

**WORK SESSION OF THE
BRIGHAM CITY COUNCIL
TRAINING BY DAVID CHURCH, ULCT
AND
DISCUSSION OF BRIGHAM CITY CODE TITLES 1 THROUGH 4
NOVEMBER 1, 2012, 5:30 PM**

PRESENT:	Dennis Fife	Mayor
	Ruth Jensen	Councilmember
	Brian Rex	Councilmember
	Mark Thompson	Councilmember
ALSO PRESENT:	Rick Bosworth	Human Resource Coordinator
	Dave Church	General Counsel, ULCT
	Mary Kate Christensen	City Recorder
	Jared Johnson	Community Development Manager
	Kristy Law	Recreation Manager
	Paul Larsen	Economic Development Director
	Bruce Leonard	City Administrator
	Jason Roberts	Finance Director
	Paul Tittensor	Police Chief
EXCUSED:	Scott Ericson	Councilmember
	Tyler Vincent	Councilmember

General Comments on Code

Dave Church said the way to think about a City Code is to compare it to the Utah Code and the State Legislature. When a bill is passed in the State Legislature, it is codified into the Utah Code. Similarly, when the Council passes certain ordinances, it is codified into the City Code. Ordinances that are of a general and permanent character should be in the Code.

The purpose for a code is to benefit the public, the City Council and staff. It should clarify, not confuse. The question has come up if the code should reference the Utah Code. There are some areas where it is appropriate to do so, such as the section on sales tax. There is nothing in the State Code that states how often municipal codes should be updated.

Title 1 – General Provisions

1.01.130. Prison Labor. Councilmember Rex noted that in this section it talks about prison labor. Mr. Church said that since the City is not using prison labor, **this should be deleted.**

Definitions. The Mayor asked about some of the definitions; such as, “jail,” “day,” “daytime” and “nighttime.” Mr. Church said all the definitions should be reviewed. If the word is found somewhere in the code, the definition should remain. On all definitions the question should be asked why it should be defined. He suggested doing a search and see where it appears in the code and ask whether it needs to be defined knowingly for the purpose of that section. **If not, they should be removed.**

1.01.020, Classifications. Mayor Fife asked whether this should be included. Mr. Church said this is put in codes to inform residents. He added that there should not be anything in the code that creates an obligation that the City does not conscientiously want to do. **The Mayor suggested this be changed to read “Brigham City is classified as a fourth class City under Utah Code Annotated §10-2-301, as amended, as it has having a population of more than ten thousand (10,000) and less than thirty thousand (30,000). Any change in classification of the City shall be made pursuant to Utah Code Ann. §10-2-301 through 306, as amended.**

1.02.100, Imprisonment for Nonpayment of General Penalty; Continuing Violations; Imprisonment for Nonpayment of Fine. Mayor Fife asked if fines should be included in the code. Mr. Church said the court is going to go by the bail schedule, so he recommended the **City Code read that it is a Class B**

Misdemeanor, or Class C, or an infraction, as defined under state law punishable as under state law, unless otherwise stated in the Code.

Title 2 – Administration

Title 2.01.030. Official Oaths and Bonds. Councilmember Thompson asked if it is required that officials take out a bond. Mr. Church replied that the City has a blanket bond that covers all elected officials. The Code requires that all officials take an oath of office and be bonded. He recommended the **amount of the bonds be removed from the code.**

2.01.040. Salaries. Mr. Church noted that the State Code says the salaries must be fixed by *ordinance*. The City Code states that it is fixed by *resolution*. **This should be corrected.** He added that this is not of a permanent or general application, but it is the kind of information that maybe the public wants. Not many cities have the actual amounts in their codes.

2.01.050. Audits of Officers' Accounts. This is another section that is not really required but may be helpful to the public, but could be removed.

2.03.040. Rules of Order and Procedures. There was discussion on whether the Council should follow Robert's Rules of Order. The current code states that "All City Council meetings will be conducted in accordance with Robert's Rules of Order to the extent that it is understood." Mr. Church suggested Paragraph A in this section state that the meetings will be generally conducted in this manner: **the Mayor will call the items on the agenda and invite discussion. The Council may make a motion at any time to adopt or not adopt, a second will be required (or not as desired).** After appropriate discussion the Mayor will call for a vote. It should state what the Council is actually doing.

Ms. Christensen asked Mr. Church to define a roll call vote. Mr. Church explained that a roll call vote is when the Chair asks each member of the Council individually how they vote. The State Code requires a roll call vote for all ordinances, resolutions and any action which would create a liability against a municipality and in any other case at the request of any member of the governing body. However, the Open and Public Meetings Act states that the minutes must contain a record of the vote by name. Mayor Fife noted that this is clarified in Section 2.03.040(F) of the City Code where it states that it is not required that councilmembers vote separately as long as the actual vote of each individual member is recorded. Mr. Church added that there is no definition in the State Code for a roll call vote.

Mayor Fife asked Councilmember Thompson to rewrite the section regarding Robert's Rules.

Authorization of electronic meetings was discussed. The City Code requires a quorum to be physically present at the meeting, but others can join electronically. There was discussion on whether this should be changed to allow electronic meetings even though there is not a physical quorum present.

2.03.070. Unexpended Balances and Previous Deficits. Mayor Fife asked if this needed to be in the City Code. Mr. Church said this reiterates the State Code, but felt it could be left in.

Mayor Fife asked about the City's practice of changing the budget throughout the year with the Council's approval, then holding the public hearing and making adjustments at the end of the year. Mr. Church stated that this is a very common practice, but he did not understand how cities get away with it. Utah Code says a public hearing has to be held when the budget is amended, but he sees this a lot. Mr. Roberts explained that this is allowed if the amounts are small and are between one department line item to another and the overall budget is not over expended. The only time there has been money moved from one department to another is in the Utility Fund. These funds are different than the Governmental Fund.

Mr. Church read from the Utah Code, *“At the request of the Budget Officer, or upon the Council’s own initiative, the governing body, by resolution, may transfer any unencumbered or unexpended appropriation balance or portion thereof from one department in a fund to another within the same fund.”* Mr. Roberts added that the Budget Officer can make changes within a department.

2.07.030 Responsible to Mayor and Council. This refers to the City Administrator. Councilmember Rex noted that the body of this section states that the City Administrator is responsible to the Mayor. This title should be **changed to read Responsible to Mayor.**

2.12.020. Community Development Division. Councilmember Jensen asked what this is. Mayor Fife stated that this is Jared Johnson’s group.

2.13.030. Duties (of Director of Finance). Councilmember Jensen said the current Code states that the Director of Finance is responsible to the Mayor and Council, through the Mayor. She was concerned with the change that he be responsible to the Mayor and City Administrator. She did not want to know everything he does and require him to come to the Council about everything, but she wanted to make sure that the Council will still receive financial reports from him. Mr. Church explained that it is specifically listed in the State Code that he will make monthly summary financial reports and quarterly detailed financial reports to the Council.

Title 3 – Airport and Aircraft

Councilmember Rex read from Section 3.01.050(6) *“There shall be no maintenance for profit conducted on the ramp or in aircraft hangars....However, repairs to aircraft requiring the expertise of a licensed airframe and/or power plant mechanic shall only be performed by those commercial operators licensed to so operate on the Airport, except for services not available on the Airport.”* He asked if this means an aircraft owner cannot go to their hangar and do work on his aircraft. Mr. Church said the Airport Title is so specific, and not of general interest to the public as a whole. He suggested the City **consider leaving the laws regarding the airport in a separate document for the airport only.**

Title 4 – Animals & Fowl

4.03.070. Keeping of Residential Chickens. Councilmember Rex said this section states *“Permit Required. See Title 29 Zoning, Section 29.05.250.”* Mr. Church explained that this is to avoid repeating it in two different sections and having two sections that are not the same. It is very common to have a section in the general code that sets up a series of animal regulations and crimes and another section in the Zoning Ordinance that controls where animals can be kept. He recommended **changing it to say that “keeping of residential is a crime unless you comply with....”** He preferred having the crimes in the general code and regulate land use in the zoning ordinance.

West Forest Overlay

Councilmember Rex asked how to go about changing the West Forest Overlay. Mr. Church replied that all land use ordinances are adopted through a very specific process that requires a recommendation from the Planning Commission before the Council can act on it. He said an overlay to a specific piece of property should not be in the code. The code should include the system that describes the overlay and how it was done, but the actual ordinance applying the overlay should not be in the code.

The meeting adjourned at 6:55 PM.