

NORTH OGDEN CITY COUNCIL MEETING MINUTES

September 9, 2003

The North Ogden City Council convened in regular session on September 9, 2003 at 7:00 p.m. at the City Offices. Notice of time, place and agenda of the meeting were delivered to each member of the City Council, posted on the bulletin board at the municipal office and mailed to the Standard-Examiner September 5, 2003. Notice of the annual meeting schedule was published in the Standard-Examiner on January 15, 2003

PRESENT:	Lynn C. Muirbrook	Mayor
	Wayne Elwell	Council Member
	Martha Harris	Council Member
	Jed Musgrave	Council Member
	Richard Harris	Council Member
	Bob Napoli	Council Member
STAFF PRESENT:	Rich Nelson	City Administrator
	S. Annette Spendlove	City Recorder
	Gary Jeppson	City Planner
	Bud Powell	Code Enforcement Officer
	Cody Illum	City Building Official
	Keith Backman	City Attorney
VISITORS:	Cody Muirbrook	David Hubbard
	Hayden Rottler	Dale Wride
	Preston McConkie	Dave Murdock
	Brandon R. Weaver	Rich Garrett
	Walt Jensen	Bruce Jones
	Nyles Mitchell	Nick Brown
	Josh Brown	Judi Brown
	Brent Meacham	Emily Sawyer
	Jane Sawyer	Robert Russell
	Chris Bowen	Shawn Maynard
	Lorraine Tennant	Jerry Lindquist
	Janis Peterson	Don Gneiding
	Dave Shupe	Rachel Trotter
	Karen Roylance	Dan Schumacher
	Dave Meents	Gordon North
	Taylor Spendlove	

Welcome, Invocation, and Pledge of Allegiance.

Mayor Muirbrook welcomed those in attendance at the meeting. Council Member Richard Harris gave the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. Consideration to approve minutes of August 26, 2003.
2. Consideration to approve a business license: Jenn's 24 hr. Child Care.

Council Member Elwell moved to approved the consent agenda as presented. Council Member Musgrave seconded the motion. The motion passed with unanimous approval.

AGENDA

3. Public comments.

Richard Garrett, 3170 Holiday Dr., addressed the Council on his concerns about the Skate Park. He asked if there was any way the Council could have been misquoted in the newspaper. He said he had spent a couple of hours at the Skate Park last evening with several other people and had watched the kids using the park. They didn't seem to be bad kids. There had been 85-100 kids using the park at 6 p.m. The older kids were teaching the younger kids tricks. The police drove by twice in the hour and a half he was there. He felt the Skate Park was a good thing. Mayor Muirbrook told Mr. Garrett he hadn't said anything that the City wasn't aware of and he and the Council agreed with his feelings. The City wants this park to be an asset to the community. The kids using the park are not bad kids but the park rules need to be enforced.

4. Public Hearing on a proposal to revise the Quail Ponds Planned Residential Unit Development Zone (Chapter 17.55 of The Zoning Ordinance of the City) to permit 15-foot street side yards, and consideration of Ordinance #2003-178, an Ordinance adopting this proposed change.

Gary Jeppson, City Planner, gave a brief overview of the history of this project. In 1998, the City created the Quail Ponds Planned Residential Unit Development Zone to provide specific standards for the Quail Ponds Residential Unit Development located south of 2100 North Street at 775 East Street.

After the development started, it was discovered that there were no street side yard standards, so the first corner lot was allowed to have a five-foot side yard. This oversight was corrected when the zoning ordinance was revised. The City then added a stipulation that the street side yard must be 20-feet wide. The developer, Bruce Jones, said he was unaware of this zoning ordinance change and is very concerned because the reduced building envelope makes most of the corner lots unbuildable. On July 23, 2003, the

Planning Commission considered this item and recommended that the City Council amend the Quail Pond PRUD Zone to have a street side yard of 15-feet. Mr. Jones agrees with this recommendation.

The City Council set September 9, 2003, as the date to hold a public hearing on this matter. Mayor Muirbrook asked why this changed hadn't taken place during the development stage and then it could have been approved as a regular PRUD. Mr. Jeppson said that would have been the best solution but it wasn't done at that time. Council Member Napoli asked why this problem was being handled in this way instead of doing a variance? Mr. Jeppson said this is a better way to handle this procedure.

Mayor Muirbrook opened the Public Meeting at 7:18 p.m. There were no public comments. Council Member Elwell moved to closed the Public Hearing. Council Member Richard Harris seconded the motion. The motion passed with all Council Members voting in favor. The Public Meeting closed at 7:18 p.m.

Council Member Elwell moved to adopt **Ordinance #2003-178**, an Ordinance revising the Quail Ponds Planned Residential Unit Development Zone to permit 15-foot street side yards. Council Member Musgrave seconded the motion. The motion passed with unanimous approval from all Council Members.

5. Public Hearing on an application from Mr. David Murdock to amend the Freestanding Sign Regulations for Multi-Tenant Building Complexes and Shopping Centers.

Mr. David Murdock owns the commercial center located on the northwest corner of 2300 North Street and 400 East Street. He has applied to the City to have an amendment made to its freestanding sign regulations for shopping centers. Under the current sign ordinance, Mr. Murdock is permitted to have an eight-foot high sign, 32-square feet in copy area. His center currently has four tenants with one tenant expanding into an adjoining tenant space. Dave Hubbard, the owner of Quiznos, is expanding to include a Pier 49 Pizza franchise with the Quiznos franchise. Mr. Murdock's center has 13,833 square feet of gross leasable space on a 1.55-acre site.

Mr. Murdock has applied to have a provision for shopping center freestanding signs without having a comprehensive sign plan. The City Planning Commission met on three separate occasions to consider this application. At the last meeting, July 30, 2003, with Mr. Murdock's concurrence, the Planning Commission recommended that the definition chapter of the zoning ordinance be amended to define a multi-tenant complex or shopping center and then amend the sign regulations. This recommendation was passed on a 4 to 2 vote. Commissioners Wride and Lindequist dissented. Commissioner Beutler was absent for this meeting. The proposed changes are: Definitions: Multi-Tenant Complex or Shopping Center is a building or a complex of buildings on a single site, less than 10 acres, having uniform management and having at least three tenants and/or franchises. The Shopping Center freestanding sign would have a maximum size of total sign copy area of 32-square feet for the first two tenants and/or franchises on the

property. An additional 16 square feet for each additional tenant and/or franchise on the property, up to 128-square feet of total sign copy area. The height of the total sign structure would be 20-feet.

The Planning Commission's recommendations did not address the landscaping and sign location elements contained in Mr. Murdock's application. Whether the Planning Commission wanted it included as proposed by Mr. Murdock or is recommending that these requirements should not be included is unclear. However, if the City Council wants to consider the landscaping and location requirements as proposed by Mr. Murdock, this information is stated below: Minimum Landscaping requirement would be four square feet for every square foot of total sign area. The location of the entire sign structure including overhangs shall be entirely on the shopping center property. No portion of the sign shall be in the public right-of-way.

Mr. Jeppson, in his memo to the Council, suggested the City Council might want to address the following additional issues: (1) Should additional sign square footage be granted for each franchise a proprietor may acquire? The Planning Commission's recommended definition states that 16 additional square feet would be granted for each franchise. If this definition is approved then a tire shop that became the franchise for a shock absorber line, a battery line, and three tire brands, would be granted an additional signage (80 square feet) while a tire shop with a single brand of tires that would only be granted (32-square feet). (2) Should 20-feet be the permitted height of any freestanding sign for a shopping center regardless of the size of the sign? The recommendation does not correspond the size of the sign with the maximum height of the sign. If a property has three tenants and/or franchises, it qualifies to have a freestanding sign 20-feet in height, even though the sign can only be 48-square feet in area (Cavanaugh's is 62-square feet). (3) Should a sign copy area be allowed on the potential number of tenants/or franchises or only on the actual number of tenants/or franchises at the time of the application? Mr. Murdock has the potential for 11-tenants in his development. If the potential number of tenants and/or franchises is granted, most all signs will be the maximum 120-square feet of copy area and blank copy area will exist until the eight tenants or franchises locate on the property. If the City requires the tenants/or franchises to exist before the additional copy area square footage is granted, the property owner will have to continually buy new signage as space is leased or franchises are acquired, or purchase a sign structure that can add copy area as tenants and franchises come into the center.

Mayor Muirbrook told those in attendance that the City Council has struggled with this issue for sometime and they realize that the size of the business' sign is as important as its location.

Dave Hubbard, owner of the local Quiznos", gave a presentation on the importance of a business' signage. He told the Council the most important element in retail sales is location, location, and location. This is for two reasons: access and visibility. The key measure of visibility is the number of impressions made on the public at any given time. Studies indicate that a retailer has roughly seven seconds to capture the attention of a

passing customer. A store sign is a key element in this process. It can be the hook that brings them into the store. Mr. Hubbard presented data that indicated the opportunity to attract a customer's attention lies with a roadside sign not a storefront sign. His concern is, under the terms of the current sign ordinance, locating a business in Mr. Murdock's shopping center would only allow him to have between 2.9-square feet of signage and 4-square feet. Other businesses such as Sonic and Wendy's have 32-square feet of signage. It becomes an issue of fairness and equity. Mr. Hubbard explained to the Council the problem of his store's visibility to passing motorists on Washington Boulevard. To gain the needed 7 seconds of visibility he would have to have a larger sign placed in a different location. To see his store front sign a customer must make a conscience effort to look for it. The storefront sign is not in a person's line of vision as they drive down the road. A roadside sign would help to remedy this problem. He asked the Council to approve Mr. Murdock's petition.

Mayor Muirbrook opened the Public Hearing at 7:40 p.m.

Dave Murdock told the Council while he did not say North Ogden City isn't business friendly; he did say their sign ordinance is not business friendly. He would like to be able to adequately advertise for the businesses in his shopping center. He has worked with Gary Jeppson in formulating his petition and has surveyed other cities' ordinances. He feels that the proposed 128-square copy area is appropriate and fair.

David Shupe, owner of Coldwater Animal Hospital, told the Council he would like more signage for his perspective tenants. Ron Phippen expressed his concern over North Ogden City's sign ordinance as it now stands. He would like to know what the City wants. If the City wants more businesses then it should allow local businesses to have more exposure in the form of signage. He cited the story in the Ogden-Standard Examiner detailing the troubles of the local Dollar Wise store. His family goes to the Dollar store frequently but not to the North Ogden location because they don't remember its there. He is concerned that if North Ogden is not business friendly as the City grows, the main revenue source for the City will come from the homeowners rather than local businesses. It would be nice to have this spread out among several sources.

Cody Muirbrook, 1333 E. 2550 N., told the Council that one problem he had noticed in North Ogden is the practice of building a row of smaller businesses behind a bigger business building. This really reduces the visibility of the smaller businesses. Karen Roylance, 328 E. 3250 N., said from a driver's perspective, she would like to know where a business is located. She wants to see their signs because she doesn't want to be distracted from her driving by looking over her shoulder to see where they are located. Dave Hubbard told the Council he had put a sign on the parking strip between the road and the sidewalk with it facing north and south. The sign was damaged during a windstorm and wasn't out. His business decreased by 20% in a month.

Gordon North, 2639 N. 200 E., told the Council he has been a North Ogden City resident for 30 years and loved North Ogden. He would like the City to do what is best for the

North Ogden. He says he finds it difficult to focus on the small signs that are along the roadway. He sees a lot of differences in the business signage along Washington Boulevard. There are many things blocking the visibility of some signs, both natural and man-made. He thinks that whatever rule is decided on, it needs to be reasonable and prudent with some flexibility to accommodate the difficulties experienced by businesses trying to generate revenue for the City. This would make everyone better off.

Steve Huntsman, 1642 N. Mountain Road, told the Council the restrictive sign ordinance creates a lose, lose situation. It is a no win situation for the businesses and a no win situation for the City. He said he would never locate his business in North Ogden. The sign ordinance has a negative impact on business owners because they must take productive time and money away from their business to try and fight it so their businesses can survive. He hopes the City will loosen this ordinance and make it much more business friendly.

Brandon Weaver, owner of the Dream Weaver Recording Studio, also concurred with Mr. Huntsman's statement. He also felt like this is a lose, lose situation. This situation not only hurts the business owner but also potential customers and their ability to locate businesses. He told the Council that, because of the publicity the Dollar Store received in the paper, several people came out to support the store. They passed it three times and then had to ask for directions before they could find it.

Council Member Martha Harris moved to close the Public Hearing. Council Member Elwell seconded the motion. The motion passed with unanimous support. The Public Hearing on Mr. Murdock's application to amend the Freestanding Sign Regulations was closed at 8:00 p.m.

Council Member Elwell moved to deny Mr. Murdock's application and to refer the matter back to the Planning Commission. Council Member Napoli seconded the motion. Council Member Richard Harris said he felt the Council needed to discuss the issue before any action was taken. Council Member Martha Harris said this motion shouldn't be end of this issue. Mr. Jeppson told the Council if they took action on the motion then Mr. Murdock's application would be denied and the matter would be resolved. If the Council wanted to have additional consideration on the application, then they could table the petition. Council Member Richard Harris said the landscaping had never been discussed because it wasn't an issue and he wasn't sure it was appropriate for the City Council to send it back to the Planning Commission. The members of the Planning Commission had not recommended any changes on this in the existing ordinance. Council Member Richard Harris said he felt the Council needed to move forward on this. Council Member Elwell said he felt the Planning Commission had only done half the job when they hadn't made a recommendation on the landscaping. Council Member Richard Harris said he felt the Planning Commission was aware of this consideration but wanted to move ahead on the issue. Mr. Jeppson outlined for the Council what the Planning Commission was discussing at their meeting on Wednesday, September 10th. Mr. Backman told the Council if they found a problem with the sign ordinance, they could make the changes without sending it back to the Planning Commission. Rich Nelson,

City Administrator, said he would like the Council to consider a comprehensive sign ordinance, with all aspects of the sign issue in the City, not just the freestanding sign regulations for multi-tenant building complexes and shopping centers.

Council Member Martha Harris said she felt the petition should be tabled instead of denied. Council Member Elwell amended his motion to table Mr. Murdock's petition rather than deny it and to hold a Special Work session with the Planning Commission on September 16, 2003. He also indicated in the motion that the Special Work Session will be a joint meeting with the Planning Commission to discuss the sign ordinance. Council Member Napoli seconded the amended motion. The motion did not send the petition back to the Planning Commission but rather it will come back before the Council for the September 23, 2003 Council Meeting. A vote was taken and it passed with unanimous approval.

6. Consideration on wording for the voter information pamphlet on the arguments against the Beer Referendum.

At the last Council meeting, the Council asked Keith Backman, City Attorney, to write an argument against the Beer Referendum and bring it back to the City Council on September 9th for their input. Mayor Muirbrook expressed his desire to have a voter information paper that does not come across as negative but states the facts that argue against voting for the referendum. Council Members gave Mr. Backman their input on the paper. Council Member Musgrave said he could not support a neutral document when the Council had written the ordinance and supported its passage. Council Member Richard Harris said he would like the tenor of the argument to focus on the referendum not on the sponsors. Council Members told Mr. Backman about the changes they would like and he said he would make the revisions and bring it back to the Council for the meeting on September 16, 2003.

7. Council/Public comments.

Dave Meents, 922 E. 3350 N., explained his concerns about the sign ordinance. He discussed some of the guidelines in the City sign ordinance he would like the Planning Commission to consider. He felt having a site size requirement governing the size of sign allowed is too restrictive. He would like to have the sign size allowed for larger shopping centers, those occupying 10 acres or more, expanded to apply to all shopping centers, regardless of size. He feels this would solve many of the objections to the current sign ordinance.

Lorraine Tennant, manager of Mrs. Cavanaugh's, addressed the Council on the sign issue. She suggested that the City keep the current ordinance but put a phrase at the bottom stating: To be used as a guideline, to be approved on an individual basis. This would keep the City in control and give private business owners some leeway. She asked when the Council would consider this issue again? Mayor Muirbrook told her this session was a work meeting so it will come back to the Council for their September 23, 2003 meeting.

Council Member Napoli asked what the plan was for landscaping around the walking trail in McGriff Park? Mr. Nelson said he would check into it. Council Member Napoli also asked how the City was doing on the sidewalks along 700 East and the overlays being done? Mr. Nelson said City staff had met with several homeowners and the PTA about the sidewalks and the overlays should be done by next spring.

Council Member Richard Harris told the Council he was very pleased with the Youth Council Breakfast. The food was very tasty and the event grossed over \$600. Council Member Martha Harris asked about the legality of motorized scooters on City roads. Mr. Nelson said they are legal as long as they didn't go over 25 mph and the riders, if juveniles, had their parent's consent. Keith Backman, City Attorney, told the Council if they disagreed with this, they could write and pass an ordinance that would be more restrictive on scooter use by adolescents.

Mayor Muirbrook told the Council the price of the property they had discussed was finalized.

Council Member Elwell showed the Council pictures of the newly laid sod up at Barker Park. It looks great.

8. Adjournment.

Council Member Elwell moved to adjourn the regular meeting. Council Member Richard Harris seconded the motion. The motion passed with unanimous approval.

The meeting adjourned at 9:21 p.m.

Lynn C. Muirbrook, Mayor

S. Annette Spendlove, City Recorder

Date minutes approved. _____