

**REGULAR SESSION OF THE
BRIGHAM CITY COUNCIL
November 21, 2013**

PRESENT:	Dennis Fife	Mayor
	Scott Ericson	Councilmember
	Ruth Jensen	Councilmember
	Brian Rex	Councilmember
	Mark Thompson	Councilmember
	Tyler Vincent	Councilmember
	DJ Bott	Councilmember Elect
	Tom Peterson	Councilmember Elect

ALSO PRESENT:	Ryan Abraham	Cemetery Sexton
	Mary Kate Christensen	City Recorder
	Jared Johnson	Community Development Director
	Paul Larsen	Economic Development Director
	Kristy Law	Recreation Manager
	Bruce Leonard	City Administrator
	Tyler Pugsley	Public Works Director
	Jason Roberts	Finance Director/Deputy City Recorder
	Paul Tittensor	Police Chief

Mayor Fife called the meeting to order. The Reverence Period was given by Jason Kohl, First Counselor in the LDS 11th Ward. The Pledge of Allegiance was recited.

Approval of Minutes: A motion to approve the minutes of the November 7, 2013 Council meeting was made by Councilmember Vincent, seconded by Councilmember Jensen and unanimously approved as distributed.

AGENDA

CONSENT

- Request to Write-off Accounts Due to Bankruptcy or Being Sent to Collections
- Reappointment to Airport Advisory Board

PUBLIC HEARING

- Recodification of City Code Title 13, Health and Sanitation; Title 22, Waste Treatment; Title 24, Streets and Sidewalks; Title 28, Water
- Adjustments to the 2013-14 Budget to Allow for Remodeling of the Cemetery Main Office, Remodeling of the Restrooms at Eagle Mountain Golf Course, and to Allow for Grant and Donation Expenditures in the General Fund

SCHEDULED DELEGATION

- Presentation of Hometown Hero Program Sponsored by Kent's Food (*tabled*)
- Request to Purchase Items from Scheduled Demolition
- Cost Effective Alternatives in Preserving Contributions of Main Street Church to our City

NEW BUSINESS

- Request for Variance to Noise Ordinance for Drilling of Canyon View Well
- Request for Approval of Resolution Increasing Recreation Fees
- Request for Approval of Resolution Establishing and Updating Field Use Fees
- Request for Approval of Resolution Increasing Pool Fees
- Update on Pool Restoration
- Request for Approval of Resolution Updating Building Codes and Fee Schedules

PUBLIC COMMENT

CONSENT

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

A list of accounts totaling \$10,190.15 for October 2013 was presented to be removed from the City's billing system due to customer taking out bankruptcy or being sent to collections.

Reappointment to Airport Advisory Board

It was recommended Dr. David Hess be reappointed as an alternate member to the Airport Advisory Board.

MOTION: A motion to approve the Consent Agenda was made by Councilmember Thompson, seconded by Councilmember Vincent and unanimously carried.

PUBLIC HEARING

Recodification of City Code Title 13, Health and Sanitation; Title 22, Waste Treatment; Title 24, Streets and Sidewalks; Title 28, Water

Mr. Leonard explained that this is a continuation of the recodification project. One of the items that was changed in Title 24 was the snow removal ordinance. It was changed so parking on a public street during the time that snow operations are in progress and removing snow from pavement edge to pavement edge is not allowed. The committee has reviewed and updated the subject titles and feel they are ready for approval.

The Mayor opened the public hearing. There were no comments from the public. A motion to close the public hearing was made by Councilmember Vincent, seconded by Councilmember Jensen and unanimously carried.

MOTION: Councilmember Ericson made a motion to approve the ordinance recodifying Titles 13, 22, 24 and 28, seconded by Councilmember Vincent. Councilmember Jensen asked if something could be done for single people and their utility bill, specifically garbage pickup. Most single people do not need a large garbage can. Not everyone is in the same situation so the City needs to look at how we can be more accommodating. Councilmember Ericson, Councilmember Jensen, Councilmember Thompson, Councilmember Rex and Councilmember Vincent voted aye. Motion unanimously carried.

Adjustments to the 2013-14 Budget to Allow for Remodeling of the Cemetery Main Office, Remodeling of the Restrooms at Eagle Mountain Golf Course, and to Allow for Grant and Donation Expenditures in the General Fund

Mr. Roberts, Mr. Leonard and Mr. Johnson came forward.

The adjustments being requested are as follows:

- \$10,000 from the Golf Fund for renovation of restrooms at the golf course. The golf pro will match this \$10,000.
- Increase the Emergency Management Services budget by \$3,776.80 to reflect donations from Wal-Mart and Kents and authorize use of said funds from the General Fund.
- Increase the EMS budget by \$10,807 to reflect receipt of grant and authorize use of amounts from the General Fund.
- Use of funds from the Facility Fund for the cemetery building addition, which will be paid back from the Cemetery Improvement Fund to be not more than \$100,000.

The Mayor opened the public hearing.

Lee Johnson, Brigham – Mr. Johnson said the City has some contractual obligations with the golf course which is similar to a franchise. This makes it difficult for the golf pro to explore, experiment and get things done without having to come to the Council. He recommended when the lease is up again the City consider selling it or some sort of financial arrangement.

Blake Broadhead, Brigham City – Mr. Broadhead is Chairman of the Golf Course Commission. He asked the Council to support the golf pro's proposal. Remodeling the restrooms is necessary due to the age of the restrooms and the need to continue in making it a facility that Brigham City and its residents can be proud of. Most of the work will be done in-house.

DeAnna Hardy, County – Ms. Hardy is not in favor of the golf course because it is the government telling people what entertainment and recreation they should have. She hoped that someday the City will sell the golf course to a private owner. She felt that \$20,000 for the restoration of the restrooms is a lot of money. In regards to the cemetery upgrade, she has been to a lot of cemeteries and there have never been any restrooms. She did not feel there needs to be public restrooms because people are only there for a short time. The government keeps spending and spending while people's paychecks keep going down.

Dick Wuthrich – Mr. Wuthrich serves on the Golf Course Commission and said he supported the proposed refurbishment of the restrooms. It should be noted that the franchisee, as Mr. Johnson referred to, is putting up \$10,000 of his own and using his own crews which would not be fully utilized during the summer months. It is a very efficient use of resources. The restrooms are not in dire need, however, not many people wait until their restrooms are in dire need before they make improvements. This is certainly not the standard of this community. This improvement is needed and he encouraged the Council's support of this project

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

MOTION: A motion to approve the adjustments to the 2013-14 budget as outlined with the stipulation that the cemetery pay back the money over a six-year period to the Facilities Fund, upgrade the restrooms at the golf course as outlined and to allow the expenditure of the grants and donations at the EMS Department. The motion was seconded by Councilmember Ericson and unanimously carried.

SCHEDULED DELEGATION

Request to Purchase Items from Scheduled Demolition

Annie Robison said she fell in love with the house that is being demolished east of Zion's Bank. She had talked to Jared Johnson about getting some architectural details from the building before it is demolished. She realized there is some liability with the lead paint but she would be willing to sign a waiver saying that she will not sue the City.

Mr. Jared Johnson came forward and explained that once a property belongs to the City it has to be surplus and offered to everyone. The stairs were pulled from the structure and added to the surplus list in December. Other items the Robisons are interested in are a concern because of the lead paint. In addition there have been numerous drug violations at this location. During the demolition no citizens will be allowed on site.

Mr. Johnson discussed this with the City Attorney and he said even with a waiver, the City cannot waive negligent liability.

Councilmember Ericson asked if the items could be added to the surplus list for December. Mr. Johnson explained that the decorative features on the exterior of the home are difficult to remove and would expose City crews to asbestos.

Councilmember Jensen said there are businesses that reclaim wood from buildings and sometimes do not charge anything. She suggested this type of business be contacted. Mr. Johnson said that is a possibility, but there is still the liability. Mayor Fife added that if there is lead based paint on the outside, the wood cannot be used without going through a long cleaning process.

Mr. Johnson will do further research and report back to the Council and notify the Robisons.

Cost Effective Alternatives in Preserving Contributions of Main Street Church to our City

Pastor Jim Catlin from the Main Street Church came forward. Pastor Catlin said the members of their church are very unsettled because every time an artists' rendition shows up in the newspaper that should include their building it doesn't; or when tour guides at the Dance Academy tell folks that their building will not be there by the next Peach Days. They are unsettled when City officials state in the press that Main Street Church is a problem.

He has tried to reassure them, but of late he is also unsettled because many indicators are mounting to point toward eminent domain. This would abruptly shut down a course of dialog that had just begun to show signs of real promise after many months of effort. They would like this dialog to continue.

On July 12 they asked City staff to meet with them in their building. Their leadership sat across the table from the Mayor and other City staff and made a landmark proposal. They said, "We now have a workable plan and given a few reasonable stipulations, we will move." This was a big deal for them. He said he was not sure what happened, because immediately the dialog stopped. A month passed, still no word from the City about their proposal. They wondered if the City was struggling to accommodate their stipulations. These stipulations were to avoid debt, disruption and diminishment. He explained these three stipulations.

Debt – They would only be moving as a courtesy to the City, not to gain anything, so it's only fair that they should not go into debt to accomplish this. It is right that the City should bear the burden of replicating their presence somewhere else in the downtown. They talked to professionals to help them understand what "replication" might cost.

The most costly scenario is new construction on a vacant lot. They were shocked when they were told that their 5,000 sq. ft. building would cost about \$800,000. Construction costs alone would be \$650,000 plus \$150,000 for a comparable lot in the core business district. It would actually be more than that because building codes would force them to construct a parking lot as well. Moving into an existing building is much cheaper but is still \$400,000.

The key for them to stay out of debt is knowing which of these two scenarios is in their future. In the July 12th meeting the proposal was renovation of a specific existing downtown building.

No Disruption – It would be irresponsible for the leaders of their congregation to vacate their current location without having a transition plan in place. With a renovated property in hand, they could close their old doors on one Sunday and open the new doors the next Sunday.

However, without a destination property in hand, they run the risk of indefinite disruption. A cash-only deal from the City would guarantee indefinite disruption. This is because finding a suitable building for them has proven to be very difficult and very time consuming. For nearly 18 months, Jeff Packer and Bob Marabella have scoured Brigham City's commercial properties and only half a dozen properties surfaced for their consideration. They dutifully considered every property, sometimes analyzing blueprints, sometimes with repeated walk-throughs. Only two properties had sufficient floor space. The property at the heart of their July 12th meeting was one of them.

Without question, the best strategy to prevent disruption is an ongoing partnership with a realtor who can stand watch for them and act quickly as commercial properties sporadically come on the market.

No Diminishment – All along they have said that they want something functionally equivalent with their current situation. What most people do not understand about them is that their location downtown is at the core of their philosophy of ministry. It is at the core of the identity that God has given them.

To most people's thinking, a church building is best located for the convenience of its members. However, their thinking is that a church building is best located for the convenience of the people its members serve. They love serving people downtown and because of the relocation, people readily find them.

They have had people leave the district court during recess and come through their doors asking for prayer before their case continued. They have had people short on food leave through their doors with just enough food to get by for another week. They even had a panicked man come through their doors one evening because the spirits haunting his house had him so terrified that he would not go back to his house unless Pastor Catlin went back with him and prayed for him. For a few years they have been delighted to provide food court space for Maggie Nawyn's fundraisers at no cost. They had a shoeless woman just a few weeks ago enter their church, fresh out of jail, who left their building wearing the shoes of another woman who was there at the time and whose shoe size just happened to match exactly. They are frequently used as a mini conference center for the Christian community. Al-Anon meets in their building every week.

Their greatest delight in serving the community comes every year during Peach Days. It started several years ago by just opening their restrooms to the public and it now includes sitting areas, baby changing and nursing areas, free ice water, free popcorn, free Bibles and now free peach cobbler. Outside they provide the only shaded seating for the main event area. Their water has filled the cups of the runners crossing the finish line on Saturday mornings. Their hospitality has significantly contributed to the comfort and care of literally thousands of visitors who come to Brigham City for Peach Days.

Diminishment would mean leaving the downtown. They feel called by God to serve eagerly, without cost, in the midst of the core of this wonderful town. Finding an equivalent building in an equivalent location makes their relocation very difficult. Just because they have not moved yet does not mean they have been uncooperative.

During the July 12th meeting, for them to declare that they had found a solution was a miracle. However, after they made that concrete proposal to the Mayor and staff at this meeting, all went silent. They never received a reply to that specific proposal. Instead, on August 30, seven weeks later to the day, they received a cash only purchase offer from the City that was so low that it violated all the stipulations described. To add insult to injury they demanded a response in one business day. One day to decide whether to accept debt, disruption and diminishment. Even their lowest cost scenario was far above the amount the City offered. So they let the offer lapse.

To be fair, the City did reiterate with another offer but the amount was the same.

What happened to the July 12th proposal? It turns out that during those seven weeks the property had been bought for cash and was no longer an option. Disappointed, they shifted their attention to the other property and sent word to see if it was still viable. They are still awaiting a response to that request.

Why, when the dialog had turned so promising, had the City gone so silent? Why the sudden preference for cash offers with urgent deadlines over a continuing partnership with a realtor? The natural suspicion was eminent domain. At that point, prudence dictated that they engage an attorney to advise them, so they did.

In the meantime, this headline in the local paper changed everything for them, "Done Deal." Apparently the hotel had completed the purchase of all of the property that it needed and it did not include a single square inch of their property. It was clear that they did not interfere with the hotel's plans. They could break ground any time they wanted.

They then researched the plans for the Academy Building and found that the proposed expansion was already sitting on ground owned by the City. Contrary to what the public has been led to believe, their property is not required for either building project. The RDA #1 plan shows their property as merely an incremental extension of the current open space - grass and sidewalk. The objective of this project is economic development. Mayor Christensen once defined economic development as achieving an "increase [in] the median income of Brigham City residents as a percentage of state median income." If there is a simple straight line between the extra grass that they will become and the increase in the median income of City residents, Pastor Catlin suggested that they have lost their way. The City is on the verge of making them into the most expensive grass in town.

With an eye toward taxpayer funds, they propose a parallel track of dialog that would prove to be far more cost effective than a relocation, but still remain open to any workable relocation ideas as well.

Pastor Catlin proposed that the City fund a modest makeover of their exterior. He distributed a copy of an artist's concept of a sample makeover. Of course any final plans would need to be designed in concept with the City staff. While this is in the spirit of the City's popular face grant program, it would probably go beyond it. Surely a consensus on a measured cosmetic upgrade would be far easier to arrive at. It is a reasonable approach to accommodate their continued presence downtown.

Mayor Fife stated that there seems to be a real lack of understanding because he and staff thought the church was the one that quit communicating. They received no communication back on the City's offers. It seems like both sides have felt the same way. The City has been working through the church's lawyer to set up a meeting for the last two months and it keeps changing. The last they heard it was going to be set up for January, but there was one set up for the first week in December. The Mayor said he hopes this can happen.

There are some items Pastor Catlin brought up that Mayor Fife said they don't see the City's side of it. The City has some ideas and the Mayor Elect and one of the councilmembers are happy to meet with them. Some of the proposals that are being proposed would put the church in a better situation. Mayor Fife suggested the communication continue and be better than it has been in the past. When the City made the offer, it was assumed the church would come back and discuss it. But it lapsed with no communication. It appears both parties felt that the other was not communicating.

Councilmember Vincent said when he talked to Pastor Catlin two weeks ago, he called the City Attorney and asked him to call the church's attorney and set up a meeting. Mr. Morgan tried numerous times to contact their attorney and he would not even return Mr. Morgan's calls. Pastor Catlin said he will talk to their attorney about this. Councilmember Vincent asked Pastor Catlin to talk to their attorney and get something set up.

NEW BUSINESS

Request for Variance to Noise Ordinance for Drilling of Canyon View Well

Mr. Pugsley came forward and said this project is moving forward rapidly. A conditional use permit has been approved and notices have been sent to the residents to make them aware of the project and that a variance to the noise ordinance was going to be requested. He asked the Council to approve a variance to the City's noise ordinance beginning November 23, 2013 for approximately 2 - 2 ½ weeks for drilling of the well. They will drill seven days a week, 24 hours a day. The contractor will be required to install a 16' noise fence.

MOTION: A motion was made by Councilmember Ericson to approve a variance to the noise ordinance for drilling for the Canyon View Well, but if it takes longer than December 11, 2013 to let the Council know at the following Council meeting. The motion was seconded by Councilmember Vincent and unanimously carried.

Request for Approval of Resolution Increasing Recreation Fees

Ms. Law came forward and explained that they annually review the recreation fees and do a cost analysis on every league. This resolution includes ten changes to individual sports with an average increase of \$3.00-\$5.00 for individuals. They also added two tournaments – competitive baseball at \$450 and ASA friendly at \$250. They added a special events section for races and pickleball. It has been three years since fees have been increased.

MOTION: A motion to approve the resolution increasing recreation fees was made by Councilmember Thompson, seconded by Councilmember Jensen. A roll call vote was taken with all voting in favor.

Request for Approval of Resolution Establishing and Updating Field Use Fees

Ms. Law stated that this resolution separates the policy and fees. Pickleball and tennis court fees have been added and the user fee for the parent groups, such as AYSO Soccer and football, from \$3.00 to \$5.00.

MOTION: Councilmember Rex made a motion to approve the resolution establishing and updating field use fees as proposed. The motion was seconded by Councilmember Vincent. Councilmember Ericson, Councilmember Jensen, Councilmember Rex, Councilmember Thompson and Councilmember Vincent voted aye. Voting was unanimously in favor.

Request for Approval of Resolution Increasing Pool Fees

Ms. Law said they did an analysis of all surrounding pool facilities and looked for new ideas and recommendations on ways to generate additional revenue. One recommendation was a change in the punch pass system. This resolution reduces the 20-punch pass by \$5.00 and the 50-punch pass by \$1.75 to align with a 3-tiered level. Currently there is no incentive to buy more punches. There is an additional tier in the family season pass for six family members for \$375. For more than six, an additional \$3.00 will be charged at the gate. Entrance for Family Night (Monday) was changed to \$2.50 or \$15.00 for a family of six or more. Rental of the pool for Friday or Saturday night increased to \$500. Swim lessons were modified as well as the morning fitness class. City special events will have a special rate of \$3.00.

MOTION: Councilmember Vincent made a motion to approve the resolution to increase pool fees, seconded by Councilmember Jensen. Councilmember Ericson, Councilmember Jensen, Councilmember Rex, Councilmember Thompson and Councilmember Vincent voted aye. The motion unanimously carried.

Update on Pool Restoration

Mr. Johnson came forward and requested that the Council authorize the Mayor to sign a contract with CEM Aquatics in the amount of \$496,877. They have spent nine months researching this and put out several RFPs. They thought they had a better solution that would save a significant amount of money to replaster the pool. However, since then he feels the liner is the best option. Liners are lasting 20+ years. The contract is to install a 60 mil PVC liner throughout the pool. It also includes removing all the coping stones around the perimeter. The interior gutter system would be resealed; the coping stones would be reset and leveled to bring the pool back up so it is level around the perimeter.

Councilmember Jensen said she is not necessarily in favor of this, but asked about closing the pool as some people have suggested. She asked what this area could be used for. Mr. Johnson said the park could be extended. He added that the Council should definitely hear from the public if this is something they want to consider. The public voted on the bond for the new pool. The citizens wanted it. He felt that the majority of the people still feel the same way. Attendance this year was higher than it has been in a long time.

MOTION: Councilmember Ericson made a motion to authorize the Mayor to sign the contract with CEM Aquatics for the pool liner and repairs. The motion was seconded by Councilmember Thompson and unanimously carried.

Request for Approval of Resolution Updating Building Codes and Fee Schedules

Mr. Johnson explained that this resolution adopts the new building codes and updates the following fees.

- Commercial plan reviews increased from 25% to 40%.
- Residential plan reviews increased from 10% to 15%.
- Deposits that are held for more than two years will be non-refundable and forfeited to the City.
- A \$75 charge was added for water flow tests when the buildings require fire suppression systems.
- An annexation fee of \$100 was added.
- A reduction for staff determination for Appeal Authority from \$100 to \$50.
- Another reduction from \$250 to \$100 for appeals to the Appeal Authority.
- Easement vacation (not part of subdivision amendment), \$10.

MOTION: Councilmember Vincent made a motion to approve the resolution updating building codes and fee schedules, seconded by Councilmember Rex. A roll call vote was taken with all councilmembers voting aye.

PUBLIC COMMENT

Byron Tuck, Howell – Mr. Tuck lives in Howell and is a representative of Freedom Works. He listened to the talk about all the attorneys and all the fees going up. There are a lot of professionals with their fees to save us from ourselves. The Founding Fathers paid an enormous price so we could advocate for each other. He sees representation that advocates for the process and not for the people. He understands that the Council is heartfelt and honest efforts but he asked them to remember that they are here to advocate for the people, not necessarily for the City and all the projects that are fun and entertaining for those citizens. As much as the citizens might demand these things, they don't demand to pay for them. It is the Council's job to bring a bridge between the authorities and the people that are finding it hard to be represented for the general populous.

DeAnna Hardy, County – Ms. Hardy spoke about the City's facade grant program and how she feels it is wrong because it shows favoritism to a few businesses. She felt that it is unconstitutional and needs to be phased out. It is Socialism. She also discussed smart meters. She said she has one on her home, even though people don't think she does, but the meter readers do not come to her house any more to read their meter. Rocky Mountain Power told her it would cost \$280 to have it removed and \$20 a month for someone to read her meter. This is penalizing someone who has health issues because of these meters. She asked the Council to consider citizens' health as they consider smart meters.

Lee Johnson, Brigham City – Mr. Johnson said again that the proposed hotel is a homeless shelter and that the conference center is a non-denominational worship center. Since 1954 churches have been regulated and threatened not to be political because they will lose their tax exempt status. Churches are tax exempt because if a church is subject to taxation they are also subject to confiscation of their property if they do not pay taxes. Now the Main Street Church is in a position where they might be forced out of town because they do not have any place to gather. Mr. Johnson said he would stand by Pastor Catlin.

DeLoy Mecham, County – Mr. Mecham said pools are a maintenance nightmare. There are a lot of people that really like the pool, but he wondered if those people had to pay the \$500,000 if their story would change. Mr. Mecham said he has experienced eminent domain. He started constructing a building close to Hill Air Force Base. A general told him he couldn't build where he was and told him they were going to be under eminent domain. They wouldn't buy it until it was completely finished. Then they did eminent domain. He recommended the Main Street Church work with the Council because if they have to do eminent domain they take over your life.

Don Dunbar, Brigham – Mr. Dunbar said the proper role of government is to protect citizens' rights. The Council increased taxes at this meeting – an increase in pool fees. They can call it a fee but it is a tax nonetheless. Those that don't swim still have to pay for the pool. Mr. Dunbar said he does not golf, why should he pay for it? The proper role of government is police and fire protection and maybe the water. He suggested selling the golf course after the restrooms are remodeled and fix the pool, then sell them and put the money into the General Fund to fund a power plant. This would reduce fees. The City has a monopoly on essential services so the least they could do is put money into a power plant and get rid of Rocky Mountain Power.

Becky Maddox, Brigham – Ms. Maddox asked the Council why their idea of a good facade is better than the idea of a good facade from a business owner? Why does the Council have the privilege of telling business owners what they can or cannot do? For example, Afton's Floral wanted to put up a marque and was told they could not. If they want to go to that expense, why not allow them to do so? If people don't like it they could go in and complain or shop other places, then Afton's would go out of business or change what they did. The City is not the one putting out money to develop these businesses. The City is taking money and labor out of the system because they want businesses to do things their way. This country was built on the idea that people can choose for themselves. Without government interference maybe prices would go down.

Denise Albertson, Brigham City – Ms. Albertson spoke in support of Pastor Catlin and his church. They have made a big impact in the community. Other churches also support them. They are very important to the community and she does not want them to go.

Dakota Tuck, Howell – Ms. Tuck said the Council's intentions are probably good to change the facade of Brigham City, but it is not right. It is not right to force somebody out of their church and change how they look. Part of the reason people come to Brigham City is because it is a quaint little town with character. When the facades look like every other City's with their big City buildings that are paid for by taxpayers and their fancy pools, again paid for by the people, Brigham City will lose the quaintness and character that makes it a nice town. She encouraged the Council to reconsider taking this man's church and making it change.

The meeting adjourned at 9:00 PM