

**REGULAR SESSION OF THE  
BRIGHAM CITY COUNCIL  
January 3, 2013**

PRESENT:	Dennis Fife	Mayor
	Scott Ericson	Councilmember
	Ruth Jensen	Councilmember
	Brian Rex	Councilmember
	Mark Thompson	Councilmember
	Tyler Vincent	Councilmember
ALSO PRESENT:	Mary Kate Christensen	City Recorder
	Jared Johnson	Community Development Manager
	Paul Larsen	Director of Community & Economic Development
	Kristy Law	Recreation Manager
	Bruce Leonard	City Administrator
	Tyler Pugsley	Public Works Director
	Jason Roberts	Finance Director
	Jeff Thorne	City Attorney
	Paul Tittensor	Police Chief

Mayor Fife called the meeting to order. The Reverence Period was given by Pastor Mike Galica from the Holy Cross Lutheran Church. The Pledge of Allegiance was recited.

**Approval of Minutes:** A motion to approve the minutes of the December 20, 2012 Council meeting was made by Councilmember Thompson, seconded by Councilmember Vincent and unanimously approved as distributed.

**INTRODUCTION OF NEW EMPLOYEE**

Library Page

**PUBLIC COMMENT**

**NEW BUSINESS**

Election of Mayor Pro Tem

Request for Approval to Expend Funds for the Building of a Restroom/Bowery Facility at the Sports Complex

Request Authorization to Purchase Property at 75 South 1000 West for Exchange of Property with 69 North 100 East

Request for Approval of Development Agreement with Western States Lodging

Request to Amend 25-Year Capital Plan to Include Community Development Block Grant Funds

Street Improvements Reimbursement Agreement with Box Elder School District to Realign 800 West and 400 South Intersection

**INTRODUCTION OF NEW EMPLOYEE**

Mayor Fife introduced Melanie Naumann as the new Library Page. She will begin work on January 9, 2013.

**PUBLIC COMMENT**

Suresh Kulkarni, Citizen of Perry and Property Owner in Brigham City - Mr. Kulkarni stated that since the December 20<sup>th</sup> Council meeting, he has been contacted by many residents and property owners that more needs to be done by the Council to force Mayor Fife out of office. They felt that there is a motive for Mayor Fife to stay in office in spite of all recent ridicule he has faced. They are concerned about the many land acquisition deals the City is currently involved in as part of economic development as well as the downtown hotel project. They believe that Mayor Fife has been personally involved in overseeing many of these deals. They would like the Council to immediately take action by reducing the Mayor's salary and benefits as a result of the action taken by the Council to strip him of some of his responsibilities. The City's Human Resource Manager should be able to recommend what the revised compensation should

be for his reduced responsibilities. The Mayor should respond to the Council in writing if he has gained or stands to gain financially or otherwise from his position as mayor, outside of his pay, from any land acquisitions, properties, real estate deals, economic development activities that the City is involved in during his tenure as mayor. The Council should take action to eliminate Mayor Fife's responsibilities in the land acquisition/economic development areas as follows: a) strip the mayor of any powers when it comes to the decision making on the hotel development project or other land acquisition projects by the city; or b) delay all decisions on land acquisition/hotel development etc. until after the election and a new mayor is sworn in; or c) appoint an independent team of prominent citizens consisting of a financial individual, a title company individual, a reputable local real estate agent (not the City consultant), a business owner, a lawyer, etc., to conduct an in-depth review of what has transpired so far on land projects and make a recommendation; or d) do a combination of any of the above or other ideas as you deem fit to thoroughly scrutinize all projects. The Council should also contact the City and/or county attorney to have a complete audit done of the financial dealings that have involved the mayor to ensure that they meet ethical standards, City as well as real estate, and are transparent. Have the mayor respond to the Council in writing providing all information on all City employees who have been terminated or have had disciplinary action taken by him and/or approved by him for extramarital affairs. They have a right to know this so that you can be prepared for any future legal action which might be taken by these individuals against the City as well as respond knowledgeably to public and media queries. Mr. Kulkarni said they do not trust the actions of Mayor Fife. The Council now has the responsibility to bring trust back to the operation of the City as well as the City's good name.

Lee Johnson 113 N 300 W – Mr. Johnson apologized to the City Council and the citizens of Brigham City for not coming forward and discussing how the world works. He was raised in Utah, graduated from high school and went to college for a year, then moved to southern Florida, specifically Briar County between Palm Beach and Miami. He was able to see who the cities and counties aligned with. In Briar County he would go to South Beach, which is lined with bars and strip clubs. Palm Beach is lined with developers. People cannot get a home in Palm Beach for less than a million dollars because of all the regulations and rules. It is hard to find a restaurant because advertising is so restricted. This makes it a very exclusive area to live in. It is easy to see who the City aligns themselves with. He has also lived in South Philadelphia, which is an interesting place to live. He has also lived in Castleberry Florida, Norcross and Dawsonville, Georgia. These municipalities have had serious issues with sustainable development and growth management, also known as Smart Growth. Dilworth North Carolina, Salem Township Pennsylvania, Portland Oregon, and Pasadena California have all repealed their Smart Growth policies. They do not want to deal with it any more. Austin and Houston Texas have blamed their affordable housing issues on their Smart Growth policies. With all the rules and regulations, housing becomes so expensive that nobody can afford to live there. Maryland rejected Smart Growth on a statewide level because of all the policies that would be implemented and the impact to the citizens. Washington and California are nearly always embroiled in lawsuits between the cities, the area developers and citizens.

DeAnna Hardy, 2635 N 3100 W – Thomas Jefferson stated, "When the people fear their government, you have tyranny. When the government fear the people, you have liberty." We the people are fearing our government on all levels - local, state and federal. Government has been, and is still, violating their proper role in spending the people into slavery. This hotel project is another resurgence of power. It is not fair to the hotels and restaurants presently here, and who came here without the government's help. Recently Paul Larsen stated in a Box Elder News Journal article that he "has acknowledged concerns of Brigham City residents being left with a one million dollar bill should the hotel default or decide not to proceed with the project, and said he would create a Community Development Project Area, a CDA, to back the loan with tax increment financing, banking on the future returns of the project's taxes holding the tax increment as collateral." Ms. Hardy said this is basically mortgaging our future away and taking more of our freedoms away. Thomas Jefferson also stated, "I predict future happiness for Americans if they can prevent the government from wasting the labors of the people under the pretense of taking care of them." Howard W. Hunter stated, "The government will take from haves and give to the have nots. Both have lost their freedom. Those who have, lost their freedom to give voluntarily of their own free will and in a way they desire. Those who have not, lost their freedom because they did not earn what they received; they got something for nothing. Neither appreciates the gift nor the giver of the gift." George Washington stated, "Government is not reason, it is not eloquent, it is force. Like fire, it is a dangerous servant and a fearful master." Thomas Jefferson stated, "Bind government down from mischievous by the chains of the

constitution.” We need to go back and restore our constitution and live by it. So many leaders throughout the years have ignored it and have not abided by it. Benjamin Franklin stated, “When the people find they can vote themselves money that will help the end of the republic.” Ms. Hardy asked the Council to please help save our republic, this great country America. Stop the progression of socialism and get rid of the socialism we presently have.

Kris Powers, 480 S 800 W – Ms. Powers respectfully asked once again for the Mayor’s resignation. Things have died down; citizens are going back to their everyday lives and doing their everyday normal thing, so there has not been as much said about this situation. However, this is what makes our society broken, people tend to forget things and sweep them under the carpet and let it go. Ms. Powers said this is an issue she feels strongly about and one she cannot let go. The Mayor said he wanted to stay in office because it was too hard on the citizens for him to leave. Does he not think that staying in office is hard on the citizens as well? Brigham City is a laughing stock in the State of Utah. She hates to go to Logan or Ogden and talk to people. It makes her feel embarrassed and sad to be a part of this community that she loves and devotes so much time to. It is difficult when the Mayor’s own City Council has asked for his resignation and has taken powers away from him. City employees do not want to work with him. What the Mayor is doing now is harder on the citizens than him leaving. She did not know what his reasoning is, or what he thinks is so hard on the citizens for him to leave. The City gets a new Mayor every four years, this is no different. It is not a difficult thing. Everyone is replaceable. Ms. Powers stated that the Mayor is brilliant with budgets and that he has a lot of very good qualities in a lot of other areas. She voted for him and supported him. However, now she supports the majority of the people that believe it is time for him to go. Honesty and integrity need to be brought back. The Mayor broke the citizens’ trust and they will never have it with him again no matter what happens. It is time to bring it back and it is time to make Brigham City the place where people want to live, work and play. She asked for his resignation.

Bonnie Germer, 1226 Dentwood – Ms. Germer requested a public comment period at the end of the meeting rather than at the beginning of the meeting, especially tonight because of the vote on the hotel. The citizens would like to learn more about what the Council is going to do and then give the citizens a chance to comment. She has some questions about how far the City is into this and why we cannot turn back. She would like to know if any of the Council would put their homes and businesses up for collateral for this hotel agreement. If not, don’t put up hers because she cannot afford another 100 years. In this deal, the City is probably leveraging Brigham City a hundred years because we cannot pay for it. There are less than 18,000 people in Brigham City and most are children who do not work. She asked the Council to put this on the back burner and wait until June or July. Wait until the citizens find out what is going on. The Council has never let the citizens know about any of it. There has not been a number put out to the public. Let the public find out what the deal is before they put her name on a contract because she has to pay for it. The Council votes. There are five people that make decisions for the entire City. The citizens have spoken. They are not going to pay for it because they cannot. There is a \$30 million sports complex that the citizens have to pay for, a million dollar loan that is going to be handed over to a hotelier, a restaurant that the City is going to pay for, the Academy that the citizens are going to be charged for, plus \$15 million for UTOPIA for the next 50 years. The citizens cannot pay for this. There are neither the people nor the revenue for this. The Council needs to think about what they are doing to the citizens.

There were no further comments from the public.

Mayor Fife responded to Mr. Kulkarni’s comments. He stated that every land purchase has been reviewed by the City Attorney and the City Council. The City recently had an audit where there was \$468,000 more in revenue than expenses. Everything was found by Davis & Bott to be in order. The City even received an award for financial handling of the finances in the City.

Councilmember Jensen added that the audit is not an in-depth audit. It is not down to the bones. It skips over things. Mayor Fife said in many areas it is right down to the dollar and very detailed. Councilmember Jensen said they just pick, and usually what they pick are things that the City has not been working on.

Mr. Roberts came forward and explained that the City’s cash handling goes through multiple directors before payment is made. Also, all payments are allowed to be reviewed by councilmembers and they are

required to review at least a sample of the payments. He said he did not think there were any land deals of significant size that were not reviewed by the auditors.

## **NEW BUSINESS**

### **Election of Mayor Pro Tem**

Councilmember Jensen made a motion to elect Councilmember Vincent as mayor pro tem for 2013. The motion was seconded by Councilmember Rex. Voting was unanimously in favor.

### **Request for Approval to Expend Funds for the Building of a Restroom/Bowery Facility at the Sports Complex**

Mr. Pugsley, Ms. Law and Mr. Roberts came to the table. Mr. Pugsley requested approval to build a restroom and small bowery facility at the Sports Complex. They are just finishing up with all of the Phase I improvements. The remaining two items in Phase I are road base to cap the roadway that enters into the sports complex and fencing along the east portion of the sports complex that will go between the complex and the railroad tracks. The road base will cost approximately \$15,000 and the fence approximately \$7,500. In the 2012-13 budget there was an increase of \$348,669 in the Utility Fund. Of this amount \$190,000 was approved for the roadway and street improvements at the new compost facility. This leaves \$158,669 remaining which could be allocated for the restroom and bowery. It is estimated this will cost \$83,000 for the restroom facility and \$40,000 for a small bowery approximately 30' X 36'. He requested authorization to use part of the \$348,669 for the restroom and bowery.

Councilmember Rex asked if the design could be brought to the Council before the money is committed. Staff will bring the design to the Council on February 7, 2013.

### **Request for Approval of Development Agreement with Western States Lodging**

Mr. Dave Webster from Western States Lodging, Mr. Larsen and Mr. Thorne came to the table. Mr. Larsen said since this was discussed at the December 20<sup>th</sup> meeting, there has been an increase in the amount of the escrow. In the agreement, Western States Lodging agrees to purchase the property from Brigham City Redevelopment Agency for \$500,000. The additional language relates to timing of construction, arrangements for escrow and states that management of the Academy Building will be under contract to the hotel owner, with hotel employees providing the day-to-day management of the Academy Building. There is also language in the contract relating to the sublease of the restaurant space to the hotel developer, who will then rent the space out to a restaurateur.

Councilmember Rex asked what the status is of the REDLG loan. Mr. Larsen replied that the Phase I Environmental Analysis is required for this and it is in process. Once that is completed, there is a 1044 Supplement document that has to be completed and submitted with the Phase I, then the application can be submitted. It is anticipated approval could take up to six weeks.

Councilmember Jensen noted that the agreement states that the City will work on breakout rooms, restrooms, elevators, offices, full-service restaurant area and will be paid \$12/square foot. She asked if this was a competitive rate. Mr. Larsen replied that this is an extremely high rate for the Brigham City area.

Councilmember Jensen asked if other restaurants will be allowed to cater at Academy Square and if so, will they be charged? Mr. Larsen responded that a management agreement will be negotiated between Western States Lodging and the agency for how the building will be managed. He anticipated that other entities will have the ability to cater there.

Councilmember Rex asked what would happen if the REDLG is delayed or does not materialize. Mr. Webster said if that happens, they would look at all other financing options. The problem with hotel projects is not that they are not necessarily feasible, but that they are very difficult to finance. Typically, 40-45% equity is required. This hotel qualifies for several loan programs because the Department of Agriculture considers Brigham City a rural area. The Department of Agriculture has programs available to encourage economic development in rural areas. This makes the project financeable. If the REDLG does not go through, they will probably have to bring in other partners.

Mr. Webster felt that this project is important for the redevelopment of downtown Brigham City. They believe that with the LDS Temple and other economic development that is going on and potential businesses in the community, the timing is right for a downtown hotel. He added that they operate 13 hotels in Utah, Idaho and Nevada and also manage the Davis Conference Center.

Councilmember Vincent said the concern about this project is whether the hotel will be a success. He asked if they are prepared for down economic times. Mr. Webster said that is all part of being in the hotel business. They built a hotel by the airport in Las Vegas that is a non-gaming, non-alcohol, non-pornography facility. They opened the hotel in 2008, just as the market crashed in Las Vegas. This required them to fund it for quite a period of time out of pocket. Revenues were not sufficient to cover expenses. Fortunately, they have properties and other interests that enabled them to do that. In addition to hotels, they own and operate 11 assisted living centers and independent living retirement communities along the Wasatch Front and in Mesa Arizona. They also recognize that the good times are not the time to spend cash; it's time to invest in the facility and save for a rainy day. They have survived some difficult cycles and have not lost a hotel yet.

They do not enter into a hotel lightly. They always do a third-party feasibility study. In this case the City had a study done with a gentleman from Denver. He actually recommended that the hotel be built by the highway rather than downtown. However, Mr. Webster did not feel that he understood the impact of an LDS Temple in a community.

Councilmember Rex said there is another hotel developer looking at a property on 1100 South and 1100 West. He asked about the impact of this kind of competition. Mr. Webster said this would be unfortunate. It would make it more difficult. The feasibility study envisioned some competition in the future, but not immediately. He felt that each developer is looking at the other and whoever goes first will probably be the one that continues.

Councilmember Jensen said the City purchased the property at market price, some even above market price, and paid for demolition of buildings. She asked if Mr. Webster is going to pay for removal of the overhead electrical services and replacing it underground. Mr. Webster replied that when the site becomes theirs, those issues will be resolved.

Mayor Fife said the City is not funding this hotel. Western Lodging is purchasing the property from the City. The only funding that is possible is the REDLG loan, which is a loan that would be guaranteed. The City is not financing this.

Councilmember Rex asked if Brigham City receives the \$500,000 for the property regardless of the REDLG loan. Mr. Webster said the REDLG is a condition of closing, so that has to go through. If it does not, they will have to look at other options.

Mr. Thorne added that if the REDLG is approved, the developer is responsible for this loan, not the City. The developer has substantial assets and shows an excellent financial picture.

**MOTION:** Councilmember Jensen made a motion to wait until more is known about the REDLG loan, seconded by Councilmember Rex. Councilmember Ericson said nothing in the agreement goes into effect until the REDLG loan goes through. Whether the agreement is approved now or later, nothing will happen until the REDLG is rejected or approved. This is already in the development agreement. Councilmember Jensen said it will bring the City to another point of deciding what to do if the REDLG is not approved. Councilmember Jensen and Councilmember Rex voted aye; Councilmember Ericson, Councilmember Thompson and Councilmember Vincent voted nay. The motion failed with a 2-3 vote.

**MOTION:** Councilmember Thompson moved to approve the development agreement with Western States Lodging and Brigham City. The motion was seconded by Councilmember Ericson. Councilmember Ericson, Councilmember Thompson and

Councilmember Vincent voted aye. Councilmember Jensen and Councilmember Rex voted nay. The motion carried with a 3-2 vote.

**Request Authorization to Purchase Property at 75 South 1000 West for Exchange of Property with 69 North 100 East**

Mr. Leonard explained that this property exchange agreement will allow the property owners at 69 North 100 East 120 days to continue using their property while they are relocating to the new location on 1000 West.

Councilmember Jensen asked what the brokerage fees are for this purchase. Mayor Fife replied that the City has Jeff Packer under contract and is paid a certain amount per hour, which he has waived because the property has been listed on the multiple for a long time. He will receive a commission from the sale of the property. The standard fee is 6% which will be split between the buyer and seller agent.

Councilmember Rex asked where the \$265,000 will come from. Mr. Roberts explained that it will come from Fund Balance in this year's budget. Usually, revisions to the budget are taken care during the year-end budget revision; however, because this is such a large amount he recommended revising the budget within the next month. Mayor Fife added that when Western Lodging purchases the property for the hotel, the RDA would buy the property at 69 North 100 East and reimburse the General Fund.

Councilmember Ericson asked if other hoteliers have expressed interest in this location if the REDLG does not come through. Mr. Larsen said he has received one letter of interest and another has indicated that they would be willing to submit a letter of interest.

**MOTION:** Councilmember Thompson made a motion to purchase the property at 75 South 1000 West for exchange of property at 69 North 100 East. The motion was seconded by Councilmember Vincent. Councilmember Jensen reminded the Council that no City funds were supposed to be used to revive Academy Square. By the time the City is done purchasing property for Academy Square, the City will have spent approximately \$1M for property purchases and demolition of buildings. Councilmember Ericson, Councilmember Thompson and Councilmember Vincent voted aye. Councilmember Jensen and Councilmember Rex voted nay. The motion carried 3-2.

**Request to Amend 25-Year Capital Plan to Include Community Development Block Grant (CDBG) Funds**

Mr. Roberts explained that the City has been requested to sponsor two CDBG projects. One for a Neighborhood Nonprofit project and the other for a parking lot at the Senior Center. These projects will only happen if the grants are awarded. In order for the City to act as a pass through entity for these funds, they need to be added to the 25-year Capital Plan.

**MOTION:** Councilmember Ericson made a motion to amend the 25-year Capital Plan to include the CDBG grant requests, seconded by Councilmember Thompson and unanimously carried.

**Street Improvements Reimbursement Agreement with Box Elder School District to Realign 800 West and 400 South Intersection**

Mr. Leonard stated that when the School District razed the existing home at this intersection, he approached the District to see if they would be interested in redesigning the intersection to make it safer. This could be done by exchanging property with them. He indicated on a map where the two properties are located. The estimated total cost for the project is \$657,000. The School District will be responsible for \$131,439 of that. This will have to be added to the City's budget next year.

**MOTION:** Councilmember Vincent made a motion to approve the street improvements reimbursement agreement with Box Elder School District to realign 800 West and 400 South intersection. Seconded by Councilmember Rex and unanimously carried.

A motion to adjourn to a Redevelopment Agency Meeting was made by Councilmember Ericson, seconded and carried. The meeting adjourned at 8:50 PM.

After the RDA meeting, the Mayor allowed comments from the public.

Bonnie Germer – Ms. Germer said they sat through this entire meeting and they cannot hear Councilmember Ericson, Councilmember Thompson, or Mayor Fife. They can hear Councilmember Vincent once in a while, if he wants them to. She sat through millions of dollars being approved, but the Council will not put together a system so citizens can hear every one of the councilmembers. The Council has to legally have an open meeting, but the only way to have a closed door open meeting is to not have a sound system so the citizens can hear what is being said.

Mayor Fife apologized, saying maybe the Council is not speaking directly into the mics. Ms. Germer said this happens every single meeting, and he knows that. The Mayor said they requested money for a sound system but they were badmouthed that they did not want to do anything with the Council Chambers. Ms. Germer said it is not the sound system that anyone badmouths the Council about; it is the furniture, knocking out a wall, putting \$65,000 into making a new room. Mayor Fife said they will try to do better and speak into the mics.

Ms. Christensen asked Ms. Germer to motion to her when they cannot hear and she will make sure the councilmembers speak into the mics.