

## NORTH OGDEN CITY COUNCIL WORK SESSION MEETING MINUTES

March 11, 2014

The North Ogden City Council convened in an open meeting on March 11, 2014 at 6:30 p.m. in the North Ogden City Council Chambers at 505 East 2600 North. Notice of time, place and agenda of the meeting was delivered to each member of the City Council, posted on the bulletin board at the municipal office and posted to the Utah State Website on March 7, 2014. Notice of the annual meeting schedule was published in the Standard-Examiner on January 24, 2014.

PRESENT:	Brent Taylor	Mayor
	Kent Bailey	Council Member
	Justin Fawson	Council Member
	Lynn Satterthwaite	Council Member
	Cheryl Stoker	Council Member
	James Urry	Council Member
STAFF PRESENT:	Ronald F. Chandler	City Manager
	S. Annette Spendlove	City Recorder/ H.R. Director
	Craig Giles	Public Works Director
	Gary Kerr	Building Official
VISITORS:	Zachary Hartmann	Eileen Truscott
	K. Scott Barker	Don Brown
	Joan Brown	Gary Rands
	Gyle Hollingsworth	Phillip Swanson
	Bill Hartmann	Sue Hartmann
	Blake Welling	Rachel Trotter
	Bob Buswell	Lisa Christensen
	Dan Nixon	Brent Chugg
	Dallan Young	Catherine Barker

Mayor Taylor welcomed those in attendance. He then introduced Father Eric Rickside from the St. James Parish Church and provided some brief information about his background. Father Rickside then offered the invocation and led the audience in the Pledge of Allegiance.

### **CONSENT AGENDA**

1. Consideration to approve the minutes of the February 4, 2014 City Council Meeting
2. Consideration to approve the minutes of the February 25, 2014 City Council Meeting

**Council Member Bailey moved to approve Council Member Satterthwaite seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**AGENDA**

**1. PUBLIC COMMENTS**

Phil Swanson, 1066 E. 3300 N., thanked the City for the installation of flashing stoplights at the intersection of 3300 North and 1050 East. He stated he has one suggestion to shift the orientation of one of the stop signs to ensure that it can be seen by motorists travelling around the curve.

**2. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING ACCESSORY DWELLING UNIT IN RE-20 ZONE**

A memo from City Manager Chandler explained that during the last City Council meeting the Council asked staff to answer questions and concerns that were raised during the meeting. Staff has reviewed meeting minutes to identify each question and possible policy changes as well as compared these against the sample ordinances provided to the City by the Hartmann family. Staff has attempted to evaluate each policy; provide the pros and cons; and prepared language that can be added to the Planning Commission's proposed ordinance. The memo noted the several questions that were raised and included staff's response to the questions in italicized print. Mr. Chandler read through his staff memo for the record.

Question 1: Will the Hartmanns be required to have separate driveways? This was asked during a discussion of the required surface for a driveway.

Answer: No

Reasoning: Item 7 of the proposed ordinance states; "The parking standards of North Ogden City for a single family home will apply." The Hartmanns have two options that will meet the parking standards written in Section 11-17 of the City Code. Option 1: The Hartmanns can use the existing driveway as shown on the picture below if they extend the concrete the length of a parking stall. Option 2: The Hartmanns can install concrete, pavers or asphalt on the potential driveway as shown in the picture below.

The specific requirements Section 11-17 are as follows. My commentary is in italics.

- Location: Required off street parking shall be located on the same lot or parcel as the use it is intended to serve. (*The proposed ordinance permits the primary dwelling unit and accessory dwelling unit to be located on one lot.*)

- Surfacing: All parking spaces, driveways and access-ways shall be surfaced with asphaltic concrete, pavement bricks or cement concrete. *(For option 1, the existing driveway on the picture below is made out of concrete. For option 2, the driveway must be constructed out of asphaltic concrete, pavement bricks or cement concrete)*
- The dwelling unit has the minimum number of required off street parking spaces as stipulated by section 11-17-4 of this chapter. *(2 parking spaces are required for each dwelling unit. For option 1, the existing driveway would be extended the length of a parking stall. This would provide the four parking stalls and the unencumbered access in the driveway to meet our requirement)*
- No vehicle shall be parked in the required side yard unless the parking area is improved with hard surface material such as concrete or asphalt. *(The existing driveway, including the section on the side of the house, is made out of concrete)*
- Location: Required off street parking shall be located within three hundred feet (300') of the building or use it is intended to serve, the distance being measured along the street line from the nearest point of the building or use to the nearest point of the parking lot. *(The distance from the existing driveway to the proposed accessory dwelling unit is 130')*

Council Member Urry noted that a third parking option is also available to the Hartmann family; they could paint parking spots on their property to allow vehicles to park at an angle along the driveway. Mr. Chandler concurred that would be an option. He continued his review of his staff report.

Question 2: Will the City require building and impact fees for the accessory dwelling unit?

Answer: Yes

Reasoning: The City charges the building permit and impact fees for all new construction. The fees are as follows.

- Permit Fee calculated using the 1997 version of the Uniform Building code section 107.2, table 1A plus 20%.
- Temporary Power Permit Fee 56.40
- 1% State Fee 1% of permit fee
- Plan Check Fee 50% of permit fee
- Water Connection Fee 307.00
- Sewer Connection Fee 56.00
- Storm Sewer Impact Fee 1,474.40
- Water Impact Fee 3,312.29
- Sewer Impact Fee 546.76
- Park Impact Fee 2,677.00
- Garbage 100.00
- Central Weber Sewer Impact Fee 2,333.00
- Construction Water Usage 54.08
- Fire Service Impact Fee 293.43
- Deposit, Offsite Improvements 500.00

Council Member Satterthwaite suggested that if those dwelling in the ADU are using utilities from the primary dwelling unit, the impact fees could be deferred until such time that the ADU is converted to a primary dwelling unit. Mr. Chandler stated he does not believe the City's ordinances provide that leeway and he noted the construction of an ADU will result in the need for a new service, which is when impact fees are typically charged. Council Member Bailey stated that when an accessory structure was originally built on the Hartmann property it was classified as a garage and he asked if any impact fees would have been charged at that time. Mr. Chandler stated there would be no impact fees for the construction of a garage. Building Official Kerr noted that when the Hartmann's garage was constructed the City collected

a storm water impact fee, but that practice has since changed and a storm water fee would not be charged for a garage built today.

There was a brief discussion regarding the fees listed above, with Council Member Urry asking if all fees will be charged to the Hartmann family to construct an ADU. Mr. Kerr stated that many of the fees are related to the construction of a new home. Council Member Urry stated he would like staff to determine whether the Hartmann family should be charged the fees listed above; he stated that he does not want them to be charged connection fees if they are not making a new connection or causing an additional impact on the City. City Attorney Call then provided the Council with an explanation of the purpose of impact fees as well as how the fee amounts are determined; the Hartmann family will have two residences on their property and, according to law, they are subject to being charged impact fees for each of those dwellings. The revenues generated by impact fees must be spent by the City within six years of collection. Mayor Taylor agreed that an ADU is considered an independent dwelling regardless of the utility connection situation; if the Council would like to address ADUs in a manner different from how other residences are addressed, that will need to be done through an ordinance amendment. The current ordinance does not give the City discretion to treat ADUs differently than other dwellings, including apartments and townhome types of units.

Mr. Chandler continued his review of his staff memo.

Question 3: Can the Hartmann property be subdivided?

Answer: Yes

Reasoning: If the property is rezoned to an R-1-10 zone, there will be enough street frontage for the main lot and the flag lot. In an R-1-1- the main lot is required to have 90' of street frontage and the flag lot is required to have 30' of street frontage.

Mr. Chandler's memo then reviewed several different policy issues as listed below.

Policy 1: Bountiful only permits the accessory dwelling unit as a conditional use and it automatically expires when ownership changes.

Discussion: Conditional uses are permitted uses with conditions. The conditions should be narrow, specific and applicable to all applicants. They should not be used to prevent an individual or use that otherwise meets City requirements. The proper use of conditions is to monitor requirements that can change. For example, set back requirements and maximum building size are easily established and do not need to be monitored from year-to-year or time-to-time. Conditions such as owner occupation and restricting occupancy of the ADU to family members can be changed from time-to-time.

Policy: In Section 1 of the proposed ordinance – An accessory dwelling unit shall be conditionally permitted. The permit shall be reviewed by the Community Development Director on an annual basis.

Add to Section 4 of the proposed ordinance:

1. An Accessory Dwelling Unit shall only be permitted when the property owner lives on the property within either the principal dwelling or accessory dwelling unit. (This should be moved from Standards in the proposed ordinance to conditions)
2. Those that reside in the accessory dwelling unit shall be members of the family as defined in North Ogden's City Code. (This can be added if you want to restrict residents of the ADU to family members. This will be discussed in policy 3.)

Pros: If the intended purpose of ADUs is to provide housing for family members, then a conditional use permit which is reviewed will help the staff monitor these requirements.

Cons:

- a) If the conditions are not specific and specified in the ordinance, the conditional use permit can be misused.
- b) An annual review requires greater administration by the staff.

Council Member Bailey asked if the definition of family is limited as to how it is currently defined in the City Code. Mr. Chandler answered no and noted it would be possible to provide a definition for family in the proposed ordinance or amend the current ordinance to apply to the entire City. He then continued reviewing the policy issues included in his staff memo.

Policy 2: Draper requires a deed restriction that is recorded on the property and as the property passes to subsequent owners so do the deed restrictions.

Discussion: A deed restriction can be used to inform subsequent owners that the ADU can only be occupied under certain conditions.

Policy: Add to Section 3 of the proposed ordinance the following language:

Prior to the City issuing a Certificate of Occupancy, the owner shall record against the deed restriction limiting the occupancy of either the primary dwelling or accessory dwelling unit and other standards and conditions as stated in the North Ogden City Code.

Pros: A deed restriction provides subsequent owners with a “Buyer’s beware” before they purchase the property and may prevent it as an investment property or with the idea that the ADU can be rented. (This point assumes you want to restrict the ADU to family members only)

Cons:

- a) Deed restrictions are one more step that staff would need to go through;
- b) When someone is buying property, they should be aware of what’s allowed in the zoning ordinance;
- c) Deed restrictions won’t notify neighbors; and,
- d) An annual review of a conditional use permit will identify if the property has changed hand. The annual review though would not notify someone in advance of purchasing the property.

Policy 3: The accessory dwelling unit is restricted to family members.

Discussion: The owner occupied and family member restrictions seem to address the concern that ADUs will deteriorate neighborhood properties because, without these restrictions, landlord speculators will buy both units and rent both of them. The fear is that neither the landlord nor the tenant will maintain the unit and this will have a detrimental effect on neighboring properties.

North Ogden defines a family as “An individual, or two (2) or more persons related by blood or marriage, or a group of persons not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.” (North Ogden Code 11-2-1)

Policy: Add to section 3 of the proposed ordinance the following language:

Those that reside in accessory dwelling unit or principal dwelling unit shall be family members, as defined in the North Ogden City Code Section 11-2-1, of the property owner.

Pros: This may prevent the deterioration of the property as stated above.

Cons: This may be overkill and act as a deterrent to building ADUs. The owner occupancy requirement may be sufficient to prevent landlord speculators from buying the property and renting it. The following are possible reasons for leaving this provision out of the proposed ordinance.

- a) Family situations change. Parents pass away. Children move. The property owner living on the property may be left with a dwelling unit that can't be occupied.
- b) If the property owner finds themselves in the situation described above, the incentive will be to subdivide the lot, create a flag lot and either sell or rent the property. If this is done, the standards of the ADU ordinance will not apply to either property.
- c) We don't apply this standard to any other single-family home owners in the City. If my parents and I live next to one another and my parents pass away, I can rent their home without limitation.
- d) If the City is concerned about landlord speculators, a more effective method to address this may be to eliminate flag lots. Under our current zoning ordinance, a landlord speculator can buy property with an ADU and subdivide it. He/she would then be free to rent both units – one in front and one in back. Eliminating flag lots would still allow ADUs but would prevent them from being subdivided and sold off separately.

Policy 4: Annual certification.

Discussion: This can be done through a conditional use permit that is reviewed annually as discussed in policy 1. There was some discussion about using the recertification process or annual review to inspect sanitary conditions and other utilities. We don't conduct these inspections on other housing types. As mentioned in the policy 1 discussion, the annual review should be limited to conditions specified in the ordinance.

Policy 5: The model ordinance and some of the documentation implies that there is no way to limit the ability of a property owner from selling an accessory dwelling unit as a condominium.

Discussion: During the meeting Jon Call stated that "Under any State or Federal law zoning can regulate land use, but would not allow us to regulate land ownership. If the purpose of this regulation is to prevent landlord speculators from buying the property and renting both units, the owner-occupancy regulation may suffice.

In 2005 the Utah Supreme Court ruled on *Anderson v Provo*. The City of Provo amended a zoning ordinance governing residential neighborhoods near Brigham Young University to allow only those homeowners who reside in their homes to rent out "accessory" apartments. A group of homeowners brought suit challenging the amendment, and the district court granted summary judgment to Provo. In the appeal of that decision, the homeowners argued that the amended ordinance (1) exceeds Provo's legislative authority by regulating land ownership than land use, (2) violates the equal protection guarantees of the United States and Utah Constitutions, (3) is an invalid restraint on the alienation of property, and (4) unconstitutionally burdens the right to travel.

The Supreme Court affirmed the lower court's decision with the following conclusion.

In allowing property owners in some single-family residential zones near BYU to rent accessory apartments on condition that the owner resides in the primary dwelling, Provo has struck a balance between providing more housing alternatives and availability in these neighborhoods and preserving their single-family residential character. The provision at issue here places no restriction on owners' right to

rent their primary residence but merely regulates a secondary use that could otherwise not be available at all. We hold that the owner occupancy requirement for accessory apartment rental is within Provo's zoning power, does not violate owner's constitutional rights to the uniform operation of laws, to equal protection, or to travel, and is not an invalid restraint or alienation.

Policy: The owner-occupancy provision is already in the proposed ordinance. It states "An Accessory Dwelling Unit shall only be permitted when the property owner lives on the property within either the principal dwelling or accessory dwelling unit.

An owner occupant is defined in the proposed ordinance as "An individual as shown by registered deed who has fifty percent (50%) or more ownership in a dwelling unit on subject property."

As stated in policy 1, an annual review of the conditional use can be used to review the ownership provision of this ordinance.

Pros/Cons See Policy 1.

#### Policy 6: Regulation of building architecture

Discussion: This type of regulation becomes a matter of degrees. An architectural regulation can be as simple as regulating colors as we do in our commercial zones or as complicated as regulating the materials used in construction. Some Cities use architectural review committees to review and regulate building construction. These committees are normally used in historic preservation zones.

The proposed ordinance does not regulate architecture except height.

Policy: If the City wants to regulate color only, the following regulation from the City's commercial zone requirements can be added to Section 3.

External surfaces of the accessory dwelling unit shall be predominantly natural, muted earth tones (Non-bright colors representing natural, earth colors and values, including browns, blacks, grays, greens, rusts, etc. . . .). White may be used as an accent color only. The Community Development Director may allow contrasting accent colors.

If the City wants to regulate the materials used in construction, the following regulation from the City's commercial zone requirements can be added to Section 3.

All applicants for an accessory dwelling unit shall include a color board or renderings indicating the colors and materials to be used onsite. Proposed materials should typically harmonize with existing, surrounding development.

Pros: In as much as the proposed ordinance requires the ADU to be located in the rear yard of the principal dwelling, regulations dealing with construction and color can prevent overbearing buildings and colors. The regulations above are minimal and give the property owner flexibility when constructing the ADU. The color regulation in particular has created a pattern in North Ogden's commercial district.

Cons: North Ogden City does not apply these regulations to other residential housing types. The term "harmonize" is ambiguous and gives the Community Service Director wide latitude for enforcement.

Policy 7: The ADU size

Discussion: The proposed ordinance states that “the maximum floor area of the Accessory Dwelling Unit shall not exceed the above ground living space of the primary dwelling.”

- The above ground living area of the Hartmann primary dwelling unit is 1,290 square feet.
- The total square footage of the Hartmann PDU, including the garage, is 2,580.
- The livable area of the ADU is 1,035 square feet or 81% of the PDU.
- The garage area in the ADU is 765 square feet.
- The total square footage of the ADU, 1800 square feet, is 70% of the total square footage of the PDU.

The ADU size restriction in the proposed ordinance was designed to meet the Hartmanns needs. If the size restriction is less than 81%, the Hartmanns could not use their second building as an ADU.

By limiting the maximum floor area of the ADU to the square footage of the above ground living space, the Hartmann’s ADU is either 41% of the PDU’s total square footage (this does not count the square footage of the ADU garage), or 70% of the PDU’s total square footage (this counts the square footage of the ADU garage).

The language in the proposed ordinance is a little unclear as to what is counted in the square footage. The following examples may clarify this.

Policy: Add the following to the definition section:

#### Definition of Maximum Floor Area

- Option 1: Maximum Floor Area: The total floor area inside the building envelope, including the external walls, garage and excluding the roof.
- Option 2: Maximum Floor Area: The total floor area inside the building envelope, including the external walls and excluding the garage and roof.

#### Definition of Ground Living Space

- Option 1: Above Ground Living Space: The total floor area inside the building envelope above ground, including the external walls, garage and excluding the roof. (Note of interpretation – This includes the square footage of the ground floor and upstairs.)
- Option 2: Above Ground Living Space: The total floor area inside the building envelope above ground, including the external walls, and excluding the garage and roof. (Note of interpretation – This includes the square footage of the ground floor and upstairs.)

Pros/Cons: Even though the maximum floor area standard in the proposed ordinance was designed to accommodate the Hartmann’s ADU, limiting the maximum floor area to the living area above ground has the effect of reducing size of the ADU. The limitation of the other ordinances is a percentage of the total square footage of the PDU. Excluding the garage when calculating maximum floor area and the ground living space allows for the trend of larger, multi-vehicle garages for the ADU, (this may be a pro or a con). Including the garage when calculating the maximum floor area and the ground living space prevents the trend of larger, multi-vehicle garages for the ADU, (this may be a pro or a con). If the property is subdivided into a flag lot, the standards of the proposed ordinance would not apply and the owner could build or expand the ADU according to the RE-20 provisions. The RE-20 zone requires that the minimum

vegetative opens space per lot shall be fifty percent (50%). If flag lots are not permitted then the ADU size will be restricted to the proposed ordinance.

Policy 8:

In the model ordinance there are limits on how many adults and how many children are allowed in relation to the size of the facility.

Discussion: A family is defined in NOC's zoning ordinance as "an individual or two or more persons related by blood or marriage or a group of persons not related by blood or marriage living together as a single household group in a dwelling unit." This definition is typical for zoning ordinances and seems to accommodate the different types of households.

Council Member Fawson stated his biggest concern deals with the fact that this proposal circumvents the City's current zoning and subdivision ordinances. He stated the City has not heard from a large number of citizens requesting ADU's and, in his opinion, this proposal is being made only to accommodate something that does not fit into the City's current zoning and subdivision laws. He stated he is willing to consider the proposal, but he must also consider the other 600 properties that the proposed change would impact.

Council Member Urry stated he understands Council Member Fawson's concerns, but he also believes this is an issue that will not go away, but, instead, will only grow. Many other cities are allowing ADUs on various types of lots and he is happy that the Hartmanns have brought the issue to the City's attention.

Council Member Satterthwaite stated Ogden City recently passed an ordinance allowing ADUs in a seven block area of that city. He stated this type of development is already happening around North Ogden. He stated the use could potentially increase density, but that increase will not be noticeable in the RE-20 zone. He concluded he thinks the Council should consider the ordinance.

Council Member Bailey stated he agrees with Council Member Fawson that the Hartmann family could come up with a solution that would be allowed under the City's current zoning and subdivision ordinances. He stated he would prefer to work with the regulations that are already in place rather than going to the work of modifying the City Code to allow for ADUs. Council Member Urry stated this issue may have been raised by the Hartmann family, but it is not something that will only affect the Hartmanns. Council Member Bailey stated that he reviewed the material provided to the Council regarding ADUs and there are many reasons other communities have considered permitting the land use, including mitigating high property values by providing affordable housing opportunities through ADUs. He stated that situation is not present in North Ogden. He noted there are only three reasons to consider allowing ADUs in North Ogden, but the only one that really applies is the one that is at the center of this request and that is to provide an opportunity for property owners to allow a family member to live on their property for a variety of reasons. He stated he would be very cautious about permitting ADUs in other zones of the City.

Mr. Chandler then stated that he would like the Council to consider and vote upon each policy included in his staff memo separately. He summarized policy 1, which would dictate that ADUs be a conditional use and the conditional use permit (CUP) for the use would be reviewed on an annual basis.

Council Member Bailey stated CUPs in the past have been somewhat problematic. City Attorney Call agreed; he noted CUPs are a valuable tool, but the City needs to be very specific about what is permitted by a CUP. He stated CUPs are not a great way to eliminate a use. He noted the City would have the option to impose conditions on the use of an ADU in order to mitigate any negative impacts associated

with the use. Mr. Chandler stated one condition could be that the primary dwelling be owner occupied and that could be reviewed annually if the policy to require a CUP for an ADU is approved by the Council. There was a brief discussion regarding whether the Council is certain they want to require the primary and ADU to be occupied by the property owner and a family member; this led to a discussion regarding the interpretation of the definition of family as provided in the staff memo.

Council Member Satterthwaite stated it is clear the City must charge impact fees for the development of an ADU on any given property and he asked if it would be less expensive for a property owner to pay those impact fees or to subdivide their property and create a flag lot as a secondary parcel. Mayor Taylor stated there are costs associated with the subdivision process and those costs would be avoided by not subdividing and opting for an ADU instead. Mr. Kerr reviewed the costs associated with creating a flag lot and noted they are less expensive than the costs for a large subdivision.

**Council Member Fawson moved to suspend the rules and allow the Hartmann family to provide input as to why they would prefer the ADU land use over a flag lot subdivision. Council Member Satterthwaite seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Zachary Hartmann stated that when the garage was originally built on the property he was not informed of the option of a flag lot. He then noted that he does not want to subdivide and he wants to use the property he has accomplished his goal of providing a place for his parents to live. Council Member Fawson stated the cost of pursuing an ADU may be higher than the cost to subdivide and create a flag lot. Mayor Taylor stated that is incorrect; it would be quite a bit more expensive to subdivide the property. Mr. Hartmann agreed and stated that he has not received a lot of information from the City until he heard about flag lots from Mr. Chandler. He stated he is trying to work out the best situation for himself, his family, and the City. Mayor Taylor stated the cost of running independent utility lines to the dwelling on a flag lot would be very expensive. Bill Hartmann agreed and stated the estimate he got from a contractor to run utilities to a home on a flag lot on that property would be \$15,000.

Council Member Urry inquired as to the distance between the primary dwelling and the garage, to which Mr. Kerr answered 130 feet. Council Member Urry stated it is his understanding that the Hartmanns could construct a breezeway to connect the accessory unit to the primary unit and they could avoid paying impact fees altogether. Mr. Kerr stated that the opinion of the former Community Development Director was that type of action would not meet the intent of the City's ordinance; however, there are differing opinions. Mayor Taylor stated regardless of how the units are connected, they are two separate units with two separate families living in each unit. He then refocused the discussion on policy 3, which would require that the ADU be occupied by family members of the owner of the primary dwelling unit, and asked if anyone is ready to make a motion regarding the policy. Discussion centered on the enforceability of the definition of a family as used in Bountiful City's ordinance, which was offered by Mr. Chandler as an example of the type of language that could be used in North Ogden's ordinance.

**Council Member Bailey moved to accept the recommendation listed under Policy Three, which restricts occupancy of an ADU to family members of the property owner living in the primary residence, and that Bountiful City's definition of a family replace North Ogden's definition of family when relating to ADUs. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Mayor Taylor then led a discussion regarding Policy 1 included in Mr. Chandler's staff report. Mr. Chandler stated he would recommend that the language regarding CUPs be included in section four of the proposed ordinance.

**Council Member Bailey moved to approve Policy 1 requiring that an ADU be a CUP and that the owner of the property must occupy the primary or accessory dwelling on the property. Council Member Satterthwaite seconded the motion.**

**Council Member Fawson moved to suspend further discussion and hear item four on the agenda. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

#### **4. DISCUSSION AND/OR ACTION TO APPOINT A PLANNING COMMISSION MEMBER**

Mayor Taylor stated he would like to recommend that the City Council appoint Scott Barker to the North Ogden City Planning Commission. He noted he has interviewed Mr. Barker and he feels he would be an excellent addition to the Planning Commission. He briefly reviewed Mr. Barker's background, with a focus on his education and current employment; Mr. Barker has been a resident of North Ogden for 56 years.

**Council Member Urry moved to appoint Scott Barker to the North Ogden Planning Commission. Council Member Fawson seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**\*\*The Council then resumed discussion of item two on the agenda.**

Mr. Chandler provided the Council with a brief overview of the language to be added to the proposed ordinance upon approval of the motion to approve policy 1 as outlined in the staff memo. Council Member Bailey stated that Bountiful City dictates that CUPs will expire upon an ownership change and he would like to include that as a condition of a CUP for an ADU.

**Council Member Bailey moved to amend the motion by adding a condition that any CUP for an ADU will expire upon a change of property ownership. Council Member Satterthwaite seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Mayor Taylor then called for a vote on the original motion to approve policy 1.

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**Council Member Bailey moved to approve policy 2 requiring a deed restriction that is recorded on the property and as the property passes to subsequent owners so do the deed restrictions. Council Member Fawson seconded the motion.**

Mayor Taylor inquired as to the cost of such a deed. Mr. Call stated he believes the cost is \$20, which is not a significant burden.

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Mayor Taylor then led a discussion regarding policy 4 and declared it is not necessary to approve this policy given that the Council adopted policy 1, which required a CUP that is reviewed annually by the City.

**Council Member Satterthwaite moved to remove language associated with policy 4 from the proposed ordinance. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Mayor Taylor stated policy 5 has already addressed and language associated with that motion does not need to be included in the proposed ordinance.

**Council Member Bailey moved to remove language associated with policy 5 from the proposed ordinance. Council Member Satterthwaite seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**Council Member Bailey moved to remove language associated with policy 6 from the proposed ordinance. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Mayor Taylor led a discussion regarding policy 7, which deals with limitations on the size of any ADU. Council Member Bailey stated he feels it is important to limit the size of an ADU so that such a structure will not dwarf a primary dwelling on a property.

Mr. Chandler stated the proposed ordinance states that the maximum floor area of the ADU shall not exceed the above ground living space of the primary dwelling unit. He stated he feels it is necessary to define “maximum floor area” and “above ground living space” in order for users to easily interpret the ordinance; the biggest question is whether “maximum floor area” includes garage space. Mr. Kerr provided the Council with an explanation of how home square footage is currently measured in the City and noted the measurement excludes the garage; the measurement is taken of living space and often also excludes a basement because it is below ground. Mr. Chandler stated the livable area of the Hartmann’s primary dwelling is 1,290 and that excludes the garage; the livable area of the ADU is 1,035 square feet, or 81 percent of the primary dwelling unit. The Council had a philosophical discussion regarding the appropriate ratio of the size of the primary dwelling unit and the ADU.

**Council Member Bailey moved to approve policy 7 dictating the maximum floor area of the accessory dwelling unit shall not exceed 100 percent of the above ground living space of the primary dwelling.**

There was a brief discussion regarding the need to create definitions for above ground living space and whether finished basements should be included in that calculation. Mr. Kerr stated basements are not typically considered to be a story of a home unless 50 percent of the basement is exposed.

**Council Member Bailey continued his motion by requiring that the following definitions be included in the proposed ordinance:**

- **Maximum Floor Area: The total floor area inside the building envelope, including the external walls and excluding the garage and roof.**
- **Above Ground Living Space: The total floor area inside the building envelope above ground, including the external walls, and excluding the garage and roof. (Note of interpretation – This includes the square footage of the ground floor and upstairs.)**

**Council Member Urry seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**Council Member Bailey moved to remove language associated with policy 8 from the proposed ordinance. Council Member Satterthwaite seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**Council Member Bailey then moved to adopt ordinance 2014-03. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Council Member Bailey thanked the City Council and the Hartmann family for their patience as the City worked through the issues associated with this application. Council Members Satterthwaite and Urry echoed Council Member Bailey's comments, with Council Member Urry also recognizing staff time and effort that went into developing the proposed ordinance. Mayor Taylor agreed and noted the Council can review impact fees at a future date, perhaps during the upcoming budget retreat meeting.

**Council Member Satterthwaite moved to consider item five on the agenda at this time.  
Council Member Bailey seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**5. DISCUSSION AND/OR ACTION TO CONSIDER A CONTRACTOR FOR THE PUBLIC WORKS COMPLEX**

A staff memo from Mayor Taylor provided a brief history of the process to select a contractor for the Public Works complex. It explained that on behalf of the Public Works Contractor Selection Committee, he recommends that the City contract with Lundahl Building Systems, Inc. of Logan to construct our new Public Works Facility. While there was a diversity of opinion on the Selection Committee and thorough debate, all members have ultimately expressed their support for this recommendation. The purpose of this Memo is to outline the selection process with as much transparency as possible and to also highlight some of the key reasons we are recommending Lundahl for this project. In September 2012 Mayor Harris and the City Council appointed a new Public Works Committee to reassess the project from ground zero, after the previous project and associated bond was overturned by North Ogden voters. This Committee was comprised of 9 citizen volunteers and all five members of the City Council. Brent Chugg was appointed as Chairman and has aptly led the Committee. The following served as members of the new Public Works Committee:

- Brent Chugg, Committee Chair
- Kent Bailey, City Council Member
- Wade Bigler, City Council Member
- Justin Fawson, City Council Member
- Cheryl Stoker, City Council Member
- Brent Taylor, City Council Member
- Lisa Christensen
- Aaron Farr
- Gayle Hollingsworth
- Lynn Millard
- Dan Nixon
- Lynn Satterthwaite
- Phil Swanson
- Eileen Truscott

Former Mayor Richard Harris, City Manager Ron Chandler, former Public Works Director Mel Blanchard, current Public Works Director Craig Giles, and Shelly Robinson, Public Works Administrative Assistant, all made extremely valuable contributions in support of the Committee.

This Committee has met nearly two dozen times to assess, analyze, debate, and recommend how to move forward with this project, starting first with identifying the appropriate size and scope of the project. Next, led by Committee member Dan Nixon, the Committee conducted a comprehensive analysis of potential sites and ultimately determined the best location to be 220 East Pleasant View Drive (running north to Lomond View Drive). The Committee unanimously recommended this site on May 8, 2013 and on May 14, 2013 the City Council unanimously voted to purchase 6.51 acres of property at the site for a total cost of \$531,000. After a site was selected and purchased, the Committee conducted a long and careful process of analysis to develop a Request for Proposals (RFP) that included the desired building specifications and parameters. The Committee unanimously chose to use the Design Build construction delivery method and an RFP was issued in November 2012 inviting contractors to propose designs that would meet the Committee's specifications as well as to bid on the cost of construction. The Committee's intent was to leverage competitive forces between construction companies in order to get the best possible design and construction price for North Ogden taxpayers. The RFP asked firms to bid for the base project, which included the maintenance shops, welding bays, wash bays, work areas, and office areas, and for firms to also bid prices for additional "add-on" items, such as a salt shed and a vehicle storage shed that would be considered for construction if the budget accommodated. Three construction firms submitted design proposals, which were due in January 2014. A Selection Committee was assembled to review the bids, to conduct interviews, and to make a recommendation for who should be selected. The Selection Committee was composed of:

- Brent Taylor, Mayor
- Kent Bailey, City Councilman
- Lynn Satterthwaite, City Councilman
- Craig Giles, Public Works Director
- Matt Hartvigsen, City Engineer\*
- Ron Chandler, City Manager
- Brent Chugg, Public Works Committee Chairman
- Eileen Truscott, Public Works Committee Member
- Gary Kerr, North Ogden Building Official\*
- \*= Non-voting member

The Selection Committee met on five occasions during the last two months to carefully develop a recommendation for the City Council; on January 27 the Committee developed scoring criteria and questions for the contractor interview. On January 31 the Selection Committee interviewed all three contractors who submitted bids and held initial discussions about each contractor. On February 4 the Committee met to objectively rank the construction companies based on our scoring criteria and to develop a list of follow-up questions for each contractor. Lundahl was ranked significantly higher, and was tentatively selected as the "primary" contractor. On March 4 the Committee met to review additional information from Lundahl and decided that we wanted to interview Lundahl a second time to get additional clarification on certain items. On March 7 the Committee met to conduct a second interview with the primary selected contractor to answer additional follow-up questions and to confirm the Selection Committee's recommendation. After the second interview, all Selection Committee members felt comfortable recommending Lundahl as the contractor for the Public Works project.

The memo then provided the reasons the Selection Committee recommends Lundahl for the project. The City received three excellent proposals for the project, and selecting Lundahl was no easy task. All three contractors were highly experienced and extremely reputable, and any one of them could have done a great job. Several items really helped Lundahl stand out (see Lundahl site plan for more details); they provided the only design that offered a separate administrative building from the shop area; this masonry building will be located nearest to the road and will provide a more attractive contribution to the residential neighborhood where the facility will be located. Lundahl also offers a functional and practical steel shop building larger than the other proposals (bonus space). The shop building bays are walled and

separate from one another, which allows for mezzanine-level bonus storage in most bays. The bid includes a higher number of unit heaters allowing for more efficient heating of areas in use. Lundahl was the only contractor who included road access to both Pleasant View and Lomond View Drive, enabling more site efficiency. Lundahl's proposal also includes the best ventilation system design for the shop area, with drop-down hoses for vehicle exhaust and a separate air conditioning system for IT servers. Lundahl has proposed oil and air distribution lines from a central dispensary; and, finally, it offers the best design to accommodate future shop expansion. The Selection Committee called several other cities that have used Lundahl recently for municipal building projects, and received very positive reports about their ability to deliver projects on time and within budget. If approved by the City Council, City Administration will begin the design process with Lundahl. We will take the proposed design and the fixed construction bid price we received as a starting point, and will look at several other potential options for orienting the site and buildings. Our intent will be to reduce the construction price by tweaking their proposal, and we believe that this is possible based on our most recent discussions. Based on these negotiations, we will develop and bring a construction contract back to the City Council for approval in the near future. Because we have received a firm price, in no case will the total cost of construction increase, unless we request changes that lead to a price increase. In general Lundahl offered significantly lower bids on the various add-on elements (Vehicle Storage Shed, Salt & Sand Shed, etc.), and this offers a unique opportunity to complete more of the entire project at this time while construction rates are still low. The Selection Committee did not make any formal recommendations on which add-ons to pursue or not pursue. The Mayor's memo concluded it is his personal recommendation that the City should construct the following add-on items:

- Salt & Sand Shed, \$117,876
- Equipment Storage, \$117,876
- Fuel Station, \$28,561

By constructing these three items, we do a single construction project at once and end with a stand-alone and functional facility. We also enable ourselves to rehabilitate the old Public Works Site and to be able to prepare it for commercial sale.

Mayor Taylor summarized his memo and stated he is seeking a vote of support from the Council to allow the Administration to proceed with negotiations with Lundahl.

Mr. Chandler reviewed the site plan presented by Lundahl and identified the different phases of the project, with a focus on site layout. He also reiterated Mayor Taylor's recommendation to approve three add-on items that were also included in the proposal from Lundahl.

Mayor Taylor stated each Council Member has received a copy of Lundahl's bid and he invited Dallan Young, Lundahl representative, to answer any questions the Council may have regarding the proposal. Mr. Young stated he appreciates the opportunity to work with North Ogden and he is excited about his company's opportunity to complete a successful project in the City. He stated his company is nearing completion of a public works facility in Logan and many of the buildings being proposed in North Ogden's project are very similar to the buildings constructed in that project.

Public Works Director Giles stated that he contacted many municipal entities that have worked with Lundahl in the past and the feedback provided by those entities was very positive.

Public Works Committee Chairman Chugg thanked his Committee members for their work on the project. He stated Lundahl is a very good company that is very dependable and honest and they can be trusted by North Ogden.

Mayor Taylor stated the fixed bid presented by Lundahl is very close to the City's \$2 million budget; he would like permission to negotiate the cost of the project with Lundahl to try to get the cost closer to the

budget amount, though it will likely remain somewhat higher. He reviewed some of the options for changing the orientation of buildings on the site in order to reduce some costs and after negotiating those issues he will provide a final contract to the City Council for approval.

Council Member Bailey stated the process followed by the Committees was very laborious and they did a great job of analyzing the bids to ensure the City would get the best product. He added he is delighted by the selection of Lundahl. Council Member Satterthwaite agreed and stated that there are a number of reasons Lundahl is the right contractor for the job. He stated he is anxious to see the project move forward. Mayor Taylor agreed the entire process has been very thorough. Council Member Fawson appreciated everyone that participated throughout the entire process and noted he has not heard anything but positive feedback from residents about the work the City has done to reduce the costs of the project. He then noted the two biggest questions he received from residents was whether the facility would be aesthetically pleasing and he feels the answer to that question is yes; the second question related to whether the facility would be sufficient to meet the City's needs at building. He asked how long the buildings are expected to last. Mr. Young stated much of that depends on the City's plan to maintain the facility, but there are options to expand the buildings as the City grows and they will last for many years into the future.

**Council Member Fawson moved to suspend the rules and allow Mr. Buswell to speak. Council Member Satterthwaite seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Mr. Buswell inquired as to who the other two contractors were that responded to the City's RFP. Mayor Taylor stated that he has no plans to announce that information this evening.

Council Member Satterthwaite then addressed Council Member Fawson's question regarding the longevity of the buildings, noting he is confident that it will be possible to choose construction options that will serve the City well into the future. Mayor Taylor agreed and stated that is one of the reasons that he is seeking approval from the City Council to continue negotiations with Lundahl. He also referenced the concept drawings and highlighted the layout of the buildings to point out that there is a significant amount of future expansion space throughout the entire project.

**Council Member Stoker moved to authorize City Administration to proceed with contract negotiations with Lundahl in anticipation of providing a final draft agreement to the City Council next month. Council Member Satterthwaite seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Mayor Taylor then briefly summarized the project schedule.

**3. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION APPROVING ENTRY INTO AN EASEMENT AGREEMENT BETWEEN SMITH'S FOOD & DRUG CENTERS, INC. AND NORTH OGDEN CITY CORPORATION FOR A NORTH OGDEN TRAIL**

Mr. Chandler reviewed the site plan for the Smith's Marketplace project and identified the location of the proposed trail that is the subject of the proposed easement agreement. The agreement calls for a 12-foot wide easement for the trail; it will eventually connect to a five foot sidewalk that will connect the trail to 2600 North. The canal easement is actually 30-feet, but the trail easement is only 12-feet inside of the 30-foot; Smith's Marketplace has agreed to maintain landscaping on either side of the 12-foot easement. He noted the trail will be a public trail and non-motorized and foot traffic will be permitted; Smith's will construct the trail of road base and the City will maintain it. The easement is perpetual.

**Council Member Fawson moved to approve Resolution 07-2014 approving an agreement between Smith's Food and Drug Centers, Inc. and North Ogden City Corporation for a North Ogden Trail. Council Member Stoker seconded the motion.**

There was a brief discussion regarding the makeup of the road base that will be used to construct the trail with Council Member Bailey noting it would be nice to pave the trail in the future, but the City is only able to construct a road base trail at this time due to budget constraints. Mayor Taylor agreed and noted the trail will serve the City for some time into the future.

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**6. PUBLIC COMMENTS**

There were no public comments.

## **7. CITY COUNCIL, MAYOR, AND STAFF COMMENTS**

Mr. Chandler encouraged the City Council and residents to sign up to participate in the upcoming NO Limits Half-Marathon scheduled for May 3.

Council Member Bailey asked if there will be an action item on the next agenda to allow the Council to cancel the April 8 meeting to allow Council Members to attend the Utah League of Cities and Towns Conference. Mr. Chandler stated that will be added to the agenda.

Mayor Taylor stated the next budget meeting will be scheduled for the third week in April. He then reported there will be an open house on March 20 at the North View Senior Center to celebrate their 10<sup>th</sup> Anniversary.

## **8. ADJOURNMENT**

**Council Member Urry moved to adjourn the meeting. Council Member Fawson seconded the motion.**

**The meeting adjourned at 9:30 p.m.**

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Brent Taylor, Mayor

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S. Annette Spendlove, MMC  
City Recorder

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Date Approved