt Lake, and you will see their rates are very comparable to Murray. You have a combination of being charged on your property taxes as well as receiving a bill from those improvement districts. If you look at the two of those, Murray is right in the middle. You may think that we are out of line but really if you look overall where we are at, we are actually in the middle.

Murray City is part of Central Valley which is one of the most sophisticated sewer treatment plants currently in operation. There is the newer South Valley Sewer District out in Riverton which is going to need significant rates to pay for that. We have made a lot of improvements out there to make sure that what we are disposing back into the water system that eventually goes into the Great Salt Lake is probably the cleanest water you are going to find. The Mayor knows that they are talking about the phosphates and some other issues because he sat on the Board for six years on the Division of Water Quality. He can assure you that the rates here are very, very reasonable. You also have our sewage going to the most sophisticated sewer treatment plant in Utah. That costs money, but it has been a great investment that the City has made in that plant.

Mayor Snarr just wanted everyone to know that and later on he would like to talk to Mr. Hatch about what is known as 'In-lieu of Tax Transfer's' and how they operate. Cities that are serviced by, for instance, Rocky Mountain Power; that money actually goes from them back into the General Fund for the other cities, with the exception of the County.

Mayor Snarr stated he would make another comment about where we are at relative to our taxes compared to any other city in Salt Lake County during the Mayor's comments.

Mr. Hatch asked if he could rebuttal Mayor Snarr's comments.

Mr. Nicponski stated that would not be appropriate because public comment has been closed. He added that he would be available after the meeting for further discussion.

Mr. Brass stated he has had a lengthy discussion with a gentleman on the Storm Water In-lieu of Tax Transfer. As the Mayor said, it is exactly that. In lieu of a property tax that we would collect if it was a private entity we take this transfer instead to cover that. As far as storm water goes, that fee is charged to everybody. In the conversation he had with the gentleman he noted that we have a lot of non-taxable property in Murray. We have Intermountain Health Care, Cottonwood Hospital which is now TOSH, all the schools, all the parks, the golf courses, the TRAX stations, the UTA property and we have Salt Lake County property in a variety of locations. All of which the City does not derive property tax revenue from but all of which pay storm water fees at a higher rate than residential units do. It is based on impermeable surface. That is one way to get revenue from entities that don't normally pay property tax. The transfer from that in lieu of tax allows us to pave roads; some more roads but not a lot of roads throughout Murray because we are not talking about a lot of money.

With In-lieu of Tax Transfer, every city that he has dealt with in his private life does transfers and our percentage is actually one of the lowest of any city in the state. He knows cities that are charging 13% - 15%. We have lowered ours on some of our utilities recently. It does help the General Fund and he should have had that number in front of him, Mr. Zollinger gave that to him, on the percentage of property tax increase that would be if we eliminated tax transfers. Mr. Brass can tell you that the Power Department alone is \$3 million. When the State redistributed sales tax and we lost \$1.5 million. We had to raise our portion of property taxes 41% to cover that \$1.5 million. The \$3 million contribution with the Power Department will give you an idea of what that means.

Mr. Brass said that this gives services to the newer part of Murray to the east of 900 East. They are deriving benefit from most of the utilities which are not over there. It helps the entire City. He knows that people look at it as another fee or that the City is trying to hide something but we really aren't. It is a convention that every city uses.

The storm water is required by Federal Law. You mentioned nutrient removal; we are looking at that. He sits on the Central Valley Water Reclamation Facility Board and they have been studying this for several years, seeing it coming. They are looking at the Jordan River in particular. The Federal Government, the EPA, is looking at all waterways and they want to get nutrients down to acceptable levels. They have picked a number. We argue the science in that. It doesn't take into account all of the other factors that hit the Jordan River such as water coming out of the canyons. As it crosses the valley it picks up a tremendous amount of silt and leaves. Leaf matter decaying in the river raises the nutrient levels and we could argue that point. Storm water is one of the methods that we use to try to keep all of that out. All we can do is control the amount of runoff. If we had to treat runoff, it would be another \$30 million. The fund is necessary; the transfers help and as the Mayor said we would be more than happy to talk about that afterwards.

Mr. Nicponski added he wanted to address the lobbying issue after the meeting if Mr. DeMann will be available at that time.

Mr. Brass added that it would be a 68% property tax increase. It is \$3.7 million dollars and it helps out with police and fire services, street repair patching, street cleaning and sweeping, snow removal, curb and gutter, sidewalks, tree trimming, the library and Parks and Recreation services which are services that all of our citizens avail themselves of and we do tend to subsidize a lot.

Mr. Stam said he wanted to put what Mr. Brass said into layman's terms, which is what he needed to have to understand this. All of the non-profit entities do not pay property tax. Your property tax pays for the police, fire, and the services that are provided. Charging them these storm water fees and then having it transferred is a way of having the non-taxable entities pay for the police and other services. If you take what they are paying and take it out of them, then it is really not coming out of your pocket because you have already paid it in your property tax. It is really a small amount.

Mayor Snarr said that they have not paid their property taxes but they have paid it by paying their fees. The money in the In Lieu of Tax Transfer has gone back to the General Fund.

Mr. Nakamura said that they will now have a decision based on the comments of today and the Council will make a decision on the final budget on June 19, 2013.

9. **UNFINISHED BUSINESS**

9.1 None scheduled.

10. **NEW BUSINESS**

10.1 None scheduled.

11. **MAYOR**

11.1 Mayor's Report

Mayor Snarr thanked the residents in attendance for attending and weigh in on the budget. He said it was good opportunity to have a good educational moment.

As far as he knows, and the press calls him on this quite often, your property taxes are the lowest in Salt Lake County. The City has worked hard to keep them low. To Mr. Brass' point, when the Legislature decided that we were 'too wealthy' because we made way too much money on sales tax they came in and redid their redistribution formula of the sales tax money. It did hurt us to

the tune of close to \$1.5 million. With that said, Ms. Wells did receive a report, and everyone here should be thrilled because Murray is number six out of all the cities in the entire state of Utah as far as what we generate with sales tax. On a per-capita basis, he believes that he is correct in saying that we are number one. If you take our population and divide it into what we bring in we are number one. Although the hospital is a non-profit entity, Mayor Snarr praises them because they are the economic driver and will be the sustainer of the future success of Murray for decades and decades to come. Mayor Snarr said that Mr. DeMann was instrumental in making that possible and it was not an easy task. A lot of things had to be done in order to get everyone to agree to sign off on the clean-up of the property.

Mr. Nicponski interjected saying that it started off with the Murray golf course.

Mayor Snarr agreed saying that the idea was that Murray was in charge of the clean-up. The Mayor praised Mr. Pett and Mr. DeMann for the great work that they did on the Parkway. It is the finest parkway in all of Salt Lake County. As a resident, we need to look at the positive things we have as well and say this is really nice. We provide a great quality of life at a very reasonable price for all of our citizens. He looks at the hospital and realizes that we have the number one Costco because there are 5,000 employees sitting next door to it.

While he was out spraying some weeds for a citizen, he went over to Costco. He saw ten people behind every register. They did not have but four of the lanes open which is something that they are going to change, but we are very lucky to have Costco here. We have a very successful mall which generates over \$640.00 per square foot and is the number one mall in the western United States. Murray does have a lot of things going for it and he sometimes thinks that we should look on the bright side of what we have. This In-lieu of Tax Transfer has kind of bothered him because Murray is more than fair.

As far as roads go, Mayor Snarr has had one complaint from the very beginning. Nineteen ninety-seven is the last time that they raised the fuel tax. You have lost 40% of your buying power since then because of the cost of oil and some other factors and materials. A lot of our budget has been subsidized by the General Fund for improving our roads. We get what is called B and C Road Funds which are not near enough to do what we need to do.

Mayor Snarr had an extensive conversation at the Mayor's Conference last Thursday and they would like to see the optional County Fuel Tax which would mean additional money that would come straight to the City and would be dedicated to fixing roads only. This money would not go into the General Fund which serves a lot of masters; it would go strictly to the road fund to improve the roads. They are asking for this and he is in favor of it even if it means people will be angry with him. He knows that in the end if we had the money and the resources to fix roads in a timely manner it would ultimately save the City more money. When you do a total rebuild it is almost ten times more expensive than if you had done regular routine maintenance on the roads. In the end it would save us money if we were able to get on top of repairing our roads in a timely manner. He is in favor of that so if you see this happen, you can blame him for the fuel taxes going up because he said to put him at the top of the list for the change. He recognizes what this can mean for the City, just like he did with the Power Department. Murray has one of the best power rates. The Power Departments and can conceivably be debt free in the next three years.

No other power department can claim that. Your rates are not going to be going up because the City has been very judicious in the last four years in managing our power resources.

Mayor Snarr admitted to a little preaching here, but after fifteen years and five months in office, he realizes how lucky he is to be living here in Murray. It is probably the best city in Salt Lake County overall with the costs for you to live here and the services you receive. He is proud to say that he lives in Murray and it is a great, great city. It is the best city in America when you look at what Murray has to offer and what we can give the citizens and what we end up charging them for what we give them is unbelievably reasonable. He gets the data from everyone else. The residents that comment most favorably are from people who move here from other places. He has been told things like they have never seen the roads plowed so fast. The reason that the City can do that is that is because we don't just have a Streets Department of plows. We have a Water Department, a Sewer Department if we need them, the Power Department. We have a Parks Department. We do everything in-house. Perhaps that is why we have more employees than others, because we are not serviced by improvement districts.

Our ancestors were very independent in 1903 when they founded Murray and said that they were going to do it and do it right and in-house. Even to the tune of having our own library and school district. Mayor Snarr is one to say that our city is a great city and it is not because of the Mayor. It is because of good people who are here to serve the residents and do the best that they can. Things are not free and everyone wants to think that government can do it for free but that is why we are where we are at today. They promise them everything without stepping up and saying what it really is going to cost and charge them for it. That is why he is so supportive of raising this new legislation which will support the County's fuel tax. It came very close last year and he thinks that they are going to get it through this year in having that optional fuel tax. The Mayor said that people wouldn't be calling their office all the time complaining about the roads if this happens because you would see roads being repaired. They might be complaining about the cones everywhere though because the City would be repairing roads everywhere if they had that additional money. That would bring in almost an additional \$868,000.00 to our City every year to fix the roads. Just know that he is supportive of that.

Mayor Snarr said that everyone is invited, and he is very excited about the brand new Home2 Suites Hilton Hotel which is being built on Vine Street and State Street. Tomorrow at 10:00 a.m. they are having a big ground breaking. The Power Department has been over there working very aggressively to take the overhead lines and put them underground. All of the Department Heads have been invited to join the Mayor for the ceremony.

Mayor Snarr said that he and his staff have worked on Murdock Hyundai's Wounded Warrior Project. They are having a big festival over there to raise some money. You have seen it on T.V., they have talked about it on the radio and they have picked our City to come and do the concert. The gates open at 5:00 and if you would like to come, they would really like to have you. They have over six different bands and they do an excellent job. Unfortunately, he told the people who put this together, who are out of California, that Sunday is not the best day to hold a concert in Utah and asked them to do it on Saturday. They took his advice and that is when it is.

11.2 Questions of the Mayor

None

12. ADJOURNMENT

Jennifer Kennedy, City Recorder

Attachment 1

Reprinted from an email to Council Members, Monday, June 3, 2013

Murray City Council Members:

I was disappointed to note the topic of discussion at the Council Initiative Workshop on May 14, 2013 was provision of health and dental insurance for City Council Members. I see from the Council agendas, that this is now being considered in the budget. I regret that I am unable to attend the public hearing on this issue due to conflicting commitments and respectfully submit the following and request that it be read as part of the record:

I feel compelled to express my opinion on this issue, based on many years of experience in varied positions with Murray City.

In the 1960's, my late husband, Judge LeRoy H Griffiths, was appointed and worked for five years as Murray City Attorney, prior to his appointment to the bench where he served for 25 years. At that time, this was a part-time position with a salary of \$10,000 annually, plus \$125 per month to help defray the expenses of maintaining an office, library, and secretarial help. (Coincidentally, I was the secretary for his private practice and assisted him in his City responsibilities that included prosecutor and counsel to the City Commission. I did not receive a salary from the City.) Of course, no benefits were offered to him by virtue of the part-time status of this position. The hours worked far exceeded what was considered part-time work, but we were both happy for the opportunity and personal growth this experience offered us as we began our careers; and most importantly, it gave us the satisfaction of public service.

For approximately a year and a half in the 1970's, I worked part-time as a secretary in the City Engineer's Office. I was paid an hourly wage and, of course, no benefits were offered (nor expected) due to the part-time status of the position.

Throughout the years, particularly during the years of economic struggles, part-time employees have provided a valuable service to the community, often to balance the budget while performing necessary tasks to maintain quality services. As we all know, part-time workers in the City still are not eligible for benefits, and department heads need to carefully monitor their schedules to work within the policy guidelines.

City Council members are also part-time employees, just serving in a different role, and their positions are tenuous depending upon election results. From my eight-year experience as a City Council member (January 2002 thru December 2009), there were times when I spent more than 30 hours a week but other times were not as demanding, so it all evens out. Anything over that, I considered public service, the motivation I had to seek the office in the first place.

Whether or not other cities provide insurance benefits for their Council members is immaterial, in my opinion. I do not think that outweighs the inequities created by favoring one group of City employees over the others or the personnel morale problems that would result from such an action. In the final analysis, our City employees (part-time as well as full-time) are our most valuable resource, and they ultimately make the difference between success and failure of our community. Another group of people who contribute greatly to our community are the members of the City Boards & Commission, who serve selflessly without expectation of compensation or benefits. I appreciate the opportunity I have enjoyed over the years as a member of the Board of Adjustments, Planning & Zoning Commission, and Library Board which has been very rewarding.

I personally feel that the annual salary of \$13,738 (plus the benefits of cell phones, 401(k) benefits through the Utah Retirement Systems, a public relations stipend, and provision of a laptop computer) is adequate compensation for City Council Members. Especially considering the impact of the uncertainties of implementation of Obamacare, now is not a good time for the City to add insurance benefits for Council members. To add insurance benefits would be tantamount to Council members giving themselves a huge raise, something City employees have not enjoyed for several years.

Respectfully submitted,

Patricia W. Griffiths

DRAFT

Murray City Municipal Council Chambers Murray City, Utah

The Municipal Council of Murray City, Utah, met on Wednesday, the 19th day of June, 2013 at 6:30 p.m., for a meeting held in the Murray City Council Chambers, 5025 South State Street, Murray, Utah.

Roll Call consisted of the following:

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

Others who attended:

Tim Tingey,	Mayor Pro-Tem
Jan Wells,	Chief of Staff
Brent Davidson,	Deputy City Recorder
Frank Nakamura,	City Attorney
Gil Rodriguez,	Fire Chief
Justin Zollinger,	Finance Director
Michael Williams,	Court Administrator
Mike Terry,	Human Resources Director
W. Paul Thompson,	Municipal Court Judge
Jackie Sadler,	MCEA President
Karen Gallegos,	Municipal Court
Scouts	
Citizens	

5. OPENING CEREMONIES

5.1 Pledge of Allegiance- Tim Tingey, Administrative & Development Services Director

5.2 Approval of Minutes

5.2.1 Approval of minutes for March 5, 2013.

Mr. Shaver made a motion to approve the minutes.
Mr. Brass seconded the motion.

Voice vote taken, all "ayes."

5.3 Special Recognition:

5.3.1 Murray City Council Employee of the Month, Karen Gallegos, Municipal Court Clerk III.

Mr. Hales stated that this is the sixth month that they have presented this award and it is very exciting. Mr. Hales presented Ms. Gallegos with a \$50.00 gift card and a certificate for the Employee of the Month and added that her name has been placed on the plaque in the Council Chambers.

Staff presentation: Michael Williams, Court Administrator.

Mr. Williams stated that Ms. Gallegos has been with the Court for thirteen years. The Court opened in 1999 and she has been there the vast majority of time that the Court has been open. She and Jackie Sadler, Assistant Court Clerk III are the in-court clerks. Ms. Gallegos is a case manager for the DUI and Drug Court as well. She is always on top of getting the reviews in and making sure that everything is up to par for the Court and Judge Thompson.

Mr. Williams said that he appreciates this opportunity to have Ms. Gallegos here and working for the Court. He turned the time over to Ms. Gallegos.

Ms. Gallegos stated that she really enjoys working for the City. She has been here for thirteen years and it has been a really good thirteen years. She is hoping to be here for many more years and really enjoys working with the people that she works with. She enjoys listening to the defendants who come in and if they can get one person to say that they have made a difference in their lives and that they won't drink and drive, then they have done their job and that is what she really cares about.

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

Frank Nickel, 5024 Comanche Circle, Ogden, Utah

Mr. Nickel stated that he is trying to open an electronic cigarette store here in Murray. He understands that electronic cigarettes are a very new subject and it is a very confusing subject, even for people who are in the business selling the product. He wanted to point out that the State of Utah has put electronic cigarettes in a zoning situation the same as tobacco stores, which he doesn't really feel is right. Electronic cigarettes are trying to solve the problem, not be a part of the problem. Honestly, it is the best way to stop smoking. Your chances of stopping smoking with electronic cigarettes are 300% better than anything else and it is logical because you are still smoking although it is something that doesn't hurt you. It is not in the same category as tobacco. It has nothing to do with tobacco. It is basically a mixture of vegetable glycerin and propylene glycol. It looks like smoke, no question. There is no smell; you don't smell like a smoker. He can tell you that it is the only thing that stopped him from smoking. He smoked for 50 years and tried everything else. The reason that he went into this business is because he stopped smoking as soon as he went to electronic cigarettes. You feel better, all the good attributes are there from stopping smoking and you can do it inside. It doesn't create the problems of smoke. If you have ever been in a house that smokers were in, you know what he is saying. Electronic cigarettes do not have the same thing, there is no after effect.

The tobacco industry was on a real campaign to stop this. He thinks they have given up on that and are now going into the business. That situation is going to change where they were putting out a lot of bad publicity on it. If you go on the internet and research it, there are some unknowns. But, 95% of what you find on the internet is all positive. They have doctors sending people to their store to help them to quit smoking. He feels that this is an upcoming thing and really doesn't think that the City would want to eliminate the tax revenue that it would bring to it when stores come in. It is going to be a very popular subject. At some point in time it is pretty much going to eliminate smoking for anybody. That is a tough issue.

Mr. Hales has been very curious about this issue, as he doesn't know much about it. He noted that Mr. Nickel had stated that electronic cigarettes helped him quit smoking. He asked Mr. Nickel if he still uses the electronic cigarette.

Mr. Nickel said that he does but he could stop it right now. For the research that he has done, he will not do that. You can get the liquid with all different levels of nicotine, even down to zero. He won't even go off the zero because the research that he has done shows that nicotine is a brain stimulant. He read one research where they went into a home for people with dementia and they gave half of the people there a placebo for eight months and the other half they gave nicotine to. They retested all of these people after eight months and the half that had the placebo was 26% worse in their dementia and the half that they gave the nicotine to was 46% better with their dementia. There are problems with brain stimulants, it is a chemical, but with the age that he has at, he is not going to stay at a high level of nicotine.

Mr. Nicponski interjected stating that to answer Mr. Hales' question, Mr. Nickel still use the e-cigarette.

Mr. Nickel responded that he does.

Mr. Hales asked what the drawback was. Where the people do not want this, what do you find? Why do they not want it? Mr. Nickel stated that that the government didn't want this at first, what was the reasoning.

Mr. Nicponski added that Mr. Nickel said that the cigarette industry did not want it.

Mr. Nickel said that the State of Utah put zoning requirements for tobacco shops. They put electronic cigarettes into the same category which puts those zoning requirements on shops.

Mr. Hales asked if electronic cigarettes can be smoked inside, in such places as the mall.

Mr. Nickel said he would have to say no. As far as businesses go, a lot of people are letting people smoke electronic cigarettes inside of the business establishments.

Mr. Hales stated that he had seen people smoking these inside before. He wasn't sure where it was at, but he saw a younger person smoking one inside a business.

Mr. Nickel said that you will see that taking place in a lot of places. They did allow them to be used on airplanes but they stopped that because it looks like a cigarette. Just due to the fact that it has the same appearance as smoking is a problem in that regard.

Mr. Shaver said that this issue has come before them recently as a Council. The issue they have before them is that the State, at the present time, has labeled this as a tobacco product and therefore it is not up to the City as to whether they can change it or not. That is up to the State. Therefore, because they are still handled as a tobacco product, they still follow the zoning ordinances that the City has in regulating how many, where they are, the stores and the types. As much as the Council may want to change it, until the Legislature changes it, the City is still tied to what the Legislature have decided at the present time.

Mr. Tingey said that our ordinances right now regulate tobacco retailers and that is what the City will be looking at a little bit later on is allowing us to research this issue more fully and look at the regulation elements of e-cigarettes.

Citizen comment closed

7. **CONSENT AGENDA**

7.1 None scheduled.

8. **PUBLIC HEARINGS**

8.1 Public Hearing #1

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

Consider an Ordinance adopting the Final 2013 – 2014 Fiscal Year Budgets for Murray City including the Library Fund Budget.

Staff presentation: Justin Zollinger, Finance Director.

Mr. Zollinger stated that the City has worked for about the last five months on the budget and here we are, ready to adopt. We have created for our citizens and those who have come to be a part of this project, a balanced budget. The City has worked very hard to balance the different needs. If anyone would like to look at the budget, a digital copy can be located on our City website under the Finance Department. He would be happy to answer any questions that anyone has, but otherwise, he is ready to move forward with adopting the budget.

Public Hearing opened for public comment.

None given.

Public comment closed.

8.1.2 Council consideration of the above matter.

Mr. Brass made a motion to adopt the Ordinance.
Mr. Shaver 2nd the motion.

Call vote recorded by Brent Davidson.

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

Motion passed 5-0

8.2 Public Hearing #2

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

Consider an Ordinance amending the City's 2012-2013 Fiscal Year Budget.

Staff presentation: Justin Zollinger, Finance Director.

Mr. Zollinger stated these are some final housekeeping items for the end of Fiscal Year 2013. Many things are good news such as grants. Mr. Zollinger will go

through the items that they need to do a budget opening for.

The Fire Department has received two additional grants. One was from FEMA for \$6,329.00 for communication equipment. This grant required the City to do a City match for \$2,110.00. One thing that he was thinking that they could do is take a little bit of the money from our non-departmental and move it to the Fire Department so that they can make this purchase of these items. For this one, they have had to move fairly quickly as they have actually already received the money back from FEMA. They were able to respond to this quickly and get it in the budget.

The next grant was from the Utah Department of Public Safety in the amount of \$5,000.00 which is a pass-through. This is a scholarship to one of our Murray City residents, a high school student. We have also received that money as well and will get that one paid out.

The next amount is money that the City is requesting reimbursement from the Jordan Canal Company for emergency response. The total amount was \$29,331.00. Of that, \$26,680.00 was in the Public Works department. The Parks and Recreation department was \$788.00, the Police department was \$772.00 and the Fire department was \$1,091.00. We have requested that but have not received the check for that yet. It has been requested.

Mr. Nicponski asked Mr. Zollinger to repeat the total amount again.

Mr. Zollinger stated it was \$29,331.00. The City has already sent the invoice to them for that amount.

Mr. Shaver said that the City had to pay the employees for the overtime which comes out of our budget for this year. We have to figure out how to pay for that and get that money back.

Mr. Zollinger said that it increased our cost and this will help us to respond to those increased costs.

Mr. Shaver said it was worthwhile.

Mr. Zollinger agreed and said that there can't be enough good things said about how our employees responded so quickly and thoroughly to that situation.

Mr. Zollinger said that this is the third time that he has come for this grant. A lot of credit needs to be given to Doug Hill's department, particularly to Trae Stokes, City Engineer. The number that was previously given to the Council was \$105,000.00 for the Cottonwood/Winchester Street Intersection Grant. The money came in a little higher at \$107,293.00. That what the City received in grant money. We were not planning on receiving any of this money. This is additional

money that we received and had planned on paying out of our Class C Funds and we didn't have to. We will probably have a little more money to work with this next year after we get all of the numbers tied down, but Trae Stokes worked very hard and coordinated with UDOT to get that additional money.

Mr. Shaver asked about the comment made about having more money. Will that money go back into a CIP or does that go back into the General Fund, Class C or where will that money go back to?

Mr. Zollinger said that it will go back to the Class C Fund balance. That is a restricted fund balance because the State law requires us to have that. He will figure out what the ending balance will be in the Class C and they can re-appropriate it next year.

Mr. Shaver said that essentially then, there is \$2,900.00 some-odd more than the City had anticipated.

Mr. Zollinger said that the big thing here is that the \$107,000.00; the City was going to have to pay for all of that, but we got it in the grant. That was really good news.

The Library Fund received a grant from the Library Services and Technology Act for \$2,228.00. This was awarded for after school literacy programs and for the purchase of computers for that program.

The Recreation Center has had a lot of citizen involvement, more so than it has had in the past. The City paid \$30,000.00 more for uniforms than what we have budgeted. The great thing is that we have more than \$30,000.00 in revenue. There is revenue to cover this increased cost but we need to do a budget opening to help provide the budget so that the Recreation Center can pay for that.

Mr. Shaver asked if that was uniforms for ball players, soccer, baseball, and things like that.

Mr. Zollinger said that our youth involvement has been really great. In addition to this, they have also had credit card fees in this division that has gone up by about \$3,000.00. This portion, the \$3,000.00, will be paid by sales tax which is the funding mechanism for that.

The Park Center has had some HVAC system upgrades and repairs that needed to happen, actually breakdowns, not upgrades. The total amount of the repair was \$13,300.00. They would like an additional \$10,000.00. They are going to cover the \$3,300.00 but the \$10,000.00 would make it so they are, for the most part, whole. They are covering the other shortfall. This one would also be funded by our positive sales tax variance.

The ADS Department purchased an IBM mainframe server but we purchased it on a lease purchase. There are some accounting rules that require us to budget the amount as if we had bought it out of our own pockets, but you have to budget the full amount. As Mr. Zollinger was reviewing things for another lease that the City is looking at for next year, he discovered that we need to do that budget. It was already approved to make the purchase and purchase it through a lease purchase, but now we need to handle the budget. What we are going to do is increase the budget in equipment by the \$95,795.00 and increase proceeds from bonds/leases so it really is not an increase in money but it needs to be handled this way with the budget.

Mr. Shaver asked if this was a CIP.

Mr. Zollinger said that it was a CIP and was approved through a CIP process and through our budget process last year. It just wasn't budgeted for the full amount. What we budgeted for was a payment. You have to do that but you also have to budget as if you had received all of those proceeds.

Mr. Shaver said that you have the equipment but you are still paying for it as a portion yearly. So what fund does this get paid from?

Mr. Zollinger said that this one slipped through. It is out of the CIP and the first two years have been funded out of the four year lease.

Mr. Shaver said that each year they look at the CIP money and say that this money is to continue for this item.

Mr. Stam said that the hard part about this is that you have to account for all of it this year, which makes it confusing.

Mr. Zollinger stated that these are all of the items for this budget opening. He added that he appreciates the Departments communicating to the Finance Department on a quick basis to be able to respond to these grants. Some of them, the departments called him in the middle of May and said that they had to have this in May and needed to do a budget opening for it. By their good communication with the Finance Department, they were able to bring it before the Council and capitalize on this opportunity.

Public Hearing opened for public comment.

None given.

Public comment closed.

8.2.2 Council consideration of the above matter.

Mr. Stam made a motion to adopt the Ordinance with a change of the Public Works UDOT Grant from \$105,000.00 to \$107,293.00.

Mr. Hales 2nd the motion.

Call vote recorded by Brent Davidson.

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

Motion passed 5-0

9. **UNFINISHED BUSINESS**

9.1 None scheduled.

10. **NEW BUSINESS**

10.1 Consider an Ordinance adopting the rate of Tax Levies for the Fiscal Year commencing July 1, 2013 and ending June 30, 2014.

Staff presentation: Justin Zollinger, Finance Director

Mr. Zollinger stated that the certified tax rate for this year went down slightly because the City has experienced positive growth in the valuations of the properties in Murray, which is great. It increased by 4.82% in real property. Of that percentage, a portion was new growth. Since our property tax doesn't go up with inflation, there is no inflationary adjustment to it; the only way it really goes up is with new growth. Our car dealerships that were renovated and made nice and beautiful are considered new growth. Our new hotel that is going to be built at 5300 South is new growth. We had a good amount of new growth that occurred in the City this last year and it is affecting our property taxes. It is providing a little bit more revenue; approximately \$130,000.00 in revenue. Mr. Zollinger has placed that budget in non-departmental so that if we have any studies or things that we need to do this next year for whatever reason, that money will be there for us if we so choose.

In addition to that, our City Attorney, Frank Nakamura, wanted to discuss the judgment levy. Mr. Zollinger turned the time over to Mr. Nakamura.

Mr. Nakamura stated that under State law, we have the right to levy if there is a mandate either judicial or administrative order. If you do though, it would result in a Truth in Taxation hearing because it exceeds the certified tax. He would like to change that language slightly so that you can go ahead and levy any judicial order or administrative order if the Finance Director deems it necessary. If it is minimal we can absorb that in

the budget and there would be no need to have it as part of the property tax thus resulting in a Truth in Taxation hearing and all of the notices that go with that. That would be a slight change in the ordinance.

Mr. Shaver asked Mr. Nakamura if that is something that the Finance Director would be able to make a choice on based on whatever that rate is without necessarily coming before the Council. That is what they are trying to avoid with this.

Mr. Nakamura stated that was correct, if it is minimal.

Mr. Shaver asked if Mr. Nakamura had an idea of what “minimal” would be.

Mr. Nakamura said that they will be very specific in how much they are talking about.

Mr. Zollinger said that this was a new experience for him and something he had never seen this before. The City had a judgment levy that showed up on a letter from the County Auditor of \$11,975.00. His understanding of this, and he is still trying to wrap his head around it and learn, but if someone was to challenge the Board of Equalizations and say that their property valuation is too high and they win, it allows the City to do a change in our levy equal to that dollar amount. You are required to go through Truth in Taxation though. What happens is that the City is collecting less money, less property tax revenue so this would allow us to collect the same amount. But, \$11,975.00 to go through Truth in Taxation.....

Mr. Shaver interjected saying that is where his question lies. In other words, if you give the example of the property, if the property value is 1/2% or ¼% or 1% or if it is 10%, somewhere in there that it has to say if it is this, we aren't going to worry about it. If it is at another point, then we have to go through Truth in Taxation just to make sure that it is a public record, that we see it and recognize it, which is what this whole Council is about. Do you have an idea, like with this particular \$11,000.00, where did it come from?

Mr. Nakamura said that was the problem. These are mandates that we are just totally unaware of and have no control over. Part of it went through the judicial process and a week ago they tell us that there is this judgment levy. We can go through the year and this could happen. The court issues an order because somebody challenged the amount. He is thinking that is what happened, that a property owner challenged the property tax and prevailed in court. As you know, the court process can be very slow, it can be quick; we just get these mandates and have no control over them.

Mr. Shaver asked if the word ‘minimal’ is a part of the language.

Mr. Nakamura said that he did not use the word ‘minimal.’ He was using that granting to the Finance Director, his discretion and judgment on whether it would be something that the City would go out and levy rather than absorbing it in the budget. He used that just as allowing the Finance Director to exercise that discretion. It would only be in regards to

these mandates that we have no control over and are just presented to us without any notice.

Mr. Shaver thanked Mr. Nakamura for his explanation and asked if that particular portion is a part of this tax levy piece that they are looking at.

Mr. Nakamura said it is. If the Finance Director determines that it is of such an amount that the City will have it as part of the levy and go through Truth in Taxation, he can determine that.

Mr. Shaver asked if it was correct that these are usually judicial mandates.

Mr. Nakamura said that was correct, judicial or administrative mandates. It could be the Board of Equalization or it could be the Tax Commission.

Mr. Stam said that being somebody who has always been a party of having two people make every judgment and decision, would it be wise to include the Council Budget Chair in making that decision?

Mr. Nakamura said that would be fine. Again, it is timing. They never know when these are going to come through.

Mr. Stam said that if the City is going to make a decision to adjust the levy....

Mr. Zollinger stated that he can never adjust the levy. The fact that we have to go through Truth in Taxation, he has to come to the Council before he could do that. His view is that if he sees this, and this is the first time he has ever experienced this, he would want to come and talk to every Councilmember and say this was a judgment levy. They actually only have one shot at levying a tax to pick this up. Next year it is gone and you can no longer levy any more for that. He does not want it to only have his stamp on it; he wants all of them to have a discussion before that decision is made.

Mr. Nakamura noted that they could add that.

Mr. Stam said that if they are going to change language to add that, they need to make it say the right thing.

Mr. Nakamura said that they can add the Council Budget Chair into the language as well.

Mr. Zollinger said it should really be the Council as they are the ones that have to pass the resolution or ordinance.

Mr. Shaver said that the circumstance that they are describing is such an unusual thing. Rather than create whole language to deal with something that is unusual, we are saying that this is the discretionary power given to the Finance Director who in best judgment with the Council Budget Chair could make that decision.

Mr. Nakamura agreed saying that we have not seen this in at least the fifteen years that he has been with the City. It is unusual and it has caught us off guard.

Mr. Shaver wanted to make sure that he has the language right because if they are going to adopt an ordinance, they need to adopt it with the correct language.

Mr. Nicponski asked if we are talking about the \$11,000.00.

Mr. Nakamura stated that was correct. The language, as he proposes, is paragraph three of the proposed ordinance: "The Murray City Municipal Council hereby further levies a tax if deemed necessary by the Finance Director." If the Council wants to add the Council Budget Chair or the Council he will do that.

Mr. Shaver feels it should be the Council Budget Chair or else we would have to wait time-wise to take care of it and if it comes up quickly they want to deal with it quickly. If they do it with one member as opposed to all members it would be better.

Mr. Zollinger stated that he only found out about this eight days ago when he received the letter.

Mr. Shaver said that it still allows him to go to the City Attorney and the Council Budget Chair once he learns about it and he would be able to go forward with it. That would be the language that he would recommend for this.

Mr. Nakamura asked Mr. Stam if he feels that would work.

Mr. Stam said that is what he was asking for and it would protect all parties.

Mr. Nakamura said that they did not want to inadvertently levy that tax through this ordinance and be called for all the notices and hearings.

Mr. Hales commented that when they talked about the property taxes and all the revenue that comes in and everything from the dealerships, he helped his mother-in-law who lives on 20th East outside of Murray. A home comparable to hers right below 20th East was being evaluated at \$1,000.00 less per year in taxes than hers. He wishes that this room had 150 people in at like with another issue so that they can hear that. He was impressed at how much those businesses subsidize the taxes.

Mr. Zollinger agreed saying that is Murray City's advantage over other cities. That is why businesses like to come here.

Mr. Shaver made a motion to adopt the Ordinance to include language as described specifically by Frank Nakamura, City Attorney, to the inclusion of judicial, administrative or legislative mandates that are unexpected.

Mr. Brass 2nd the motion.

Call vote recorded by Brent Davidson.

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

Motion passed 5-0

- 10.2 Consider an Ordinance establishing a temporary land use regulation pursuant to Utah Code Ann. Section 10-9a-504 relating to E-Cigarette retailers.

Staff presentation: Tim Tingey, Administrative & Development Services Director

Mr. Tingey stated that this was prompted from a discussion that they had on land use issues on June 4, 2013. Some of the issues that were discussed did relate to e-cigarettes. The biggest issue that the City is looking at with this temporary land use Ordinance, and it is something that we are allowed to do through State law, is to understand this issue a little bit better. To understand what the health risks are and do some research to ascertain what the City needs to do as far as regulating e-cigarettes. It is not eliminating but it is regulating and it particularly relates to minors. Right now there are no age regulations related to these and the City wants to look into this and evaluate it. Based on that, this Ordinance addresses that. What it would do is it would mean that, if it is enacted by the Council, the City would not accept, process or approve any application for any proposed e-cigarette retailer in the City for a period of six months beginning June 5, 2013. That is what the proposal is and it will allow the City time to evaluate this and come back to the Council with a proposed Ordinance to regulate these issues after they study it and understand it a little more fully. They are recommending approval of this temporary land use regulation ordinance.

Mr. Shaver said that the idea is that we do the research relative to Murray City to craft an Ordinance as far as distance from minors, high schools, schools, etc. that would in some way mirror the ordinance for tobacco in some method or manner or whatever it happens to be.

Mr. Tingey said possibly. They are going to try to understand the issue a little bit more fully as far as the health risks and how that relates to minors and then possibly come back with an Ordinance that could include distance requirements related to facilities that house minors.

Mr. Shaver said that it could be left to say that e-cigarettes are combined with.... and we just add it to the ordinance that already exists. Somehow they are going to look at that and say that this is the best move for Murray.

Mr. Tingey said that was correct.

Mr. Nicponski asked if this effectively puts on hold any applications that the City may have pending.

Mr. Tingey said it would. It would put on hold any application that was not submitted prior to June 5, 2013.

Mr. Nicponski asked how many applications they had prior to June 5, 2013.

Mr. Tingey stated that there was one application that was submitted prior to June 5, 2013.

Mr. Nicponski asked how they would handle that application.

Mr. Tingey said it can move forward as long as it moves forward within a 90-day time frame. There is an allowance for a potential extension if they are moving forward with a lease. If not, it cannot move forward.

Mr. Shaver asked if Mr. Tingey had spoken with any other cities regarding this particular issue.

Mr. Tingey said that they have not had a conversation with any at this point, but they will.

Mr. Shaver asked Mr. Nickel if there is an Ordinance in Ogden that addresses this issue that he is aware of.

Mr. Nickel said that the Ordinance that basically all of the cities have adopted at this time is not by their choice, it is what the State that has done already. There is requirement in Utah, which is 19 here for all cigarettes and e-cigarettes. The zoning has been done by the State. It puts up parameters as to where you can be located because it put it in the same category as tobacco. This becomes restrictive because this State and tobacco is a very harsh subject. He doesn't think that electronic cigarettes should have been put into the same category, but it has been. He thinks that once the City looks into it, the requirements that the State has already put on you are going to be restrictive enough to satisfy anything that the City of Murray needs. The City doesn't have a choice but to go by those requirements but he doesn't think that the City will see a need to make more restrictive requirements.

Mr. Brass made a motion to adopt the Ordinance.

Mr. Hales 2nd the motion.

Call vote recorded by Brent Davidson.

 A Mr. Stam

 A Mr. Brass

- A Mr. Shaver
- A Mr. Hales
- A Mr. Nicponski

Motion passed 5-0

- 10.3 Consider a Resolution approving the revised polling locations specified by the Salt Lake County Clerk's Office, Elections Division, for the City's 2013 elections.

Staff presentation: Tim Tingey, Administrative & Development Services Director

Mr. Tingey stated that in April, 2013, the Council approved the polling locations. Since that time the County found out that some of the locations would not work for them so they had to switch those polling locations. This means that the City needs to revise what was approved by the City Council. This would affect Districts 3, 4 and 5 as far as locations and staff is recommending approval of this minor modification. The City will also make sure that the candidates are aware of these changes as well.

Mr. Shaver asked Mr. Tingey to repeat which ones will be changing.

Mr. Tingey said that in Districts 3, 4 and 5 is where there are some changes. The Discovery Christian Community location as a polling place has been eliminated and would move to the Utah Association of Counties. A portion of those districts will also be moved to Wheeler Historic Farm.

Mr. Shaver noted that it would mainly affect the eastern portions.

Mr. Tingey stated that was correct. Districts 3, 4, and 5 are the districts that are impacted.

Mr. Shaver made a motion to adopt the Resolution.
Mr. Stam 2nd the motion.

Call vote recorded by Brent Davidson.

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

Motion passed 5-0

- 10.4 Consider an Ordinance imposing a temporary ban on the discharge of fireworks and firearms in specific risk areas.

Staff presentation: Phil Roberts, Fire Marshal

Mr. Roberts said that as everyone has heard on the news fire risk is getting high throughout the State and the Country. This is a similar Ordinance to the one put in last year to protect these certain areas: Murray Park, Murray Parkway, the Jordan River and all those areas that are a high fire risk and Murray Park being an attraction for the public to display fireworks. They are asking that this ban be put into effect for the extreme fire danger season for this year. The exception that they have added to the Ordinance would be so that the City can have their 4th of July fireworks display. All that this is saying is that when the City has a public fireworks display it is permitted. It is done by professional pyrotechnics company and the Fire Department personnel are on standby to watch that.

They get a lot of questions as to why if the City can do it, why can't the public. There is an area of fallout that the Fire Department has to anticipate. They have to do maps and distances and they survey those areas to make sure they are safe or wetted down. It is a little bit different than a single family fireworks display in a cul-de-sac. They want to protect those areas. They also have some private industry that wants to do a display of fireworks and they will fall under the same regulations, needing a permit, contract with a professional pyrotechnic company and work with the City to supply fire protection, a brush truck and personnel to protect that area. Those are the exceptions that they have added to this so that they can go ahead and have some public display of fireworks but minimize the risks. The other would be that it would need to be 300 feet from the perimeter of the park and the perimeter of the Murray Park Trail.

Mr. Nicponski verified the distance was 300 feet.

Mr. Roberts stated that was correct. What they are trying to prevent is mainly the aerials that were adopted several years ago. They are trying to give that fall out distance. Sometimes the wind carries them a little bit but they are hoping that doesn't happen. In the past years they have had a number of fires down on the Parkway, and some of were not created by fireworks, but it is just an attractive nuisance.

Mr. Shaver pointed out that the City doesn't actually service Wheeler Farm, but that Mr. Roberts is saying that we are going 300 feet out from there because the County deals with that.

Mr. Roberts said that the City does actually service Wheeler Farm. We do the fire protection for that and respond to those areas. He failed to mention Wheeler Farm but the City protects that even though it is owned by the County. Unified Fire does not protect it, Murray City protects it.

Mr. Stam said it was interesting that it this ordinance also includes the discharge of firearms. Isn't discharging a firearm already illegal?

Mr. Roberts stated that they are following some State rules with this. On some of the hillside ordinances, they are trying to combine items because of some target practicing

last year that started some hillside fires. Within the State regulations it is worded in there and they are trying to mirror the State Code. They understand that the City has ordinances regarding discharging firearms but it is just easier to mirror the code than trying to manipulate it that much.

Mr. Stam explained that he wasn't sure if they were including BB guns or other things that wouldn't necessarily be illegal.

Mr. Shaver said that firearm was the specific term as BB guns are pump action.

Mr. Nakamura asked for clarification in that Wheeler Farm is regulated by the City and not by Unified Fire.

Mr. Roberts said that anything that happens there, if it is fire or medical, our City would respond to that.

Mr. Nakamura asked if we would need to put restrictions on Wheeler Farm itself.

Mr. Roberts said it does not say that in the ordinance.

Mr. Nakamura said that will be changed to specify that it includes Wheeler Farm and within 300 feet of the Farm.

Mr. Hales added that it was included in the ordinance last year.

Mr. Shaver reiterated that it would include within the boundaries of Wheeler Farm and within 300 feet of the Farm.

Mr. Roberts said it should be worded the same as it is for Murray Parkway.

Mr. Nakamura felt that it just needs to say Wheeler Farm and within 300 feet of that.

Mr. Hales made a motion to adopt the Ordinance with the addition of Wheeler Farm and within 300 feet of the farm.

Mr. Brass 2nd the motion.

Call vote recorded by Brent Davidson.

 A Mr. Stam

 A Mr. Brass

 A Mr. Shaver

 A Mr. Hales

 A Mr. Nicponski

Motion passed 5-0

Mr. Roberts added that the GIS Department did put together a PDF and they will get together so that the public will be very knowledgeable of what is going on and where the boundaries are. The Police Department stopped him and said that they had barely had a call on the boundaries. They will get together and get that information out there so that it is more palatable for the public.

11. **MAYOR**

11.1 Mayor's Report

None.

11.2 Questions of the Mayor

12. **ADJOURNMENT**

Jennifer Kennedy, City Recorder

Citizen Comments

Limited to three minutes, unless otherwise approved by the Council.

**Public
Hearing #1**

MURRAY CITY CORPORATION

NOTICE OF PUBLIC HEARING

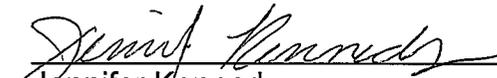
NOTICE IS HEREBY GIVEN that on the 6th day of August, 2013, at the hour of 6:30 p.m. of said day in the Council Chambers of Murray City Center, 5025 South State Street, Murray, Utah, the Murray City Municipal Council will hold a Public Hearing.

The purpose of this hearing is to receive public comment concerning a request to amend the Zoning Map for the property located at approximately 6358 South 900 East, Murray, Utah from Agricultural (A-1) to Residential Neighborhood Business (R-N-B) and Residential Single Family Low Density (R-1-8).

DATED this 12th day of July, 2013.



MURRAY CITY CORPORATION


Jennifer Kennedy
City Recorder

DATES OF PUBLICATION: July 21, 2013
PH 13-20

ORDINANCE NO. _____

AN ORDINANCE RELATING TO LAND USE; AMENDS THE ZONING MAP FOR PROPERTY LOCATED AT 6358 SOUTH 900 EAST, MURRAY CITY, UTAH FROM A-1 (AGRICULTURAL) TO R-N-B (RESIDENTIAL NEIGHBORHOOD BUSINESS) AND TO R-1-8 (SINGLE-FAMILY LOW DENSITY RESIDENTIAL). (Clarus Vision)

BE IT ENACTED BY THE MURRAY CITY MUNICIPAL COUNCIL AS FOLLOWS:

WHEREAS, the owner of the real property located at approximately 6358 South 900 East, Murray, Utah, has requested a proposed amendment to the zoning map to designate the property from A-1 (Agricultural) to R-N-B (Residential Neighborhood Business) and R-1-8 (Single Family Low Density Residential); and

WHEREAS, it appearing that said matter has been given full and complete consideration by the City Planning and Zoning Commission; and

WHEREAS, it appearing to be in the best interest of the City and the inhabitants thereof that the proposed amendment of the zoning map be approved.

NOW, THEREFORE, BE IT ENACTED:

Section 1. That the Zoning Map and the zone district designation be amended for the following described property located at 6358 South 900 East, Murray, Salt Lake County, Utah from the A-1 (Agricultural) to the R-N-B (Residential Neighborhood Business) and to the R-1-8 (Single-Family Low Density Residential):

Parcel No. 22-20-127-002-000

R-1-8 ZONING

BEGINNING AT A POINT WHICH IS 1343.29 FEET EAST AND 841.13 FEET SOUTH FROM THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°59'30" EAST 125.76 FEET; THENCE SOUTH 190.86 FEET; THENCE WEST 125.76 FEET; THENCE NORTH 190.88 FEET TO THE POINT OF BEGINNING.

CONTAINS 24,004 SQ. FT. OR 0.55 ACRES

LINE SEPARATING BOTH ZONES

BEGINNING AT A POINT WHICH IS 1343.29 FEET EAST, 841.13 FEET SOUTH AND SOUTH 89°59'30" EAST 125.76 FEET FROM THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE ALONG A LINE SOUTH 190.86 FEET TO THE POINT OF END.

R-N-B ZONING

BEGINNING AT A POINT WHICH IS 1343.29 FEET EAST, 841.13 FEET SOUTH AND SOUTH 89°59'30" EAST 125.76 FEET FROM THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°59'30" EAST 226.13 FEET; THENCE SOUTH 00°19'80" WEST 190.83 FEET; THENCE WEST 225.07 FEET; THENCE NORTH 190.86 FEET TO THE POINT OF BEGINNING.

CONTAINS 43,054 SQ. FT. OR 0.99 ACRES

Section 2. This Ordinance shall take effect upon the first publication and filing of copy thereof in the office of the City Recorder.

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on this day of , 2013.

MURRAY CITY MUNICIPAL COUNCIL

Brett A. Hales, Chair

ATTEST:

Jennifer Kennedy, City Recorder

MAYOR'S ACTION: Approved

DATED this ____ day of _____, 2013.

Daniel C. Snarr, Mayor

ATTEST:

Jennifer Kennedy, City Recorder

CERTIFICATE OF PUBLICATION

I hereby certify that this Ordinance was published according to law on the ____
day of _____, 2013.

Jennifer Kennedy, City Recorder

Street.

9. Provide an escrow bond for planned road improvements.
10. Complete the road improvements prior to occupancy of the Phase 2 apartments.

Seconded by Mr. Markham.

Call vote recorded by Ray Christensen.

A _____ Maren Patterson
A _____ Vicki Mackay
A _____ Jim Harland
A _____ Phil Markham
A _____ Karen Daniels

Motion passed, 5-0.

CLARUS VISION – 6358 South 900 East – Project #13-89 (Public Hearing)

Kyle Miller was the applicant present to represent this request. Tim Tingey reviewed the location and request from representatives of Clarus Vision for a Zone Map Amendment from A-1 (agricultural) to R-N-B (residential neighborhood business) for the eastern portion of the property and to R-1-8 (residential single family low density) for the west portion of the property. He indicated the distance for the R-1-8 property is 24,000 sq. ft. and distance is approximately 125 feet west to east. The R-N-B portion of the property is approximately 43,000 sq. ft. and is approximately 226 feet beginning at the R-1-8 boundary eastward. This proposal is consistent with the general plan. There was a recent request of Clarus Vision for the entire property to be zoned R-N-B, but was ultimately denied by the City Council. The applicants are requesting the zone change on the eastern portion of the property to Residential Business use in order to construct a new medical office building use on this property. The request for R-1-8 zone property to the west will be developed for residential single family dwellings. The property is approximately 1.54 acres. The A-1 agricultural zone allows agricultural uses, parks, open spaces, and residential single family dwellings. Other compatible uses require a Conditional Use Permit to include schools, churches, public parks. A variety of permitted uses are allowed in the R-N-B zone such as single family and two family dwellings, office uses, florists, and photography studio. Other uses allowed by Conditional Use Permit include bed and breakfast home-stay, delicatessen & lunch facilities, gift shop, books art & hobby supplies, banking services, churches and school. Various permitted uses are allowed in the R-1-8 zone such as dwellings and accessory uses, garages, carports and other uses for private recreation and gardening. Other uses allowed by Conditional Use Permit include uses such as churches, schools, public parks, and libraries. Based on the above findings, staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the requested Zone Map amendments.

Kyle Miller, Miller & Company Real Estate Services, indicated he is representing the applicant.

The public hearing was opened for public comment.

David Kirk, 825 Southwood Drive, complimented the commission members for their service. He stated that he hopes that a good relationship between the developer and the residents may continue with a good and equitable feeling in the neighborhood.

Lynn Bringham, 6399 Glenoaks Street, stated the irrigation ditches that run through the property have been nothing but a problem to the area. He stated where Dr. Allred currently has his offices, the commission approved an elevation change on the property which created a dam and the irrigation ditch sits both behind his home which flooded over this year onto his property. He stated if this property is developed, it may also create another dam if it too is to be enclosed.

The public comment portion was closed.

Mr. Harland made a motion to send a recommendation of approval to the city council for a zone map amendment for the property addressed 6358 South 900 East, from A-1 (Agricultural) to R-N-B (Residential Neighborhood Business) for the eastern portion of the property; and R-1-8 (Residential Single Family Low Density) for the western portion of the property. Seconded by Mr. Markham.

A _____ Maren Patterson
A _____ Karen Daniels
A _____ Jim Harland
A _____ Phil Markham
A _____ Vicki Mackay

Motion passed, 5-0.

The public hearing portion of the meeting was closed.

OTHER BUSINESS

Mr. Tingey stated at the city council meeting last night, the city council passed a temporary land use ordinance, or a moratorium on electronic cigarettes, "e cigarettes", retail and wholesale type facilities. This came up on as a discussion on June 4 with the city council. There have been a lot of these types of requests from retailers to locate into the city. There are currently no regulations related to these types of businesses. The "e cigarettes" don't fall onto the tobacco retailer ordinance. Last night the city council approved a 6 month moratorium that began on June 5th which allows time to study the issue. This land use proposal does not have to go before the planning commission per state law and is allowed to go straight before the city council because of time issues, especially related to regulating these types of businesses.

Mr. Tingey stated part of the issue is to understand how "e cigarettes" impact minors. He stated that the selling of tobacco products has stipulations related to distance from

TO: Murray City Planning Commission

FROM: Murray City Community & Economic Development Staff

DATE OF REPORT: June 14, 2013

DATE OF HEARING: June 20, 2013

PROJECT NAME: Clarus Vision Clinic

PROJECT NUMBER: 13-00000089

PROJECT TYPE: Zoning Map Amendment

APPLICANT: Travis Maughan

PROPERTY ADDRESS: 6358 S. 900 E.

SIDWELL #: 22-20-127-002

ZONE: A-1

PROPERTY SIZE: 1.54 Acres

I. REQUEST:

Representatives of Clarus Vision Clinic are requesting a Zone Map Amendment from A-1 (agricultural) to R-N-B (residential neighborhood business) for the eastern portion of the property and to R-1-8 (residential single family low density) for the west portion of the property. (See the attached zone map.)

II. BACKGROUND AND ANALYSIS

Representatives of Clarus Vision Clinic are requesting a Zone Map Amendment from A-1 (agricultural) to R-N-B (residential neighborhood business) for the eastern portion of the property and to R-1-8 (residential single family low density) for the west portion of the property. (See the attached zone map.) The applicants are requesting the zone change on the eastern portion of the property to Residential Business use in order to construct a new medical office building use on this property. The request for R-1-8 zone property to the west will be developed for residential single family dwellings.

Site Location/Detail

The property is located to the west of 900 East Street and south of Southwood Drive.

Surrounding Land Use & Zoning

<u>Direction</u>	<u>Land Use</u>	<u>Zoning</u>
North	Single Family Dwelling	R-1-8
South	Single Family Dwellings	A-1 & R-1-8
East	Wheeler Farm	O-S
West	Single Family Dwelling	R-1-8

Allowed Land Uses

Existing: The A-1 agricultural zone allows agricultural uses, parks, open spaces, and residential single family dwellings. Other compatible uses require a Conditional Use Permit to include schools, churches, and public parks.

Proposed: A variety of permitted uses are allowed in the R-N-B zone such as single family and two family dwellings, office uses, florists, and photography studio. Other uses allowed by Conditional Use Permit include bed and breakfast home-stay, delicatessen & lunch facilities, gift shop, books art & hobby supplies, banking services, churches and schools.

Proposed: Various permitted uses are allowed in the R-1-8 zone such as dwellings and accessory uses, garages, carports and other uses for private recreation and gardening. Other uses allowed by Conditional Use Permit include uses such as churches, schools, public parks, and libraries.

III. PUBLIC INPUT

A mailing was sent on June 5, 2013 to the surrounding property owners in the area. As of the date on this report, we have not received any public input regarding this proposal.

IV. GENERAL PLAN ANALYSIS

The purpose of the General Plan is to provide overall goal and policy guidance related to planning issues in the community. The plan provides for flexibility in the implementation of the goals and policies depending on individual situations and characteristics of a particular site. Chapter 2 of the Murray City General Plan identifies the goals and objectives for land

use in the community. The plan also identifies future land use as depicted in Map 2-4. The requested zone change to R-N-B for the east portion of the property and R-1-8 for the west portion of the property is consistent with the Murray General Plan.

V. FINDINGS

A. Is there need for change in the proposed zoning at the subject location for the neighborhood or community?

The applicant's request for the proposed zone change to R-1-8 and R-N-B is consistent with the General Plan for residential single family low density and residential business use at the subject location.

B. If approved, how would the range of uses allowed by the Zoning Ordinance blend with surrounding uses?

The uses allowed in the R-1-8 and R-N-B zone for residential single family low density and residential neighborhood business uses are types of uses selected to be compatible with the surrounding neighborhood and residential uses. Also, properties to the south abutting 900 east have been zone changed to R-N-B and developed with similar office uses.

C. What utilities, public services, and facilities are available at the proposed location? What are or will be the probable effects the variety of uses may have on such services?

The subject area is located in a developed part of the City and is served by all utilities, public services and facilities. The office use will have little impact on the services in this area.

VI. CONCLUSION

- i. The General Plan provides for flexibility in implementation and execution of the goals and policies based on individual circumstances.**
- ii. The requested change has been carefully considered based on characteristics of the site and surrounding area and policies of the General Plan.**
- iii. The proposed R-1-8 zone and R-N-B zone is consistent with the direction of the Murray General Plan for a zone change from Agriculture to Residential Single Family and to Residential Business.**

VII. STAFF RECOMMENDATION

Based on the above findings, staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the requested Zone Map amendments.

\\DMS2\DMSDOCS\HTLTR\PLTR\PROD\PZ2013\P0005246.DOC

SITE INFORMATION



6358 S. 900 E.



MURRAY
COMMUNITY AND
ECONOMIC
DEVELOPMENT





June 5, 2013

NOTICE OF PUBLIC HEARING

This notice is to inform you of a Planning Commission Hearing scheduled for Thursday, June 20, 2013, at 6:30 p.m., in the Murray City Municipal Council Chambers, 5025 South State Street.

Representatives of Clarus Vision Clinic are requesting a zone map amendment from A-1 (Agriculture) to R-1-8 (Low Density Single Family Residential), at the west portion of the property, and to R-N-B (Residential Neighborhood Business), at the east portion of property, located at the property addressed 6358 South 900 East. See the attached map. This notice is being sent to you since you own property within the near vicinity. Comments at the meeting will be limited to 3 minutes per person per item. A spokesman who has been asked by a group to summarize their concerns will be allowed 5 minutes to speak. Comments which cannot be made within these limits should be submitted in writing to the Community & Economic Development Department at least one day prior to the day of the meeting.

If you have questions or comments concerning this proposal, please call Ray Christensen with the Murray City Community Development office, at 801-270-2420, or e-mail to rchristensen@murray.utah.gov.

SPECIAL ACCOMMODATIONS FOR THE HEARING OR VISUALLY IMPAIRED WILL BE MADE UPON A REQUEST TO THE OFFICE OF THE MURRAY CITY RECORDER (264-2660). WE WOULD APPRECIATE NOTIFICATION TWO WORKING DAYS PRIOR TO THE MEETING. TDD NUMBER IS 801-270-2425 OR CALL RELAY UTAH AT #711.



APPLICATION MATERIALS

13-89

ZONING AMENDMENT APPLICATION

Type of Application (check all that apply):

- Zoning Map Amendment
- Text Amendment
- Complies with General Plan
 - Yes No

Subject Property Address: 6358 South 900 East

Parcel Identification (Sidwell) Number: 22-20-127-002-000

Parcel Area: 1.54 Acres Current Use: Residence/Farm

Existing Zone: A-1 Proposed Zone: RNB & R18

Applicant Name: Travis Maughan

Mailing Address: 2505 East Parleys Way

City, State, ZIP: Salt Lake City, Utah 84109

Daytime Phone #: 801.924.5000 Fax #: 801.924.5001

Email address: tmaughan@archnexus.com

Business Name (If applicable): Architectural Nexus

Property Owner's Name (If different): Art Cracraft

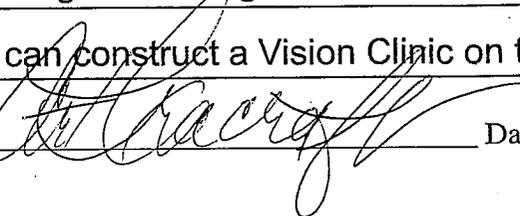
Property Owner's Mailing Address: 2111 River of Fortune

City, State, Zip: St. George, UT 84790

Daytime Phone #: 801.674.2838 Fax #: _____

Describe your reasons for a zone change (use additional page if necessary):

Desire to change existing A-1 zoning to RNB on East portion of
property and existing A-1 zoning to R-1-8 to match the general
plan, so that we can construct a Vision Clinic on the RNB portion.

Authorized Signature:  Date: 05.15.2013

Travis Maughan

From: David McKinney <bromac@live.com>
Sent: Tuesday, May 28, 2013 4:19 PM
To: Travis Maughan
Subject: Legals

Travis,

Below are three legals that I have provided to insure you have what you need. The first is the R18 area of the property, the second is the line that separates the two and the third is the R-N-B area of the parcel.

R18 ZONING LEGAL

BEGINNING AT A POINT WHICH IS 1343.29 FEET EAST AND 841.13 FEET SOUTH FROM THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°59'30" EAST 125.76 FEET; THENCE SOUTH 190.86 FEET; THENCE WEST 125.76 FEET; THENCE NORTH 190.88 FEET TO THE POINT OF BEGINNING.
CONTAINS 24,004 SQ. FT. OR 0.55 ACRES

LINE LEGAL

BEGINNING AT A POINT WHICH IS 1343.29 FEET EAST, 841.13 FEET SOUTH AND SOUTH 89°59'30" EAST 125.76 FEET FROM THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE ALONG A LINE SOUTH 190.86 FEET TO THE POINT OF END.

R-N-B ZONING LEGAL

BEGINNING AT A POINT WHICH IS 1343.29 FEET EAST, 841.13 FEET SOUTH AND SOUTH 89°59'30" EAST 125.76 FEET FROM THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°59'30" EAST 226.13 FEET; THENCE SOUTH 00°19'80" WEST 190.83 FEET; THENCE WEST 225.07 FEET; THENCE NORTH 190.86 FEET TO THE POINT OF BEGINNING.
CONTAINS 43,054 SQ.FT. OR 0.99 ACRES

David McKinney, PLS
(801)859-2416

BROMAC Land Surveying and Engineering

Property Owners Affidavit

I (we) ART CRACRAFT / ELMO CRACRAFT ESTATE, being first duly sworn, depose and say that I (we) am (are) the current owner of the property involved in this application: that I (we) have read the application and attached plans and other exhibits and are familiar with its contents; and that said contents are in all respects true and correct based upon my personal knowledge.

X [Signature]

Owner's Signature

Owner's Signature (co-owner if any)

Subscribed and sworn to before me this 9th day of MAY, 2013.

[Signature]

Notary Public

Residing in Murray UT

My commission expires: 11/21/2015



Agent Authorization

I (we), Elmo Cracraft Estate, the owner(s) of the real property located at 6358 S. 900 East, in Murray City, Utah, do hereby appoint

Architectural Nexus, as my (our) agent to represent me (us) with regard to this application affecting the above described real property, and authorize

Architectural Nexus to appear on my (our) behalf before any City board or commission considering this application.

X [Signature]

Owner's Signature

Owner's Signature (co-owner if any)

On the 9th day of May, 2013, personally appeared before me

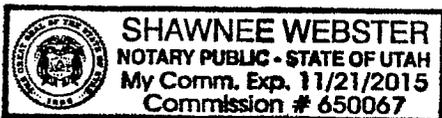
Art Cracraft the signer(s) of the above Agent Authorization who duly acknowledge to me that they executed the same.

[Signature]

Notary Public

Residing in Murray

My commission expires: 11/21/2015



4770 S. 5600 W.
P.O. BOX 704005
WEST VALLEY CITY, UTAH 84170
FED.TAX I.D.# 87-0217663
801-204-6910

The Salt Lake Tribune
WWW.SLTRIB.COM

MEDIAOne
OF UTAH
A NEWSPAPER AGENCY COMPANY
WWW.MEDIAONEUTAH.COM

Deseret News
WWW.DESERETNEWS.COM

PROOF OF PUBLICATION

CUSTOMER'S COPY

CUSTOMER NAME AND ADDRESS	ACCOUNT NUMBER	DATE
MURRAY CITY RECORDER, 5025 S STATE, ROOM 113 MURRAY, UT 84107	9001341938	6/10/2013

*Clarus Rezone
R-N-B + R-1-B*

FILE COPY

ACCOUNT NAME			
MURRAY CITY RECORDER,			
TELEPHONE	AD ORDER / INVOICE NUMBER		
8012642660	0000885068 /		
SCHEDULE			
Start 06/09/2013		End 06/09/2013	
CUST REF NO.			
Plan Comm PH 6/20			
CAPTION			
MURRAY CITY CORPORATION NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN			
SIZE			
17 Lines		2.00 COLUMN	
TIMES	RATE		
4			
MISC. CHARGES	AD CHARGES		
TOTAL COST			
62.12			

**MURRAY CITY CORPORATION
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that on the 20th day of June, 2013, at the hour of 6:30 p.m. of said day in the Council Chambers of Murray City Center, 5025 South State Street, Murray, Utah, the Murray City Planning Commission will hold and conduct a Public Hearing for the purpose of receiving public comment on and pertaining to Zone Map Amendment from R-1 (Agricultural) to R-N-B (Residential Neighborhood Business) & R-1-B (Residential Single Family) for the property located at 635B South 900 East, in Murray City, Salt Lake County, State of Utah.

MURRAY CITY CORPORATION
Chad Wilkinson, Manager
Community & Economic Development
885068

AFFIDAVIT OF PUBLICATION

AS NEWSPAPER AGENCY COMPANY, LLC dba MEDIAONE OF UTAH LEGAL BOOKER, I CERTIFY THAT THE ATTACHED ADVERTISEMENT OF **MURRAY CITY CORPORATION NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that on the 20th day of June, 2013, at the hour of 6:30 p.m. of said day in the Council** FOR **MURRAY CITY RECORDER**, WAS PUBLISHED BY THE NEWSPAPER AGENCY COMPANY, LLC dba MEDIAONE OF UTAH, AGENT FOR THE SALT LAKE TRIBUNE AND DESERET NEWS, DAILY NEWSPAPERS PRINTED IN THE ENGLISH LANGUAGE WITH GENERAL CIRCULATION IN UTAH, AND PUBLISHED IN SALT LAKE CITY, SALT LAKE COUNTY IN THE STATE OF UTAH. NOTICE IS ALSO POSTED ON UTAHLEGALS.COM ON THE SAME DAY AS THE FIRST NEWSPAPER PUBLICATION DATE AND REMAINS ON UTAHLEGALS.COM INDEFINATELY.

PUBLISHED ON Start 06/09/2013 End 06/09/2013

SIGNATURE 

DATE 6/10/2013

 **VIRGINIA CRAFT**
Notary Public, State of Utah
Commission # 581469
My Commission Expires
January 12, 2014

Virginia Craft

**THIS IS NOT A STATEMENT BUT A "PROOF OF PUBLICATION"
PLEASE PAY FROM BILLING STATEMENT**

Clarus Vision- Gen Plan Amend &
Rezone 6358 S 900 E + Affec Ent
P/C 3/21/13 & 6/20/13

AJS PROFESSIONAL CENTER, LLC
Attn: Dr Stosich
6268 S 900 E
MURRAY UT 84107

ANDERSON, MARY D; TR
824 E SOUTHWOOD DR
MURRAY UT 84107

ANDERSON, MICHAEL &
6391 S GLEN OAKS ST
MURRAY UT 84107

BALLARD, BRANDON &
6394 S GLEN OAKS ST
MURRAY UT 84107

BARNETT, SUSAN J &
6375 S GLEN OAKS ST
MURRAY UT 84107

BARNETT, SUSAN J &
6375 S GLEN OAKS ST
MURRAY UT 84107

BRIGGS, L DON & LARAYNE; TRS
823 E BRIARMEADOW AVE
MURRAY UT 84107

BRINGHURST, LYNN H & DIANE B;
6399 S GLEN OAKS ST
MURRAY UT 84107

BROWN, DE WILTON &
834 E SOUTHWOOD DR
MURRAY UT 84107

CRACRAFT, ARTHUR F &
6371 S GLEN OAKS ST
MURRAY UT 84107

CRACRAFT, ARTHUR F &
6371 S GLEN OAKS ST
MURRAY UT 84107

CRACRAFT, ELMO L.
6371 S GLEN OAKS ST
MURRAY UT 84107

ELLETT, WALTER R. & CLAUDIA W.
824 E OAKMONT AVE
MURRAY UT 84107

ESKELSON, DAWN L
831 E BRIARMEADOW AVE
MURRAY UT 84107

FORREST, DON R & CHERYL E
823 E OAKMONT AVE
MURRAY UT 84107

GRAVES, SCOTT C &
6374 S 900 E
SALT LAKE CITY UT 84121

JOHN, JEROLYN; TR
834 E OAKMONT AVE
MURRAY UT 84107

KIRK, DAVID D &
825 E SOUTHWOOD DR
MURRAY UT 84107

KNUDSON, JASON
6324 S GLEN OAKS ST
MURRAY UT 84107

LODGE, NOLA D
885 E SOUTHWOOD DR
MURRAY UT 84107

PENNEY, PHILIP D; TR
119 S 150 E
NORTH SALT LAKE UT 84054

PENNEY, PHILIP D; TR
119 S 150 E
NORTH SALT LAKE UT 84054

PENNEY, PHILIP D; TR
119 S 150 E
NORTH SALT LAKE UT 84054

PENNEY, PHILIP D; TR
119 S 150 E
NORTH SALT LAKE UT 84054

PUIKKONEN, VEIKKO J &
6290 S GLEN OAKS ST
MURRAY UT 84107

REYNOLDS, BOYD & KATHLEEN
6356 S GLEN OAKS ST
MURRAY UT 84107

RICHARDS, BRANDON S
6278 S GLEN OAKS ST
MURRAY UT 84107

SEARS, GARY A &
6336 S GLEN OAKS ST
MURRAY UT 84107

SNARR, GROVER K &
6393 S SILVERBELL ST
MURRAY UT 84107

SOFFE, JAREN C &
6275 S GLEN OAKS ST
MURRAY UT 84107

SOFFE, JAREN C &
6275 S GLEN OAKS ST
MURRAY UT 84107

SUTHERLAND, DOREIN C. & JOAN W
861 E SOUTHWOOD DR
MURRAY UT 84107

TAYLOR, LAURI &
6420 S 900 E
SALT LAKE CITY UT 84121

THOMPSON, RYAN B &
6374 S GLEN OAKS ST
MURRAY UT 84107

WARD, WILLIAM S &
831 E OAKMONT AVE
MURRAY UT 84107

WILSON, KIM
836 E WILLOW WOOD AVE
MURRAY UT 84107

ZOLLINGER, ALDEN J &
873 E SOUTHWOOD DR
MURRAY UT 84107

6412 SOUTH LLC
6412 S 900 E # 101
MURRAY UT 84121

BAZ ENTERPRISES LLC
6310 S 900 E
SALT LAKE CITY UT 84121

BROCKBANK OFFICE CONDOMINIUM
6412 S 900 E # 201
MURRAY UT 84121

CROSS & ASSOCIATES CERTIFIED
6412 S 900 E # 201
SALT LAKE CITY UT 84121

HARRIS PACIFIC LLC
PO BOX 171319
SALT LAKE CITY UT 84117

LJJ&KLLC
959 E VINE ST
MURRAY UT 84121

MURRAY GREENHOUSE
FOUNDATION
4763 S CHESTNUT GLEN DR
MURRAY UT 84107

SALT LAKE COUNTY
PO BOX 144575
SALT LAKE CITY UT 84114

SALT LAKE COUNTY
PO BOX 144575
SALT LAKE CITY UT 84114

SALT LAKE COUNTY
PO BOX 144575
SALT LAKE CITY UT 84114

SALT LAKE COUNTY
PO BOX 144575
SALT LAKE CITY UT 84114

THREE FUTURES LLC
8395 S PARK HURST CIR
SANDY UT 84094

P/C AGENDA MAILINGS
"AFFECTED ENTITIES"
Updated 03/1/13

UDOT - REGION 2
ATTN: MARK VELASQUEZ
2010 S 2760 W
SLC UT 84104

UTAH TRANSIT AUTHORITY
ATTN: PLANNING DEPT
PO BOX 30810
SLC UT 84130-0810

TAYLORSVILLE CITY
PLANNING & ZONING DEPT
2600 W TAYLORSVILLE BLVD
TAYLORSVILLE UT 84118

WEST JORDAN CITY
PLANNING DIVISION
8000 S 1700 W
WEST JORDAN UT 84088

CHAMBER OF COMMERCE
ATTN: STEPHANIE WRIGHT
5250 S COMMERCE DR #180
MURRAY UT 84107

MURRAY SCHOOL DIST
ATTN: PAT O'HARA
147 E 5065 S
MURRAY UT 84107

MIDVALE CITY
PLANNING DEPT
655 W CENTER ST
MIDVALE UT 84047

SALT LAKE COUNTY
PLANNING DEPT
2001 S STATE ST
SLC UT 84190

GRANITE SCHOOL DIST
ATTN: KIETH BRADSHAW
2500 S STATE ST
SALT LAKE CITY UT 84115

UTAH POWER & LIGHT
ATTN: KIM FELICE
12840 PONY EXPRESS ROAD
DRAPER UT 84020

QUESTAR GAS
ATTN: BRAD HASTY
P O BOX 45360
SLC UT 84145-0360

COTTONWOOD IMPRVMT
ATTN: LONN RASMUSSEN
8620 S HIGHLAND DR
SANDY UT 84093

JORDAN VALLEY WATER
ATTN: LORI FOX
8215 S 1300 W
WEST JORDAN UT 84088

CENTRAL UTAH WATER DIST
355 W UNIVERSITY PARKWAY
OREM UT 84058

HOLLADAY CITY
PLANNING DEPT
4580 S 2300 E
HOLLADAY UT 84117

COTTONWOOD HEIGHTS CITY
ATTN: PLANNING & ZONING
1265 E FT UNION BLVD #250
CTNWD HEIGHTS UT 84047

SANDY CITY
PLANNING & ZONING
10000 CENTENNIAL PRKWY
SANDY UT 84070

UTOPIA
Attn: JARED PANTIER
2175 S REDWOOD RD
WEST VALLEY UT 84119

UTOPIA
Attn: TOM MARRIOTT
2175 S REDWOOD RD
WEST VALLEY CITY UT 84119

GENERAL PLAN MAILINGS:

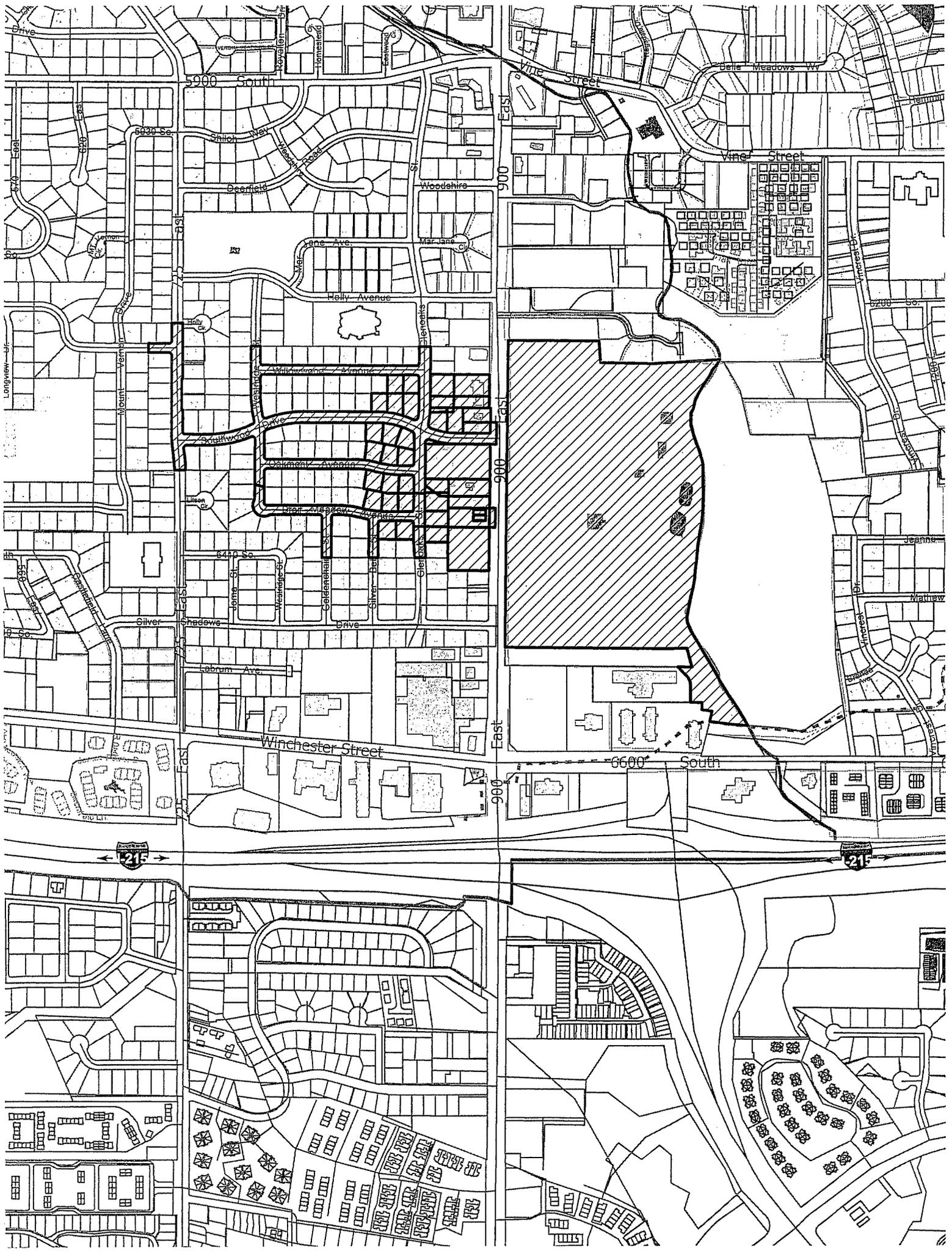
UTAH AGRC
STATE OFFICE BLDG #5130
SLC UT 84114

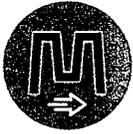
WASATCH FRONT REG CNCL
PLANNING DEPT
295 N JIMMY DOOLITTLE RD
SLC UT 84116

«Next Record»

«Next Record»

«Next Record»





MURRAY CITY CORPORATION
ADMINISTRATIVE &
DEVELOPMENT SERVICES

B. Tim Tingey, Director

Building Division
Community & Economic Development
Geographic Information Systems

Information Technology
Recorder Division
Treasurer Division

NOTICE OF PUBLIC HEARING

This notice is to inform you of a Public Hearing scheduled for Tuesday, August 6, 2013 at 6:30 p.m. in the Murray City Council Chambers, 5025 South State Street.

Clarus Vision is requesting an amendment to the Zoning Map from A-1 (Agricultural) to R-N-B (Residential Neighborhood Business) and R-1-8 (Single-Family Low Density Residential) for the property located at approximately 6358 South 900 East, Murray, Utah.

The purpose of this hearing is to receive public comment concerning the proposed amendment to the Zoning Map as described above.

See the attached subject property map. This notice is being sent to you since you own property within the near vicinity. Comments at the meeting will be limited to 3 minutes per person per item. A spokesman who has been asked by a group to summarize their concerns will be allowed 5 minutes to speak. Comments which cannot be made within these limits should be submitted in writing to the Community & Economic Development Department at least one day prior to the day of the meeting.

If you have questions or comments concerning this proposal, please call the Murray City Community & Economic Development Department office, at 801-270-2420 or e-mail sdewey@murray.utah.gov.

SPECIAL ACCOMMODATIONS FOR THE HEARING OR VISUALLY IMPAIRED WILL BE MADE UPON A REQUEST TO THE OFFICE OF THE MURRAY CITY RECORDER (801-264-2660). WE WOULD APPRECIATE NOTIFICATION TWO WORKING DAYS PRIOR TO THE MEETING. TDD NUMBER IS 801-270-2425 OR CALL RELAY UTAH AT #711.

New Business Item #1

Murray City Municipal Council Request for Council Action

INSTRUCTIONS: The City Council considers new business items in Council meeting. All new business items for the Council must be submitted to the Council office, Room, 112, no later than 5:00 p.m. on the Wednesday two weeks before the Council meeting in which they are to be considered. This form must accompany all such business items. If you need additional space for any item below, attach additional pages with corresponding number and label.

1. TITLE: (Similar wording will be used on the Council meeting agenda.)

A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN MURRAY CITY SCHOOL DISTRICT AND MURRAY CITY FOR PERMANENT ADVERTISING FOR THE CITY POWER DEPARTMENT ON THE NEW MURRAY HIGH SCHOOL FOOTBALL SCOREBOARD AND OTHER ADVERTISING IN DISTRICT FACILITIES

2. KEY PERFORMANCE AREA: (Please explain how request relates to Strategic Plan Key Performance Areas.)

Engaged and informed citizens

3. MEETING, DATE & ACTION: (Check all that apply)

Council Meeting OR Committee of the Whole

Date requested August 6, 2013

Discussion Only

Ordinance (attach copy)

Has the Attorney reviewed the attached copy?

Resolution (attach copy)

Has the Attorney reviewed the attached copy?

Public Hearing (attach copy of legal notice)

Has the Attorney reviewed the attached copy?

Appeal (explain) _____

Other (explain) _____

4. FUNDING: (Explain budget impact of proposal, including amount and source of funds.)

\$30,000 – Public relations fund of the Power Enterprise Fund

5. RELATED DOCUMENTS: (Attach and describe all accompanying exhibits, minutes, maps, plats, etc.)

Memo, Resolution, Agreement

6. REQUESTOR:

Name: Frank Nakamura

Title: City Attorney

Presenter: Blaine Hacke

Title: Power Director

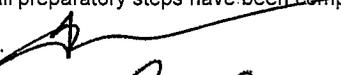
Agency: Power

Phone: 2715

Date: 07/19/2013

Time: 8:30

7. APPROVALS: (If submitted by City personnel, the following signatures indicate, the proposal has been reviewed and approved by Department Director, all preparatory steps have been completed, and the item is ready for Council action)

Department Director: 

Date: 7/29/13

Mayor: 

Date: 7/29/13

8. COUNCIL STAFF: (For Council use only)

Number of pages: _____ Received by: _____ Date: _____ Time: _____

Recommendation: _____

9. NOTES:



MURRAY CITY CORPORATION
CITY POWER

Daniel C. Snarr, Mayor
Blaine Haacke, General Manager
801-264-2730 FAX 801-264-2731

Memo

To: Murray City Municipal Council
From: Blaine Haacke, Power Department General Manager
Cc: Mayor Dan Snarr
Frank Nakamura, City Attorney
Re: Advertising Expenditure

BH/KAT

The Murray City Power Department would like to issue a one-time expenditure for advertising with Murray High School. The expenditure would include, but not limited to, advertising on the new football score board. The advertising expenditure would be \$30,000 and would cover advertising for the life of the new scoreboard at Murray High School. The Murray City Attorney's office will be preparing a draft agreement and will present it to the Murray School District for review.

As a public power entity, sometimes name recognition is difficult when there is such a large investor owned utility in the State. There are some Murray residents who believe their power needs are being met by that utility and not Murray City Power. This advertising would be vital in helping with name recognition of Murray City Power and would show our continued support to the community. We want the citizens of Murray to be able to identify who serves their "reliable and low cost" electrical energy needs.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN MURRAY CITY SCHOOL DISTRICT ("DISTRICT") AND MURRAY CITY ("CITY") FOR PERMANENT ADVERTISING FOR THE CITY POWER DEPARTMENT ON THE NEW MURRAY HIGH SCHOOL FOOTBALL SCOREBOARD AND OTHER ADVERTISING IN DISTRICT FACILITIES

WHEREAS, the City and the District are "public agencies" authorized by the Utah Interlocal Cooperation Act, Title 11, Chapter 13, of the Utah Code, to enter into agreements with each other for the joint and cooperative action which will enable them to make the most efficient use of their powers on a basis of mutual advantage; and

WHEREAS, the City and the District have developed a long term relationship of cooperation and sharing of resources to do what is in the best interest of the community; and

WHEREAS, the City, through its Power Enterprise Fund ("Power Department"), owns an electric utility; and

WHEREAS, the District will install a new scoreboard at the Murray High School football field; and

WHEREAS, the City desires to advertise the operations of its Power Department in a location that will be seen by users of the utility; and

WHEREAS, Murray High School is in an area central to users of the utility; and

WHEREAS, the City is therefore interested in permanently and solely advertising its Power Department on the new scoreboard and in other related District facilities in other forms; and

WHEREAS, the District is willing to allow the City to be the sole, permanent advertiser on the new Murray High School football field scoreboard for appropriate compensation during the life of the scoreboard; and

WHEREAS, the District is willing to allow the City to advertise in other forms in other District facilities as mutually agreed upon; and

WHEREAS, the City is able and willing, through the public relations fund portion

of the Power Enterprise Fund, to provide Thirty Thousand Dollars (\$30,000) to the District for such permanent advertising; and

WHEREAS, the Parties have determined that it is mutually advantageous to enter into this Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Murray City Municipal Council that:

1. It does hereby approve an Interlocal Cooperation Agreement between the City and Murray City School District in substantially the form attached hereto; and
2. The Interlocal Cooperation Agreement is in the best interest of the City and the District; and
3. Mayor Daniel C. Snarr is hereby authorized to execute the Agreement on behalf of the City and to act in accordance with its terms.

DATED this day of July, 2013.

MURRAY CITY MUNICIPAL COUNCIL

Brett A. Hales, Chair

ATTEST:

Jennifer Kennedy, City Recorder

INTERLOCAL COOPERATION AGREEMENT

Between Murray City and the Murray City School District

*for Permanent Advertising for City Power Department
on the new Murray High School Football Field Scoreboard and other
advertising in Murray School District Facilities*

This Interlocal Cooperation Agreement ("Agreement") is made and entered into this _____ day of _____, 2013, by and between Murray City Corporation (the "City") and the Murray City School District (the "District").

RECITALS

WHEREFORE, The City and the District are "public agencies" authorized by the Utah Interlocal Cooperation Act, Title 11, Chapter 13 of the Utah Code, to enter into agreements with each other for the joint and cooperative action which will enable them to make the most efficient use of their powers on a basis of mutual advantage.

WHEREFORE, The City and the District have developed a long term relationship of cooperation and sharing of resources to do what is in the best interest of the community; and

WHEREFORE, The City, through its Power Enterprise Fund, owns an electric utility (the City "Power Department"); and

WHEREFORE, The District will install a new scoreboard at the Murray High School football field; and

WHEREFORE, The City desires to advertise the operations of its Power Department in a location that will be seen by users of the utility; and

WHEREFORE, Murray High School is in an area central to users of the utility; and

WHEREFORE, The City is therefore interested in permanently and solely advertising its Power Department on the new scoreboard and in other related District facilities in other forms; and

WHEREFORE, The District is willing to allow the City to be the sole, permanent advertiser on the new Murray High School football field scoreboard for appropriate compensation during the life of the scoreboard; and

WHEREFORE, The District is willing to allow the City to advertise in other forms in other District facilities as mutually agreed upon; and

WHEREFORE, The City is able and willing, through the public relations portion of the Power Department Enterprise Fund, to provide \$30,000.00 to the District for advertising on the football field scoreboard and in other forums; and

WHEREFORE, The Parties have determined that it is mutually advantageous to enter into this Agreement;

THEREFORE, in consideration of the mutual covenants set forth herein, the City and the District agree as follows:

AGREEMENT

1. Within thirty (30) days after execution of this Agreement, the City shall pay to the District **Thirty Thousand Dollars (\$30,000)** as full consideration for sole, permanent advertising for the City's Power Department on the new Murray High School football

field scoreboard and for other forms of advertisements in such other District facilities as will be mutually agreed upon by the Parties.

2. The term of this Agreement shall be for the estimated life of the scoreboard, as determined by the manufacturer, or actual life of the scoreboard, whichever is longer.
3. Content and design of the advertisement shall be determined by representatives of the Power Department. The language shall be substantially in the form of "Murray City Power – Energy Connecting Community since 1913."
4. Final advertising content and design shall be provided to District within a time mutually agreed upon by the Parties, and within a reasonable time for the scoreboard and advertising to be installed and used during the 2013-2014 Murray High School football season.
5. As the District owns the new scoreboard, it shall be solely responsible for the maintenance and operation of scoreboard. The City shall have no obligation to contribute financially or otherwise to the operation and maintenance of the scoreboard.
6. The District and the City are governmental entities under the Utah Governmental Immunity Act ("Act"). Therefore, consistent with the terms of the Act, the District and the City agree that each is responsible and liable for any wrongful or negligent acts which it commits or is committed by its agents or employees. Neither the District nor the City waives any defenses or limits of liability otherwise available under the Act and

all other applicable laws and both the District and the City maintain all privileges, immunities and other rights granted by the Act and other applicable laws.

7. The District and the City shall not subcontract, sign or transfer any rights or duties under this Agreement without prior written consent of the other party.
8. The provisions of this Agreement are severable and should any provision herein be deemed void, voidable, unenforceable or invalid, such void, voidable or unenforceable or invalid provision shall not affect the other provisions of this Agreement.
9. This Agreement may be amended only in writing signed by both the City and the District.
10. This Agreement shall be governed by and construed in accordance to the laws of the State of Utah.

IN WITNESS WHEREOF, the District and the City have caused this Agreement to be duly executed as of the day and year first written above.

MURRAY CITY SCHOOL DISTRICT

MURRAY CITY CORPORATION

Daniel C. Snarr, Mayor

Printed Name/Title

ATTEST:

APPROVED AS TO FORM AND LEGALITY

Jennifer Kennedy, City Recorder

Frank M. Nakamura, City Attorney



MURRAY CITY CORPORATION
CITY ATTORNEY'S OFFICE

Daniel C. Snarr, Mayor
Frank M. Nakamura, City Attorney
TEL 801-264-2640 FAX 801-264-2641

July 16, 2013

Dr. Steven Hirase
Superintendent
Murray School District
147 East 5065 South
Murray, Utah 84107

Re: Murray High Scoreboard

Dear Dr. Hirase:

Please find enclosed an interlocal agreement in duplicate for the City's purchase of advertising for the Murray City Power Department on the new Murray High School football field scoreboard and other related advertising in District facilities. Please review this Agreement. If it meets your approval, please sign both copies and return to the City. We will present this to the City Council on August 6, 2013 for approval. After approval, the City will route for signatures and then provide you with a fully executed copy of the Agreement. Should you have any other concerns, please feel free to contact me. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Nakamura', with a long horizontal flourish extending to the right.

Frank Nakamura
Murray City Attorney

FMN/bjf

Encl.

cc: Daniel C. Snarr, Mayor
Blaine Haacke, Power Department General Manager
Murray City Municipal Council

INTERLOCAL COOPERATION AGREEMENT

Between Murray City and the Murray City School District

*for Permanent Advertising for City Power Department
on the new Murray High School Football Field Scoreboard and other
advertising in Murray School District Facilities*

This Interlocal Cooperation Agreement ("Agreement") is made and entered into this _____ day of _____, 2013, by and between Murray City Corporation (the "City") and the Murray City School District (the "District").

RECITALS

WHEREFORE, The City and the District are "public agencies" authorized by the Utah Interlocal Cooperation Act, Title 11, Chapter 13 of the Utah Code, to enter into agreements with each other for the joint and cooperative action which will enable them to make the most efficient use of their powers on a basis of mutual advantage.

WHEREFORE, The City and the District have developed a long term relationship of cooperation and sharing of resources to do what is in the best interest of the community; and

WHEREFORE, The City, through its Power Enterprise Fund, owns an electric utility (the City "Power Department"); and

WHEREFORE, The District will install a new scoreboard at the Murray High School football field; and

WHEREFORE, The City desires to advertise the operations of its Power Department in a location that will be seen by users of the utility; and

WHEREFORE, Murray High School is in an area central to users of the utility; and

WHEREFORE, The City is therefore interested in permanently and solely advertising its Power Department on the new scoreboard and in other related District facilities in other forms; and

WHEREFORE, The District is willing to allow the City to be the sole, permanent advertiser on the new Murray High School football field scoreboard for appropriate compensation during the life of the scoreboard; and

WHEREFORE, The District is willing to allow the City to advertise in other forms in other District facilities as mutually agreed upon; and

WHEREFORE, The City is able and willing, through the public relations portion of the Power Department Enterprise Fund, to provide \$30,000.00 to the District for advertising on the football field scoreboard and in other forums; and

WHEREFORE, The Parties have determined that it is mutually advantageous to enter into this Agreement;

THEREFORE, in consideration of the mutual covenants set forth herein, the City and the District agree as follows:

AGREEMENT

1. Within thirty (30) days after execution of this Agreement, the City shall pay to the District **Thirty Thousand Dollars (\$30,000)** as full consideration for sole, permanent advertising for the City's Power Department on the new Murray High School football

field scoreboard and for other forms of advertisements in such other District facilities as will be mutually agreed upon by the Parties.

2. The term of this Agreement shall be for the estimated life of the scoreboard, as determined by the manufacturer, or actual life of the scoreboard, whichever is longer.
3. Content and design of the advertisement shall be determined by representatives of the Power Department. The language shall be substantially in the form of "Murray City Power – Energy Connecting Community since 1913."
4. Final advertising content and design shall be provided to District within a time mutually agreed upon by the Parties, and within a reasonable time for the scoreboard and advertising to be installed and used during the 2013-2014 Murray High School football season.
5. As the District owns the new scoreboard, it shall be solely responsible for the maintenance and operation of scoreboard. The City shall have no obligation to contribute financially or otherwise to the operation and maintenance of the scoreboard.
6. The District and the City are governmental entities under the Utah Governmental Immunity Act ("Act"). Therefore, consistent with the terms of the Act, the District and the City agree that each is responsible and liable for any wrongful or negligent acts which it commits or is committed by its agents or employees. Neither the District nor the City waives any defenses or limits of liability otherwise available under the Act and

all other applicable laws and both the District and the City maintain all privileges, immunities and other rights granted by the Act and other applicable laws.

7. The District and the City shall not subcontract, sign or transfer any rights or duties under this Agreement without prior written consent of the other party.
8. The provisions of this Agreement are severable and should any provision herein be deemed void, voidable, unenforceable or invalid, such void, voidable or unenforceable or invalid provision shall not affect the other provisions of this Agreement.
9. This Agreement may be amended only in writing signed by both the City and the District.
10. This Agreement shall be governed by and construed in accordance to the laws of the State of Utah.

IN WITNESS WHEREOF, the District and the City have caused this Agreement to be duly executed as of the day and year first written above.

MURRAY CITY SCHOOL DISTRICT

MURRAY CITY CORPORATION

Daniel C. Snarr, Mayor

Printed Name/Title

ATTEST:

APPROVED AS TO FORM AND LEGALITY

Jennifer Kennedy, City Recorder

Frank M. Nakamura, City Attorney

New Business Item #2

Murray City Municipal Council Request for Council Action

INSTRUCTIONS: The City Council considers new business items in Council meeting. All new business items for the Council must be submitted to the Council office, Room, 112, no later than 5:00 p.m. on the Wednesday two weeks before the Council meeting in which they are to be considered. This form must accompany all such business items. If you need additional space for any item below, attach additional pages with corresponding number and label.

1. TITLE: (Similar wording will be used on the Council meeting agenda.)

AN ORDINANCE AMENDING CHAPTER 2.42 OF THE MURRAY CITY MUNICIPAL CODE RELATING TO THE PERSONNEL ADVISORY BOARD

2. KEY PERFORMANCE AREA: (Please explain how request relates to Strategic Plan Key Performance Areas.)
Responsive and Efficient City Services

3. MEETING, DATE & ACTION: (Check all that apply)

Council Meeting OR Committee of the Whole

Date requested - August 6, 2013

Discussion Only

Ordinance (attach copy)

Has the Attorney reviewed the attached copy? Y N

Resolution (attach copy)

Has the Attorney reviewed the attached copy?

Public Hearing (attach copy of legal notice)

Has the Attorney reviewed the attached copy?

Appeal (explain) _____

Other (explain) _____

4. FUNDING: (Explain budget impact of proposal, including amount and source of funds.)

5. RELATED DOCUMENTS: (Attach and describe all accompanying exhibits, minutes, maps, plats, etc.)

Memo, Ordinance

6. REQUESTOR:

Name: Mike Terry

Title: Human Resources Director

Presenter: Mike Terry

Title: Human Resources Director

Agency: Human Resources

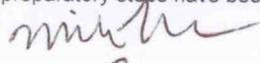
Phone: 2655

Date: 07/29/2013

Time: 12:30

7. APPROVALS: (If submitted by City personnel, the following signatures indicate, the proposal has been reviewed and approved by Department Director, all preparatory steps have been completed, and the item is ready for Council action)

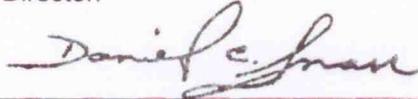
Department Director:



Date:

7-29-13

Mayor:



Date:

7-29-13

8. COUNCIL STAFF: (For Council use only)

Number of pages: _____ Received by: _____ Date: _____ Time: _____

Recommendation: _____

9. NOTES:



**MURRAY CITY CORPORATION
HUMAN RESOURCES**

Daniel C. Snarr, Mayor

Mike Terry, Director

801-264-2656 FAX 801-264-2625

MEMO

To: Murray City Municipal Council
From: Mike Terry MT
Subject: Murray City Municipal Code Section 2.62 Relating to Personnel Matters, 2.42 Relating to the Personnel Advisory Board.
Date: July 29, 2013

Last January I spoke to you regarding certain sections of the City Code 2.62 pertaining to personnel matters that are administrative in nature, and should not be written into City Code, such as sick leave usage, vacation accrual, leaves of absence, tuition policies, etc. At time I mentioned that we would be brining amendments to you in the future.

Much of this Code was written decades ago, and since then we have other sections of the handbook to house these types of employee policies. In addition to our City Code, we have Career Services and Public Safety rules and regulations. Much of the administrative rules that we propose removing from the City Code will be moved under the Career Service and Public Safety rules.

This proposed change would be cleaning up and organizing those employee policies that are simply administrative in nature.

We are also proposing updating the language in section 2.42 relating to the Personnel Advisory Board, and their role as the employee appeal board, and their standard of review.

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 2.42 OF THE MURRAY CITY MUNICIPAL CODE RELATING TO THE PERSONNEL ADVISORY BOARD.

BE IT ENACTED BY THE MURRAY CITY MUNICIPAL COUNCIL:

Section 1. Purpose. The purpose of this ordinance is to amend Chapter 2.42 of the Murray City Municipal Code relating to the Personnel Advisory Board.

Section 2. Amendment to Chapter 2.42 of the Murray City Municipal Code. Chapter 2.42 of the Murray City Municipal Code, relating to the Personnel Advisory Board shall be amended to read as follows:

2.42.010: APPOINTMENT:

A. There is created and established a body to be designated as the Personnel Advisory Board, hereafter referred to as the "Board", consisting of three (3) members appointed by the Mayor with the advice and consent of the Murray City Municipal Council. The members of the Board shall be persons with knowledge and experience in the application of public employment principles.

B. A member of the Board may not be employed by the City, ~~or be an official of any local, state or national committee of a political party or any official or member of a committee in any partisan political group or organization, and may not hold or be a candidate for any elective office.~~

2.42.020: TERMS OF OFFICE:

The members of the Board shall serve overlapping terms of three (3) years not to exceed three (3) consecutive terms. Vacancies occurring during a term shall be filled for the balance of the term.

2.42.030: MEETINGS:

A. The Board shall hold regular monthly meetings at such time and place within the City as shall be designated by the Chair of the Board. All regular meetings shall be opened to the public unless the meeting is closed as provided in State law. Notice of meeting agendas shall be posted and noticed as provided in State law. The Board may also hold special meetings as provided in State law.

B. Two (2) members of the Board shall constitute a quorum necessary for carrying on the business of the Board. Meetings shall be conducted in accordance with such rules of procedure as shall be adopted by the Board.

C. The Board shall keep written record of all proceedings which shall be kept in the City Recorder's Office.

D. Board members shall serve without compensation.

2.42.040: RESPONSIBILITY OF THE BOARD:

The responsibilities of the Board shall be as follows:

A. To represent the public interest in the improvement of personnel administration in the City;

B. To advise the City on matters concerning personnel administration, including Career Service and Public Safety Service ~~Rules~~ and Regulations;

C. To ~~make~~ conduct investigations relating to alleged violations of Career Service and Public Safety Service ~~Rules~~ and Regulations;

D. To serve as the appeal board under Section 10-3-1106 of the Utah Code for discharges, demotions and suspensions of more than two (2) days or 16 hours according to the standard of review provided in the Career Service and Public Safety Service Rules and Regulations subject to appeal to the Utah Court of Appeals.

D. To hear ~~certain~~ appeals and grievances or other actions as provided in the Public Safety Service and Career Service Rules and Regulations which have allegedly resulted in wrongful-~~treatment-~~ action to the employee concerned, except in instances where the right of appeal is prohibited by law and to certify its findings and recommendations to the Mayor for final action.

Section 3. This Ordinance shall take effect upon the first publication and filing of a copy thereof in the office of the City Recorder.

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on this day of _____, 2013.

MURRAY CITY MUNICIPAL COUNCIL

Brett A. Hales, Chair

ATTEST:

Jennifer Kennedy, City Recorder

MAYOR'S ACTION: Approved

DATED this ____ day of _____, 2013.

Daniel C. Snarr, Mayor

ATTEST:

Jennifer Kennedy, City Recorder

CERTIFICATE OF PUBLICATION

I hereby certify that this Ordinance was published according to law on the ____ day of _____, 2013.

Jennifer Kennedy, City Recorder

New Business Item #3

Murray City Municipal Council Request for Council Action

INSTRUCTIONS: The City Council considers new business items in Council meeting. All new business items for the Council must be submitted to the Council office, Room, 112, no later than 5:00 p.m. on the Wednesday two weeks before the Council meeting in which they are to be considered. This form must accompany all such business items. If you need additional space for any item below, attach additional pages with corresponding number and label.

1. TITLE: (Similar wording will be used on the Council meeting agenda.)
AN ORDINANCE AMENDING CHAPTER 2.62 OF THE MURRAY CITY MUNICIPAL CODE RELATING TO PERSONNEL POLICIES AND REGULATIONS

2. KEY PERFORMANCE AREA: (Please explain how request relates to Strategic Plan Key Performance Areas.)
Responsive and Efficient City Services

3. MEETING, DATE & ACTION: (Check all that apply)

Council Meeting OR Committee of the Whole
 Date requested - August 6, 2013
 Discussion Only
 Ordinance (attach copy)
Has the Attorney reviewed the attached copy? Y
 Resolution (attach copy)
Has the Attorney reviewed the attached copy?
 Public Hearing (attach copy of legal notice)
Has the Attorney reviewed the attached copy?
 Appeal (explain) _____
 Other (explain) _____

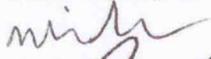
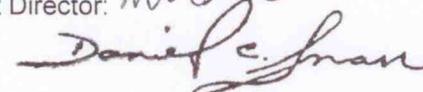
4. FUNDING: (Explain budget impact of proposal, including amount and source of funds.)

5. RELATED DOCUMENTS: (Attach and describe all accompanying exhibits, minutes, maps, plats, etc.)
Memo, Ordinance

6. REQUESTOR:

Name: Mike Terry Title: Human Resources Director
Presenter: Mike Terry Title: Human Resources Director
Agency: Human Resources Phone: 2655
Date: 07/29/2013 Time: 12:30

7. APPROVALS: (If submitted by City personnel, the following signatures indicate, the proposal has been reviewed and approved by Department Director, all preparatory steps have been completed, and the item is ready for Council action)

Department Director:  Date: 7-29-13
Mayor:  Date: 7-29-13

8. COUNCIL STAFF: (For Council use only)

Number of pages: _____ Received by: _____ Date: _____ Time: _____
Recommendation: _____

9. NOTES:



**MURRAY CITY CORPORATION
HUMAN RESOURCES**

Daniel C. Snarr, Mayor

Mike Terry, Director

801-264-2656 FAX 801-264-2625

MEMO

To: Murray City Municipal Council
From: Mike Terry *MT*
Subject: Murray City Municipal Code Section 2.62 Relating to Personnel Matters, 2.42 Relating to the Personnel Advisory Board.
Date: July 29, 2013

Last January I spoke to you regarding certain sections of the City Code 2.62 pertaining to personnel matters that are administrative in nature, and should not be written into City Code, such as sick leave usage, vacation accrual, leaves of absence, tuition policies, etc. At time I mentioned that we would be brining amendments to you in the future.

Much of this Code was written decades ago, and since then we have other sections of the handbook to house these types of employee policies. In addition to our City Code, we have Career Services and Public Safety rules and regulations. Much of the administrative rules that we propose removing from the City Code will be moved under the Career Service and Public Safety rules.

This proposed change would be cleaning up and organizing those employee policies that are simply administrative in nature.

We are also proposing updating the language in section 2.42 relating to the Personnel Advisory Board, and their role as the employee appeal board, and their standard of review.

AN ORDINANCE AMENDING CHAPTER 2.62 OF THE MURRAY CITY MUNICIPAL CODE RELATING TO PERSONNEL POLICIES AND REGULATIONS.

NOW, THEREFORE, BE IT ORDAINED BY THE MURRAY CITY MUNICIPAL COUNCIL AS FOLLOWS:

SECTION 1. Purpose. The purpose of this ordinance is to amend Chapter 2.62 of the Murray City Municipal Code relating to personnel policies and regulations.

SECTION 2. Amendment. Chapter 2.62 of the Murray City Municipal Code shall be amended and read as follows:

2.62.010: STATEMENT OF POLICY:

The following principles and policies are established:

- A. In matters of compensation or in terms, privileges, or conditions of eCity employment, the eCity shall not demote, discharge, terminate, harass, refuse to promote or hire, or retaliate or discriminate against any person otherwise qualified, because of a person's race; color; gender; pregnancy, childbirth or pregnancy related conditions; religion; national origin; age (if 40 years of age or older); disability; sexual orientation or gender identity, unless based upon a bona fide occupational qualification.
- B. Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the eCity-government.
- C. The ~~system~~-City shall provide the means to recruit, select, develop and maintain an effective and responsive work force, and shall provide plans for employee hiring and advancement, training and career development, job classification, salary administration, vacations, sick leave, leaves of absence, retirement, fringe benefits, discipline, discharge and other related-activities matters.
- D. It is the compensation policy of the eCity that its ~~goals for salary~~-salaries and wages ~~ranges~~-be ~~comparable~~- competitive to the ~~average salary~~-salaries and wages ~~ranges~~-of comparable governmental entities along the Wasatch Front, ~~the following governmental entities: Bountiful, Salt Lake City, Sandy, Salt Lake County, South Salt Lake, West Jordan, West Valley, Provo, Layton and Davis County~~. Other government ~~agencies~~-and private sector entities may be surveyed as deemed necessary.
- ~~E. It is the intent that all eligible full time and part time employees may receive a cost of living pay adjustment¹ based, in part, on the cost of living increase as determined by the national consumer price index.~~
- F. ~~E.~~ All salary adjustments and cost of living adjustments ~~may be~~ are subject to availability of funds ~~and other factors~~.
- ~~G. Tenure of employees covered by the personnel management system shall be subject to good behavior, satisfactory work performance, necessity for performance of work and the availability of funds. (Ord. 10-26; Ord. 07-26 § 2; Ord. 05-05 § 2; Ord. 99-31 § 1)~~

2.62.020: POSITIONS NOT IN CAREER SERVICE:

A. The following regular full time positions of employment in the eCity government shall not be career service or public safety service:

1. Elected members of the eCity eCouncil and City Council staff;
2. The ~~m~~Mayor, the ~~m~~Mayor's chief of staff and other ~~appointed~~ Mayor staff members, and the following ~~heads of departments and divisions~~ appointed by the ~~m~~Mayor with the advice and consent of the eCity eCouncil:
 - a. Chief of police,
 - b. City attorney,
 - c. City recorder,
 - d. City treasurer,
 - e. ~~Information systems director~~ Administrative and Development Services Director,
 - f. ~~Community development director~~,
 - ~~e.f.~~ Finance and administration ~~d~~Director,
 - ~~h.g.~~ City engineer,
 - ~~i.h.~~ Fire chief,
 - ~~j.i.~~ Human Resource ~~d~~Director,
 - ~~k.j.~~ General manager, pPower ~~d~~Department, and
 - ~~l.~~ k. Public sServices ~~d~~Director; ~~and~~
 - ~~m.~~ ~~Economic development director~~;
- ~~3. People employed to make or conduct temporary and special inquiries, investigations or examinations on behalf of the mayor or city council;~~
- ~~4.3.~~ Part time employees working less than twenty (20) hours a week;
- ~~5.4.~~ New employees during initial probationary period;
- ~~6.5.~~ Volunteer personnel who receive no regular compensation from the eCity;
- ~~7.6.~~ Seasonal and temporary ~~positions~~ employees.

B. Career or public safety service regular full time positions of employment deemed exempt from the overtime provisions of the ~~f~~Fair ~~l~~Labor ~~s~~Standards ~~a~~Act and its regulations shall be as specified in eCity policy. (Ord. 08-22 § 2: Ord. 04-20 § 2: Ord. 03-19 § 2: Ord. 00-22 § 2: Ord. 99-31 § 1)

2.62.021: RESIDENCY REQUIRED:

A. As a minimum qualification for the positions of pPublic sServices dDirector, fFire eChief or eChief of pPolice the person in those positions must be, at the time of their appointment, and thereafter, either: 1) a resident of the eCity or 2) reside within ten (10) miles of the jurisdictional boundaries of the eCity.

B. Persons who serve as ~~m~~eMayor pro tempore during the temporary absence of the ~~m~~eMayor must:

1. Reside within the ~~e~~eCity; and

~~2.~~2. Be designated under section 2.08.030 of this ~~title~~Chapter.

C. For the purposes of this section:

1. Reside and Residency means: ~~RESIDE AND RESIDENCY~~: The person's domicile, place of abode or principal place of residence. A person's principal place of residence is that place in which the person's habitation is fixed and to which, whenever the person is absent, the person has intention of returning.

2. Temporary Absence means: ~~TEMPORARY ABSENCE~~: A time when the ~~m~~eMayor cannot be communicated with personally or via telephone or other telecommunications. (Ord. 03-13 § 2; Ord. 02-15 § 2; Ord. 99-31 § 1)

~~2.62.025: BIDS; PROMOTIONS AND TRANSFERS:~~

~~A. Employees who bid on and are selected for a position of a lower grade shall move to the same percent of midpoint in the lower grade with the appropriate decrease in compensation. Employees who bid on and are selected for positions of the same grade shall stay at the same percent of midpoint within that grade.~~

~~B. Employees who are promoted shall be placed at eighty one percent (81%) of midpoint of the new grade or receive a five percent (5%) increase, whichever is greater. If the promotion changes the employee status from nonexempt to exempt or the new job classification is increased three (3) or more grades, the employee shall be placed at eighty one percent (81%) of the midpoint of the new grade or receive a ten percent (10%) increase, whichever is greater.~~

~~C. The promoted or transferred employee shall complete a six (6) month probation period, to include a performance evaluation. The completion date of the probationary period will become the employee's new annual performance evaluation date.~~

~~D. At the satisfactory completion of the six (6) month probationary period, the promoted or transferred employee may be eligible to receive a merit increase immediately based upon their job performance and where they are in the pay range. (Ord. 00-22 § 3; Ord. 99-31 § 1)~~

~~2.62.025~~30: SEVERANCE PAY FOR OFFICIALS NOT WITHIN CAREER AND PUBLIC SAFETY SERVICE:

A. An appointed at will Department Director, City Recorder, City Treasurer and City Engineer ~~department or division head~~ who has been employed full time by the ~~e~~eCity for at least one year and who is involuntarily terminated for any reason other than criminal wrongdoing, shall be entitled to receive severance pay. Severance pay is in addition to any accrued vacation or sick leave benefits owing at the time of termination. Severance is based on the employee's final salary as follows:

1. If the at will employee is terminated after fewer than two (2) years' full time employment, the employee shall receive an amount equivalent to one month's salary.

2. If the at will employee is terminated after more than two (2) years' full time employment, the employee shall also receive an amount equivalent to the final salary rate, prorated, at two (2) weeks' pay for each year of service in excess of two (2) years, up to a maximum of four (4) months' salary. (Ord. 04-20 § 3; Ord. 99-31 § 1)

~~2.62.040: APPOINTMENT FROM CERTIFIED LISTS:~~

~~All vacancies in the career and public safety service of the city shall be filled from a list of candidates certified by the human resource director in accordance with rules and regulations adopted pursuant to this chapter. (Ord. 08-22 § 2)~~

~~2.62.040~~5: NEPOTISM PROHIBITED:

No person shall be allowed to work in a ~~d~~Department wherein a member of the person's immediate family is employed as the ~~d~~Department Director~~head~~; or wherein a member of the person's immediate family would have direct or indirect supervision or control over that person. "Immediate family", as used in this section, means father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, stepchildren, stepparents, grandchildren, grandparents, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, or son-in-law. (Ord. 04-47 § 2: Ord. 99-31 § 1)

~~2.62.050: CAREER SERVICE~~ AND PUBLIC SAFETY RULES AND REGULATIONS:

Career and Public Safety ~~s~~Service ~~r~~Rules and ~~r~~Regulations, and revisions thereof, shall be reviewed by the ~~p~~Personnel ~~a~~Advisory ~~b~~Board and internal committees provided in the Career and Public Safety Rules and Regulations and adopted by the ~~m~~Mayor ~~and the city council~~ after evaluation by the ~~p~~Personnel ~~a~~Advisory ~~b~~Board and the internal committees and upon such adoption and approval shall be filed with the ~~e~~City ~~r~~Recorder. ~~All city employees shall be provided a copy of the personnel Career and Public Safety Service rRules and rRegulations which shall also be available for public inspection as a public record. The rules and regulations shall govern the following aspects of the personnel system:~~

~~A. Administration of the classification plan;~~

~~B. Administration of the pay plan;~~

~~C. Announcement of employment vacancies and the acceptance of applicants for employment;~~

~~D. Preparation and conducting of examinations;~~

~~E. Establishment and use of eligibility lists;~~

~~F. Establishment of promotional policies;~~

~~G. Certification and employment of persons for employment lists to fill vacancies;~~

~~H. Performance evaluation of employees including those on probationary status;~~

~~I. Transfer, promotion and reinstatement of employees;~~

~~J. Separation from the career service of employees by resignation, suspension, dismissal, layoff and incapacity to perform required duties;~~

~~K. Establishment of hours of work, holidays, vacation, attendance and leave regulations and procedures;~~

~~L. Outside employment of municipal employees;~~

~~M. Relations with employee organizations;~~

~~N. Establishment of a probation period, not to exceed one year, for all employees prior to final appointment;~~

~~O. Establishment of grievance and appeal procedures;~~

~~P. Development of employee morale, safety and training programs;~~

~~Q. Such other matters as may be necessary to carry out the intent and the purpose of this chapter and state and federal law. (Ord. 99-31 § 1)~~

Fo
0.5

2.62.060: POLITICAL ACTIVITY OF EMPLOYEES:

- A. No eCity employee or official may solicit any assessments, contributions or services for any political candidate or party from any other employee, ~~in the career or civil service.~~
- B. A eCity employee may not hold an ~~elected~~ full time elected non City public office and remain in the employ of the eCity. A eCity employee who assumes a full time elected non City public office, either by public election or by appointment to an unexpired term, shall be deemed to have resigned from the eCity's employ upon taking the oath of office or otherwise first exercising the official duties of that public office.
- C. Except as otherwise provided by law, a eCity employee may remain in the employ of the eCity and simultaneously hold a part time non City elected public office if the employee takes personal leave without pay during the time the duties of the elected office require the employee's absence from the eCity and that request is granted as provided by law.
- D. For purposes of this section, "employee" means any person other than elected officials who receives compensation from the eCity, and includes appointed employees and members of the eCareer and ~~the p~~Public sSafety sService. (Ord. 08-22 § 2: Ord. 99-31 § 1)

2.62.070: FALSE STATEMENTS, BRIBES TO OBTAIN APPOINTMENT, PROMOTION:

- A. No person may knowingly or intentionally make any false statement, certificate, mark, rating or report in regard to an employee's application, test, certification, evaluation or appointment held or made under the eCity's personnel systems, or in any manner commit any fraud or other act for the purpose of preventing a proper or impartial execution of those systems.
- B. No applicant for employment or promotion in the career or public safety service shall give or pay any money or any other remuneration, or render services to any other person for, or on account of, or in connection with the applicant's test, appointment, proposed appointment, promotion, proposed promotion or for any other such advantage. (Ord. 08-22 § 2: Ord. 99-31 § 1)

2.62.090: AGREEMENTS AND COOPERATION WITH OTHER GOVERNMENTAL AGENCIES:

- A. The ~~m~~Mayor may, as permitted by law, enter into agreements with any ~~f~~Federal, ~~s~~State or ~~l~~Local government organization entity for receipt of grants or services, including material or equipment which is designed to strengthen personnel administration and train ~~municipal~~ City employees, or to improve specific access ~~of persons~~ to the City personnel system established in this eChapter.
- B. The ~~h~~Human ~~r~~Resource ~~d~~Director, acting in behalf of the eCity, may cooperate with other governmental agencies entities charged with public personnel administration in conducting

personnel tests, recruiting personnel, training personnel, establishing lists from which eligibles shall be certified for appointment, and for the exchange of information regarding ~~personnel and~~ employee benefits. (Ord. 99-31 § 1)

2.62.100: MEMBERSHIP IN EMPLOYEE ORGANIZATIONS:

All ~~e~~City employees shall have the right to organize, join and participate or to refuse to organize, join or participate in any employee organization without fear of penalty or reprisal. (Ord. 99-31 § 1)

~~2.62.110: STATUS OF PRESENT EMPLOYEES: REPEALED~~

~~Employees holding career service positions continuously for one year or more immediately prior to the adoption of this chapter shall, upon certification by the appointing authority that their work has been satisfactory, be continued in their respective positions without further examinations until separated from their positions as provided by law. Those holding their positions less than one year immediately prior to the adoption of this chapter shall serve a probationary period, as prescribed by these ordinances, and may be certified in the same manner when they satisfactorily complete such probation period from the date of their original appointment. (Ord. 99-31 § 1)~~

2.62.120: STRIKES:

Career and ~~p~~Public ~~s~~Safety ~~s~~Service employees may not engage in, threaten to engage in, encourage or plan any strike, ~~whether it be in the nature of an immediate walk-out or resignation after notice.~~ (Ord. 08-22 § 2)

~~2.62.130: VACATIONS:~~

~~A. Computation: Each regular full time employee in city service shall be granted a paid vacation to be computed as follows: One working day per calendar month of employment including the first year of employment; provided, that no vacation shall be granted or compensation received for vacation credit accruing during any probationary period; however, if regular status is obtained, vacation shall then be allowed for employment during such probationary status. After five (5) years of continuous employment with the city, each employee in city service shall be granted 1.167 working days per calendar month of employment. After ten (10) years of continuous employment, each employee in city service shall be granted 1.417 working days per calendar month of employment. After fifteen (15) years of continuous employment, each employee will be granted 1.833 working days per month. After twenty (20) years of continuous employment each employee will be granted 2.083 working days per month.~~

~~B. Rules For Taking Vacation: [Is this all employees?]~~

- ~~1. Selection of vacation shall be made according to seniority in each department; provided, that the department head, for good cause, may change any selected date if necessary for the performance or the efficiency of that department. Vacation schedule for each particular year is to be worked out as promptly as possible and is to be planned to avoid disruption of work and to occasion as little inconvenience and additional expense to the city as possible;~~
- ~~2. Although vacation leave is considered to be an earned benefit, vacation leave is provided in order to give employees rest and relaxation away from their jobs. Employees will not be allowed to receive pay in place of taking vacation;~~
- ~~3. A new employee may carry over all unused accrued vacation at their one year anniversary, even though it may be in excess of one week. All other employees who are~~

Fo

Fo
01

~~entitled to two (2) weeks' vacation with pay may elect to accumulate and carry over one week or forty (40) hours, of vacation to be taken in the following year. No employee may accumulate vacation to add to the regular annual vacation which, when totaled, would exceed thirty five (35) days, or two hundred eighty (280) hours, of vacation;~~

~~4. An employee may, with the consent of the department head, elect to split the annual vacation period. In such event the right of selection by seniority shall apply only to the first period selected;~~

~~5. Upon resignation, an employee will not be paid any accrued vacation benefits unless at least ten (10) days' advance written notice of the contemplated resignation is given to the department head and the human resource director. If the required notice is given, the employee shall be paid for vacation hours accrued but not taken. If termination is caused by death, accrued vacation benefits shall be paid to the administrator, executor or surviving spouse at the discretion of the mayor. If a nonprobationary employee is terminated for cause, the terminated employee shall be paid accrued vacation benefits in lieu of severance pay otherwise provided in this chapter. (Ord. 99-31 § 1)~~

2.62.1430: HOLIDAYS:

A. ~~Each regular full time employee in eCity service shall be granted holiday vacations at full pay in accordance with the following schedule:~~

~~January 1 (New Year's Day).~~

~~Third Monday in January (Martin Luther King Day).~~

~~Third Monday in February (Washington's birthday).~~

~~July 4 (Independence Day).~~

~~July 24 (Pioneer Day).~~

~~First Monday in September (Labor Day).~~

~~November 11 (Veterans Day).~~

~~Fourth Thursday in November (Thanksgiving day).~~

~~Fourth Friday in November (day after Thanksgiving).~~

~~December 25 (Christmas Day).~~

~~Two (2) open or floating holidays~~

~~B. If any of the above listed holidays falls on a Saturday, all employees shall take the preceding Friday as the holiday, and if it falls on a Sunday, then all employees shall take the following Monday as the holiday.~~

~~C. The two (2) open or floating holidays may be taken as a day off work by each employee subject to the same scheduling requirements set forth in subsection 2.62.130B1 of this eChapter. Open or floating holidays may not be accumulated or used for any calendar year past December 14 of each year, and in no event will employees be allowed to receive pay in lieu of taking the two (2) open or floating holidays.~~

D. Eligible new hires are entitled to receive up to two (2) floating holidays (16 hours) the first year of employment based upon the following schedule:

Hire Date	Floating Holiday Hours Available
December 15 to March 31	16
April 1 to June 30	12
July 1 to September 30	8
October 1 to December 14	4

E. Regular part time employees working between twenty (20) and twenty nine (29) hours per week are eligible to receive prorated (4 hours) holiday pay. Floating hours are not available to part time employees. (Ord. 04-20 § 4: Ord. 02-03 § 2: Ord. 99-31 § 1)

E.F. Due to differences in shifts, employees in the Fire and Police Department will receive vacation and holidays as determined by the Fire and Police Chiefs respectively and approved by the Mayor.

2.62.150: SICK LEAVE:

- ~~A. Paid sick leave may be used by a regular full time employee only when the employee is unable to work due to a bona fide sickness of the employee and to meet legitimate medical and dental appointments for physical examinations or other approved health maintenance measures. Sick leave may also be utilized to cover an employee's absence from work to care for a seriously ill or seriously injured (as determined by a physician) member of the employee's immediate family, when that person is legally dependent upon the employee and resides in the employee's home. Exceptions may be granted on a case by case basis for aged or infirm parents if approved by the employee's supervisor or department/division head and the human resource director. Sick leave shall not be granted for any injury, illness, or occupational disease covered by the Utah workers' compensation law.~~
- ~~B. Paid sick leave shall accumulate to the credit of each regular full time employee at the rate of one working day for each calendar month of satisfactory employment. Sick leave credit shall begin to accrue from the date of employment including the probationary period.~~
- ~~C. Employees shall be paid, annually on or before December 20, twenty five percent (25%) of sick leave unused for the previous twelve (12) month period ending November 30. The remaining seventy five percent (75%) of sick leave unused during the previous twelve (12) month period shall be added to the previous year's accumulated total. In figuring the payment under this section, any sick leave used shall be considered as coming from the current twelve (12) month period and not from accrued sick leave.~~
- ~~D. Employees who voluntarily retire or resign shall be paid an amount equal to twenty five percent (25%) of sick leave unused from the previous December 1 to the last date of employment. If a city employee dies, the benefit shall be paid to the beneficiaries of the deceased employee or, if applicable, to the estate of the deceased employee. Employees discharged for cause from city employment shall not be eligible for benefits as outlined in this section.~~

~~E. To qualify for sick leave payments, an employee must notify the supervisor or department/division head no later than one hour after normal starting time on each day of absence unless the circumstances surrounding the absence preclude the necessity of notification or make such notification impossible. The employee must also keep the supervisor advised regarding the employee's progress and expected date of return to duty. Sick leave will normally be charged in not less than one hour units.~~

~~F. For sick leave in excess of three (3) consecutive working day, or in cases where abuse of sick leave is suspected, the department/division head is authorized to require the employee to furnish satisfactory proof of illness as evidenced by a signed doctor's excuse. If hospitalization, surgery, or major illness or injury is involved, employees must obtain and submit to their department/division head a "return to work release form" signed by their doctor indicating the date of return to work and restrictions, if any, which apply to the employee's return to work. (Ord. 08-17 § 2; Ord. 00-25 § 2; Ord. 99-31 § 1)~~

2.62.1650: RETIREMENT AND RESIGNATION BENEFITS; UNUSED SICK LEAVE CREDITS:

~~Effective January 1, 1999, e~~Employees who retire or resign from employment with the eCity in good standing are eligible for the following benefits:

- A. Employees retiring or resigning from the eCity shall be eligible to receive twenty five percent (25%) of their unused sick leave accumulated since the last sick leave payment.
- B. Employees retiring or resigning with ten (10) years of full time service but less than fifteen (15) years of full time equivalent service shall be eligible to receive, in addition to the benefits described in subsection A of this section, ten percent (10%) of the employee's remaining accumulated sick leave at their current rate of pay.
- C. Employees retiring or resigning with at least fifteen (15) years of full time equivalent service shall be eligible to receive, in addition to the benefits described in subsection A of this section, ten percent (10%) of the employee's remaining accumulated sick leave at their current rate of pay, plus an amount equal to the lowest single employee medical premium per month for a period not to exceed thirty six (36) months, which will be based upon the employee's years of service and accumulated hours of sick leave.

~~D. Employees who are eligible for the above described retirement or resignation benefit will have the option of signing up in the VantageCare retirement health savings plan, beginning February 2004. An enrollment and information kit is available through the human resource department.~~

~~E~~D. A two thousand dollar (\$2,000.00) paid up life insurance policy is provided to retirees meeting the eligibility criteria under the applicable Utah sState rRetirement sSystem. (Ord. 0420 § 5; Ord. 00-22 § 4; Ord. 99-31 § 1)

~~2.62.165: ORGAN DONOR LEAVE:~~

~~An employee who serves as a bone marrow or human organ donor shall be granted paid leave for the donation and recovery.~~

~~A. An employee who donates bone marrow shall be granted up to seven (7) days of paid leave.~~

~~B. An employee who donates a human organ shall be granted up to thirty (30) days of paid leave.~~

~~The donor paid leave shall be funded through the lost vacation accrual account. (Ord. 0603 § 3)~~

~~2.62.170: LEAVES OF ABSENCE:~~

~~Leaves of absence without pay must be granted by the appointing power, upon request of the employee, subject to the approval of the appointing authority and the mayor and the provisions of this section. Except in the case of military leave, the appointing power should exercise discretion in granting leaves of absence, taking into consideration good conduct, length of service, efficiency of the employee and the sufficiency of the reasons for requesting the leave.~~

~~A. Leaves Of Absence Without Pay; Generally:~~

- ~~1. A leave of absence without pay is an approved temporary absence from work in which the employee does not lose status as a regular employee. However, the employee's anniversary date (for purpose of performance evaluation and merit increase) and hire date (for purposes of vacation accumulation rates and seniority status) will be moved ahead by the number of working days between the time that the employee's name is removed from the payroll records and the day the employee returns from leave of absence.~~
- ~~2. Leave without pay may be considered for reasons of disability, personal reasons, or military service. To be eligible, employees must express in writing the proposed date the requested leave is to commence and the estimated date on which the employee expects to return to work.~~
- ~~3. An employee may petition the human resource director after receiving approval from the appropriate department/division head to take a leave without pay, without first using all sick and vacation hours. Approval will be handled on a case by case basis.~~

~~B. Disability Leave Without Pay: For the purpose of this chapter, "disability" is defined as an illness, physical or mental impairment, or pregnancy or complications related to pregnancy that prevents an employee from performing the essential functions of the job.~~

~~1. Procedure:~~

- ~~a. Employee requests the leave as far in advance of the requested start date as possible;~~
- ~~b. Employee must contact the supervisor prior to the scheduled expiration date of the leave giving the specific date which the employee plans to return to work. If the employee fails to return to work or receive approval for extended leave under policy guidelines, employment is automatically terminated as of the last day of the approved leave;~~
- ~~e. The department head may request that the leave begin earlier than the date requested by the employee in order to ensure satisfactory performance of job duties.~~
- ~~2. Approval: Department heads may approve leave up to ten (10) days annually. The mayor and human resource director may approve leaves exceeding ten (10) days up to a maximum of one year based upon recommendation of the department head. Upon good cause shown, the mayor may extend any leave of absence without pay upon recommendation of the department head.~~
- ~~3. Position Guarantee: Employees taking a disability leave without pay will be guaranteed a position of like status and pay for a period up to ninety (90) days from the last active day of work. For a leave exceeding ninety (90) days, the job guarantee will apply for the additional period of actual disability, and must be supported by a physician's statement.~~
- ~~4. Required Physician's Statement: The city reserves the right to require a physician's statement and/or~~

~~medical examination by a physician of its choosing, at city expense, relating to the granting of disability leave, extension of disability leave, or return to work.~~

~~C. Personal Leave Without Pay:~~

~~1. Request Considerations: Eligible employees' requests for a leave of absence without pay for personal reasons will be considered on an individual basis at the city's discretion. The major factors to be considered are:~~

- ~~a. — The reason for the request;~~
- ~~b. — Length of service of the employee;~~
- ~~c. — Performance record of the employee;~~
- ~~d. — Probable extent of the leave.~~

~~2. Approval: Department heads may approve personal leave without pay for up to ten (10) days annually. The mayor and human resource director must approve such leaves exceeding ten (10) days, up to a maximum of one year. Upon good cause shown, the mayor may extend any leave of absence without pay upon recommendation of the department head.~~

~~3. Position Guarantee: There is no job guarantee for employees taking personal leave without pay. However, the city will make every effort to place employees if a suitable opening exists, funds are available, and if the employee contacts the supervisor two (2) to four (4) weeks prior to the expiration of the leave.~~

~~D. 2.62.160 MILITARY SERVICE LEAVE: Military Service Leave:~~

1. A military leave of absence without pay will be granted to any employee who enters any branch of the United States armed services (uniformed services). The employee will be reinstated to the same or a comparable position if application for reemployment is made within ninety (90) calendar days of the date of an honorable discharge. Service members who have been hospitalized or are convalescing related to injury or illness incurred by military service, may have up to two (2) years to recover before they must apply for reemployment.

2. ~~Murray~~ The City will continue to make retirement contributions for a total and maximum amount of five (5) years as if the returning veteran had not been absent from work unless otherwise prohibited by State law.

3. ~~Any f~~ Full time regular employees who ~~is~~ are ~~a~~ members of the organized U.S. army, air force, navy, coast guard, marine reserves or state national guard shall be permitted paid leave for up to fifteen (15) days' active duty training per calendar year and shall be compensated at ~~his/her~~ their regular base rate of pay from the ~~e~~ City. This leave shall be in addition to annual vacation leave with pay.

4. ~~Any f~~ Full time regular employees who ~~is~~ are called up to active duty by presidential order will be provided the following benefits:

a. Subject to availability of funds, the ~~e~~ City will pay the difference between the employee's regular pay at time of call up and their military pay, for a period not to exceed twenty four (24) consecutive months.

b. The ~~e~~ City will continue to pay its share of the insurance premium for medical, dental, and basic life insurance, for a period not to exceed twenty four (24) consecutive months. The employee must

notify the eCity, in writing, if employee wants to continue eCity insurance coverage. The employee also has the option of using accrued vacation time to pay for their portion of the insurance premium.

5. Employee notice for military leave must be given to the ~~eDepartment/division head~~ Director usually accompanied by a copy of the employee's military orders no later than two (2) calendar weeks prior to the commencement of leave.
6. Military leave will not be considered hours worked for the purposes of computing overtime.

~~E-7.~~ Family And Medical Leave Act (FMLA 29 CFR Part 825):

1. a. Under the FMLA, up to twelve (12) weeks of unpaid leave shall be authorized to employees for birth, adoption, placement of a foster child or for a serious health condition of the employee, or care of a spouse, dependent child (under 18 years or disabled) or a parent of the employee with a serious health condition.
2. b. The twelve (12) weeks of unpaid leave shall be based on the twelve (12) month period measured forward from the date the employee's first FMLA leave begins.
3. c. To be eligible for FMLA leave, an employee must have been employed by the eCity at least twelve (12) months, and have worked at least one thousand two hundred fifty (1,250) hours within the previous twelve (12) month period.
4. d. Leave to care for a new child must be taken within one year of the birth or placement for adoption or foster care.
5. e. The eCity shall require the employee to substitute any of the employee's accrued paid vacation leave or sick leave which may be used only for employee's own illness or to care for a seriously ill member of the employee's immediate family for any part of the twelve (12) week leave period identified above, except as otherwise allowed under subsection A3 of this section.
6. f. If spouses are both employed by the eCity and seek leave for the birth of a child, placement for adoption or foster care or to care for a parent with a serious health condition, their combined leave is limited to twelve (12) weeks.
7. g. When medically necessary, due to a serious health condition, leave may be taken on an intermittent, reduced workweek or daily hours basis.
8. h. Leave taken for purposes of childbirth, adoption, placement for adoption or foster care shall not be taken by an employee on an intermittent or reduced workweek or daily hours basis unless it is mutually agreed to by both ~~employer the City~~ and employee.
9. i. If the need for leave is foreseeable, the employee should give at least thirty (30) days' notice, before the leave is to begin, that the employee intends to take leave. If the situation requires leave to begin in less than thirty (30) days, the employee should provide such notice as soon as possible.
10. j. An employee returning from leave will be reinstated to the same job or an equivalent position.
11. k. An employee on an unpaid family or medical leave will be retained on the eCity health plan on the same conditions as ~~active other~~ employees.
12. l. Employees who fail to return to work ~~after family and medical~~ FMLA leave shall reimburse the eCity for health plan premiums paid in behalf of the employee.

m. The eCity shall require medical certification for leaves based on employee or family member illness and may also require a second medical opinion at the eCity's expense, and a fitness for duty report to return to work.

~~13-n.~~ Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FLMA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of active duty that may render the service member medically unfit to perform their duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

~~F. Benefits Status For All Leaves Of Absence:~~

~~1. Time on leave is not considered time worked. Therefore, vacation and sick leave credits do not accrue while on a leave of absence without pay. The effect of military leave will be determined under the law in effect when the military leave is taken.~~

~~2. Life, medical and dental insurance coverage may be continued while on leave without pay if the employee pays the full premium except as otherwise provided by law. A check covering the amount of the total insurance premiums due for the expected time an employee is on leave should be made payable to the city.~~

~~3. If an employee elects to discontinue insurance coverage during leave of absence without pay, the employee must reapply for insurance upon return from leave. Coverage will become effective on the date of reemployment, and the returning employee will be subject to any preexisting condition insurance provisions which may then apply. (Ord. 06-03 § 2; Ord. 03-17 § 2; Ord. 02-40 § 2; Ord. 00-22 §§ 5, 6; Ord. 99-31 § 1)~~

~~2.62.180: BEREAVEMENT LEAVE:~~

~~All regular, full time and part time employees will receive five (5) days (up to 40 hours) of paid leave and time off for the death of the employee's spouse, children, or stepchildren, and three (3) days (up to 24 hours) of paid leave and time off for a death of a mother, father, brother, sister, stepparent, grandchild, grandparent, spouse's grandparent, mother in law and father in law, sister in law and brother in law, and daughter in law and son in law. The employee must notify his/her supervisor of the situation as soon as possible. (Ord. 06-34 § 2; Ord. 01-06 § 2; Ord. 99-31 § 1)~~

~~2.62.190: DEATH BENEFITS:~~

A. Notwithstanding any other provisions of this ~~code~~ Chapter, the estate of any employee who is killed in the line of duty as a result of a violent accident or by the intentional acts of another person or who dies as a result of injuries so sustained shall receive from the eCity the sum of ten thousand dollars (\$10,000.00).

~~B. PEHP will provide an additional fifty thousand dollar (\$50,000.00) line of duty death benefit, if the employee was covered at time of death under the city paid, basic life insurance plan and the death resulted from external force, violence, or disease occasioned by an act of duty as a public employee.~~

~~C.B.~~ B. If any employee dies while covered under a eCity medical/dental plan that includes dependent coverage, the dependent coverage shall continue after being reenrolled on COBRA, with the eCity paying the full premium. However, each dependent's fully paid premium benefit shall terminate on the earliest of the following:

1. Six (6) months after the employee's death; or
2. In the case of a spouse, the date that the spouse remarries or becomes eligible for medicare; and
3. In the case of a dependent child, the date the child ceases to be a dependent; or
4. When any of the deceased's dependents become covered under any other group insurance plan. (Ord. 04-20 § 6: Ord. 99-31 § 1)

~~2.62.200: TUITION ASSISTANCE:~~

~~The city recognizes the importance of employee educational growth to maintain and advance professional, technical, and managerial competence and to prepare employees for promotional or career change opportunities within the city.~~

~~A. Policy:~~

- ~~1. Through the tuition assistance program, the city may provide assistance to employees who:~~
 - ~~a. Undertake a course of study which leads to an associate's, bachelor's or master's degree in an occupation for which the city normally recruits employees; or~~
 - ~~b. Class work in an area which relates to the employee's field of work.~~

~~B. Standards:~~

- ~~1. All classes/courses must be offered by institutions accredited by the accrediting agency evaluation branch of the U.S. department of education and/or the council of higher education accreditation.~~
- ~~2. Participants in the tuition assistance program will do so on their own time and are not to receive pay for time spent in attendance at course work authorized under this program.~~
- ~~3. Irregular work schedules may be authorized by the supervisor upon review of the employee's written request.~~
- ~~4. Tuition assistance will only be provided for courses receiving prior approval from the employee's immediate supervisor, department head, human resource department and mayor.~~
- ~~5. To qualify for tuition assistance, employees must meet the following employment conditions:~~
 - ~~a. The employee must have completed probationary status.~~
 - ~~b. The employee must be on the payroll at the beginning and at the end of the course.~~
 - ~~c. The employee must be working for the city a minimum of thirty (30) hours per week.~~

- ~~d. A letter grade of C or better must be achieved. In courses that are ungraded, satisfactory completion is necessary to qualify for tuition assistance.~~
 - ~~e. The course must qualify under this chapter.~~
 - ~~f. The employees must not have been required to repay funds under this program within six (6) months of a new request for tuition assistance.~~
- ~~6. The city authorizes tuition assistance for an approved course on the following basis:~~
- ~~a. One hundred percent (100%) for a grade of C or higher.~~
 - ~~b. Fifty percent (50%) for ungraded courses satisfactorily completed.~~
 - ~~e. Each employee who is qualified for this program will be eligible to receive up to a maximum of two thousand two hundred dollars' (\$2,200.00) tuition assistance per calendar year.~~
- ~~7. Travel costs to and from the course, the cost of books and lab fees are not eligible under this policy.~~
- ~~8. Tuition assistance will not be granted to an employee receiving financial aid for the same course under a veteran's benefit program, scholarship, grant, or other educational subsidy.~~
- ~~9. If an employee voluntarily terminates employment with the city within one year after completing a course, the employee must repay the tuition assistance for that course. Such repayment can be withheld from an employee paycheck if deemed necessary.~~

~~C. Procedure For Participation In The Program:~~

- ~~1. Before taking a course, the employee must submit a written request for tuition assistance to the employee's immediate supervisor at least two (2) weeks prior to the beginning of the course. The request shall describe the educational institution, the course name, the cost of the course and the start/completion dates.~~
- ~~2. The supervisor shall evaluate the request and forward it to the department head with a recommendation. The department head shall evaluate the request and forward it to the human resource department with a recommendation.~~
- ~~3. The human resource director shall review the request. If it meets all the eligibility criteria, the director shall forward it to the mayor for final approval.~~
- ~~4. Upon final approval the finance department shall issue a check for the amount of the course up to the two thousand two hundred dollar (\$2,200.00) annual limit, made payable to both the employee and the school/institution.~~
- ~~5. Upon completion of the course, the employee shall submit proof of the earned grade to the human resource director within ten (10) working days after the course completion date. For the purposes of this section "course completion" shall mean the date on which the educational institution issues course grades. If the employee fails to submit proof of the earned grade within ten (10) days after course completion, the employee shall repay the city the entire amount of tuition assistance.~~

~~D. Funding:~~

- ~~1. Funds for the tuition assistance program shall be contained in the budget of the finance~~

~~department.~~

- ~~2. The mayor shall propose to the municipal council the amount needed to fund the program as a part of the budget package.~~
- ~~3. The municipal council shall fund the tuition assistance program.~~

~~E. Payment: The cost, including employee travel time and expenses, for any mandatory education courses and similar training which may be required of an employee by a department shall be paid in full by that department from its annual budget. The expense of mandatory education is not eligible under this policy. (Ord. 04-20 § 7; Ord. 02-05 § 2; Ord. 99-31 § 1)~~

~~2.62.210: JURY DUTY:~~

~~Regular full time employees who are called to serve on a jury will be granted a leave of absence with pay. Ample notice should be given by an employee who is called for jury duty to arrange for a replacement. Verification of jury duty will be required. Jury duty does not require constant court attendance in many instances. When this is the case, the employee should report back to work. Jury duty is not charged against paid leave accrual. (Ord. 99-31 § 1)~~

~~2.62.220: PERSONNEL FILES:~~

- ~~A. The human resource office shall maintain a personnel record for each employee of the city. Information of a derogatory nature shall not be placed in the personnel record unless the affected employee has been provided a copy thereof and has had an opportunity to respond. Employees shall have the right to comment on any item in their personnel record. These comments shall be retained with the information in the personnel record. Furthermore, any employee may petition the human resource director to remove any evidence of adverse employment action from that employee's personnel file, which evidence shall be purged from the file, provided:~~
- ~~1. The employee has had no adverse personnel action, including the action sought to be purged, within the five (5) years previous to the request; and~~
 - ~~2. The adverse action does not relate to an act or omission by the employee which would constitute a crime under city, state or federal law.~~
- ~~B. Employees shall have the right to review their own personnel record as provided by personnel administration procedure. Unless written permission is provided by the employee, or if otherwise required by law, no information shall be disclosed from the personnel record of a current or former employee other than the employee's job departmental assignment. The human resource department personnel, mayor, employee's department head, employee's department head designee and city attorney may review personnel records as necessary. (Ord. 99-31 § 1)~~

~~2.62.230: BONUS PROGRAM FOR RED LINED EMPLOYEES:~~

- ~~A. Incentive Program: There is established an incentive bonus program for all regular full and part time red lined employees. The program shall be administered by the human resource department in accordance with the following guidelines:~~
- ~~1. The eligible employee must have received a current annual performance evaluation with a final overall rating of "high performer" or above;~~
 - ~~2. The cash bonus shall be reviewed and established annually, based upon availability of funds, and shall be nonecumulative;~~

~~3. All payments represent taxable compensation and appropriate payroll taxes shall be withheld from each bonus payment:~~

~~4. The incentive bonus shall be paid in the month the employee's annual evaluation is due:~~

~~5. The red lined employee must qualify for an incentive bonus every year.~~

~~B. Definitions: For purposes of this section, the following terms shall be defined as follows:~~

~~1. "Bonus" means a nonecumulative cash award paid for performance and productivity which exceeds expectations:~~

~~2. "Eligible red lined employee" means during their annual evaluation month and the eleven (11) consecutive months preceding the evaluation, the employee has:~~

~~a. Been at the top of the range; and~~

~~b. Not received a market adjustment, merit or promotion. (Ord. 07-26 § 3; Ord. 06-31 § 2; Ord. 04-20 § 8; Ord. 00-22 § 7; Ord. 99-31 § 1)~~

2.62.2400: PENALTIES:

A. A violation of the provisions of this eChapter shall be grounds for disciplinary action, ranging in severity up to and including suspension or discharge from the career or public safety service.

B. Any person who has violated any provision under this eChapter shall, for a period of five (5) years, be ineligible for employment in the career or public safety service. If an appointed officer or employee of the eCity, the person shall forfeit the office or position. (Ord. 08-22 § 2)

SECTION 3. Effective Date. The Ordinance shall take effect upon first publication.

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on this day
of , 2013.

MURRAY CITY MUNICIPAL COUNCIL

Brett A. Hales, Chair

ATTEST:

Jennifer Kennedy, City Recorder

MAYOR'S ACTION: Approved

DATED this ____ day of _____, 2013.

Daniel C. Snarr, Mayor

ATTEST:

Jennifer Kennedy, City Recorder

CERTIFICATE OF PUBLICATION

I hereby certify that this Ordinance was passed on the ____ day of _____, 2013.

Jennifer Kennedy, City Recorder

**Mayor's
Report
and Questions**

Adjournment