

1 NORTH OGDEN CITY COUNCIL MINUTES

2 August 27, 2013

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5 The North Ogden City Council convened in an open meeting on August 27, 2013 at 6:30 p.m. in the  
6 North Ogden City Council Chambers at 505 East 2600 North. Notice of time, place and agenda of the  
7 meeting was delivered to each member of the City Council, posted on the bulletin board at the municipal  
8 office and posted to the Utah State Website on August 22, 2013. Notice of the annual meeting schedule  
9 was published in the Standard-Examiner on January 30, 2013.

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11  
12 PRESENT: Richard G. Harris Mayor  
13 Kent Bailey Council Member  
14 Wade Bigler Council Member  
15 Justin Fawson Council Member  
16 Cheryl Stoker Council Member  
17 Brent Taylor Council Member  
18

19 STAFF PRESENT: Ronald F. Chandler City Manager  
20 S. Annette Spendlove City Recorder/ H.R. Director  
21 Craig Barker Community Development Coordinator  
22 John Call City Attorney  
23 Gary Kerr Building Official  
24 Clark Crowther Lieutenant  
25 Tiffany Staheli Community Services Director  
26

27 VISITORS: Charles Crippen Arlene Borgman  
28 Gary Borgman Nathan Hall  
29 Jim Urry Michael Dufrene  
30 Blake Welling Joan Brown  
31 Jim Suhr Lynn Millard  
32 Melodie Toll Conner Toll  
33 Tiffany Turner Naomi Foulger  
34 Sharon Weeks Steve Sorensen  
35 Bob Buswell Phillip Swanson  
36 Brian Russell Terry Spicker  
37 Rachel Trotter  
38  
39

40 Mayor Harris welcomed those in attendance.

41  
42 Council Member Bailey offered the invocation and led the audience in the Pledge of Allegiance.  
43  
44

45 **CONSENT AGENDA**

- 46  
47 **1. Consideration to approve the minutes of the June 11, 2013 City Council Meeting**  
48 **2. Consideration to approve business licenses**  
49  
50

51 **Council Member Bailey moved to approve the Consent Agenda, Council Member Taylor**  
52 **seconded the motion.**

53  
54 **Voting on the motion:**

55  
56 **Council Member Bailey aye**  
57 **Council Member Bigler aye**  
58 **Council Member Fawson aye**  
59 **Council Member Stoker aye**  
60 **Council Member Taylor aye**

61  
62 **The motion passed unanimously.**

63  
64  
65 **ACTIVE AGENDA**

66 **1. PUBLIC COMMENTS**

67  
68 Michael Dufrene, 587 E. 3700 N., stated he sent an email to the Council to explain why he would be here  
69 tonight. He added he also talked to the City Recorder after reading the minutes of the May 28, 2013  
70 meeting and he read an excerpt from the minutes as follows:

71 “Mr. Dufrene stated he is glad Council Member Bigler brought up the fact that he has the right to do  
72 certain things. He stated all he is asking is for the public to weigh-in on this issue. He noted a  
73 precedent was set by the City Council, led by Council Member Bigler as far as he can tell in the  
74 meeting minutes and by everything he has seen and witnessed, to establish and keep Mr. Baguley’s  
75 business in operation and he thinks the public has a right, whether they live next door to Mr. Baguley  
76 or not, to address the Council because this issue can have an impact on their livelihood from this day  
77 forward. Council Member Bigler stated Mr. Dufrene’s letter states the opposite in asking that the  
78 issue not be opened up for everyone to speak on.”

79 Mr. Dufrene stated that is not a correct statement and he would like the minutes from the meeting tonight  
80 to reflect that. He asked Council Member Bigler if he has a copy of the letter in question and if he can see  
81 it. Council Member Bigler stated it is in the Council packet. Mr. Dufrene asked to see it and asked  
82 Council Member Bigler to read from it. He stated Council Member Bigler knew Mr. Dufrene would be  
83 here tonight and why he was coming and he would have thought Council Member Bigler would have  
84 prepared for that. Council Member Bigler stated public comment is not a time to debate, but he would be  
85 happy to email the letter to Mr. Dufrene. Mr. Dufrene said no and reiterated he emailed Council Member  
86 Bigler and told him why he would be here and public comments are meant for things such as what he is  
87 doing right now and Council Member Bigler is using up his three minutes. Mayor Harris stated the  
88 Council only hears comments and will take action in due time, but public comment is normally not a  
89 question and answer period. Mr. Dufrene stated he will come to the next City Council meeting to discuss  
90 the issue face to face and he will apologize if he is wrong, but if he is not he wants an apology. He asked  
91 Council Member Bigler if he read his email. Mayor Harris stated the issue will be addressed and the  
92 minutes will be checked. Mr. Dufrene stated that until such time that Council Member Bigler can provide  
93 a copy of the letter wherein he claims Mr. Dufrene contradicted himself, one of them is not telling the  
94 truth and he would like for that to be included in the minutes. Mayor Harris stated the gests of Mr.  
95 Dufrene’s comments are noted; he is disputing the minutes and would like them corrected. He stated the  
96 City will look into that.

97  
98 Gary Boordman, no address given, referenced concerns about the City’s animal keeping ordinance, which  
99 currently allows each household to have two dogs, but he heard rumors that there is discussion about  
100 allowing three dogs per residence and he thinks that would be excessive because most people that do have

101 dogs do their best to take care of them, but he still finds feces in his yard and he thinks three dogs is too  
102 much for this area considering how close the houses are located to one another. Mayor Harris stated that  
103 issue will be addressed under item 12 on tonight's agenda and there is no intention of allowing three dogs  
104 per household; rather the Council will be considering a special exception for active police service dogs.  
105 Mr. Boardman stated he does not know how that issue has been misunderstood because he thought the  
106 action the Council was considering was to allow three dogs per household and he thought that was  
107 excessive. Mayor Harris reiterated that is not the proposed action and Mr. Boardman is welcome to stay  
108 and listen to the discussion.

109  
110

111 **2. DISCUSSION AND/OR ACTION TO APPROVE A PRELIMINARY DEVELOPMENT**  
112 **PLAN FOR SMITH'S MARKET PLACE; AND**

113 **3. DISCUSSION AND/OR ACTION TO APPROVE A PETITION TO REZONE**  
114 **PROPERTY LOCATED AT 2550 NORTH 500 EAST**

115

116 A memo from Community Development Director Barker explained the property to be rezoned is a  
117 relatively small piece on the northeast part of the site which is just south and east of the existing store.  
118 The proposal is for a 123,000 square foot store which is approximately two times the area of the present  
119 store. The rezoned area will be zoned Commercial CP-2 (Planned Commercial) from Residential R-2.  
120 This zoning will make the entire site approximately 11 acres in area. These 11 acres will be east of the  
121 existing credit union, fuel center, and auto supply stores which front on Washington Boulevard. There  
122 will be three accesses to this site with a possible fourth, depending what develops south of the new store  
123 on the vacant property there. The site will have approximately 20% of the total site landscaped. The  
124 existing North Ogden Canal will be piped through this property and an easement for a public trail  
125 provided on top of the piped area. An eight foot high screened area is required when a commercial zone  
126 abuts a residential zone. This occurs on the east and south of the proposed site. The property to the south  
127 has the potential to be developed as a commercial site as well so the need for the fence at present exists  
128 but might not in the future. Most of the City's commercial areas have chosen to use a white vinyl fence,  
129 but other materials or landscaping may be used as long as the growth creates a 95% screen opacity value.  
130 The memo summarized the proposed building features as follows:

- 131 • This building will be constructed of colored and textured CMUs ( concrete masonry block)
- 132 • It will have a decorative front with building enhancements as the ordinance requires
- 133 • The building height is 38 feet at its highest point, 3 feet higher than the ordinance allows
- 134 • There will be a drive up pharmacy window on the north side

135 **Parking Lot**

- 136 • There will be over 500 parking spaces more than the ordinance requires
- 137 • The parking lot landscaping meets the 8% interior landscaping required
- 138 • Parking lot lighting fixtures to provide for light cone from recessed lighting

139 **Walkways**

- 140 • Shall be a minimum five feet wide
- 141 • A minimum of 20% of a walkway shall be decorative concrete (colored, stamped or exposed  
142 aggregate), pavers, or brick

143 **Landscaping**

- 144 • 20 % of the site shall be landscaped
- 145 • Up to 30% may be "hardscape" pedestrian plazas, walkways and other pedestrian oriented  
146 hardscape.
- 147 • Side and rear yard areas adjacent to lesser zoned areas (residential) shall have a 10 foot yard with  
148 trees planted every 50 feet and turf except or shrubbery.

149 It is recommended by staff that the rezoning be approved as well as the Preliminary Development Plan  
150 with the stipulation that it meets the ordinance requirements upon submittal of the Final Development

151 Plan to the Planning Commission. The ordinance provides for the Planning Commission to approve the  
152 Final Development Plan.

153  
154 Mr. Barker reviewed his staff memo and reviewed a map to identify the location of the subject property as  
155 well as the layout of the proposed development. He noted this item and the next agenda item go hand in  
156 hand and an explanation of both proposed actions is included in his staff memo.

157  
158 Councilmember Fawson asked if the proposed trail system will be located immediately behind the wall  
159 that will be constructed on the property. Mr. Barker stated the layout of the trail will be included on the  
160 final development plan for the project, but he believes it will be located on the commercial side of the  
161 property. He then reviewed the section of his memo regarding the wall that the developer will be require  
162 to construct on the property line to provide a buffer between the development and the nearby residential  
163 property. City Manager Chandler added that the Council packet includes approximately 13 pages of  
164 drawing that serve as the preliminary development plan for the project. Mr. Barker reviewed the  
165 drawings and highlighted items of note relative to the design of the proposed building and surrounding  
166 landscape and walkways. He concluded his report by noting the engineer for the development, Mr. Bret  
167 Wahlen, is present this evening to answer any questions the Council may have.

168  
169 Council Member Taylor asked why this action is being brought before the Council. Mr. Barker stated a  
170 request to rezone a parcel of property to CP2 requires both Planning Commission and City Council  
171 approval of a preliminary development plan; the Council will not be required to approve the final  
172 development plan, though he will provide them with a copy. He noted this is the opportunity for the  
173 Council to discuss any major issues or concerns they have regarding the preliminary development plan.

174  
175 Council Member Bailey asked about the proposed walkway; the proposal is to construct an eight foot wall  
176 on the property line and locate the walkway adjacent to it. He stated that walkway will not be very  
177 attractive as a result and he asked if there is something that can be done to make it more attractive. Mr.  
178 Wahlen, Great Basin Engineering, stated one of the plans for developing the back area as the canal is  
179 covered is to remove the existing retaining wall and re-grade the area. The developer plans to construct  
180 some very aesthetically pleasing transitions to clean the area up and he feels it will meet the desires  
181 expressed by Council Member Bailey. Mr. Barker added there is an eight foot elevation change from the  
182 top of the canal to the rear of the existing Smith's store.

183  
184 Council Member Bigler asked if Smith's is paying for the work to pipe the canal. Mr. Barker answered  
185 yes, but noted the City is sharing in some of those costs as agreed to in an agreement adopted by the  
186 Council last week. Council Member Bailey stated he believed the City is paying to reroute the canal.  
187 Council Member Bigler stated he understands that will be paid for by the City, but wondered if the other  
188 work associated with the canal is going to be paid for by Smith's. Mr. Barker answered yes – as far as he  
189 knows. Mayor Harris stated the City has entered into an agreement with Smiths whereby the City will  
190 provide infrastructure work associated with the development and how that work is carried out depends on  
191 a lot of factors, but it is appropriate for the City to participate in the project in that manner especially  
192 since much of the infrastructure will be regional in nature and serve other adjoining properties. Council  
193 Member Bigler stated he simply wanted to ensure the City is not participating in other improvements  
194 scheduled to take place at the development, such as those being discussed by Mr. Barker this evening.

195  
196 Council Member Taylor stated Mr. Barker mentioned planters between the new gas station and the  
197 parking lot and the fact that they will count towards the percentage of landscaping that the developer is  
198 required to provide and he asked how much of the landscaping will be traditional versus planters. Mr.  
199 Barker reviewed the plan for the project and identified the areas in which grass will be planted as well as  
200 the areas where there will be planters and trees. He added that a commercial development abutting a  
201 residential development is required to plant one tree every 50 feet. Council Member Bigler stated one of

202 the drawings that make up the preliminary development plan includes a closer view of the proposed  
203 landscaping at the site and it appears there will be many trees and he is very pleased with that.

204  
205 Council Member Taylor asked what the planters will look like and how tall the plants located inside of  
206 them will grow. Mr. Barker stated he would suspect there will be a tree, such as a plum tree, that will  
207 grow to be 15 to 20 feet tall and underneath the tree there will be different ground cover plants.

208  
209 Council Member Bailey stated his questions are relative to the amount of traffic that will be coming into  
210 the development and he asked if any traffic studies have been conducted to analyze that issue. Mr. Barker  
211 stated the Planning Commission was also concerned about that issue and they asked the developers to  
212 look at the ingress and egress points to determine if there is a need for additional traffic lanes in either  
213 direction. Council Member Bailey stated he simply wants to make sure the traffic issue will be looked at  
214 carefully by the developer and the Planning Commission.

215  
216 Mr. Barker then reviewed the portion of his memo regarding the proposed rezone of the property and  
217 noted the Planning Commission has recommended the City Council approve the proposed rezone.

218  
219 Council Member Bailey asked how this development will impact the parking area of the existing Senior  
220 Center, which immediately abuts the property. Mr. Barker stated there will be a buffer between that  
221 property and the subject property.

222  
223 Mayor Harris stated he would like the Council to consider a motion regarding the rezone prior to making  
224 a motion regarding the preliminary development plan. Council Member Bailey stated he believed City  
225 ordinance requires that the preliminary development plan be approved prior to the property rezone. Mr.  
226 Barker stated that is not necessarily required; the only requirement is for the preliminary development  
227 plan to be approved by the City Council and the Planning Commission.

228  
229 **Council Member Fawson moved to approve a petition to rezone property located at 2550 North**  
230 **500 East. Council Member Bigler seconded the motion.**

231  
232 **Voting on the motion:**

233  
234 **Council Member Bailey aye**  
235 **Council Member Bigler aye**  
236 **Council Member Fawson aye**  
237 **Council Member Stoker aye**  
238 **Council Member Taylor aye**

239  
240 **The motion passed unanimously.**

241  
242 **Council Member Fawson moved to approve a Preliminary Development Plan for Smith's**  
243 **Marketplace. Council Member Stoker seconded the motion.**

244  
245 **Voting on the motion:**

246  
247 **Council Member Bailey aye**  
248 **Council Member Bigler aye**  
249 **Council Member Fawson aye**  
250 **Council Member Stoker aye**  
251 **Council Member Taylor aye**

252 **The motion passed unanimously.**

253

254 Council Member Bigler stated during last week's Council meeting Mr. Chandler made mention that he  
255 and the Mayor would be meeting with the Taxing Entity Committee (TEC) regarding this project and he  
256 asked for an update regarding that meeting. Mr. Chandler stated he and Mayor Harris met with Weber  
257 County and they are very supportive of the expansion of the redevelopment area and there is an upcoming  
258 meeting scheduled with the Weber School District to talk about the same issue.

259

260

#### 261 **4. CONSIDERATION OF A BEE ORDINANCE**

262

263 Nathan Hall, 2870 N. 1025 E., stated he has proposed an ordinance regarding bee keeping in the City and  
264 he is willing to answer any questions about that proposal. He stated he feels it is time for North Ogden  
265 City to follow what other cities in the area have done; even other large metropolitan cities, such as San  
266 Francisco, have adopted a bee ordinance.

267

268 Mayor Harris stated there were some questions regarding the proposed ordinance and he asked City  
269 Attorney Call if he had researched State statutes regarding bee keeping. Mr. Call stated he has conducted  
270 some research and noted State statutes currently govern bee keeping as a business and there would be no  
271 restrictions against the City controlling or mandating bee keeping in any way. Mayor Harris stated the  
272 City does not currently have an ordinance regarding bee keeping, so technically bees are not allowed. Mr.  
273 Hall stated he disagrees and stated within North Ogden City Code there is a section regarding agricultural  
274 use of land and since beekeeping is governed by the Agriculture Department of Utah he would submit  
275 that bee keeping is an agriculture activity. He stated that unless the use emits excessive lights or noise  
276 past certain hours, it is legal in North Ogden City. He added that he made this proposal for clarification  
277 purposes only. Mayor Harris stated that his question is whether the City actually needs an ordinance  
278 regarding bee keeping.

279

280 Council Member Bigler stated whether an ordinance is needed is based on how the situation is looked at  
281 and he looks at in a similar manner as Mr. Hall in that people should not be prohibited from doing  
282 something if the government has not said they can do it. He stated that is backwards from what the  
283 constitution says; if there is no ordinance permitting something, that should not mean a citizen cannot do  
284 what they want to do. He stated everyone has freedoms and the government is in place to protect those  
285 freedoms. He noted that without an ordinance in place it seems to him that bee keeping is ok; if there  
286 were a problem that caused the City to feel an ordinance is needed, that would be a different issue. Mayor  
287 Harris stated he does not disagree with that statement and he asked Mr. Hall why an ordinance is needed  
288 given that bees are already allowed in the City. Mr. Hall stated an ordinance would be a fine idea for the  
289 purpose of controlling populations, just as has been done with chickens or other animals; there may be an  
290 overambitious beekeeper that may have too many hives on a property. He stated he has submitted what  
291 Ogden City recently adopted and it is a hybrid of many different cities' ordinances.

292

293 Mr. Chandler stated that if the City Council does want to allow beekeeping in the City, they should go  
294 through the process of developing an ordinance because it deals with land use laws and under land use  
295 laws, if something is not listed as a permitted or conditional use in the City then it is not permitted. He  
296 stated an example is that the City Code does not say anything about commercial development in a  
297 residential zone, but it would not be allowed to construct a commercial building in a residential  
298 neighborhood because it would not be a permitted use. Staff has talked with the State of Utah about their  
299 governing action regarding beekeeping and whether it overrides the City's land use laws and it does not.  
300 He stated beekeeping is regulated by the State and anyone keeping bees must be licensed with the State;  
301 staff was informed the City can implement more restrictive requirements than the State currently has and

302 he feels that if the Council wants to pursue the issue he would recommend adopting a simple ordinance  
303 that does not duplicate what the State currently has in place.

304  
305 Mr. Barker stated he talked with the County Agricultural Agent regarding this issue and he had some  
306 suggestions regarding regulations that should be put in place, especially for beekeeping on smaller  
307 residential properties. Mr. Hall stated he does not believe the size of the parcel of property matters  
308 because a bee will fly up to five miles to find whatever food or water source they need and that can never  
309 be fully provided on a small parcel of land. He added the reason he got into beekeeping several years ago  
310 was that his garden was failing and he noticed a lack of bees; if there is a hive near a garden there is an  
311 average increase in yield of 400 percent and once he got hives his garden and fruit trees were much more  
312 prolific. He stated the advantages of bees far outweigh any disadvantage associated with them; less than  
313 one percent of the population is allergic to bees.

314  
315 Council Member Bailey asked Mr. Hall if he has multiple bee hives in North Ogden. Mr. Hall answered  
316 yes and stated he also owns a bee supply store in Ogden; it is something he is very passionate about.  
317 Council Member Bailey asked Mr. Hall if he anticipates encountering some issues in the City if an  
318 ordinance is not adopted. Mr. Hall answered no and stated he has had many neighbors thank him for his  
319 hives, but one neighbor has called the City several times to complain about the hives and the City has not  
320 informed this resident that Mr. Hall is within his rights to keep bees on his property. Council Member  
321 Bigler stated Mr. Hall has been told he cannot keep bees on his property and that is why he is making this  
322 proposal. Mr. Hall stated that is correct, even though his understanding of his rights to keep bees are very  
323 different than the City's.

324  
325 Council Member Taylor thanked Mr. Hall for bringing the issue to the Council's attention and stated he  
326 feels the best course of action is the one that Mr. Chandler recommended; it is the course that has been  
327 followed when considering regulations regarding keeping of any type of animal in the City. He stated he  
328 would suggest the issue be sent to the Planning Commission right away for discussion and action and he  
329 suggested they include Mr. Hall in that process. Mayor Harris stated no formal motion regarding this  
330 issue is needed and if the entire Council is comfortable with that recommendation staff is so directed.

331  
332 Council Member Bigler reiterated Mr. Hall provided this recommendation. Mr. Hall stated that is correct  
333 and noted that he provided an exact copy of the document being considered in Ogden and he noted he was  
334 involved in developing the ordinance for them as well.

335  
336  
337 **5. DISCUSSION AND/OR ACTION TO CONSIDER THE NEW PUBLIC WORKS**  
338 **DIRECTOR**

339  
340 Mayor Harris reported this item is not ready for discussion or action this evening and more information  
341 will be provide at a future date.

342  
343  
344 **6. DISCUSSION AND/OR ACTION TO CONSIDER AN AMENDMENT TO AN**  
345 **ORDINANCE CREATING AN ADMINISTRATIVE HEARING OFFICER; AND**  
346 **7. DISCUSSION AND/OR ACTION TO CONSIDER AN AGREEMENT APPOINTING AN**  
347 **ADMINISTRATIVE HEARING OFFICER**

348  
349  
350 A staff memo from City Manager Chandler explained he recently met with Judge Lambert to discuss the  
351 administrative law duties. At issue were the length of time it may take to hear variances due to the Judges

352 busy docket and some potential conflicts that were brought up by the Board of Justice Court Judges. Staff  
353 has been studying the use of an administrative hearing officer in place of an administrative law judge. An  
354 administrative hearing officer is someone who is appointed by the City to hear cases such as variances.  
355 They operate the same as the administrative law judge but don't have to be judges. The attached  
356 document proposes that the addition of "administrative hearing officer" to City ordinances so the City  
357 will have now and in the future the option to use an administrative law judge or an administrative hearing  
358 officer.

359  
360 Mr. Chandler reviewed his staff memo and provided a brief summary of the history of this item. He  
361 noted item six and seven on tonight agenda go hand in hand and he introduced the two people City  
362 Administration is recommending appointing to the position of Administrative Hearing Officer. He noted  
363 an agreement has been drafted to outline the responsibilities of the Administrative Hearing Officers and  
364 the relationship between the appointees and the City.

365  
366 Council Member Fawson asked if there is a net-zero impact associated with this action or if there is a  
367 financial benefit to using an Administrative Hearing Officer rather than the judge. Mr. Chandler  
368 explained there will be an extra cost for the Officer, but it is not a huge expense because the Officer will  
369 not be holding regular hearings throughout the year. He noted that when someone applies for a variance  
370 or some other type of hearing relative to a land use issue, it may take three or four months before they are  
371 able to appear before Judge Lambert; therefore, the biggest advantage to appointing an Administrative  
372 Hearing Officer is relative to speeding up that time frame.

373  
374 Council Member Bigler stated this issue was first considered a year ago and there was quite a discussion  
375 among the Council regarding it and the focus of that discussion was whether this idea would cost the  
376 residents more money and the answer was no because Judge Lambert is already being paid. He stated a  
377 board was dissolved in favor of using Judge Lambert, but now it is becoming apparent the idea was not  
378 the best because it is taking months before someone can appear before Judge Lambert. He reiterated the  
379 process was just changed one year ago and he wondered if it would be possible to go back to a board that  
380 would hear land use appeals. Mayor Harris stated Chris Allred is present this evening and he has had a  
381 lot of experience with Boards of Adjustments and hearing officer scenarios and he would like him to  
382 address Council Member Bigler's question. He first noted that there are costs associated with the Board  
383 of Adjustment as well; it is necessary to convene an open meeting and incur staff costs and in his mind  
384 the costs are not much different for using an Administrative Hearing Officer.

385  
386 Mr. Allred stated the Council does have the authority to reassemble a Board of Adjustment if that is what  
387 they choose to do and he noted Weber County still uses a Board of Adjustment for land use appeals. He  
388 stated the County has spent a lot of time training the members of that Board and they are currently doing  
389 an exceptional job; however, the County has considered the option of using an Administrative Hearing  
390 Officer, as have several other jurisdictions because they have found it to be a more efficient way of  
391 operating. He noted that there is often the sense that if someone from outside the City or independent of  
392 City government is serving as the Hearing Officer, they may offer a more objective view of any given  
393 issue. He added that there is no requirement to use a non-resident and the City could even opt to use a  
394 City employee as a Hearing Officer. He noted not advantage of using a Hearing Officer is that there will  
395 be just one person acting on issues and that person will have a land use law background. He added land  
396 use appeals do not occur very frequently and the expense associated with an appeal will not be too large.  
397 Council Member Bigler inquired as to the actual expense. Mr. Allred stated the charge would be \$100 per  
398 hour.

399  
400 Council Member Taylor asked Mr. Chandler to provide the Council with a rough idea of how many land  
401 use issues in the last year have been heard by the judge as well as the average number of appeals an  
402 Hearing Officer would hear on an annual basis. Mr. Chandler stated in the last year the judge has heard



403 three land use issues; he also reviewed the case load for the past four years and the number of land use  
404 appeals averaged three or four per year. Council Member Taylor asked if appeals are heard one at a time.  
405 Mr. Chandler stated appeals are heard as they are filed, but for some reason they seem to come in spurts  
406 of two or three.

407  
408 Council Member Fawson inquired as to the average time that would be spent on each appeal hearing.  
409 City Attorney Call noted Community Development Director Barker serves as a Hearing Officer for four  
410 or five other cities and he typically bills for two or three hours per appeal, though variance appeals could  
411 take a little longer. He noted the hearing officer would spent an average of one to two hours outside of  
412 the actual appeal hearing.

413  
414 Council Member Bailey stated one year ago one of the biggest issues regarding the Board of Adjustment  
415 was related to training and by the time one's term of office had expired they had heard so few cases. He  
416 noted once they were actually trained to handle the appeals, their term of office ended. He added his  
417 understanding is that there are some very strict requirements regarding variances for land use issues and  
418 he feels it would be better to have a Hearing Officer hear those kinds of cases rather than a Board of  
419 Adjustment. Mr. Call confirmed there are very strict requirements for a variance to be granted.

420  
421 Council Member Stoker stated that she attended several training sessions in order to serve as a member of  
422 the Board of Adjustment and if someone's training is not maintained it would be possible to make  
423 mistakes.

424  
425 Council Member Taylor stated he feels there are good reasons for each of the three different options, but  
426 using someone that is an expert in land use laws will be offering a good service to the residents because  
427 that person will help to ensure the City is following the laws and that a resident is issued a correct ruling  
428 based on laws. He stated in the past the City has received bad legal advice regarding certain issues and  
429 that advice has impacted the City over time. He stated he supports using a Hearing Officer, but his only  
430 question is if this position should be advertised to solicit applications to ensure the process has been  
431 public and open. Mayor Harris stated this discussion makes the process public and open and the City has  
432 gone through the process with respect to a number of attorneys and he does not think the City will find  
433 anyone better than the two potential appointees.

434  
435 Mr. Call added that one conflict can be that the people that usually train the members of the Board of  
436 Adjustment are City employees that will appear before the Board to argue on behalf of the City and he  
437 has seen that create problems in other jurisdictions because the appellant will 'cry foul'. Mayor Harris  
438 stated that in his experience he has served almost 24 years as either an appointed or elected official for the  
439 City and he has seen quite a few Board of Adjustment decisions and he feels a Board made up of citizens  
440 tend to treat their appointment more like that of a Planning Commission appointment and they really have  
441 a tough time sticking to the criteria in place that must be met in order for a variance to be granted. He  
442 stated he feels an Administrative Hearing Officer would be a better option because that person will  
443 understand the law and will have no connection to the residents that may be appearing before them.

444  
445 Council Member Bigler stated the land use experts will also need to take time to study North Ogden  
446 because it has different land use laws than other cities and there will be expenses associated with that  
447 process. Council Member Fawson asked if there would be billable hours associated with that process.  
448 Mr. Allred noted each case will be different; land use principles will apply across the board and there will  
449 be some uniform laws relative to variances, but certainly there will be appeals that will involve City  
450 ordinances and he would need to spend some time reviewing the ordinances that would be applicable to a  
451 give appeal and that would be billable. He stated that would still be within the range that Mr. Call  
452 identified, which is three to four hours per appeal. He stated there may be an event where an issue could  
453 be more complicated and he will spend more time on those issues, but that will not be the norm. He

454 stated he will not take the City's code book home and spend hours reading it and then bill the City for that  
455 time.

456

457 **Council Member Bailey moved to approve Ordinance 2013-10, establishing the position of**  
458 **Administrative Hearing Officer within the North Ogden City Code. Council Member Taylor**  
459 **seconded the motion.**

460

461 Council Member Bigler stated Mr. Chandler has communicated that the drawback of sending land use  
462 appeals to the judge is that it could take him as long as three months to schedule the actual hearing, but he  
463 assumes the appointed Hearing Officers will make this part of their regular work load and he asked how  
464 long it would take for them to schedule a hearing. Mr. Allred stated that land use appeals sent to the court  
465 would be added to the regular court docket, which is backed up a certain amount of time, but he would  
466 plan to hold appeal hearings in the evening hours and those hearings could be scheduled a couple of  
467 weeks to one month after an appeal is filed.

468

469 Council Member Bigler asked if there are any other Council Members willing to reinstate the Board of  
470 Adjustment. He stated there were no major problems with the Board in the past and the City trusts  
471 residents with a lot of things in the City; there are committees making multi-million dollar decisions.  
472 Mayor Harris stated there is a motion on the table and if that motion fails the Council can discussion  
473 alternative options.

474

475 Council Member Stoker stated that the Board of Adjustment can work, but training is necessary and when  
476 she was trained in the past it took several hours, which may not be enough time for certain land use  
477 permits. She added that when she was on the Board they did not deviate from the criteria that must be  
478 met in order to grant a variance because the Board could be held accountable for breaking those rules in a  
479 court of law. She stated she is not opposed to a Board of Adjustment, but she knows reinstating the  
480 Board would require a lot of time to provide appropriate training.

481

482 Council Member Bigler stated Council Member Stoker answered his question regarding whether there  
483 were major problems with the Board; it seems like either the Board would be doing their job and if that is  
484 not the case the appellant could seek recourse or action through further appeals. Mayor Harris stated he  
485 does not disagree with Council Member Stoker nor is he questioning her service or the service of the  
486 entire Board at the time she was a member, but he has seen a number of situations where variances have  
487 been granted that should not have been.

488

489 **Voting on the motion:**

490

491 **Council Member Bailey            aye**

492 **Council Member Bigler            nay**

493 **Council Member Fawson           aye**

494 **Council Member Stoker           aye**

495 **Council Member Taylor           aye**

496

497 **The motion passed on a four to one vote.**

498

499 **Council Member Bailey moved to approve Agreement A2013-10, appointing Chris Allred and**  
500 **David Wilson as Administrative Hearing Officers.**

501 Council Member Bailey's motion died for lack of a second. Mayor Harris stated the Administration will  
502 'go back to the drawing board' regarding the appointment.

503

504 Council Member Taylor stated he would simply like to see the City post the position, unless there is a  
505 reason not to post the position. He stated he would hope Mr. Allred and Mr. Jones would apply and if  
506 they are the best possible candidate they would still be selected.

507  
508 Council Member Fawson agreed with Council Member Taylor and he noted other committee positions  
509 have been advertised in the past and he would like to do the same thing in this case. He stated his opinion  
510 is no reflection on the gentlemen that have been selected for the appointment, but posting the position is a  
511 matter of course. Mayor Harris stated that course has been met in his mind. Council Member Bigler  
512 asked if the position has been posted in the past. Mayor Harris stated this particular position was not  
513 advertised, but the position that was posted was very similar to this one and it was recent enough and the  
514 City interviewed enough attorney's that he felt comfortable recommending Mr. Allred.

515  
516  
517 **8. DISCUSSION AND/OR ACTION TO CONSIDER AN AGREEMENT APPOINTING A**  
518 **CITY PROSECUTOR**  
519

520 A staff memo from Mr. Chandler included a proposed agreement between North Ogden and Chris  
521 Allred for his services as the City's prosecuting attorney. Chris is currently employed with the Weber  
522 County Attorney's office and has been a prosecuting attorney for South Weber and Washington  
523 Terrace. He has agreed to serve in this position for the same fee that was paid Mr. Daines; over the  
524 past five years, the City paid an average of \$8,025.00 per year for these services.

525  
526 Mr. Chandler summarized his memo and noted that Mr. Daines passed away a few weeks ago and it  
527 became necessary to contract with someone to fill the vacancy created by Mr. Daines. Mr. Allred  
528 came highly recommended and the terms of an agreement similar to the agreement between the City  
529 and Mr. Daines has been negotiated with Mr. Allred.

530  
531 Council Member Fawson asked if this position was posted. Mr. Chandler answered no, but noted the  
532 position of City Attorney was posted one year ago and the applicants for that position were considered for  
533 this position. Council Member Fawson stated there was a recommendation during the previous  
534 discussion regarding using someone from outside the City as the Administrative Hearing Officer and if  
535 that person were Mr. Allred would there be the chance for any opinions regarding a biased ruling. Mayor  
536 Harris stated he did not think that would occur because the two positions are very different and follow  
537 very different processes. Mr. Chandler agreed and stated as the Hearing Officer Mr. Allred would hear  
538 land use issues and those issues are not referred to the Justice Court, so the two positions would have no  
539 crossover. Council Member Fawson stated he understands the issues are different, but he wondered if  
540 hiring Mr. Allred as the prosecutor would create a different perception for those appearing before him as  
541 the Hearing Officer as well. He stated the issue could be discussed more at the point when the Council is  
542 ready to hire an Administrative Hearing Officer. Council Member Bigler stated "in other words, one  
543 position – not both".

544  
545 Council Member Taylor stated he feels the same about this position as he did about the last position; he  
546 would like to see it posted and for the City to follow a hiring process. He stated he understands the  
547 positions are part time and it may not be necessary to follow the same process as would be used for a full  
548 time position, but he would like to see them publicized. He stated he has full confidence in Mayor Harris'  
549 and Mr. Chandler's integrity, but he thinks it is always wise, a public organization, to take the additional  
550 step to make sure there is no possibility of anyone questioning the process. He stated he truly hopes Mr.  
551 Allred will apply because he sounds like a fantastic candidate. Mayor Harris asked if that is the desire of  
552 the entire Council. All Council Members answered yes. Mayor Harris stated the Administration will  
553 advertise the position and he thanked Mr. Allred for his time and for attending the meeting tonight.

554 **9. DISCUSSION AND/OR ACTION TO CONSIDER A VACATING ORDINANCE**  
555 **AMENDING THE ROYLANCE FARMS PRUD**  
556

557 A staff memo from Community Development Director Barker explained Roylance Farms Phase II is  
558 a subdivision that is located west of the Big O Tires shop at the corner of Washington Blvd. and 1875  
559 North. This subdivision consists of 70 lots and some common space. The owners association which  
560 still uses the original name for the development, Belle Isle, has worked with the Planning  
561 Commission and City Council to change the ownership and common area plan from the original  
562 recording to its present configuration. The association is processing a Fourth Amendment to finalize  
563 the plan as they envision it to be. In order to record this Fourth Amendment, the document on record,  
564 Phase II Third Amendment needs to have a portion of it vacated. There are three described land  
565 parcels consisting of 13 lots in one area, the south west part of the subdivision, two lots which will  
566 modify the common property line between them and a third parcel on the east which will join a lot  
567 with common area to enlarge the lot. It is recommended by staff and the Planning Commission that  
568 the City Council approve the ordinance to vacate these areas so that the new subdivision plan can be  
569 recorded.

570  
571 Mr. Barker reviewed his staff memo and provided a brief history of the subdivision. He also  
572 reviewed a plat map to identify the subject property and the areas of the subdivision that will be  
573 vacated.

574  
575 Council Member Bailey asked if the areas highlighted in blue on the plat map are the only areas  
576 being affected by the proposed ordinance. Mr. Barker answered yes and noted all other areas have  
577 been dealt with.

578  
579 Council Member Taylor stated he lives in this neighborhood and everyone is very eager to see this  
580 action happen; it is much needed and will result in much better upkeep of the property that was  
581 previously considered common space. Mr. Barker stated that is his understanding as well and the  
582 HOA has been given authority to act on this issue.

583  
584 Council Member Fawson referenced an easement that used to connect to the park. Mr. Barker stated  
585 he refers to that property as an easement, but it is really a common area that is a 10-foot wide strip  
586 that the HOA owns and maintains and the abutting property owners would prefer to absorb that  
587 property into their lots. Council Member Fawson stated that makes sense to him, but his question  
588 relates to access to the park in the area and he noted this action will cut off access to the park from  
589 the west. He stated if the residents do not have an objection to that, that is fine and he confirmed  
590 there is still access to the common area from the east. Mr. Barker answered yes. Council Member  
591 Fawson stated he wanted to ensure this action will not completely cut off public access to the park.  
592 The Council reviewed the plat map and had a general discussion about the various common areas in  
593 the subdivision, with Mr. Barker noting that the adjoining undeveloped property is part of the  
594 Mystery Meadows Subdivision that was recently approved and there will be future development of  
595 that land next year. Council Member Fawson asked if the park is maintained and owned by the  
596 HOA. Mr. Barker answered yes. Review of the plat continued to determine the current access points  
597 for the park land, with Mr. Barker noting that the main access for the park that most residents use is  
598 actually a private driveway. Council Member Taylor noted that several to the people that live on the  
599 west side of the park have already built their fences along the property line of the property that is  
600 being vacated tonight, so there was not true access to the park from the west. Mr. Barker stated this  
601 action will solve some problems associated with a that.  
602

603 **Council Member Bailey moved to approve vacating Ordinance 2013-11 amending the Roylance**  
604 **Farms PRUD. Council Member Fawson seconded the motion.**

605  
606 **Voting on the motion:**

607  
608 **Council Member Bailey aye**  
609 **Council Member Bigler aye**  
610 **Council Member Fawson aye**  
611 **Council Member Stoker aye**  
612 **Council Member Taylor aye**

613  
614 **The motion passed unanimously.**

615  
616 **10. DISCUSSION AND/OR ACTION TO CONSIDER FUTURE RAMP GRANT**  
617 **APPLICATIONS**

618  
619 A staff memo from Community Services Director Tiffany Staheli provided ideas for Recreation Arts  
620 Museum and Parks (RAMP) Grant applications. The Council was asked to review the ideas in order to  
621 narrow the projects on the list down to those that meet the Council's priorities. Prices for the projects will  
622 be provided once the list is narrowed, but prior to writing the grant applications. The list includes  
623 priorities from the North Ogden Parks, Trails, and Open Land Marks Committee (NOPTOL) in regards to  
624 property/easement purchasing and trail construction. A map was also included and each grant idea was  
625 numbered to correlate with the list of projects included in the Council packet.

626  
627 Ms. Staheli reviewed her staff memo and noted RAMP funding comes from a RAMP tax that is paid by  
628 Weber County residents. She stated the list of grants was divided into three priorities: major grants,  
629 which are project with a cost of \$200,000 or more; regular grants, which are \$2,001 to \$199,000; and easy  
630 grants, which are grants with a cost of \$2,000 or less. She reviewed the projects listed on the list provided  
631 in the Council packet and noted that in order to apply for Arts and Museum grants, the City would need to  
632 establish a Cultural Council that would work with the City on application for those grants. She stated in  
633 the past the City has received a grant in that category without establishing the Cultural Council, but she  
634 has been informed that the entity that approves the grant applications is becoming stricter and will enforce  
635 the rules.

636  
637 Council Member Taylor asked how the Cultural Council would differ from the Parks and Trails  
638 Committee, which is a 501(c)3 entity. Ms. Staheli stated the Cultural Council must be set apart to strictly  
639 handle issues related to arts and museums.

640  
641 Council Member Bailey asked if the City Council could designate itself as the Cultural Council for the  
642 sake of brevity. Ms. Staheli stated she believes that is allowed. She then continued reviewing her staff  
643 memo and reviewed the projects that are considered the top five priorities from the standpoint of the staff  
644 and the Parks and Trails Committee. She provided a brief explanation of each project as follows:

- 645 1. Oaklawn, Green Acres, and Lomond View Restroom Renovation: All three of these parks  
646 are in need of a restroom that can handle the increasing use from our sporting activities. The  
647 current restrooms are very old and outdated and have a limited number of stalls. The new  
648 restrooms would be similar to the restroom at North Ogden Park and have multiple stalls and  
649 some storage areas. Currently we need to bring in portable restrooms to Oaklawn Park  
650 because the restroom is not reliable and not always in working order. This project could be  
651 split into three separate projects (one for each park) or done all together for a bigger grant.

652 Oaklawn Park is in dire need of a new restroom and would be the highest on the priority list  
653 of these three restrooms. We would like to see this taken care of next year.  
654

655 Council Member Fawson asked if the City would retain ownership of the concession stand at Oaklawn  
656 Park. Ms. Staheli answered yes. Council Member Bigler stated that a family handles concessions at that  
657 park. Ms. Staheli stated that is true, but noted it is a similar situation as what occurs at the Aquatic  
658 Center, whereby the family sells concessions, but the City shares in the proceeds. She then continued to  
659 review the top five projects.  
660

- 661 2. (#1 on the NOPTOL Map) Acquire a trail easement from Fred Brown for a trail connection  
662 between Barker Park and Oaklawn Park.
- 663 3. (#2 on the NOPTOL Map) Cover the open canal west of Lee's Marketplace along Pleasant  
664 View Drive and make the connection to Pleasant View's portion of the trail.
- 665 4. Permanent Electronic Sign at Bi-Centennial park: Install a permanent electronic sign at Bi-  
666 Centennial Park on Washington Boulevard. This would help us get out information about  
667 City events and recreational programs.
- 668 5. North Ogden Grandstand Renovation: Improve the safety and appearance of the current  
669 grandstand structure.  
670

671 Council Member Bigler asked if the grants are matching grants. Ms. Staheli stated the grants are  
672 matching grants, but the top five priority projects would not require the creation of a Cultural Council this  
673 year. She added the City's match could come in the way of money or labor.  
674

675 Council Member Taylor asked if the NOPTOL can apply for grants, to which Ms. Staheli answered yes.  
676 Council Member Taylor asked if there is any exemption for the NOPTOL by which they would not be  
677 required to match the grant. Ms. Staheli stated she is not aware of any exemption.  
678

679 Council Member Bailey asked if the City could provide matching funds for a grant awarded to the  
680 NOPTOL, to which Ms. Staheli answered yes. Mayor Harris reiterated in-kind donations can serve as a  
681 grant match.  
682

683 Ms. Staheli stated she would like to know if the top five projects are in line with the priorities of the  
684 Council.  
685

686 Council Member Bailey asked Ms. Staheli if there are plans to apply for any grants in the arts and  
687 museum category. Ms. Staheli answered no and stated that is because the City currently does not have a  
688 Cultural Council. Council Member Bailey inquired as to the time frame to submit grant applications.  
689 Ms. Staheli stated the application deadline for the larger grants is January 2014 and for the easy grants the  
690 deadline is next April. She noted that once the Council authorizes Administration to proceed, she will  
691 work with the City Engineer to design the projects in order to determine an approximate cost, which will  
692 then be provided to the Council.  
693

694 Council Member Taylor stated he thinks the staff and the NOPTOL has done great work in assembling  
695 the list of projects and he feels RAMP grants are a good thing and that the City should apply for RAMP  
696 funding since it is derived from a tax paid by North Ogden citizens. He stated North Ogden is the third  
697 largest city in the County and, by logic, North Ogden should get the third largest share of RAMP funding.  
698 He added he is very supportive of spending the seed money to go after funding for the larger projects.  
699

700 Mayor Harris stated the Council recently adopted its newest fiscal year budget and it included a list of  
701 capital projects. He stated the projects that have been presented by Ms. Staheli tonight are not on that list.

702 Ms. Staheli stated that is correct. Mayor Harris stated once the Council's priorities have been established  
703 it will also be necessary to add them to the capital projects list.  
704

705 Council Member Fawson stated he supports project number one because he feels it is very necessary. He  
706 then referred to project two and asked if Mr. Brown has an interest in selling an easement. Ms. Staheli  
707 stated she does not know the answer to that question, but noted the easement is on the Parks and Trails  
708 Master Plan, but she is not sure if the NOPTOL has spoken with Mr. Brown. Council Member Fawson  
709 stated that he thinks project three is great as well. He added that his only concern with project number  
710 four is whether a sign could block other commercial signage in the area. He then stated that he feels  
711 project number five is necessary simply from a liability perspective. He stated there are others on the list  
712 that he would like to see happen and he would like to create a Cultural Council that could work on  
713 analyzing and prioritizing those projects.  
714

715 Council Member Bailey asked Ms. Staheli how she will decide how much grant funding to apply for. Ms.  
716 Staheli stated that decision will ultimately be made by the Council and it will be based upon how much  
717 the City can afford in matching funds. Council Member Bailey stated he agrees with Council Member  
718 Fawson's comments about the projects and he feels staff has done a great job prioritizing them. He added  
719 he does not want to second guess anything that has been done by staff, other than he feels it is necessary  
720 to create a Cultural Council and he asked that an item be added to a future Council agenda to start that  
721 process.  
722

723 Council Member Bigler referenced project number one and asked if the entire building at Oaklawn Park  
724 that houses the bathrooms will be rebuilt. Ms. Staheli answered yes. Council Member Bigler stated that  
725 means the project is not just related to the bathrooms. He then inquired as to the cost of the recently  
726 constructed bathrooms at North Ogden Park. Ms. Staheli stated the project cost was approximately  
727 \$60,000. Mayor Harris stated he actually thought the cost was \$75,000. Council Member Bigler stated  
728 he agrees that the project to rebuilt the Oaklawn bathrooms is the most important. Ms. Staheli stated there  
729 may be some additional cost associated with that project because it will be necessary to redesign the way  
730 the water runs at the park; currently it runs to the storm drain at the park and during a heavy rain storm the  
731 water runs into the playground and washes out the bark chips.  
732

733 Council Member Fawson stated that Dave Noordquist has told the City it is its turn to do a big project and  
734 he agreed with Council Member Taylor that it is time for North Ogden to apply for larger funding  
735 amounts to finish some of the larger projects needed in the City.  
736

737 Council Member Taylor stated that he agrees with the way staff has prioritized the top five projects and  
738 he added that he will send his comments to Ms. Staheli regarding the 20 other projects that are included in  
739 her staff memo. He noted he would support the creation of a Cultural Council as well.  
740

741 **Council Member Fawson moved to authorize additional work relative to potential future**  
742 **RAMP Grant Applications. Council Member Bailey seconded the motion.**  
743

744 Council Member Bigler clarified this vote will only allow staff to design the projects to determine how  
745 much they will cost. Ms. Staheli stated that is correct and she will provide that information to the Council  
746 once it is available.  
747

748 **Voting on the motion:**  
749  
750  
751

752 Council Member Bailey aye  
753 Council Member Bigler aye  
754 Council Member Fawson aye  
755 Council Member Stoker aye  
756 Council Member Taylor aye

757  
758 The motion passed unanimously.  
759

760

761 **11. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION AMENDING**  
762 **CHAPTER 4.1.2(1-5) OF THE NORTH OGDEN CITY POLICIES AND PROCEDURES**  
763 **MANUAL**

764

765 A memo from City Manager Chandler explained the proposed resolution reflects the changes that were  
766 discussed by the Council during their August 13, 2013 meeting relative to the personnel policy regarding  
767 severance pay in the event of layoffs.

768

769 Mr. Chandler reviewed his staff memo and explained the proposed resolution would change paragraph 2.1  
770 to read as follows:

771

772 Employees terminated from employment with the City in a reduction in force will be given  
773 severance pay as follows: Employee's final paycheck for hours worked but not yet paid, his/her  
774 accrued vacation, compensatory time, and two weeks of regular pay. Employees with five years  
775 of service with North Ogden shall receive two additional days of regular pay for each one year of  
776 service up to two additional weeks, for a maximum of four weeks of severance pay.

777

778 Council Member Fawson moved to approve Resolution 7-2013 amending Chapter 4.1.2(1-5) of  
779 the North Ogden City Policies and Procedures Manual. Council Member Stoker seconded the  
780 motion.

781

782 Voting on the motion:

783

784 Council Member Bailey aye  
785 Council Member Bigler aye  
786 Council Member Fawson aye  
787 Council Member Stoker aye  
788 Council Member Taylor aye

789

790 The motion passed unanimously.

791

792 Council Member Fawson stated he appreciates the work that Mr. Chandler did to reach out to other cities  
793 to see what types of severance pay policies they have in place.

794

795

796 **12. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING**  
797 **NORTH OGDEN CITY TITLE 6, CHAPTER 1 TO EXEMPT A POLICE SERVICE**  
798 **DOG**

799



800 A memo from City Manager Chandler explained the proposed ordinance amends Title Six of the North  
801 Ogden City Code to exempt active police service dogs from the limitation of two pets per household  
802 address. A active service dog will still require licensing.

803  
804 Mr. Chandler reviewed his staff memo and explained this is a follow-up item from the Council meeting  
805 two weeks ago. He then reviewed the definition for active police service dog as follows:  
806 A dog trained and actively in service with a licensed police officer to aid the police, including but  
807 not limited to tracking criminals, detecting controlled substances, and detecting explosive  
808 devices.

809  
810 Council Member Bailey stated his reading of the ordinance is that a resident would be allowed any  
811 number of active police service dogs at their residence and he asked if that is correct. Mr. Chandler  
812 answered yes. Council Member Bailey stated he has concerns about that; he would like to limit the  
813 number of active police service dogs to one in order to be sensitive to other residents in the City.

814  
815 Council Member Fawson stated it his understanding that Representative Wilcox plans to present a bill at  
816 the State level that would essentially combine police service dogs with other types of service dogs, so  
817 they would be exempt. He stated he still feels it is necessary for North Ogden to enact this ordinance  
818 while that legislation is pending and he does not believe one Police Officer would have more than one  
819 active service dog under their care at one time and he does not have a problem with the way the ordinance  
820 has been drafted.

821  
822 City Attorney Call stated his reading of the ordinance is that section eight would limit the number of dogs  
823 in a household, whether they are therapy or police service dogs, to five and that would include pets.  
824 Mayor Harris stated therapy dogs and police service dogs would need to be licensed in order for the  
825 owner to have more than two dogs at their home. Mr. Call stated that is correct.

826  
827 Council Member Bailey asked if a person that were training police service dogs would be allowed to have  
828 five dogs at their home. Mr. Call stated that if those dogs qualified as a therapy dog and were over six  
829 months of age, the owner would be allowed to have up to five.

830  
831 **Council Member Taylor moved to approve Ordinance 2013-13 amending North Ogden City**  
832 **Title Six, Chapter One to exempt a police service dog. Council Member Fawson seconded the**  
833 **motion.**

834  
835 **Voting on the motion:**

836  
837 **Council Member Bailey        nay**  
838 **Council Member Bigler        aye**  
839 **Council Member Fawson       aye**  
840 **Council Member Stoker       aye**  
841 **Council Member Taylor       aye**

842  
843 **The motion passed on a four to one vote.**

844  
845  
846 **13. CANVASS ELECTION RETURNS**  
847

848 City Recorder Spendlove explained Utah State Code designates the City Council and Mayor as the Board  
849 of Canvassers for municipal elections. She added Weber County conducted the Primary Election for  
850 North Ogden and provided the following canvass report.

851  
852 Number of Precincts 13  
853 Times Counted 829/9983 8.3 %  
854 Swanson, Phillip 310 18.94%  
855 Satterthwaite, Lynn 263 16.99%  
856 Russell, Brian G 387 24.86%  
857 Urry, James D 313 19.34%  
858 Huntsman, Steven D 212 13.33%  
859 Gordon, David L 105 6.60%

860  
861 Ms. Spendlove explained the top four vote getters have been nominated to advance to the General  
862 Election and the other two candidates have been eliminated. She then reviewed the ballot disposition  
863 report for the Primary Election and stated it provides the summary of votes cast on Election Day, during  
864 early voting, and via absentee ballot. She added there were 17 provisional ballots cast and 16 of those  
865 were verified and counted. She explained there were 437 absentee ballots sent and 200 were returned; 13  
866 were undeliverable; and 193 of the 200 that were returned were counted. She stated the return rate for  
867 absentee ballots was 45.77 percent. She noted Riverdale City had the second highest voter turnout in the  
868 County at 28.4 percent and they conducted their entire election by-mail. She then stated she needs for the  
869 Council to accept the canvass reports for the Primary Election.

870  
871 **Council Member Bailey moved to accept the results of the Municipal Primary Election held**  
872 **August 13, 2013. Council Member Stoker seconded the motion.**

873  
874 Council Member Fawson stated there was a discussion a couple of weeks ago about ways to increase the  
875 voter turnout in Municipal Elections; Ms. Spendlove has some ideas and he wanted to make the  
876 discussion a matter of public record. He stated he would like to see more signage inviting the residents to  
877 vote. He stated he is very disappointed in the turnout because he thinks elections are so important. He  
878 stated he would suggest placing flags along 2600 North so it is very apparent that voting is being  
879 conducted as well as adding signage near the welcome signs into the City to let residents know voting is  
880 underway. Ms. Spendlove stated that she has ordered signs to be installed over the City signs on Election  
881 Day and they say "vote today". She stated all entrances into the City will have those signs during the  
882 General Election.

883  
884 Council Member Bailey stated Ms. Spendlove mentioned that Riverdale City conducted their election by-  
885 mail and he asked if any other city in the County did that. Ms. Spendlove answered no. She added that  
886 Uintah had the highest turnout at 37.5 percent, but they are a very small town and smaller towns tend to  
887 have higher turnouts, especially for a mayoral race. She stated next spring she will have more  
888 information about a study conducted regarding statewide voting by-mail to see if the Council is interested  
889 in conducting future elections in that manner. She stated that in a vote by-mail system there will still be  
890 Election Day voting options; everyone will be mailed a ballot, but they will have the option of dropping  
891 off their ballot on City Hall on Election Day. She added she has been told the costs to conduct a by-mail  
892 election are higher than the costs for a traditional election, but she wants to see the actual costs because  
893 she does not understand why that would be.

894  
895 Council Member Fawson inquired as to the participation rates in the library bond election, which was  
896 conducted by-mail. Ms. Spendlove stated she does not have that information this evening, but she can  
897 provide it at a future date. Mayor Harris stated the information is also on Weber County's website.  
898

899 **Voting on the motion:**

900

901

902

903 **Council Member Bailey aye**

904 **Council Member Bigler aye**

905 **Council Member Fawson aye**

906 **Council Member Stoker aye**

907 **Council Member Taylor aye**

908

909 **The motion passed unanimously.**

910

911

912 **14. CANCEL SEPTEMBER 10, 2013 CITY COUNCIL MEETING**

913

914 Mayor Harris stated the Utah League of Cities and Towns (ULCT) annual conference will be held in two  
915 weeks and several Council Members and members of staff are unavailable to meet on September 10 due  
916 to that conference. He asked for a motion to cancel the regularly scheduled meeting of September 10.

917

918 **Council Member Fawson moved to cancel the September 10, 2013 City Council meeting.**

919 **Council Member Bailey seconded the motion.**

920

921 Council Member Taylor suggested potentially scheduling a special meeting in September in order to  
922 appoint a new Public Works Director. Mayor Harris stated he will keep that in mind and he will report  
923 back to the Council regarding whether that is necessary.

924

925 **Voting on the motion:**

926

927 **Council Member Bailey aye**

928 **Council Member Bigler aye**

929 **Council Member Fawson aye**

930 **Council Member Stoker aye**

931 **Council Member Taylor aye**

932

933 **The motion passed unanimously.**

934

935

936 **15. PUBLIC COMMENTS**

937

938 Jim Urry, 1615 N. Mountain Road, stated he has a couple of questions regarding some of the items  
939 discussed tonight; one is relative to appointing a City Prosecutor. He stated he does not know how  
940 common that is and he is concerned about it. He added there was a comment that the judge recommended  
941 Mr. Allred for the prosecutor. He stated that if he were appearing in court and he was aware that the  
942 judge had recommended the prosecutor he would wonder how fair of a trial he would get. He stated he  
943 does not know if that is common. He stated there should be an arm's length distance between the judge  
944 and prosecutor. He then stated he also wanted to talk about the administrative hearing officer; the rate  
945 charged by that officer would be \$100 per hour. He stated there seemed to be a concern about that cost,  
946 but he asked what kind of fee is charged to the person filing the appeal. He wondered if the fee could be  
947 set to cover the costs associated with the appeal hearing. Mr. Chandler stated there is a fee to request a

948 variance, but he is not sure what it is. Mr. Urry stated that maybe the fee should be high enough to make  
949 someone think about whether they actually want to file an appeal. Mayor Harris stated the Council will  
950 consider that. Mr. Barker stated he believes the fee is \$100.

951  
952 Blake Welling, 1098 E. 3100 N., stated his comments are relative to the administrative hearing officer as  
953 well, and unless he is missing something it sounds like the judge is already getting paid to hear the appeal  
954 hearings and he asked why it would be necessary for the taxpayers to pay more to speed up the process  
955 for only three or four people. He suggested those people pay those costs themselves.

956  
957 Joan Brown, 2010 N. 775 E., stated she understands that the effort to put forth the plan for the Smith's  
958 Marketplace was accepted by the Council. She stated it is something that is needed in the community, but  
959 she understands the vote of the Council was four to one and that the one dissenting vote was made by  
960 Council Member Taylor. She stated she was extremely surprised that someone would not be excited  
961 about the project. She stated she understood that Council Member Taylor felt the people should have  
962 more information about the project. She stated there is no one she has spoken to in the last two years that  
963 has not heard the rumor that a Smith's Marketplace may come to the City; the public is well informed of  
964 the project and she had hoped that the project would receive a unanimous vote. She stated she would like  
965 them to support something that will be such an asset to the community in so many ways. She stated it  
966 will address so many issues in the City and she wanted to go on record to say that she hopes the Council  
967 knows that the public is aware of the project and the number that isn't would be very few.

968  
969

## 970 **16. CITY COUNCIL, MAYOR, AND STAFF COMMENTS**

971

972 Council Member Stoker stated that she was at the North Shore Aquatic Center recently on a Saturday  
973 night for a family party and there were many little kids running around and her family noticed that one of  
974 the little children with their group was missing. She stated the lifeguards blew the whistle three times and  
975 she has never seen them move so fast to get the child out of the water. She stated they were absolutely  
976 wonderful and she is very glad that funding was included in the budget to give the lifeguards a raise  
977 because they are very attentive and deserve what they are paid. She asked staff to pass her comments on  
978 to the staff of the aquatic center.

979

980 Mayor Harris stated the City has advertised the vacancy on the Planning Commission and the position  
981 will close next Tuesday and there is only one applicant to date. He stated he will extend the position  
982 opening for a couple of weeks so it is possible to include the advertisement in the City newsletter. He  
983 asked the Council to inform residents of the opening in order to encourage people to apply. Council  
984 Member Bigler asked how long the opening will be extended. Mayor Harris stated it will be two weeks  
985 from next Tuesday.

986

987

## 988 **17. ADJOURNMENT**

989

990 **Council Member Bigler moved to adjourn the meeting. Council Member Fawson seconded the**  
991 **motion.**

992

993 **Voting on the motion:**

994

995 **Council Member Bailey        aye**

996 **Council Member Bigler        aye**

997 **Council Member Fawson        aye**

998 **Council Member Stoker**     **aye**  
999 **Council Member Taylor**   **aye**

1000  
1001 **The motion passed unanimously.**

1002  
1003  
1004 **The meeting adjourned at 8:55 p.m.**

1005  
1006  
1007 \_\_\_\_\_  
1008 Richard G. Harris, Mayor

1009  
1010  
1011 \_\_\_\_\_  
1012 S. Annette Spendlove, MMC  
1013 City Recorder

1014  
1015 \_\_\_\_\_  
1016 Date Approved

NOT APPROVED