

**REGULAR SESSION OF THE
BRIGHAM CITY COUNCIL
March 3, 2011**

PRESENT:	Dennis Fife Bruce Christensen Scott Ericson Ruth Jensen Tyler Vincent	Mayor Councilmember Councilmember Councilmember Councilmember
ALSO PRESENT:	Rick Bosworth Mark Bradley Jim Buchanan Mary Kate Christensen Blake Fannesbeck Sue Hill Paul Larsen Bruce Leonard Jason Roberts Paul Tittensor	Human Resource Coordinator City Planner Emergency Services Director City Recorder Public Works Director City Librarian Economic Development Director City Administrator Finance Director Chief of Police
EXCUSED:	Councilmember Marabella	Councilmember

Mayor Fife called the meeting to order. The Reverence Period was given by Bishop Cannon of the LDS Fourth Ward. The scouts from Troop 114 led the audience in the Pledge of Allegiance.

PUBLIC COMMENT

CONSENT

- New Hires, Fire Division
- Appointment to the Economic Development Board
- Appointment of Vice Chair to the Advisory Council on Aging
- Appointment of Chair to the Advisory Council on Aging
- Appointment to the Advisory Council on Aging

SCHEDULED DELEGATION

- Request for Waiver of Building Permit Fees
- Golf Course Annual Report and Approval of Marketing Plan

NEW BUSINESS

- Update on Library Activities

UNFINISHED BUSINESS

PLANNING COMMISSION BUSINESS

- Request for Approval of Planned Unit Development Preliminary Plat for the Cottonwood Grove Phases 2 and 3 Located at Approximately 540 South 800 West

OTHER BUSINESS

PUBLIC COMMENT

Martha Urban – Ms. Urban commented on the Cottonwood Development PUD on the agenda for approval. She stated that a general land use plan and zoning plans are set for the long term good of the residents of the City. In this development, the general land use plan and the zone plan do not match. The land use plan has been revised several times in the last few years and low density housing is what is listed; the zoning is set for medium and seems to have been set arbitrarily over 30 years ago. She asked why these don't match. To provide the best for the city, is more medium density housing needed at this time? She asked how the historical value of the property has been assessed and if the impact of public education has been assessed. She also asked if the possibility of a change in property value for the single family, larger lot residences that are backing this neighborhood has been considered. Usually with larger lot, single family homes, there is some type of buffer between them and medium density housing, such as smaller homes or a park. There is not transition space with this development. Most of those single family homes in this neighborhood have been there over 20 years. She asked if the impact on Brigham's rental economy been considered. She questioned how the neighbors and the City know that

after this development is constructed that the screening standards for renters will still be met and maintained. Ms. Urban asked if another plan for low income subsidized housing has been considered in this area. She said she understood that these developers have done single family dwelling low income housing plans. She asked how this has been considered to be a transition area and possibly impact the neighborhood in the upper division of the property. They are requesting a PUD and if exceptions are made, they should benefit the values of the community and the people that are already living there. The PUD allows them to put in smaller setbacks and more units than are currently allowed.

Steve Packer – Mr. Packer said overall in the community there have been a lot of things taking place where someone has not been at the wheel: the giveaway of the Intermountain properties to an out-of-state developer that blew it; UTOPIA; and the City now progressing to put 400 low income housing units on the south side of the City. The rental market has a 15+% vacancy, and that's with P&G, pipeline and powerline people renting in Brigham City. When these renters leave in the next few months, that number will probably double. As the City is considering so much more low income housing, he asked what is being done for the citizens that have rental units that are already losing renters and have a lot of vacancies. Brittney Greens has numerous vacancies. The Hill Property and Law Properties on 700 South are all half full. The continued approval, which seems to be from the Planning Commission and the Council, does not make sense if they are standing up for the people of the City. The General Plan has been totally ignored for the R-M-7 zoning. He asked the Council as things come along for the City that they consider property values. When the City Council voted to sell this property, all they could see was money. Consideration of the neighbors was not there. He asked for more consideration for the citizens of the City.

CONSENT

New Hires, Fire Division

It was recommended Kevin Rees and Justin Wilson be approved as paid-on-call Firefighters, effective March 4, 2011.

Appointment to the Economic Development Board

It was also recommended Bryan Smith be appointed to the Economic Development Board.

Appointment of Vice Chair to the Advisory Council on Aging

Darwin Jensen was recommended for appointment as Vice Chair to the Advisory Council on Aging.

Appointment of Chair to the Advisory Council on Aging

Dennis Spencer was recommended to serve as Chair of the Advisory Council Aging.

Appointment to the Advisory Council on Aging

It was recommended the Council approve the appointment of Boyd Young to the Airport Advisory Board.

MOTION: A motion to approve the Consent Agenda was made by Councilmember Christensen. The motion was seconded by Councilmember Ericson and unanimously carried.

SCHEDULED DELEGATION

Request for Waiver of Building Permit Fees

Mr. Bill Munson, Board President of the Community Pantry, came forward. He explained that the Pantry received a Community Development Block Grant (CDBG) to put in a walk-in freezer and refrigerator. The City waived the building fees at that time. Last year they received another CDBG to put a roof over the freezer and fridge and build additional warehouse space. They have been storing materials off site. He requested the fees be waived again for the building.

Mr. Larsen explained that, according to City Policy, the fees cannot be waived unless the Council can determine that the waiver is in the public good and it must be done with a written agreement.

Councilmember Ericson suggested the policy be amended to limit the dollar amount that can be waived.

Mr. Larsen stated that his department could absorb this cost.

MOTION: Councilmember Ericson made a motion to approve the request, with a request to have the Community Development staff come back with a policy that gives the Council a direction at what level it impacts the City in the future. The motion was seconded by Councilmember Christensen. Councilmember Jensen said she discussed this with the Community Development Staff and they told her the Council has to be able to identify why it is a special circumstance. Mr. Munson replied that the special circumstance is that they depend on others to run their operation. In addition, there have been a few surprises in the engineering and building materials are increasing. They need every dollar from the CDBG to finish the project. Councilmember Christensen stated that the Pantry contributes in more ways than can be seen. It is far reaching throughout the County and provides a service that could not be provided any other way. Councilmember Christensen, Councilmember Ericson and Councilmember Vincent voted aye. Councilmember Jensen voted nay. The motion carried 3-1.

Golf Course Annual Report and Approval of Marketing Plan

Mr. Marx reported that 2009 was one of the worse weather years they had. Spring of 2010 was the same. As part of the recent administrative changes made at the golf course, their goal is to become efficient enough that they are not dependent on the weather.

Some of the projects completed at the course over the past year include:

- There are six miles of cart paths at the course. Five critical sections were overlaid. In addition, 1.3 miles were treated with GSP-78. This will make the paths last longer.
- Demolition of the old maintenance shop.
- There are three holes that have been affected by the storm drain system, #10, #18 and #17. These holes were modified to be a beautiful, but functional, storm drain system.
- #11 tee block was leveled and #18 was started.
- Bunkers were edged.
- New driving range flags were installed.
- Fringes were improved and leveled.
- The irrigation system was improved. This cut the watering window by five hours. This project will continue.
- There were over 160 tournaments held at the golf course. They received the 8th best ranking for corporate tournaments within the State of Utah.
- All golf carts were replaced with new carts.

Mr. Marx speculated that at June 30, 2011, the golf course will break even. This is due to the great effort of golf course and City employees.

Rounds at the golf course were up by a percent. Statewide, rounds were down 7.5%. He felt the increase at Eagle Mountain was due to the marketing plan toward the end of the year. However, revenues were down, which was expected with the current economy and weather.

MOTION: A motion to approve the 2011 Golf Course Marketing Plan was made by Councilmember Ericson, seconded by Councilmember Jensen and unanimously carried.

NEW BUSINESS

Update on Library Activities

Ms. Sue Hill made a presentation on the library's activities during the past year (see attached).

PLANNING COMMISSION BUSINESS

Request for Approval of Planned Unit Development Preliminary Plat for the Cottonwood Grove Phases 2 and 3 Located at Approximately 540 South 800 West

Mr. Bradley stated that in the General Plan prepared in 2007, the low density residential is 3-6 dwelling units per acre with housing types of single family homes, duplexes and townhomes. Medium density is 7-

10 and high density is anything above ten. This development is 5.2 dwellings per acre and is considered within the low density range. The General Plan and zoning are consistent. The zoning overrides the General Plan.

Mayor Fife asked Mr. Mark Bradley to respond to the questions brought forward during the Public Comment Period.

Mr. Bradley stated that the Planning Commission asked for a modification on the original PUD request. They asked for modification to change the private street. A PUD allows for diversification in relationship to various uses and structures to a development, and to permit more flexibility. PUDs are intended to encourage excellence in neighborhoods, housing, and area design while insuring substantial compliance with intent of the General Plan. The R-M-7 front setback is 25' and 30' in the rear. The PUD request is to allow a 20' front setback and 25' rear setback. It also allows for the consideration of a private drive.

The Planning Commission recommended an additional recreation area be provided. This would require the elimination of a twin home.

Mr. Kirt Peterson, Horizon Development, came forward and responded to the Council's concern about turnover. Typical turnover in their development is 2-3 per month, which would be approximately 25%.

In response to the concern regarding property values, Mr. Peterson stated that in 2005 when they did their first development in Cache Valley there was public outcry that it would devalue their homes. The planning department started receiving calls a year later complaining that the development was devaluing their homes because their project was so nice that their landscaping did not match.

Councilmember Jensen disagreed that this is a fair, competitive market because it is subsidized by the government. They are bringing down the value on rentals, whether they say they are or not. Mayor Fife stated that the Council does not have control over that. Free enterprise economy takes care of that.

Regarding Ms. Urban's concerns about public education being assessed, Mayor Fife stated that he talked to the School Superintendent about these kinds of things when they were considering closing Bunderson School. Those decisions are not up to the City.

Councilmember Jensen said Mr. Peterson has told the City that they can own their developments up to 15 years then they have the ability to sell it. She was concerned what will happen to the housing after they sell it. Mr. Peterson agreed that sometime in the future they plan to sell this development. He cannot guarantee what will happen after that, and neither can an individual who sells their home.

Mr. Peterson added that they are requesting a density of 5.2 units per acre. The zoning allows seven. The only thing they are asking the Council to make an exception on is a reduction in the front and rear yard setbacks. If this is a major concern to the Council they could bring in a plan that shows a multi-story apartment complex.

Mayor Fife responded to Ms. Urban's question on the sale of the property. The reason the Council decided to sell the property is to find funds to start City development on the property below this. The funds will be used to get water to the lower property and grade the property for a future sports complex. Councilmember Ericson added that the waterline will provide a loop around the City that will help with redundancy for water for all residents. At that time, the Council determined that the best way to pay for this was to sell some of the surplus property that the City owned. Councilmember Christensen added that when the City purchased the property, it was always the intent to sell the upper portion to a developer and the lower section would be a sports complex.

Mr. Larsen stated that he was in some of the discussions when the City purchased the property in 2004. The sellers wanted to sell the entire property, not just portions. The City was interested in the portion west of the tracks, but there was interest in purchasing the entire parcel so the east portion could help fund a City project. In the negotiations, there was some discussion on what possibly could happen on the east parcel, but there was never any statement on the part of the City that it would be a park.

Ms. Urban came forward and said in other states it is law that zoning follow, and is secondary, to the General Plan. The City owned the property for years and was aware of the zone, yet when the General Plan was updated the last two times it was not updated so it matched the zoning. The issue is the large lot residences with no transition to a fenced housing unit. There is no consideration being given to the neighbors. This developer has done single use low-income homes. She asked if this was considered for the upper phase. This would create a transition for the neighbors. She asked if another plan was considered. Nobody is disagreeing with the low income housing.

Ms. Urban continued that there are already 20 school buses a day on 800 West going to the middle school. There are only two access routes from this neighborhood for people that are going to be picking up their children from elementary school. This is going to create a lot of congestion.

Ms. Urban questioned whether the process has been followed. City Code states that when the land use changes, all affected residents are to be notified. When this was put under contract with the developer, that is when the land use changed. This is not when the neighbors were notified. Mayor Fife added that the City had two public hearings.

Mayor Fife stated that there are already twin homes on 800 West by this subdivision. There is also a single family dwelling home at the front. This creates a transition.

Mr. Kirt Peterson came forward and said in earlier discussions with City Staff, concern was expressed about the playground and its proximity to the road. It was suggested a small 3' fence be installed. They could do that, although it is really 20' from the road. The reason the community center is planned where it is, is to allow parking off the street. Originally, they were switched; however, City ordinance does not allow direct backing onto the City street. If the Council will allow the parking to be moved, they could reconfigure the plans.

Councilmember Christensen asked if Mr. Peterson would consider making the three units west of the single family unit all single family units. Mr. Peterson said it would be possible, but it would reduce the number of units. They have already reduced the development by two units. Mayor Fife suggested building two more units where the retention pond is planned. The pond could be on the other side of the property under the tracks. The City would construct a pond that could be a fishery pond or an irrigation source for the sports complex. Mr. Peterson committed to change the three duplexes to single family units if the City will allow them to reduce the retention pond.

MOTION: Councilmember Ericson made a motion to ask Mr. Peterson to consider the recommended changes and bring it back in two weeks. The motion was seconded by Councilmember Jensen. Mr. Peterson asked for clarification on the Council request. He will reassess the area and look at doing single family dwellings. They could be 3 or 4 bedroom units, but will most likely be three bedroom units. Mayor Fife added that if they are able to get four units in that area, he would like them to look at the possibility of removing the one unit behind the complex and add more parking. Councilmember Christensen did not feel most residents would drive to the clubhouse. Councilmember Ericson thought the three units on the private drive could be converted to single dwellings. Mr. Peterson said there is going to be a breaking point, and it is getting close. The reason is because there is a main sewer line behind these houses and they are not going to be able to build on that. It is possible there could be a yard behind it, but he will have to look into that because it will be tight. The only way to develop in the back corner is to go through a private drive. He added that it is unlikely there is going to be any water retained on this property; it will all go through. Mr. Peterson will bring back multiple plans showing what can be done implementing the Council's recommendations.

Ms. Urban appreciated the consideration of another plan; however, the City also needs to think of the people living north of the subdivision. With the PUD allowing the change in setbacks and especially on the private drive, this area needs to be given consideration as well.

Mr. Packer stated that the 20-year homes around this proposed subdivision were all built as half acre lots. Councilmember Christensen said the property around it is R-M-7. If residents are concerned with this they

should try to get the zoning changed. On the other hand, property owners have the right to sell their property and receive money from the sale of their property under the current zoning.

Ms. Urban said with the property being zoned R-M-7 and with the setbacks and streets, they can only get five units per acre. If this were zoned to follow the land use plan at 3-6 per acre, they would not be able to get five or six on a lot. Councilmember Christensen said they could if they built up. Ms. Urban said that is something maybe Horizon Development is willing to look at.

Mr. Packer stated that he has been before the Council and Planning Commission several times asking for the zoning to be considered. The first time was when the Nelsons wanted to build their duplex. The Council fell back to the General Plan, which says low density, so nothing happened. There are 550 rental units south of 500 South and there are 400 more being proposed. Perry only has 12 rental units. There has been a big drain on Brigham City of people moving to Perry. When Horizon Development bought the property from the City, he again brought up the issue of R-M-7 and asked that it be revisited for the entire area. The Council's response was it's zoned that way. The City was the property owner, so it could have been changed. The Council stated earlier that the zoning has to be changed by the property owners. When this development came before the Planning Commission, all the neighbors were in attendance. They were very frustrated because they all expressed themselves and learned it was a done deal.

Mayor Fife called for a vote on the motion. Councilmember Christensen, Councilmember Ericson, Councilmember Jensen and Councilmember Vincent voted in favor of continuing this item until March 17, 2011. Voting was unanimous.

A motion to adjourn to a closed session was made by Councilmember Christensen. The motion was seconded and carried unanimously. The meeting adjourned at 9:40 PM. The Council returned to an open meeting at 10:10 PM.