

## NORTH OGDEN CITY COUNCIL MINUTES

July 9, 2013

The North Ogden City Council convened in an open meeting on July 9, 2013 at 6:33 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 July 3, 2013. Notice of the annual meeting schedule was published in the Standard-Examiner on January 30, 2013.

PRESENT:	Richard G. Harris	Mayor
	Kent Bailey	Council Member
	Justin Fawson	Council Member
	Cheryl Stoker	Council Member
	Brent Taylor	Council Member
ELECTRONICALLY:	Wade Bigler	Council Member
STAFF PRESENT:	Ronald F. Chandler	City Manager
	John Call	City Attorney
	Gary Kerr	Building Official
	Kevin Warren	Chief of Police
	Nicole Smedley	Deputy City Recorder
VISITORS:	Allan Dalpias	Blake Welling
	Jim Suhr	Gibson Bailey
	Terry Bexell	Lynne Bexell
	Brian Russell	John Arrington
	Bob Napoli	Cindy Smout
	Joan Brown	Don Brown
	Rachael Trotter	James Urry

Mayor Harris welcomed those in attendance.

Council Member Fawson offered the invocation.

Boy Scout Gibson Bailey led the audience in the Pledge of Allegiance.

Mayor Harris stated that he wanted to note that the City has experienced a great loss; Bill Daines, the City's prosecuting attorney, passed away last week and he would like to recognize the good service and valuable work he did for North Ogden City. He stated there were many people in attendance at his memorial service tonight and it is fitting that he be honored in that way.

**CONSENT AGENDA**

- 1. Consideration to approve the minutes of the May 28, 2013 City Council Meeting**
- 2. Consideration to approve business licenses**

**Council Member Taylor moved to approve business licenses. Council Member Stoker seconded the motion.**

**Voting on the motion:**

**Council Member Bailey        aye**  
**Council Member Bigler        aye**  
**Council Member Fawson       aye**  
**Council Member Stoker       aye**  
**Council Member Taylor       aye**

**The motion passed unanimously.**

Mayor Harris stated the Council has been provide with an email that was sent to Mr. Chandler by Charles Crippen in which he asked for changes to be made to the May 28 meeting minutes. He stated that if the Council has additional amendments it would be appropriate to discuss those changes at this time.

Council Member Bailey stated the Council received the email from Mr. Chandler that explained that the City has the actual verbiage that was used during the May 28 meeting and he would propose that the minutes be amended to reflect that verbiage as stated in the email.

Council Member Bigler stated that he has several amendments to the minutes to recommend and he could email the specifics to staff, but he would recommend waiting until the next meeting to approve the minutes.

**Council Member Bailey moved to table the May 28, 2013 minutes until the next Council meeting. Council Member Taylor seconded the motion.**

**Voting on the motion:**

**Council Member Bailey        aye**  
**Council Member Bigler        aye**  
**Council Member Fawson       aye**  
**Council Member Stoker       aye**  
**Council Member Taylor       aye**

**The motion passed unanimously.**

Council Member Bigler asked that the minutes be amended to include Mr. Crippen’s comments as well so that the Council can view the actual final proposed minutes document prior to voting.

**ACTIVE AGENDA**

**1. PUBLIC COMMENTS:**

There were no public comments

**2. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING TITLES 1 AND 11 OF THE NORTH OGDEN MUNICIPAL CODE CEATING AN ADMINISTRATIVE HEARING OFFICER**

Mayor Harris stated that due to the untimely passing of Bill Daines, it is necessary to reevaluate the situation relative to an Administrative Law Judge and Hearing Officer. He stated that one of the attorneys that was being considered to fulfill those duties may be one of the candidates to replace Mr. Daines. He asked that the Council postpone items two and three until a later Council meeting.

**Council Member Bailey moved to table item two. Council Member Taylor seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Bigler</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Taylor</b>	<b>aye</b>

**The motion passed unanimously.**

**3. DISCUSSION AND/OR ACTION TO APPROVE AN AGREEMENT THAT APPOINTS AN ADMINISTRATIVE HEARING OFFICER**

**Council Member Bailey moved to table item two. Council Member Taylor seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Bigler</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Taylor</b>	<b>aye</b>

**The motion passed unanimously.**

**4. DISCUSSION PERMITTING USE OF ALLTERRAIN VEHICLES ON CITY ROADS**

Mayor Harris invited Terry Bexell to provide the Council with his presentation regarding the use of all-terrain vehicles (ATVs) on City roads.

Mr. Bexell thanked the Council for the opportunity to address them regarding this issue; this is not a new issue and it was first proposed shortly after the State legislature passed a law in the State of Utah

declaring that people could use ATVs on city streets under certain circumstances. He stated many cities have gone through this process and the number one issue that is raised is safety; the State legislature also talked about safety issues when considering legislation and one of the things they did that is different than what is done in other states like Wyoming was to adopt a requirement that all ATVs that are going to be used on the street must also be inspected and registered. He stated to be street legal an ATV must have turn signals, mirrors, side lights, and brake lines and tires must be inspected. He stated that addresses the safety issue. He stated he is representing quite a few people on this issue, though they could not attend tonight's meeting. He stated he spoke with Chief Warren about the issue and safety was raised by him several different times. He noted he talked to Chief Warren about the fact that motorcycles are often involved in accidents. He stated he owns a Harley Davidson motorcycle; he rides in quite a few events with his wife. He stated he has driven motorcycles and ATVs for a large portion of his life and given the choice of being on a roadway with either a motorcycle or ATV and having to make an abrupt stop or change of direction he would much rather be in his ATV. He stated it is very hard to maneuver a motorcycle sideways to avoid hitting something; all that can be done on a motorcycle is stop. He stated that when discussing ATVs he is referring mainly to the newer side-by-side ATVs that have a roll cage. He stated that any ATV has about 10 times the footprint on the road for stopping ability in comparison to a motorcycle. He stated that means the amount of traction the tire is adhering to the surface. He stated an ATV can stop four or five times quicker than a motorcycle. He stated ATVs can also make a very abrupt turn without consequence of rolling. He stated his point is that ATVs are much safer than something else that is already on the road and that is motorcycles. He noted that he visited Pleasant View, who adopted an ordinance allowing ATV use on city streets about a year ago, and he filed a Government Records Access and Management Act (GRAMA) request seeking data regarding how many accidents had occurred involving ATVs and how many citations had been issued for ATV use. He stated that while he was there he visited with the Chief of Police about his desires to have a similar ordinance adopted in North Ogden and the Chief told him that there had been no accidents or citations regarding ATVs. He stated the Chief noted that one of the biggest misconceptions about licensing ATVs to make them legal for road use is that people think there will be too many ATVs on the road, but there were not more than a handful street legal ATVs driving on the roads in Pleasant View. He stated that the Chief also told him that he had been somewhat more lenient regarding ATVs in his City; older children may ride an ATV on city streets to access the mountains above their house and an officer will stop them, but they do not cite them and instead tell them to be careful. He stated the Chief said that he did not want citizens to be forced to go to other cities to drive on their roadways. He stated that the Chief said that it had not been difficult to monitor and his city had not experienced any problems. Mr. Bexell stated that he also spoke to the Mayor of Huntsville and many different Police Officers from various cities that allow ATV use on roads and he has not had one officer communicate problems to him. He stated that for the most part he thinks the State legislature approved the law because several small cities have immediate access to popular ATV trails and those cities want to attract tourists that can drive their ATVs on the street and that has been allowed for many years, especially in rural cities. He stated that the only places that ATVs are not allowed are in larger cities with populations over 50,000, but he does not know of a smaller city in the State that has not allowed ATV use on city streets. He stated that in cities to the west like Hooper, West Warren, Plain City and cities to the east like Huntsville, Liberty, and Morgan ATV use is legal on city streets. He stated that Plain City adopted their ordinance a year and a half ago. He stated North Ogden is basically an island. He stated that since he has been actively talking to people about this issue he has had people tell him that they want to come from other cities into North Ogden on their ATVs and they are being required to sneak around to do that. He stated it is already happening and he is not saying it is a good thing, but there are a lot of people that would really like to ride their ATVs on city streets. He stated he does not feel the data justifies concerns about safety issues. He stated he talked to the Weber County Sheriff's Office and he said that ATVs can be legally driven over the North Ogden Divide. He stated that he often rides trails in the Ogden Valley area and it would be nice for him to be able to drive his ATV over the Divide rather than haul his ATV with his truck. He stated he would much rather go over the Divide on his ATV than he would in his truck pulling a trailer as that would be much safer. Mr. Bexell

stated one thing that is always on the minds of Americans and citizens of North Ogden is that they get tired of being restricted and tired of more government control over things that do not have merit other than the idea of controlling and he thinks it is about time that North Ogden City allow this law that is legal and being used in about 85 percent of the cities in the State of Utah; he does not know of one small city in the State where it is illegal to drive ATVs that are properly registered and inspected. He stated another concern that some people have shared is relative to youth use of ATVs, but he stated it is illegal for youth to drive ATVs on the street regardless; anyone operating an ATV on the street must have a valid driver's license. He stated an ATV is no different than a car and anyone driving one must be properly trained. He noted the bottom line is that there are likely only a few people that will actually drive their ATVs on the street if the City passes the law and those people will be responsible adults because it costs anywhere from \$200 to \$500 to get an ATV licensed and inspected and a lot of the ATVs that people own are not worth that much money. He stated he owns a safety and inspection station in Ogden and he has noticed the one thing that people do not like to do is register their cars and pay for safety and emission inspections every year. He stated that there will not be many people that will want to do that same thing for their ATVs. He stated people interested in doing this will be the people that want to make a quick trip from their home to a relative's home in a neighboring city; his brother-in-law lives in Pleasant View and he would like to drive his ATV to visit him rather than driving his truck. He stated one reason for that is that the ATV gets twice the fuel mileage than his truck. He then stated he would be willing to answer any questions from the Council.

Mayor Harris stated Mr. Bexell communicated that ATVs are allowed on the North Ogden Divide, but he understands there are some streets that ATVs are prohibited on and he asked what types of roads those are. Mr. Bexell stated ATVs are prohibited on divided highways or streets with speed limits over 45 miles per hour. He stated that one of the concerns that Chief Warren had was allowing ATVs in congested areas and that will not be an issue because ATVs are not allowed on the types of streets that can be congested. He stated that Washington Boulevard turns into a divided highway just past the intersection with 2700 North and ATVs would not be permitted on that street. He then stated that in the Ogden Valley the speed limit changes to 40, but further down the road it changes to 50 and eventually 55 so the ATVs are not allowed in those areas, but they are allowed on the North Ogden Divide and other roads in the valley that have speed limits under 45 miles per hour. He stated that the Council also has the right to decide which roads ATVs should not be permitted on and that right is detailed on the last page of the handout that he provided to the City. He added that what he would ask from the Council is that they do what Pleasant View did. He stated the Police Chief there explained to him that the Pleasant View City Council wanted to try allowing ATVs on city streets for a couple of years to see how it would work. He stated the Council has the right to reverse the law at any point in the future if they so choose. He stated the Chief Jackson from Pleasant View told him that the law will not be reversed because it has been nice for that city to have.

Mayor Harris stated that Mr. Bexell communicated that ATVs are not permitted on divided streets, but he asked if ATVs are permitted to cross divided streets. Mr. Bexell stated ATVs can cross the streets, but they cannot drive on them.

Council Member Fawson asked if this applies to electric vehicles, such as golf carts. Mr. Bexell stated golf carts are prohibited by the State Law, but there have been some changes to that as well. He stated that St. George, for example, allows ATV usage on all streets besides major streets and in all communities that support golf courses, golf carts are allowed. He stated golf carts are totally different than ATVs and he would not want golf carts on the road because they are very slow with a top speed of only 10 or 15 miles per hour. He added that they do not have seatbelts and all ATVs, especially side-by-side machines, have three point safety restraints and the machine will not run unless the driver is belted. Council Member Fawson asked about golf carts that have been retrofitted that have gas engines. Mr. Bexell stated that any piece of equipment that is retrofitted with a gas engine falls under the safety and inspection laws and he

does not know the answer to that question. Council Member Fawson stated he was wondering where the line would be drawn. Mr. Bexell stated that the language he saw in the State Law said golf carts are not allowed and he did not believe a golf cart could ever be modified in a way that it would meet the definition of an ATV. He stated Chief Warren had communicated that ATVs are off-road vehicles and he only wanted to see them used off-road, but Mr. Bexell clarified that ATV stands for all-terrain vehicle and, as such, they can be driven on all terrains including roadways. He stated that it has been very fun for he and his friends to have their ATVs and he has heard from many other people that would also like for North Ogden to allow them on streets. He reiterated every other city around North Ogden allows ATVs on city streets.

Council Member Taylor asked if the law references driving on sidewalks or if that would be prohibited elsewhere in City Code. Mr. Bexell stated the ordinance does prohibit ATVs on sidewalks. Council Member Taylor then stated he is interested in the definition of ATV; he stated Mr. Bexell's presentation included a photo of a side-by-side ATV and he noted he has driven that type of machine a lot with his family and he knows they are very safe, but he wondered if the definition of ATV also includes 4-wheelers that do not have a roll cage and other safety features. Mr. Bexell answered yes and stated that side-by-sides are a different classification of ATV and they are often referred to as sport utility vehicles. He stated smaller ATVs are harder to retrofit so that they are street legal and he does know if there is actually a 'street legal' kit that someone can purchase for their 4-wheeler. He stated he did not think there would be many of those types of machines on the road. He stated the other thing that is interesting to note is that he has had a lot of customers come to his inspection station to get their oil changed and they are from Wyoming and they have a 4-wheeler in the back of their truck and they have license plates and they can be driven on any street in Wyoming and that has always been the case. He stated the same is true for Idaho. He stated he thought it was a good idea when State lawmakers decided to allow the same thing in Utah upon property registration of ATVs.

Council Member Bigler asked to hear Chief Warren's opinion. He stated that when the Council discussed this a year and a half ago the previous Police Chief was not in favor of it. He stated he would like to hear Chief Warren's opinion. Chief Warren stated that safety is always the number one concern of the Police Department; there is a lot of traffic in North Ogden during commute times in the morning and evenings. He stated the traffic comes up Washington Boulevard and funnels into 2600 North, 3200 North, and 1050 East, which are all major streets in North Ogden. He stated most accidents that occur in the City take place on those roads. He stated that due to the way ATVs are manufactured he is concerned about collisions and the injuries that could occur in a collision with an ATV. He stated North Ogden is no longer a rural community; it is a suburb consisting primarily of residential and business areas. He stated he does not know of any trails that lead from North Ogden to the foothills where ATVs are allowed. He stated in his mind it is no different than a boat or a camper or any other recreational vehicle; the owner of those items must load them and tow them to where they are usable. He stated he understands the concept that it is very costly to convert an ATV to make it street legal and he has considered that heavily because he does not think many people will spend the money to convert an ATV to make it street legal, but he has always erred on the side of safety and his biggest concern is keeping citizens safe should they be involved in an accident.

Council Member Fawson asked if there is more concern about safety of ATVs than of motorcycles. Chief Warren referenced a document called the Harry Hurt report that was issued in 1982 and it states the number one cause of motorcycle accidents are left hand turns; people do not see motorcycles when making left hand turns in front of a motorcycle. He stated most fatalities are caused by this. He stated that the City used to have considerable problems in the foothills with ATVs and motorcycles, but enforcement efforts have been taken and some of the problems have been curtailed.



Council Member Bailey asked if the City would be required to accept the State's definition of a street-legal ATV if the Council decides to adopt an ordinance allowing ATVs on City streets. Mr. Warren stated that Pleasant View and Huntsville have adopted similar ordinances and they use the State's definition of a street-legal ATV. Council Member Bailey asked if that is required or if the Council could be more restrictive than State Law and only allow side-by-side ATVs on City streets. He stated he knows the City of Hurricane has restrictions that are more strict than State Code; they only allow ATVs on specified roads in the City.

Council Member Stoker asked Chief Warren if he would be opposed to allowing ATVs on a trial basis. Chief Warren stated that was a very good comment by Mr. Bexell; the Council does have a right to do this on a trial basis if the Council can agree upon that.

Mr. Chandler stated that Cedar City adopted this type of ordinance when he worked for that city and the biggest concern in that city was not the vehicles themselves, but who was driving the vehicle. He stated that according to State Law children can drive an ATV as long as they are accompanied by someone older than 18 years of age. He stated Cedar City adopted an ordinance following State Law, but specified the streets that ATVs could be driven upon and all of those streets led to a trail system; the city worked with ATV owners to determine which streets would be open to ATVs. He stated the only time ATVs were allowed on any street was if they were going to a gas station. Council Member Bigler asked how someone would prove if they were going to a gas station. Mr. Chandler stated enforcement of that issue was left up to the Police Officers and when they stopped an ATV it was fairly obvious if someone was travelling to a gas station or if they were simply riding on roads upon which they were not permitted. He stated the city found that in most cases people complied with the law and stayed on roads designated as trail roads. He reiterated the concern was relative to the age of the people that were driving the ATVs. Council Member Bigler stated that anyone 14 years of age or older can legally operate an ATV, but he would have thought that in order to drive an ATV on public streets the operator would be required to be 16 years of age. Chief Warren stated that is correct. Mr. Chandler reiterated Cedar City asked its Police Chief to work with ATV owners to determine roads that would be open to ATVs and create a map detailing that information.

Council Member Bigler stated he was not able to clearly hear Chief Warren and he asked Mayor Harris to summarize his comments relative to whether he has concerns about allowing ATVs on City streets. Chief Warren reiterated the concern he has is in regards to safety and collisions with ATVs; he does not see a lot of protection for a rider if an ATV were to collide with a pickup truck or another larger vehicle. He stated he is not opposed to allowing ATVs on City streets on a trial basis in certain locations or areas of the City and he also does not believe that many people will spend the amount of money it will take to make their ATVs street legal so the number of people driving their ATVs on City streets will likely be very few.

Council Member Taylor stated that he appreciates the information provided by Chief Warren and Mr. Bexell and he noted he is in favor of considering this issue again. He stated there are some things that would need to be addressed in an ordinance and some of those have been raised, like Council Member Bailey's question regarding the City's ability to restrict the types of ATVs allowed on City streets to side-by-side machines and that those machines only be permitted on specified streets. He stated he is comfortable allowing side-by-side machines that do have roll cages and other safety features far and above what a 4-wheeler would have. He stated he would also want to specify the roads that ATVs would be allowed on; Chief Warren has mentioned some roads that it would be wise to avoid while still allowing ATV users to drive on smaller streets to access their desired destinations. He stated that he thinks education will be an important component; it would be necessary to have information on the City's website and easily accessible. He stated he would like residents to be aware of the law so that they do not just see an ATV driving on their street and think it is legal for all ATVs to drive on any street in the City.

He stated he supports the idea of allowing it on a trial basis to see how it works. He stated he thinks that people will be responsible and it will work, but if that is not the case and there are problems, the Council can reconsider the ordinance in the future. He stated he would want to see some mechanism for the Police to carefully monitor ATV use on City streets; they should ensure that ATVs they see driving on public streets do, in fact, have license plates and they are street legal. He stated if there are a lot of ATVs on the streets that are not meeting the law the Council may need to readdress the issue. He reiterated he is in favor of looking at the issue further.

Mr. Bexell read some wording in the State Law specifying the types of vehicles that would be permitted on City streets as follows: "vehicles designed by the manufacturer for carrying one or more passenger, the seat designed for passengers including a foot rest and hand hold for each passenger". He stated that is one of the reasons golf carts would not be allowed; they typically have one bench seat with no hand holds for passengers. He added the tread depth of tires on ATVs must be at least 2/32 of an inch and that is a general safety inspection issue. He stated most golf carts do not have tires with tread or they have very little tread because they are designed to drive on grass. He added a bulletin from the Utah Highway Patrol also prohibits golf carts, go-karts, vehicles not designed for and capable of travel over unimproved terrain and motorcycles and snowmobiles are not allowed to be inspected or registered. He stated he has not read through all the literature about the possibility of not allowing regular ATVs on public streets, but he understands the concern about smaller ATVs and he would go along with the concept of only allowing side-by-side machines because 4-wheelers could be more dangerous. He stated, however, that there are a couple of additional things he would like to address. He stated that safety is also a big concern for him, but motorcycles are a lot worse and much less safe than even a regular ATV. He stated the same is true for bicycles and there are a lot of bicycles on City streets. He stated he knows of two deaths that have occurred as a result of bicycle accidents. He stated he rides a bicycle every once in a while and he is nervous when sharing the road with vehicles. He stated part of the problem with bicycles and motorcycles is that they are harder to see and people are not used to looking for them. He stated there are already unsafe things on the road and he thinks ATVs are safer than motorcycles and bicycles and he does not think North Ogden is unique in having these concerns, but they have all been addressed by the other cities that allow ATVs on their streets. He stated that as far as he knows all other smaller cities in the State allow ATVs and everything has been ok. He stated the citizens of North Ogden are just like the citizens in other cities in that they are safety conscious and they will be responsible and follow the law. He noted the law is very clear that underage drivers are not permitted to operate ATVs on public streets and the operator of the ATV must carry liability insurance in order to drive on public streets.

Council Member Bailey stated that he is very open minded about this issue, but after listening to Mr. Bexell he gets the sense he is dealing with his teenage son due to the mentality that since everyone else is doing it, North Ogden should do it too. Mr. Bexell stated he is sorry if he came across that way. Council Member Bailey stated Mr. Bexell is making the case that every other city in the State has allowed ATVs on their public streets and he has a hard time believing that, but he asked if that is truly the case. Mr. Bexell stated that he has travelled on ATVs all through central, southern, and northern Utah and he is not aware of a city that does not allow ATVs on their streets, but he supposes there could be some. He stated that street-legal ATVs are even allowed in Moab and the main road in Moab is a four-lane road as are the intersecting roads. He stated part of the reason ATVs are allowed in those cities is that the tourism supports it. Council Member Bailey stated he would like for this to be a future discussion item or even an action item, but he personally would like to have a lot more information before it is voted upon. He stated Mr. Bexell has made a good case tonight. Mr. Bexell distributed a copy of information from the State Code to each Council Member and stated that he is not suggesting that everyone other city in the State allows ATVs on their public streets, but it is somewhat coincidental that all of the 'sister cities' have allowed ATVs on their streets and people are trying to get through North Ogden to access the cities surrounding it and they cannot do so. He stated that if there is no real data to support some of the concerns regarding allowing ATVs then he does not see a problem with moving forward. He stated he



has done his research on this issue and he has talked to a lot of residents, business owners, city leaders, Police Officers, etc. and there have been no problems with safety issues and the State addressed safety concerns when they passed the legislation relative to this issue.

Mayor Harris thanked Mr. Bexell for his presentation and stated that in order to proceed the Council would need to direct staff to draft a proposed ordinance regarding this issue; the ordinance would first be considered by the Planning Commission prior to it being considered by the Council.

Council Member Bailey asked if this type of ordinance requires Planning Commission approval. Mayor Harris answered yes and stated the creation of an ordinance requires Planning Commission approval. Mr. Chandler stated he is not sure that this type of ordinance would require Planning Commission approval because it is not a land use ordinance. Council Member Bailey agreed and stated that he believed the Planning Commission only deals with land use. Mr. Chandler stated staff will determine the proper process for consideration of such an ordinance and provide that information to the Council. Mayor Harris stated his point is that there is a process the City will need to follow and if the Council is amenable to starting that process, staff can be so directed. All Council Members consented to direct staff to begin drafting a proposed ordinance.

Council Member Taylor stated that he is hoping the Police Department will be heavily involved in the entire process.

Council Member Fawson stated that when this issue is discussed again he would like to see some Statewide statistics regarding fatalities, citations, and cities that have or have not adopted a similar ordinance. He stated that he is not asking for that information because he does not trust Mr. Bexell.

Mr. Bexell thanked the Council for their time and consideration of this issue and stated that if he can be of any help to the City in gathering any pertinent information or participating in a citizen committee regarding this issue he would be willing to do that. Mayor Harris stated that the City would need input from citizens regarding things like which streets should be open to ATVs. Mr. Bexell stated that would be a good idea.

## 5. **DISCUSSION AND/OR ACTION TO APPROVE CITY ATTORNEY CONTRACT**

A staff memo from City Manager Chandler explained he is recommending that the agreement for the City Attorney be extended until June 30, 2015. The agreement is essentially the same as the current agreement, with one slight change; currently the City is billed as a tier two client, which carries a cost of \$2,900 per month and staff is recommending the City become a tier one client, which carries a cost of \$2,000 per month. This would give the City 22 hours of attorney time per month and everything above 22 hours would be billed at the Firm's hourly rate. The cost for legal services is included in the fiscal year 2013-2014 budget for \$45,000

Mr. Chandler summarized his staff memo and asked City Attorney Call if he had anything to add. Mr. Call noted that the hourly rate is a discounted municipal rate. Mr. Chandler noted there will also be a six month review period to determine if the City is at the right tier level.

Council Member Fawson inquired as to the City's monthly usage over the past year; he assumes it was lower than was provided as a tier two client and that is why staff is recommending this change. Mr. Chandler stated the City actually started as a tier three client and in January moved to tier two client status. He stated usage has fluctuated a little depending on the month, and usage over the past few months has been a little higher, but the City has averaged the usage allowed as a tier two client. He stated

he and Mr. Call have discussed some options for keeping the usage at the level allowed for a tier one client. Council Member Fawson asked if overages are billed on a monthly basis. Mr. Chandler answered yes and he stated the total amount paid to the Firm from the City was approximately \$36,000.

Mayor Harris stated Mr. Chandler mentioned a six month review period and he assumes that review is to determine if the client status is appropriate. Mr. Chandler stated that is correct. Mayor Harris noted that the recommended action tonight is to renew the contract for a three year period. Mr. Chandler stated the expiration date of the agreement would be June 30, 2015. Mr. Call added that the contract that was included in the packet actually said June 30, 2014, so the extension of the contract term is part of the modification that the Council is being asked to consider this evening. He noted the City always has the right to cancel the contract upon 30 days' notice.

Council Member Fawson asked if the City has the right to move from tier one to tier two at any time during the contract period. Mr. Call stated the purpose of the six month review period is to allow the City to move between tiers if necessary. He noted the review was originally set as annually, but a six month period seems to better suit the needs of the City.

Council Member Taylor stated he wanted to confirm that there is no change in the rates for each tier or any change in the hourly rates for legal services. Mr. Chandler stated there are not changes in the rates that were included in the previous agreement. He stated that if the City were to move to the tier three level there would be a discounted hourly rate, but that same discounted rate is not eligible to tier one and tier two clients. He reiterated the City started as a tier three client, but it became evident the City did not need that many legal service hours and the decision was made to change the tier status.

**Council Member Bailey moved to approve the contract for legal services and to extend the term of the contract to June 30, 2015. Council Member Stoker seconded the motion.**

Council Member Fawson thanked Mr. Call for the work he has done for the City; he has done a fantastic job and it has been great to work with him.

Council Member Taylor agreed with Council Member Fawson and he feels the decision to contract for legal services has been a good decision for the City. He stated that moving to a lower tier that will cost the City less money is an even better step. He stated he thinks the contract is advantageous because it locks in rates for a longer period, but, if for some reason the City is not happy with the service being provided, the contract can be terminated with 30 days' notice. He stated he thinks the residents are protected with this contract.

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Bigler</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Taylor</b>	<b>aye</b>

**The motion passed unanimously.**

Council Member Bigler thanked Mr. Hall and stated he has done a fantastic job for the City.

6. **DISCUSSION REGARDING A CHERRY DAYS TRANSITION PLAN**

A memo from Mayor Harris explained that over the past several months the Council has discussed transitioning Cherry Days from a North Ogden City Corporation activity to one planned and operated by a private, non-profit foundation. Attached to the memo was a transition plan for the Council to consider.

Mr. Chandler reviewed Mayor Harris' staff memo and stated this proposed transition would be similar to what has happened in Ogden City and Salt Lake City with their Pioneer Days and Days of 47 celebrations respectively. He stated he started thinking about this option because the City took a major step in this direction when it began fundraising as the main source of funding the Cherry Days celebration rather than funding the event via the City's budget. He noted he got ahead of himself in moving forward with the idea and he should have started with the step that he is proposing tonight for the Council to consider. He reviewed the proposed transition plan and stated he is recommending a three-year transition period and each year there would be fewer employees involved in the event. He noted that in year one the City would extend the invitation to residents to serve as co-chairs of a committee to plan the event and there would be several staff members involved in the planning and operation as well. He stated the committee would work to create a foundation, create its bylaws, apply for 501(c)3 status, and set up bank accounts for the foundation and the distribution of funds. He noted that in the second year the staff would still have a significant role, though that role would be much smaller; staff would continue to work with the foundation board to plan and operate the event. He stated that in year three and beyond the City will still have a role in the event, but it will be one of coordinating the operations of various departments of the City that would assist in carrying out the event. He stated that in year three there would be three employees assigned to work with the foundation for the operation of the event. He stated he is also proposing that the City continue to fund the fireworks because that is the hardest thing to fundraise for and the cost of that component of the event is anywhere between \$20,000 and \$25,000.

Council Member Taylor stated that he thinks this is a great plan; it is a good step for the City. He stated his wife with involved with the Days of 47 foundation in Salt Lake for years; it is a private organization and the event is not run by Salt Lake County or City. He stated it is the biggest parade and festival in the State of Utah. He stated he thinks it is great to get the celebration into the hands of volunteers and reduce the City's financial responsibility especially if there are people in the community that can do many of the things that City staff have been doing.

Council Member Stoker agreed and stated that she is supportive of anything that gets the residents involved. She added that the event used to be run more by the residents and it was highly successful and very well attended. She stated she is very much in favor of this proposal and she likes the idea that the City and staff will still be involved at some level, especially in the early stages of the transition. She reiterated she thinks it is a good idea.

Council Member Bailey agreed as well and stated that he likes the proposal to move forward in privatizing the event. He stated he appreciates the work that Mr. Chandler has done to create a framework for the Council to move forward with.

Council Member Fawson stated that this year's Cherry Days celebration was one of the best he has seen in 34 years; it was well attended, well organized, and he loved the activities that helped to reengage some of the people and organizations that can truly benefit the entire community. He stated he has been really impressed with the changes that have been made. He stated Mr. Chandler mentioned the fireworks aspect of the celebration and he noted that he believes the changes that were made last year were fantastic and he continues to receive compliments from residents about the fireworks show and its location specifically. He stated that he really likes the idea of handing the event off to a committee over time, but his concern is the way that will be handled. He stated that he has questions whether it would be best to essentially turn

over control to a committee initially and phase out the City's involvement over time or if it would be best for the City to maintain control for a period of time until a committee is proven. He stated that his preference would be that, because the City is so involved in the event, there be Council involvement initially. He stated he is not saying that the foundation should not be created or that they should not apply for 501(C)3 status, but he is saying that the Council should be involved with the committee to some extent. He stated that he thinks the co-chairs did a fantastic job and he appreciates the work that they did, but he does think it would be nice, at least initially, to have Council involvement in selecting co-chairs and assembling the committee.

Council Member Bigler stated that he has been heavily involved in trying to get this to be more of a community event and he appreciates all the volunteers in the community that have been assisting for the past three years. He stated that his one concern is similar to that of Council Member Fawson's; he would prefer to get things in place and work with the community organization for next year and then proceed with privatizing it rather than privatizing the event from the onset and hoping it works out. He stated that once the event is privatized it is 'their baby'. He asked the benefit of rushing to privatizing the event when it is possible to achieve the same purpose by gradually transitioning to a private event to make sure it is done the right way.

Mr. Chandler stated that he is willing to follow the Council's direction; the privatization can be launched and staff can be offered as support moving forward or all of the final stages of privatization can happen in the third year rather than the first year. He stated it is up to the Council.

Council Member Bigler stated he loves the idea of it being a community event and he has been all for that since he first took office, but he would prefer that the foundation be put in place and the City help out with the event for one more year before it is privatized and turned over completely. He stated he thinks the privatization process that Mr. Chandler has proposed is backwards and he would rather follow the same process with privatizing in the last year rather than the first year.

Council Member Taylor stated that he thinks it is important that co-chairs and the committee members be given assignments and be allowed to 'run with things' sooner; it can be confusing if two different organizations are in charge and maybe a solution to address Council Member Bigler's concern is that the City put the committee together and appoint co-chairs and they will be in charge of the event, but the City will still retain ownership of the event itself. He stated that if the first event is a success and the Council feels the committee is ready to handle it on their own, the ownership of the festival can be turned over to them at that point. He stated that if it takes longer than one year, so be it and the City will stay involved as needed to 'pull it off', but the ownership should be on the committee so they can stretch their legs and 'run with it'. He stated the City would be there to catch them if needed. He stated that after the event the committee could make a report to the Council identifying the success of the event and ask that it be officially privatized and the Council can make the final determination at that point.

Mayor Harris noted this is a discussion item only at this point in time and he asked if there were additional comments or discussion.

Council Member Stoker stated that she agrees with Council Member Taylor and Council Member Bigler both. She stated that if the City is going to assemble a committee that is going to handle the event they need to have some freedom to make decisions regarding the event without their hands being tied, but she also thinks there should be some guidance and involvement from the City. Council Member Bigler stated he wants the committee and the Council to work together.

Mr. Chandler stated that as he listens to the comments and reviews the proposal that he put together regarding the transition, a couple of things come to mind; things such as applying for 501(c)3 status and

setting up bank accounts to receive and disperse money can be put back on the end of the transition period. He stated the one thing the Council needs to be aware of is that one of the reasons he put those steps at the beginning of the process is that if this is a City committee it must follow all State laws as they pertain to City committees. He noted the other thing that seems to be a big issue the Council will need to sort out is how the initial committee will look and how it will be created. He stated his experience relative to that issue is that when a couple of co-chairs are selected who are then allowed to pick their own committee members that they trust to carry out their assignments, it is easy to move forward. He stated there have been some discussions regarding whether the Council should appoint the committee and it will be up to the Council to make that decision. He stated that as far as the transition period, that entails the legal processes for setting up an independent foundation and those things can happen at the end of the transition period just as easily as it can happen at the beginning.

Council Member Fawson stated it is his experience that setting up a 501(c)3 entity can take quite a long time and he asked Mr. Chandler what kind of lead time he would recommend for that step in the privatization process. Mr. Call stated that creating a simple 501(c)3 like this one should take no longer than six months.

Council Member Bailey stated Mr. Chandler mentioned that if the City retains ownership of the event that it will be necessary for the committee to follow all State laws and he assumes those laws are relative to noticing meetings and keep minutes. Mr. Chandler stated that is correct and that is not a problem, but it will take a little extra administration and the Council needs to be aware of that. Council Member Bailey stated those are not major things. Mr. Chandler agreed and stated that they will simply require a little more staff time by way of asking a staff member to attend the meetings and prepare minutes. Council Member Bailey stated he would propose moving forward following the things that Mr. Chandler has included in his outline with the things that Council Member Taylor has proposed as well. He stated he would like to review the status and success of the relationship annually and continue to move forward.

Council Member Bigler asked Council Member Bailey if he is talking about privatizing the event now. Council Member Bailey answered no. Council Member Bigler stated the way this will be set up is going to be a foundation for years to come and perhaps there should be a Cherry Days committee meeting held to brainstorm about the best way to set up the foundation, whether that be with two co-chairs or selecting people from different parts of the City. He stated that would assist in setting up the foundation correctly and the rest of the process will run much smoother. He stated he would like for everyone to have a say in the process and by everyone putting their heads together it will be possible to come up with something really great.

Council Member Stoker stated that from her own experience in being on the Cherry Days committee, the person that was called the co-chair picked who they wanted to work with on the committee with the City's approval. She stated they knew what they needed and who had that expertise and she thinks the co-chair should continue to have some leeway in doing that because they know who they can work with the best and it always worked out well.

Council Member Taylor agreed with Council Member Stoker's comments and co-chairs usually select people they can count on to attend meetings and be heavily involved for a period of a year or two. He stated he thinks it is important that the committee be given the latitude from the beginning and the City should only be standing back with veto power and only get heavily involved if the committee is doing something wrong. He stated control of the event should be turned over to the committee and they can run the event and set up their organization, but the City will retain ultimate control until satisfied that the committee is functioning well. He stated that giving them the latitude to run the event may be the only way to see that they are capable of doing it. He reiterated the City will still have ultimate power and control over the event until the Council is comfortable completely turning it over to the committee.



Mayor Harris stated that Mr. Chandler will proceed with the process he has outlined and it is important to understand there will still be a lot of City employees involved initially and the number of employees will be decreased over time. He stated that in his view the control is there and the main focus should not be controlling Cherry Days, but making it successful. He stated the Administration will be in contact with the Council as the process moves forward along the lines that have been discussed.

Council Member Taylor asked if Mr. Chandler will bring a final plan back to the Council relative to how to move forward. Mr. Chandler stated he will revise the transition plan that he provided and send it out to the Council so they can take a look at it and if there is a need to discuss it further the Mayor can determine if it should be discussed at a future Council meeting.

Council Member Bigler asked if the plan can be discussed in a Cherry Days committee meeting called specifically for that purpose. He stated there are various ways to begin a committee successfully; he has been on a lot of them that have been run in different ways and he would like to brainstorm through those issues rather than just 'kick' one and hope it works. He stated he would like to sit down in a one hour meeting and come up with ideas and the end result may be a hybrid of a couple of different ideas that would work the best. He stated he would prefer that rather than going back and forth between the Council and Administration. He stated there could just be one meeting where a final decision could be made. Mr. Chandler stated he thinks the initial organization of the committee will be the biggest and most difficult decision to be made by the Council; he purposefully left that item fairly vague in his transition proposal other than recommending that there be two co-chairs. He stated his thought was that he would leave that in the hands of the Mayor as the head of the Council to work with the Council to determine the best way to do it and that may very well be accomplished by what Council Member Bigler is suggesting.

Council Member Bailey asked Council Member Bigler if he is proposing that the Council have a Cherry Days meeting or that the Cherry Days committee be involved in the brainstorming session. Council Member Bigler stated that at this point the meeting should be between Council and staff and they should decide what foundation to use rather than just saying there should be two co-chairs. He stated that may be the foundation, but there should be discussion about how the committee will be organized beyond that. He stated sometimes there is value in having people from different areas participate on the committee because they might know more people throughout the City that could do a great job. He stated there are a lot of different ways to build the foundation beyond just saying there should be two co-chairs. He stated he would like to have a work session to talk about the issue so the entire Council is on the same page about how to build the foundation; it would be worth the time because the foundation will be in place for years to come and it will save the City a lot of headaches down the road if it can be done right from the beginning and if all elected officials can be in agreement.

7. **DISCUSSION REGARDING THE EMPLOYEE COMPENSATION POLICY STATEMENT**

A memo from City Manager Chandler explained the employee compensation committee completed their compensation and benefits report in March 2013 and recommended that the City adopt strategic goals for compensation. The committee identified three major approaches that could be employed; cost control, employee retention or attraction of quality candidates. During the budget process the staff discussed the process whereby we will evaluate employee compensation based on the policies set forth by the City Council and the work done by the compensation committee. The following are steps for this evaluation.

- Step 1: Adopt a compensation policy statement. This statement is broad in nature and acts as a guide for the staff to follow. The attached document lists four statements for your consideration.
- Step 2: Analysis of each City position. Each position and salary range is evaluated against the approaches



- identified by the compensation committee: cost control, employee retention or attraction of quality candidates. Each position is assigned to one of these approaches.
- Step 3: Analysis of current employee's compensation.
- Step 4: Develop an implementation plan, including time frame, for modifying the City's compensation structure.
- Step 5: Presentation to and adoption by the City Council.

Mr. Chandler reviewed his staff memo and noted that the first two of the four statements referenced in step one of his memo are:

1. Reaffirm North Ogden City's core values, vision and mission statements.
2. North Ogden City is committed to attracting and retaining competent and well trained employees who will further the goals stated in the core values, vision and mission statements.

Mr. Chandler explained that when the employee compensation committee made their presentation it was very easy to look at their discussions and think that the different strategies of cost control, retention, and attraction are mutually exclusive, but as staff discussed that issue they did not feel that would be the case and that the City needs to maintain in its policy statement the flexibility to be able to address the economic conditions the City may face as well as changes in technology and the opportunity to provide services in a different way – such as privatization. He stated that is the reason for statements three and four, which read:

3. North Ogden City recognizes fluctuation in the economy and the need for flexibility when addressing budgetary constraints.
4. North Ogden City will continue to take advantage of technologies, innovations, economies of scale and private sector support to improve service delivery and control costs

Mr. Chandler stated staff is trying to put forth a policy at it pertains to compensation, but still provide flexibility to address needs and different options as they arise.

Council Member Fawson stated that based on the committee's recommendation to select a path that the City is going to pursue, they offered three options and statement number two read by Mr. Chandler basically calls out two of those three options. He asked if there is a plan to get any more specific than that. He noted there is a difference between attracting and retaining employees. Mr. Chandler stated that he wanted to discuss the steps he is working on so the Council will understand the process he will go through. He stated step one is the adoption of a policy. He stated step two is an analysis of each employment position and he has discussed with staff the fact that they will need to remove the employees from the discussion and only look at the job. He stated one of the things the committee asked was that this not be just a blanket policy that would affect every position equally. He stated that during analysis it will be necessary to look only at the job and determine if cost control, retention, or attraction should apply to that position based upon the level of training, education, turnover, and availability of recruits for the position. He stated if there is very little level of training or education required or if there is a high turnover rate for a particular position, it will likely fall into the cost control category. He added that the opposite would be true for positions that would fall into the retention category. He stated that there should be very few – if any – positions in the attraction category. He stated that the compensation committee stated that those positions should be at 120 percent of what their average was, but his standpoint is that every person that works for the City is replaceable and the moment people start thinking they are not replaceable is the moment they should start sharpening their resumes because they will not be in their position for long. He reiterated there should be very few positions that fall into the attraction group. He stated that the role that he and Human Resources Director Spendlove will play in the process is as the devil's advocate and they will question each Department in detail as to how they carried out the analysis of the positions that fall under them. He stated the hardest part that everyone will deal with is to separate the person in the job from the job itself. He then added the compensation committee took a snapshot of salaries at a point in time. He used himself and Public Works Director Blanchard as an

example and explained he has been employed by the City for a year and he should be at the bottom of the salary range while Mr. Blanchard has been employed by the City for nearly 30 years and he should be at the top of his salary range. He stated staff will begin to review where a person's salary is within their current range as well as compare to the compensation for similar positions in other cities as provided by the committee. He added he has been telling everyone that this is not a one year issue and it will take time to address. He stated he will develop an implementation plan and bring all of that information back to the Council for them to review. He stated he is willing to keep the Council updated throughout the entire process or wait and bring all information back to the Council at once. He stated the three categories of cost control, retention, and attraction will become more defined through the analysis process.

Council Member Fawson inquired as to the time frame for the process and he asked if it would be completed by June of 2014. Mr. Chandler stated that originally staff proposed to have something to the Council by September for their consideration and potential to include funding for salary increases in next year's budget. He stated that a little more time would actually be more helpful because there is a lot of work to do in the next eight to 10 weeks. Council Member Fawson stated it would be his hope to address the issue in time to include funding in the next fiscal year budget. Mr. Chandler stated that if and when the Council decides to implement any of the proposed changes they can choose to either reopen the current fiscal year budget or wait to fund increases in the next fiscal year budget. He stated that decision is entirely up to the Council.

Council Member Bailey stated that he would assume that there would be a phased approach included in the staff recommendation. He stated that if there is a high degree of discrepancy it may be more than the City can afford to address all deficiencies at once. Mr. Chandler stated he will definitely recommend a phased approach and as he has talked with employees they have an understanding of that. Council Member Bailey asked what a realistic time frame would be for the staff to be ready to make a recommendation. Mr. Chandler stated allowing until October for staff to provide a recommendation would be more realistic.

Council Member Taylor stated that he likes how Mr. Chandler's memo is laid out, but he would like to add an additional step and that would be for the Council to hear some discussion about review procedures and accountability. He stated he has been on both sides of the fence; he has been a public employee in a lot of different agencies, but he is also a taxpayer and he would like to look at the issue from both sides. He stated that he thinks that it is important to fairly compensate the City's employees and some changes need to be made to ensure that happens, but he would like to know how compensation is being tied to performance and if there are some ways to further improve that and incentivize employees differently. He stated he does not know a lot about those procedures, but he would like to have discussion about it. He stated that any time the City is considering increasing wages the taxpayers will want to know about accountability. He stated he would like to add information about that to the discussion. Council Member Bailey stated that when the employee compensation committee was initially formed, that was one of the recommendations and focuses of the Council; the Council did not want the results of the study of the committee to be used as a static starting point, but that the committee also provide a framework to address this issue moving forward so that the City is not in this same situation again in the future.

Mayor Harris stated that he feels the Council has given clear direction to Mr. Chandler and the Administration will provide a recommendation for the Council to consider in October.

8. **DISCUSSION ON AMENDMENTS TO NORTH OGDEN POLICIES AND PROCEDURES MANUAL CHAPTER 4(2)(1) – REDUCTION IN FORCE/ LAYOFF**

A memo from City Manager Chandler explained that over the past few months the Council has discussed potential changes to Chapter 4(2)(1) – reduction in force and layoffs – of the employee policy and procedure manual. Attached to the memo were recommended changes to the chapter.

Mr. Chandler summarized his memo and noted that the City has a very generous severance package pertaining to a reduction in force through layoffs; if an employee is laid off they receive two weeks of regular pay, plus one month of pay for each year of service the employee has with the City. He stated that when the Council discussed the privatization of parks maintenance services, two of the employees that were at risk of being laid off had a combined 55 years of service for the City and that qualified them for 55 months pay in a severance package totaling approximately \$180,000. He stated he has discussed the issue with each Council Member and told them that once they made the decision regarding the privatization of parks maintenance service that he would like to go forward in changing the policy. He stated that after discussing the issue with Department Heads he has decided to recommend a cap on the severance payment and he reviewed the provisions that would be added to the policy as follows:

1. Notwithstanding the provisions in Chapter 4(2)(1) the maximum severance payment made by the City to employees that were hired on or before (insert date – date of adoption) shall be two weeks of regular pay plus twelve (12) months of pay.
2. Notwithstanding the provisions in Chapter 4(2)(1) the maximum severance payment made by the City to employees that were hired after (insert date – date of adoption) shall be two weeks of regular pay plus six (6) months of pay.

Mr. Chandler stated staff tried to balance a good severance package for the City as well as what would be most fair for the employees, which is why the two levels are recommended. He stated that as turnover occurs, the maximum severance packet will end up being six months. He stated that in order for an employee to receive one year worth of severance pay they would have needed to work for the City for 12 months.

Mayor Harris stated there have been some questions about contractual obligations that the City may have to long term employees that were hired when the current policy was in place and he asked for a legal opinion regarding that issue. Mr. Call stated these types of cases are considered on an individual basis and each individual would ultimately need to go to court to determine the implications the changes to the severance package would mean to them. He stated he does not see any problems with the changes being recommended by staff in terms of increasing liability for the City, especially when there has not been a reduction in force due to a lay off.

Council Member Fawson stated his biggest concern is the amount of severance; the recommendation is to pay up to 12 months or six months of severance pay and in his experience in the private sector this is unheard of. He asked what other cities or public sector employers offer in terms of severance packages. He stated he is shocked by the amount of money an employee would be eligible to receive. He stated that in the private sector an employee would typically be eligible to receive one or two weeks per year of employment in terms of severance.

Council Member Bigler stated one question and concern he has is in relation to the fact that no one has been able to determine when the current policy was put in place and when it was voted upon in a public meeting. He stated he would really like to see if it was actually voted upon because it should not be included in the policy manual if it was not approved through the proper legal process. He stated he would like to see if the policy was adopted according to law with a Council vote and what the policy was before this policy was adopted. He stated that if it is not possible to determine that the policy was voted upon by the Council, then it was never a policy. He asked Mr. Chandler if he has been able to locate that

information. Mr. Chandler stated he has not been able to locate proof of a Council vote, but he knows when it was added to the policy manual. Council Member Bigler stated that is troublesome. Mr. Chandler stated he has found a three year gap between when the policy manual did not include the policy and the when it did include the policy. Council Member Bailey asked when the policy first appeared in the policy manual. Mr. Chandler stated it was added around 2002. Council Member Bigler asked if the City has agendas for Council meetings and he noted that for the Council to vote upon something the item should have been on the agenda. He stated it would not be necessary to read all the minutes of meetings because it is possible to look at the agendas. Mr. Chandler stated that to date he has not been able to locate the information. Council Member Bigler stated that is the only comment and concern he has right now; he would like to know where the policy came from and whether it was actually voted upon legally or if it was simply added to the policy manual. He stated he is not saying that happened, but as of yet staff has not been able to find a vote on the public record.

Council Member Bailey stated it looks to him like the policy has been in place and he believes the policy and procedures manual has been reviewed by the Council since 2002 without this ever being raised as an issue. He stated he thinks it has just been overlooked because it is such an anomaly. He stated he thinks that regardless of where the policy came from the Council needs to take some action now to at least limit the City's liability in these types of cases. He stated he is unsure whether this is the best recommendation for amending the policy. He stated he spent too many years being an employer to think in terms of this level of severance. He asked if this is a discussion or action item. Mayor Harris stated this is a discussion item. Mr. Chandler stated this is the beginning step of the process to amend the policy and staff discussed several options and this is the beginning point they arrived at.

Council Member Taylor stated that the policy manual has been approved a few times and whether the staff can reconstruct exactly when the policy was put into effect is interesting, but is not the key to this issue because none of the current members of the Administration were even employed during the time that the policy was enacted. He stated the policy was approved and it is now necessary to make some changes. He stated he also agrees with the sentiment that the amount of severance being recommended is too generous and he does not think this is a really important benefit to the employees because the likelihood of having a reduction in force has been very minimal. He stated he does not think an employee considers this an important piece of their benefit package when considering whether they should work for the City. He stated most people consider their pay and insurance benefits and he does not think this is an area that the City needs to be overly generous when compared to what is being done in other communities or in the private sector. He stated he agrees with Council Member Fawson that it would be very helpful to see data from other entities regarding their severance packages; there have been large layoffs at other companies in the area and it would be interesting to know how much they offered. Council Member Fawson stated he would recommend reaching out to the employee compensation committee, which already has ties to the private and public sector, to gather that information.

Council Member Bailey stated that in the private sector and likely in the public sector as well. . .the sense he has had is that there has never or seldom been a reduction in force for City employees. Mr. Chandler stated the only one that he is aware of that did not happen through attrition is when the City bought out employee's remaining service years to get them to retirement stage. Council Member Bailey stated there must be a great deal of caution; there have been times that employees have been let go for cause and sometimes it happens that someone is laid off rather than let go for cause in order to not embarrass them. He stated that if the City is going to offer a severance benefit for laid off employees, the staff needs to ensure that someone does not qualify for that benefit when they should have been let go for cause. Mayor Harris stated he thinks Administration has been careful about that in the past.

9. **DISCUSSION AND/OR ACTION TO APPROVE A RESOLUTION APPROVING POLL WORKERS AND THEIR COMPENSATION**

A memo from City Recorder Spendlove explained Utah Municipal Election Code 20A-5-602 requires the governing body to appoint poll workers and alternate poll workers and Utah Municipal Election Code 20A-5-602(4)(a) requires the municipality to compensate the poll workers for their services. The City has asked Weber County to select poll workers they are familiar with because those poll workers have the background and training to do the job well.

Mr. Chandler summarized the memo and referred to the list of poll workers attached to the memo.

Council Member Bailey stated that Janis Peterson is listed twice on the list. Mr. Chandler stated he caught that error.

Council Member Taylor stated there is just one alternate poll worker and he asked if it is normal to only have one worker available in reserve. Mr. Chandler stated he is not sure the answer to that question, but he can follow up. Mr. Call noted the alternate is also listed as a poll worker and he wondered if that was a typographical error as well.

Council Member Bailey asked if it is necessary to approve the resolution tonight. Mr. Chandler stated that it would be possible to add the item to the next Council meeting agenda for further consideration. Council Member Bailey stated he would propose tabling the issue until the next Council meeting to give staff an opportunity to address the issues that have been raised tonight.

**Council Member Bailey moved to table the item. Council Member Fawson seconded the motion.**

Council Member Bigler asked if staff determined which precincts the poll workers live in to ensure that there is balance as well. Council Member Bailey stated he got the impression that the selection of poll workers was done by the County, but he asked if that was actually done by the City. Mr. Chandler stated both entities participate in the selection process; there was one previous poll worker that Ms. Spendlove had asked the County not to use because of some past difficulties. He stated Ms. Spendlove asked the County to use those that have had election experience in the past. He stated the County provided the City with this list, but they were short one person that could serve as Poll Manager so Ms. Spendlove recommended someone that could fill that position. Council Member Bigler suggested the Council Members send an email to the staff asking for the information they would like to have presented at the next meeting so it is not necessary to continue to delay the item to get questions answered. Mayor Harris clarified the motion was to table the item and it would be appropriate for the Council to ask any questions.

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Bigler</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Taylor</b>	<b>aye</b>

**The motion passed unanimously.**



10. **PUBLIC COMMENTS**

Jim Urry, 1615 North Mountain Road, stated he would like to address three issues. He stated that when Mr. Chandler is talking and he turns his head to address the City Council it is difficult for those in the audience to hear what he is saying and he asked that Mr. Chandler try to speak into his microphone. He then stated that he had a question regarding the contract for legal services; he asked what the hourly rate is after the City has exceeded the number of hours allotted by the contract. Mr. Chandler stated there are two attorneys that work for the City and their rates are \$125 an hour and \$225 an hour. Mr. Urry stated there should be a stipulation that only the \$125 per hour attorney be used once the City exceeds it allotted number of hours. Mr. Chandler stated the City does do that. Mr. Urry then stated the third item he wanted to address was the item regarding creation of a Cherry Days foundation and privatizing the event. He stated he has had the opportunity to be the chairman of the Ogden Pioneer Days foundation for the past two years and before that he was a co-chair for two years. He stated that he feels the first step in forming a foundation is to get some bylaws in place and that will spell out the responsibilities of all parties. He stated the Council also needs to realize they should not tie the foundations hands; if the event is turned over to the foundation, the City cannot say they still want control. He stated the chairman of the foundation and his board need to have a lot of say in what is going to happen. He stated he would suggest that there not be two committee chairs; the proper way would be to have one chairman that would serve a term of two years with a co-chair that would succeed the chairman automatically. He stated the way to start the foundation is to assemble the committee and past committee members and work to create bylaws and then move forward. Mayor Harris stated part of the transition plan that was proposed by Mr. Chandler was to create bylaws. Mr. Urry stated the last thing he wanted to address was that he has been involved in the Cherry Days celebration for almost 40 years. He stated that when he was chairman of the Ogden Pioneer Days celebration he travelled to Cheyenne, Wyoming to observe the organization of the Frontier Days rodeo and watch their parade. He stated they had a very nice parade with good floats and a lot of other nice things and there are no breaks in the parade whatsoever. He stated the parade chairman explained that it took a few years for the parade to get to that point, but he explained that the way they did it was to station someone at every intersection along the parade route and if an entry was lagging they were pulled out of the parade at the side street of the intersection. He stated it only takes one time of that happening to make people get serious about staying up with the parade. He stated there were a lot of big breaks in the Cherry Days parade this year and that is an idea for the City to toss around; he knows it would be difficult to do at first, but it would send a strong message to the entries in the parade.

John Arrington, 254 East 2900 North, stated he wanted to echo Mr. Urry's comments about the audience's inability to hear Mr. Chandler when he talks to the Council. He stated that he has attended several other City Council meetings throughout the State and in most of those meetings the City Manager is positioned in a way that he can address the Council, but he is still speaking into a microphone. He stated if Mr. Chandler is making a lengthy presentation it may be appropriate for him to use the microphone at the podium. He then added that if the staff plans to add something to the overhead screen it needs to be made larger because those in the audience cannot see the information. He then stated he wanted to echo Mr. Urry's comments about the creation of a Cherry Days foundation. He stated that he observed the transition of control of the Pioneer Days celebration in Ogden City and the first thing for the City to realize is that the Pioneer Days committee was organized for years as a basic committee of the city before they were given control of the celebration. He stated there was a chairman of the committee and there were various committee members that were assigned to various functions of the event. He stated that when the City decided to create bylaws and create an independent foundation, the process was already in place. He added that if Cherry Days is turned over to the foundation, it is their event. He stated that in Ogden there are city department heads and council members on the foundation committee to provide input and likely the main reason for that is that the city still heavily involved in supporting the event. He stated that in the transition Ogden City made a considerable donation to the foundation for three or four years. He stated the foundation seems to have more success in getting donations for funding



of the event. He added that he thinks the transition of privatizing the event in Ogden City worked very well, but he noted that a similar transition in North Ogden cannot happen next year or the year after that; first it is necessary to get a functioning committee in the City with a functional organization and that group of committee members can work to form a foundation. He stated that will give the Council the opportunity to have input on the function before the transition takes place. He added he also liked Mr. Urry's comments about the parade. He stated he is an announcer at one of the stations and it bothers him when there are large gaps; there are groups that stop and perform and that holds up the parade. He stated that when he was young he knew of a man that ran the Ogden parade that did remove people from the parade if they did not comply with the directives of those organizing the parade. He stated he had one additional suggestion for those public officials that are at the front of the parade. He stated it is very difficult for him as an announcer to get any important information out; he does not have time while they are in front of the people that are sitting in his area to say who the officials are. He stated if there is going to be a gap in the parade, that is where it should be so that the public officials can get some recognition. He stated as an announcer he wants to recognize those people. He then concluded that he thinks the transition to privatize the Cherry Days will be more difficult than was discussed tonight and he reiterated that in Ogden there was a functioning committee for years before the transition took place. He then stated that he appreciated the comments made by those Council Members that have worked in the private sector regarding the severance pay policy. He stated that he thinks it is ludicrous as a taxpayer and the pay should be much less than that and more in line with the private sector. He stated that when there is a layoff in the public sector he would assume that there is a bumping process; if someone has seniority they may have the opportunity to take another position in the City that is filled by someone with less seniority. He stated that in doing that there is also the opportunity to offer incentives to those employees facing layoffs. He stated that in the organization he worked for previously and in the private sector the only time he has seen years of service be considered in a severance package was for executives or at-will employees that could be terminated for no reason at all. He stated that if the severance package in North Ogden is going to apply to all employees, it should be possible to develop a policy that would help an employee while not creating such a demand on the City.

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

Council Member Bigler stated he appreciated the public comments regarding the privatization of Cherry Days. He stated that is why he made the comments he made regarding establishing a foundation and then move forward. He then stated he wanted to thank all City staff and the volunteers for all the hours they dedicated to the Cherry Days celebration and if any residents have idea regarding how to improve the event he is happy to hear them because the City is always looking to improve in any way possible. He stated he thinks the celebration went very well according to the comments he has heard from residents.

Council Member Bailey stated he was out of town during the Cherry Days celebration, but he has heard great things about the event and he wanted to thank those that were involved in its organization. He stated he did have family members that told him the parade was the best they had seen in the past several years and it was not as commercial as it has been in years past and they appreciated that. He stated he always hears good things about the fireworks as well and everyone loves the new location of that aspect of the event. He stated that Mr. Chandler said it best in the email he sent after the last day of the event and that was that the City did not blow anything up or burn anything down so the event was a success.

Council Member Stoker stated that the walk in the parade was quite an event. She stated she appreciated Mr. Arrington's comments regarding the fact that all City officials were grouped together, but she wanted to add that two problems were that the youth were riding the float and the Council Members were walking and the Youth Council was mentioned by the announcer and the City Council was not. She stated,

however, that it was a good day and the event was fun and she appreciates the staff that works so hard to organize it.

Council Member Taylor echoed the comments that have been made regarding the success of the Cherry Days event and he thanked Council Member Fawson for donating some of his candy to him after he had thrown all of his out to parade spectators.

Mr. Call then stated he is glad he will have the opportunity to continue to work with the City and he thanked the Council for approving the agreement with his Firm.

Mayor Harris stated he failed to recognize Nicole Smedley, Deputy City Recorder, who is filling in for Ms. Spendlove this evening. He then stated that he wanted to mention a few additional things regarding the Cherry Days event. He stated the Youth Council and some City employees met at 8:00 a.m. on the day after the fireworks show to pick up all fireworks debris that had fallen on Lyman Barker's field; Mr. Barker was concerned about picking up some of the debris in his hay baler. He added that some of the debris drifted across residential properties in the area and the group of people did a great job of cleaning those yards and Mr. Barker's fields. He stated people often do not know those things are happening, but the work continues. He stated the entire event was very successful; there was minor damage to a trampoline in a backyard and the City will take care of that.

12. **ADJOURNMENT**

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

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Bigler</b>	<b>aye</b>
<b>Council Member Fawson</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Taylor</b>	<b>aye</b>

**The motion passed unanimously.**

**The meeting adjourned at 8:42 p.m.**

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Richard G. Harris, Mayor

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Nicole Smedley  
Deputy City Recorder

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Date Approved