

To: Mayor Harris and the City Council
Fr: Ron Chandler
Dt: June 19, 2013
Re: Discussion and/or action to amend titles 1 and 11 of the North Ogden Municipal Code creating an administrative hearing officer and appointment of an administrative hearing officer.

Attached, please find 1) changes to Titles 1 and 11 of the North Ogden Municipal code; 2) minutes from the Planning Commission ; 3) a proposal by Chris Allred and David Wilson; and, 4) a contract with Chris Allred and David Wilson.

I recently met with Judge Lambert to discuss the administrative law duties. At issue were the length of time it may take to hear variances due to the Judges busy docket and some potential conflicts that were brought up by the Board of Justice Court Judges. We have been studying the use of an administrative hearing officer in place of an administrative law judge. An administrative hearing officer is someone who is appointed by the City to hear cases such as variances. They operate the same as the administrative law judge but don't have to be judges.

The Planning Commission recommended approval of the attached ordinance changes creating and allowing the use of an administrative law judge and/or an administrative hearing officer.

If the Council approves the recommended changes to the City code, we recommend the appointment of Chris Allred and David Wilson as administrative hearing officers.

2. PUBLIC HEARING AND CONSIDERATION TO RECOMMEND AN AMENDMENT TO ORDINANCE 11-4, VARIANCES AND ADMINISTRATIVE INTERPRETATIONS.

Craig Barker introduced himself to the audience. He explained that this ordinance was passed in 2011 and was barely a year old. This ordinance has to do with applications for variances to the zoning ordinance, which is the City development regulation. He said if someone had a hardship or wanted to encroach on the zoning requirements, the appeal authority hears the appeal from the decision of the Land Use Authority, which is the Planning Commission, or the administrative official. They hear the request for a variance to the standard and that request is very strict following requirement under state law as to what the appeal body can do. The ordinance allowed the City to decide how they were going to handle those appeals to the zoning ordinance. He stated the City elected to disband the Board of Adjustment a few years ago, and he said he thinks some of the Commissioners may have served on the board, and used the Justice Court judge as the administrative court judge to hear those appeals. It was thought that the judge's understanding of law and variances made him a good person to do that rather than a board of citizens without the education necessary to hear the appeals. That method worked for a short period of time. He said he was not sure he is using the correct words, but through judicial review that the Justice of the Peace court judges cannot act as administrative court judges and so the City has elected to provide for a hearing officer. This ordinance just changes that to allow the City to appoint a hearing officer. Now Mr. Call, the City Attorney, went through and made these changes.

Commissioner Brown asked what the qualifications would be for the Hearing Officer. Craig Barker replied he did not know. Commissioner Brown asked what he anticipated the requirement to be. Jon Call said it would be someone familiar with land use law; it would be someone who essentially applied for the position and was interviewed. Commissioner Russell asked if it was a paid position. Jon Call said yes, it will most likely be another attorney who is also a City Attorney from another municipality.

Craig Barker said some cities have hired people who have professional qualifications within that realm; this ordinance will also allow the City to do so. He then explained that the Planning Commission needed to make a decision and a recommendation to the City Council, after they listen to the comments during the public hearing, which was advertised. He stated he has had no calls concerning this and he did not expect to have any. He said the Planning Commission can take any public input that people would make in regard to this ordinance, after which he suggested the Planning Commission make a motion to forward it to the City Council either as approved or denied, or however the Planning Commission sees fit.

The public hearing opened at 6:38pm.

Jon Call reminded the Planning Commission and audience that the public hearing just for this ordinance. The other agenda items will be discussed later.

The public hearing closed at 6:39 pm.

Chairman Residori stated that he was on the Board of Adjustment and that it was almost impossible to get a variance.

Commissioner Thomas made a motion to amend the ordinance 11-4 for the appropriate changes that staff has made. Commissioner Brown seconded the motion.

Voting on the motion:

Chairman Residori	yes
Vice-Chairman Dalpiaz	yes
Commissioner Brown	yes
Commissioner Russell	yes

The motion passed unanimously.

Ron Chandler, City Manager
North Ogden City
505 East 2600 North
North Ogden, Utah 84414

RE: PROPOSAL FOR ADMINISTRATIVE HEARING OFFICER SERVICES

Attorneys Christopher F. Allred and David C. Wilson (hereinafter "Attorneys") hereby jointly propose to provide Administrative Hearing Officer services for North Ogden City as follows:

1. History: Attorneys are not a law firm; rather, Attorneys are individual lawyers who have agreed to work cooperatively together to provide the Administrative Hearing Officer services requested by North Ogden City.
2. Experience: Chris Allred has been a civil attorney for Weber County for approximately sixteen years. Allred has also provided hearing officer services and occasional civil attorney services for Washington Terrace and South Weber Cities over the years. Allred has also acted as a hearing officer for Clearfield City. Dave Wilson has been a civil attorney for Weber County for approximately twenty three years. Attorneys have extensive experience with all aspects of local government law.
3. It is proposed that the Attorneys would both be equally available to provide all necessary hearing officer services for the City.
4. Scope of Services: Attorneys will act as hearing officers and will hear and decide variance requests and other appeals from land use decisions as requested by the City.
5. Cost: Attorneys will provide the services listed above for \$100 dollars per hour.

DATED this ____ day of June, 2013.

Christopher F. Allred

David C. Wilson

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