

Murray City Municipal Council Chambers Murray City, Utah

The Municipal Council of Murray City, Utah, met on Tuesday, the 4th day of September, 2012 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:

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

Others who attended:

Daniel Snarr,	Mayor
Jan Wells,	Chief of Staff
Jennifer Kennedy,	City Recorder
Frank Nakamura,	City Attorney
Pete Fondaco,	Police Chief
Tim Tingey,	Administrative & Developmental Services
Gil Rodriguez,	Fire Chief
Justin Zollinger,	Finance Director
Blaine Haacke,	General Manager
Scouts	
Citizens	

Mr. Stam excused Mr. Hales from the meeting.

5. OPENING CEREMONIES

5.1 Pledge of Allegiance – Sally Hoffelmeyer Katz, citizen

5.2 Mr. Stam stated that there is a tradition in Murray to have the Scouts in attendance stand and introduce themselves, their Scout Leaders and which Merit Badges they are working on. The Scouts introduced themselves.

5.3 Approval of Minutes of August 7, 2012.

Call vote taken, all Ayes.

5.4 Special Recognition:

Consider a Joint Resolution of the Mayor and Municipal Council of Murray City, Utah declaring September 9-15, 2012 as Public Power Week.

Staff presentation: Blaine Haacke, General Manager

Mr. Haacke announced that they are holding their Public Power Celebration for the 19th or 20th year. This is a National Public Power Week that is declared by the American Public Power Association and they have piggy-backed onto their celebration. This celebrates those communities in the nation that have municipal power systems. The celebration will be Thursday, September 13, 2012 at the Murray Park pavilion near the Parks building, with food, tree giveaways and demonstrations. The Council will receive some colored tee shirts to wear to the celebration.

Mayor Snarr read the Resolution in its entirety. Mayor Snarr also noted that this is our 99th year and we are the only municipality in the Salt Lake County that has its own power company, an innovative move that has paid off for the City. We all value and appreciate having our own power company, not only because it sets us apart from other cities, but because it shows that we are a responsible community and insures that we will have a reliable power system and can resolve issues quickly and efficiently.

Mr. Brass made a motion to approve the Resolution.
Mr. Shaver 2nd the motion.

Call vote recorded by Jennifer Kennedy.

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

Motion passed 4-0

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

None given

Citizen comment closed

7. **CONSENT AGENDA**

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 amending the Transit-Oriented Development District Design Guidelines adopted pursuant to Section 17.146.030 of the Murray City Municipal Code. (Hooper Knowlton, Parley's Partners, applicant)

Staff presentation: Tim Tingey, Administrative & Development Services Director

Mr. Tingey stated that this proposal was brought forward by Mr. Knowlton as part of his development proposal. Our current design standards require that on principal streets, street lighting spacing be between 30' and 50' per street light. The principal streets, the principal streets in the Transit-Oriented Development area include Main Street, Fireclay on the east of the heavy rail tracks and Birkhill Blvd. The proposal is to allow for 100' spacing with staggering of the street lighting to occur on the opposite side of the street, creating a light every 50 linear feet. Spacing at street intersections may increase to 120' because of that intersection but there will be a pattern placed on opposite corners, to have street lights on opposite corners, as part of the ordinance that is being proposed.

This item went to the Redevelopment Agency who recommended approval. It went to the Planning Commission after recommendation by staff. Staff had evaluated the proposal and after input from the Power, Engineering and Community & Economic Development Divisions, felt that the current configurations provide more light than was necessary and that staggering on both sides of the street will preserve enough light to maintain the pedestrian oriented access. They also felt that the change in the distance of the lighting will also reduce costs for future maintenance and will not compromise the street-scape that was originally intended for the area.

When the proposal went to the Planning Commission, they recommended denial. Some of the reasoning behind their recommendation was that they were concerned about the consistency where there is existing development that already has in place 50' intervals for street lighting. That consistency and symmetry was a concern to them. They were also

concerned about urban design and wanted to emphasize that there is a way to reduce the lighting, but the urban design is an important part of place making. Based on those reasons, as well as others, they recommended denial of this proposal.

Mr. Stam asked if the Planning Commission had gone to the area to look at the lighting that is there currently.

Mr. Tingey said that he believed that some of the Planning Commission did go to look at that.

Mr. Brass noted that he has, on several occasions, requested photometrics of the fixtures and has not seen them. There is a layout of footcandles which is different. He would like to know how these footcandle measurements were obtained.

Mr. Tingey said that the footcandle measurements were provided by the applicant.

Mr. Knowlton distributed some information to the Council. Mr. Knowlton said that in regards to the footcandle photometrics, they used a Sylvania light meter and on three separate occasions between midnight and 2:00 a.m. took several measurements that are included on the information sheets. They had their electrical engineers correlate that information. As this relates to the photometrics, with the regards to the light fixture, Mr. Brass is correct in saying that information was not yet provided. What they provided was a detailed analysis of the footcandles in the lighting situation.

Mr. Knowlton said that they began this in a presentation last June to the RDA and discussed the situation that currently exists at Deseret Industries on the east side of the street. At Deseret Industries on the east side of street, the spacing is at 50'. When the property on the west side develops, the City's Ordinance calls for 50' light spacing as well. He thinks that many people feel that the current lighting at Deseret Industries is overly bright, more than it needs to be. Under the current ordinance, this situation is only going to be exacerbated when the property on the west side gets developed under the TOD ordinance because the ordinance calls for light spacing at 50' opposite the current lighting with no staggering.

Mr. Knowlton would propose that it would be possible to play an NFL football game at that location right now at midnight given the current lighting and by the time you put in additional lighting on the west side you will need to wear sunglasses at midnight in that area. He understands that this is a bit of an overstatement but he is saying that it is overly bright right now and under the current ordinance it is going to get a lot brighter. He has provided some photometrics at the light (6' off the base of the light) at the sidewalk. They also took the half-way point or 25' at the same point of the sidewalk and did a footcandle analysis of that as well. Those are the respective footcandles included in the information. You can see on the analysis of the footcandles that what they basically end up with on the Deseret Industries footcandle analysis is that there is a combined footcandle of 1.36 which is, in their opinion, considered too bright.

If this ordinance is not changed, you will have the same thing on the other side of the street and it will be considerably brighter.

Mr. Knowlton showed a slide of the existing footcandles at Mike Brodsky's Fireclay condominiums. If they begin at the corner of Fireclay and Main Street and work north, there is a spacing of 97', 47', 42' and 42'. You can see the respective footcandles as it relates to where the light is on the sidewalk and as it relates to the half-way point with the current lighting across the street being regular cobra head pole lights. You can also see that on the north side of Fireclay where the spacing is 50', 48' and 41' on those lights the footcandles that are measured there. Mr. Knowlton explained that the "N/A" in that area is due to the fact that they were not able to get an accurate measurement because there is too much light which comes from reflective lighting that is on the building.

Mr. Knowlton said that the next area that they looked at was the Birkhill street light footcandle analysis. They used a photo matrix software program that took the 150 watt bulb at 15' on the designated street light and analyses, foot by foot, what that various footcandle power is. They have taken and calculated what the footcandle average in those areas is in order to see what the impact would be as they talk about what the spacing would be at the 100' on the east side of Main Street.

The last photo that Mr. Knowlton showed is of an area within the Birkhill apartment project where the street lighting will be in Phase I and subsequent phases. They have an interesting layout of the current lighting at the TRAX Murray North Park-and-Ride lot. The average footcandles here are 1.35 and 1.25. The lights here are a little different from the ones the City is prescribing for the street scape, being a double pole light at 20'. It is interesting to note that in this lighting situation, at midnight half of the lights go off because TRAX shuts down and possibly for energy conservation. Even with half of the lights shut off, there is still footcandle power that is very close to when all the lights are on. Mr. Knowlton said that you would be surprised how bright that parking lot is at 1:00 a.m. The north side of Lionsgate between TRAX and their west property line, as indicated in the analysis, they have lights set at 95' to 113' spacing and the lights are only designed to be on the north side of the street. There will not be lights on the south side of the street. On the north side of Fireclay (Lionsgate) the footcandles have a combined average of 1.25. If you go there after 10:00 p.m. you will see that this is very well lit and Mr. Knowlton doesn't feel that anyone walking there would feel that this is a public safety issue because it was not bright enough.

Mr. Knowlton stated that what they are trying to say is that when you have the lighting that is existing on the west side of Main Street between Fireclay and Gilbride, coupled with the 100' spacing on the east side that they are suggesting, you will have adequate footcandle and adequate light for public safety and creating that walkable atmosphere at night that the City is trying to accomplish. When this was originally proposed, the design of the 50' spacing was not supported by Murray City Electrical Department. Kelly Peterson and Charles Crutcher, in recent communications with Mr. Knowlton, indicated that they were not in favor of that lighting situation. They wanted wider spacing in lights but were overwritten by the Economic and Community Development Director Keith

Snarr. Mr. Knowlton believes that there is a design error. When they are building their apartments, they get 65-70% complete on the first phase and recognize they have design problems which they correct in the second phase. The City is currently about 34% committed with regards to development which is taking place in the Fireclay TOD and have another 66% to complete. Mr. Knowlton believes the City has a design issue that needs to be corrected. Design corrections are made in the private sector and he feels that it is worth consideration on the part of the City Council to make adjustments to the design standards which will not in any way, shape or form, impair the public safety at night in this area.

Mr. Knowlton said that if the Council does not make this change, they will find that they will have an extremely over-lit area that does not create the ambiance that they are attempting to create. In their presentation to the Planning Commission, the issue of form over function took priority. Mr. Knowlton doesn't know how many of the members of the Commission have walked this area at night. Many people drive by Deseret Industries and notice the lighting on Main Street. The footcandle on 4500 South is considerably different and he would suggest making an adjustment at this point in time in the interest of the City in the long-term development of the Fireclay TOD area.

Mr. Shaver said that based on Mr. Tingey's analysis of what the Planning Commission decided, the form and function idea is what they are talking about. The aesthetics versus the actual luminary might be for a six-foot person to be able to see and be seen by others as opposed to what it actually looks like.

Mr. Knowlton said that this was an accurate interpretation.

Public Hearing opened for public comment.

None given

Public Comment Closed

8.1.2 Council Consideration of the above matter.

Mr. Nicponski asked Mr. Tingey what it is that they want and why? What is the difference between what the City is proposing and what Mr. Knowlton is looking to do?

Mr. Tingey stated that the proposal that Mr. Knowlton has presented was recommended for approval by staff. Basically that recommendation would be to go from 50' in distance between the lights to roughly 100'. The Planning Commission disagreed with that recommendation and disagreed with the applicant. They felt that the original 50' is what the standard should be in their concerns relating to aesthetics, urban design and place making. Staff's original recommendation was to approve this.

Mr. Stam said that he had driven by the location at night and did notice that there were several places that it is almost 100'. In between those spaces there are driveways or other things that disallow putting a light, the light was not diminished at all. Sometimes the City will put up signs to advertise different things and at 50' Mr. Stam felt like there was a light every 10 yards like on a football field. It almost appeared to be too many. Mr. Stam can understand what Mr. Knowlton is talking about with the 50' and does not feel that it takes away from the aesthetics with what the City is trying to accomplish.

Mr. Brass said that he found the Planning Commission's comments interesting and was a little surprised by them. He has done a lot of street lighting in his career and taught street lighting maintenance. One of the things that he found is what you see in light is a lot different from what is actually there. A spot might look very bright, but when you look at the light on the ground it actually isn't. Mr. Brass did some research into other design guidelines of other TOD's across the county and one of the things that he found is that while they did state a fixture as we do, they listed lighting levels not footage between fixtures. They said that in these areas, they want this amount of footcandles.

Mr. Brass said that this is not a bad way to go. Everything that he sees indicates that what they will end up with is adequate for a walkable community at night. He was concerned by the Planning Commissions comments, but with the studies that have been done he feels that there will be more than enough light in that area.

Mr. Shaver agreed with Mr. Brass. He used to work for a lighting contractor here in the City and they were more concerned with footcandles than with distance as it is footcandles that make a difference in what you can see. Mr. Shaver said that the ordinance range of 1.1 to 1.5 is what they were expecting. The form issue is something they faced not long ago-what they want to do on those streets with the poles and the lights would look like-he was just ecstatic about that. It made it look so much more 'homey' than those over-arching, down trickle street lights. Mr. Stam feels that they have met the form concept as well as the functionality of it at the distance that is being proposed.

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

Call vote recorded by Jennifer Kennedy.

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

Motion passed 4-0

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

Consider an Ordinance relating to zoning: amends the Zoning Map for property located at approximately 170 West Winchester Street, Murray City, Utah, from R-1-8 (Single Family Low Density Residential District) to R-N-B (Residential Neighborhood Business District). (Amy & Dusten Moore, applicants)

Staff presentation: Tim Tingey, Administrative & Development Services Director

Mr. Tingey stated that this was considered by the Planning Commission who recommended approval. The General Plan specifies certain areas in our community that will go from its existing use to a Residential Neighborhood Business. This property is designated in that General Plan as having a future land use of R-N-B so it is consistent with the General Plan.

Mr. Tingey said that this proposal includes a variety of zoning around this site: M-G-C, R-N-B already in place, R-1-8 and R-N-B in other locations nearby. The Planning Commission recommended approval because there is flexibility in the General Plan that allows for these types of uses and the change is consistent with the General Plan. The types of uses in the R-N-B district are conducive to this area and the surrounding land uses. Based on that and the Planning Commission recommendation, staff is recommending approval of this zone change.

Mr. Tingey added that there was a letter submitted in opposition of this. There were some reasons relating to the types of uses which the Planning Commission did consider.

Mr. Shaver asked if the verbiage of R-N-B is intended as a transition from a very heavy commercial business district and have some sort of a transition into the residential area.

Mr. Tingey said that yes that was the intention. The design standards that are in place for the R-N-B provide that conducive atmosphere in between heavy commercial and residential areas.

Mr. Shaver asked if there are limitations on the types of businesses so that we make the transitions so it is not business-business-house.

Mr. Tingey said that even new developments must look more conducive to the residential neighborhood instead of commercial.

Mr. Shaver asked if that does not then meet the complaint in the letter.

Mr. Tingey said that in his opinion, it does.

Mr. Stam thought that the letter was not against it, that they just ask that the City make sure that it is addressed to handle requirements as required.

Mr. Tingey said that the letter includes the concern that the writer works at night and sleeps during the day and there are elements related to this in the daytime but not at night. There are some hour limitations that businesses can be in place which is something the Planning Commission did take into consideration but recommended approval.

Amy Moore, applicant, 700 E 5600 S, Murray, Utah

Ms. Moore stated that they are very interested in this property. Ms. Moore currently owns a dance studio here in Murray and they are in need of expanding but do not want to be in an industrial area. They would like to keep their environment based as they are now in a residential area. Ms. Moore feels that this facility would meet their needs and be safe for the children attending. They have students ranging in age from three to fifteen and being in a neighborhood would be a good place for them to be.

Mr. Shaver asked what the hours of operation are for the studio.

Ms. Moore said that they open from 9:00 a.m. until 9:00 p.m. with their heaviest traffic being from 3:00 pm. until 9:00 p.m. when the grade school kids are out of school.

Mr. Shaver asked what the ages of the children are, during the 7:00 p.m. to 9:00 p.m. hours.

Ms. Moore said that during that time it is teenagers, ages 13-15 as the school can have them a little later. They would love to be done by 9:00, but right now they still have some classes that go until 10:00 p.m. so that they can meet the student's needs. Ms. Moore realized that having classes go that late at night doesn't make for happy parents or neighbors.

Mr. Stam asked how many students are in those classes.

Ms. Moore said that they can take up to twelve per class, but she prefers to keep the classes small, a six to one ratio is preferred. Other dance studios take up to 25 students but that does not meet the needs of what she is trying to provide for her students.

Mayor Snarr said that Ms. Moore has a very successful studio right now and asked her how much parking she is going to have at the new facility.

Ms. Moore said that there are quite a few spaces and they are definitely going to have to follow the regulations. On the property as it is now, there is an existing home at the front part which is currently occupied by a renter who would like to stay and they would like to keep that as a rental property for now. On the back piece of the property there is a 50' by 50' garage in which they would be making the changes to create the dance studio. From

the house to the garage there is 108', so there is room for a pull-through driveway as well as parking.

Mayor Snarr said that Ms. Moore has been so successful and the challenge is that it is difficult for the patrons as they park on the cemetery side of the street and it takes up quite a bit of space. The children taking the dance lessons are needing to cross the street which is hazardous.

Ms. Moore stated that safety is a big issue for them. With this property they will be set back off of the street making it possible for the students to be dropped off at the door. They have a drop-off policy and a walk-out policy with the younger students where they are actually walked directly to their vehicle. She wants to keep these policies at the new location to keep traffic moving.

Mayor Snarr said that Ms. Moore has addressed his concern of adequate parking resources for those parents who would like to stay and those who are dropping off students and keeping them off the busy street.

Mr. Shaver asked if he was correct in understanding that the home is at the front of the property and that the parking would be hidden by the home.

Ms. Moore said that was correct.

Mr. Brass pointed out that they are looking at the zone change, not the business. It is interesting that when someone requests a zone change they always put down what the business is going to be. The Council has to look at anything that can go on that property under that zone which in some cases could be of concern. There is no guarantee that the person making the application is the one who ultimately ends up with that property. They have seen that in several locations that have caused interesting stress. If they make the zone change and the sale of the property does not go through, is it appropriate for the area? That is one thing that they need to consider.

Mayor Snarr said that the reason that they created this ordinance was that they have these areas which people no longer want to live on a residential basis. 900 East is not what it was 60 years ago. There are two lane of traffic going both directions and a center lane. The same is true with 5300 South, 4500 South and Winchester Street. Winchester is now an R-N-B from State Street all the way up to 900 East. Those areas now have some life to them because buildings are being built there that give value back rather than boarded up, dilapidated houses. There are a lot of properties on Winchester Street from State Street going west that are in transition.

Mr. Brass said that he was on the Planning Commission when they started that discussion and sat through many meetings where people wanted to do something with their homes on Winchester that wasn't residential. It is very difficult to back out of your driveway onto a six-lane highway. They also recognized that when you put in commercial abutting residential, ultimately the residential that is directly behind that eventually begins to

decay. They came up with this R-N-B, the Residential Neighborhood Business, to address that issue and that zone requires that the building reflect the character of the area. You will see that along 900 East these are no tall office buildings. The alternative used to be that you put up a five-story glass and steel office building. Mr. Brass agrees with the Mayor; it has been a big improvement as the alternative is ending up with run-down rental properties or vacant homes.

Public Hearing opened for public comment.

Jeremy Despain, 720 Shiloh Way, Murray, Utah

Mr. Despain asked if the City still has to approve what buildings get put on the properties in an R-N-B zone or if people are allowed to build whatever is within the guidelines of the zone.

Mr. Brass said that the Planning Commission does the site plan review and other requirements.

Mr. Despain asked if a different business went in, would it still have to get reviewed and approved. He also said that he lives a block away from Winchester Street and there are a lot of buildings that have not transitioned yet. Most of those houses are worn down and vacant and he feels that any building like that which could become a smaller business or would fit within the neighborhood would improve the area on both sides of State Street.

Mr. Tingey clarified that in an R-N-B zone, any new construction must go through a Conditional Use Permit which is a public process. Existing buildings like we have in place right now, if it is a permitted use they have to meet the standards in the ordinance although there is not necessarily a public requirement for that.

Mayor Snarr said that this all started out with the Make-A-Wish Foundation house on Winchester Street. It is a beautiful facility and the modifications that were made, made it a very pleasant transition for the neighborhoods adjoining the R-N-B zone. Mayor Snarr thanked the Planning Commission and Council who were with him all the way through the process to do something to make these areas something desirable and speaks highly of Murray. It shows that Murray cares about the community and aggressively addresses the issues that make a difference for the future of how we look as a community.

Jerry Topance, 1391 North Main Street, Centerville, Utah

Mr. Topance stated that he is Ms. Moore's father and wanted to address Mr. Brass' question on the ownership of the property. Mr. Topance said that this was a process for them be able to own the property. They first had to go to the Planning Commission, and then to this meeting to get the zone change, then get the money to pay for the property. Their intention is to purchase the property. Ms. Moore has been in business for eleven years in Murray, one-third of her life.

Mr. Brass stated that his comment was not about her character nor her business ability. Mountain Medical Imaging, who Mr. Brass is very fond of, was going to be a bank. It was rezoned to be a bank but became a two-story office building. If you come to Council meetings, Mr. Brass always reminds them that they are looking at the zone, not at the building. He was on the board when the Planning Commission voted down Make-A-Wish. Not the business but the zone change because it was zoned General Office. Had they not raised the money to build that building, it could have been a four-story office building which the City did not want. The Council took the risk and approved the zone change. It is a beautiful building and one of the reasons they crafted the R-N-B the way they did is to get that kind of a transition.

Brock Hansen, 1134 Valewood Drive, Murray, Utah

Mr. Hansen asked if the Council could vote to pass the zone change if the applicant does not yet own the property.

Mr. Brass said that yes, an applicant can apply for a zone change. It doesn't affect the vote. The point is, is an R-N-B appropriate for this area and in fact, it is zoned for that. The properties are zoned R-1-8 but the Master Plan is R-N-B. Typically, they go with the Master Plan although Mr. Brass cannot speak for the entire Council. Whether the applicant purchases the property or not the decision the Council makes will stay.

Mr. Hansen said that there would be nothing that would restrict a business owner coming in to a residential area and wanting to purchase and saying the zoning hasn't changed yet and they don't want to take the chance purchasing the property if the zoning law won't change.

Mr. Brass said that he would look at the Master Plan first. If you were to go into the heart of a neighborhood, they are not going to change it to an R-N-B. This was specifically for areas that are pressured by commercial such as Winchester where it is a six lane road or 900 East. If you look at the Master Plan, those are the areas where you will see this as a designation, even though some of the properties still carry a designation of R-1-8 zoning.

Mr. Shaver encouraged anyone in the city who wants to start a business, to speak with Mr. Tingey's office. They will be able to enlighten them on what it actually looks like- what is the zoning, what are the recommendations and what might be able to be changed. What Mr. Brass just said is that the entire area around this is already R-N-B but this particular property is not. When the applicant came forward and asked if they could get it changed so that they could do their business, they were directed to this process and Mr. Shaver encourages others to do the same if they have a business or a piece of property they are looking at.

Mr. Brass added that some people keep the home, fix it up and turn it into a business. The City could not allow that before but now they can. Murray Greenhouse on 900 East is

such a case. They took the house and are using it as a very nice business. If you need plants for your garden it's a great place to go. That is a case where they took an existing home, kept it, repurposed it and it has worked out great.

Mayor Snarr asked Mr. Tingey if a piece of property abuts a freeway, are the owners still required to put in the landscaping, the fence, etc.. The property is not adjoining residential neighborhoods.

Mr. Tingey said that it would not be required. It would actually have to be zoned as residential use in the General Plan.

Public Comment Closed

8.2.1 Council Consideration of the above matter.

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

Call vote recorded by Jennifer Kennedy.

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

Motion passed 4-0

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

Consider an Ordinance amending Section 17.140.020 of the Murray City Municipal Code relating to permitted uses in the Residential Neighborhood Business District (R-N-B) (Amy & Dusten Moore, applicants)

Staff presentation: Tim Tingey, Administrative & Development Services Director

Mr. Tingey said that this was brought before the Planning Commission by the applicant.

The Residential Neighborhood Business District allows for a variety of uses that are permitted outright including art, drama and music schools. At the time that the Ordinance was adopted, it did not allow for dance studios which is a specific item in the Land Use Code. This is a request to make that modification and they feel it is very appropriate. This type of use is allowed even as a home occupation with certain standards and based upon that they don't feel that there is an intensity of use that is any more intense than what you may have in the R-N-B area. It also goes along with the art, drama and music schools.

Mr. Tingey stated that as with other conditional use permits, there are other types of schools that are allowed. The applicants are requesting in their proposal and the Planning Commission recommended in their approval to allow this as a permitted use outright without a conditional use permit.

Mr. Tingey reiterated that a Public Hearing was held and was recommended for approval by the Planning Commission as well as staff and that is what they are recommending.

Public Hearing opened for public comment.

Tony Rackley, 160 W. Winchester Street, Murray, Utah

Mr. Rackley said that he lives east of the proposed dance studio. His concerns are that his bedrooms are right next to where the proposed road going into the dance studio is and if you look at the drawing, there is 50' of clearance between the houses, there is not a fire hydrant out front. The traffic is horrible at 4:00 in the afternoon. He welcomes any new business, but a dance studio in his backyard from 9:00 a.m. until 9:00 p.m. is going to be horrible. There are no restroom facilities in this garage. If it is proposed, Mr. Rackley would like to see something that is nice and up to standards rather than just to ok putting in whatever they want to in there.

Mr. Rackley stated that his bedroom is six feet away from where the proposed road is going in the backyard.

Mr. Stam said that he hopes it is at least eight feet, according to City Code. Mr. Stam also said that he noticed that in Mr. Rackley's letter, most of his concerns were that the R-N-B zone requires a lot of those things to be added and to be taken care of. Mr. Stam feels that most of the concerns listed will be taken care of per the standards.

Mr. Brass asked Mr. Tingey to comment on the building and the requirements for restrooms and such.

Mr. Tingey stated that with this type of use, the applicants will have to meet all of the building code requirements which include restroom facilities. In addition to that, these are existing buildings in place and with the R-N-B there are not a lot of additional

enhancements that need to occur on the site. There will not be a requirement for a retaining wall or things such as that. All of the standards for the building code will have to be adhered to which will hopefully address those concerns.

Public Comment Closed

8.3.1 Council Consideration of the above matter.

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

Call vote recorded by Jennifer Kennedy.

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

Motion passed 4-0

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

Consider an Ordinance Amending the Budget for Fiscal Year 2012-2013.

Staff presentation: Justin Zollinger, Finance Director

Mr. Zollinger stated that we have one carry-forward and it is for the Business License Study that the City is doing right now, a portion of that was paid in Fiscal Year 2012 and a portion in Fiscal Year 2013. Based on the accounting rules, the portion that was in Fiscal Year 2013 (\$3,577.00) needs to be carried forward.

On the Budget openings there is a UTA ROW budget reimbursement of \$2.2 million. We are receiving this money but are then paying it to UTA. There have been several conversations in regards to this but we were not ready to put it in the Fiscal Year 2013 Budget when it was being prepared but now have more solid numbers. The interest for the Cottonwood Street payment is coming from General Fund Reserves (\$200,000.00) and the remaining three items on the list- the Cottonwood Street Design, Utility Relocation and Mulch and Concrete-those are all being paid for Class C Reserves which is exhausting our Class C. We do not have a restricted fund balance for Class C after these things are paid for.

Mr. Zollinger said that this could cause alarm but that is what the reserves are for, to use the Class C for unexpected items.

Mr. Nicponski asked when this fund gets replenished.

Mr. Zollinger said that the way that the City builds fund reserves for the Class C is that if we had \$1.5 million come in for a Class C and we budgeted \$1.4 or \$1.5 million that is how it goes up and down, with the variations in what we receive versus what we spend. It varies each fiscal year depending on what projects are completed before year end.

Mr. Zollinger said that property tax revenues has an increase in budget. This was his mistake as he had budgeted based upon what he thought the City was going to receive and not on what exactly the tax levy is. State Law requires the City to budget the higher amount and he was trying to be conservative.

Mr. Zollinger said that the last item is the Solid Waste Budget opening. This budget opening is taking into account the rate increase that the City had. This fund had a negative outlook. Each year we were going down some to the tune of approximately \$100,000.00 per year. With the rate increase, this has been corrected and the budget needs to be adjusted for that.

Public Hearing opened for public comment.

None given

Public comment closed.

8.4.1 Council Consideration of the above matter.

Mr. Brass made a motion to adopt the Ordinance.

Mr. Nicponski 2nd the motion.

Call vote recorded by Jennifer Kennedy.

A Mr. Brass

A Mr. Shaver

A Mr. Nicponski

A Mr. Stam

Motion passed 4-0

9. UNFINISHED BUSINESS

None scheduled.

10. NEW BUSINESS

None scheduled

11. MAYOR

11.1 Mayor's Report

Mayor Snarr said that the grand opening for the Larry H. Miller Honda Dealership was held last Monday. It was very successful and they are very excited. They are very positive that sometime in January they will open the doors to the Lexus Dealership. At that point in time, they will take the current Lexus dealership and bring down a really high-end used car dealership and put it into that property. Their used car dealership has been very successful.

Mayor Snarr is elated that they are finally putting in a development next to Murray Park. They are digging the basement foundation for the new Chick-Fil-A restaurant. Another major entity is in town and the Mayor will be visiting with them on Thursday and Friday regarding the remainder of that property and its utilization. He hopes that something will be signed on that over the next month or so.

Mayor Snarr stated that there have been a few set backs on the financing of the Marriott. The new prototype came in at \$2 million over what they had budgeted for, but they are going over the numbers and the City has been going over the impact fees to show them that we are very fair with those fees. That project is moving forward.

Mayor Snarr said that he appreciates the work that was done on the lighting. He goes down there all the time and he thought that if the lights were off set and staggered across the street, there would be ample lighting. Mayor Snarr also stated that he realizes if you have too much light, it can be annoying to the tenants. He feels that a good decision was made and that it would have been a good decision either way.

Mayor Snarr said that the June sales tax numbers came in at a very favorable rate. The City has a lot of nice projects going on. There are other developers in town and meeting with Mr. Tingey and we have a lot to be grateful for. This is a very desirable city and people want to come here and do business.

Mayor Snarr had a very positive meeting with the owners of the mall and they indicated to the City what the tentative plans are. We will all know when it goes down what they are planning on doing with the Sears building. They indicated that there is a great interest from outside businesses that either have a small presence in Utah and want to expand it or haven't had a presence in Utah and want to come here and the place they want to be is the Fashion Place Mall. The mall has been around now for 40 years and has gone through many transitions. There will be having some kind of celebration in October for this which we will hear more about.

11.2 Questions of the Mayor

Mr. Stam noted that the World Series event came to a close after being very successful. All of the residents and outside people who came for the event were very ecstatic about their experience here. They did a great job with this. In sitting down with the vice-president of Babe Ruth from New Jersey, he made the comment to Mr. Stam that Ken Price Stadium is the number one stadium for Babe Ruth tournaments in the United States. He also said that anytime Murray would like to host another tournament, all we have to do is ask.

Mr. Stam said that the City employees, the people who stepped up, did a great job in welcoming these people in and he feels that the employees need to be commended for what they have done. Mr. Stam also acknowledged the local businesses that stepped up to support and sponsor this did a great job. The Brio Restaurant not only gave money to help support this but also provided the meet and greet barbeque, feeding over 600 people for free. They also invited the team over to meet and have dinner with the host families who housed the kids and parents and fed them all for free. California Pizza Kitchen did the same thing. We have some very amazing businesses that stepped up and supported the City and the visitors.

Mr. Shaver mentioned that last weekend we had the Fire and Police teams showing what they can do. It was a marvelous event and always is. It is so great to see how knowledgeable and well trained our personnel is.

Mr. Brass thanked Station #83 saying that a year ago at an auction, he and his wife won lunch with the firefighters which turned into dinner with the firefighters last Saturday. Mr. Brass was very impressed with how well the firefighters could cook. They also got a tour of the station #83 where the tower truck is.

Mr. Brass also sent his wishes for a speedy recovery to Ms. Wells's husband following his accident.

12. ADJOURNMENT

Jennifer Kennedy, City Recorder