

**REGULAR SESSION OF THE
BRIGHAM CITY COUNCIL
January 17, 2013**

PRESENT:	Dennis Fife	Mayor
	Scott Ericson	Councilmember
	Ruth Jensen	Councilmember
	Brian Rex	Councilmember
	Mark Thompson	Councilmember (<i>arrived at 7:42 PM</i>)
	Tyler Vincent	Councilmember
ALSO PRESENT:	Mary Kate Christensen	City Recorder
	Jared Johnson	Community Development Manager
	Paul Larsen	Director of Community & Economic Development
	Bruce Leonard	City Administrator
	Tyler Pugsley	Public Works Director
	Jason Roberts	Finance Director
	Paul Tittensor	Police Chief

Mayor Fife called the meeting to order. The Pledge of Allegiance was recited.

Approval of Minutes: A motion to approve the minutes of the January 3, 2013 Council meeting was made by Councilmember Ericson, seconded by Councilmember Vincent and unanimously approved as distributed.

**PUBLIC COMMENT
CONSENT**

Request to Write-off Accounts Due to Bankruptcy or Being Sent to Collections
Appointments and Reappointments to the Museum Gallery Board
Appointment of Vice Chair to the Planning Commission

PUBLIC HEARING

Vacate Hulse Town Homes PUD Lot 1 and the Associated Public Utility Easements,
Located at 810 N. Main
Adjustments to the Brigham City Corporation FY 2012-13 Budget of the General Fund and
Departments, and to Reflect the Changes Recommended by the City Council to
Said Budget

SCHEDULED DELEGATION

Recommendation to Change the Collective Community Impact to Coordinated
Community Initiative
Request to Form the Coordinated Community Initiative (CCI) Grant Program Board and
Appointment of Board Members

NEW BUSINESS

Request for Approval to Purchase HD DVR Mini Clip-on Body Cameras, Memory Cards
and Service for the Police Department using the Justice Assistance Grant Block Grant
Funds
Request for Approval of Resolution to Require Customers to Pay a Utility Deposit, to Allow
Exceptions for Those with Good Credit, and Credit Customer's Account Upon One
Year of Good Credit History
Request for Approval of Resolution to Set Deadline Time for Payment of Delinquent
Accounts

PLANNING COMMISSION BUSINESS

Request for Approval of Hulse Commercial PUD Subdivision Plat Located at 810 N Main

Request to Amend Section 29.05.250 of the City Code to Allow Single Family Dwellings in the General Commercial District to Have Chickens and Clarify Location of Chicken Pen to the Property Line

OTHER BUSINESS

PUBLIC COMMENT

DeAnna Hardy – Ms. Hardy said she finds it very ironic that we pray, Pledge Allegiance to the flag, but then we have and keep socialist programs, and even support youth social programs. We need to remember what Nikita Khrushchev, the first Secretary of the Community Party of the Soviet Union, said to Ezra Taft Benson. He said that his grandchildren would live under Communism. Mr. Benson stated that he would do all in his power to ensure that his and all other grandchildren will live under freedom. Mr. Khrushchev arrogantly declared, “You Americans are so gullible. No, you won’t accept Communism outright, but we’ll keep feeding you small doses of socialism until you finally wake up and find that you already have Communism. You won’t have to fight me. We’ll so weaken your economy until you fall like overripe fruit into our hands.” They have been feeding us small doses of Socialism and they have weakened our economy. It is time for us as Americans to wake up and start dismantling all the Socialism that has been fed to us. Remember what the former Prime Minister Margaret Thatcher stated, “The problem with Socialism is eventually you run out of other people’s money.” Socialism has never worked and never will work and it has been proven time and time again. If businesses want a pickle ball court, let them purchase the land for the courts and then charge a fee to use those courts, instead of forcing all citizens to pay for a pickle ball court they will never use. Stop using the people’s tax dollars to make private business loans; we’re not a bank. Stop RDAs. Even though the federal government allows this to happen does not mean we should do it. The government is picking and choosing which businesses to give incentives to. Let the free market work. The government’s role is to make sure taxes and regulations are low. That’s it; pretty simple. It’s been said, if you want to test the character of an individual give them power and see what they do with it. What will you do with the power you have been given? Will you help our local government back to its limited and proper role? Or will you continue on the path of Socialism?

LeRoy Paller – Mr. Paller said it is time for him to get started raising money for his solar farm at the airport using an invention he made together with Vulcraft. He wanted the Council to know that he is back in business and hopes that in the near future they will be able to harvest the sun and get good, clean electrical power for the City and do so in a manner that even DeAnna will be happy with. He will get on the Council agenda to discuss this further.

Lee Johnson, 113 N 300 W – Mr. Johnson spoke about the hotel project that was passed last week. He’s been a network engineer for ten years and owned and operated a restaurant for three years. When he came back to Utah he simultaneously held a real estate license and an insurance license. When he lived in Dawsonville, they decided to commemorate Bill Elliott, founder of NASCAR, with a multi-million dollar museum project. They had business partners and built a large museum. Dawsonville is a small town, maybe 6,000-8,000 residents. It was a great project. It had classic automobiles, a restaurant and a gift shop. Part of the project was also a new fire station with all new equipment. It was hoped that the NASCAR phase would promote tourism to their City. After a number of years, this never materialized. The City was stuck with an empty building and also the shame and embarrassment that this project went on and they got wrapped up in it. They had to come up with another idea. They bought the building back and made it their new City Hall. They didn’t need one, but they had to do something with the building. This is not a new story. It happens all across the country. It reminds him of a children’s fairy tale, “The Emperor’s New Clothes.” If you understand the “Emperor’s New Clothes” you can understand how public/private partnerships are really tearing up our nation. We have people

selling things to our cities and our cities are buying into it, but it turns out they are not getting anything for it.

Sherry Phipps, 667 S 200 W – Ms. Phipps was appalled with the article in the newspaper about Procter and Gamble (P&G). She realized the City was probably only involved in providing water for them, but she felt this is another example of government picking winners and losers. P&G is obviously a winner and probably a lot of the companies that were involved in the construction thought initially they were winners also, until they went month after month then year after year without receiving payment. She said it is terrible that the City favors one business over another. Often, it is the little businessman that gets hurt. They provide jobs for people locally. It is both their employees they have to layoff plus their own personal lives that are impacted. The City is favoring a hotel with a special loan where there is another one building on 1100 South that is not receiving special favors. It is really upsetting that this is the way Brigham City is operating. Government needs to get out of the way. She knows of a machine shop that used to be in Brigham City that is now in Bear River City because of the over regulations in Brigham City. There was also a composite company that went to the Business Depot in Ogden because of over regulation. The City is taking away jobs in our community by over regulating.

Annette McFarland, Director of the New Hope Crisis Center – Ms. McFarland recently found out the federal funds that are passed through the State of Utah that funds Det. Dennis Abel is going to be cut. It went from \$1.4M to \$800,000 so all grant proposals were cut 42%-55%. The grant they submitted was cut from \$22,000 to \$11,000. She has been in Salt Lake for two days trying to negotiate with the Office of Victims of Crime. She finally got them to agree to give them the obligated funds. This is the money in a grant that was not used. They estimate this could be \$2,000-\$3,000. The City has already promised \$5,000 in the 2013 budget. Chief Tittensor has told her that he could fund Det. Abel through January. They need additional funding from February through June. He works for less than \$15/hour. The City has a position for a Pool Manager that is \$19/hour. She felt that the City should be able to come up with an additional \$5,000-\$8,000 to keep this position.

Carol Barello, 480 S 300 W – Ms. Barello said she was appalled when she read about P&G. The City cooperated with them and even encouraged them to locate here to provide jobs. This is great; however, when they don't pay somebody for their labors that is not acceptable. She worries about Brigham City and its leaders going along with a business and then somehow the City gets left with it. It would be better if the City did without until the citizens of Brigham City funded it for ourselves. That's self- government. That's when there is control over what you want and how you want it and will maintain it. It gives you the pride that you want in your community. She thinks it is not serving the community well when you don't look at these things and then down the road the community has to pick up the pieces. We need to be more concerned about how citizens feel. The Council is elected and can put things in place during their term, then they leave. That's not fair for Brigham City if down the road there are complications. This is not what she wants in her civil servants. The Council is working for the citizens. They should do what the citizens want them to do and not decide on their own what they think they want to do or what is in their best interest.

Becky Maddox, 148 N 500 W – Ms. Maddox said the economic development plan is folly. It is Socialism. It is taking food and medicines off the table of the children and elderly. They cannot afford it. If the Council wants to do the economic projects in the economic development plan, they should use their own money. Don't steal and take the citizens' money. Maybe the federal government gives money away, but they have no money to give. They are \$220 trillion in debt. The nation pays over \$2 trillion in interest per day. We need to stop relying on the federal government. We need to stop stealing people's money. We need to let the people decide what they want themselves. Ms. Maddox said last time she was here the Mayor tried to tell the

audience that the City had gone through a full audit. Councilmember Jensen, who has been on the Audit Committee about three times, had to correct him and let the audience know that he was not telling the full truth. Once again, the devil has many tools, but lie is the handle that fits them all. It's very difficult to repent when you continue telling lies. The Mayor has lost the support of this community, by and large. The citizens have not thrown him under the bus, he has put himself there. She asked the Mayor to resign. Brigham City is the laughing stock, not only in this City and State, but in other places around the world. When people do things like the Mayor has done, they lose some of their privileges. There needs to be someone who has their act together and whom the citizens can trust their integrity and honesty.

Councilmember Jensen – Councilmember Jensen apologized for not reading the back of the agenda. She referred to the last paragraph entitled “Note About Public Hearings.” It reads, *“It is important to note that the opinions shared at public hearings are not necessarily representative of the entire population. Typically, most speakers at public hearings are in opposition to an item as they feel the need to voice their concerns. In contrast, those who support the matter often don't feel the need to announce their support and thus stay home.”* Councilmember Jensen did not agree with this. Most of the time people don't come speak their mind because they'll get shutdown or they don't have enough information to speak appropriately, so they stay home. The paragraph continues, *“Therefore, the City Council does not, nor would it be appropriate, count the negative and positive comments and base its decision on that count.”* Councilmember Jensen agreed. The Council should not use comments as a form to vote, but it is a way of understanding what is going on out there and trying to understand what the sentiments and thoughts are. The City Council does listen to citizens. She has been on the Council five years and there has been several councilmembers say citizens never attend meetings. Now people are showing up and then this is written on the agenda. She finds it unproductive and a major turn off, and contrary to what the Council is trying to do. She felt it should be removed. She did not feel the citizens are attending meetings just because they oppose things.

Councilmember Rex agreed. The paragraph is not germane to City Council. Whether a citizen is for or against something, it doesn't matter. This is an open forum.

Mayor Fife said he will put this on the agenda to be discussed further.

There were no further comments from the public.

Mayor Fife commented on the hotel, which was incorrect in the paper. There was consideration of a hotel on 1100 South, but they were in the initial stages of approaching the City. They asked for tax incentives over an 11-year period. They said they would not build if another hotel was built in the City. They would have to have an intersection with a red light before they would even consider building. There is not going to be two new hotels in Brigham City in the near future.

Mayor Fife said he does not have any information about whether or not P&G paid their bills. He felt there is a lot more to that story. They have donated more than what was indicated in the paper to the community and the county. They contributed over \$22 million to the City in terms of water rights, sewer, etc. He felt there has to be more to this story than what was indicated in the paper.

The Mayor will discuss the request from the Hope Crisis Center with staff and the Council.

Councilmember Jensen said he spoke with Mr. Gerald Smith regarding the hotel and he did not divulge to her that he wanted eleven years in tax increment. He told her he was told by Paul Larsen the he would get tax increment, then when he spoke to Mayor Fife after staff review, he

was told that there would be no tax increment available for him. I then asked Mr. Leonard who is supposed to give out tax increment, and he told her the Council has that authority. She did not understand why the Council is getting so many mixed messages.

Councilmember Rex said he also talked to Mr. Smith and was told that he was drafting a letter to be on the February 7th RDA meeting to officially ask for tax increment.

Mr. Paul Larsen came forward and corrected some statements. He has never told Mr. Smith that he would get tax increment. He has stated several times that he would like to get tax increment in order for the hotel to move forward. Mr. Larsen told him a while ago that this was highly unlikely. Councilmember Jensen said Mr. Smith told her he was told it was a possibility. Mr. Larsen said he has never told Mr. Smith he would get tax increment. He told Mr. Smith how he can request it, but also told him it was very unlikely. The City considers the construction of the road to be a major ingress to that property. He added that staff review is not when those kinds of discussions take place. This is where infrastructure, the development review process, etc. are discussed. Councilmember Jensen said that is not when they talked about tax increment, it was when Mr. Larsen and another individual were with Mr. Smith. Mr. Larsen said after that meeting he and Mr. Smith met with the Mayor. The discussion was not heavily weighted toward tax increment, but he did indicate he would need 15 years of tax increment.

Councilmember Jensen asked how much the City is giving Western Lodging. Mayor Fife said the City is not giving them anything. Councilmember Jensen said it is for the Academy Square Project.

Mr. Larsen said after the meeting with Mayor Fife, Mr. Smith indicated that it was likely they would not do the project because they wanted tax increment. Neither he nor the Mayor has committed to anyone that they would get tax increment. They have always told everyone that this is something the RDA has to decide. Mr. Smith called him later and said that due to his ancestry in Brigham City he has always wanted to do the project here. He wants the RDA to be the one to tell him no, so he asked what process needed to be followed. Mr. Larsen did not want anyone to get the impression that he or the Mayor are committing tax increment to individuals or corporations. Councilmember Jensen said they are not committing it; they are allowing it.

Councilmember Ericson said one of the things the City has talked about doing on that intersection to facilitate some economic development is to put tax increment into the intersection, rather than into properties. If there is not a light at this intersection, Mr. Smith is not going to want to build there. No developer will want to locate where there is no access to their property. There will not be enough tax increment to do both the intersection and a property. However, this cannot be decided until the application is brought to the RDA.

Councilmember Jensen asked if the REDLG loan was offered to Mr. Smith. Mr. Larsen replied that he told Mr. Smith a REDLG loan was a possibility and that he would have to apply for it and have the Council approve it. Councilmember Jensen stated that Mr. Smith said he could not do it because of the letter of credit. However, if the City gave it to him the same way we are giving it to Western Lodging, he could do it. Mr. Larsen said this exact scenario was given to Mr. Smith. Mr. Larsen cannot commit anything to him. He can tell him how to make the request, but he has never made any commitment to him on behalf of the City. In a meeting with him, Mr. Smith indicated that due to the letter of credit cost, the REDLG loan does not do what he needs.

Councilmember Vincent said Councilmember Jensen wants to make sure that the City is fair with all parties. Councilmember Jensen said that is correct, because she is hearing different things from Mr. Smith, from Councilmembers and Mayor Fife. She wants to be clear what is going on and if the City is interfering or sabotaging certain private individuals that are trying to

develop in Brigham City because we're working on our pet project. Mr. Larsen said that is not the case.

CONSENT

Request to Write-off Accounts Due to Bankruptcy or Being Sent to Collections

A list of accounts totaling \$5,370.29 was presented to be removed from the City's billing system due to customer taking out bankruptcy or being sent to collections.

Appointments and Reappointments to the Museum Gallery Board

Reese Beeton, Kathryn McKay, Carol Dittli and Mary Ann Jensen were recommended for appointment to the Museum Gallery Board

Appointment of Vice Chair to the Planning Commission

Larry Jensen was elected as Chair by the Planning Commission and Lynn Duce was appointed as Vice Chair.

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

PUBLIC HEARING

Vacate Hulse Town Homes PUD Lot 1 and the Associated Public Utility Easements, Located at 810 N. Main

Mr. Bradley explained that this lot became a subdivision when the townhomes were constructed. Now Mr. Hulse would like to develop the Hulse commercial PUD which is another plat. Part of the plat needs to be vacated and replaced with another plat. The vacation would include vacating the easements.

Mr. Bradley indicated on a map the proposed seven units. It will be done in two phases. The plat has to be vacated, but cannot be recorded at the County until the replacement plat is ready.

A motion to open the public hearing was made by Councilmember Vincent, seconded and carried. There were no comments from the public. A motion to close the public hearing was made by Councilmember Ericson, seconded and carried.

MOTION: Councilmember Ericson made a motion to vacate the Hulse Town Homes PUD Lot 1 and associated public utility easements at 810 North Main with the caveat that the plat stay in place until there is a replacement plat. The motion was seconded by Councilmember Rex and unanimously carried.

Adjustments to the Brigham City Corporation FY 2012-13 Budget of the General Fund and Departments, and to Reflect the Changes Recommended by the City Council to Said Budget

Mr. Roberts explained that this is to increase expenditures in the Economic Development Department by \$265,000 from Fund Balance. This will be used to purchase the Dixon property.

Councilmember Ericson made a motion to open the public hearing, seconded and carried. No comments were heard. A motion to close the public hearing was made by Councilmember Vincent, second and carried.

MOTION: Councilmember Ericson made a motion to make adjustments to the FY 2012-13 budget in the General Fund to reflect the changes in the Economic Development budget. Councilmember Thompson seconded the motion.

Councilmember Jensen said five years ago when she got on the Council, one of the things that was discussed was that government should not be purchasing land. Purchasing of property through government is not really something the Council should be working on. Since then, the City has sold some properties and then purchased more properties. She did not understand where the City is going with all of this. She felt it was inappropriate to fund things from the General Fund for a project that was supposed to be completed through donates and grants. She reminded the Council that the City is putting money into the project indirectly.

Councilmember Rex asked what Fund Balance means. Mr. Roberts explained that Fund Balance is thought of as reserves, but not necessarily cash. There are asset reserves and cash reserves. In this case it is case reserves. The reason it is coming out of reserves is because it is not budgeted to come out of revenues. Councilmember Ericson added that if the hotel comes through, the revenue will come in from the purchase of the property which will replace this amount.

The Mayor called for a vote on the motion. Councilmember Ericson, Councilmember Thompson and Councilmember Vincent voted aye. Councilmember Jensen and Councilmember Rex voted nay. The motion carried with a 3-2 vote.

SCHEDULED DELEGATION

Recommendation to Change the Collective Community Impact to Coordinated Community Initiative

Ms. Katy Bonds from the New Hope Crisis Center came forward and recommended that the Collective Community Impact be changed to Coordinated Community Initiative to better fit their duties. The same principles will be applied.

MOTION: Councilmember Jensen moved to change the Collective Community Impact name to Coordinated Community Initiative, seconded by Councilmember Vincent and unanimously carried.

Request to Form the Coordinated Community Initiative (CCI) Grant Program Board and Appointment of Board Members

Joan Hammer approached the Council and said she was asked by the City to help set up a grant program in cooperation with the CCI. This Board will be independent of the CCI. Grants will be given on a yearly basis and will fund some of the community agency projects that meet the same criteria as the CCI. Ms. Annette McFarland added that the grants will be issued to the type of programs that benefit families. Ms. Hammer said the CCI Board will be responsible for administering the funds. As all the entities work together, she anticipates they will come together and look for ways to get funds. The goal is to get all the entities to work together collectively to make a bigger impact on strengthening families.

The structure of the board will be seven voting members and two advisory board members. They would like someone from Kiwanis, Rotary, Chamber of Commerce Board, the School District, Brigham City Corporation, and two at-large business members. The two advisory board members would consist of someone from the Hospital Board and a CCI representative. Mayor Fife said the City Representative should be changed to a councilmember assigned by the Mayor with the consent of the Council.

MOTION: Councilmember Rex made a motion to form the Coordinated Community Initiative Grant Program Board as outlined, seconded by Councilmember Ericson and unanimously carried.

The recommended board members are Dr. David Lewis, Eric Blanchard, Jeff Scott, James Fuller, Councilmember Jensen, Danean Marshall, and Debbie Hammer and Jeunelle Jeffries as advisory board members. They need one more at-large business representative.

MOTION: A motion to approve the board members for the CCI Grant Program Board, with the final member added when they are contacted, was made by Councilmember Ericson, seconded by Councilmember Vincent and unanimously carried.

NEW BUSINESS

Request for Approval to Purchase HD DVR Mini Clip-on Body Cameras, Memory Cards and Service for the Police Department using the Justice Assistance Grant (JAG) Block Grant Funds

Chief Tittensor came forward and reported that the Department of Justice asked the Police Department to apply for a JAG for equipment. The City was awarded \$7,076.00 and would like to use the grant to purchase body cameras and memory cards.

MOTION: Councilmember Vincent made a motion to approve the purchase of the HD DVR mini clip-on body cameras, memory cards and service for the Police Department, seconded by Councilmember Rex and unanimously carried.

Request for Approval of Resolution to Require Customers to Pay a Utility Deposit, to Allow Exceptions for Those with Good Credit, and Credit Customer's Account Upon One Year of Good Credit History

Mr. Roberts, Marge Porter and Mary Kate Christensen came to the table. Mr. Roberts explained that this resolution will require all customers to pay a deposit for utility services unless they can bring in a letter of good credit from their prior utility company. Currently, only renters pay a deposit. However, the City is seeing more and more foreclosures and more write-offs for homeowners. Another concern are those customers that have lived in their home for many years and have been current on their bill, then move to a senior housing rental property and question why they have to pay a deposit.

In addition, the deposit will be credited to their account if the customer has been current for 12 consecutive months.

MOTION: A motion to approve the resolution amending guidelines for fees for utility deposits was made by Councilmember Ericson, seconded by Councilmember Jensen and unanimously carried.

Request for Approval of Resolution to Set Deadline Time for Payment of Delinquent Accounts

Mr. Roberts said the Billing Department currently accepts payment until the lineman walk out the door to begin shut-offs. Administratively this is costly and is difficult to administer. It requires employees to take work home and write-out between 70-110 work orders. This resolution sets the deadline at 5:00 PM the day before scheduled shut-offs. If they pay after that they will be charged the \$50 service fee. This would eliminate overtime and shorten the process time.

A flier will be mailed with the pink slips notifying customers of this change.

MOTION: Councilmember Ericson made a motion to approve the resolution to set a deadline time for payment of delinquent accounts. The motion was seconded by Councilmember Jensen and unanimously carried.

PLANNING COMMISSION BUSINESS

Request for Approval of Hulse Commercial PUD Subdivision Plat Located at 810 N Main

Mr. Bradley explained that there are some changes to this plat to what was initially presented to the Council and Planning Commission. It is the same seven units and is one subdivision, but Mr. Hulse has now requested it be done in two phases to accommodate financing. Staff has not reviewed it under these conditions and it may need to be brought back to the Planning Commission. A new plat will need to be prepared and new CCRs and the association paperwork will need to be drafted. If they decide to keep the house, these documents will need to be drafted without the house included in the common area until the second phase is developed.

MOTION: Councilmember Ericson made a motion to have Mr. Bradley bring this back to the Council after all the details have been worked out. The motion was seconded by Councilmember Rex and unanimously carried.

Request to Amend Section 29.05.250 of the City Code to Allow Single Family Dwellings in the General Commercial District to Have Chickens and Clarify Location of Chicken Pen to the Property Line

Mr. Bradley stated that a resident who lives in a commercial zone has requested a chicken permit. Chickens are currently only allowed in residential districts. The resident petitioned for a change in the current code language to allow this.

The applicants, Lori and Vernon Genter came forward. Ms. Genter stated that they were surprised that their home on 700 North 100 West is zoned general commercial since they live in a neighborhood of single family homes and apartments. They enjoy having their chickens for fresh eggs and to control bugs and weeds. They have never had any complaints from their neighbors.

MOTION: Councilmember Ericson made a motion to amend Section 29.05.250 to allow single family dwellings in general commercial zones to have chickens and also clarify the pen locations. Councilmember Vincent seconded the motion. Councilmember Thompson said the Planning Commission did not approve this request and asked why. Mr. Bradley said there was a lengthy discussion. There was concern that the door continues to open and before long the farm will be brought back into the urbanized area. Mayor Fife said it seems unfair where the commercial zone is and how many residents live in that area. Councilmember Jensen suggested this be changed to a mixed use district in the future. The Mayor called for a vote.

Councilmember Ericson – aye
Councilmember Jensen – aye
Councilmember Rex – aye
Councilmember Thompson – aye
Councilmember Vincent – aye

Motion carried with a unanimous vote.

Councilmember Ericson made a motion to adjourn to a closed session to discuss the purchase, exchange or lease of real property. A roll call vote was taken.

Councilmember Ericson – aye
Councilmember Jensen – aye
Councilmember Rex – aye
Councilmember Thompson – aye
Councilmember Vincent – aye

The Council adjourned to a closed session at 8:40 PM. The Council returned to an open meeting at 9:11 PM and adjourned.