

1 **NORTH OGDEN CITY COUNCIL MEETING MINUTES**

2
3 June 12, 2012

4
5 The North Ogden City Council convened in a regular meeting on June 12, 2012 at 6:30 pm in the North
6 Ogden City Council Chambers at 505 East 2600 North. Notice of time, place and agenda of the meeting
7 was delivered to each member of the City Council, posted on the bulletin board at the municipal office
8 and posted to the Utah State Website on June 7, 2012. Notice of the annual meeting schedule was
9 published in the Standard-Examiner on January 16, 2012.

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

17
18 **STAFF PRESENT:** Ronald F. Chandler City Manager
19 Annette Spendlove City Recorder/HR Director
20 Jennifer Thomas Deputy City Recorder/Community Dev. Coord.
21 Mel Blanchard Public Works Director
22 Gary Kerr Building Official
23 Gina Kochendorfer Police Office Manager/Administrative Assistant
24 Bryan Steele Finance Director
25 Dave Nordquist Community Services Director
26 Polo Afuvai Police Chief
27 Bill Aeschlimann Detective
28 Clark Crowther Sergeant
29 Jerry Wade Animal Control Officer

30
31 **VISITORS:** Kole Fawson Marlene Welling
32 Blake Welling Darla Beutler
33 Daniel Beutler Karmen Sanone
34 Julie Anderson Cydney Barker
35 Austin Barker Rachel Trotter
36 Scott Hinrichs Daniel Hinrichs
37 Martha Urban Toby Mileski
38 Courtney Colunga

39
40 Mayor Harris convened the meeting at 6:30 pm and welcomed those in attendance. Mayor Harris offered
41 the invocation and led the audience in the Pledge of Allegiance.

42
43 **CONSENT AGENDA**

- 44 **1. Consideration and/or action to approve the minutes of the May 23, 2012 City Council**
45 **meeting.**
46 **2. Consideration to approve Business Licenses.**
47 **3. Consideration and/or action to set a public hearing on July 10, 2012 to receive comments**
48 **regarding amendments to the PRUD Ordinance.**

49
50 **Council Member Bailey moved to pull the minutes and approve items 2 and 3 of the consent**
51 **agenda. Council Member Fawson seconded the motion.**

52 **Voting on the motion:**
53 **Council Member Bailey** **yes**
54 **Council Member Fawson** **yes**
55 **Council Member Bigler** **yes**
56 **Council Member Hulme** **yes**
57 **Council Member Stoker** **yes**

58
59 **The motion passed unanimously.**
60

61 Council Member Bailey referred to line 476 of the May 23, 2012 City Council minutes and stated that
62 ‘catastrophe’ should read ‘catastrophic’. He also referred to line 791 and asked that it read ‘Council
63 Member Bailey asked if...’ rather than ‘Council Member Bailey said...’ He said he asked the question, it
64 was not a statement.
65

66 **Council Member Bailey moved to approve the May 23, 2012 City Council minutes with these**
67 **corrections. Council Member Fawson seconded the motion.**
68

69 **Voting on the motion:**
70 **Council Member Bailey** **yes**
71 **Council Member Fawson** **yes**
72 **Council Member Bigler** **yes**
73 **Council Member Hulme** **yes**
74 **Council Member Stoker** **yes**

75
76 **The motion passed unanimously.**
77

78 **ACTIVE AGENDA**

79
80 **4. PUBLIC COMMENTS.**

81
82 Mayor Harris asked the audience to hold any comments related to the scheduled public hearings until that
83 time.
84

85 Julie Anderson, 940 E 2600 N, representative of the Junior Posse, introduced Karmen Sanone. Karmen
86 Sanone said she is privileged to be the Junior Posse leader. She said they have a wonderful group of kids.
87 She introduced two members of their royalty; All-around Cowboy Austin Barker and Queen Courtney
88 Calunga.
89

90 Austin Barker, 2238 N Fruitland Drive, invited the Mayor and Council Members to attend the North
91 Ogden Junior Posse Cherry Days activity at the Equestrian Park on July 3, 2012 at 6pm. He said they
92 know Cherry Days is a very busy time but hope they will attend.
93

94 Mayor Harris asked if they will have the mounted shooters this year. Julie Anderson said she isn’t sure
95 but added that in North Ogden this year they have eighteen kids and in the junior posse system they have
96 220.
97

98 Karmen Sanone read the names of the rest of their royalty and their officers.
99

100 Blake Welling, 1098 E 2830 N, mentioned a street light located at 1050 E 3100 N that is out. He said
101 they called it in several times and received numerous excuses.
102

103 There were no other comments.

104

105 **5. DISCUSSION REGARDING STREETLIGHTS.**

106

107 Ron Chandler, City Manager, said this item is a follow up from a request made by a resident a few weeks
108 ago. He said he and Gary Kerr, Building Official, have been doing some follow up and wanted to provide
109 this report and some of the options. He showed a picture of the Hall Tree Subdivision light pole at 2850
110 N 1375 E. He said all new subdivisions are required to install streetlights at each intersection and at a
111 maximum distance of 600 feet apart. He said the developer is required to pay for the construction and the
112 method they do that is for the developer to pay the City and the City to coordinate with Rocky Mountain
113 Power to install the lights. He said that did take place. The developer paid the City to install the light at
114 the intersection of 1375 E and 2750 N. However, a decision was made to install it at 2850 N. There are
115 also some streetlights located on 2750 N and some others that are located on 2850 N including the one
116 that should have been installed at 2750 N. The other two locations they were asked to look at were 500 E
117 at 2175 N and 515 E at 2175 N. The light on 500 E is in a PRUD that was constructed in 1994. Because
118 it was a PRUD it did not include streetlights in its construction. He said about ten years ago the Home
119 Owners Association (HOA) contracted with Rocky Mountain Power to install those lights and the HOA
120 pays that monthly bill. There is not one at the intersection of 2175 N and 500 E.

121

122 Ron Chandler said we have two approved decorative streetlights in a gated community. He said if a
123 streetlight is installed in a gated community there must be some coordination. He stated that they went
124 out and measured the strength of the streetlights and there is a 90 foot distance between those two lights
125 and you lose about 98% of the light value in that distance. At 515 E it is a little bit different in that the
126 streetlights are owned by the City. It was done in a PRUD but the streets are built to City standards. The
127 lights were installed 150 feet apart. The closest light to the corner is 150 feet and you lose about 97% of
128 the light when you get out to the corner. The City does not have anything in its policies, Public Works
129 Standards or ordinances to address requests for streetlights or address areas where there are no streetlights
130 or where they do not meet our Public Works Standards. He said for example between 2600 N and 3100 N
131 almost all of the corners have streetlights but there are distances that are greater than 600 feet.
132 Technically that area is not in compliance with our ordinances but we don't have anything in place to
133 bring it into compliance. He said he and Gary Kerr talked about the intersections we may have without
134 streetlights and their best guess without going out and counting each one is somewhere between 50 and
135 100. The estimate of the cost to put in the wood pole lights is about \$2,100. The decorative lights would
136 be about \$1,000 more than that. In the area of 500 E and 515 E we would have to cut through someone's
137 yard for the transformer to be installed in order to put the light in.

138

139 Council Member Bigler asked if administration has a recommendation. Ron Chandler said, as it pertains
140 to the light in Hall Tree, obviously that is something that we should have done. He said, regarding how to
141 fund that, one of the places they looked is that we are transferring \$170,000 in the amended budget. That
142 could be used to pay for this. He said as it pertains to the other two that is a broader question because it
143 does set a precedent for requests that come in about streetlights. One of the things that ought to be part of
144 the discussion is should the City have a policy for adding streetlights. Council Member Bigler asked if
145 residents could come to the City and tell us we are not in compliance and demand a streetlight. Ron
146 Chandler said it would depend on when the subdivision was developed because it could be more of a non-
147 conforming feature. He said if someone came in with a subdivision that had been built since these Public
148 Works Standards went into effect he thinks they could make a good argument. He said if the Council
149 decides to put these lights in on 500 E and 515 E you could set a precedent.

150

151 Council Member Bailey asked about the light on 2175 N 515 E which is a private road, would we be
152 putting a streetlight in on a private street. Ron Chandler said 2175 N is a public road. Council Member

153 Bailey asked why they didn't have them because it was a PRUD. Ron Chandler said in the case of 500 E
154 they were not planned as part of the PRUD and they didn't come in until five to six years after that.

155
156 Council Member Fawson recommended that the Council have the Planning Commission look at when
157 they put the lights in and in what order. He said the Council needs to address the repair of lights and he
158 thinks we ought to have some service level that we maintain. He suggested within 3-5 days possibly or
159 some other reasonable time period. Council Member Bailey said in addition to the installation cost there
160 are ongoing operation costs. He asked if we know what the cost is to run a streetlight for a year. Gary
161 Kerr said the cost is \$3 and some cents per month. Mayor Harris said there are no meters and we pay a
162 set fee per light.

163
164 Council Member Hulme said at 150 feet away most of the light is gone and yet our standard is 600 feet.
165 He said that means there is about 300 feet minimum that's less than 5%. Ron Chandler said light is
166 measured in a foot candle and when they measured the distance underneath the lights at 500 E and 515 E
167 it is measured at about .92 foot candles. He said at the 75 feet mark between the two lights it dropped
168 down to .13 because you are getting light from two different sources. When they went the other way to
169 where there was no light, 75 feet beyond, it dropped down to .02. Council Member Hulme asked if the
170 decorative lights that we have approved are providing as much light as traditional lights and if not, should
171 they be approved. Mayor Harris said you can't light the whole City; you just have a spot of light here and
172 there for guidance. It is better than pitch black so you can see but you cannot read. He said that is the
173 kind of thing the standards are based on. Ron Chandler said they put them at the intersections not only to
174 cast light down but also to mark an intersection. He said you are dealing with the amount of light that is
175 cast down but you also have to deal with the glare. Council Member Bigler asked if the City could start
176 on Hall Tree a.s.a.p. Ron Chandler said yes and suggested amending next year's budget to include that
177 expense.

178
179 Council Member Fawson asked if the City could look at some potential apps that could allow residents
180 tell the City about these issues. Council Member Bigler said in the meantime residents need to know that
181 they can click one button to email all City Council members. Council Member Bigler asked if they could
182 address the light that Mr. Welling is referring to which is at a major intersection. Mayor Harris asked Mel
183 Blanchard to talk about the maintenance schedule and process.

184
185 Mel Blanchard, Public Works Director, said former City Manager, Edward O. Dickie III, wanted the City
186 to get involved with the repair and replacement of lights. When we used Rocky Mountain Power it took
187 up to three months. He said they thought that we could do it at least within a month. He said they didn't
188 really do their homework in terms of how you legally and safely accomplish this and they were turned
189 into Rocky Mountain Power because they were working too close to live power lines. He said they
190 reevaluated their process because they knew then that they had to hire a certified electrician. They
191 decided if they suffered a loss because of that the liability issues are much greater than the cost of hiring
192 an electrician and having him on board. He said once the electrician was on board it was decided that it
193 isn't cost effective to go out on a single light. They now go out on the first and the fifteenth because
194 during that time you always accumulate 20 lights. He said now they are having some trouble again
195 because there are some lights that we have turned over to Rocky Mountain Power because they don't
196 have power to them. Until Rocky Mountain Power does the physical work there isn't anything we can
197 do. He said this resident is referring to one of those issues. He said a Council Member challenged him to
198 do some work on Mountain Rd. and said you can see how slow the progress is. Gary Kerr and Bruce
199 Higley are quick to respond but the problem is trying to get the utility to come out and respond. Council
200 Member Bigler asked how it happens that they put a light pole in with no electricity. That seems very
201 odd. Mayor Harris said at the corner of his house Rocky Mountain Power installed a new transformer and
202 they did not hook the light pole back up and it took over a year to get them to come back out and
203 physically wire the transformer to the pole.

204 Council Member Bigler asked if Rocky Mountain Power puts a light pole in our City does the City pay
205 them to put it in. He said he wouldn't think they do it for free and if the City is paying for it don't we go
206 out and check to make sure it works. Mayor Harris said Rocky Mountain Power didn't install a new pole,
207 that pole has been in for a long time. Mayor Harris said the City cannot hook up live power if it is not
208 there. Mel Blanchard said the City responds as soon as we get notified. If it is a repair Scott Felter goes
209 out but if it is a power issue they send it to Rocky Mountain Power. Mel Blanchard said there are
210 probably eight work orders pending with Rocky Mountain Power. He said they found a situation in
211 Legacy where someone had run a sprinkler system through the line from the pole and severed the line.
212 He said the City wouldn't have known this existed if we hadn't taken over the poles. He said there are a
213 number of poles that are ten feet higher than our lift will go so we have to hire those out. He said there is
214 also a ten foot rule, when you get within ten feet of a live power line you have to not only have a certified
215 electrician you have to go a step above that and you also have to hire a certified line man.
216

217 Council Member Fawson asked if there is an opportunity to look at an ordinance that would allow us to
218 assess a fine or penalty of some sort if the work was not completed in a certain amount of time. He said
219 he would like to look at that and see if there are other cities that have similar ordinances. He said this is a
220 liability issue and asked if the City could assess a fine could we have Rocky Mountain Power do the
221 lights again? Mel Blanchard said the only drawback that he could find for Rocky Mountain Power is the
222 time they take to come out and repair a light. He said they were faced with three months in the past and
223 were heavily criticized. Council Member Fawson said he would like to have something done. Council
224 Member Hulme asked Mel Blanchard whether he has considered having one public works employee
225 become a certified electrician. Mel Blanchard replied that will never happen. The amount the City would
226 have to pay a certified electrician is way over what we should be prepared to pay and they wouldn't stay
227 here to do that. They would go where they would make what electricians can make. Council Member
228 Bailey asked if we have any leverage with Rocky Mountain Power. Mel Blanchard said he has tried.
229 Ron Chandler said he and Gary Kerr discussed the fact that Rocky Mountain Power has governmental
230 liaison employees and they could look to see who is in that position. Council Member Stoker said it is
231 Steve Rush.
232

233 Council Member Bigler asked if the Council could be notified when Rocky Mountain Power responds to
234 that particular light. He said that is a major intersection. Council Member Fawson asked how many years
235 it has been that we have had the additional poles up on Mountain Rd. Mel Blanchard said it has been a
236 long time. Council Member Hulme said he is half joking but maybe we should give people a copy of the
237 work order and direct them to Rocky Mountain Power. He said ultimately that is what they respond to,
238 not a handful of Council Members. Mayor Harris said we will work on it. He said we want to replace the
239 one in the Hall Tree Subdivision and we need to amend the budget to do that. We want to have the
240 Planning Commission look at the process. Council Member Bailey asked if the Planning Commission is
241 the right process or if there is a phased approach. He suggested staff looking at places where we are not
242 in compliance with our own rules. Mayor Harris said we need to get with the engineers for safety reasons
243 as well. He added that it all takes time, effort and money to work on these things.
244

245 **6. CONSIDERATION AND/OR ACTION TO GRANT FINAL ACCEPTANCE TO THE**
246 **COLD WATER COVE SUBDIVISION.**
247

248 Gary Kerr explained Cold Water Cove is located just off of 2600 N at 1300 E. This is a subdivision that
249 has been completed; they received a conditional approval a year ago. Staff recommends granting final
250 approval at this time. Council Member Bigler asked whether they have put in a streetlight with
251 electricity. Gary Kerr replied yes.
252

253 **Council Member Fawson moved to grant final acceptance to the Cold Water Cove Subdivision.**
254 **Council Member Bailey seconded the motion.**

255 Council Member Hulme asked if this is the development that has a long cul-de-sac. Mayor Harris said
256 they did have to move the intersection to line up with the existing 1300 E street and we did have a
257 discussion about the length of that cul-de-sac. He said there may have been some sort of special
258 allowance for that because it was land-locked and couldn't be developed otherwise.

259
260 **Voting on the motion:**
261 **Council Member Bigler** yes
262 **Council Member Hulme** yes
263 **Council Member Stoker** yes
264 **Council Member Bailey** yes
265 **Council Member Fawson** yes

266
267 **The motion passed unanimously.**

268
269 Mayor Harris proposed moving item 12 to this next slot because it's the discussion of disproportionate
270 fees and business licenses and that discussion may generate additional decisions or changes with respect
271 to items 7, 8 and 9.

272
273 **Council Member Fawson moved to consider agenda item 12 at this point in the meeting. Council**
274 **Member Bailey seconded the motion.**

275
276 **Voting on the motion:**
277 **Council Member Bigler** yes
278 **Council Member Hulme** yes
279 **Council Member Stoker** yes
280 **Council Member Bailey** yes
281 **Council Member Fawson** yes

282
283 **The motion passed unanimously.**

284
285 **12. DISCUSSION ON THE DISPROPORTIONATE FEES, BUSINESS LICENSES AND**
286 **RESIDENTIAL RENTAL FEES.**

287
288 Ron Chandler explained that as he and Bryan Steele got into the study of the actions by the City and the
289 report from Lewis, Young, Robertson and Burningham (LYRB) one of the things they felt was that if the
290 Council has questions about the study itself, they were not the right people to answer those questions. He
291 said they invited Marc Edminster and Fred Philpot from LYRB to be here tonight. He said he was aware
292 that Council Member Bigler had asked for some information but there were other items that he was
293 unaware of and due to unforeseen circumstances he is not able to provide those tonight. He said he and
294 Bryan Steele started looking at other communities. He said the disproportionate fee study sets the
295 maximum amount of which you can establish your business license and rental license fees. They found
296 that the communities that recently reviewed these and looked at the fees decided not to charge the
297 maximum amount and came up with a lesser amount. Each of them had different reasons. Some reasons
298 are that businesses are an economic generator in our community and bring in increased property tax and
299 sales tax revenues for their city. The City is trying to attract businesses to the community and this will
300 help the community become known as business friendly. Cities are trying to help lower costs. The cities
301 they looked at, including North Ogden, all chose to charge less than what can be charged based on the
302 disproportionate fee studies. Ron Chandler said in North Ogden right now our fees are based on an
303 amount that is less than the study allows. The first \$250 of the disproportionate fee is charged at 100%,
304 the amount at \$251-500 would be charged at 50% and an amount over \$500 would be charged at 8%. An
305 example of that is if the disproportionate fee for a class of businesses was \$1,000 the fee would be \$415.

306 He said the 2013 budget business license fee revenue is based upon the existing adopted fee schedule.
307 The Council should be aware that any changes to the consolidated fee schedule will affect the budget.
308 Prior to the adoption of this fee structure we had a flat fee that brought in approximately \$30,000 to
309 \$31,000 per year. For the last two years the amount that was brought in under the new fee schedule is
310 about \$51,000 or \$52,000.
311

312 Council Member Hulme asked how much revenue the City would bring in if we simply went to the base
313 rate. Ron Chandler said that is some of the information that Council Member Bigler requested but we
314 have not been able to pull that together yet. He said the flat fee was \$100 but if the City does this the fee
315 would be returning to the base fee of \$64. Council Member Bailey said we would be picking up some
316 additional because we were not charging rental units for business licenses before. Mayor Harris said
317 home occupations were \$50. Council Member Hulme said they are currently \$64.
318

319 Council Member Bailey asked the consultants on the study why and how the decision was made to use
320 police calls as a basis for disproportionate fees. Fred Philpot, LYRB, replied that those are considered
321 municipal services. Fire services are handled by another agency so they were not included. Other
322 municipal services could be street lighting, beautification, snow removal. They looked at the police
323 services and the call data. Council Member Bailey asked if that is because it is easier to measure. Fred
324 Philpot replied that the calls for service are a little bit easier to collect and there is a nexus between the
325 data and the service being provided. Council Member Bailey asked whether disproportionate fees, from
326 the perspective of the City, are good public policy.
327

328 Mayor Harris said this is a Council discussion. Council Member Bigler said he had asked for this to be
329 put on the agenda but his questions are not ready to be answered. He said he needs to see justification for
330 this rather than it just being a way to get more revenue; it needs to be justified. He said the email said the
331 police was taking hours and hours to fulfill his request but that is not his intent. He said the Council has
332 been told repeatedly that the company already had this information. He said this may need to be on
333 another agenda to get these things answered. If we don't have the data how do we justify charging
334 businesses this extra fee? Mayor Harris said we have data for 2007 and 2008. There are thousands of
335 calls for each of those years and all of that data has to be sorted and sifted. Fred Philpot said they have
336 the data but not more recent information. He said from their stand point it takes him more than 40 hours
337 to geocode and analyze the call data and that is by using software that assists in the process. He said
338 processing the data regularly could take quite a bit more time if that were the first go through. He said
339 they can provide the 2006 and 2007 data; he thought that had been provided previously. Council Member
340 Bigler said the Council received a list of calls but it didn't show who the calls came to; which business or
341 the nature of the call. Fred Philpot said it should be listed by the address. Council Member Bigler said
342 we have been through this before and the address is just the street address not necessarily the specific
343 business. Fred Philpot said it would show zero on their table if a business had never had a police call. He
344 said in a strip mall with multiple businesses and a shared street address they remove those so all of those
345 businesses would show zero. If there is a call or multiple calls to a strip mall or a business with multiple
346 locations they analyze the businesses if they are similar but if they are different they have to be excluded.
347 He explained that they can't include those because it would skew the analysis and disproportionately
348 affect that business group. He said the information they try to provide is the raw data and they take it and
349 run it in a GIS program so that the address is mapped for the calls for service and the business address
350 goes in and anything that overlays geographically can be matched and analyzed. Without GIS software
351 they wouldn't be able to analyze those things. He said they are more than happy to provide additional
352 data that can come through Ron Chandler. They are more than happy to continue to facilitate the flow of
353 information.
354

355 Mayor Harris said Council Member Bigler wanted information on individual businesses and the report
356 that LYRB furnished us had information by business categories. Fred Philpot said he can provide the

357 calls that were matched to those businesses but it would be 2006-2007 data. He said it would take a little
358 bit of work to get it but he can take it out of the program itself. It can be done. Council Member Hulme
359 said the Council is disallowed from using that information. The Council has to consider disproportionate
360 fees by business group not individual businesses. Fred Philpot said that is correct; you have to apply it to
361 the group. He said the study does apply a law of averages. You either have a group for each business so
362 you have 1,000 business groups or you apply some average or you apply a global average where all
363 commercial businesses are somewhat averaged as a single group. The law states that the fee has to be
364 uniform amongst the businesses within a specific business group however that is established. The data on
365 the individual level may or may not reflect the information you're looking for.

366
367 Council Member Fawson asked Ron Chandler to summarize where the revenue from the fees actually
368 ends up. Ron Chandler replied it all goes into the General Fund and with rare exceptions the General
369 Fund is not so specific that you can say specific revenue goes to a certain location. He said exceptions are
370 the class c road funds and the aquatic center. In the case of taxes and fees they generally go into the
371 General Fund and are expensed. Council Member Fawson asked if some of this is used to fund extra
372 security or police rounds within the business corridor. Ron Chandler said he does not know if there was
373 an increased police presence after this was adopted. It is a little bit difficult to make that direct a tie there.
374 Council Member Bigler said that was said in the meetings.

375
376 Council Member Fawson asked when we did the last comparison between North Ogden and other cities
377 on business license fees. He said if we haven't done it for quite some time he would like us conduct that
378 type of survey of surrounding cities. He said the renewal schedule seems to him to not make a whole lot
379 of sense. If, for example, a business registers in October they are forced to renew in January. Annette
380 Spendlove said that is correct but, as a staff, they have not been doing that. Staff has been talking to the
381 applicants about the fee schedule and explaining that to them. She added that it is prorated so they are not
382 paying the full amount. It is prorated January through June and July through December. Gary Kerr said
383 that is correct. He said if someone comes in December the people are told to wait until the following
384 January.

385
386 Council Member Fawson said he would love to update the policy. He said he thinks we ought to be doing
387 what the policy says and he recommended looking at a monthly proration. He asked that we consider
388 online registration and renewal as well. Council Member Hulme said the study demonstrated that some
389 of the \$64 fee has to do with processing. He said he doesn't know how you would prorate staff time. If it
390 takes staff time to process, then it takes that time no matter when in the year they do it. He said he would
391 fully support prorating the other portion of it. Council Member Bigler said this is just for new businesses.
392 Council Member Hulme said if it costs us \$30 for staff to do the paperwork and \$34 to do everything else
393 and then come in December the staff time isn't reduced. Council Member Bailey said his understanding
394 is that the \$34 is an average over all, not each license itself. Council Member Hulme said his recollection
395 is that the study determined staff time and the pay rate of the person doing the work. Council Member
396 Bailey asked Mr. Philpot if that is correct. Fred Philpot replied that the process itself has nothing to do
397 with the time at which they apply in the year. It is the process that staff actually goes through to process
398 each license. Council Member Bailey asked if that was validated in some way. If we have a certain
399 number of licenses in the course of a year and it takes that much time. Fred Philpot said you don't know
400 how many licenses are processed so they can't be looked at individually. He added that they do look at
401 the amount of time that is spent on average per year processing new applications versus renewal
402 applications. He said he would be careful tying it to the time at which they apply for a new application.
403 Council Member Fawson said if there is no way to adjust the processing time involved in that downward
404 to prorate that he recommended that if a business registers in April then they renew in April. Fred Philpot
405 said that makes a little bit more administrative work but there are some communities that do that. Council
406 Member Bigler said that seems like it would be more of a headache and cost more than doing it all at
407 once. Council Member Fawson said he thinks it would take the same amount of time whether it is all in

408 January or spread out over the year. Ron Chandler said staff may be set up to be able to do that monthly
409 through our computer system. Council Member Bailey asked how that would affect City staff; having to
410 deal with licenses all through the year. Would that be less efficient? Annette Spendlove said she doesn't
411 think there is any difference; it still has to be done. Council Member Hulme said he thinks that would be
412 easier.

413
414 Council Member Bailey said he would like to make a proposal. He would like to know what the revenue
415 affect would be if we dropped all business licenses to the base fee of \$64. He said he would also like a
416 survey of the business license fees for the surrounding communities. He said there are some
417 philosophical questions about the whole disproportionate fee concept. He would like to know how the
418 base rate of \$64 what was arrived at. Are they assuming the process of providing a license has no value
419 other than the processing fee? Council Member Bailey asked if we are assuming that the process of
420 providing someone with a business license has no other value in the city. He said somehow a business is
421 receiving something of value from the City; allowed to conduct business within the City. Fred Philpot
422 said they take the time to look at the process. Council Member Bailey said he is questioning the value of
423 the business license; the \$64 base fee has more value than the processing fee. He said, for example, a
424 business owner gets the street plowed in front of their business so he is questioning the concept that
425 anything beyond \$64 isn't justified. Fred Philpot said that is the essence of the disproportionate fee.

426
427 Council Member Hulme said the services they receive are funded in part by property taxes. Fred Philpot
428 said he thinks the idea of the disproportionate fee is to try to get at some of those numbers; additional
429 calls for services above some baseline. Council Member Bailey said in the previous business licensing
430 fee structure we had \$100 fee for a business out of a commercial location and \$50 for a home occupation;
431 for whatever reason those were the two numbers that we used. He said as he reads the disproportionate
432 fee study it seems like they are grasping a reason to not charge more than \$64. He said he thinks to say
433 the \$64 fee is unjustified is not warranted given the fact that there is value in giving them a business
434 license. The opportunity to buy and sell goods within the City legally is of value. Council Member Bigler
435 said he is talking about a business license fee not a disproportionate fee. Council Member Bailey said
436 that is correct, he is talking about the business license fees. He said that if we decide to abandon the
437 entire business license fee structure we are not necessarily limited to the \$64. Council Member Bigler
438 said he think we are; we charged \$100 and the \$64 came in because that's the most we could charge by
439 law. Council Member Bailey said no, it is not by law. Dave Carlson said as an example it has always
440 been that licenses were not transferable but the State Legislature decided to change that law so you can
441 actually sell a liquor license. He said this is an example of the concept Council Member Bailey is talking
442 about; there is value to a license. Council Member Bailey said the license has value beyond the cost to the
443 City to prepare that license. He said he thinks if the Council decides to back away from disproportionate
444 fees he thinks there is justification to charge more than \$64.

445
446 Council Member Bigler said that they talked multiple times about how \$100 is not justified legally.
447 That's why it was set at \$64. Fred Philpot said as a firm LYRB is not in a position to offer legal advice
448 but his opinion regarding disproportionate fees and business license fees that municipalities assess, in
449 general, have to reasonably reflect the cost incurred by the City. That is the reason for the business
450 license study, to look specifically at the business license fees and then determine what the cost is to
451 administer that license from a procedural standpoint. The disproportionate fees are an attempt to get at
452 the cost of the additional services or the cost of doing business in the community. The nexus is trying to
453 bridge the gap between the costs incurred by the City and the fee assessed. It becomes difficult when you
454 look at all the other elements to analyze and quantify the benefits. He said he doesn't think it is the only
455 way to look at the potential perceived or realized benefits. He cautioned that they have to be quantifiable
456 and there has to be nexus between the cost and the fee assessed. He said it was determined that it costs
457 the City \$64 to administer a license from the time the applicant steps through the door.

458

459 Council Member Fawson said, in response to Council Member Bailey's points, the flip side is the value of
460 the license is the value of the business and the sales tax that they bring in. Fred Philpot said it is a
461 cost/benefit analysis and you have to go down the path of what are all the costs and associated benefits.
462 Council Member Fawson said he would think the City would owe the businesses money if we analyze all
463 the benefit we get from the business and it should be a near zero cost on a license fee being we are
464 benefiting so much from that business being in our community. Fred Philpot said LYRB is seeing some
465 communities looking at that; a more comprehensive sustainability plan of the actual costs and benefits.
466 When you look across your General Fund, utility rates, enterprise funds; what is the flow of that revenue
467 and expenditures. He said this way you are looking more in depth at the fees and analyzing it more
468 comprehensively. That is an invaluable approach but it is also a lot more time consuming and costly to
469 do that process. Council Member Fawson said that is a more business friendly approach. Council
470 Member Bigler said LYRB has been here so many times and we appreciate it but he wants to get rid of
471 these so if there is anyone else on the Council who has real doubts as to whether they are justified. He
472 said the businesses have brought in just under \$500,000 in the last 12 months in sales tax revenue alone.
473 It depends how you look at businesses whether they are liabilities or assets. He said there is much more
474 asset to the businesses than just financial which is the sales tax revenue; \$457,093.99 in the last 12
475 months. He said he thinks the City will end up with more money in the long-run and will end up better
476 financially by being business friendly and attracting more businesses here than by charging
477 disproportionate fees. He said he is ready to put a motion forth to do away with it.
478

479 Council Member Bailey said his only concern is the affect it will have on the budget that we need to pass
480 tonight and not knowing what the affect will be. Council Member Hulme said the Council can amend the
481 budget in July. Council Member Bigler said the budget can be adjusted anytime. Ron Chandler said the
482 place to make that motion is on the Consolidated Fee Schedule because that's where the changes will end
483 up. Council Member Bigler said the Council will not be able to make those changes later because we
484 don't know what those changes will be. Ron Chandler said the Council just needs to be aware that if they
485 make a change to the Consolidated Fee Schedule it will affect the budget. For example if you got rid of
486 business license fees it would make the budget \$51,000 short. Council Member Bigler asked if the
487 disproportionate fees brought in \$51,000. Ron Chandler replied no that was just an example if business
488 license fees were taken completely out; if only the disproportionate fees were taken out he doesn't know
489 what that amount would be. Council Member Bigler said for him this issue shouldn't be a budget issue.
490 We shouldn't be collecting a fee for revenue or for budget. He said the only issue is that it is on the
491 budget already. He said Council Member Bailey had a good point that the City has some additional fees
492 that we weren't collecting before that would off-set it. Council Member Bailey said the Council is going
493 to affect the budget as some point. He added that he would prefer to approve the budget tonight and vote
494 on this at the next Council meeting and deal with this as a separate item. Council Member Hulme said
495 they will still need to adopt the Resolution amending the Consolidated Fee Schedule. Annette Spendlove
496 said that is a working document and can be amended at any time. Ron Chandler said the items on the
497 Consolidated Fee Schedule right now are all just housekeeping items. He said none of them are really
498 significant. Council Member Bigler asked if the Council could wait on the motion and amend it after it's
499 been changed tonight does it require us to pay a fee to hold another public hearing or if we do it tonight
500 does it save us \$300. Annette Spendlove said we do not have a public hearing for the Consolidated Fee
501 Schedule but when the budget is reopened a public hearing must be held. Ron Chandler said
502 communities generally reopen the budget twice a year; once at the end of the calendar year and once at
503 the end of the fiscal year and during that time the Finance Director keeps track of the changes the Council
504 has made in the previous six months so you are not constantly paying for public hearings. Council
505 Member Bigler asked if the disproportionate fee is paid just once a year. Annette Spendlove said it is
506 paid when they pay their business license fee. Council Member Bigler said that would work if the
507 Council did it later the business owners just wouldn't pay it next year. Council Member Bailey said that
508 would be true except for new applications. He said his understanding is that the budget could be passed

509 tonight and the Consolidated Fee Schedule at a later time. Ron Chandler said staff would act as it has
510 been done immediately. Council Member Fawson asked that it be on the next agenda.

511
512 Council Member Bigler said some of the police officers are here tonight and he wanted to be really clear
513 to them and on the public record that this whole disproportionate fee discussion that has been going on for
514 about a year has nothing to do with what the police officers have done or didn't do that they should have
515 done or anything that they did wrong. It has nothing to do with something you haven't done that you
516 should have done. He asked whether in the future it is possible to set up a system, without causing them
517 all kinds of paperwork, when there is a call to a business that it is plugged into the database electronically.
518 Ron Chandler said that exists now but it gives the full list including traffic stops. Council Member Bigler
519 said it sounds like all it would take is a little tweak to be able to divide it out if you wanted to. If we have
520 the data we ought to be able to manipulate it however we want to.

521
522 Polo Afuvai said, as an example, if they pull up Smith's address they might have 200 calls for last two
523 weeks. That shows everything that happens on that property and takes that address. He said they have to
524 go through each individual call to determine which calls pertain to a traffic stop and which pertain to
525 Smith's. Council Member Fawson asked if there is not a field coded for the type of call in the database.
526 Polo Afuvai said they are limited by the dispatch computer system and added that they are looking at a
527 different system now. Council Member Bailey said dispatch is done through Central Weber. Polo Afuvai
528 said that is correct. Each call is assigned a case number. Council Member Bigler asked whether the
529 database is all done through dispatch. Polo Afuvai replied yes. He said his staff is not professionals with
530 analyzing surveys and their department has other responsibilities.

531
532 Council Member Fawson asked if the police report is tied into the case report in the database and whether
533 it is accessible. Mayor Harris said the police department has been trying to look at the most recent fiscal
534 year. There are over 10,000 calls in that year and there is no way to sift through all that. Council
535 Member Bailey said with disproportionate fees we would be required, on a regular basis at least, to
536 substantiate the numbers we are using. Is the value of doing that work worth the revenue that we would
537 get from it? Council Member Hulme said the City has the ability to assess it by business. Mayor Harris
538 said this has been valuable discussion but it will take some time for us to analyze it and figure out what is
539 going on. Council Member Bigler said they will get the amount of the disproportionate fees and go from
540 there. If they have the amount they will know. Council Member Bailey said he would like to know what
541 the surrounding cities are charging also; it may be irrelevant but he is curious.

542
543 Council Member Bailey said in addition to the base business license fee there is another fee on top of that
544 and asked if that is basically a disproportionate fee. Council Member Bigler said it was done in the same
545 study and they do it for administrative costs. If you have a business license it should cover the fee. It
546 sounds like we are not calling it a disproportionate fee but it was tacked on at the same time as a separate
547 fee and LYRB did it. Council Member Bigler referred to an email from Sue Richey that referred to the
548 minutes of a Council meeting and reads in part that there is a cost to administer each business license and
549 LYRB was proposing that for rentals, because there is code enforcement and compliance, the base cost
550 was \$13.27 which was the bare minimum to cover code enforcement. The business license fee study
551 from LYRB doesn't show the \$13.27 listed as a disproportionate fee. Council Member Bigler said it is
552 not technically called a disproportionate fee but it smells of it. Ron Chandler asked what meeting is
553 being referred to. Council Member Bigler replied October 12, 2010 and added that on February 27, 2012
554 there was a stream of emails. Mayor Harris asked if the question is what that \$13.27 applies to. Council
555 Member Bigler said that is why he asked that it be on the agenda; it is a concern and he wants to know if
556 it is justified.

557
558 Gary Kerr, Building Official, said he did some research and talked with a former Code Enforcement
559 Officer who talked with the consultants from LYRB. Gary Kerr said she told him that she did some code

560 enforcement services with rentals but his department does not do the items she used to do. Council
561 Member Bigler said the residential rental license is not a home business license which is \$64. They pay
562 \$13.37 more of a license fee than a major business on Washington Blvd. Mayor Harris said his
563 understanding was that everyone was charged \$64 and the \$13.37 was a code enforcement fee that was
564 over and above. Mayor Harris said as Gary Kerr just stated we no longer have a Code Enforcement
565 Officer. As far as disproportionate fees go they are charged the \$13.37 over and above but we could not
566 assess any disproportionate fee to rentals because we don't have the good landlord program in place. We
567 would have to have that good landlord program in place in order to assess disproportionate fees. When
568 the study was done we had a code enforcement officer and that's what they did. Council Member Bigler
569 said we don't have that now. Mayor Harris said we may not do all of it but we do have part time Code
570 Enforcement. Council Member Bigler said there are local North Ogden City residents that may have only
571 one rental unit and they feel like they are getting killed with all the increased rates and fee. Mayor Harris
572 said it is a policy decision that Council will have to make and balance that with the impact to the budget.
573

574 Council Member Bailey said they are looking at setting base line business license fees based on LYRB's
575 view of their interpretation of what the State Legislature said. He would really like to know whether that
576 is the only way of doing that. We are hearing that it needs to be based on the actual cost of providing the
577 service. Ron Chandler said as he understands State Law you look on the base line fees and for the
578 disproportionate fees you are given other means in which to assess that fee; police calls is one, fire calls in
579 another, storm drain, and a number of others. He said he is quite confident if he chose a different one he
580 would have a much different outcome. Police is easy because it is easy to measure and that is what most
581 cities are choosing. Council Member Bailey asked if we are locked in at \$64 for the baseline fee. Ron
582 Chandler said he will check it but as he understands it you have to go off your study.
583

584 Dave Carlson said there were a lot of old cases about what a City can charge. What the Supreme Court
585 said is that it has to roughly be in the ball park of what the actual cost is to provide the service to the
586 business. The disproportionate fee was an attempt by cities to find additional revenue sources but the
587 argument that they made was that just charging the base fee to everybody didn't allow cities to recoup all
588 the costs for providing all the services. He said the legislature doesn't allow cities to send businesses a
589 bill as has been suggested in the past. The legislature wouldn't go that direction so what they gave cities
590 was this disproportionate fee; you have to do a study to justify it and it has to be updated every three
591 years. The State legislature made this decision for us. Council Member Bailey said the base level as
592 determined by LYRB is \$64 but it was made on some time and motion and how long it takes to do certain
593 things. He said the City could look at it and say a particular item is also included as it costs us some other
594 things in order to do a business license. So we could establish a substantiated, factually based base line
595 fee that is something other than \$64. Council Member Hulme said one thing to consider is one of the
596 reasons you would use an established firm like LYRB would be so it is defensible in court. Dave Carlson
597 said Council Member Hulme is right about that, they use a certain methodology or approach so it will
598 pass peer review. If they did have to go to court Mr. Edminster and Mr. Philpot would have to get on the
599 stand and defend their methodology and their peers would be called to attack their methodology so they
600 all kind of use the same approach.
601

602 Council Member Bigler said the disproportionate fee and the business license fee are different. The
603 company was hired because legally you can't charge disproportionate fees without the study but you can
604 assess business licenses but of course if somebody called you on the carpet it has to be within that reason.
605 He said we have been charging a \$100 and if we can only charge \$64 legally to charge \$13 on top of that
606 seems like we are trying to get around it. He said he would rather charge \$75 and get rid of the
607 disproportionate fees. He indicated that he would rather take that approach. You can justify \$75 and it's
608 still \$25 less than they've been paying for years. Ron Chandler said the \$13 is only on certain classes of
609 businesses, it's not applied to all businesses. Council Member Bigler said it is for code enforcement and
610 asked why there isn't code enforcement on the other ones. Council Member Bailey asked if there is

611 different code enforcement for rentals than there is for businesses. Gary Kerr said the procedure is the
612 same for rentals and businesses.

613
614 Mayor Harris said the Council has some things to look at and asked where things stand. Council Member
615 Bigler said he wants someone to look at surrounding cities and their fees. Ron Chandler said he would
616 like to spend a little bit of time finding out about going against the study. Council Member Bailey said a
617 study of what it takes to process a business license doesn't take the same amount of effort as a study of
618 going out and looking at individual police calls; this is not rocket science.

619
620 Dave Carlson said State law requires cities to have this study done if they are going to do disproportionate
621 fees. It doesn't require it if you are only charging a base fee but the rule there is that it has be
622 approximate. Council Member Fawson asked whether it has to roughly approximate or if it is a not to
623 exceed limit. Dave Carlson replied that it has to roughly approximate; it can be higher, it can be lower
624 but it has to be in the ballpark. Ron Chandler asked if Council is asking staff to estimate the cost to
625 process business license applications with the disproportionate part of it. Council Member Fawson said
626 he would like to see if we can do online licensing and added that it would really cut down on the
627 administration. Council Member Hulme said as he was looking through past minutes he found an area
628 where he thought that Debbie Cardenas has said that if they did something it would only result in \$70,000
629 revenue which is \$30,000 less than we are currently getting. That suggests that she was under the
630 impression we are getting \$100,000 revenue in business license fees and what we are reading tonight is
631 that it is closer to \$35,000 or \$38,000. He said he wonders if anybody knows whether there is any reason
632 for that. Mayor Harris said he thinks they were looking at the maximum amount allowed; the \$64 plus
633 the maximum disproportionate fee allowed.

634
635 **7. CONSIDERATION AND/OR ACTION TO ADOPT A RESOLUTION AMENDING THE**
636 **CONSOLIDATED FEE SCHEDULE.**

637
638 Ron Chandler said all the changes on this are housekeeping items. The changes on page 2 include the
639 convenience fee that we charge for credit and debit card payments and the change from audio tape to CD
640 because we don't really use audio tapes anymore. On page 5 the Administrative Law Judge replaced the
641 Board of Adjustment and the cost for copies has been corrected to \$.10 per page. The Community
642 Services section was reviewed in October 2011 and the changes on pages 5 and 6 formalize those
643 policies. The pageants were taken out on page 7 because the City is no longer sponsoring those.

644
645 **Council Member Hulme made a motion to adopt Resolution 9-2012 amending the Consolidated Fee**
646 **Schedule. Council Member Stoker seconded the motion.**

647
648 **Voting on the motion:**
649 **Council Member Hulme** **yes**
650 **Council Member Stoker** **yes**
651 **Council Member Bailey** **yes**
652 **Council Member Fawson** **yes**
653 **Council Member Bigler** **yes**

654
655 **The motion passed unanimously.**

656
657 **8. PUBLIC HEARING TO RECEIVE COMMENTS REGARDING THE FISCAL YEAR**
658 **2012-2013 TENTATIVE BUDGET.**

659
660 Ron Chandler stated there are not many changes from our tentative budget and the changes they do have
661 to present are good news. We had provided for a 10% increase on our health and dental insurance for

662 employees in the tentative budget. Since that time we have finished our negotiations with Blue
663 Cross/Blue Shield Regency and made that switch which is a 5.5% decrease on the premiums. The budget
664 reflects this overall reduction of \$65,300. That is spread out among the funds. Unless Council directs
665 staff otherwise the proposal is to use that savings to reduce the amount from the fund balance. One point
666 of interest that just came in today is that we received our property tax revenue information from the
667 County and the new figures are higher than what we were proposing in our budget. The increase is based
668 on the new growth that the City had. We had proposed a revenue source of \$998,000 but based on what
669 the County has given us it is coming in at \$1,014,128. That is an increase of \$16,128. Staff would
670 propose to use that to reduce the amount that we would need from the fund balance. He explained that is
671 property tax revenue. Council Member Bailey asked what the percentage of the fund balance is. Bryan
672 Steele replied we are between 16% and 16.5%. Ron Chandler said the next item he wanted to talk about
673 is the request from the school to add some traffic control devices and to put a crossing guard in. He said
674 he wanted to talk about funding that; the warning light that was requested can be paid from the Capital
675 Funds. The other expenses like the crossing guard and safety vest need to come out of operational
676 expenses. Council Member Fawson said one item that was not approved during the budget retreat was the
677 additional police vehicle he asked if we can look at that.
678

679 Council Member Bailey said the last time they discussed the crossing guard the Chief was going to make
680 a recommendation. Bryan Steele said they would need to install two lights which would put the total cost
681 about \$10,000. He added that those are solar lights. Chief Afuvai said his recommendation would be to
682 shut down the crossing on Washington Blvd. by Bicentennial Park. He said the criteria is that there has to
683 be at least ten or more crossings and they are finding less than that; at the most there are six or seven
684 crossing. He said they did a study at the light at Elberta Dr. and 400 E and for a couple of days there were
685 13 but it has been more like three or four. He said four or five years ago the school district divided
686 Washington Blvd. Everything on the west side went to Majestic Elementary and everything on the east
687 side went to North Ogden Elementary. They came back and had to change the border again and now they
688 want us to put a light in front of the school. He said as he reads the code it says anything below ten you
689 have the option to pull it. Council Member Bigler said parents are usually taking the kids. Chief Afuvai
690 said they have talked to the parents about carpooling.
691

692 Mayor Harris said the proposal is to add \$10,000. Chief Afuvai said if they do close that light they do not
693 have to buy a new one; they would move the lights. Ron Chandler asked if they have a crossing guard at
694 that location. Chief Afuvai replied yes; the light goes with the crossing guard. He said the change would
695 mean that the kids would cross at the light on 2600 N. Ron Chandler clarified the actual cost would be
696 the transferring of those lights. Council Member Bailey asked where the kids live that cross there. Chief
697 Afuvai said they come from behind Lee's. Council Member Bailey asked if they were to make this
698 change would we make sure the school is aware of it. Council Member Bigler said they want to keep the
699 kids safe and he would be more comfortable adding the \$10,000 right now. Chief Afuvai said they did
700 the study for two weeks. Council Member Hulme said there is a crosswalk at 2600 N so he thinks it is
701 more of a convenience issue. He added that he thinks \$10,000 for a handful of people is a lot when we
702 already have a safety mechanism in place.
703

704 Council Member Bigler said staff did a good job on the insurance and asked if the insurance is
705 comparable for the employees. He said it is a lot less money and asked if the benefits are decreased. Ron
706 Chandler said it does not cover eye exams or adjustments from a chiropractor. Ron Chandler said he
707 wanted to give credit where credit is due and that is to Annette Spendlove, she did a marvelous job.
708

709 Mayor Harris opened the public hearing at 8:41pm.
710

711 Martha Urban, 365 E 3250 N, said she is the Chair for North Ogden Elementary Community Council.
712 She said as she listened tonight, as a parent, she feels that the Council doesn't have the whole picture.

713 She is hoping the City will be able to work with the school as to what is best and safest for their children.
714 She said she knows the Police Department has done studies. She said she doesn't know about other lights
715 and whether they are electric or solar but they suggested that there are lights by the cemetery that are not
716 being used. She mentioned that there is a light in front of the school but it can't be turned on because
717 there is no crossing guard. If the light at the cemetery could be moved to the other end of that school
718 zone and they had a crossing guard those could be turned on. She said she understands what the Chief is
719 saying about the crossing by 400 E and Bicentennial Park and that is a concern. She said in the past the
720 City has said they would provide two crossing guards to the school and the school needed to decide where
721 they wanted them but they had that before the boundary changes. There are kids that cross Washington
722 Blvd. from over by the high school; in the winter they don't get much use but it is such a busy street.
723 Their biggest concern is right in front of the school. If they cannot both be considered she would hope the
724 Council would sit down and work with the safety officer to determine what is best. Council Member
725 Bigler said he appreciates the letter that was sent to the Council; he said he would be comfortable getting
726 the money to keep those kids safe without making it a wash right now but if we add that money now it
727 doesn't mean the Council cannot do that later.

728
729 Council Member Fawson asked Martha Urban if she sees a need for additional lights. He said they have
730 lights if they reallocate this budget for crossing guards and move lights to make them work. Martha
731 Urban said they should contact the District Safety Officer and the Principal. They may have Community
732 Council or PTA come in to help represent parents. She said she understands that there are some days that
733 not many kids cross at some of the lights but those aren't the lights she is talking about; there are other
734 lights that could be used.

735
736 Council Member Bailey asked if the light over by the school now is in the right place. Martha Urban said
737 there is one in the right place but there is not one on the east end. She said she hopes they keep a
738 consensus on what is safest for the kids. She said she has seen parents drive through the crosswalk when
739 there are kids in it and there is a teacher out there. Council Member Fawson said he is not questioning the
740 safety; obviously we want what is safest for the kids. He said he is asking where the Council can
741 reallocate from and where is the actual need. Chief Afuvai said the light was for the old school but now
742 that the school moved to the east we can't use that anymore. He said the crosswalk they want to use is
743 right there on 550 N. That's why we have to move everything to the east.

744
745 Council Member Bigler asked if Ron Chandler, Mayor Harris, the District Safety Officer and the
746 Principal could set up an appointment to discuss the issues with safety and see what would be ideal. That
747 would be helpful. Mayor Harris said the issue is money so if the Council wants to allocate money to that
748 he proposed including Ron Chandler, the Police Chief and a Council Member. Council Member Bigler
749 said he would like to put money toward what was previously recommended. Ron Chandler
750 recommended, in order to take action on the budget tonight, using the capital improvement funds to pay
751 for a portion of it and the excess amount that we were going to get from the property tax to make up the
752 difference on the operational costs of it. Staff will come back with the information. Council Member
753 Hulme asked when you put in something like that and people change their driving pattern to avoid it will
754 it create problems in another area.

755
756 Martha Urban said the crossing guard is right in front of the school. She said they did a study and there
757 are a minimum of approximately 50 kids a day and up to over 125 a day. She said that is an area that has
758 stayed static and has always been part of North Ogden's boundaries.

759
760 **Council Member Hulme moved to close the public hearing. Council Member Fawson seconded the**
761 **motion.**

762
763

764
765 **Voting on the motion:**
766 **Council Member Stoker** **yes**
767 **Council Member Bailey** **yes**
768 **Council Member Fawson** **yes**
769 **Council Member Bigler** **yes**
770 **Council Member Hulme** **yes**

771
772 **The motion passed unanimously.**

773
774 **The public hearing was closed at 8:59pm.**

775
776
777 **9. CONSIDERATION AND/OR ACTION TO ADOPT AN ORDINANCE APPROVING THE**
778 **FISCAL YEAR 2012-2013 FINAL BUDGET.**
779

780 Ron Chandler said, based on the previous discussion, if the Council should choose to proceed with that
781 there are two parts of the tentative budget that they would need to take action on and include in the final
782 budget. Those are to increase the property tax revenue from \$998,000 to \$1,014,128, to include the
783 installation of warning lights of \$6,500 in the capital improvements fund and to increase the cost
784 associated with the crossing guard of \$3,500. The final thing would be to decrease the appropriation of
785 fund balance \$12,628. Council Member Hulme asked about the increase of taxes. Ron Chandler said the
786 increase is because of the growth in the City it is not an increase in the property tax rate.

787
788 **Council Member Bailey moved to adopt Ordinance 2012-12 approving the final budget for Fiscal**
789 **Year 2012-2013 subject to the adjustments Ron Chandler reviewed. Council Member Bigler**
790 **seconded the motion.**

791
792 **Voting on the motion:**
793
794 **Council Member Stoker** **yes**
795 **Council Member Bailey** **yes**
796 **Council Member Fawson** **yes**
797 **Council Member Bigler** **yes**
798 **Council Member Hulme** **yes**

799
800 **The motion passed unanimously.**

801
802 Mayor Harris instructed Ron Chandler to take the initiative and set up a meeting with himself, Council
803 Member Bigler, Chief Afuvai and the folks from the school that are part of that. That will be brought
804 back to the Council but regardless we have the money in the budget for that purpose.

805
806 **10. PUBLIC HEARING TO RECEIVE COMMENTS REGARDING AMENDMENTS TO**
807 **THE FISCAL YEAR 2011-2012 BUDGET.**
808

809 Mayor Harris explained that the purpose of this item is to amend the budget for this fiscal year. Bryan
810 Steele said we open the budget twice a year; usually at the end of the calendar year and again at the end of
811 the fiscal year. This is to make amendment to the budget for transactions that occurred during the year or
812 that Council has approved during the year. There were a couple of typos on the first page under the
813 General Fund expenditure column at the bottom, the second to the last one is employee benefits for
814 \$13,000 and the last item should say transfer to the Capital Projects Fund. He said the memo has a

815 description of what each of those amendments is for. He said the first two increase our 'purchase
816 equipment' for the Police and Judicial Departments. We received grants from the State and were able to
817 expend. He said #4 was just a calculation of benefits for an employee in the Finance Department that
818 wasn't done so we had to increase that. #4 was for the increase of the elections. #5 was for the bonding
819 for the animal shelter. We thought it was going to be \$20,000 total but after talking with staff at the
820 shelter we were made aware that the \$20,000 we paid in February was for all of 2011. We will start
821 seeing quarterly bills for \$5,000 so we had to increase that another \$10,000. Mayor Harris said the
822 amount is the same but the City is catching up for the shelter's calendar year. #6 is for increasing Cherry
823 Days expenses offset by the donations we've received for \$30,000. #7 is the \$20,000 that was approved
824 for fireworks for Cherry Days. #8 is for two employees that added health insurance during the year which
825 increased our benefits. #9 for some reason the part-time employee wages were decreased and that had to
826 be added back in. #10 has to do with a combination of #8 and #9. #11 gives us the authority to transfer
827 money from the General Fund to Capital Projects Fund. Bryan Steele said on page 2 Capital Projects
828 Funds include the installation of top soil and irrigation at North Ogden Park. In the Water Fund, the
829 Public Works Director's salary and benefits were all coming out of the General Fund but are allocated by
830 the Water Fund. Mailing services was not included in the original budget. Computer services show a
831 metering system that was not included. The tax assessment was more than we anticipated. Bryan Steele
832 said on the third page the Public Works Director's salary and benefits was shown coming out of the
833 General Fund and that has been corrected. On the last page one employee's salary and benefits were not
834 calculated correctly. The Police motor pool fund for vehicle maintenance was more than what was
835 shown.

836

837 Mayor Harris opened the public hearing at 9:08pm.

838

839 There were no public comments.

840

841 **Council Member Fawson moved to close the public hearing. Council Member Hulme seconded the**
842 **motion. The public hearing closed at 9:08pm.**

843

844 **Voting on the motion:**

845 **Council Member Fawson** yes

846 **Council Member Bigler** yes

847 **Council Member Hulme** yes

848 **Council Member Stoker** yes

849 **Council Member Bailey** yes

850

851 **The motion passed unanimously.**

852

853 **11. CONSIDERATION AND/OR ACTION TO ADOPT AN ORDINANCE AMENDING THE**
854 **FISCAL YEAR 2011-2012 BUDGET.**

855

856 **Council Member Fawson moved to adopt Ordinance 2012-13 to approve amendments to the Fiscal**
857 **Year 2011-2012 Budget. Council Member Bailey seconded the motion.**

858

859 **Voting on the motion:**

860 **Council Member Bigler** yes

861 **Council Member Hulme** yes

862 **Council Member Stoker** yes

863 **Council Member Bailey** yes

864 **Council Member Fawson** yes

865

866 The motion passed unanimously.
867

868 **13. CONSIDERATION AND/OR ACTION TO APPROVE AN INTERLOCAL AGREEMENT**
869 **FOR WEBER COUNTY ELECTIONS.**
870

871 Annette Spendlove, City Recorder, explained that this agreement is with Weber County. Weber County
872 started the special election today; this is also the primary election. This is a contract with them to run our
873 special election. She explained that we are numbering our agreements so this will be Agreement 2012-
874 1A.
875

876 **Council Member Bigler moved to approve Interlocal Agreement 2012-1A for Weber County**
877 **elections. Council Member Stoker seconded the motion.**
878

879 **Voting on the motion:**
880

881 **Council Member Fawson** yes
882 **Council Member Bigler** yes
883 **Council Member Hulme** yes
884 **Council Member Stoker** yes
885 **Council Member Bailey** yes
886

887 The motion passed unanimously.
888

889 **14. CONSIDERATION AND/OR ACTION REGARDING CONSENT FOR AN EMPLOYEE**
890 **COMPENSATION COMMITTEE.**
891

892 Mayor Harris named the members he selected for the Employee Compensation Committee. They are as
893 follows: Neal Berube as Chair, Thayne Shaffer, Chris Barker, Brett Forsberg, Brock Mortensen, Delone
894 Call, and Linda Boyer. That comprises a seven member committee. Staff support will be provided by
895 Bryan Steele and Annette Spendlove.
896

897 **Council Member Bigler moved to approve the members of the Employee Compensation Committee**
898 **as designated by Mayor Harris. Council Member Fawson seconded the motion.**
899

900 **Voting on the motion:**
901

901 **Council Member Fawson** yes
902 **Council Member Bigler** yes
903 **Council Member Hulme** yes
904 **Council Member Stoker** yes
905 **Council Member Bailey** yes
906

907 The motion passed unanimously.
908

909 **15. CONSIDERATION AND/OR ACTION TO CANCEL THE SCHEDULED JUNE 26, 2012**
910 **CITY COUNCIL MEETING.**
911

912 Annette Spendlove said this is due to the primary and special election on June 26, 2012 in the Council
913 Chambers from 7am to 8pm.
914

915 **Council Member Fawson moved to cancel the June 26, 2012 City Council meeting. Council**
916 **Member Bailey seconded the motion.**

917 **Voting on the motion:**
918 **Council Member Fawson** **yes**
919 **Council Member Bigler** **yes**
920 **Council Member Hulme** **yes**
921 **Council Member Stoker** **yes**
922 **Council Member Bailey** **yes**

923
924 **The motion passed unanimously.**
925

926 **16. PUBLIC COMMENTS.**

927
928 There were no public comments.
929

930 **17. COUNCIL AND MAYOR COMMENTS.**

931
932 Council Member Hulme said the presentation of this budget and updates are very readable and he thanked
933 Bryan Steele for that.
934

935 Council Member Bigler said the Council had asked that the \$100,000 per year that has been saved for the
936 public works facility continue being saved. He said since we have the new staff members he wants to
937 make sure that is happening. Bryan Steele confirmed that is still happening. Council Member Bigler said
938 he wanted to follow up with an email that Council Member Stoker sent regarding the trees on the
939 parkstrip; did Staff find out anything about that. Were the trees that were put in by the skate park the
940 right ones? Mayor Harris said the ordinance the City has allows only certain species of trees to be planted
941 in the park strip but this is not in the park strip it's inside the sidewalk. The City Forester, Ken Kolb,
942 selected them and disagrees with the concerns. He said there should not be an issue with that. He said he
943 sent an email asking if it would be possible for the Council to recognize the Weber High girls' softball
944 team for winning State. He said that is a big deal and he would like to discuss that. Mayor Harris said he
945 doesn't recall receiving an email. Council Member Bigler asked the Council Members whether they
946 received it. They replied no. Council Member Bigler said the group Council email address is not
947 working. Annette Spendlove said she doesn't know what the problem is with that. Council Member
948 Bigler suggested giving the team members a pool punch pass to allow them and their families to enjoy the
949 pool one night. Mayor Harris said they would follow up on that. Council Member Bigler said there is
950 still an issue with the website distribution list also. The email link to send to all Council Members does
951 not go through.

952
953 Council Member Hulme asked if the City can recognize the softball team in Cherry Days. Mayor Harris
954 said we could put them on a float. Council Member Bigler said he sent an email in February regarding the
955 City website and how the 'contact us' messages go to the webmaster. He said the Mayor indicated that
956 was going to be checked into. Council Member Bigler suggested that contact us link be taken completely
957 off because there are links right there for the department heads and Council Members. He mentioned that
958 Ron Chandler is not listed there and suggested that he be added. Council Member Hulme asked if
959 someone will give a proposal to redo the whole thing. Annette Spendlove commented that her staff has
960 not had time to get to this. She said we are not paying anyone; the webmaster is not working for the City
961 so we are trying to do it. Council Member Bigler talked about the issues with the website. Mayor Harris
962 said it is probably time to have someone redo the website. He said we also need to have pictures of all the
963 Council Members and short bios as well. Council Member Bigler said the list of trees for the parking
964 strip could be put on the front page of the website at this time of year. Mayor Harris said it would be a
965 good idea to mention that ordinance in the spring and around Arbor Day. Council Member Bigler
966 thanked Bryan Steele and Ron Chandler; the things they presented tonight are very clear and organized.
967 He said it breeds confidence and shows him that they know what they are doing.

968 Council Member Stoker thanked Bryan Steele and Ron Chandler for their work. She said she has a
969 question on the Administrative Law Judge; when people go to him do they get the same questions and
970 outline that were given to the Board of Adjustments. Are they made aware of the requirement to meet the
971 five criteria? Dave Carlson said the criterion for a variance is required by State Law. The application has
972 the five criteria listed and gives the applicant an opportunity to write their view. Council Member Stoker
973 said if the five criteria have been met the judge has to grant the variance. Council Member Bigler said
974 that is a subjective thing because someone has to judge and rule. Council Member Stoker said the Board
975 of Adjustment could not grant a variance if those five criteria were not met. She said there is a concern
976 that some people are wondering if they are being fairly judged. Council Member Stoker said she wonders
977 if the residents understand. Dave Carlson said he thinks Judge Lambert has a good grasp on this, he is
978 very competent and he works for other cities. Ron Chandler said one thing that is helpful is that when a
979 person comes in to request a variance is for staff to spend a little time with them to explain the law.
980 Annette Spendlove said they are given a list of the criteria on the application and they set up an
981 appointment with Craig Barker.
982

983 Dave Carlson said the problem is that there are very few situations that meet all five criteria for a
984 variance; it is a real exception, it's not a great option for most people. It doesn't mean the City will give
985 you a break or make an exception. Dave Carlson discussed variances. Council Member Bigler said the
986 issue with Mr. Della Silva was what was said to him back then as to why he put to up; sometimes the five
987 criteria are not cut and dried and if an employee said something. It is a potential concern if it is a review
988 by a board of residents versus a paid employee of the City. The impression is that you are going against a
989 judge that is paid and employed by the City. There seems to be a conflict and that is the concern.
990 Council Member Hulme said all judges are paid; the Supreme Court justices are paid, all appeals judges
991 are paid. Council Member Bigler said he thinks the impression that residents have on how we do
992 business is important. Council Member Fawson asked if they can create an Appeals Board of Adjustment
993 for people to go to if they disagree with the judge's decision. Council Member Hulme said the reason we
994 stopped doing it was because we had very few cases during the year and very high turnover on the Board
995 of Adjustments and as a result the amount of experience the Board as a whole had was absolutely
996 minimal.
997

998 Mayor Harris said many times the Board of Adjustments was granting adjustments that should not have
999 been granted; it was illegal because they didn't meet the criteria. Council Member Fawson said the
1000 members of the board thought the resident met the criteria and granted the variance; how can you argue
1001 with that. Council Member Stoker said you can go back and read the minutes that reflect a member of the
1002 Board of Adjustment disregarding the criteria as not important in "this" case and the variance being
1003 granted illegally. She explained that every time a variance request was voted on they reviewed each
1004 criterion individually. Council Member Bigler said for elected officials it would be easier if there wasn't
1005 a perceived conflict. If it were resident members on a Board it would be easier to defend.
1006

1007 Ron Chandler said the biggest challenge you will face with a Board of Adjustments is the training they
1008 need so they don't try to act as the Planning Commission. The tendency of the Board is to act as a
1009 Planning Commission and help applicant work out what they want and the Board just cannot go down
1010 that road. The State law is very specific for granting variances. Ron Chandler said he thinks the appeal
1011 should go to the courts because they will have the legal background and you avoid having another group
1012 trying to act like the Planning Commission or City Council where the tendency is to try to help people
1013 work through their issues. One more way that this makes it better for the City is that it saves the City on
1014 staff time. If it were the Board of Adjustment that work would fall upon administration to do the staff
1015 work. Council Member Stoker said some more education or they need to understand what the process
1016 really is before they go in to see the judge. She said she thinks that would alleviate a lot of these concerns
1017 if they were informed. Dave Carlson said staff needs to be careful not to instill false hope in people. We
1018 should not be advising a person to petition for a variance where we know the issue they are dealing with

1019 really doesn't qualify for one. He said he thinks that is an escape for staff to tell a person that they can
1020 apply for a variance and they really shouldn't be saying that. Dave Carlson said they can always appeal
1021 any zoning decision. Council Member Bigler said he thinks Council needs to look at it at another time
1022 because any time there is a judge you can have criteria but oftentimes there is other evidence that weighs
1023 on the decision. Council Member Stoker said according to the State law no board or judge or group of
1024 people can make or change a law; whether the Board thought it was ridiculous or stupid they couldn't
1025 approve Mr. Della Silva's variance or they could be sued.

1026
1027 Council Member Bailey said on 400 E there is a house two buildings north of his office building that has
1028 a real estate sign on it that says it is zoned commercial but it isn't zoned commercial and it never will be
1029 zoned commercial. Do we have any obligation to notify someone about that or is it just buyer beware.

1030
1031 Mayor Harris said he disagrees with Council Member Bigler's arguments and he thinks the
1032 Administrative Law Judge is the way to handle these situations. Council Member Hulme said you can
1033 argue that Judge Lambert is a City employee but that is not how he views him. Council Member Bailey
1034 said the Board of Adjustment members were paid also. Council Member Bigler said the issue is the way
1035 residents perceive it. Dave Carlson said the City and the Judge cannot violate the law and play favorites
1036 with people. He said sometimes that's what you have to do; you have to tell people the hard things.
1037 Everyone would have loved to ignore it and let Mr. Della Silva keep his carport. What about the person
1038 that turned him in? He didn't get to put up his carport and that's what he wanted. Council Member
1039 Bigler said that is the issue he has with this particular case; three different residents in three different parts
1040 of the City who don't even know each other said they contacted the City and were told they could do this.
1041 He said if there is a pattern these aren't neighbors that have gotten together to make this up, there is some
1042 validity here. Council Member Fawson asked what the City does in the case of a City employee telling a
1043 resident they can do something that is in violation of our ordinance. Council Member Hulme said they do
1044 not have the authority to do that.

1045
1046 Dave Carlson said there is a doctrine called equitable estoppel. Generally speaking no City employee can
1047 give anyone permission to violate a City ordinance. They don't have the authority to do that but equitable
1048 estoppel says when someone comes in and is led down a primrose path and they are relying on the city
1049 employee or representative and having been led down that path they go out and build something and incur
1050 some expense. Dave Carlson argued that they are required to get a building permit. He said there are
1051 people who get a building permit from the City allowing them to do something illegal and they are in a
1052 much better position than someone who didn't get a building permit. Council Member Hulme said
1053 residents should all have a building permit. He said in today's legal environment the bottom line is that if
1054 you don't have it in writing it doesn't exist.

1055
1056 Mayor Harris suggested getting more information on this subject. Council Member Hulme said he would
1057 like to meet the Judge and talk about his credentials. If people are thinking that he is just there defending
1058 the City, he is there defending the law and getting compensated by the City. Council Member Bailey
1059 asked how many total cases we deal with. Dave Carlson said initially we told Judge Lambert there would
1060 be about two per year and right away there were six.

1061
1062 **18. STAFF COMMENTS.**

1063
1064 Annette Spendlove stated the July 24, 2012 meeting will have to be canceled because of the holiday. She
1065 said she is sending around a sign-up sheet for Cherry Days and asked the Council Members to help with
1066 the ticket booth.

1067
1068
1069

1070 **19. ADJOURNMENT.**

1071
1072 **Council Member Hulme moved to adjourn and convene in the RDA. Council Member Bailey**
1073 **seconded the motion.**

1074
1075 **Voting on the motion:**
1076 **Council Member Fawson yes**
1077 **Council Member Bigler yes**
1078 **Council Member Hulme yes**
1079 **Council Member Stoker yes**
1080 **Council Member Bailey yes**

1081
1082 **The motion passed unanimously.**

1083
1084 **RDA**

1085
1086 **1. PUBLIC HEARING TO RECEIVE COMMENTS REGARDING THE FISCAL YEAR**
1087 **2012-2013 RDA TENTATIVE BUDGET.**

1088
1089 Mayor Harris opened the public hearing at 9:58pm.

1090
1091 There were no public comments.

1092
1093 **Council Member Bigler moved to close the public hearing. Council Member Bailey seconded the**
1094 **motion.**

1095
1096 **Voting on the motion:**
1097 **Council Member Fawson yes**
1098 **Council Member Bigler yes**
1099 **Council Member Hulme yes**
1100 **Council Member Stoker yes**
1101 **Council Member Bailey yes**

1102
1103 **The motion passed unanimously.**

1104
1105 The public hearing closed at 9:58pm.

1106
1107 **2. CONSIDERATION AND/OR ACTION TO ADOPT AN ORDINANCE APPROVING THE**
1108 **FISCAL YEAR 2012-2013 RDA TENTATIVE BUDGET.**

1109
1110 **Council Member Fawson moved to adopt ordinance 2012-12 approving the fiscal 2012-2013 RDA**
1111 **budget. Council Member Bailey seconded the motion.**

1112
1113 **Voting on the motion:**
1114 **Council Member Fawson yes**
1115 **Council Member Bigler yes**
1116 **Council Member Hulme yes**
1117 **Council Member Stoker yes**
1118 **Council Member Bailey yes**

1119 **The motion passed unanimously.**

1120

1121 **3. ADJOURNMENT.**

1122

1123 **Council Member Bigler moved to adjourn. Council Member Stoker seconded the motion.**

1124

1125 **Voting on the motion:**

1126

1127 **Council Member Fawson yes**

1128 **Council Member Bigler yes**

1129 **Council Member Hulme yes**

1130 **Council Member Stoker yes**

1131 **Council Member Bailey yes**

1132

1133 **The motion passed unanimously.**

1134

1135

1136 _____
Richard G. Harris, Mayor

1137

1138

1139

1140 _____
S. Annette Spendlove, MMC

1141 **City Recorder**

1142

1143

1144

1145 _____
Date Approved

1146

NOT APPROVED