

# Murray City Municipal Council Chambers Murray City, Utah

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**T**he Municipal Council of Murray City, Utah, met on Tuesday, the 4<sup>th</sup> day of May, 2010 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:

Jeff Dredge,	Council Chair
Krista Dunn,	Council Member
Darren Stam,	Council Member
Jared Shaver,	Council Member - Conducted
Jim Brass,	Council Member - Excused

Others who attended:

Dan Snarr,	Mayor
Jan Wells,	Chief of Staff
Michael Wagstaff,	City Council Director
Carol Heales,	City Recorder
Frank Nakamura,	City Attorney
Craig Burnett,	Assistant Police Chief
Doug Hill,	Public Services Director
Tim Tingey,	Community Economic Development Director
Gil Rodriguez,	Fire Chief
Scott Stanger,	City Engineer
Mike Dykman,	Battalion Chief
Scouts	
Citizens	

**A. OPENING CEREMONIES**

1. Pledge of Allegiance - Kyle Burnett, Boy Scout

Mr. Shaver excused Mr. Brass from tonight's meeting.

2. Mr. Shaver stated that there is a tradition in Murray to have the Boy Scouts in attendance stand and introduce themselves, their leaders, and which Merit Badges they are working on.

The Scouts introduced themselves and their leaders.

3. Approval of minutes of April 13, 2010

Ms. Dunn made a motion to approve the minutes.  
Mr. Stam 2<sup>nd</sup> the motion.

Call vote recorded by Carol Heales.

All ayes

4. Special Recognitions:

Consider a Joint Resolution of the Mayor and Municipal Council of Murray City, Utah to designate and support the week of May 16-22, 2010 as **Emergency Medical Services Week**.

Mr. Shaver read the Resolution in its entirety.

Mr. Dredge made a motion to adopt the Resolution.  
Mr. Stam 2<sup>nd</sup> the motion.

Call vote recorded by Carol Heales:

  A   Ms. Dunn  
  A   Mr. Dredge  
  A   Mr. Stam  
  A   Mr. Shaver

Motion passed 4-0

Mayor Snarr stated that the first line of the Resolution really sums it up: “anytime, anywhere, we will be there.” The Mayor said he is very proud of Murray City’s emergency response capabilities; we are in a great position, obviously, having a world class medical facility here to accommodate those who need the services of a hospital, and we are thrilled that they are here, and that we are able to provide great emergency service from a transport perspective, with our own ambulance service.

Mike Dykman, Battalion Chief, said that sometimes when you have great men and women working for you, you have to ‘toot your own horn.’ He wanted to share the following: *On March 20<sup>th</sup> of this year, at 3:53 in the afternoon, medic engine and medic ambulance 81 responded to Best Buy on a report of a 69 year old male, visiting from out of state, who was complaining of chest pain. Our crews arrived to the patient within three minutes, were on-scene a total of ten minutes, and delivered the patient to Intermountain Medical Center’s Emergency Department within two minutes of leaving the scene. While on-scene, the crew started cardiac monitoring, administered two IV’s, provided high-flow oxygen to the patient, administered advanced life support medications, including nitro, morphine, and atropine. Once the patient was delivered to Intermountain Medical Center, advanced life support procedures were continued and the patient received definitive treatment in IMC’s cath lab for a 100% blocked right coronary artery. The patient has since left the hospital and returned home to enjoy a quality of life.* This isn’t a rare or isolated case; everyday, the men and women of the Murray Fire Department respond to medical emergencies, fully trained and equipped to provide advanced life saving services. We are fortunate to have a world class hospital in our City, and with the support of Mayor Snarr, the members of the Council, and our citizens, the Fire Department is able to provide world class, compassionate, life saving service.

Mr. Dykman introduced Captain Andy Walkingshaw, and the crew of medic engine 81 and ambulance 81; “Anytime, Anywhere, they will be there.”

Mr. Walkingshaw stated that he was on the above call, paramedic Jason Hawks and his partner, paramedic Glenae Turley were on this call, along with the engineer, Amy, paramedic Matt Jamison who were on the engine. There are three things on this call: the reason this call was selected is that they have been asked to address IMC Quarterly EMS Training, regarding cardiac patients. They call them “Stemi” patients; they can look on their monitor and see if the patient is having a current MI, meaning that damage is occurring damage happening to the heart tissue. There were three things that made a difference in this patient’s life: the first one being time. You think about time and in Murray, we now have ambulance service, with personnel that are trained with them, personnel that are familiar with Murray City, and three ambulances dedicated to Murray City. They arrived on this call at the same time that they did, and over the last 10-15 years, he cannot tell you how many times they have had to wait 10-15 minutes for the ambulance to arrive because they were not dedicated to Murray City. This saved this man’s life; he did not fare well when they ended up in the ER, and had they not gotten

him to the cath lab within minutes, he would not have survived; and if he had, his quality of life would have been down. Another thing is the equipment that they have; they have state of the art equipment, the cardiac monitor that helped them to recognize this stemi patient, etc. It is amazing how much technology helps them with these patients, so that they knew on-scene that this person was having a current MI and that they needed to go. They were on-scene with this patient for a total of eleven minutes, which is huge.

Mr. Walkingshaw continued: the staff is amazing at the Murray Fire Department; we have amazing, hard working paramedics and fire fighters, who train hard, work hard, and more than that, they get the support that they need from the City Council, Mayor, citizens and their administration. Because of that, they are able to do their jobs really well, and really be top-notch.

Mr. Shaver thanked the Fire Department for all of the services that they provide for the City. We are thrilled to have you as a part of it- not just for those of you on the engine, but those of you doing the ambulances as well. Mr. Shaver stated that his father-in-law had an experience, and all of you were there, and he thanks them for being there.

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

None given

**Public comment closed**

**B. CONSENT AGENDA**

None scheduled

**D. PUBLIC HEARINGS**

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

**Consider an Ordinance vacating a portion of the 5530 South Street right-of-way located at approximately between State Street and Rose Circle, Murray City, Salt Lake County, State of Utah.**

Staff presentation: Tim Tingey, Economic and Development Director

Mr. Tingey stated that State law, when there is a request to petition a portion of a

right-of-way, or a right-of-way to be vacated, there is a specific process that we have to go through, and for the public who is here, and he wants to make sure that everyone understands that process. There has to be a request, which the City has received from the Miller Family Real Estate Group and they have requested a portion of 5530 South to be vacated. As part of that, there are a number of processes that the City has to go through in order to consider this; first of all, you have to have the petition, the names and addresses of each owner on record of land that is adjacent to the public street, right-of-way or easement must be noticed, and that includes not just adjacent, but also within a 300 foot radius.

We received the petition, and on April 12, 2010 and April 14, 2010, a mailing was sent to applicable utility companies – April 12, 2010 it was sent to a 300 foot radius, and a notice was published in the paper on April 18, 2010. Signs were posted at least ten days prior to consideration of this request. The second thing is that there has to be a public hearing regarding this request, and that is what we are here for tonight; that is obviously a very important component of that. As part of this public hearing, the evaluation of this request is based on two areas identified in State Code: one is that good cause exists for the vacation, and the second is that the public interest or any person will be materially injured by the proposed vacation. Those are the two criteria categories that you as the Council will need to consider related to this proposal.

Mr. Tingey stated that staff has put together a report related to this; there has been a lot of discussion, both at the neighborhood level – the Miller Family Real Estate Group had two neighborhood meetings where there was discussion, City representatives were invited; there was also a traffic study that was conducted, roughly between the time of November 4 – December 1, 2009, where there were traffic counts, especially in the residential neighborhood, that were evaluated prior to the road being temporarily closed, and then it was closed and those counts were conducted again, and a comparison was made of those two areas.

On the good cause criteria- is there good cause that exists for the vacation: based on the traffic study that was evaluated, the thought process that there was a lot of cut-through traffic going from 5530 South heading north and extending out to 5300 South through Woodrow Street, basically what the analysis of the before and after once the road was closed, is that the study indicated that there was not a significant amount of cut-through traffic; in fact, most of the traffic levels reduced with that road being closed. As far as good cause, based on that study that was conducted, staff feels that there is good cause because it will limit, or not allow for, as much cut-through traffic, which is always a concern from a land-use side of things that there is commercial or traffic cutting through neighborhoods. That is one reason they feel that there is good cause for this proposed right-of-way to be vacated.

In addition to that, you can see that the petitioner has indicated that

they are leasing property over on one side, and own property on the other; they have concerns that if the right-of-way is open, that there would be cut-through traffic, and then customers and employees would have to cross over to other parts of their property would have some safety concerns. That is a concern and if that right-of-way were vacated, you probably would not have those issues.

Related to the public interest and safety, we feel that if you reduce the cut-through traffic from State Street, it will help address issues of public safety as well as the public safety of tenants and patrons. Based on those two areas, they have also had discussion with the Fire and Police Department representatives, and they have indicated that there is adequate access into the neighborhood for emergency response, which was another area that they had concerns with, but they have been addressed and there are other avenues that are already being pursued in emergency response in this area, and they do not feel that this is an issue.

Based on the conclusions that he has addressed, they feel that there is good cause for this right-of-way to be vacated; they feel that it will not be a detriment to the public interest and safety to the residents and the people in general in the community, and based upon these issues, staff is recommending approval of vacating a portion of this right-of-way and passing an Ordinance to that effect.

Council consideration of the above matter.

No Council questions

Sponsor for Petition:

Brent Bigalow, Larry Miller Family Real Estate Group, 9350 South 150 East,  
Sandy, UT

Mr. Bigalow said that it could also be stated the reason for the petition, first of all is safety; obviously when you have a road bisecting an operating car lot, the concern has to be raised and they have to address what could happen with people going every which direction and people crossing the lot, and traffic coming through, both pedestrian and vehicle. At first blush, when they acquired the property a year ago, that was the issue that raised its head; certainly they have to consider the safety aspects of what that entails, and what it would bring to the party, and the likely problems that could and would occur at different points. So, safety was the primary issue, not just for their customers and employees, but certainly for the members of the public and specifically for the neighbors in the residential area behind them.

In addition to that, there a couple of other items that make this useful for them, or

are at least desirable for them to pursue; one is just the efficient operation of the business. The service department, for example, probably parks 150 cars during a busy day, and most of that would have to occur in the south lot, so there is additional traffic and that plays into the first concern of safety. Just to keep the service department operating efficiently, and anyone who operates a business knows that efficient operation leads to the bottom line.

Also, in looking at the site itself, in trying to tie the entire enterprise together, and make it an attractive place of business; a place of business that appeals to people, looks inviting and looks comfortable to negotiate or navigate. By closing the road and being able to tighten things up a little bit without the flow through the lot, and doing some additional landscaping on that access or drive lane which is the primary access into the business, that gives them a better aesthetic presentation of the business itself. These are the primary reasons for this request going forward.

### **Public Hearing opened for public comment**

**Lloyd Dille,** 1 Rose Circle, Murray

Mr. Dille stated that he agrees with Mr. Tingey and Mr. Bigelow that safety is the number one concern; they have a lot of little kids in the neighborhood, they have counted and there are about 30 kids under teenage years that would be affected in this area. The traffic that goes through the neighborhood is sufficient or excessive in his opinion, and they have had a lot of safety concerns. John, his neighbor, has a big hole in his fence, he himself has marks on his curb and spots where fire extinguishers have been hit; Brooke had a car drive up to her front porch this winter. They have had issues in the past of a lot of people not stopping at the stop sign there, and the speed has caused problems as well. With that, a lot of cut-through traffic has been mentioned: Acor, Quest, AT&T, all use this as a quick way to get off of Riley Lane onto State Street to head south.

The things that would improve in their neighborhood is that they would have no more car-haulers bringing cars through at 10:00, 11:00 at night trying to squeeze through tight negotiating areas, driving on peoples lawns; no more tow-trucks showing up in the middle of the night, that come through the neighborhood to drop off cars at the dealerships; no more test-drives- they have been spoiled over the past year and a half since LaPoint Ford closed and the number of cars has greatly diminished because people are not test driving through the neighborhood. If you remember back two or three years ago, there was a large number of people test driving cars through this neighborhood, not only for buying new cars, but also for car repairs. He can't tell you how many times he looked up and said "that car is driving itself!" and then some ones head would pop up and then go back down again as they were fiddling with something under the dash board. No more people running the stop sign, and a decrease in cut-through traffic. He is all for the vacation of 5530 South to Larry H Miller Group, and feels that they would be

a good neighbor and that they would contribute to the growth of Murray City.  
**John Hancey**, 5305 South Riley Lane, Murray, UT

Mr. Hancey respectfully disagrees with some of the things that have been said; either Mr. Bigalow helped him, or he helped Mr. Bigalow, but his words are almost verbatim of what he said; public safety is paramount, and it falls under two categories: first and foremost, would be the safety of the school kids coming to and from school. The way it is right now, Woodrow and 5300 South is basically a war zone; it is funneled down into kids as they come and go to school, it is extremely backed up and in his opinion, extremely dangerous with the commuters and the pedestrians right there. The second tier which he feels is public safety, is the fire hazard with the limited access there. The fire stations are located on main roads for a reason, so that they have easy access to get in and out as quickly as possible. We heard right here first hand, how sometimes it's not minutes, rather seconds to get to someone or a situation. He can understand wanting to live, and to have your own private little road, but he is concerned for the citizens on Rose Circle if they close that down; we are talking about mere seconds sometimes with a fire or something like that, and he feels that the public safety should come first and foremost. This is really not the Mayor's decision, or the real estate developers decision, rather the citizens of Murray and the City Council represents the citizens of Murray; he would hate to make a decision that we are going to regret later on if we close an access road, who knows what is going to happen in Rose Circle, Spurrier area in the next ten years. Once we give up that right-of-way, it's not coming back.

**Seth Otteson**, 41 W. Rose Circle, Murray, UT

Mr. Otteson said he 'ditto's' everything Mr. Dille said, but is for the closure of this, and regardless of what tonight's decision is, he would like to ask that they have the City's help in the safety issue on 5300 South west-bound, for them to be able to get into their neighborhood with the Woodrow-Riley lane area. This closure will make that problem even worse. He understands that this is a UDOT issue, and not a Murray City issue, but he also knows that they need the City's help to take care of this.

**Noel Anderson**, 9 W. Washington Ave, Murray, UT

Mr. Anderson stated that he has lived there for 55 years and has raised four children there. He knows that this issue is really a black and white issue; he has some concerns about closing it, he has some concerns about not closing it. He can appreciate the fact that people are raising young children there, because he went through that, and went through that with grandchildren living in that area. But, he worries about the children, if they close that, getting a false sense of security on that road because we still have residents coming in and out. For a long time, there are still going to be people trying to cut through; if they close



that, they are going to do a heck of a good job with their children to make them aware that it is still a hazard. He has lived there long enough to remember when Stauffer had a restaurant there, and that road was a trailer court, and he has seen it all the way through, probably more than a lot of people. He has another concern, that he cannot go along with the thought that there is less cut-through traffic- everyone that he has talked to on Spurrier and Wilson and Stauffer Lane have noticed more traffic during the time that the road was closed, and it was not closed all that long, and the traffic monitors out that long, they got wiped off several times by the snow plows. What are you going to do if you close this road, if the people from Wilson come over here and say they want Wilson closed because they have additional traffic? What are you going to do if the people from Stauffer lane come over and give you the same scenario? You can't do for one what you can't you do for the others; it is going to open up a can of worms.

He would also like to comment to the fire: He was told that there was going to be a crash gate put across there; is this something that the fire department can get through? He would challenge the fire department to bring their big fire truck down Woodrow and make that turn by the daycare center, with all of the cars that are parked there. He has a 28' motor home, and he can hardly get that through there at times; so when the people who talked before him said that there is a problem there, there really is a problem there and you guys know about it because you've heard about it before. He is also concerned about the system that we have: we notify x number of people within a certain distance from this area; people over beyond the church, and people down on Utahna, they are going to be affected by this. There is going to be cut-through traffic, and he can give you a good example: when he comes out of his driveway, and he is going south, he is not going to go down and fight the traffic on 5300 South. He is going to go down Spurrier, come up Wilson or Stauffer; when he comes home from coming south, he is not going to go down 5300 and come up Woodrow, he is going to come down Stauffer, increasing traffic in the rest of these areas. He has spoken to many of his neighbors who will be doing the same thing. He does not envy the City their position, because he doesn't know his own position- he can sympathize both ways. In the future, good luck.

**Robert Schafer**, 33 Rose Circle, Murray, UT

Mr. Shafer said that he has lived there for 15 years, and has seen a lot of traffic come roaring past their house over the years; many times there have been fences hit, and certainly, children at risk and supports the idea of closing off that circle, it would be a dream come true for the residents of the circle. He acknowledged that there is some inconvenience in getting out of the circle and out into the main thoroughfares, however, that inconvenience could save the life of a child and is certainly worth it. To Mr. Anderson's point, we do teach our kids- he has taught his kids over the years, as there are no sidewalks on Rose Circle, when they ride their bikes they ride about three-quarters of the way, the stop and come back.

They don't allow them through the 'S' turn because it's been so crazy and dangerous over the years; they certainly acknowledge the fact that people need to teach their children well. At the same time, they are not talking to their neighbors about slowing down, they are talking to strangers and that is who they want out of the neighborhood is the strangers, and he certainly supports this action.

**Brook Robinson**, 36 Rose Circle, Murray, UT

Ms. Robinson stated that she is the newest resident in that area; the thing that she thinks of the most when she thinks about closing this road, and when she thinks about how it affects the whole neighborhood, is really coming back to coming to grasp neighborly kindness. She thinks that we would definitely cause problems for half of the neighborhood if they close that road, we would also cause problems for the other half if they didn't close it. She is for the closure, and it may not sit well with everyone, but she is for it; she has a small child, animals, they love to live in the front yard and with the neighbors, and like Mr. Shafer said, they are not fighting against their neighbors in this, they are fighting against the strangers who do not stop at the stop sign, that they file police reports against because they come within inches of their easements, overhangs and front porches, almost hitting the house. It is more about safety and about understanding how your neighbor feels than just how you feel; She knows that nobody wants to have their neighborhood traffic increase, just as they don't want theirs increased with the additional business, but they are all going to have to live and work together, and she hopes that the Council will make the right decision.

**John Hanenstein**, 38 Rose Circle, Murray, UT

Mr. Hanenstein said that he is currently repairing a fence that a vehicle took out over the winter, and the owner was cited for driving too fast for road conditions and for not stopping at the stop sign. He doesn't live that much in his front yard, simply because of the traffic; countless times he has seen teenage kids leaving the high school and almost roll their car on that corner; by the good graces of God, they did not end up in the neighbor's yard upside down. He is for closing the road, understanding that it will add some inconvenience, even to those of them who live on Rose Circle. Getting out on 5300 South is not fun; it will add time to go out to get a Big Gulp or Slurpee with your kid, but it is time well spent.

**Clark Phelps**, 390 K Street, Salt Lake City, UT

Mr. Phelps said that his family owns what is referred to the Stauffer Property, which used to be a trailer court and hamburger stand. He has had good relationships with the Larry Miller Family Group and they are good tenants, but, it is simple to see that if they close this road off, his frontage will end up being a landlocked piece of property. When the scouts do the Pledge of Allegiance, and they are having a civics lesson, part of that lesson is to understand personal

property rights; this would be an assault on personal property rights. He would be landlocked, it affects his real estate lot, and to him it feels like an assault on personal property rights and a land grab. If they were to vacate it, why does the Miller Family Group get it all, and he doesn't get a piece of it?

**Robert Beaudoin**, 5435 Riley Lane, Murray, UT

Mr. Beaudoin wanted to go over a few things that have not been covered: there is probably 20+ businesses that are on Riley Lane, and an unknown number of employees under their employ, but the tax base has got to be considerable for Murray, and every time he hears something about that, they always blame the businesses on Riley Lane; they don't realize what those businesses are doing for the City of Murray. He has been through three road closures since he has lived on Riley Lane and thinks there will be an increase on response time for emergency services, especially ambulance services as they are located on 5900 South. It forces a lot of people then to use a major intersection on 5300 South and State Street. He found some statistics on the traffic volume in that area, and the most recent he could find was for 2008: basically it is 29,000 vehicles a day for both 5300 South and for State Street. This is going to increase these numbers even a little bit more; the traffic accidents at 5300 and State are usually horrendous - there was a fatality in 2008, so he does feel that there is a safety concern there.

**Kathy A.F. Davis**, 466 E 500 S # 300, Salt Lake City, UT

Ms. Davis is the attorney for Amusement Sales, Inc. that owns the property immediately south of 5530 South, abutting the street that is being proposed to vacate. As Mr. Phelps stated, the property has significant frontage on 5530 South State Street. Under the statute, as pointed out by Mr. Tingey, there are certain requirements that are to be met before a street can be vacated: one is that the public interest is met; the other is that the personal property rights of any owner will not be significantly or materially injured. The Amusement Sales property is worth approximately \$800,000 - \$1 million dollars now, with access as it is. The access to the property would be taken away, affecting the property value; as Mr. Phelps said, the property would be landlocked. In fact, the Miller Family Group owns all of the property adjacent, leaving the only frontage for the property on State Street, and access to there is severely restricted because that is a State highway, subject to UDOT restrictions. They are objecting to the vacating of this property, it will significantly injure the business and property interests of Mr. Phelps and Amusement Sales, Inc.

It was also noted that the property is being leased by the Miller Family Partnership; what this vacating of the street does, is in effect makes Mr. Phelps property worthless for any other purpose than selling it to the Miller Family Partnership. Right now, Mr. Phelps could sell that property to a third party and he could sell it in the private sector for a significant amount of money because it has

access. He could also lease it to a third party in nine years when the lease expires, not necessarily to the Miller Family Partnership; if there is no access, he is not going to be able to sell that property, and not going to be able to lease that property.

The final point that Ms. Davis wanted to make is that the Utah Supreme Court has held that deprivation of access rights is in effect 'a taking.' That is an issue that is more properly adjudicated in a court of law under eminent domain, not in a scant three minutes that a property owner has to defend his property rights. So, it would be the intent of Amusement Sales, should you vote for the vacating of this street, to pursue its right to appeal that decision and to enjoin the implementation of the Ordinance, because they are significantly injured, which will take some time. She also wanted to point out, in the recommendation prepared by the staff, that nowhere is the interest of Amusement Sales dealt with or acknowledged. What in effect this has done, is taking away access rights for the benefit of one property owner to the detriment of another property owner, and they are both private property owners, not for a public ownership. They would object to the vacating of the road.

Mr. Stam stated that there are several people here this evening who have asked not to make comments, and have voiced their opinions on paper.

Gil Rodriguez, Fire Chief,

Chief Rodriguez addressed the safety access for the fire trucks and ambulance: Chief Rodriguez explained that a crash gate is not as dramatic as it sounds; it is a gate that is pad-locked, and they get out and break the lock. There are two in Murray, and in thirty years, they have not been used. The reason why is, as the captain mentioned earlier, Murray City Fire Department, their ambulances, and everyone who works in Murray City within Public Safety knows Murray City. They know that this is going to be closed, it is not going to be a surprise; they recently changed the way they do business – they used to have two full time ambulances, which they have increased to three; one of the ambulances is stationed at station #81 on 4800 South, so the access really isn't a problem; if it was, they wouldn't have looked at this and ok'd it. They have three fire stations- one on 4800 South which comes right on Cottonwood Street which is straight down. Another one is station #83, which is on the other side of 5900 South and they come over the bridge and they are right in there; the other station is station #82, which is on 900 East and 5900 South, and they come down Vine Street, so that really isn't an issue- we will get there.

All of the other fire stations that respond with them, they have all privy to the same information; they all have AVL, with technology being what it is today, there won't be a problem. And, they will get that big truck in there- they may not take that way in there, but they will get there the other way around. As far as public safety, the ambulances, and the Fire Department, he can guarantee there won't be any time lost.

Craig Burnett, Assistant Police Chief

Chief Burnett stated that the Fire Department would probably have more issues with access than the Police Department would; whether they can get in from 5300 South or Wilson, doesn't take as much for them to get in there. Would it slow them down? Maybe 30 seconds, but they can still get there pretty fast.

Mr. Tingey mentioned that the information on the crash gate is not based on what Chief Burnett and Chief Rodriguez talked about, it is not going to be required to have a crash gate, in fact, there won't be a crash gate on that site. It is more likely that there will be a wall, and that will be landscaped so there is not going to be a requirement of the City to have that crash gate and additional access at that point. The reasoning behind that is what has already been addressed: there are different access points to that site.

Mr. Tingey said that there was a concern over the notifying of people, that a 300 foot radius is not adequate: That is what is required by State law, and the City does try to do more than that; obviously because we want everyone who wants to come and comment on this will have that opportunity. So, that is why the City placed the additional signage in two locations, we also post it in the newspaper, and beyond that, that is notifying a good part of the neighborhood that sees those areas, and that is typical of what is required by Code.

Related to the cut-through traffic: Mr. Tingey stated that the traffic study didn't say that it would reduce traffic on every single street in that area with the closure of this right-of-way, there are some streets that there will be an increase in traffic, but that is fairly typical when you are closing a street and especially when people within the neighborhood are taking different access points in and out of the neighborhood. What they did see in the study is that the cut-through traffic saw a decrease in the amount. There are some streets that will have additional traffic, but it is not significant; what we are seeing in the study, taking all of the potential cut-through traffic and the people who are accessing from different points and adding it together, it just seems to be that the addition seems to be from people who are accessing and going into different points. There are some streets, with it closed, such as south Hillcrest, southbound, south Spurrier, northbound, when it was open there was a traffic volume of 358 that increases to 485, in addition to that, on 39 W. Wilson eastbound, it went from 93 to 124, and on 73 W. Wilson eastbound, 515 to 532. We want to make sure you are aware that there are some streets that there will be more traffic, but in general, they are looking at the interest of the whole neighborhood, and they feel that this will reduce the cut-through traffic.

Mr. Tingey added that the Public Services Department has been very pro-active, especially after the neighborhood meetings, and has actually contacted UDOT, talked to them about the possibilities of creating a left-turn arrow at the 5300 South westbound intersection going into the neighborhood. They feel that there may be some future opportunities there, although they cannot guarantee that, but there have already been discussions on this.

Related to the closure, and the property being landlocked, Mr. Tingey said that there is a State

law that says when an action like this occurs, where there is a vacation and there is access into this property, there is frontage on State Street, and in his opinion, it is very unlikely that you will get UDOT access right from State Street on this property; there is access right now, and basically the State law says is when you do vacate, that the vacation cannot impair any right-of-way or easement of a lot owner. There will be opportunity for the lot owner to still have the access, it won't be from a public right-of-way, but it will be into this site off of State Street. In addition to that, there is still opportunity at this location, so they will not be land-locked; they feel that it is not something that should impair this property based on State Code, because there will be that access opportunity. If this site is developed, there will be other opportunity to have less set-back requirements because they are not adjacent to a right-of-way as well, which could benefit this property owner significantly if they are developing this property in the future.

Mr. Tingey commented on the Miller Group getting all of the right-of-way: there was some legal work done on evaluating this site, and when the right-of-way became a right-of-way, it came from a plat of this property and therefore the petition to vacate it would go back to the property owner based on that legal review that has occurred.

**Michelle Schafer**, 33 Rose Circle, Murray, UT

Ms. Schafer asked about pedestrian traffic, when they block that off.

Mr. Tingey said that if it is vacated, it is turned into a portion of the property that is owned by Miller Real Estate Group, therefore this would be similar to the other property. In addition, we are not requiring a crash gate, they have indicated a desire to place a masonry wall or a fence across this area and landscaping adjacent to that; so, pedestrian access, based on if it is vacated and if Miller puts in a wall, there won't be pedestrian access into that area from this point. There will not be any pedestrian access through any public right-of-way areas, because it will all be part of the property, and will be blocked off.

Mr. Stam had a question in regards to the land-lock and the access: Mr. Tingey said that they will have access, would their access come from State Street?

Mr. Tingey said that yes, because of the closure, they would be allowed to put in an access further down. From State Street, they will continue to have access into the property; it will not come from a public right-of-way, but it is going to be an access that is allowed because we can not impair that access opportunity.

**Gayle Haux**, 31 Rose Circle, Murray, UT

Ms. Haux said that she is confused about the land-lock; her understanding is that as her daughters walk through there from McMillan Elementary, there is an entrance point right there from the property, and if there is a driveway right there, why are they talking about it being land-locked?

Mr. Tingey stated that when they talk about the issue of being land-locked, right now, the one

property does have an access but the other does not have one off of State Street. What they are indicating is that there would be concern that the property would be land-locked, but what they are saying is that there still would be access opportunity off of State Street through this area if it is vacated.

Ms. Dunn asked Mr. Tingey: That piece of property then, is not like the back part of the property- it is the full property from State Street back; is that correct?

Mr. Tingey said yes that is correct.

Mr. Noel Anderson returned to say that he is very confused now; in all of their meetings, they never said that there was going to be a wall put up on that road. Anybody who wants to access State Street, to catch a bus, or go to school, you are telling us now that that they are not going to be able to do that because there is going to be a fence there. Why weren't we told of this in the two public meetings? They were told that there was going to be a crash gate that any little kid could go across, or any resident that wants to go up on State Street to catch a bus would be able to. Now, this makes things a little bit different.

Mr. Tingey stated that originally, in the discussions at the neighborhood meetings, and they were preliminary as far as their reviewing this, we as a City thought that having a crash gate here would still provide opportunity for access, but in discussions and meetings, with the locations to the fire stations and where we are already accessing this area for emergencies already, in addition to the additional accesses on Wilson and Stauffer, there is not a need to have a crash gate there. Actually they would prefer to have it walled off so that there is not people cutting through this property and additional potential safety problems if you have school people walking through here. It was preliminary when they discussed it, and they feel that with the access points from the other locations, the access into the neighborhood for police and fire, it is not a needed requirement and they will not required.

Mr. Phelps is confused about the access, and asked if this would be limited to whom? Would it be open to anybody, and if that is the case, would be the same as a right-of-way? When the public safety people talked, they talked about there not being a problem finding public safety because there would be a crash gate, and now it changed again. His family has owned this property for about 50 years, paid property taxes on it all the time and they don't want to feel like their property rights are being affected.

Ms. Davis said that her point on the access is that this hasn't been fully discussed, or even proposed, on how the access to the Amusement Sales property will be handled; perhaps that ought to be an issue that would be dealt with in more detail before there is a vote.

Frank Nakamura, City Attorney

Mr. Nakamura said that one of the findings that the Council needs to make tonight is whether or not a person will be materially injured by the vacation, and this access issue is of concern to

them. He feels that we need clarification from the Miller Group on the record as to the easement, whether it is a prescriptive easement, and whether or not the easement will be acknowledged. He would agree that we need additional information as to the easement and if there is an acknowledgement to the easement, and if it is a prescriptive easement or not. He would recommend that this is something that should be incorporated into the Ordinance, because it is an issue. If Mr. Budge or the Miller Group could address that, and provide information in the record regarding that, it would be appreciated.

**Wade Budge**, Counsel for the Miller Family Real Estate, Snell & Wilmer Law Firm

Mr. Budge stated that there will continue to be a private right-of-way for the sole benefit of Amusement Sales. This issue that has been raised by Ms. Davis is a red herring, and is not correct; this property will not be land-locked under Utah law. The reason is that this issue has come up a lot of times; there have been a lot of streets that have been closed throughout this valley, and throughout this state. The Utah Supreme Court came down in the case of *Carrier vs. Lundquist*, and in that case stated that a property owner such as Amusement Sales, in this case, would continue to have a private right of access over the historic road, even though the public rights are vacated, and even though the property reverts back to, in this case, the Miller Family Group.

Mr. Budge wanted to assure the Council that, in making the plans for this property, the Miller Family Real Estate has taken that into account, recognizes that Amusement Sales will continue to have a private right of access through what is presently a road. That will continue after this vacation. The other issue that was raised by Mr. Phelps is the question as to why his property is not obtaining any of this property upon the vacation, should the Council decide to vacate this road. The reason is, as Mr. Tingey accurately indicated, they did extensive title research into the history; and the history of this subdivision is such that in 1946 a Mr. Adamson went out and acquired all of the land that is now this 31-lot subdivision, and acquired a pan handle that goes to State Street. That pan handle included property that the Miller Family Group owns; and to be real brief and blunt- the property that is the road, only came from the property that Miller Family owns. When they talk about a right reverting, it can only revert to the person who first gave it, and in this case, Amusement Sales predecessor, the trailer park, never gave any land that became the road. That is the reason that the Miller Family Group made the application, and why they are the ones who would be entitled, should the Council decide to grant their request for a vacation.

Mr. Budge asked Mr. Nakamura if they had clarified the issue sufficiently.

Mr. Nakamura stated that he appreciates that the property was dedicated by the Miller Family Group and the City recognizes that. He asked if Mr. Budge was saying that they are acknowledging a private right of access by the Amusement Sales.

Mr. Budge answered that is correct. The other thing that they want to place in the record is that there is approximately ten years left on the lease, and in that time period they plan



to continue to work with the landlord, so that by the time that the lease is up, they have plenty of lead time to work out the issues of how that access will look on the ground; they recognize that he would retain a private right of access. Furthermore, he would always be able to go and petition UDOT for a curb cut that is something that he could work out with UDOT. They wanted to get those points on the record as well.

Mr. Nakamura stated that the City has drafted an Ordinance that they are relinquishing the fee interest; however, we are not addressing any easements that may or may not exist. He thinks that they will recommend, for inclusion in the Ordinance, of an acknowledgement of a private right of access to Amusement Sales property to ensure that they have the access and are not land-locked.

Mr. Stam asked if, as part of the Ordinance, Mr. Nakamura is requesting that they refer to all easements.

Mr. Nakamura said that yes, we will refer to all easements; we don't know what they are, we have not defined them, but we would say easements including the private right of access.

Mr. Budge commented that the language included in the Ordinance already contemplates that; it talks about third parties.

Mr. Nakamura said that is true, except that we don't know what that is, and we haven't defined it, and we would feel more comfortable if we were specific in regards to this one.

Mr. Stam noted that we (the Council) are not perfect; we want to make certain that all of your needs are met, for both groups – the neighborhood, as well as the property owners of that, and we want to make sure that we get it covered and we will do everything in our power to make sure that happens for you.

Mr. Bigalow stated that he has lived a while on the planet, and the one thing he has learned is that human nature kind of runs to type; one of the issues that came strongly from the neighborhood is the traffic and the issues that result from having an operating car dealership in that location. Clearly, we can try to manage those issues, but again, human nature runs to type and people are going to sneak through there, and car haulers who come through at 10:30 aren't going to care what we said about it last week. The best way to prohibit or stop that is obviously to have a barrier. We approached initially with the notion of a crash gate, to address the point and not make you feel like we 'snookered' you and did a little bait and switch – they never contemplated anything other than a crash gate in either of the two public hearings that they held. Until recently, with further discussions with the City, when they pointed out their additional findings and facts and issues with how they are covered in the neighborhood, that they felt that we should be subject to the other City requirement of having a barrier between us and the neighborhood, which is that six-foot high masonry fence and the

landscaping.

From an operational standpoint, for being able to manage the business and being able to solve the issues that the neighbors have had some concerns about with traffic, one works as good as another. Clearly, we have no preference there, but surely it is a benefit to the neighborhood; if it is walled off it blocks the noise, the dirt, it blocks the hub-bub, and somebody addressed the issues of strangers wandering through- well, they can't get through unless they scale a fence or wall.

Mr. Bigalow wanted to remove any hint or notion that they had somehow bait and switched that, because they had no intention initially of doing anything other than what they had presented.

### **Public comment closed**

#### Council consideration of the above matter.

Mr. Stam said that it isn't necessarily about traffic, or strangers in vehicles going through, but the comment that he is hearing is about children accessing that property through some sort of a wall, whether it be gated or there be an open area where they can get access to State Street to get to the school if they are walking. Is that something that they might consider?

Mr. Bigalow stated that one is as good as another for a barrier for them; if there is some way to accommodate the children's access, I don't know how that material affects them. The idea for them is to have a barrier for traffic, so a gate, a wall, a wall with some aperture for kids to get through.

Ms. Dunn said that if they are going to vacate the road, if that is what happens here tonight, Miller Group is going to be using that for traffic. She does not feel that she would want her children walking up and down that if they are running cars up and down it.

Mr. Bigalow said it goes back to the ultimate safety issue; on a philosophical level, you wouldn't mind accommodating that access for the children, but it does then put it right back squarely into some kind of safety issue and potential liability issue for them. It is kind of delicate for them to work out, but he would find refuge in what he said previously about a gate or a wall accomplishing what they have in mind either way.

Mayor Snarr commented that they still have the right to go down and walk through the High School's property and they always will; the High School adjourns earlier than both the Jr. High School and McMillan, and sometimes, in the safety of the people concerned, in this case the people of Rose Circle, he emphasizes with challenges they have. We have worked hard in addressing people's concerns, and have worked hard with UDOT to prevent access out of the schools property; that used to be a real challenge. The people on Rose Circle, because there is not that access point, come down Rose Circle and then

ditch over, still parking there. That may eliminate some of that park parking along the west side of those bleachers. Sometimes you have to walk different ways, and a little bit longer, but in the end, everyone benefits from it. He has been a proponent of this, and he won't deny it, he tells everyone exactly how he feels; this is, in his opinion, the right thing to do as it addresses the concerns of those who have concerns about their children on Rose Circle. For the benefit of the rest of you too, he doesn't buy into this lack of response time- you come down into his neighborhood, you have to go four and a half blocks to get off of Main Street to get back into his neighborhood to match their two and a half; there are plenty of ways- they can go down Hillcrest if they have to come in to there, they don't have to go down Woodrow and make a turn off of there, they can turn right in and out. In the end, there are safe ways for the children to get into their neighborhoods without going all the way down Stauffer Lane, they don't have to go all the way down to Spurrier and double back, they can go through the High School.

Mayor Snarr agreed with Ms. Dunn about the fact that putting a gate in there is an easy way for someone to rip off the car dealership and ditch into the neighborhood if you put in a gate for children.

Ms. Dunn stated that regarding the cut-through traffic, they can only go by the studies that were done and they can be right or wrong, but that is what they have. As far as she can see, less cut-through traffic from the dealerships, which they have heard about on several occasions from this neighborhood that this is an issue, based on that, and reducing that, to her less traffic means less speeding means less problems and better safety.

Ms. Dunn made a motion to adopt the Ordinance, including the easements mentioned, private right of access to Amusement Sales.

Mr. Dredge stated that he has a lot of car dealerships in his district, and one of the number one complaints that he gets is cars test driving in the neighborhood, car haulers and such.

Mr. Dredge 2<sup>nd</sup> the motion.

Call vote recorded by Carol Heales:

  A   Ms. Dunn  
  A   Mr. Dredge  
  A   Mr. Stam  
  A   Mr. Shaver

Motion passed 4-0

Mr. Stam commented that if he had a way to stop cut-through traffic in his neighborhood, he would do it too.

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 properties located at approximately 6150 South and 6180 South Vine Way, Murray City, Utah, from C-N-C (Commercial Neighborhood District) to C-D-C (Commercial Development District) (Discount Tire)**

Staff presentation: Tim Tingey, Economic Development Director

Mr. Tingey stated that this was an issue that was addressed at the Planning Commission meeting and they gave a positive recommendation for this change. The properties that are involved are adjacent to Van Winkle and Jeremy Circle; The General Plan has these designated as commercial retail for future land use, so this is not a General Plan amendment, it is simply a zone change which is something that they like to see based on what the General Plan recommends over time. They have plans to acquire, or have acquired the property adjacent to this, and they want to revitalize this property and enhance the building; they have acquired this property which is a glass business, and want to combine the two and currently under the current zoning, C-N-C, they could not do that, as it is not allowed.

They recommended as staff, approval of this zone change; the General Plan also acknowledges that this will move into retail in the future, and so the Planning Commission also forwarded a recommendation of approval.

**Daniel Wainwright**, Sponsor, 20225 N Scottsdale Rd, Scottsdale, AZ

Mr. Wainwright is requesting the rezoning of their existing store here in Murray, that is located at Vine and Van Winkle, and the adjacent parcel that they have acquired which currently has the glass building on it; the reason that they are requesting this is to bring it into conformity with the City's Zoning Code.

If they are approved to receive this change in the zoning, it will allow them to perform a major renovation of the property. Discount Tire has been in business about 50 years, they are happy to be celebrating their 50<sup>th</sup> year, they are a solid company, family- owned, and are proud of their heritage to customer service. They are the largest and most successful retail dealer in the United States and they have 768 stores open. Their business is limited to the retail sales of passenger and light truck cars and wheels, they don't perform any mechanical work, and handle no automotive fluids such as antifreeze or oils. Their success is based on their

passion for customer service, and they work hard every day to earn the right to call everyone who comes to see them their customer; they appreciate what people do to come in and do business with them, and try to give back a great experience. They call it an unexpected experience, because sometimes in their industry, people expect not to really be treated the way that they treat them; one of the things that they do is free flat repairs-if you come in, whether you are one of their customers or not, they will take care of your flat tire and not charge you, with the hope that when you do have the need for some tires, you will remember the good service you received there and come back to see them.

They have been at this current location since 1987; they built the store originally, and it was located in the County at the time and complied with all of the County requirements, and now that they have been annexed into the City, which they are very pleased with, they are trying to bring this property into compliance with the current zoning, meet all of the set-back requirements, landscaping requirements, etc. By allowing these two parcels to be combined, they are going to redevelop the entire site and when it is all said and done, with your approval, it will look like they built a brand new store from scratch rather than it being 27 years old. It is about a \$1 million investment into the community on their part, and they are happy to do that because they have been here for a lot of years and they feel that it is a worthy investment.

The proposed zoning would allow them to do that, and they appreciate your consideration for their project.

Ms. Dunn asked if they are the ones that say “if you ever have a problem with one of our tires, feel free to bring it back” and the commercial shows someone throwing a tire through the window...Do you really honor that?

Mr. Wainwright said that yes, that is their commercial; it is a little old lady commercial, and told a couple of stories:

They are actually in the Guinness Book of World Records for having the longest, continuously running television commercial. They have had that going for not quite all 50 years that they have been in business, but a good part of that. They continue to run it in every market that they are in for some period of time every year because it is kind of fun. It is a ten second spot and it cost them \$800 to make that commercial. A number of years ago, they thought about redoing it, but unlike what they want to do to this project, to make it nice and modern, and to serve the community, they thought it was kind of cool the way it was and decided to leave it alone.

Ms. Dunn asked if they had ever gotten tires back that way?

Mr. Wainwright said that yes, they actually did have a citizen in Michigan bring a

tire and, they are pretty sure he was inebriated at the time, he did return his tire that way; the police did come and help the gentleman home, they asked if the company wanted to press charges, but they declined to do so.

### **Public Hearing opened for public comment**

None given

### **Public comment closed**

Council consideration of the above matter.

Mr. Stam made a motion to adopt the Ordinance.  
Ms. Dunn 2<sup>nd</sup> the motion.

Call vote recorded by Carol Heales:

  A   Ms. Dunn  
  A   Mr. Dredge  
  A   Mr. Stam  
  A   Mr. Shaver

Motion passed 4-0

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

**Consider an Ordinance amending Section 17.152.030 of the Murray City Municipal Code relating to conditional uses in the Manufacturing General Zone.**

Staff presentation: Tim Tingey, Economic Development Director

Mr. Tingey stated that this was a recommendation that they brought forward to the Planning Commission on April 1, 2010, and they forwarded a positive recommendation on this Ordinance change. What has occurred is that in our zoning ordinance, there is no allowance of any small arms or any manufacturing of firearms. Going historically back, there is probably a variety of reasons as to why it is not allowed in our community; probably the main thing is that you have manufacturing general districts that are adjacent to residential neighborhoods, so it makes complete sense not to allow the manufacture of firearms. However, we have had this recent application, and it is from Mr. Bean, and he is an individual

who has a business that is manufacturing just small components or parts of firearms, and it is something that he will manufacture a component of that, and then it is shipped away to another location within the state where it is assembled. As we sat down with him, we've talked about this with staff, we've brought forth this modification to the zoning ordinance. Basically, what this does, is it allows the assembly or basically the manufacturing of components of firearms through a conditional use permit in the Manufacturing General Zoning District.

We feel that this is something that adheres to the General Plan, it is something that will allow businesses to expand while still protecting and preserving safety within our community. So, based upon this, we are recommending approval, and the Planning Commission also recommended approval of this modification.

**Public Hearing opened for public comment**

None given

**Public Hearing closed**

Council consideration of the above matter.

Mr. Dredge made a motion to adopt the Ordinance.

Mr. Stam 2<sup>nd</sup> the motion.

Call vote recorded by Carol Heales:

  A   Ms. Dunn  
  A   Mr. Dredge  
  A   Mr. Stam  
  A   Mr. Shaver

Motion passed 4-0

**E. UNFINISHED BUSINESS**

None scheduled

**F. NEW BUSINESS**

None scheduled

**G. MAYOR'S REPORT**

Mayor Snarr mentioned that he and Mr. Tingey had the opportunity to meet with the representative for General Growth Properties; it is exciting to see what they want to accomplish in a much shorter time frame. It is going to require that we work very closely with them, and that they get their plans submitted on time, so that we can review them and get them back to them so that they can continue to expand the current Fashion Place Mall.

There have been some delays, regarding the re-tenanting of the current Eddie Bauer store, it is taking longer than they thought, so they can't tear down the existing Nordstrom's store until they get the new store ready for Eddie Bauer to move back into. Mr. Tingey stayed longer with their architect, trying to work through some issues regarding getting the steel up and erected before the snow flies in the Fall. If they can do that, then their opening would be next Fall, and that is really an aggressive plan, to be able to do something that fast versus, originally, they said it would be March of 2012. There are reasons for doing that; their number one leasing agent for the Fashion Show Mall in Las Vegas, who said that he would make this a top priority and he will become the sole leasing agent to bring in those types of tenants that we will be excited about, because a lot of them haven't had a presence before here in Utah.

They are doing this because there is a competitor down town who also wants to open in 2012, and they feel like if we can get those tenants in here and open them up sooner, it will more successful. It is a competitive thing, but he knows that Mr. Tingey can take care of this, and Mr. Gonzales as well, and we will try to figure out a way to strategically make this work; it will require a little bit of work on both parts to get this through, but it is exciting to see what they are going to do with the current Fashion Place Mall, and that footprint will be dramatic. The exposure that the new façade will have off of State Street will be incredible.

**H. QUESTIONS OF THE MAYOR**

None

**ADJOURNMENT**