

# NORTH OGDEN CITY COUNCIL MEETING MINUTES

February 7, 2017

The North Ogden City Council convened in an open meeting on February 7, 2017 at 6:01 p.m. at the North Ogden City Office at 505 East 2600 North. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on February 2<sup>nd</sup>, 2017. Notice of the annual meeting schedule was published in the Standard-Examiner on January 1, 2017.

PRESENT:	Brent Taylor	Mayor	
	Lynn Satterthwaite	Council Member	
	Cheryl Stoker	Council Member	
	Phillip Swanson	Council Member	
	Carl Turner	Council Member	
	James Urry	Council Member	
STAFF PRESENT:	Jon Call	City Attorney/City Administrator	
	Annette Spendlove	City Recorder/HR Director	
	Dave Espinoza	Public Works Director	
	Rob Scott	City Planner	
	Tiffany Staheli	Parks and Recreation Director	
	Matt Hartvigsen	City Engineer	
VISITORS:	Blake Cevering	Melanie Cevering	Dee Russell
	Dan Carter		

Mayor Taylor called the meeting to order. Mayor Taylor offered the invocation and led the audience in the Pledge of Allegiance.

## **CONSENT AGENDA**

### **1. DISCUSSION AND/OR ACTION TO CONSIDER JANUARY 10, 2017 MEETING MINUTES**

**Council Member Swanson motioned to approve the January 10, 2017 City Council Meeting minutes. Council Member Satterthwaite seconded the motion.**

### **Voting on the motion:**

**Council Member Satterthwaite**     **aye**  
**Council Member Stoker**           **aye**  
**Council Member Swanson**       **aye**  
**Council Member Turner**          **aye**  
**Council Member Urry**             **aye**

**The motion passed.**

**ACTIVE AGENDA**

**1.     PUBLIC COMMENTS**

There were no public comments.

**Council Member Swanson motioned to amend the agenda by moving item seven ahead of item six. Council Member Stoker seconded the motion.**

**Voting on the motion:**

**Council Member Satterthwaite**     **aye**  
**Council Member Stoker**           **aye**  
**Council Member Swanson**       **aye**  
**Council Member Turner**          **aye**  
**Council Member Urry**             **aye**

**The motion passed.**

**2.     PRESENTATION THANKING PLANNING COMMISSION MEMBER DEE RUSSELL**

Mayor Taylor recognized Dee Russell for his service as a Planning Commission Member from May 2013 to January of 2017. The Planning Commission is a very important body in the City and they serve as the land use authority for many land use applications; they also make recommendations to the City Council for new ordinances or for various types of development. Building has accelerated in the City and the Planning Commission has been very busy. He thanked Mr. Russell for his service to the City, which has helped to make the City a better place and presented him with a plaque recognizing his service.

Council Member Swanson stated that Mr. Russell provided a strong, independent voice on the Planning Commission and he greatly values that; he appreciated Mr. Russell's willingness to voice his opinion and sometimes stand alone in that opinion. He stated Mr. Russell served the City well.

Council Member Satterthwaite echoed Council Member Swanson's comments. He added that many people do not recognize the value of the service provided by the Planning Commission, but he does and he recognizes the importance of each Planning Commissioner.

Council Member Urry also thanked Mr. Russell for his service. Mr. Russell received a round of applause from those in attendance.

3. **DISCUSSION AND/OR ACTION TO APPOINT BLAKE CEVERING AND ERIC THOMAS TO THE PLANNING COMMISSION; CEVERING TO A 5-YEAR TERM AND THOMAS TO A 3-YEAR TERM**

Mayor Taylor stated that he is recommending the appointment of Blake Cevering to replace Mr. Russell on the Planning Commission. Additionally, Commissioner Eric Thomas's term on the Commission has expired and he recommends that he be reappointed to continue to serve as a Commissioner.

Mayor Taylor then noted that there were three applicants for the vacant Planning Commission seat and Mr. Cevering was the most qualified of the applicants; he briefly reviewed Mr. Cevering's resume highlighting his professional background and experience. Mr. Cevering also reviewed his education and indicated he has been a lifelong resident of North Ogden City.

Mr. Cevering stated he enjoyed the interview process with Mayor Taylor. He noted that as a lifelong resident he feels it important to preserve the mountain community and he is in favor of protecting citizens' rights with property rights. He stated he is excited about serving and will do his best throughout his five year term.

Council Member Turner acknowledged Mr. Cevering's private employment in the real estate industry and inquired as to how Mr. Cevering would act when faced with discussing or acting upon a real estate/land development application that he may have a connection to. Mr. Cevering stated that he will recuse himself from participating in any action when appropriate.

Council Member Stoker wished Mr. Cevering luck in his capacity as Planning Commissioner.

**Council Member Swanson motioned to appoint Blake Cevering to the Planning Commission for a five-year term and to reappoint Eric Thomas for a three-year. Council Member Urry seconded the motion.**

**Voting on the motion:**

**Council Member Satterthwaite     aye**  
**Council Member Stoker             aye**  
**Council Member Swanson          aye**  
**Council Member Turner             aye**  
**Council Member Urry                 aye**

**The motion passed.**

**4.     PUBLIC HEARING TO RECEIVE COMMENTS ON THE BREWER, FRANDSEN, AND PARKINSON PETITIONS FOR ANNEXATION OF PROPERTY LOCATED AT APPROXIMATELY 1100 E AND 2750 N INTO NORTH OGDEN**

A staff memo from City Recorder Spendlove explained Ann Frandsen Parkinson, Clark Parkinson, Lyn Frandsen, and Jane Brewer submitted an application (Exhibit A) on December 16, 2016 petitioning for annexation of 28.832 acres located at approximately 1100 East 2750 North in North Ogden, Utah. The annexation process requires the City Council to accept the petition for annexation so that we can start the process, which was done on December 20, 2016. Weber County Surveyor has reviewed the annexation plat map and made some minor changes and those were corrected on (Exhibit B). This property is within North Ogden City Annexation Declaration Policy (Exhibit C). The petitioner is requesting an R-1-10 Zone, which the Planning Commission has recommended (Exhibit D). The law requires that the City give notice of an annexation for (3) consecutive weeks no later than 10 days after the Council receives Notice of Certification which was certified by the City Recorder on January 5, 2017. Written protests to this annexation were to be filed by February 6, 2017. No written protests have been received yet and the City Council will be informed if any are received before the deadline. If none are received the City Council may adopt this Ordinance annexing this property.

Ms. Spendlove reviewed her staff memo.

Mayor Taylor opened the public hearing at 6:23 p.m. There were no persons appearing to be heard.

**Council Member Swanson motioned to close the Public Hearing. Council Member Satterthwaite seconded the motion**

**Voting on the motion:**

**Council Member Satterthwaite     aye**

<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion carried.**

The public hearing was closed at 6:24 p.m.

**5. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE ANNEXING PROPERTY LOCATED AT APPROXIMATELY 1100 E AND 2750 N INTO NORTH OGDEN**

**Council Member Swanson motioned to approve Ordinance 2017-03 annexing property located at approximately 1100 E and 2750 N into North Ogden. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**6. DISCUSSION AND/OR ACTION TO CONSIDER A CONTRACTOR FOR THE SKATE PARK**

A staff memo from Mayor Taylor explained the City received five proposals for the skate park. A selection committee composed of the Mayor, Councilman Phil Swanson, Jon Call, Tiffany Staheli, Matt Hartvigsen, and Dave Espinoza reviewed the five proposals and ranked them. There were two companies that were identified as finalists (<https://www.spohnranch.com/> and <http://americanrampcompany.com/>). Both have literally hundreds of skate park projects under their belts, years and years of experience, have done local projects in Utah, and say they can deliver a great park within our budget. The committee conducted phone interviews and, on a four to two vote, has decided to recommend that the Council contract with Spohn Ranch for the project.

Mayor Taylor reviewed the staff memo and stated he is hopeful the Council will make a decision tonight so that the project can proceed. He stated that he and Mr. Call voted for

American Ramp Company and the other four members voted for Spohn Ranch. He gave each member an opportunity to provide the Council with an explanation of their vote.

Parks and Recreation Director Staheli stated it is her opinion that both companies would do a great job on the project, but she supported Spohn Ranch because she felt they were a more forward-thinking company and that creatively they would be a step ahead. She feels they would develop a park that would be functional for skaters, but it would also be beautiful and could be enjoyed by other visitors to the park. She then discussed various construction methods typically used at skate parks and indicated she would discourage the use of steel components in the park because she does not feel they are a good long-term option.

The Council and Ms. Staheli then engaged in high level discussion regarding the aesthetics of the skate park and Ms. Staheli provided renderings of the type of 'skate art' that would be used by Spohn Ranch. She noted that one of the proposals from Spohn is to reuse the components that previously made up the skate park.

Public Works Director Espinoza stated that he agreed with the comments made by Ms. Staheli in her reasoning for why she is recommending Spohn Ranch. He added that he would have been satisfied by either company, but he was slightly more impressed by Spohn Ranch.

The Council questioned Mr. Espinoza about the possible presence of ground water at the North Ogden Park site and Mr. Espinoza stated he believes the site can handle the project and the storm drain system in the area is adequate to handle any additional runoff associated with the skate park.

Council Member Satterthwaite asked about the information included in the request for proposal (RFP) for the project. Mayor Taylor clarified that the City actually published a request for qualifications (RFQ) for a design build project and those responding to the RFQ were informed that their project would need to fit within a certain budget.

City Engineer Hartvigsen stated that both companies have looked carefully at the site that has been selected and they have provided their analysis of the site and their proposal for what they feel would fit at the site. From this point it would be appropriate for the City and the selected contractor to negotiate the actual project to be completed and there should be a public component and involvement by the skate park committee to incorporate their ideas into the final design.

The Council and staff then engaged in high level discussion regarding the proposal submitted by Spohn Ranch, with a focus on the public process that would be followed to decide upon the ultimate project. Council Member Urry emphasized that he feels strongly that it is important to communicate to the selected contractor that they must work within the budget that has been approved for the project. Mayor Taylor agreed and stated that he cannot approve any change to the budget without approval by the Council.

City Attorney Call then explained the reason he supported American Ramp Company for the project was that he felt they were represented by people who actually participate in skateboarding activities rather than polished salesmen. He stated that he will support Spohn Ranch, but after the interview process he was leaning towards American Ramp Company.

Council Member Swanson echoed the comments made by Ms. Staheli and Mr. Espinoza and indicated he also supports Spohn Ranch; he was intrigued by their creativity and feels that they will provide a feature that will seem more like artwork in North Ogden Park. Additionally, their proposed use of the space will make the park feel larger than it actually is. He stated there was much discussion about the use of existing park components as well as the warranty that Spohn Ranch would provide and those participating in the interview agreed that it is not beneficial to use steel components because they get very hot in the summer months and they can cause greater injuries to skaters when they crash. He stated that both contractors did well in the interview process, but he supports Spohn Ranch because of their creativity.

Council discussion of the interview panel's recommendation continued with additional focus on the budget for the project and the likelihood of multiple change orders for the project. Mayor Taylor stated that he does not feel that either contractor would intend to commit to a project only to request change orders and additional money in the future. He then facilitated a discussion regarding the warranties offered by both contractors. He then noted that the selection committee did a great job, even though there was some division among the committee and not all members supported the same contractor. He summarized his reasons for supporting American Ramp Company; he feels they offer the 'best bang for the buck' and they have more experience in developing parks than Spohn Ranch. They have constructed over 2,500 parks worldwide and several hundred in just the past few years. He feels they are more flexible in their offerings. However, Spohn Ranch is the official dealer of the skate components currently used at the skate park and they feel they are the most qualified to dismantle and reassemble those components. He stated that American Ramp Company has said they can also dismantle and reassemble the components. They also offer the addition of five accent or accessory components for free. He stated that they can provide metal or concrete components and they are more flexible than Spohn Ranch. It is his personal preference to use more new components and fewer existing components due to the age of the existing components.

Brief discussion then centered on the timeline for the project, which is closely related to Weber County's schedule for the North Branch Library renovation project.

City Engineer Hartvigsen provided the Council with a summary of the information included in the RFQ document, after which the Council participated in discussion and debate of the qualifications of the two contractors; they ultimately concluded to support Spohn Ranch.



**Council Member Swanson motioned to select Spohn Ranch as the contractor for the Skate Park project. Council Member Satterthwaite seconded the motion.**

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Council Member Swanson thanked the Council for their support of the project. He and Mayor Taylor also thanked those that participated on the selection committee for the contractor.

**7. STORM WATER AUDIT DISCUSSION**

Mayor Taylor stated this item is not included on the agenda, but it is somewhat of an emergency for the Council to discuss it; approximately six months ago the State of Utah Department of Environmental Quality (DEQ) conducted a routine audit of the City's storm drain program and they discovered some deficiencies. They have made some recommendations for improvements and the City Engineer and Public Works Director have been working on their proposals for responding to those recommendations to address the deficiencies. The list of recommendations would have been astronomically expensive to address and the City feels the recommendations are completely unreasonable. However, one additional employee has been hired to address some of the items; it will take several years to increase staffing levels to the amount needed to address all items. He stated other cities have gone through the same process with DEQ, which is a department regulated by the Federal Environmental Protection Agency (EPA).

City Engineer Hartvigsen provided an overview of the findings of the DEQ audit and summarized the deficiencies found in four different categories: problems with City ordinances relating to storm drain procedures; problems with standard operating procedures; inadequate or improper maintenance of the storm drain system and associated infrastructure; and record keeping of preventative maintenance. The City has responded by identifying the sections of City ordinance that need to be updated and amended; additionally, work has been underway to update and improve standard operating procedures. However, the City does not have sufficient resources to maintain the system to the standard recommended by the audit. Concerns were expressed by DEQ



center on pollution entering the storm drain system. Finally, staff has identified opportunities for improving record keeping and reporting compliance measurements. Mayor Taylor added that the deficiencies are not blatant and are not a result of any actual failure to prevent pollutants from entering the storm drain system; rather, they relate to a lack of resources to report maintenance standards and procedures. Public Works Director Espinoza agreed and added that the addition of a new employee and the vacuum trailer were a step in the direction of meeting the recommendations of the audit. Mayor Taylor stated that the response letter that he will prepare will cite these improvements and the manner in which they increase service levels relative to storm drain operations. He noted that if the City were to implement all recommendations of the audit it would be necessary to triple the City's storm drain fee and that is simply not realistic. Mr. Hartvigsen agreed and concluded that it would take 9,417 man hours to comply with the recommendations of the audit, which equates to five employees dedicated to storm water; the City will communicate to the DEQ that the City will set a five year goal to reach that manpower level.

High level Council discussion centered on the authority of the DEQ and EPA to mandate the types of recommendations included in the audit report. Mayor Taylor stated he feels the federal regulations are too heavy and difficult for small jurisdictions to comply with, but the State is obligated to enforce them or they lose ground with the EPA. He then concluded he is not requesting action on this issue since it was not noticed as an agenda item, but he will be providing the Council with his response letter and asked that they begin thinking of potential staffing and resource increases for storm water.

8. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING THE RESIDENTIAL CITY CENTER (RCC) ZONE ALLOWING DWELLING UNITS, AND TO CREATE A NEW SECTION IN CHAPTER 10 REGULATIONS APPLICABLE TO MORE THAN ONE ZONE; ACCESSORY DWELLING UNIT**

A staff memo from City Planner Scott explained when the City Council is acting as the land use authority, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

On January 24, 2017 the City Council reviewed the latest draft of the ADU amendment and gave direction to establish additional standards for detached accessory dwelling units, size of ADUs, and changed the length of time from 24 to 36 months for a temporary rental of the main dwelling unit if the owner is on a temporary work, military, or non-profit assignment.

The City Council requested that the ordinance include a reference to the landscape percentage and rear area coverage for accessory buildings. Those references have been

added. The RCC zone allows a 35% rear lot coverage unlike the other single family zones that only allow 25%.

Legal Counsel has drafted an additional ordinance section (See L. 5) that clarifies how a duplex can maintain its non-conforming status, i.e., obtain the necessary licenses, pay utility billing charges for two dwelling units, and comply with future licensing procedures. If the reference standards are not complied with for over a year the duplex right is lost. Finally, if a duplex is registered as an accessory dwelling unit for more than a year the duplex right is lost.

On January 10, 2017 the City Council and Planning Commission held a joint work session regarding this amendment. The City Council held a public hearing on this amendment on November 29, 2016. The City Council tabled action on the proposed amendment and requested additional information be brought back regarding options for allowing detached ADUs, the separation standard between the primary building and a detached ADU, the potential for requiring impact fees, and utility meters. Staff has also added a new section that defines what an owner occupant is.

The Planning Commission held a public hearing on the ordinance amendment on November 2, 2016. There were no public comments at the public hearing.

On July 6, 2016 the City Council adopted an ordinance eliminating two-family dwellings and twin homes from the Residential City Center (RCC) zone. The City Council also agreed with the Planning Commission that an accessory dwelling unit provision should be considered for the RCC zone and asked that an ordinance be returned in October. Part of the rationale for eliminating twin homes and duplexes and allowing ADUs was this softened the sting of downzoning, while creating the potential options for young people to return to North Ogden to live. Also, if an owner moves into an existing duplex then it becomes a conforming ADU and the duplex right is lost.

On September 21, 2016 the Planning Commission discussed various optional standards to be included in this amendment. Staff has also researched other city accessory dwelling unit ordinances from around the state. A draft ordinance is attached that addresses the options from the September 21, 2016 Planning Commission meeting.

On October 5, 2016 the Planning Commission reviewed a draft ADU ordinance and gave direction to staff to make various edits and bring the ordinance back at a public hearing.

The memo offered a summary of the draft ordinance, which includes the following provisions:

- A. Accessory Dwelling Unit is listed as a permitted use in the RCC zone.
- B. A new subsection in chapter 10 identifies the standards for accessory dwelling units. If additional zones allow accessory dwelling units in the future then these standards can be applied.
- C. Provides a purpose statement.

- D. Requires that an accessory dwelling unit be owner occupied.
- E. A dwelling unit occupancy standard is established.
- F. Allows one accessory dwelling unit with each single family dwelling.
- G. Addresses for the primary building and ADU must be the same with B added to the ADU.
- H. A separate living area standard is provided that requires eating, sleeping, and sanitation facilities be included with both the primary dwelling and ADU.
- I. ADUs are required to conform to building, fire, and health codes.
- J. Utility meters may be separated from the primary dwelling.
- K. ADUs cannot be sold separately from the primary unit or rented for a period less than 30 days.
- L. The review process for registration and business licensing is spelled out along with a penalty for non-compliance.
- M. Home occupation licenses in ADUs are limited to a home office and require the property owner's permission.
- N. Additional design standards:
  1. The total area for an ADU cannot be greater than 40% of the primary residence.
  2. The location of an ADU is not allowed in a front yard or corner side yard.
  3. ADUs must be similar in appearance to the primary dwelling.
  4. ADUs are limited to one per lot or parcel.
  5. A height standard is identified to be the same as the underlying zone.
  6. ADUs may be allowed in the primary building or as a separate building if they meet setback standards.
  7. Building entrance standards require a separate entrance for the primary dwelling and the ADU.
  8. Parking standards require a minimum of 3 parking stalls and have spaces for all vehicles maintained on the premises and all vehicles be parked on an approved parking space.

The memo summarized the options requested by the City Council:

1. Detached ADUs will be allowed with the following standards:
  - Allow ADUs as detached units with additional standards (See subsection O. Development Standards, (6) Location.
    - All ADUs
      - Over a garage, provided the parking within the garage is not converted.
  - Attached ADUs
    - Inside the home through an internal conversion of the housing unit, or
    - By an addition to the house, containing an internal connection between dwelling units provided that the addition will not alter the single-family character of the building
  - Detached ADUs are allowed:
    - Over a detached garage.

- Only allowed in rear yard.
  - On lots having a minimum of 20,000 square feet.
  - Shall have a minimum separation from the primary dwelling of 15 feet.
  - Subject to 11-7J-4 Site Development Standards (These standards have the requirements for percentage of landscaping (50%), rear lot coverage (35%), and large accessory building setbacks.
2. The City Council set a separation standard from the primary building and a detached ADU of 15 feet.
  3. The City Council requested the following language for the ADU size standard: The total area of the ADU shall be less than fifty percent (50%) of the total square footage of the primary residence for an attached accessory dwelling unit. The total area of the ADU shall be less than forty percent (40%) of the total square footage of the primary residence for a detached accessory dwelling.
  4. The City Council did not make any changes to the Utility Meters section. (See section J)
    - A single-family dwelling with an accessory dwelling shall have one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name.
  5. Definition of Owner Occupant; the City Council changed the new subsection to allow the rental of the main dwelling unit for a period less than 36 months if the owner is on a temporary work, military, or non-profit assignment.

The Residential City Center Zone is part of the “Old Town Neighborhood” described in the General Plan:

The Old Town Neighborhood

Description – This neighborhood surrounds the intersection of Washington Blvd. and 2700 N, and encompasses the original plat for North Ogden, which is a grid system. These blocks are generally composed of streets with 60 foot right of ways and block widths of 475 feet. The views are up toward the surrounding mountains but because of the rising slope toward Ben Lomond peak, some areas have a considerable valley view, too. There still exist open lands; mostly west of Washington and north of Pleasant View Drive, but much of the area is already zoned for half acre lots.

Neighborhood Character – There are a combination of newer homes and older housing combined with pleasant streetscapes. The most common lot size is approximately 8,000 square feet. The area is expected to be developed with mostly single family homes at low densities but includes areas for the planned Downtown, which will contain higher densities and mixed uses...

Existing and Future Concerns: Higher densities – Allowing limited multi-family in the Old Town neighborhood, especially to the west seemed to be logical.

Downtown and Southtown The Downtown chapter in the General Plan addresses the properties in the Northeast quadrant as described below. This area will be considered for

redevelopment with mixed use and higher densities; design standards will be addressed as part of the form based code project.

### Housing Goals

#### Goal #1 – Increase Housing Quality and Variety

- Encourage adequate housing types which accommodate lifecycle transitions and changing population norms.
- Establish and adhere to high quality building and design standards for all housing types so that development enhances the community character.
- The General Plan housing goals and strategies are supportive of providing appropriate design standards and increasing housing types, e.g., adding accessory dwelling units.

### Strategies

- Proactively evaluate current ordinances and policies to determine whether there are obstacles that can be removed or modified to achieve the community's housing goals.
- Create design standards to improve the overall quality of North Ogden's housing.
- Work with homeowners, landlords, and renters to maintain and improve existing properties.

The memo offered a summary of potential City Council considerations:

- Are the accessory dwelling unit amendment standards appropriate?

The memo concluded the Planning Commission found that this amendment is consistent with the General Plan and recommends adoption by the City Council. The vote was 6-0 in favor.

Mr. Scott reviewed his staff memo and he and City Attorney Call provided an overview of the implications of the proposed ordinance with a focus on the changes that have been made to the document since the Council's last discussion of the issue.

Council Member Swanson indicated that regardless of the amendments that have been made to the ordinance throughout the Council's consideration of this issue, he cannot get past his concerns about how a detached ADU would impact a single-family residential neighborhood and he will vote in opposition to the ordinance for that reason. Council Member Satterthwaite stated that he feels that requiring a minimum lot size of half-acre in order for a detached ADU to be constructed should be sufficient as a half-acre is quite a large piece of property. Mayor Taylor stated that he would be hesitant to allow detached ADUs on half-acre lots in other zones throughout the City; he shares the same concern as Council Member Swanson regarding detached ADUs. Council Member Stoker stated she is also not comfortable with allowing detached ADUs and she will be voting in opposition as well; she feels allowing the land use will result in unintended consequences.

Council discussion continued with a focus on the impact a detached ADU would have on single family zones in the City and required setbacks for detached ADUs. Council Member Swanson stated the Council previously adopted an ordinance prohibiting flag lots to prevent the type of situation that would be created by detached ADUs; he understands that the front unit must be owner occupied and that a detached ADU could only be rented and not sold to another owner, but he feels that the impact on single family neighborhoods would be the same as a flag lot. Council Member Turner stressed the proposed ordinance only applies to the RCC zone and there are only nine lots that would be eligible for detached ADUs; there are some lots in that zone that already have detached ADUs and he does not have a problem with allowing additional detached ADUs in that zone. Council Member Swanson stated that his concern about allowing a dwelling unit in the back yard of an existing residence will have a negative impact on adjacent properties. Council Member Satterthwaite stated that all property owners have rights and he feels it appropriate to allow those owning a property over a certain size to construct a detached ADU in their rear yard. Council Member Swanson asked which property owners should expect to have their rights protected: the person desiring to build the ADU in their backyard or the five neighbors around that person that will be impacted by the land use. He stated he is leaning towards protecting the property rights of the five neighbors who likely purchased their property in a certain neighborhood with the expectation that the single family nature of their neighborhood would be maintained. Two other ordinances have been adopted that prohibit detached buildings in rear yards in the RCC zone, but the proposed ordinance would allow a similar land use if someone is going to live in the building.

**Council Member Satterthwaite moved to table the proposed ordinance amending the Residential City Center (RCC) zone allowing accessory dwelling units, and to create a new section in Chapter 10 Regulations Applicable to More Than One Zone; Accessory Dwelling Unit; tabled until the City Council meeting to be held in two weeks. Council Member Swanson seconded the motion.**

Council Member Turner stated that he would have been comfortable voting this evening as he is comfortable with the way the ordinance is written. Council Member Urry agreed. Council Member Satterthwaite stated that he would have also been willing to adopt the ordinance this evening, but he thanked the Council for agreeing to delaying the action for two weeks. He asked Council Member Stoker to restate her concerns regarding the proposed ordinance.

Council Member Stoker stated that it seems that individual rights are being infringed upon by a majority. She is not comfortable with the ordinance the way it is written and she thanked the Council for being willing to delay action for two weeks.

**Voting on the motion:**

**Council Member Satterthwaite     aye**



<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**Council Member Swanson moved to set aside the rules and allow public comment at this time. Council Member Stoker seconded the motion; all voted in favor.**

**11. PUBLIC COMMENT**

Dan Carter, no address given, stated that when Mel Blanchard was working for the City he asked for an access to the site where the Public Works Facility was to be built; he spoke with Carmen Sanone who gave him permission for the access and as a favor to Ms. Sanone, Mr. Blanchard installed a pipe that blocked the pipe to the south. It has a concrete sleeve that is grounded into Ms. Sanone's field drain. The drain is gravity fed, but it is now blocked and it is causing flooding at his property. He added that this could also weaken the road that is built on top of the pipe. He stated that he has talked with the current Public Works Director Espinoza and the Mayor and he feels she has no option but to now seek help from the City Council and the City Attorney. He asked for suggestions as to how to proceed from this point. He stated the pipe needs to be removed and he asked who will pay for the damages to his property and the improvements on his property. The snow is melting fast and there are rain storms in the forecast and the flooding will only get worse. Mayor Taylor stated that he has given his answer to Mr. Carter and he is not willing to debate the issue during this meeting; there is no way to substantiate the claim that the City installed the drain and the person that Mr. Carter has accused of installing the drain has indicated that he did not. Mr. Carter stated he watched the work being done and he reiterated that the work was done as a favor to Ms. Sanone in order for him to gain access to the Public Works Site. Mr. Espinoza identified the location of the properties in question on a map for the Council's benefit. He noted that Mr. Carter has indicated that drains in the area were open in the past and that allowed free watershed from his property, but Ms. Sanone had argued that this caused flooding to her property. He stated that Mr. Carter is claiming that a small section of open ditch was piped and blocked. Mayor Taylor added that neither property is located in North Ogden City; both are located in unincorporated Weber County and the City does not have storm drain facilities on the property nor does the City have any obligation to direct storm water from the properties. He stated that the entire issue hinges on Mr. Carter's interpretation of what occurred in the past and there is nothing to substantiate his claims. Mr. Carter stated that he has not spoken to Mr. Blanchard, but is willing to swear that he watched him perform the work. He asked what will happen if he knocks the pipe out. He stated that half of his property is located in North Ogden City. Mayor Taylor stated the City cannot advise Mr. Carter and he reiterated that the City does not have any storm drain facilities on the road, which was a County road that was built prior to development of the City's



storm drain system. He stated he does not feel this is an issue that the City can mitigate. Council Member Satterthwaite stated that it would be out of line for the City to perform any activity requested by Mr. Carter on property that is located in the County. City Attorney Call stated that this type of issue is typically left to be resolved between two private property owners. He stated that water is defined as a 'common enemy', which means that every person has the right to fight water as long as their actions do not harm someone else. He recommended that Mr. Carter talk to an attorney before proceeding with any action that will unblock the pipe or flood Ms. Sanone's property. Mr. Carter provided historical information regarding development of the area that has resulted in flooding of his property. Mayor Taylor stated that the City cannot permit Mr. Carter to do something that would ultimately negatively impact Ms. Sanone's property. Mr. Carter stated that failure to unblock the drain could result in the road being washed out. Mayor Taylor stated that he does not want that to happen, but reiterated that the road is a County road.

Council Member Swanson stated that the City cares about Mr. Carter, but there is nothing the City can do at this point; he reiterated that the properties are located in Weber County and the road is not a City road.

**COUNCIL MEMBER SWANSON MOVED TO CLOSE THE PUBLIC COMMENT PERIOD.**

Council Member Satterthwaite stated that the City may be able to make a phone call to the County to inform them of the situation.

**COUNCIL MEMBER SATTERTHWAITE SECONDED THE MOTION TO CLOSE THE PUBLIC COMMENT PERIOD; ALL VOTED AYE.**

Mayor Taylor asked Mr. Espinoza to contact Weber County tomorrow to arrange a meeting with their storm water officials to evaluate the situation. Council Member Swanson stated that he will also reach out to the County Commissioners to make them aware of the situation.

**9. DISCUSSION AND/OR ACTION TO CONSIDER AN AMENDMENT TO THE INCENTIVE PAYMENT PROGRAM ON THE 400/450 EAST WIDENING PROJECT**

A staff memo from City Attorney Call explained the City has been successfully closing on several properties for the 400/450 East expansion project and have purchased or put under contract most of the homes along the roadway. However, there are some issues with one property because of some contractual obligations the property owner has with a previous spouse. City Administration is asking that the Council authorize extension of the incentive payment deadline for this property owner until it is possible to determine if contractual/legal issues can be resolved. Staff believes it will be a simple process,

however, it will take some time to complete. City Administration recommends passage of the proposed resolution, which amends resolution 20-2016 passed on August 30, 2016.

Mr. Call reviewed his staff memo and facilitated a brief discussion among the Council regarding the implications of the proposed ordinance.

**Council Member Urry motioned to approve Resolution 02-2017 amending the Incentive Payment Program for the 400/450 East Widening Project. Council Member Satterthwaite seconded the motion.**

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**10. DISCUSSION AND/OR ACTION TO CONSIDER AN AMENDMENT TO MERIDIAN'S CONTRACT FOR MONROE BOULEVARD**

A staff memo from City Attorney Call explained the City has been moving forward with the purchase of properties for the Monroe Boulevard project. During the project, we have had to make several amendments to the drawing provided to us by Meridian Engineering to accommodate the requests of the property owners for new alignments and to avoid purchasing homes as instructed by the City Council at the outset of this project. Here is a list of items that had to be amended to accomplish the project.

1. Parcels 119 & 129 both changed ownership during acquisition. This resulted in new plans, deeds, and ownership records to be prepared for the new owners.
2. Parcel 125 - Hall Brothers - The Hall Brothers requested design changes for the relocation of the future detention pond. This resulted in all deeds and plans needing to be changed.
3. Parcel 131 - Champneys - This land owner requested that the acquisitions be redesigned because they did not want to convey all of the land required for Monroe Blvd. New deeds and easements were prepared for those portions that the landowner was willing to sell.
4. 2750 North - We prepared deeds to clean up the issue of the location 2750 North where it was not properly vacated near the Hall Brothers property.
5. As part of the 5th summary of right of way all temporary construction easements were eliminated and replaced with larger perpetual easements. This affected easements on 7 different landowners.

6. A status map was prepared to illustrate which parcels had offers accepted, pending, or rejected.

In all, 11 of the 25 properties had to be submitted more than once to Meridian, which resulted in additional work. Meridian has informed the city they are unable to complete the final few properties unless an additional fee arrangement is worked out. They have recommended that the City agree to a “per parcel” price for the few remaining properties (approximately 5) at the same cost as the Washington Blvd. per parcel price. (\$1849.70 per parcel). I am recommending the Council approve this amendment to the existing contract as shown in the attached agreement. We have over \$1,000,000 remaining in our acquisition funds from the County so this will not impact the City’s budget in any way as all expenses will be reimbursed by the County and the cost of the final properties will not exceed the money we still have available from the County.

Mr. Call reviewed his staff memo and noted that since the time he drafted it the contractor has indicated that the additional cost per parcel will actually be \$1,100 rather than \$1,879.70. He reviewed the proposed modifications to the professional services agreement as detailed in his staff memo. He added there is sufficient money available in the project budget to cover the additional costs and the County has indicated they are comfortable with the proposed contract modifications.

Council Member Urry inquired as to the total fiscal impact of the proposed contract modifications, to which Mr. Call answered between \$4,400 and \$5,500, which is not even one percent of the total project cost. Mayor Taylor added that he has scrutinized the request to determine the party responsible for the necessary changes to the scope of work and he does not believe Meridian is responsible and he supports the contract modification.

The Council briefly discussed the scope of work assigned to Meridian, with Mr. Call noting Meridian is simply performing survey work for the properties needed to facilitate the Monroe Boulevard project. Unforeseen situations have arisen for four or five properties in the project corridor.

**Council Member Swanson motioned to approve Agreement A2-2017 an amendment to Meridian’s contract for Monroe Boulevard. Council Member Urry seconded the motion.**

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**11. PUBLIC COMMENTS**

There were no public comments.

**12. COUNCIL/MAYOR/STAFF COMMENTS**

Council Member Stoker thanked the Public Works Department for snow removal service in the City. She then referenced an article in the Standard-Examiner today regarding recycling and she asked if the subject matter means there will be a problem for the City. Mayor Taylor stated he will address that issue in his report; there will be a significant fee increase passed on to the City by Weber County. The trash/recycling program at the City has been grossly mismanaged and attempts to correct problems with the program require additional funding. Council Member Urry added that decreased fuel prices also impact recycling revenues.

Council Member Satterthwaite also thanked the Public Services Department for snow removal. He then reported that there is a State Legislator that is concerned about a lack of transparency relative to fund transfers between municipal utility funds and general funds; this may lead to legislation requiring additional reporting requirements. Mayor Taylor stated he is aware of the potential legislation and understands that it relates to the transfer of money from any utility fund to the general fund or a capital projects fund for a non-utility project. In the seven years that he has served as an elected official for the City, he is not aware of any transfer that would have violated the proposed legislation. The City does transfer money to cover administrative services related to utilities in the City and that activity would not be prohibited by the legislation.

Council Member Satterthwaite offered his appreciation to the Mayor for following the City's process to seek advice and consent of the City Council relative to the appointment of Planning Commissioners.

Council Member Urry referenced the budget; with the knowledge that garbage and recycling fees will be increased, the Council must be sensitive to the fact that those living on social security only received a .03 percent increase. He would like to consider pro-rating garbage fees for those that only have their cans emptied every week, or to provide a smaller can for these types of residents and charge them a lower fee. Mr. Espinoza stated he will take that recommendation under advisement and he will research receptacle options with the City's vendors and service providers. Council Member Urry then suggested that in future budget years, any snow removal funding left at the conclusion of the winter should be carried forward to the next year to accumulate and be used in years when additional money is needed. He then discussed the sawdust pile at the top of 1700 North; Mr. Call has indicated in the past that the property owner, Mr. Malan, owns to the

middle of the street and he can legally keep the sawdust there, but he does not agree with that analysis. He stated that he technically owns the property to the middle of the street where he lives, but that does not mean he can pile junk in the middle of the road. He asked why Mr. Malan is allowed to store the sawdust in the road and he suggested the City take a tougher stance in that situation. He then addressed the comments made earlier in the meeting by Mr. Carter; it is nice to want to help people, but it has been his personal experience that every home he has lived in in North Ogden has had flooding issues and he has been responsible to fix them with no assistance from the City. He stated that if Mr. Carter is having flooding problems on his property, he should be personally responsible to fix them. Mayor Taylor agreed.

Council Member Swanson thanked the Public Works Department for efficient snow removal service in what has been a ‘crazy’ winter season. He drives through many communities on a regular basis and North Ogden has the best plowed streets and the work is done by fewer employees and less equipment. Council Member Stoker agreed and added that the City does not have the number and severity of potholes that other cities have and she thanked the Public Works Department for that as well. Mayor Taylor added that the revenue generated by the City’s transportation fee has been used wisely by the Public Works Department.

Council Member Turner stated that he would like for the City Council to receive information regarding budget recommendations in advance of any budget retreats or meetings scheduled so that Council Members are as prepared as possible to discuss the recommendations. Mayor Taylor stated that he and the Departments Heads are meeting next Wednesday to begin compiling budget recommendations and he committed to provide budget priorities and recommendations at the beginning of March well in advance of the first budget retreat meeting. Council Member Turner referenced the North Ogden Magazine and asked that a section be reserved each month to allow the City to provide information and reminders about certain City ordinances. Mr. Call stated there is a ‘community corner’ in the magazine and it has been used to respond to questions the City receives about various ordinance and regulations. Council Member Turner suggested that the Mayor advertise on his Facebook page that citizens have the ability to ask questions and have them answered in the magazine.

Mayor Taylor addressed trash and recycling; the Weber County waste facility has been mismanaged and is \$2.4 million in debt that can only be paid back via higher tipping fees charged to cities in the County. The recycling credit that was discussed two years ago has only been two payments of \$17. The transfer station is literally falling apart as no money has been budgeted for capital improvements. Fees will be raised by 15 to 20 percent in the next month and the City has no choice but to pass those increases on to residents.

Council Member Turner asked if the situation impacts the City’s contract with the trash hauler, Republic Services. Mayor Taylor answered no; the City pays Republic to collect trash and deliver it to the transfer station. The City then pays Weber County tipping fees. Recycled waste has been sent to a company in Ogden called Recycled Earth and they

accept it at no charge. The County is proposing charging \$20 per ton for recycling materials and he and other Mayors in the County have indicated that they would prefer to continue using Recycled Earth and that issue will need to be addressed; however, if the County cannot collect tipping fees for recycling, they will only raise garbage tipping fees higher to compensate for the lost income on recycling. They have a goal of collecting the \$2.4 million from cities over the next five years. Council Member Swanson suggested that the Weber Area Council of Governments (WACOG) approach the County Commission to recommend selling their gun range to a private entity for \$9 to \$10 million and use that money to do what they need to do to improve the infrastructure at the waste facility while holding residents harmless. He stated that residents should not experience a 20 percent fee increase as a result of poor management by elected officials while paying \$10 million for a gun range that they will never use. Council Member Urry added that WACOG should also investigate where there may be some private companies that can manage the transfer station better than the County has been able to. Mayor Taylor stated that several WACOG members suggested that, but the County will only consider turning the transfer station over to a private company if that company is willing to assume the \$2.4 million in debt and that is unlikely to happen. He added that WACOG first heard of this issue a couple of months ago, though the deficit has been in place for years. He has asked for a full accounting of recycling credits and how they were used. He has also asked for additional details about their proposal for increasing trash tipping fees if there is no recycling income available to the County. He has also proposed to WACOG that they form a solid waste district under management of the Mayors throughout the County; this would be similar to other districts, like the sewer district, and the County would not be managing it. Ogden City is the most frustrated because they paid to construct the transfer station and the County has not properly managed it. He stated he will provide more information as it becomes available, but cities and residents throughout the County should be prepared for a likely fee increase. WACOG refused to approve the recommended fees at their meeting last night, but it will be considered again next month.

Council Member Urry stated that this should serve as a reminder that the City needs to carefully consider actual budget needs while taking into consideration the types of impacts that residents are experiencing as a result of actions of other entities.

Mayor Taylor then stated there will be a sewer increase as well related to Environmental Protection Agency (EPA) mandates to remove nitrogen from the waste stream; the total increase is in the neighborhood of 25 percent, but will be implemented by two or three percent increases over the course of several years. He stated that ridiculous federal regulations will continue to be mandated and the City and special service districts have no choice but to adhere to them. He stated there will be similar mandates relative to storm water management, but he reported that the City's general fund is in good shape and revenues are exceeding projections.

Mayor Taylor then discussed the upcoming Cherry Days celebration and noted the Cherry Days Committee will be meeting with the Council soon to discuss concerns raised



regarding candy throwing in the parade. He asked that the Council be thinking of that issue in advance of the meeting.

Mayor Taylor concluded that the next regularly scheduled Council meeting falls on Valentine's Day and he asked for a motion to cancel that meeting.

**Council Member Swanson moved to cancel the regularly scheduled meeting of February 14, 2017. Council Member Stoker seconded the motion; all voted in favor.**

**13. TRAINING ON OPEN & PUBLIC MEETINGS AND HARASSMENT**

City Attorney Call provided the Council with the annually required training regarding the Open and Public Meetings Act (OPMA) as well as training geared towards the prevention of harassment.

**14. ADJOURNMENT**

Prior to adjourning, Council Member Urry asked for an update on the Questar station proposal. Mr. Call stated that the project is moving forward and City Administration is conducting an analysis regarding renting property to Questar to generate revenue to improve the old Public Works Facility site. He facilitated a discussion among the Council regarding their feelings about spending money to clean up the site, which will ultimately be sold or the buildings located there will be demolished. Three Council Members indicated they feel the City should rent the site to Questar for storage of their equipment during their transfer station project and use the revenue from the rent as deemed appropriate. Mr. Call stated he will negotiate an agreement with Questar and bring it back to the Council for formal approval.

**Council Member Swanson motioned to adjourn the meeting. Council Member Satterthwaite seconded the motion.**

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed.**

**The meeting adjourned at 9:45 p.m.**



---

Brent R. Taylor, Mayor

---

S. Annette Spendlove, MMC  
City Recorder

---

Date Approved

Not Approved