

1 **NORTH OGDEN CITY COUNCIL MINUTES**

2
3 September 25, 2012

4
5 The North Ogden City Council convened in an open meeting on September 25, 2012 at 6:30 pm in
6 the North Ogden City Council Chambers at 505 East 2600 North. Notice of time, place and agenda
7 of the meeting was delivered to each member of the City Council, posted on the bulletin board at the
8 municipal office and posted to the Utah State Website on September 20, 2012. Notice of the annual
9 meeting schedule was published in the Standard-Examiner on January 16, 2012.

10
11 **PRESENT:** Richard G. Harris Mayor
12 Kent Bailey Council Member
13 Wade Bigler Council Member
14 Justin Fawson Council Member
15 Cheryl Stoker Council Member
16 Brent Taylor Council Member

17
18 **STAFF PRESENT:** Ron Chandler City Manager
19 Annette Spendlove HR Director/City Recorder
20 Jon Call City Attorney
21 Polo Afuvai Police Chief
22 Mel Blanchard Public Works Director
23 Craig Barker Community Development Director
24 Jim Wells Sanitary Sewer Supervisor
25 Trent Wilkins Utility Maintenance Worker

26
27 **VISITORS:** Ryan Udell Nola Howelle Justin Scott
28 Robert Merritt Joan Brown Don Brown
29 Carl Turner Rachel Trotter Phillip Swenson
30 Brian Russell Jim Suhr Deb Grushlow
31 Ned Jensen Malan Laura Stellmon L. Steve Davies
32 Ruben Alvarez Dave Hulme Kris Barker
33 Annie Barker Don Mathewson Blake Welling
34 Elaine Jensen Jim Flinders Julie Anderson
35 Bonnie Bailey Austen Mackley Mark Mackley
36 Stacey Giatras Merrill Greenwell Jaylene Greenwell
37 Alane Currier Griggs Brooke Call Melanie Call
38 Steve LaValley

39
40 Mayor Harris welcomed those in attendance.

41
42 Council Member Stoker offered the invocation and led the audience in the Pledge of Allegiance.

43
44 **CONSENT AGENDA**

- 45
46 **1. Consideration to approve the minutes of the August 28, 2012 City Council meeting.**
47 **2. Consideration to approve business licenses.**
48

49 **Council Member Bailey moved to approve the Consent Agenda. Council Member Taylor**
50 **seconded the motion.**

51
52 **Voting on the motion:**

53 **Council Member Bigler** aye
54 **Council Member Taylor** aye
55 **Council Member Stoker** aye
56 **Council Member Fawson** aye
57 **Council Member Bailey** aye

58
59 **The motion passed unanimously.**

60
61 **ACTIVE AGENDA**

62
63 **1. PUBLIC COMMENTS.**

64
65 Mayor Harris explained to the audience this would be the chance for audience members to address
66 the City Council. He stated those who would like to speak should approach the podium and state
67 their name and address.

68
69 Debra Grushlow, 1355 E. 2925 N., stated she just heard about the discussion about the City parks and
70 asked why they discussing closing the parks on Sunday. Mayor Harris replied this is not a question
71 and answer forum. He asked that the public step forward and make their comments. He said the
72 Council will note the questions and answer them at a later time if they deem it appropriate. Debra
73 Grushlow stated she thinks the parks should be open and available to all citizens in the North Ogden
74 City for any purpose. She said they should be able to go to the parks on a Sunday.

75
76 Carl Turner, 2683 N. 950 E., stated he had two questions about the Public Works Facilities
77 Committee. He said he hopes Mel Blanchard, the Public Works Director, will be on the Committee
78 and asked whether the Opheikens property is still available.

79
80 Ruben Alvarez, 1048 N. 1025 E., said he is here representing La Liga. He said La Liga is for kids
81 between the ages of seven and ten. He said these kids already play in the seven to 13 age groups. He
82 said he spoke to the City Manager and complied with all the requests. He said he believes he has
83 gone above and beyond. If you go to the park on a Sunday the park is clean, if you go on a Saturday
84 afternoon the park is filthy. He said he thought the trash would be the number one reason they would
85 be kicked out.

86
87 Ned Malan, 1055 E. 1700 N., said he thinks they are discussing whether to observe the Sabbath Day
88 or to disregard it. He said the Lord commanded us to leave the Sabbath Day alone as far as work.
89 He said he thinks sports are one of the heaviest works that people do, they destroy their bodies. He
90 said he hopes that tonight things will be discussed and things will go on the Lord's side so they can
91 have his protection. He said this country has forgotten God as a whole and that is one reason we
92 have problems. He encouraged everyone here today to let the Lord have his ground. He said let's
93 leave the Sabbath Day alone.

94
95 Alane Currier Griggs, 834 E. 1800 N., said not everyone's Sabbath Day is Sunday.

96

97 Justin Scott, 3024 N. 100 W., said he feels like he is in a Footloose movie. He said his big question
98 is why Sunday is a big deal. He said he cannot believe they are really bringing this up for discussion.
99 He said it seems like they are targeting a specific demographic, which he thinks is very dangerous for
100 the North Ogden City Council to do. He said it also has a feeling of religious undertones, which he
101 also does not think is wise for the Council to do. He said last he checked his tax dollars are good
102 seven days a week. He said he doesn't play soccer on Sunday, but if these guys want to do
103 something that is supportive of kids he thinks they have every right to do that. He said what he
104 understood is that family members would be able to use the park. He asked why they are targeting
105 these other groups. He said he wants answers to why they are targeting the groups, why are they
106 trying to force their values on others, and why is Sunday such an issue.

107
108 Laura Stellmon, 1125 E. 3200 N., said she would respectfully submit that those who do not desire to
109 use the parks on Sunday are free to stay home and those who desire to do so should be able to do so
110 respectfully within legal limits. She said they should keep the park keep and not provide an over
111 abundant amount of noise to disturb neighbors. She said those who would like to use the park on
112 Sunday should be granted that ability.

113
114 Julie Anderson, 940 E. 2600 N., asked that the Council respect all members of the City. She said
115 some of us go to church and some don't. She said they need to be very respectful of everyone and
116 these parks are for the people. She said they should allow the people to enjoy them if they so choose
117 and everyone else can go to church. She said she thinks the Lord will respect their decisions as to
118 how they take their Sabbath.

119
120 Steve Davies, 2675 N. 850 E., asked if anyone has noticed how beautiful the leaves are. He asked
121 what everyone is doing at the parks; they should be up in the mountains.

122
123 Elaine Jensen, 2218 N. 575 E., said she was born and raised in North Ogden. She said she is Carl
124 Turner's mother-in-law and there was some question whether she attended previous City Council
125 meetings. She said there are three rosters that she did attend but she didn't sign in on a couple of
126 them.

127
128 Mayor Harris stated that brings up a good point, everyone here needs to sign in.

129
130 Brian Russell, 1151 E. 3400 N., said he is a member of the predominant religion and he would
131 support the use of the City parks on Sunday. He said he thinks that is what parks in the City should
132 be involved in and allow people to do that if they so choose. He said it is a worthy purpose. He said
133 it is not just those who may have a different Sabbath day. He added that he thinks they have some of
134 the nicest parks in Utah and it is good for them to be enjoyed.

135
136 Ben Garrison, 683 E. 2650 N., said he also a member of the predominant religion. He said he feels
137 that there are people that choose not to attend church and they need to look at the interest of all
138 people. He asked, if the City does not supply the parks for worthy activities, what alternatives are
139 there for some individuals. He said he would rather see activities like soccer. He said if those kids
140 are not provided clean activities... he does not want to see things like the Alexis Rasmussen case
141 where some of the teenagers gets caught up in things that are not good. He said those are some of the
142 things they need to be aware of. He said there are good purposes.

143
144 Brent Code, 482 E. 1850 N., said he worked for a nearby city as a police officer in the past. He said
145 he thinks the city has drawn a lot of attention to them. He said people are coming up using this as a

146 soundboard for their faith. He said it doesn't matter what faith people are or what day people use the
147 park, the Council is opening them up for lawsuits and it is a waste of our money and our tax dollars.
148 He said the Council needs to be careful and watch what is happening there.
149

150 Phillip Swanson, 1066 E. 3300 N., said a very wise man said they believe in worshiping almighty
151 God according to the dictates of their own consciences and allow all men the same privilege to worship
152 who, what, or where they may. He said he thinks they are getting into real thick and muddy waters
153 by shutting down the parks on Sunday.
154

155 Mary Beth Ford, 608 E. 2650 N., said this is not a religious issue it is a public issue they are public
156 parks. She said everyone should be able to use these parks at any time without any discrimination.
157 She said she feels closing the parks down on any day of the week is wrong. Anyone should be able
158 to use them for whatever purpose they choose as long as they are being respectful.
159

160 Dave Hulme, 513 E. 1700 N., said a lot of the discussion has been about this being a public park. He
161 said he wanted to mention the fact that these are some of the nicest parks and they are paid for by the
162 tax dollars of the citizens of North Ogden City. He said they are used by people from all over. He
163 said in an ideal world there would be reciprocation and the people of North Ogden would go and use
164 nice parks elsewhere, but at the end of the day what happens is the citizens of North Ogden end up
165 subsidizing parks for people to use. He said if the City did not own any parks they would not be able
166 to shut them down on Sundays. He said the decision on whether or not to have park be available
167 would be a commercial decision similar to the grocery stores in our area, one chooses to close on
168 Sundays. He said this discussion has the ability to spill over into things such as the swimming pool,
169 senior center, skate park, library, and virtually anything owned by the government could have this
170 type of discussion. He said there will be those who say everything should be open on Sunday
171 regardless. He said once that door is opened it may become impossible to close.
172

173 **2. PRESENTATION TO CROSSING GUARD, JAYLENE GREENWELL.**
174

175 Polo Afuvai, Chief of Police, said this is a great day and he is glad the media is here to show off one
176 of our best crossing guards. He said Jaylene Greenwell was hired August 1992 and her post is
177 located at 650 East 2600 North. He said she has been with us for 20 years keeping most of the kids
178 that go to North Ogden Elementary School safe. He said that is what she does every day five days a
179 week in the snow, rain, and wind. He said she is there to protect the kids and instruct them and make
180 sure they are safe going to school. He said they take for granted what these people do for your
181 children. Polo Afuvai presented Jaylene Greenwell a plaque recognizing her 20 years of dedicated
182 service in North Ogden City as a school crossing guard.
183

184 Mayor Harris recommended they move to agenda item six.
185

186 **Council Member Fawson made a motion to move item six to the next agenda item. Council**
187 **Member Bailey seconded the motion.**
188

189 **Voting on the motion:**

190 Council Member Fawson	aye
191 Council Member Bigler	aye
192 Council Member Stoker	aye
193 Council Member Taylor	aye
194 Council Member Bailey	aye

195 **The motion passed unanimously.**

196

197 **6. DISCUSSION REGARDING THE USE OF NORTH OGDEN CITY PARKS ON**
198 **SUNDAYS.**

199

200 Council Member Bigler said this item came up because many residents around Orton Park were
201 complaining about the noise and traffic. He said this is just a preliminary discussion and Council has
202 not had one word of discussion on this. He said the media jumped the gun and put a report out. He
203 said he does not know how they get information because they have not had a chance to discuss it yet.
204 He said there were a couple of things in the report that were not accurate. He said for the record a
205 Council Member was talking on the records stated this was discussed previous to him being around,
206 so he did not know anything about it. He said the first email on this was September 9th and the
207 second email was on September 10th. He said everyone was involved in the email and knew about it.
208 He said another thing that was incorrectly reported to KSL was that this league was in compliance.
209 He said originally they were not in compliance. He said they just came without contacting the City
210 and that is when this was put on the agenda. He said since then they have come in and paid the fee.
211 He said the City Administration had no knowledge about the league until residents began to
212 complain. He said he agrees with what has been said and they need to look at all residents, and that
213 includes both sides. He said it has nothing to do with the predominant religion. He said years ago a
214 master plan was put together and they had to decide what to do with parks. He said a survey was
215 done with the residents and the option was either a big park complex or more cozy residential parks.
216 He said overwhelmingly the residents voted to have the neighborhood parks. He said this item was
217 put on the agenda by the residents. He said most items on the agenda have been brought up because
218 of the resident's concerns. He said it is a challenging issue. He said residents who live by the parks
219 have had a real challenge.

220

221 Council Member Bigler said North Ogden City does not have any Sunday City leagues. He said it is
222 not against the law to have a league on Sundays. He said the issue is regarding official leagues;
223 people can still rent the boweries and play at the parks. He said the issue is with official leagues
224 comes heavy traffic. He said the whistles are blowing every 10 seconds throughout the day and some
225 residents want a break. He said Ogden City rotates days because the grass needs time to recoup. He
226 said they have leagues every day of the week and all day on Saturday. He said this is brought up
227 because of the concern of residents. He said North Ogden does not have leagues on Sundays. He
228 said some other leagues from other cities to use North Ogden parks. He said administration has
229 stated this issue has not come up in their City before. He said North Ogden residents pay for the
230 parks and they live here for the serenity of the City. He said it is a tough issue. He asked why
231 leagues from other cities are coming to North Ogden on Sundays. He said he imagines there is a
232 reason besides making parents and people from the other teams drive further. He said there is a fine
233 line with government where you step in and where you let things go. He said the nonstop whistles
234 and traffic by the houses, the residents have asked for a break from that. He said the issue for
235 Council is our residents live here for a reason. He said the residents also pay for the parks. He said
236 the fee for the parks does not produce revenue, it goes toward the upkeep. He said if this continues
237 to go and more leagues decide to bring their leagues here at what point do they say these are not our
238 kids and we do not have leagues on Sundays. He said they have leagues every other day. He said the
239 issue with residents is to have a little peace and quiet and no congestion on Sundays.

240

241 Council Member Bigler said the City Attorney was asked about some of the legal issues and he asked
242 to hear from him. Jon Call said he was asked what the cities options were and what they could do.
243 He said it focuses on constitutional issues in the sense that several communities have restricted

244 activity on Sunday and those are always based on an appropriate purpose that does not focus on
245 religion. He said several of the comments tonight have focused on religion. He said there is a lemon
246 test that focuses on the intent of the speaker or the Council and what is the message that is conveyed
247 in the community. He said if either of those prongs entangle religion with what the government is
248 doing then the action taken is inappropriate. He said one famous case focused on two displays
249 around the holidays. In one there was a nativity scene and in another there was a Christmas tree and
250 a Menorah and that scene was less focused on a religious aspect. He said the court decided the
251 nativity scene was inappropriate. He said the court stated the Menorah was fine because it had a
252 historical purpose. He said as long as there is a valid reason that is not based on religion it does not
253 necessarily give them the green light. He said you have to look at that message it conveys.

254
255 Council Member Bigler said there are other cities that set aside a day to let the grass recoup. He said
256 all the other days of the week they have cities leagues for our kids. They pay for the parks. He asked
257 if they allow it on Sundays and not on Thursdays. He said Sunday is the day North Ogden City does
258 not have any leagues and it is a day where the park can rest, get some peace and quiet, and the
259 upkeep it needs.

260
261 Council Member Bigler asked Jon Call how other cities have passed an ordinance for parks. Jon Call
262 replied he has not found any other city that has passed an ordinance for parks. He said there are
263 states that prohibit alcohol sales on Sundays. He said there used to be a law in Utah that prohibits
264 motor vehicle sales on Sunday. He said it was later changed to say there could only be six days of
265 vehicle sales. He said if the Council decides to go forward with this then it has to be a legitimate
266 reason that is not focused on religion. Council Member Bigler asked if that only applies to parks. Jon
267 Call replied the State Code declares every Sunday as a holiday and that is why the County Libraries
268 are not open.

269
270 Council Member Bigler said there is no other day to close it to give the parks a break. He said it is
271 very noisy when there are leagues and there is traffic in front of the resident's houses. He said they
272 do not have another option to give that park a break. He said the residents have asked for at least one
273 day of peace and quiet. He said North Ogden City does not have any Sunday leagues for our kids.
274 He asked if that is why other leagues are coming to North Ogden. He said the residents are
275 complaining about the whistle blowing and noise and it is not even our kids. He said he is sure it is a
276 fine line legally. He said he contacted Weber County and they have tons of leagues all day Sunday
277 and they have the parks for that, why not play there. He said they have six days a week with their
278 residents; can they ever have a break? It is a tough issue.

279
280 Jon Call agreed that it is a tough issue and these are all things the City Council will have to consider.
281 Council Member Bigler asked if they can close them if Sunday is considered a holiday. Jon Call said
282 he believes all State and National parks are open on Sunday. He said he thinks that the Sunday
283 holiday applies to business operations, so the commerce and legislature department can shut down.

284
285 Council Member Bailey asked if Orton Park is the only park that has leagues. Jon Call asked another
286 consideration is what constitutes league play, how many kids have to come together before it is
287 considered league play. He said there are a lot of issues that come up and how is it enforced.

288
289 Mayor Harris asked Jon Call for more clarification on what he mentioned about intent. Jon Call
290 replied it is called the "Lemon Test". He said the first one is actual intent and the other point is what
291 intent the government is conveying to the community and what they feel the intent is.

292

293 Mayor Harris said the problem would be if the City came up with a reason to close the park, yet
294 everyone knew it was for religious purposes. Jon Call said even if the majority of the people felt it
295 was religious. He said it is how it is perceived not necessarily if there is a real argument for it or not.
296 Mayor Harris commented that the perception becomes quite an issue.

297
298 Council Member Fawson said that he understands the current ordinance allows for league play if they
299 follow the proper procedures and pay the fees, but they do not offer any City Employee support. He
300 said to him it makes sense, they do not pay their employees to work on Sunday regardless of whose
301 Sabbath it is.

302
303 Ron Chandler pointed out that the ordinance does not specifically say anything about a league it
304 states that it shall be unlawful for any person to hold a meeting, gathering, picnic, musical, theatric,
305 or other entertainment in any park without first obtaining a permit. He said if it is a league play or
306 family reunion on any day of the week they would have to first obtain a permit. He said the fee
307 schedule provides the cost for the permit. He said the only time the parks are closed is between
308 10pm and 6am every day.

309
310 Council Member Taylor stated that he has not heard this particular concern from any resident in the
311 past. He said he would like to take the time to ask residents how big of an issue it is to the
312 neighborhood. He said he has a way he keeps the Sabbath personally that is in line with his religion.
313 He said personally he would not be on a league on Sunday, but if others would like to have an event
314 and they are doing something that is great for the kids, he wouldn't want to stop them from doing
315 that especially when he hasn't heard the concern from any of the residents. He said when they get
316 into this area where there are such strong viewpoints on both sides there has to be a compelling
317 reason for the City to get involved in something that could be perceived as religious and he is not
318 seeing that in this discussion. He said he would rather see them keeping things the same so if
319 someone wants to do a league they can if they follow the procedure.

320
321 Council Member Stoker asked if they can set a time for how long a league can play. Ron Chandler
322 said the time frame is determined by the leagues itself except when they winterize the fields. He said
323 that goes from the mid October to April. There is nothing in our ordinance that limits the number of
324 weeks a league will play.

325
326 Council Member Stoker said everyone has their own personal religious views. She said she is very
327 uncomfortable saying who can be at a park and who cannot. She said she has not heard this issue
328 brought up before. She said she does think their kids should have a safe place to play and be healthy.
329 She said she doesn't know how to separate religion and state. She said it is a real struggle.

330
331 Council Member Bailey echoed Council Member Taylor that in absence of them being aware of a
332 compelling argument or that this is a nuisance, or any other significant problems. He said he would
333 be in favor of leaving things the way they are and inviting people to use our parks. He said Mr.
334 Hulme brought up the concern of people coming from other communities. He said he does not know
335 how pervasive the problem is or if they even want to study the problem.

336
337 Council Member Fawson said if they were going to restrict other leagues from coming into the City
338 they need to look at it from that perspective. He said he would hate to restrict play or activities in the
339 parks.

340

341 Council Member Bigler said his biggest for him is at what point they should step in to protect North
342 Ogden residents' way of life. He said he knows the room is full of people who have spoken against
343 it, but he guarantees there are a lot of people who feel the opposite and those are the people who live
344 right by these parks. He said if it is protecting the outside leagues and not our residents then he
345 would rather represent our residents and the lifestyle they want. He said he doesn't see it as a
346 religious issue. He said Ogden City has different days to give the grass and parks a break. He said
347 our community does not support leagues on Sunday. He said it would be different if North Ogden
348 residents requested to play softball on Sunday. He said these people are not even from North Ogden.
349 He said he feels like it may be an issue later to open the flood gates for all these other cities to start
350 bombarding us on the day our community has chosen not to have leagues. He said it is important to
351 let the turf recoup and it is an issue with other cities as well. He said if there was enough support for
352 leagues on Sundays from the people that pay for the parks then maybe they could let the grass rest
353 another day. He said there is just not the support on Sunday and they are used the other six days a
354 week.

355
356 Mayor Harris said what he heard from the majority of the Council is they would let this issue rest and
357 see what happens in the future.

358
359 **3. DISCUSSION AND/OR ACTION TO ACCEPT AN APPLICATION TO START THE**
360 **ANNEXATION PROCESS FOR PROPERTY LOCATED AT APPROX. 1400 E. 2900**
361 **N., NORTH OGDEN, UTAH.**
362

363 Annette Spendlove said they have received a request to annex George Hall's property that will be
364 included in the Halltree Subdivision. She said the property is located at 1400 E. 2900 N. She said
365 tonight the City Council is only accepting the application to begin the process. She said this will
366 come back to them at a later date once the City Engineer and all the utility companies have agreed to
367 this. She said Weber County has already approved this application.

368
369 Council Member Bigler asked if Mr. Jones had another property that he wanted to annex. Annette
370 Spendlove said Carson Jones is the one who filled out the application, but George Hall signed the
371 documents.

372
373 Council Member Bigler asked the affect on the City. Annette Spendlove stated they are creating a
374 subdivision to build more homes and bring in more citizens. Mayor Harris said it is currently
375 unincorporated land and the annexation will add the property to the City so it can be subdivided.
376 Annette Spendlove said the property taxes will come to North Ogden City rather than Weber County.

377
378 **Council Member Bailey made a motion to accept the Halltree annexation application. Council**
379 **Member Stoker seconded the motion.**

380
381 **Voting on the motion:**

382 **Council Member Fawson aye**
383 **Council Member Bigler aye**
384 **Council Member Stoker aye**
385 **Council Member Taylor aye**
386 **Council Member Bailey aye**

387
388 **The motion passed unanimously.**
389

390 4. **PUBLIC HEARING TO RECEIVE COMMENTS ON AMENDMENTS TO THE**
391 **NORTH OGDEN CITY ZONING ORDINANCE SECTION 11-10-5 SPECIAL**
392 **PROVISIONS FOR SIDE YARD REDUCTION.**
393

394 Craig Barker, Community Development Director, referred the City Council to information they
395 received regarding the proposal. He said City staff went to the area that was identified as having
396 been recorded prior to 1980. He said they walked the streets and measured all single car garages or
397 carports to the property line. He said they were not sure of the exact property line, but could come
398 within six inches to one foot to determine if their proposal would allow these people to build a
399 double car garage.
400

401 Ron Chandler stated they looked at 509 properties, which either had either a carport, one car garage,
402 or no garage. He said 56% would be able to put a garage in under the proposed recommendation.
403 He said that is an increase of about 130 homes that cannot do this under our existing ordinance. He
404 said they also went further and researched whether those homes had other options such as putting the
405 garage in the backyard and most of them did.
406

407 Craig Barker stated that they have had two applicants go before the Administrative Law Judge for
408 approval to build a two car garage and both were approved. He said they looked at it and determined
409 those people should have the same opportunities that the rest of us have. He said currently the
410 ordinance requires a two car garage.
411

412 Craig Barker reviewed the proposed ordinance.
413

414 Council Member Fawson asked if adding living space above the garage is allowed. Craig Barker
415 said they have not said anything about that, so it would be allowed.
416

417 The public hearing opened at 7:42pm.
418

419 Dave Hulme, 513 E. 1700 N., said he thinks this is great and a practical solution that helps residents
420 out. He said it allows people to improve some of the aging properties in the City and older
421 neighborhoods viable. He said when he read section B he was confused as well. He said it would be
422 good to improve that language so it is not ambiguous.
423

424 Ryan Udell, 576 E. 2800 N., said the current requirements would require it to be 24 feet deep and 22
425 feet wide and a minimum of eight feet on the side yard. He clarified they are proposing to reduce the
426 side yard requirements and the width of the garage to allow people to have a garage.
427

428 **Council Member Bailey made a motion to close the public hearing. Council Member Taylor**
429 **seconded the motion.**
430

431 **Voting on the motion:**

432 **Council Member Fawson** aye

433 **Council Member Bigler** aye

434 **Council Member Stoker** aye

435 **Council Member Taylor** aye

436 **Council Member Bailey** aye
437

438 **The motion passed unanimously.**

439 **The public hearing was closed at 7:45pm.**

440

441 Council Member Bailey said they have one citizen that has been waiting to have her appeal heard by
442 the Administrative Law Judge. He made a proposal that we suspend the rules and vote on this
443 tonight. Mayor Harris asked Jon Call if they can take action tonight if it is not listed as an action
444 item on the agenda. Jon Call said according to State Code the City Council does not have to hold a
445 public hearing and is able to take action that same day.

446

447 **Council Member Bailey moved to approve Ordinance 2012-23 amending the North Ogden City**
448 **Zoning Ordinance 11-10-5 Provisions for Side Yard Reductions. Council Member Fawson**
449 **seconded the motion.**

450

451 Council Member Fawson asked for clarification in the future on section B. Craig Barker stated they
452 can ask the Planning Commission to look at the language and clarify the language in section B.

453

454 Council Member Bailey asked the required width of a parking space. Craig Barker replied nine feet.
455 Council Member Bailey asked if there is something magical about the 20 foot number. Craig Barker
456 said most cities use the 20 foot requirement. He said that requirement will usually accommodate the
457 larger vehicles.

458

459 Council Member Bailey said he is so impressed with the proactive approach they have taken with
460 this problem and the opportunities they are creating to hopefully help revitalize some of the
461 neighborhoods in our City. He proposed to change the ordinance amendments to allow garages to be
462 reduced to 18 feet wide. Ron Chandler asked if that would make the magic number 24 feet instead of
463 26 feet. Craig Barker replied yes.

464 **Council Member Bailey moved to amend his motion to approve Ordinance 2012-23 changes to**
465 **the North Ogden City Zoning Ordinance 11-10-5 with amendments to define the minimum size**
466 **for a garage as 18 feet, opposed to 20 feet. Council Member Taylor seconded the motion.**

467

468 Council Member Taylor echoed Council Member Bailey's appreciation toward staff and the Planning
469 Commission. He said he think it is a great move to provide more people better opportunities to use
470 their properties.

471

472 **Voting on the motion:**

473 **Council Member Fawson** aye

474 **Council Member Bigler** aye

475 **Council Member Stoker** aye

476 **Council Member Taylor** aye

477 **Council Member Bailey** aye

478

479 **The motion passed unanimously.**

480

481 **5. DISCUSSION ON THE IRRIGATION CANAL LOCATED AT 525 E. 1700 N.**

482

483 Mel Blanchard, Public Works Director, stated he wanted to provide some follow up regarding the
484 resident at 525 E. 1700 N. He stated that he and Ron Chandler met with Terrill Grimley from
485 Pineview Water Systems. He said they received clarification from him on some of the issues. He
486 went over the map (included in the packet) and stated they are required to maintain all of the
487 channels in the City that were here before the City was built. He said they maintain and watch over

488 the channels that the subdivisions were built around. He said their concern was how they identify
489 who has the responsibility to clean some of the channels in the City. He said the large channel that
490 runs through the Bicentennial Park has always been a concern for them. He said Terrill Grimley has
491 been with Pineview Water Systems for 34 years and he is also on the Board of Directors for the
492 North Ogden Canal Company. He said they have a circuit rider who is responsible for checking the
493 canal and its maintenance.

494
495 Mel Blanchard stated Terrill Grimley explained that the people who have the water rights to the
496 water that runs down the channel on 525 E. 1700 N. are responsible for that maintenance, which
497 means North Ogden City does not do anything with it. He said they asked to provide a list of names
498 of people who have shares on that water, but Terrill Grimley could not provide the names. He said
499 they put a lock on the head gate that feeds that channel to determine who owns the water rights. He
500 said right now they have no jurisdiction to clean or do any maintenance on the irrigation canal
501 located at 525 E. 1700 N. The only thing they can do is try to provide the resident with the names of
502 the people who are responsible for it.

503
504 Ron Chandler said when they met with Terrill Grimley they stated they wanted to make sure that
505 when people are calling the City or when they are calling Pineview Water Company they are being
506 given the same information. He said what they have been able to come up with is that the canals
507 themselves are the responsibility of the irrigation company and the natural streams are the
508 responsibility of the local government. He said the maintenance of the laterals or ditches is the
509 responsibility of the water users. He said the maintenance of the sides of the ditch is the property
510 owner's responsibility. He said they spoke with the resident and she has difficulties in trying to keep
511 her property maintained. He said they are trying to get a hold of neighbors and ecclesiastic leaders to
512 see if they can pitch in and help her with getting that cleaned up. He said he thinks a Boy Scout
513 group can have that cleaned up in about three hours. He said he has tried to call her Bishop and is
514 following up with that.

515
516 Council Member Bailey asked if all the red lines are active drainage. Mel Blanchard replied no, only
517 when there are storms. Council Member Bailey asked if those are natural channels and if
518 development is allowed to encroach in that area. Mel Blanchard replied no if they do encroach they
519 are required to install piping.

520
521 Council Member Fawson stated he appreciates the work that was done and knows it is a big
522 accomplishment to get this worked out with Terrill Grimley.

523
524 **7. DISCUSSION AND/OR ACTION REGARDING CANCELLING THE OCTOBER 23,**
525 **2012 CITY COUNCIL MEETING.**

526
527 Annette Spendlove, City Recorder, stated that October 23, 2012 is the start of early voting for the
528 November Election from 9am to 5pm. She said they are a Voting Center and anyone in Weber
529 County can vote here. She said there are voting machines and it is very busy. She said there is a
530 work session on October 2, 2012 and suggested the Council has a work session the first part of the
531 meeting and an active Council Meeting the second part of that. She said the October 9th meeting will
532 still be held.

533
534 Mayor Harris restated there is a work session on the 2nd of October, which could be an active session,
535 and there is a regular meeting on the 9th of October. He said they are proposing to cancel the meeting
536 on the 23rd of October because the voting machines will be in the City Council Chambers.

537 Council Member Fawson asked if they have an alternative site available for the City Council
538 meetings. Annette Spendlove said they could check to see if the Senior Center is available. He said
539 he would rather have a meeting if they can.

540
541 Council Member Bigler asked Mayor Harris to tell the residents what the work session is about.
542 Mayor Harris stated the work session with the Planning Commission. Ron Chandler stated the
543 Planning Commission has requested this work session to discuss some land use issues.

544
545 Council Member Bailey brought up the training session they have scheduled on October 17th with
546 Pleasant View City. Ron Chandler said there is also the Economic Development Committee meeting
547 on the October 16th.

548
549 Council Member Bailey asked if there would be time for them to have a regular City Council
550 meeting on the October 2nd work session. Annette Spendlove replied that would be up to the
551 Council.

552
553 **Council Member Bigler made a motion to cancel the October 23, 2012 meeting. Council**
554 **Member Bailey seconded the motion.**

555

556 **Voting on the motion:**

557 **Council Member Fawson** aye

558 **Council Member Bigler** aye

559 **Council Member Stoker** aye

560 **Council Member Taylor** aye

561 **Council Member Bailey** aye

562

563 **The motion passed unanimously.**

564

565 **Mayor Harris convened into the Board of Equalization at 8:09pm.**

566

567 **8. BOARD OF EQUALIZATION**

568

569 **a. A request for a refund on a Business License by Stacey Giatras.**

570 Ron Chandler stated the City does not charge for business licenses unless the owner makes \$500 or
571 more. He stated they also charge \$150 deposit that is refunded if the property is left in good
572 condition. He said they received an application for a fruit stand and the applicant estimated they
573 would make more than \$500. He said they charged them \$250. He said it turned that the applicant
574 paid more in fees than what they made. He said the deposit has been refunded but staff does not have
575 the authority to refund a business license. He said staff recommends the refund be granted.

576

577 **Council Member Fawson made a motion to refund the business license fees to Stacey Giatras.**

578 **Council Member Stoker seconded the motion.**

579

580 **Voting on the motion:**

581 **Council Member Fawson** aye

582 **Council Member Bigler** aye

583 **Council Member Stoker** aye

584 **Council Member Taylor** aye

585 **Council Member Bailey** aye

586 **The motion passed unanimously.**

587

588 **9. DISCUSSION ON CHANGES TO SECTION 4-1-5 OF THE NORTH OGDEN CITY**
589 **CODE – BUSINESS LICENSES.**

590

591 Ron Chandler said they are asking the City Council to consider changes to section 4-1-5 to give a
592 staff member the ability to provide a refund in unusual circumstances. He said normally a Board of
593 Equalization is only used really under tax assessments. He said the County is really the only one
594 who uses a Board of Equalization. He said the only time a refund is given outside of the Board of
595 Equalization is if there is a disaster. Council Member Bigler asked if they can include that in the
596 motion. Ron Chandler suggested they direct the staff to bring back an amended ordinance. Mayor
597 Harris restated that staff will bring back a draft ordinance which will loosen it up so they do not have
598 to convene a Board of Equalization. Council Member Bailey said he thinks they need to keep it
599 significantly tight and state who will have the authority to provide a refund and under what
600 conditions a refund will be approved. Council Member Bigler said he would think the conditions
601 would remain the same.

602

603 **10. DISCUSSION AND/OR ACTION TO APPROVE MEMBERS FOR THE PUBLIC**
604 **WORKS FACILITIES COMMITTEE.**

605

606 Mayor Harris said Carl Turner asked if the proposed land was still available for the Public Works
607 Facility Complex. He stated the landowner withdrew his offer. He reminded the Council of
608 discussions how to form this committee. He said it is his responsibility to propose the makeup of the
609 committee with the advice and consent of the City Council. He stated Brent Chugg would serve as
610 the chair and a voting member. Mayor Harris went over all the names on the list.

611

612 **Council Member Bailey made a motion to approve the members for the Public Works Facilities**
613 **Committee as presented. Council Member Stoker seconded the motion.**

614

615 Council Member Taylor asked with the committee chair being voting member and there being 14
616 members, what would they do in the event of a tie. Mayor Harris said he thinks the probability of a
617 tie vote is small and they will address it at that time.

618

619 Council Member Fawson said this has been a hot issue for a long time and some have supported the
620 petition to get this on the ballot to allow residents voice their concerns with the bond parameters. He
621 said he feels there is balance on the committee and thinks it would be unfair and improper to stack
622 the committee with only those who supported the petition. He said he hopes to move ahead.

623

624 **Voting on the motion:**

625 **Council Member Fawson aye**

626 **Council Member Bigler aye**

627 **Council Member Stoker aye**

628 **Council Member Taylor aye**

629 **Council Member Bailey aye**

630

631 **The motion passed unanimously.**

632

633 Mayor Harris said they will gather contact information and establish a first meeting.

634

635 **11. PUBLIC COMMENTS.**

636

637 Dave Hulme, 513 E. 1700 N., stated Janet Manley is his next door neighbor and their bishop's name
638 is David Godfrey. He said he know people who claim water rights and will pass that information on.
639 He said there are a couple of questions. He said one problem is the heavy flow of water and who do
640 they contact. He said the other question is who the owners of the water rights should contact. He
641 said he appreciates the City dealing with that.

642

643 Carl Turner, 2673 N. 950 E., thanked the Council for forming the Public Works Facilities
644 Committee. He suggested that the committee looks at what was previously done. He said he was on
645 the first committee, but asked to be removed when it went out for bid because of conflict of interest.
646 He said he hopes they look at the Blaylock Study and it would be great to include Jones and
647 Associates.

648

649 Mark Mackley, 1730 N. 600 E., thanked the Council and Ron Chandler for the action taken on
650 agenda item eight. He said he allowed that to be put on the agenda was more of a civic responsibility
651 rather than being overly concerned about the financial side of it. He said he appreciates his efforts to
652 help and this was more or less his way of getting his boys and the neighborhood boys involved in
653 something productive. He said one suggestion he would make is to look at changing the cleanup
654 deposit. He pointed out that they conduct the business on private property. He said he doesn't
655 understand why the City would be involved in that. He said the process to obtain the permit is
656 intimidating. He said the boys were intimidated by the City Employee who threatened to call the
657 cops if they sold one more bushel of apricots. He said anything they can do to ease up the ordinance
658 and allow people to be free. He said every business owner has the responsibility of safety, security,
659 and cleanliness of their own property. He said he appreciates your efforts in that situation.

660

661 Don Matthewson, 2277 N. 515 E., said he talked with Val Berrett and they have gone to the trouble
662 of establishing the course of the canal and recording it. He said the right of way has been established
663 and may be useful to Mel Blanchard. Mayor Harris stated there has been some recent legislation
664 requiring cities to inventory all the flows that come from cities drainage system. He said our City
665 Engineer has been working on that as well.

666

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

668

669 Council Member Bailey said he appreciates all the work that has gone into everything that has taken
670 place tonight. He said he thinks they have had an efficient and productive meeting. He said there is
671 a vacant home on 2741 N. 400 E., that has a sump pump running continually and they are getting a
672 nasty moss build up. He said he thinks this is a public safety hazard.

673

674 Council Member Fawson said the Council had a resident email them about a light being out and it
675 has been out several months. He said he understands Ron Chandler and Mel Blanchard are working
676 on that and it is still a Rocky Mountain Power issue. He said they have had the discussion about
677 other utility companies and the inability to get the work done faster. He said one thing he would like
678 to recommend some kind of reporting method. He said he would love to see an app that can be used
679 or something on the website where they can report it on the website. He said that would enable us to
680 track the issues and long-term it would give us the power to track the service level to the residents.
681 He said if there are issues like with Rocky Mountain Power they would have a record of how long it
682 takes. He asked for an update on the City website. Annette Spendlove said they are currently
683 working on that and hope to have it up and going in a couple of weeks. Council Member Fawson

684 said there are some issues with residents trying to send emails to the Council or staff. He said if they
685 do not have Outlook there is an error. He recommended creating a forum in the website. Mayor
686 Harris said that is a good suggestion. Council Member Fawson said he mentioned earlier that he
687 coauthored the petition and he put a lot of work into that because at the time they did not feel like
688 their voices were being heard. He said his view has not changed. He said his view of the overall cost
689 has not changed, nor has his view of the makeup of the committee. He said he feels like they need to
690 move forward as much as possible for as little as possible. He said Pleasant View has done a great
691 job and he said he thinks they can do a great job too. He said he is on the same path.

692
693 Council Member Bigler asked regarding the canal issue how they let people know who to contact for
694 help. Ron Chandler stated the most important thing is that they are giving everyone the same
695 information. He said there will be times when residents will not like that they are responsible for the
696 weeds alongside the ditch. He said if they get a call from a water user we generally get information
697 and call them back. He said the first person who gets the call should be able to get their information
698 so they are not being passed from person to person.

699
700 Council Member Bigler said he has not heard back on the sinking road. He said they were looking at
701 the water source and asked if they can follow up on that. Mel Blanchard said they ran all the
702 obvious tests, culinary water, sanitary sewer, and irrigation and not one is the source of that water.
703 He said the best thing they can come up with is that it has to be ground water and to find a ground
704 water source is next to impossible. He said they will watch it at the next rain storm to determine
705 what to do. He said they may need to put in a land drain. He asked if they require sidewalks in the
706 new development along 2100 N. Ron Chandler replied yes, all new subdivisions are required to have
707 sidewalks. Mayor Harris said they need to be aware that on small subdivisions the owners will have
708 to agree to put in sidewalks when the City determines it is necessary to put sidewalks in the rest of
709 the area. Council Member Bigler said rather than require the resident to put in the sidewalk later why
710 don't they require the developer to install the sidewalks upfront. Mayor Harris said they are trying to
711 avoid piece mealing it out. Council Member Bigler said the specific issue with the out buildings in
712 the back yard will be on the first meeting. He said he thought they directed the Planning
713 Commission to give them some different options like lot sizes, and the overall height. He said the
714 option was nothing. He said he hates for it to come back to the City Council and then back to the
715 Planning Commission and it gets caught up in red tape for another three months. Ron Chandler
716 stated once the City Council receives the recommendation from the Planning Commission they have
717 the option of accepting the recommendations as is, not improving them, or modifying the
718 recommendation. Council Member Bigler said they would need to have a public hearing so the
719 process is lengthy. He said he wants to make sure that specific item will be discussed in their work
720 session. Ron Chandler stated it is.

721
722 Council Member Bailey asked Jon Call about what he mentioned earlier about zoning and public
723 hearings. Jon Call stated the State Code does not require the City Council to hold a public hearing
724 for land use items. He said if it is a land use ordinance the public hearing is held at a Planning
725 Commission meeting, but if it is another ordinance the City Council will hold the public hearing.
726 Ron Chandler stated the City Council has the option to hold a public hearing and that has been the
727 practice.

728
729 Council Member Bigler stated there was previous discussion regarding what was going to happen
730 with the Orton Farms development and the rear property line and fences. He asked what was going
731 to happen with that. Mayor Harris said the rear property lines run along the rocks that line the basin.
732 He said it is impossible to put a fence in there. He said there is an easement to allow the City to

733 maintain that area. He said the fence will be built at the bottom of that slope rather than where the
734 property line is. He said the City will install a guardrail on the top of the dike. He said there will
735 only be one fence and a guardrail. Council Member Bigler asked if the City will be able to maintain
736 that area if a resident puts a fence up. Mayor Harris replied yes and stated that is why the City has an
737 easement.

738
739 Council Member Stoker thanked the residents for coming tonight and stating their thoughts and
740 feelings. She said that is what makes this City a great place to live. She said the wonderful thing
741 about their freedom is they can all agree to disagree. She thanked the staff especially Ron Chandler,
742 Mel Blanchard, and the Chief of Police. She said she appreciated the Police Officers and stated she
743 feels very safe when she walks home. She said if they have any concerns the staff is always right
744 there to take care of things. She said she is very excited about the Public Works Committee and
745 think it will be fair and cost efficient. She said she thinks great things will come from it and it will be
746 pleasing to all.

747
748 Council Member Taylor said he thinks the Public Works Facilities Committee will be a great
749 committee. Everyone had input in it and he is excited to see what they will come up with for the
750 City. He said he likes Council Member Fawson's proposal on the tracking system for service
751 requests from the residents.

752
753 Jon Call recommended the City Council not hold public hearing on land use issues. He said they can
754 hold a public meeting with public comments. He said the court can scrutinize public hearing much
755 more, plus the notice requirements are much more expensive. Council Member Bigler said it would
756 be cheaper to not have a public hearing. Jon Call said that is correct you only have to send out one
757 notice. He said when they talked about the closed meetings earlier they need to hold separate closed
758 meetings.

759
760 **13. DISCUSSION AND/OR ACTION TO ENTER INTO A CLOSED MEETING TO**
761 **DISCUSS LITIGATION.**

762 **Council Member Bailey made a motion to go into a closed session. Council Member Bigler**
763 **seconded the motion.**

764

765 **Voting on the motion:**

766 Council Member Fawson	no
767 Council Member Bigler	aye
768 Council Member Stoker	aye
769 Council Member Taylor	aye
770 Council Member Bailey	aye

771

772 **The motion passed 4 to 1.**

773

774 **The City Council recessed at 8:50pm and convened in a closed session.**

775

776 **The City Council reconvened in an open session at 10:00pm.**

777

778 **Council Member Bailey made a motion to go into a closed session. Council Member Taylor**
779 **seconded the motion.**

780

781

782 **Voting on the motion:**
783 **Council Member Fawson** no
784 **Council Member Bigler** aye
785 **Council Member Stoker** aye
786 **Council Member Taylor** aye
787 **Council Member Bailey** aye

788
789 **The motion passed 4 to 1.**

790
791 **The City Council convened in a closed session at 10:03pm and reconvened in an open session at**
792 **10:11pm.**

793
794 **14. ADJOURNMENT.**

795
796 **Council Member Bailey moved to adjourn the meeting. Council Member Stoker seconded the**
797 **meeting.**

798
799 **Voting on the motion:**
800 **Council Member Fawson** aye
801 **Council Member Bigler** aye
802 **Council Member Stoker** aye
803 **Council Member Taylor** aye
804 **Council Member Bailey** aye

805
806 **The motion passed unanimously.**

807
808 **The meeting adjourned at 10:11pm.**

809
810
811
812 _____
813 Richard G. Harris, Mayor

814
815
816 _____
817 S. Annette Spendlove, MMC
818 City Recorder

819
820 _____
821 Date Approved