

**REGULAR SESSION OF THE  
BRIGHAM CITY COUNCIL  
August 18, 2011**

PRESENT:	Dennis Fife Scott Ericson Ruth Jensen Bob Marabella Tyler Vincent	Mayor Councilmember Councilmember Councilmember Councilmember
ALSO PRESENT:	Rick Bosworth Jim Buchanan Dave Burnett Mary Kate Christensen Blake Fannesbeck Jared Johnson Paul Larsen Bruce Leonard Mike Nelsen Raymond Poulson Tyler Pugsley Jason Roberts Paul Tittensor Dennis Vincent Brian Shauffer Ryan Tingey	Human Resource Coordinator Emergency Services Director Public Power Director City Recorder Public Works Director Community Development Manager Economic Development Director City Administrator Police Lieutenant Waste Treatment Superintendent Public Works Assistant Director Finance Director Chief of Police Police Lieutenant County Commissioner County Commissioner
EXCUSED:	Bruce Christensen	Councilmember

Mayor Fife called the meeting to order and welcomed the County Commissioners and those running for Council. The Reverence Period was given by Bishop Charley Bown of the 15th LDS Ward.

**Approval of Minutes:** The minutes of the August 4, 2011 Council meeting were unanimously approved as distributed.

**PUBLIC COMMENT  
CONSENT**

Appointment to the Library Board  
Appointment to the Youth Commission Executive Board  
Request to Write Off Accounts Due to Customer Taking Out Bankruptcy or Being Sent to Collections  
Request to Schedule Special Council Meeting to Canvass Primary Election Votes  
Resolution to Update Policies and Procedures – Paid-on-Call Eligibility to Participate in City  
Medical and Dental Insurance  
Resolution to Update Policies and Procedures to Eliminate Banked Sick Leave  
New Hire, Police Department

**SCHEDULED DELEGATION**

Request to Waive Sign Permit Fee for New Signs at the Box Elder Community Food Pantry  
Presentation on West Forest Railroad Crossing

**NEW BUSINESS**

Request for Approval of Mutual Aid Agreement with Cache County to Provide Fire Protection, Training and Assistance with Hazardous Materials Incidents  
Request for Approval of Security System  
Request to Purchase a Police Traffic Enforcement Motorcycle  
Ordinance to Amend Chapter 11.03.020 to Redefine Appointment of Ambulance Division Officers  
Request for Approval of Resolution to Set Mantua Reservoir Docking Fees  
Request for Approval of Resolution to Set Power Pole Attachment Fees

## **MAKING LIFE BETTER – DEPARTMENT REPORTS**

Discussion on Permit and Impact Fees

## **OTHER BUSINESS**

### **PUBLIC COMMENT**

The Mayor asked those wishing to make comments on subjects other than the railroad to come forward. Those wishing to speak on the West Forest railroad crossing were asked to speak later in the meeting.

Coby Brice – Mr. Brice came forward and explained an Eagle Project he would like to do for the City. He wants to build an obstacle course for the Police Department. The obstacles would include a balanced pipe, progressive fences, 4' fence, a 6' chain link fence, foot work station, pipe crawl, A-frame stair climb, push up station, cargo net climb, and a double window wall. This obstacle course will train and condition the police officers and better prepare them for real world situations by using common obstacles found throughout the City. It will also be used by other communities in Northern Utah. He proposed that the course be located just south of the Police Department's shooting range, which is owned by the City. He asked the Council for permission to use the property for the obstacle course. He also requested assistance in clearing the sage brush from the property.

The Council agreed to the request and referred Mr. Brice to the Police Chief to discuss clearing the property.

Cassandra Roorda – Ms. Roorda asked the Council to let her keep her dogs. Mayor Fife explained that Ms. Roorda was supposed to meet with the City Attorney to define what a service dog is. He and Judge Christensen will work out what has to be done.

### **CONSENT**

#### **Appointment to the Library Board**

It was recommended DeAnn Lester be appointed to the Library Board.

#### **Appointment to the Youth Commission Executive Board**

Brandi Davies was recommended for appointment to the Youth Commission Executive Board.

#### **Request to Write Off Accounts Due to Customer Taking Out Bankruptcy or Being Sent to Collections**

A list of accounts was presented to be removed from the City's system. These accounts will be sent to collections.

#### **Request to Schedule Special Council Meeting to Canvass Primary Election Votes**

A meeting was scheduled for September 19 at 5:00 to canvass the primary election.

#### **Resolution to Update Policies and Procedures – Paid-on-Call Eligibility to Participate in City Medical and Dental Insurance**

This resolution updates the City's policies and procedures to formally remove medical and dental benefits for paid-on-call employees. *(See Councilmember Jensen's comments below.)*

#### **Resolution to Update Policies and Procedures to Eliminate Banked Sick Leave**

This resolution removes Banked Sick Leave as a benefit.

#### **New Hire, Police Department**

It was recommended Amanda Ingersoll be hired as a school crossing guard, effective August 29, 2011.

Councilmember Jensen expressed concern with the item regarding insurance benefits for paid-on-call employees. She stated that a few months ago there was an item on the agenda to discontinue insurance benefits for City Council and it was tabled. She felt this should be discussed before the end of the year.

There are currently two former mayors on the City's insurance. Councilmembers that are currently on the City's insurance will be grandfathered until they are 67 years old.

Mayor Fife explained that he has asked the City's Human Resource Coordinator look into this further.

**MOTION:** Councilmember Marabella made a motion to approve the Consent Agenda, seconded by Councilmember Ericson and unanimously carried.

### **SCHEDULED DELEGATION**

#### **Request to Waive Sign Permit Fee for New Signs at the Box Elder Community Food Pantry**

Mr. Parker Clayson explained that for his Eagle Project they painted the inside of the Food Pantry. Now they are raising money for new signs. He asked the Council if the City would be willing to waive the sign permit fee.

Mayor Fife announced that the City received an anonymous donation for the sign permit fee.

### **PUBLIC COMMENT ON WEST FOREST RAILROAD CROSSING**

Jerry Peterson – Mr. Peterson is a member of the Brigham City Fire Department. He stated that if the West Forest crossing is blocked for an extended period of time, the Fire Department has several options. One is a two mile detour to the 600 North and then back to American Way. Another option is to go 3.5 miles north to 600 North, to Watery Lane and then back to Forest Street. If they go south they have to go 1.5 miles to Valentine Lane, but it is sometimes impassable due to weather. The other option is a 4.5 mile detour to 1100 South to I-15 and then back to Forest Street, or 6.5 miles if they have to go all the way to Main Street to get to Highway 13 to I-15 and then back to Forest Street. Any of these options take a lot of time. When a closure coincides with Autoliv's shift change, the quantity of traffic can back up a significant amount. This becomes an issue for responders coming from their homes trying to get through all the traffic to the station. Mr. Peterson recommended that any time there are closures while they are doing switching, that it not last more than five minutes. He gave an example of a brush fire on the west side of the railroad tracks. He told the rest of the trucks to stay on the east side of the tracks in case a train came along. The fire was put out, but they received another call and he needed to get across the track to get to it. He waited for 45 minutes. He had his lights on and used the sirens, and the train would not open the crossing. This is a serious situation for the community.

Chief Gregg Weight, Brigham City Ambulance Department – Mr. Weight agreed with Mr. Peterson's comments. One of the critical issues of treating medical patients is what they call the "golden hour." This starts the moment the accident happens. He gave an example of an incident when they were returning from a call about 2-3 in the morning. They went across the railroad tracks to refuel. During that time the train blocked the tracks. After 45 minutes to an hour, they called dispatch to see if there was something they could do because the train had not moved. About five minutes after that call some railroad employees came out of a shed and moved the train. Mr. Weight said it gave the appearance that the employees were taking a break and had left the engine across the road.

Sheriff Lynn Yeates, Box Elder County – Sheriff Yates agreed with the comments from Mr. Peterson and Mr. Weight, adding that they have the additional problem that if his officers need to back up Brigham City officers they cannot get through the trains. The Fire Marshall is stationed at the Sheriff's Office and cannot get through. He is also responsible to maintain court security. It is difficult to get to court on time when the road is blocked off.

Paul Jones – Mr. Jones owns a business on the west side of the tracks. When he built at his current location 6-7 years ago, he did not realize the impact the railroad would have. He contacted Mayor LouAnn Christensen a few months after he built his building and she told him there were some things in progress related to this issue. One of the options they used to have was 300 North. At the time he was told 300 North might close and other arrangements would be made for the trains. The only arrangement he has seen is that they are longer. It has not helped. He added that he has heard talk that Forest Street will be the gateway to the City. He did not think any business will be built on West Forest if they knew how much they are going to be impacted by the train.

Mr. Valentine, Associated Brigham Contractors – Mr. Valentine said the impact to them is the loss of productivity. There is never a blockage for less than ten minutes.

Rick Whitaker, CEO of Whitaker Construction - Mr. Whitaker owns a business on West Forest. They built there several years ago thinking that when the City decided to eliminate 300 North it would free up congestion on Forest Street. However, it seems it has provided an opportunity for the Union Pacific (UP) to store more inventory. He has had numerous employees late for work. He employs about 250 people and it is costing him a lot of money idling at the railroad tracks, especially with the expense of fuel. He added that he lives on the north end of town. When the traffic is backed up on West Forest, it can be backed up all the way to 1100 West. A lot of people drive down the center of Forest Street to get on 600 North. This is dangerous. Mr. Whitaker said the biggest issue is the timing of the switching. It seems like it is always between 6:00-8:00 AM, 12:00-1:00 PM and 4:00-6:00 PM.

Brian Schaffer, Box Elder County Commissioner – Commissioner Schaffer said the county understands the concerns with the crossing; the loss of time, the money expended because of the hours lost sitting at the crossing. He expressed the county's concerns, along with the City, and supported Brigham City's efforts in trying to encourage any changes that are possible to make the crossing more user friendly for emergency vehicles and the businesses on the west side of tracks.

Mayor Fife stated that the City monitored the crossing for a few months and sent the results to UP. The results indicated that many times the closures were 20-30 minutes.

Mr. Leonard explained that the reason the City petitioned to close 300 North was to improve the crossing on West Forest. UP projected they could reduce the blockage on Forest Street by 50%. Everyone understood that the switching operation would continue, but the UP representative at that time indicated they would install a constant warning device which would reduce the amount the crossing arms were down. It would also help the through trains. Everyone agreed having a crossing in the middle of a switching yard was a safety issue.

Mr. Leonard reviewed the State Statute which states that a person or government agency may not operate a train in a manner to prevent vehicle use of a roadway for a period of time in excess of five consecutive minutes. It goes on to list several exceptions, one of which when the railroad is maintaining switching operations. However, another exception states "unless determined by a highway authority." This is not going to go away. There are only two solutions, both of which are very expensive - relocate the switching operation or build an overpass.

### **Presentation on West Forest Railroad Crossing**

Mayor Fife introduced Dan Harbeke, Union Pacific Railroad Director of Public Affairs.

Mr. Harbeke said there have been several things discussed with the City to improve this crossing. One is a flashing yellow sign that warns drivers of an upcoming railroad crossing that is occupied. This gives them the choice of going to an alternate route. Mayor Fife felt this would not be helpful because drivers have a clear view from both the east and west and see whether the crossing is blocked.

Another option discussed was a TIGER grant Mr. Larsen was applying for. UP supported this formally with a letter. It was a big disappointment that it was not funded.

The most significant change UP has made is that their employees now start work at 5:00 AM instead of 6:30 AM. This accommodates the shift change at Autoliv by allowing most of the switching to be done before 7:00-8:00 AM.

Mr. Harbeke explained that UP is capacity constrained in Brigham City. There are not any immediate changes that can be done. The only long-term solution UP agrees with is an overpass either at Forest Street or 400 South. Mayor Fife said it is much cheaper to move the switching operation further north than to put in an overpass.

Mayor Fife agreed that the switching has to be done, but there should be some kind of time constraint at 10-15 minutes when UP clears the tracks and starts again. Thirty minutes is beyond reason. Mr. Harbeke explained that they have a commitment to their customers to get cars delivered in a certain amount of time. If the railcars break to let 20-30 vehicles over the track, the train has to get hooked back together. In the summer, this can take 5-10 minutes to just pump the air to the back of the train to operate the braking system. In the winter, it can take 45 minutes to an hour to do this. This delays delivery by a significant amount. They will lose business if this happens.

Councilmember Marabella said if UP's volumes are increasing, they should use those profits and put it back into infrastructure and have another location for the switching. Instead of contributing money to the City's library, etc., use that money to improve this crossing. Mr. Harbeke talked about businesses leaving if they can't keep to their schedule, but West Forest businesses will leave and new businesses will not build there if they have to wait at the crossing for 30 minutes. Mr. Harbeke stated that they are putting 15-20% of their revenue back into the railroad.

Mr. Harbeke explained that from a UP standpoint, Brigham City is fluid. They have talked about ways to improve the crossing; including moving everything to Ogden but there is not enough space. There is no need for UP to move their yard.

The Council urged Mr. Harbeke to have a study done to determine how much it would cost to move the crossing. UP and Brigham City could work together to have it done. Mr. Harbeke stated that UP does not have any incentive from a business standpoint to move their yard. He added that they are willing, should there be funding available, to have the discussion. Mayor Fife said the study will only cost \$10,000-\$15,000. This would provide information needed for the City to apply for a TIGER grant. Mr. Harbeke said UP would receive no benefit from moving their yard.

Mayor Fife said UP has not met the agreement from when 300 North was closed. The switching times have not been reduced and the frequency has not been reduced. The agreement states that UP will reduce the time by 50% and it has increased. Mr. Bill Ince from UP stated that there are no specific numbers in the agreement. The Mayor stated the railroad would not allow specific numbers in the contract; however, all indications were that it would be reduced, and reduced drastically by 50%. Mr. Ince said there has not been a quantitative study showing it is worse. Mayor Fife said everyone can testify that it is worse since 300 North was closed. Mr. Ince said from the railroad's point of view, the City is asking a private company to change the way they do their business and supplement Brigham City's judgment for theirs. They want to be an effective, efficient railroad. They do not get paid to have cars sitting nor have the crossings blocked. Their management has to look at the entire picture; they can't look at just Brigham City's issue, they have to look at how it affects their customers in other places.

Councilmember Jensen said closing 300 North made the capacity longer for the railroad, yet they are not keeping their word by reducing the time by 50%. She questioned whether this was their intent from the beginning. Mr. Ince said from their standpoint, they have kept the measures they promised. They added the constant warning circuitry, which ensures that the signal lights and gates do not close ahead of time on a slow moving train.

Mayor Fife said if something isn't done, the next step is to approach the Legislature about changing the statute. Mr. Kent Hansen from Union Pacific came forward and stated that the statute is written the way it is for a reason. There is a current case law coming from Plymouth, Michigan regarding the interplay between federal law and state law. It addresses the ability of the state to contradict federal law by imposing additional regulations beyond the federal law. That is the reason the statute is written the way it is, because the railroad is subject to multiple regulations at every level. The statute is written to avoid contradiction so the railroad is not put in a position of being unable to comply with federal and state laws. They are part of interstate commerce so they are heavily regulated by the federal government, which is why state law has to give way to federal law. If the City petitioned the Legislature for a rule that limits blockings to 15 minutes, it will not be enforceable because there are federal laws that regulate things like train length, train speed, etc.

Mr. Hansen continued that it was not an easy thing for the railroad to move operations to 5:00 AM. They belong to 17 different unions and had to through collective bargaining agreements in order to do that. Commissioner Tingey came forward and asked if UP would commit to another solution if one was found in a cost study. He said as one County Commissioner he would be willing to cost share with the City on the cost study for the crossing. There is no reason for Brigham City or the County to spend money on a study if the railroad will not agree to any improvements. He also suggested limiting railroad expansion within the County if they are not willing to work with the City. Mr. Harbeke suggested the same group of people that originally met, meet again and get something in writing. Mayor Fife asked him to contact Mr. Larsen and coordinate a meeting.

Mr. Burnett, Director of Public Power, stated that over the last 30-40 years he has spent a lot of time at this railroad crossing watching the switching. He felt if they changed their methodology on how they switched, it would improve the situation. Many times he has watched as the engine comes back right to the intersection, drops a car, they switch the track, it backs up and picks up some cars. This is done several times and the arms stay down through the entire process. It seems like the railroad could open up the track while this is going on.

Mr. Harbeke said none of those present from the railroad has the authority to agree to move their yard, but they could commit to look at that option. However, it would not be fair to suggest that just because it would be best for the City, the railroad would move its operations, regardless of the impact to the railroad. They would have to look at the entire UP line. He added that they have made efforts operationally to try and avoid the situations as described by Mr. Burnett. They have a new MTO in Brigham City, and he will take whatever steps he can find in order to make sure the railroad is not blocking the crossing more than necessary.

## NEW BUSINESS

### **Request for Approval of Mutual Aid Agreement with Cache County to Provide Fire Protection, Training and Assistance with Hazardous Materials Incidents**

Mr. Buchanan explained that this is an agreement with Cache County to provide resources to Brigham City in case of a large fire. In return, Brigham City Fire Department would provide resources to Cache County if needed. Also in the agreement, Cache County will provide two instructors and training at their training for the Brigham City Fire Department free of charge.

**MOTION:** Councilmember Ericson made a motion to approve the mutual aid agreement with Cache County to provide fire protection training and assistance. The motion was seconded by Councilmember Vincent and unanimously carried.

### **Request for Approval of Security System**

This was discussed in a work session held prior to this meeting.

**MOTION:** Councilmember Marabella made a motion to move forward with approval of the security system, using funds from the utility funds, the gap between the amount forecast in the budget for utility rate increases and Rocky Mountain Power, and have further discussion on the exact placement of the cameras. Councilmember Ericson seconded the motion. Councilmember Jensen said she had asked to receive information regarding this item, but the Council did not receive it until the day of the meeting so she did not have the opportunity to review the information. Councilmember Ericson asked Councilmember Marabella to clarify whether his motion is for the cameras as presented. Councilmember Marabella replied that it is. The motion is to move forward with the \$59,000 to begin the purchase process, but also to review the number where they will be. Councilmember Ericson, Councilmember Marabella and Councilmember Vincent voted aye. Councilmember Jensen voted nay. The motion carried 3-1.

The Council discussed whether to add security to City Hall. This would be an additional \$15,000. Councilmember Ericson suggested that the committee meet again and determine the best place for the 35 cameras. The committee could then report back to the Council.

### **Request to Purchase a Police Traffic Enforcement Motorcycle**

Chief Tittensor reported that in 2010, there were 720 accidents in Brigham City. In 2009 there were 950. The average has been approximately 725 for the last ten years. Most citations are written on Main Street. He felt a motorcycle would be the best option to increase patrol for several reasons. It gets good gas mileage and it makes more people aware and they drive more safely. There is funding available to purchase it in the fleet fund.

The Council discussed whether a part-time traffic enforcement officer would be a better option, and whether to hire a part-time person or use full-time officers and pay them overtime.

**MOTION:** Councilmember Marabella made a motion to table this item and have Chief Tittensor come back and report on how much a full-time or part-time officer would cost. Councilmember Ericson seconded the motion, unanimously carried.

### **Ordinance to Amend Chapter 11.03.020 to Redefine Appointment of Ambulance Division Officers**

Mr. Leonard explained that this amendment eliminates the voting of officers in the Ambulance Division. They will be selected by the Mayor with the advice and consent of the City Council.

**MOTION:** Councilmember Ericson made a motion to approve the ordinance to amend Chapter 11.03.020 to redefine appointment of Ambulance Division officers, seconded by Councilmember Vincent and unanimously carried.

### **Request for Approval of Resolution to Set Mantua Reservoir Docking Fees**

Mr. Leonard stated that there is a money box at the reservoir and two employees will go daily to pick up the money. The proposed daily fee is \$5. Mantua and Brigham City residents and senior citizens have the option of paying \$35 for a season pass. General season passes would be \$50. Staff felt that having users pay would be a good revenue source to pay for the reoccurring vandalism to the restrooms at the reservoir. The City has spent almost \$600 since the first of the year repairing vandalism. In addition, the City spent over \$6,000 to repair the boat dock that someone set on fire.

**MOTION:** Councilmember Vincent made a motion to approve the resolution setting Mantua Reservoir docking fees. The motion was seconded by Councilmember Marabella, unanimously carried.

### **Request for Approval of Resolution to Set Power Pole Attachment Fees**

Mr. Leonard explained that in 2006, the City entered into a pole line attachment interlocal agreement with UTOPIA to allow them to attach to the City's power poles for fiber optics. In order to charge them, a resolution must be passed setting the fees.

**MOTION:** A motion to approve the resolution to set power pole attachment fees was made by Councilmember Vincent, seconded by Councilmember Jensen and unanimously carried.

## **MAKING LIFE BETTER – DEPARTMENT REPORTS**

### **Discussion on Permit and Impact Fees**

Mr. Jared Johnson explained that building permit fees are calculated from a building valuation table created by the International Code Council. This gives the cost per square foot of construction. This is for the entire nation. Because actual building costs are different for different areas, each region creates a regional modifier. Once they have produced a valuation for a project, there is a building permit fee multiplier that produces the fee for that project. The smaller a project, the higher the percentage; the larger the project, the lower the percentage.

Building permit fees are set to cover the cost of the service the City is providing. They should not be a money maker. Building inspectors are required to have numerous certifications. The state also requires every inspector to be licensed by the State of Utah.

Mr. Johnson indicated on a table prepared by another municipality, the cost of several municipalities' impact fees. The table indicates that on a \$250,000 home, the building permit in Brigham City would be

\$9,910.36. Of this amount, \$6,218.12 is for impact fees. The remaining amount is for connection fees and building fees. There is also a \$500 deposit, which is returned upon issuance of the certificate of occupancy. This table indicates that Brigham City is the third lowest of the municipalities surveyed.

A motion to adjourn was made by Councilmember Ericson, seconded and carried. The meeting adjourned at 9:45 PM.