

Murray City Municipal Council Chambers Murray City, Utah

The Municipal Council of Murray City, Utah, met on Tuesday, the 18th day of November, 2008 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:

Krista Dunn,	Council Chair
Pat Griffiths,	Council Member
Robbie Robertson,	Council Member - Excused
Jim Brass,	Council Member
Jeff Dredge,	Council Member - Conducted

Others who attended:

Doug Hill,	Mayor Pro-Tem
Jan Wells,	Chief of Staff
Michael Wagstaff,	Council Director
Carol Heales,	City Recorder
Frank Nakamura,	City Attorney
Doug Hill,	Public Works Director
Blaine Haacke,	General Manager
Tim Tingey,	Economic Development Director
Mike Terry,	Human Resources Director
Pete Fondaco,	Police Chief
Craig Burnett,	Asst. Police Chief
Gil Rodriguez,	Fire Chief
Dave Florin & Family,	Fire Captain
Thomas Yates & Family,	Police Officer
Tyson Badorinatz & Family,	Police Officer
Jim Matsumori,	V.P. George K. Baum, Company
Citizens	

A. OPENING CEREMONIES

1. Pledge of Allegiance - Sean Thueson, Boy Scout
2. Approval of Minutes for October 14th, 2008. Postponed
3. Mr. Dredge stated that there is a tradition in Murray, where the Council recognizes the Scouts and their leaders. He asked the attending scouts to stand and introduce themselves, their leaders, and which Merit Badges they are working on.

The Scouts introduced themselves.

4. Special Recognitions:

1 **Swearing-in of Dave Florin as a Fire Captain of the Murray City Fire Department.**

Chief Rodriguez stated that Mr. Florin has worked very hard at being a Captain, and this is the most sought after position in the Fire Department; and this one is a little bit bitter-sweet. This vacancy was left when Captain Kelly Farrington died, who was Mr. Florin's captain, they worked the same shift and worked off-duty together, and more than that, were close friends. This is a big promotion, and Mr. Florin deserves it; he has shown his worth, not only from how he prepared for it, but from the respect he has earned from everyone around him.

Swearing-in ceremony conducted by Carol Heales, City Recorder.

Captain Florin introduced his family.

2. **Swearing-in of new Murray City Police Officers: Thomas Yates and Tyson Badovinatz.**

Chief Fondaco stated that these two officers are replacement officers for two officers who have left the City.

Swearing-in ceremony conducted by Carol Heales, City Recorder.

The officers introduced their wives and families.

Mr. Dredge stated that the Public Safety Officers, the Police and Fire, who really are 'where the rubber hits the road' in terms of providing services in the community, and they do a great job; the City appreciates all of the hard work that they do.

Mr. Dredge added that Chief Fondaco has been on the force for 30 years, and the new officers, when they come on board, they have been through some fairly rigorous schooling and there are certain requirements for them to become officers.

Thirty years ago, Chief Fondaco showed up for work in his nice, new uniform, and the Chief of Police at that time threw him the keys to the car and said that the cars are in the back, and to get to work. That was *his* introduction to police work in Murray. We have come some distance since that time.

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

Debbie Reed, 5811 South Cove Creek Place, Murray

Ms. Reed stated that she is the founder of a charitable organization called "Bikes For Kids". Murray City, along with Murray Fire, Police, Parks, and Power Departments have been a huge sponsor of the charity. The organization gives away 1,000 bikes to kids, and the majority of those come from the community. Last year they gave around 700 bikes to the Boys and Girls Club.

She knows that the economy is what it is right now, and her charity is feeling the effects of that, and have had sponsors who have already said that they won't be able to participate and support them this year. 100% of the money that they raise goes back into the community, and a large amount of it goes back to children who make a direct impact on our community. They give away brand new bikes, helmets, T-shirts, and bike locks.

There has been some discussion regarding if an organization is outside of the City and uses City services, that the City is considering charging for those. She wanted to make the City aware of her situation, as a charitable organization in the community, and that this would be a big impact on them. She does not know what those charges would be, but didn't know if there was a possibility to put into the wording that charitable organizations could be excluded from the fees.

Ms. Dunn asked for clarification of what Ms. Reed is asking to be excluded from.

Ms. Reed said that she would like to be excluded from being charged fees for using City services for her events. She added that the Parks Department comes in and sets up dumpsters and garbage cans, Murray Police helps with the events, The Parks and Recreation Department sets up tents for them, etc. All of the City services.

Citizen Comments closed

C. CONSENT AGENDA

None Scheduled

D. PUBLIC HEARINGS

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

1. **Consider an Ordinance relating to zoning; amends the General Plan from Single Family Residential Low Density to Residential Multi-Family Medium Density and amends the Zoning Map from G-O to R-M-15 for the properties located at approximately 4532, 4536, 4540, 4546 South Elida Street and 4549 South 600 East. (Central Village)**

Staff Presentation: Tim Tingey, Director of Community and Economic Development

Mr. Tingey indicated that on July 3, 2008, this area was proposed for a re-zone of the entire area near 600 East, 4500 South and Van Winkle Expressway from the existing R-1-8 to the west, R-M-15 to the East, and the currently zoned G-O. That proposal was to go to a very high density R-M-25, which would allow for roughly 22 units per acre in the area. At that time, there was a recommendation by City staff that it be denied due to the intensity of the use, and a lack of adequate buffering from a commercial area to a lower density residential area. At the time before it came to the Council, the applicant withdrew the application.

On September 4, 2008, there was a public hearing on a new application which had a modified request for this current area. The area is currently zoned as General Office, and they are asking that it be re-zoned to a lower residential R-M-15. This is compatible with the neighboring area which is zoned R-M-15 and their original proposal for R-1-8, a lower density residential area, is to remain the same, based on this proposal. So, they are looking at this 1.93 acres, which is currently General Office.

The current proposal would re-zone this from General Office to the R-M-15, which would allow for a number of residential uses primarily now, and conditional uses if they are looking at multi-family uses. They have suggested that in the future they are looking at developing this area into multi-family uses which would require a conditional use permit process.

Currently, under this zoning and what is requested, they can have single-family residential uses, as well as duplex uses, and then any multi-family use would have to go through the conditional use

permit process and go to the Planning Commission for their review and approval.

Mr. Tingey gave a brief background on the differences on the General Office use and what they are proposing for a R-M-15: Currently, under the General Office zoning designation, there are a number of uses that are allowed outright; if they wanted to apply for a building permit tomorrow for a number of uses, including single-family, prescription pharmacy development, optical shops, financial & insurance institutions, massage therapy, advertising agencies, and a variety of general office and professional type uses that are allowed outright in this area right now.

In addition to that, conditional uses allowed through the Planning Commission process and review, they could include additional retail type uses, such as: bed and breakfast uses, travel agencies, restaurants, portrait photography, beauty and barber services.

Mr. Tingey reiterated: the request is to go to R-M-15, lower density residential, the uses allowed outright in this designation include: single-family residential dwellings, two-family dwellings or duplexes, residential facilities, charter schools, and a variety of other uses which are in line with residential uses; with conditional use permitting, would include single-family dwellings, multi-family dwellings, bed and breakfasts, and a variety of other uses. That is the difference between what they currently have versus what they are proposing.

In addition, there have been a number of questions that the Planning Commission, as well as several letters received by the Council, on height concerns in this area. Right now, if there was to be a General Office proposal, in this site, they would be required to have a set-back of 20' for a 30' General Office structure. They can go to a higher height if they move their set-back back 100', and then for every one foot of height, they are required to go four feet of additional set-back area. To go higher than that, and they can go quite high, they would have to have a further set-back. At minimum right now, a 30' office building is allowed within 20' of the residential area. In a R-M-15, which they are proposing, the height allowed is 40', provided that it is a conditional use permit, and if the Planning Commission looks at the height and design, they can make modifications to that height, but the maximum would be 40'. Basic set-backs right now are 20'; a set-back for R-M-15 area would be 25', unless they look at the height standards.

Mr. Tingey stated that they look at the General Plan, and this is a proposal for a General Plan amendment and a re-zone request. A General Plan is a vision for the future of what land uses potentially could be. He reiterated that it states specifically in the General Plan that under the General Plan there is flexibility in looking at specific sites and so they are not set in stone exactly what the use is. There are a variety of re-zones that come up over the years, and planning consultants and planners don't know the specifics of every single property.

They have looked at the General Plan, and in this area, there is a big issue of maintaining quality of life for the residential areas, especially the lower density residential areas. In doing that, it is required to have buffering areas, not that are buffered from other residential uses, but from industrial and commercial uses, which would include General Office. Right now, with this area that is zoned as General Office, it does not conform with the General Plan. It is adjacent to a lower density residential area and so there is a need to change the General Plan, and thus we have a proposal here.

As they have looked at this, there is wording that talks about maintaining appropriate transitions or buffers. Staff looks at this when there is a proposed R-M-25 area, and that high density use was not a good buffer area between a General Office to a R-1-8 lower density residential area; but a lower density residential is a good buffer between a General Office and these professional service areas, and a lower density residential area.

Based upon this, and the need for a buffering area in the General Plan, they feel that this proposal

adheres to that specification. Staff finds a number of things: Is there a need for a General Plan and proposed zoning change? They say, yes there is. Is the approved range of uses allowed by the Zoning Ordinance and blend with the surrounding uses? They say, yes it does. There is not a good blend of uses if you have a General Office use there. In addition, the General Plan provides for flexibility; the requested change has been carefully considered by staff in their recommendation. The plan directs that new commercial development should not be allowed in transitional areas, and this would allow for that commercial development, and the proposed R-M-15 zone provides for appropriate transition between the existing single-family in this area, and the General Office in the other area, and provides a logical extension of existing R-M-15 zoning in the area.

Based upon all of this, staff is recommending approval of this proposed General Plan change and re-zone, and the Planning Commission has reviewed this and also recommended approval at the Planning Commission meeting of September 4, 2008.

Sponsor: Sean Marquardt, 322 East 6th Avenue, Salt Lake City
Richard Pratt, 2545 East Beacon Drive, Salt Lake City

Mr. Marquardt stated that he is the project coordinator for the Central Village project, and offered aerial views and photos of the area. He stated that he would like to discuss establishing the criteria to determine the best use for the site, and identify greener building practices and how it relates to the different zonings.

Mr. Dredge interjected, explaining that they are not supposed to look at what they are possibly going to put on the site, but simply consider whether this meet the criteria for changing the zone, and asked Mr. Marquardt to keep within that.

Mr. Marquardt continued, saying: part of the submittal requirement was to include a site plan, and to analyze the impact. He showed the area and boundaries, indicating the 'big-box' retailers that block any real view corridor for it to be an effective General Office area, stating that it sits behind a bunch of other buildings in that area. He indicated the zoning areas, and said that some of their developmental objectives, in looking at the City's General Plan and criteria in the Land Management Code, would be:

First and foremost, this property is very dilapidated, and was used as a nursery. Approximately half of the site was used as a dump site for plastic containers, and another acre and a half was being used as horse property. Second, they would like to create a diverse and sustainable community with a healthy and neighborly vibrant core. They feel that General Office does not do that, and it inhibits in the single-family community, especially where the set-back is 20'. The amount of land that the General Office allows you to consume versus the R-M-15 in relation to open space is quite significant. Third, they would also like to create an effective buffer between the various uses. Lastly, they would like to create a development that is consistent with the City's General Plan. The City's General Plan calls for reducing the amount of General Office land area, reducing down to more of a residential use; they feel that their proposal does that.

Mr. Marquardt said that they have commenced demolition of four homes, and general site clean-up on September 1, 2008. He presented some photographs showing the pre-demolition sites and post-demolition sites, with the clean-up completed; he also stated that in approximately 1986, in the area of the Woodbury Corporation building, part of the property was entitled to build two buildings of approximately 42,500 square feet each. Woodbury Corporation was the first to be erected and shortly thereafter, they assume that lumber prices shot through the roof and the economic crisis came, the second building was never built; there are current entitlements that are documented, that show a second building entitled at 42,500 square feet. They have removed a lot of debris from the property and cleaned up the horse property portion.

If they were to go to General Office, they would be able to utilize a large portion of the property; there is an easement that goes through the Woodbury property parking lot, that they could use to access the area when constructing the second building, if they were to go that route.

In their current demo process, they have implemented some greener building practices: in part of the clean-up, there was a lot of material that was integrated in fencing and small shrubbery. They have tried to protect and preserve the larger healthy vegetation that was existing. Much of it has not been cared for in 15 years, but they are trying to revitalize it as much as possible. The metal, lumber, and miscellaneous concrete and plastics were separated and recycled; over 100 cubic yards of plastic containers were recycled through the help of Momentum Recycling and Rocky Mountain Recycling Center.

Mr. Marquardt said that in other areas that they have developed that are very sensitive to view corridors and topography, they look at mass and scale comparisons in order to mitigate which uses are the better ones. For this project, they looked at General Office and R-M-15, and have taken into consideration that this in open space and imperviable surfaces, which use creates more storm water, creates more factors to mitigate. Right now, General Office allows for a 30' height, with a 20' set-back from the residential zone boundary, and requires only a 15% open space (landscaping requirement); R-M-15 allows for a 40' height with a 25' rear yard set-back, and requires 40' open space. They feel that on these two categories alone, R-M-15 is less of an impact, purely because more open space means more green, more trees and lawns, more space for the water to permeate into the ground versus being contained and channeled, alleviating flooding issues.

Mr. Marquardt continued with additional photographs of the properties, identifying changes that would need to be made to bring the property up to the required open space requirements, and the design concepts for the area under both the General Office and R-M-15 plans.

In summary, Mr. Marquardt stated that as far as impacts go, storm water is a big one in this area. Along 600 East, they have analyzed the irrigation supply lines and diversion pipes, etc., and the greater amount of impermeable surface such as asphalt, roofing, concrete, etc., will create more water being diverted in an already heavily impacted system. Traffic is another issue with commercial uses; under the General Office zone, more than twice the amount of traffic can be created in the a.m. peak and p.m. peak hours than the residential uses they have outlined. More open space translates into more trees, creating a greener development. Under the General Office, the landscaping/open space requirement would be 12,610 square feet. Under R-M-15, the requirement would be 33,628 square feet, with a net difference of 21,018 square feet, or half an acre of additional open space land.

The General Plan specifically states that new commercial development should not be allowed in transitional areas adjacent to residential neighborhoods, which the current zoning allows for; an extension of the R-M-15 zoning is a logical expansion. This request lessens the potential impacts to the immediate area, and provides a better transitional zone for the existing neighborhood than is currently there. They respectfully request an approval of the zone change.

Council consideration of the above matter to follow Public Hearing.

Mr. Dredge asked that Councilman Robertson be excused from tonight's meeting due to illness.

Public Hearing opened for public comment

Paul Roach, 4555 S. 600 E., Murray, Utah

Mr. Roach stated that he feels they are going backwards to the point where we are granting a zone change,

then conditional use permits, and not really knowing how this is going to work. From his experience working with other cities that he has built in, they want to know what it is, how it is going to work, what it is going to look like, first, then make the zoning change. He is concerned that if they grant a zoning change, then it is easier to get the conditional use after.

Mr. Dredge clarified that whatever a zone is, that area has in place certain codes and requirements.

Mr. Roach said that in this case, an R-M-15 zone can have duplexes, which he does not have problem with, but does have a problem with multi-family wall to wall areas that are compacted and higher density than a single-family. Approving an R-M-15 gives them the opportunity to allow multi-family, high rise buildings with higher density, and parking. He would like to see the plan of what they are going to build later on.

Mr. Dredge stated that seeing a plan in advance, once the zone has been changed, the developer can sell that piece of property and a new developer could come in and put in whatever they want. That is why, when the City looks at a re-zone, its on the merits of the type of use of property within that zone and the surrounding areas.

Mr. Roach said that his concern then, is the R-M-15 zone that close. Leave it up at 700 East, but when you pull into the property where the horse property is, drop it to R-1-8, leave it as it is right now. He does not want a lot of people and noise, and things blocking his view.

Don Kent, 566 Compton Court, Murray, Utah

Mr. Kent said that they would rather have General Office than multi high density in that area. They have a high density area two to three blocks away, and it has had at least one murder, several shootings, and a lot of drug activity over the past year, and this is not what they want for their neighborhood. Leave the R-M-15 up on the small portion of Van Winkle, G-O is better where it is at, and leave the rest as is. They believe that if it is changed as proposed, eventually they will stick a road through that area, and there will be a heavy traffic pattern between Van Winkle and 600 East. This zoning change is the 'elephant in the tent' and they don't want it.

John Boyden, 4545 S. 600 E., Murray, Utah

Mr. Boyden agreed with Mr. Kent, and asked why there is not a proposal to put the R-1-8 closer, and the leave the R-M-15 out by Van Winkle. What is to stop a development like that? When they moved in 20 years ago, they did not have a problem with the G-O; when they were annexed by Murray in 2001, it was kind of agreed upon to leave that as General Office, and they did not have a problem with that. The General Plan came out in 2003, showing that if this was redeveloped, single-family low density. No where in this was a mention of higher density, and this makes it very tough to plan your life when this kind of developer driven happens, and asked the Council to consider this when they make their decision.

Darrell Catmull, 4591 S. 600 E., Murray, Utah

Mr. Catmull said that conditional zoning is not currently permitted, and stated that Mayor Snarr had told him that conditional zoning is subjective. Life is not black and white, but shades of gray, and the issue before us tonight is not black and white, but zoning *is* black and white; it allows for certain things that they do not want. Land owners have the right to improve their land, and they also have the right to quiet enjoyment; this creates a paradox when one land owner wants to build 40' buildings, and another wants a view and privacy. Currently, on 600 East and the abutting property lines, there are one-level and single family homes; if 40' buildings, 25' away are allowed to be put in there, then the privacy rights of current home owners will be diminished, if not eliminated. The developer should be required to build one level buildings next to the abutting single family homes. These homes could be rambler or patio homes built ideally for the influx of

baby-boomers downsizing in the coming decades. Tonight, it is impossible for the developers and neighbors to reach a compromise, because of the current Ordinances, procedures, and laws. We need to use this application as a catalyst to fix the current zoning definitions. To do this, they are requesting that the City deny the application because there is no rush in today's economic environment or climate.

In Murray, there are currently 291 active condominiums or town homes for sale; 24 of those are pending sale. In the previous two months, 24 properties, town homes and condos, have sold. These numbers indicate that there are eleven months of inventory in Murray alone. In Salt Lake City, there are thirteen and a half months inventory, in Midvale, ten months of inventory, Taylorsville, nine months of inventory. Given the current economic conditions, stricter underwriting guidelines, dropping markets, rising interest rates, rising unemployment, there is no reason to make this zoning change tonight; rather reconsider it when the privacy issues between new and existing communities are resolved. By updating zoning definitions, definitions that allow for smarter transitions and development, is what needs to be addressed. Tonight, the right thing to do is to use this application as a catalyst; a catalyst to make needed changes to zoning definitions. By requiring that new buildings match abutting single family home heights, you spur innovation and preserve established owners quiet enjoyments.

Mr. Catmull asked that the application be denied, work to fix the zoning definitions, and set an example for other cities, developers, and communities, making future compromises easy.

Amy Penechar, 4545 S. 600 E., Murray, Utah

Ms. Penechar stated that she has submitted letters to the Council and the Mayor, as well as spoken with her District Representative, Councilman Dredge regarding this issue. She understands that opposition to this type of situation may be different than what City officials may be used to. As per Mr. Dredge's suggestion, they went over and looked at the vicinity of 5300 South and 500 West, where General Office abuts residential, but found that they weren't discouraged by the office buildings there, they seemed to be preferable to the apartments that were across the street in that area. Their neighborhood is bounded by two very busy streets, 4500 South and Van Winkle Expressway; yet their neighborhood remains fairly quiet. The office buildings along 4500 South have actually contributed to the quiet atmosphere.

Ms. Penechar said that it has been frustrating to have shown up and participated during annexation when zoning was discussed and agreed upon, and then now it appears that the City is poised to do something completely different. She is wondering if there is a new General Plan somewhere that they do not know about.

Wesley Etchel, 4519 S. 600 E., Murray, Utah

Mr. Etchel feels that all of this could have been avoided, had there been some communication with the City Council before all of this got involved: to have had the home owners assemble with the City Council member in charge of that area, discuss what was going to be planned, and they could have had some input; all of this could have been avoided. He thanked the Council for what has been accomplished in their area, he was the person that started the annexation into Murray, thinking that they would have much better living conditions and that the area would be improved. To this point, they have had a new road on 600 East, Period. They have no lights, no curb and gutter, no sidewalks. They have children who walk down 600 East when they are let off by the school bus, which is a hazard. They have a problem on 4500 South, at certain hours of the day, when the traffic is backed up all the way to the creek, two blocks away. They do not feel that their area should be impacted that much more.

Mr. Etchel stated that he lives in an area that has two office buildings; best thing that could ever happen to him. He said that they are quiet, not there on the weekends, they don't have the police or fire departments up there all the time, and it has been so much better for him to have this type of building in the area. He would suggest that they get together with the Council and the homeowners, to discuss these issues.

Mr. Dredge stated that he would be more than happy to do that.

Robbin Simmons, 4620 S. Creekview Circle, Murray, Utah

Ms. Simmons said that the Council and Police know that when you have more apartments and a higher density in a community, you have more issues and they do not want that in their community. They have a nice area, nice streets, nice everything that they have there and do not want something huge and tons of people. In the Brittany, right off of 600 East, the citizens had to pay to build a wall to keep the people from the apartments from jumping over into their houses; people renting their houses, that is not what they want in their community, they want to keep it nice and safe, without the police there and all the stuff that goes with it. They want nice, quiet office buildings, as Mr. Etchel said, and that is what they want for their community. It is already noisier, even though they said they kept it green, at her house, now that they have taken the stuff away; she can hear the traffic now, where she couldn't before.

Public Hearing closed

Ms. Dunn remarked that this is a new one for them; she has been on the Council for almost ten years and they have never had people come in and oppose a down zone, this is all new for them.

Mr. Brass added that he was on Planning and Zoning when they built the office buildings on Century Drive, and that was also not a pleasant time, and that area was zoned G-O; the arguments they gave was not to block their view, there would be more noise, light, and more people. It is interesting to use a similar argument against a residential saying that the G-O is going to be better. A conditional use permit does require another Public Hearing, and you can put conditions on that property that last, staying with the property. If they build General Office there, you would not have any input. They can come in, build the building there, and you won't know about it; as long as they meet the zone, they have to go in for a site-plan review and that is it. You could end up seeing steel go up and lose your views anyway. That is the dilemma that is there now.

They are not saying you cannot talk about the project, that is not the point; particularly in these economic times, you could go through several property owners here. We have, within our economic redevelopment area, west of Main Street, three owners before anything ever came out of the ground. You never know what is going to happen, and they have to look at what could be built on that piece of property - all of the uses. Sometimes that is hard; you turn it down when you wish you could, and other times, you say yes and hope for the best. Re-zones are tough, re-zones are the only time they get a full house at the Council meetings; they get two people for the budget, and rooms full for the re-zones because it impacts *you*; your property, and it is the most important thing for you. No matter what the decision, it is not easy.

Ms. Dunn said that Mr. Dredge has mentioned that they do not consider the project, but what can go into the project. They know what can go into an R-M-15, and the people know, that is what they are here to object to. She is not sure that everyone is considering what all can go into a G-O zone and is surprised, most developers would want to take this General Office and run with it because there is more money in it. She is surprised that they haven't come with wanting to build a big building. Somebody commented that they would prefer the big office buildings in place of that, and that they don't have any say in it. Mr. Etchel had said that the Council should meet with the citizens prior, the problem is that the system does not work that way. The Council gets this after Planning and Zoning gets it, and there is a reason for that.

Having said that, that is the way it works. Planning and Zoning does not have as much flexibility as the Council does, but the fact of the matter is, the owners of the property are the ones that get to ask for what their zoning is. The Council does not dictate to you, the property owners have to come in and ask to re-zone the property. The Council cannot step up in front and say 'we're going to change this right now so that this could never happen', they cannot do that to you, the property owners, and will not do that. It is more

complex than some of you may understand it as being, because they cannot just do that. There are property owners here that have followed the rules, have followed the system, and have come and asked the City to do something with their properties, to ask for a zone change; they have done it all in the proper way and have come to the Council to ask for that. They were denied once, the Council understands that, and for the most part concurred with the decision that was made by the Planning and Zoning Commission on that first go around; considering this here tonight is maybe somewhat different than you see it as a property owner. She hopes that people see the process as the Council makes a decision on this.

Mr. Dredge pointed out that one of the challenges they face here tonight, as City Councilmen, is that they want to represent their constituents; but they also have the issue of looking at things long term. When they look at the master plan and what they are trying to do with the City, 99.9% of the time, residents want the City to buffer their homes from General Office. Part of our Master Plan is to look, where possible and when things are presented to us, to create these transition areas. The request before us tonight falls into that category; as we make a decision, we are faced with the residents of the area, the neighbors who obviously don't want this, and we look at not only what the neighbors want, but what is best for the area in ten years. You will not find, over time, that residents don't want this transitional area. It is the Master Plan versus what the current residents are wanting.

Ms. Griffiths concurred with Mr. Dredge and the other Council members, and expressed her appreciation of the clear explanation of the history, the permitted uses and conditional uses by Mr. Tingey, and by the applicant. They have explained their positions, as well as the zoning. In her district, she has constituents who have concerns and fears over a huge office building that is towering over their homes; they can't grow gardens, there is more traffic, and they are fearful that more will encroach into their neighborhood.

Ms. Griffiths added that she lives very close to some office buildings, and just because there is no one there at night, doesn't mean there isn't subversive activity in the parking lots. She knows that some nights she can hear what's going on there, and the police have gotten a few calls from her. It is not all peaceful, quiet, and void of criminal activity at night, so don't fool yourselves on that. From her personal experience, and sentiments that have been expressed to her from constituents, she finds that a compatible residential use is much more compatible than a General Office use. In an ideal world, you would have an R-1-8 next to you but as Ms. Dunn explained the application for that zone is the privilege of the property owner. The only way that they can guarantee that it is what we want it to be would be to purchase the property and we all know that is not a possibility either. Ms. Griffiths said that these are just some thoughts she had, and some of the experiences she has had during her time on the Council and as the others had expressed, this is the first time the Council has ever had anyone say that they objected to a down zone. She added that she appreciated the opinions expressed and the participation in the process, but these are a lot of the factors that they have to weigh in the decision making process.

Ms. Dunn said that in their experience in Murray City as a Council, they get reports given to them every week from the Police Department on crimes in their districts. She said that in hers, with the least amount of businesses, 70-80% of the city's crime comes out of commercial properties. The residential places that see the most crime, are the very large apartment complexes; that is part of the reason that the staff and the Planning and Zoning Commission said no to the larger proposal that was brought by the property owners in the beginning. The crime, the traffic, all of those things played into that as well, but we aren't seeing the fears that most of you are talking about in this size of a project.

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

Call vote recorded by Ms. Heales:

A Mr. Brass
A Ms. Griffiths
A Ms. Dunn
A Mr. Dredge

Motion passed 4-0

Ms. Dunn, addressing the people developing this property, stated that their best bet in developing this area, is to listen to these folks on their concerns when putting this together.

Mr. Brass added: set back further from the homes; looking at their site plan, he can see the possibility of not impacting the views as much. He stated that he can sympathize with that, he had a development go in behind him and he lost his views, and that good neighbors are good neighbors.

E. UNFINISHED BUSINESS

None scheduled

F. NEW BUSINESS

1. **IHC Health Services, Inc. Consider for adoption a Resolution authorizing and approving (A) The Northern Trust Company (“Northern”) as the provider of a substitute liquidity facility agreement (the “New Series 2005D Liquidity Facility”) with respect to the Murray City, Utah Variable Rate Demand Hospital Revenue Bonds, Series 2005C (IHC Health Services, Inc.) (The “Series 2005C Bonds”); approving the execution and delivery of the New Series 2005C Liquidity Facility among IHC Health Services Inc., a Utah nonprofit corporation (“IHC”) Northern and Zions First National Bank, as trustee for the Series 2005C Bonds, providing liquidity support for the Series 2005C Bonds; and the execution and delivery of a First Supplemental Indenture of Trust and Pledge and any other documentation necessary or desirable relating to the provision of the New Series 2005C Liquidity Facility, (B) Wells Fargo Bank, National Association (“Wells Fargo”) as the provider of a substitute liquidity facility agreement (the “New Series 2005D Liquidity Facility”) with respect to the Murray City, Utah Variable Rate Demand Hospital Revenue Bonds, Series 2005D (IHC Health Services, Inc.) (the Series 2005D Bonds,” and together with the Series 2005C Bonds, the “Series 2005 Bonds”); approving the execution and delivery of the New Series 2005D Liquidity Facility among IHC, Wells Fargo and Zions First National Bank, as trustee for the Series 2005D Bonds, providing liquidity support for the Series 2005D Bonds; and the execution and delivery of a First Supplemental Indenture of Trust and Pledge and any other documentation necessary or desirable relating to the provision of the New Series 2005D Liquidity Facility, © the conversion of the interest rate period on the Series 2005 Bonds from their current weekly rate period to a daily rate period, and the execution and delivery of all documentation necessary or desirable in connection therewith, (D) the replacement of Citigroup Global Markets, Inc. with Wells Fargo Brokerage Services, LLC as remarketing agent for the Series 2005D Bonds, and the execution and delivery of all documentation necessary or desirable in connection therewith, and (E) certain related matters.**

Presentation: Jim Matsumori, V.P. George K. Baum, Company

Mr. Matsumori stated that in 2005, on behalf of Intermountain Healthcare, Murray City

Issued four series' of bonds totaling \$262 million, to help build the Intermountain Medical Center. As issuer, the City needs to consent and acknowledge various things before the structuring of the actual financing can change.

With the tumultuous financial situation, many financial institutions are changing hats and roles; unfortunately, Citibank, who has been a prime participant as a liquidity provider for some of the variable rate debt, has decided not to continue this business, and it has become necessary for the City to replace them with Wells Fargo Bank and Northern Trust.

This Resolution approves the amendments to the indentures, allowing the liquidity providers to change; it waives the time period for notices of change and the method for determining interest rate. They are proposing that it be changed from a weekly rate to a daily rate; and finally, it waives the time period for notice to change the re-marketing agent.

Mr. Matsumori continued: this Resolution, as wordy as it is, especially the title, does those three things, and as issuer, they are asking that the City consent and adopt this Resolution.

Ms. Dunn stated that this does not, in any way, bind the City or the residents with their taxing.

Mr. Matsumori added that the bonds themselves are secured by the revenues generated by the system of hospitals that Intermountain Healthcare has, and none of the taxes or revenues of the City are pledged for the repayment of the debt.

Mr. Brass made a motion to adopt the Resolution.
Ms. Griffiths 2nd the motion.

Call vote recorded by Ms. Heales:

 A Mr. Brass
 A Ms. Griffiths
 A Ms. Dunn
 A Mr. Dredge

Motion passed 4-0

2. **Consider a Resolution Authorizing Natural Gas Transactions.**

Staff presentation: Blaine Haacke, General Manager

Mr. Haacke stated that they would like the Council to approve, authorizing the Power Department and the Mayor to execute a Master Agreement with UAMPS to buy natural gas on a bulk basis. There are positives to this, mainly supply and demand. If you buy natural gas as a bulk general quantity, basically you get it cheaper. Our natural gas budget for this year is \$1.8 million, and any way we can cut into that and lower that is better.

This agreement would allow us to either buy gas from the UAMPS pool or go out on our own, as we do now, and buy it independently from a private vendor; the vendor the City has been using is BP Energy. The cost of this agreement, or entering into this project with UAMPS, is \$400 per

month, or about \$5,000 per year to give us access to buy this natural gas and that is just an A&G charge that UAMPS passes on to the City. The savings that we could receive from this could be in the tens, if not hundreds, of thousands of dollars if everything falls the way it should. Another positive side of this is that UAMPS could possibly prepay or purchase gas ahead of time using tax exempt bonds, which could lower the cost of a decatherm of natural gas by \$.50 - \$.90 and when prices are \$4.50 per decatherm like they are today, a \$.50 discount on that is sizable. This is not a guarantee, but at least this agreement would give us access to that type of financing and pricing.

We need this Resolution passed so that the Mayor can sign the agreement, so that we can enter into this agreement with UAMPS. We may not even exercise this agreement, because we are going to base the UAMPS price of gas and compare it to what is on the market, and what we are buying now, but this will allow us to buy and sell gas within the UAMPS pool between 12 other members, and purchase gas ahead of time and if the market turns to our positive, sell it for a margin.

Ms. Griffiths asked for clarification of the word “notionable”.

Mr. Tingey stated this they had received a resolution template from UAMPS, and it was in their wording, and he was not certain what the word meant.

Ms. Dunn read the definition: *notionable: pertaining to or expressing a notion or idea; of the nature of a notion; abstract, theoretical, or speculative response.*

Ms. Griffiths made a motion to adopt the Resolution.
Ms. Dunn 2nd the motion.

Call vote recorded by Ms. Heales:

<u> A </u>	Mr. Brass
<u> A </u>	Ms. Griffiths
<u> A </u>	Ms. Dunn
<u> A </u>	Mr. Dredge

Motion passed 4-0

3. **Consider a Resolution authorizing the execution and delivery of that certain Utah Associated Municipal Power Systems Amended and Restated Agreement for Joint and Cooperative Action; approval and related matters.**

Staff presentation: Blaine Haacke, General Manager

Mr. Haacke stated that in 1980, UAMPS wrote some bylaws, which is basically the Joint Action Agreement, and that set the parameter of the rules for the organization. In 1995 and in 1999, they amended those bylaws, and in 2008 the bylaws have been amended again.

They are recommending adoption of the Resolution that allows the Mayor to sign the agreement stating that we agree to the bylaw changes. There are just a few small changes in the Joint Action Agreement, and the reason that they brought it forth in 2008 is that UAMPS is growing to nine states, and six or seven of the new memberships are electric districts that are not municipal power

systems. These are not political entities, they are board of directors for profit, such as an REA, or co-ops. Because of that, most of the bylaws were based on political type entities and they have gone back in and changed the definition of what a member of UAMPS is; we are now an equity member, not a member. There are a few other small, grammatical changes, a few of the members complained that they were not notified of the meetings correctly, so they asked each member which way they wanted to be notified of meetings to the UAMPS group, whether it be fax, texting, email, cell phone, etc. It has been reviewed by the Attorney's Office, and they are asking for this to be authorized.

Mr. Brass made a motion to adopt the Resolution.
Ms. Dunn 2nd the motion.

Call vote recorded by Ms. Heales:

 A Mr. Brass
 A Ms. Griffiths
 A Ms. Dunn
 A Mr. Dredge

Motion passed 4-0

4. **Consider an Ordinance amending Sections 2.23.010, 2.52.110, 2.52.120, 2.62.020, 2.62.030, 2.62.040, 2.62.060, 2.62.070, 2.62.120, 2.62.120, and 2.62.240 of the Murray City Municipal Code relating to the discontinuance of the Civil Service Commission under Title 10, Chapter 3, Part 10 of the Utah Code.**

Staff Presentation: Mike Terry, Human Resource Director

Mr. Terry explained that these amendments had been worked on for some time. Mr. Whittle and Mr. Nakamura had worked on these, there have been multiple meetings between police and fire, and they feel that the rules are where they want them to be. The Civil Service Commission that the City has had, has been in place for many years, and goes back many, many years. The rules of the Civil Service Commission goes back to when they more needed - when there were inappropriate employment practices in police and fire departments; Civil Service rules were enacted many years ago. We have come a long way in employment law and other employment practices and so a lot of the rules that we have under Civil Service are somewhat outdated.

Some of the problems that we have with the current Civil Service rules, are the inability to be flexible, we are very tied to certain calendars and departments are given a set number of people to interview; they can't interview any more or any less. There is an inability for us to have continual testing, and the process has been very time consuming; there are three commissioners on the Civil Service Commission and it is required to obtain their permission to post a job, their approval to get a list to give the department so that they can conduct their interviews, they have to come in and sign the register once it's completed, and it is very time consuming for our departments to get to the interview stage through these Civil Service rules as they are right now.

Mr. Terry stated that in Mr. Nakamura's memo to the Council, in 2001 there were some law changes that allow the City to disband our Civil Service Commission and go with other rules that are appropriate and still along the State law, allowing us to remain in compliance with the State laws, but not be a Civil Service Commission city. The suggestion is that we do away with the Civil Service Commission and come up with a new plan; we don't feel it appropriate, that they have the

same rules and regulations as the non-sworn employees in the other departments. We feel that they should still have their own rules and regulations, and have come up with the Public Safety Service rules and regulations, and have improved upon it, as it was with the Civil Service Commission, to allow greater flexibility for the departments, we can be more nimble in our hiring - as far as the timeliness of it, the departments are able to see more applicants to interview, giving them a greater selection pool from which to choose their employees.

One of the major issues is in the grievance process. Under the Civil Service Commission, all grievances went to the three member Civil Service Commission; in the last seven years, there has been one grievance. This is not a common occurrence, which says a lot about our administration and that our employees are treated fairly.

Ms. Dunn asked how those would be treated in the future. Mr. Terry said that if the person has a minor grievance, such as something in the hiring procedure, probation issues, something up to two days without pay, etc. that would go to the Personnel Advisory Board, after having gone to the Department Head and the H.R. Director. It could also go to the Mayor after the H.R. review, and he would have final say on those lesser grievances. For a more serious grievance, such as more than two days off without pay, a demotion, or they are terminated, they would create an appeals board. This appeals board would be a three person board made up of professional arbitrators and mediators. They have a list of state certified mediators and arbitrators that they would use. The employee would get to choose one, the department would choose one, and the Mayor would choose one. In the event that it got that far, those three professionals would hear the case and would make a ruling.

The Civil Service Commissioners are not professionals, they are citizens and it is not their profession to hear grievances, and the arbitrators and mediators would have more expertise in these matters.

Frank Nakamura, City Attorney, added that the rules and regulations would be approved by the Mayor, as the executive function. Tonight is only the discontinuance of the Civil Service Commission and process. If this is passed, the City will enact these rules and regulations; there has been a lot of input by the Fire and Police Departments on these rules and regulations.

Ms. Dunn asked if a lot of the cities across the state are moving to this. Mr. Terry stated that he feels that few cities are already Civil Service cities. Among those are Ogden, Salt Lake, Murray, and Provo. Murray is the only one that is backing out of it.

Mr. Nakamura said that the Civil Service was first and second class cities, which eliminated many of them. Now they have given us the opportunity to opt out.

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

Call vote recorded by Ms. Heales:

 A Mr. Brass
 A Ms. Griffiths
 A Ms. Dunn
 A Mr. Dredge

Motion passed 4-0

5. **Consider a Resolution approving a request of the Murray City Police Department to appropriate certain abandoned custodial property for public use and authorizing the Mayor to execute necessary documents.**

Staff presentation: Pete Fondaco, Police Chief

Chief Fondaco indicated that the Attorney's Office has reviewed this Resolution, and that the Utah Code allows this as long as they bring it to the legislative body; some of the currency, as indicated in the Council packets, has been in police evidence since 1995. The Police Department has made numerous attempts, including posting it in the paper, registered mail, etc., to contact owners, and by state statute, it is considered abandoned. As soon as the legislative body allows, it can be placed in the General Fund.

Chief Fondaco stated that they will be coming back to the Council and requesting this money be placed in the Police Department Budget by opening the budget. They have emptied two more offices upstairs, and are in the process of expanding the evidence room; this money would be used for the expansion and moveable shelves, which would increase the size of the evidence room by approximately 50%. They are overflowing right now, they have a moveable pod trailer outside for extra storage, and they have to expand. This will help to accomplish that feat.

Mr. Brass made a motion to adopt the Resolution.
Ms. Griffiths 2nd the motion.

Call vote recorded by Ms. Heales:

<u> A </u>	Mr. Brass
<u> A </u>	Ms. Griffiths
<u> A </u>	Ms. Dunn
<u> A </u>	Mr. Dredge

Motion passed 4-0

6. **Consider an Ordinance amending Section 15.08.030(B) of the Murray City Municipal Code relating to multi-family residential and commercial fees.**

Staff Presentation: Doug Hill, Public Works Director

Mr. Hill stated that this Ordinance would allow the Building Department to charge an up-front fee for plans that come in, and it will be 65% of the building permit fee that the people will have to pay up-front. What they are finding, in this economy, is that people are turning in plans, and the City is spending the money to review the plans, and then the people do not return for the plans. They are asking for payment up-front to cover the costs to do the plan reviews, and if they do not pick up the plans later on, at least they have covered their costs; if they do pick up the plans, the fee will be credited to their building permit fee.

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

Call vote recorded by Ms. Heales:

A Mr. Brass
A Ms. Griffiths
A Ms. Dunn
A Mr. Dredge

Motion passed 4-0

7. **Consider a Resolution approving an interlocal cooperation agreement between the City and Salt Lake County for receipt by the City of Tier II “Zoo, Arts, and Parks” funds.**

Staff presentation: Doug Hill, Public Works Director

Mr. Hill stated that the City applied for \$60,000 from the ZAP program, that was included in their budget revenue projections. The County has seen some shrinking dollars in the ZAP fund, probably due to the shrinking sales tax dollars. The City was not awarded the entire \$60,000, rather, they were awarded a little over \$48,000; this interlocal agreement will allow the City to enter into an agreement with the County to receive these funds of \$48,000.

Ms. Dunn made a motion to adopt the Resolution.
Ms. Griffiths 2nd the motion.

Call vote recorded by Ms. Heales:

A Mr. Brass
A Ms. Griffiths
A Ms. Dunn
A Mr. Dredge

Motion passed 4-0

8. **Consider an Ordinance amending Sections 5.40.030, 5.40.050, 5.40.060, and 5.40.070 of the Murray City Municipal Code relating to Special Events.**

Staff presentation: Carol Heales, City Recorder
Frank Nakamura, City Attorney

Mr. Nakamura explained that an issue arose between Salt Lake County and Murray City, regarding events held on Salt Lake County property in Murray. In reviewing the process, the City found that there was not adequate communication between the City and the County, and when it came time to have an event on County property, they needed City resources; the City received very short notice. These events caused the City to review and make changes to the Special Event Ordinance, at least to insure that there is mutual communications between the two entities on events that occur on County property within the City, and co-ordinate permit processes.

In reviewing the Ordinance, other changes were found: the City wants to make sure that anyone applying for a Special Events Permit, checks with Salt Lake Valley Health Department, if there is alcohol being served, that they look at that, as this is not the City’s responsibility. One of the significant changes has to do with the payment of support fees; in some of these events, the City incurs costs above and beyond general costs that are provided to the citizens on some events.

What they have decided is that there will be a payment of support costs as determined by Public Services, that being clean up, preparation of site, etc. or for Police if law enforcement is provided for off-duty police; again, above and beyond what the City would normally provide.

Those who apply for the permit would be responsible for support fees as determined by the various departments, but there would be no permit fee. It is purely to reimburse the City for added costs. There are some that are exempt from that fee: City sponsored events, School Events, and organizations identified in the last budget year who would be receive a waiver of fees, that would apply through the fiscal year through June 2009. In the future, there will be no Special Event fee, but there will be payment for support costs.

Mr. Dredge asked about the example of the lady before the Council tonight, where the Parks Department put up a bunch of tents; would there be costs for that? And if there were an event that would be touched by both the Parks Department and the Police Department, would they need to contact each department to determine the fees?

Mr. Nakamura stated that there could be costs for that, but that would be up to the Parks Department to determine what the added costs would be for the additional services. The process would be that when they applied for the event permit, the City Recorder would contact the various departments to receive input from them as to the approval as well as the services provided by the departments.

Ms. Griffiths moved to adopt the Ordinance.
Ms. Dunn 2nd the motion.

Call vote recorded by Ms. Heales:

<u>A</u>	Mr. Brass
<u>A</u>	Ms. Griffiths
<u>A</u>	Ms. Dunn
<u>A</u>	Mr. Dredge

Motion passed 4-0

9. **Consider an Ordinance amending Chapter 2.42 of the Murray City Municipal Code relating to the Personnel Advisory Board.**

Staff presentation: Frank Nakamura, City Attorney

Mr. Nakamura stated that as discussed on the Civil Service Commission, the Personnel Advisory Board and its role in the new grievance process, it's been cited that the City should change the number of the persons on the Personnel Advisory Board from five to three for purposes of efficiency and in terms of making a more effective hearing body. The process would also establish terms for the various appointments to the Personnel Advisory Board. The input received from the Police and Fire departments in changing the Civil Service, they wanted to make sure that there was expertise in the employment area, to be on the Personnel Advisory Board.

Ms. Dunn made the motion to adopt the Ordinance.
Mr. Brass 2nd the motion.

Call vote recorded by Ms. Heales:

A Mr. Brass
 A Ms. Griffiths
 A Ms. Dunn
 A Mr. Dredge

Motion passed 4-0

10. **Consider a Resolution adopting the Regular Meeting Schedule for the Murray City Municipal Council for January through June, 2009.**

Mr. Dredge asked if there were any additional changes to be made. No changes noted.

Mr. Brass made a motion to adopt the Resolution.
Ms. Griffiths 2nd the motion.

Call vote recorded by Ms. Heales:

 A Mr. Brass
 A Ms. Griffiths
 A Ms. Dunn
 A Mr. Dredge

Motion passed 4-0

G. MAYOR'S REPORT

Mayor Snarr stated that the City would be sending a letter of thanks and appreciation to Councilman David Wilde, and the County Council. They are rebuilding the new tennis courts near Riverview Jr. High School; it looks like they are making good process, and the City is looking forward to its completion.

There is also good progress on the Fashion Place Mall, Nordstrom's is planning their grand opening for the middle of March, and they are excited for this.

H. QUESTIONS OF THE MAYOR

None

ADJOURNMENT