

1 **NORTH OGDEN CITY COUNCIL MEETING MINUTES**

2
3 May 23, 2012

4
5 The North Ogden City Council convened in a special meeting on May 23, 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 May 17, 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
19 **STAFF PRESENT:** Ronald F. Chandler City Manager
20 Annette Spendlove City Recorder/HR Director
21 Julia LaSeure Deputy City Recorder
22 Mel Blanchard Public Works Director
23 Gary Kerr Building Official
24 Craig Barker Community Development Director
25 Gina Kochendorfer Police Office Manager/Administrative Assistant
26 Bryan Steele Finance Director
27 Kevin Warren Police Captain
28 Laura Barker Court Clerk
29 Dave Nordquist Community Services Director
30 Bill Aeschlimann Detective
31 Clark Crowther Detective

32
33
34 **VISITORS:** Margaret Karageannes Richard Aeschlimann
35 ADonna Aeschlimann MelaLee Winn
36 Karen Garcia Tom Garcia
37 LaMonte Barker Shamra Aeschlimann
38 Leland Aeschlimann Jade Aeschlimann
39 Rod Layton Matt Meyer
40 Nancy Toman Mike Kuhn
41 Edythe Kuhn Kimberly Chytras
42 Terry Reynolds Nathan Reynolds
43 Spencer Reynolds Bruce R. Baird
44 Stacey Giatras Rachel Trotter
45 David Price Kandace Marsh
46 Ashley Marsh David Marsh

47
48
49 Mayor Harris convened the meeting at 6:30 pm and welcomed those in attendance. Council Member
50 Bailey offered the invocation and led the audience in the Pledge of Allegiance.
51

52 **CONSENT AGENDA**

- 53 1. Consideration and/or action to approve the minutes of the April 10, 2012 City Council
54 meeting.
55 2. Consideration and/or action to approve the minutes of the April 24, 2012 City Council
56 meeting.
57 3. Consideration and/or action to approve the minutes of the May 1, 2012 City Council
58 meeting.
59 4. Consideration and/or action to approve the minutes of the May 8, 2012 City Council
60 meeting.
61 5. Consideration to approve Business Licenses.
62 6. Consideration and/or action to set a public hearing on June 12, 2012 to receive comments
63 regarding amendments to the Fiscal Year 2011-2012 Budget.
64

65 Council Member Bailey moved to pull the minutes of May 1, 2012 and approve all other items on
66 the consent agenda. Council Member Fawson seconded the motion.
67

68 **Voting on the motion:**

69 Council Member Bailey yes
70 Council Member Fawson yes
71 Council Member Bigler yes
72 Council Member Hulme yes
73 Council Member Stoker yes
74

75 **The motion passed unanimously.**
76

77 Mayor Harris went back to the May 1, 2012 minutes. Council Member Bailey said he noticed the
78 minutes refer to May 1, 2012 as a regular meeting. He asked if it was a regular meeting or a work
79 session. Council Member Bailey said he thinks that would be best. Annette Spendlove stated it would be
80 changed to work session.
81

82 Council Member Bailey moved to approve the minutes of May 1, 2012 as amended. Council
83 Member Bigler seconded the motion.
84

85 **Voting on the motion:**

86 Council Member Bailey yes
87 Council Member Fawson yes
88 Council Member Bigler yes
89 Council Member Hulme yes
90 Council Member Stoker yes
91

92 **The motion passed unanimously.**
93
94

95 **ACTIVE AGENDA**

96
97
98 7. **PUBLIC COMMENTS.**
99

100 Mayor Harris asked the audience to hold any comments related to the public hearings that are scheduled
101 until that time.
102

103 Mike Kuhn, 652 E 1850 N, stated regarding agenda item 14, RV parking, that he has some concerns with
104 the Planning Commission's comments. Specifically the sight issue of having an RV parked too close to
105 the front property line; he stated that an obstruction is an obstruction. Mr. Kuhn asked what the
106 difference is between an RV and a Suburban or even a pickup truck or landscaping. He said if you look
107 around our City many yards have obstructive landscaping clear up against the sidewalk. It seems to him
108 that any type of obstruction would create the same end result regardless of what the case might be. He
109 asked the Council to consider those things before making their decision on that.

110
111 There were no other comments.

112
113
114 **8. RECOGNITIONS:**
115 **BILL AESCHLIMANN ON RECEIVING THE UTAH ATTORNEY GENERAL'S**
116 **AWARD FOR MDT (MULTI-DISCIPLINARY TEAM) TEAM MEMBER**
117

118 Mayor Harris explained that there are several recognitions to make tonight and it is with a great deal of
119 pleasure that he would like to give his congratulations to those employees that are getting some special
120 awards and presentations this evening. He stated we will start with Bill Aeschlimann who has received a
121 very special award and Lt. Rod Layton is here to make that presentation.

122
123 Lt. Rod Layton said he is currently the Director of the Weber-Morgan Children's Justice Center but
124 retired from the Weber County Sheriff's Department as a Lieutenant. He said it is a pleasure to be here
125 tonight to present this significant award. This award is presented to the top detective who works child
126 abuse investigations in the State of Utah. He explained that we are not just talking about police officers;
127 we are talking about all of Division of Children and Family Services, medical teams, mental health teams,
128 anybody that's associated with a multidisciplinary team across the state. There are 19 children's justice
129 centers that serve all of the counties in the state and each of those submits a nomination for an outstanding
130 investigator or medical person that deals with these kinds of cases which are by far the most difficult
131 kinds of cases to work. The nominations are sent in by the teams and are then sent in to the state for
132 review. It's a quite a process and it finally comes down to all the directors sitting down and narrowing
133 the field to a few people that qualify or that they think are just outstanding individuals. He said it is
134 significant to know that it starts right here in Weber County and a number of names are submitted for this
135 award. Members of the team have to name who they think should receive the award and the decision was
136 unanimous that it should be Bill Aeschlimann. He said Bill Aeschlimann is very unique in that he has
137 been working these cases for a long time. Most investigators only last two to three years; Bill has been
138 doing it for 12 years. He said he has seen investigators come along that are good, some are better than
139 good, and some are outstanding when it comes to this. We are pleased to have Bill Aeschlimann chosen
140 as the finest detective in the State to have this award presented to him. Lt. Layton said Bill Aeschlimann
141 is a very humble guy but totally deserving of this award which is symbolic of children.

142
143 Bill Aeschlimann said it is an award for him but really this is an award to the team. Mayor Harris offered
144 his sincere congratulations to Bill and thanked him for his service. Bill Aeschlimann received a standing
145 ovation and shook the hands of the department heads, City Council members and Mayor Harris.

146
147 Bill Aeschlimann introduced his family members who are present tonight.

148
149 Mayor Harris said we have an outstanding police force and all of our officers are outstanding individuals.
150 We want our officers to know how much we appreciate them.

151
152
153

154 **LAURA BARKER AS STATE COURT CLERK OF THE YEAR**

155
156 Ron Chandler, City Manager, said it is his great pleasure to recognize Laura Barker for an award she has
157 received as the State of Utah Court Clerk of the Year. He said he is thrilled that she was able to receive
158 this prestigious award. Judge Lambert nominated her and wrote in his nomination "I have worked with
159 Laura Barker for over ten years. During that period of time I have recognized her special abilities and
160 attention to detail. I nominated her because of her dedication and professionalism. She is exceptionally
161 knowledgeable in every aspect of her job and accomplishes every task in a superior manner. She
162 maintains current and accurate court records, including financial and workload records and submits timely
163 reports as required. Ms. Barker understands and is sensitive to the rights of the defendant no matter how
164 blustery, ill-mannered or ill-tempered some persons are. She patiently and meticulously explains their
165 rights and the courts procedures which they must follow to secure those rights. Without compromising
166 the integrity or efficiency of the Court, Ms. Barker maintains the highest respect of those with whom she
167 has frequent contact. It is a pleasure to work with a person of her quality and ability. Also, some
168 interesting information about her... Laura is a graduate of Weber State with a BS in history and music.
169 She has a graduate certificate from the University of San Diego in lawyer assistance. She is also a
170 freelance musician; she plays the viola and is an adjunct instructor in the viola for Weber State University
171 and she serves as the Treasurer for the Utah Viola Society."

172
173 Mayor Harris presented Laura Barker with an award. Laura Barker received a standing ovation and
174 shook the hands of the department heads, City Council members and Mayor Harris.

175
176 Laura Barker introduced her husband LaMonte Barker.

177
178
179 **NORTH OGDEN DRINKING WATER DEPARTMENT**

180
181 Ron Chandler read a letter that Jason Reney, Culinary Water Supervisor, received from the Department of
182 Environmental Quality - Division of Drinking Water which is included as attachment A.

183
184 Mayor Harris explained how critical and what a tremendous task it is to provide clean pure drinking water
185 to 18,000 residents. He said to be able to take a drink of water without thinking about it is a blessing.

186
187
188 **9. DISCUSSION AND/OR ACTION TO CONSIDER AN APPEAL ON A PLANNING**
189 **COMMISSION DECISION TO AMEND THE COVE PRUD FINAL DEVELOPMENT**
190 **PLAN.**

191
192 Mayor Harris said we will take agenda items 9, 10 and 11 together and as they all have to do with The
193 Cove subdivision. He turned the time over to Dave Carlson to fill us in and then we will take the items
194 one at a time.

195
196 Dave Carlson, City Attorney, reviewed the background on these three items on the agenda and said if
197 there are any hard questions there are a number of people here tonight to answer those including Craig
198 Barker and the attorneys for both the developer and the lot owners.

199
200 Dave Carlson said there are three items on the agenda. One item is an appeal from the Planning
201 Commission regarding an amendment to the final development plan. The final development plan is the
202 narrative form of what a developer is required to do by the City in order to receive final acceptance of the
203 subdivision. There was a hearing held with the Planning Commission and they granted an amendment to
204 that final development plan. An appeal was made by the developer to the City Council who has the

205 authority to reject, approve or modify what the Planning Commission decided. Staff recommends that the
206 City Council, acting as the Appeal Authority, modify the Planning Commission's decision. The purpose
207 of the appeal was that when this first came to the Planning Commission there was still quite a bit of
208 friction between the eight existing lot owners in The Cove subdivision and the new owner of the
209 development; Westside Development, whose principle owner is Randy Marriott. The reason for the
210 appeal being made was to try to buy some time to work with the lot owners on what the development
211 should look like moving forward. There is another item on the agenda that is a petition to vacate the
212 existing subdivision plat. The developer recently presented an amended plat to the Planning Commission
213 and they approved the amended plat contingent on the City Council approving the items that are on the
214 agenda tonight. He explained that in order to record the amended plat we first have to vacate the original
215 plat. The last thing is the development agreement; the purpose of the development agreement is an
216 attempt to reach a meeting of the minds between the City and the developer about what is required by the
217 City of the developer in order to get final acceptance of the subdivision and more immediately to start
218 issuing building permits.

219
220 Dave Carlson said he felt this was a good time to back up and talk a bit about the history of The Cove.
221 The original developer was Wentworth Development. They basically took The Cove through what is
222 called the entitlement process and almost immediately turned around and sold the property to Republic
223 Mortgage. Republic Mortgage is the developer that actually installed a lot of the infrastructure in The
224 Cove. They hired Randy Marriott Construction to install a lot of those improvements; roads, water,
225 sewer, sidewalks, streetlights, etc... There were also a number of things that weren't completed. The
226 Cove was originally envisioned as a country club community and there was a high level of amenities
227 intended to go along with it. This project was conceived during the peak of the housing market. It
228 appears that Republic's business plan for the development of The Cove depended entirely on continued
229 lot sales at the pace they were happening during that housing market. He said usually these big
230 subdivisions are done in phases so the developer doesn't incur all the debt for installing the improvements
231 at once but they built this particular project all at once so all the infrastructure was put in up front. That
232 proved to be the downfall of The Cove because when the housing market collapsed the developer was
233 unable to keep up the payments on his construction loan and the bank foreclosed on the property. Farr
234 West Bank became the owner of The Cove subdivision. The City worked with the prior developer to see
235 if there was anything we could do to help him to save The Cove but it wasn't in the cards and the Bank
236 foreclosed. The Bank tried to see if they could build the project themselves but they were unable to do
237 that. Randy Marriott, Westside Development, stepped in and acquired The Cove from the bank. Prior to
238 doing that while he was doing his due diligence there was a lot of meetings with the City on the
239 requirements. He said it is important to point out, in terms of the hillside subdivisions in the City; Randy
240 Marriott has done more than anyone in developing those lots successfully. Mr. Marriott felt that the
241 country club vision would not work in the housing market as it exists and not in the housing market
242 moving forward. They wanted to reduce the cost of development and their risk in the project and also
243 reduce the cost to the homeowners. The level of amenities would require a large assessment on the
244 homeowners. They came to the City to reduce the amenities that were part of the final approval. The
245 Planning Commission gave them a lot of concessions that they wanted. Mr. Carlson said it is his
246 understanding that the purpose of the appeal wasn't to get more concessions but that they recognized that
247 the eight lot owners were unhappy with the decision of the Planning Commission and wanted more time
248 to work that out with them. The parties haven't been idle, a lot has happened in this past year. Nobody is
249 really happy with the proposal but it works if everybody can live with it. Part of the agreement was
250 monetary compensation to the lot owners because they are not getting the value that they paid for. Part of
251 the resolution was for some of the open space to be turned into lots and for the club house to be turned
252 into a single-family home. The sale of those lots and the clubhouse will go to compensate those lot
253 owners but the City is not getting involved in that. Last week an amended plat was provided to the
254 Planning Commission. The Planning Commission approved that amended plat in their last meeting with
255 the homeowners and developer in attendance. The amended plat reflects a lot of what is proposed in the

256 development agreement but the amended plat and the amended development agreement do not agree.
257 That is the purpose of this appeal; so that the City Council can amend the development agreement to
258 match the final plat. That is the modification the City Council is being asked to make. This is a
259 complicated scenario but this is how we think we can get to the goal of getting this project back on the
260 real estate market. There is also a vacating ordinance required. We found some problems with the way
261 the PRUD was approved in the beginning and there is some ambiguity. The purpose of the development
262 agreement is to start with a clean slate so everyone is on the same page and knows what the requirements
263 are. Some of those irregularities are discrepancies in the plat; the recorded plat stated that the
264 homeowners were required to pay for all the open space and improvements. This is irregular and was a
265 problem. There were also issues of the security that the City took to ensure that the things the developer
266 was required to build were built. There was never any security for the landscaping improvements. The
267 subdivision was approved without there being a plan for how certain things would be done. The City
268 knew that there would need to be protection from debris flow coming down the canyon and avalanche
269 danger as well. There was a study done and recommendations were made but there were no requirements
270 on the developer and no escrow for those requirements. There were also questions about secondary water
271 which is a big issue for that area; getting water to service those lots is a big challenge and there is no
272 system in place to do that. The culinary water system was completed but there are a lot of loose ends. In
273 the meantime the security that was originally taken by the City was a letter of credit. The problem is that
274 the City allowed that to expire. This development agreement is aimed at solving a lot of these issues. It
275 provides measures to ensure that the secondary water system is completed. It requires cash escrow for the
276 infrastructure that the developer is still required to install. We had a much larger punch list of things to be
277 completed but it is a lot shorter now so the amount of escrow is a lot less. A document included as
278 attachment B was distributed to the Council Members that lists the items left to be completed.

279
280 Dave Carlson went on to say that there have been some positive developments regarding the avalanche
281 berm. Originally they would have had to use some of the lots to build that berm but they are buying
282 additional property to the north that will be used to install avalanche and debris flow protections. Those
283 will protect not only The Cove but the Richards' property as well which is also zoned residential. This
284 gives the developer two years to get those features installed. The secondary water system within the
285 subdivision is complete; the issue is getting water to the land. They own water shares to serve part of the
286 lots so we will issue 10 building permits right away but for the others they have to show the City that they
287 have the secondary water to serve any additional building lots. Rather than requiring them to put in all
288 the improvements they asked if they can phase that in. That is not an issue for the City as that is how it is
289 usually done.

290
291 Dave Carlson said in terms of the avalanche and debris flow, what we are going to require is that for
292 anyone that acquires a building lot there will be full disclosure to them that these features are required but
293 have not yet been installed so they assume responsibility. Those features need to be completed in two
294 years. He said they are basically just berms and basins which the City will maintain.

295
296 The other thing we require is that on each deed they issue there has to be a disclosure stating that no
297 construction can occur until secondary water is available to serve that lot. It will be disclosed in the deed
298 that no building permit can be issued on that lot until water is available. There are some other minor
299 things. He said usually the rule of thumb is that as a property owner you have to deal with water on your
300 property, you can't solve your problem by running it onto your neighbor's property. That is not the case
301 on this steep hillside. There is a drainage plan for the development, for each lot. He said it would be
302 impossible to control runoff here so there is a plan to deal with it. As part of the building permit process
303 the builder is required to deal with the runoff and the drainage swales. The original plat provided for two
304 public trails and that is important because the Bonneville Shoreline Trail runs above this and the City
305 needs to maintain vertical access to the Bonneville Shoreline Trail. This agreement allows for one of the
306 north-south trails to be removed and the City Trails Committee chose to keep the trail to the west.

307 Council Member Fawson asked about public access to that trail and parking. Ron Chandler explained
308 that there will be access on the south and north ends of the trail. Dave Carlson said there is a possibility
309 of having to fence some detention basins. If the City is going to own them there are some liability issues.
310 It is possible that the water in one could be ten feet deep. There is some concern that in a storm event the
311 detention basin could fill up with water faster than kids could get out of it and that is scary. The City
312 asked for the detention basins to be fenced but the homeowners don't want to see that area fenced because
313 they want to be able to access and use it. He said we are at the point now that there are still a few little
314 loose ends that need to be tied up on this but what we are going to ask the Council to do tonight is to
315 modify the final development plan to be consistent with the amended plat and adopt the ordinance
316 vacating the plat. We are asking the Council to approve the development agreement with certain
317 conditions. He explained that the action on the development agreement is to authorize the Mayor to sign
318 it but before the Mayor signs it we would like the Council to impose some conditions:

319
320 We ask that the Council designate Craig Barker, Community Development Director, to be the one to
321 verify that these conditions have been met before the development agreement is executed.
322

- 323 1. Submission by the developer to the City of new CC&Rs to be reviewed and agreed upon by the
324 lot owners.
325
- 326 2. Submission by the developer to the City of a more detailed landscape plan consistent with the
327 final development plan as amended by the Planning Commission and as modified by the City
328 Council to be reviewed and agreed upon by the lot owners.
329
- 330 3. Agreement on the issue of fencing the detention basins between the City, developer and lot
331 owners. He said they would like to continue the discussion on that and suggested putting that
332 requirement on the punch list instead of the development agreement.
333
- 334 4. Lot owners to review and sign the final plat before it gets recorded.
335
- 336 5. Allow staff to make technical changes to the development agreement that does not substantially
337 alter any provision.
338

339 Council Member Bigler asked if there will be a definition for technical changes. Dave Carlson replied
340 yes, if Council would like it to.
341

342 Staff's recommendation is for the City Council to modify the final development plan to correspond to the
343 amended plat, adopt the ordinance vacating the original plat and authorize the Mayor to execute the final
344 development agreement with the conditions that we have listed.
345

346 Council Member Bigler said this has been an ongoing deal with The Cove. He said it was mentioned that
347 the main goal is to get this subdivision developed but that is not his main concern. His main concern is
348 the residents there that have bought under a certain set of rules but those rules have been changed. He
349 said he has spoken with several lot owners who are not comfortable with these changes. His concern is
350 that they're conceding things and they have been doing it for months but that doesn't mean they are happy
351 with what's been going on. He wants to make sure that the City Council has that balance between doing
352 it correctly and not forgetting those homeowners. There are not just a few loose ends to be tied up; there
353 are a lot of unknown factors. He would feel much more comfortable to have an agreement updated
354 between the developer and the residents brought to the City Council before we allow any building
355 permits. If we allow ten permits now the builder is going to be busy for a while. It seems like there
356 would be more urgency on the part of the developer to do these things if we didn't allow any building

357 permits until these things were complete. He asked Dave Carlson whether he has talked to the
358 homeowners at all.

359
360 Dave Carlson said there has been nothing done between the City and the developer that the lot owners
361 have not been privy to. They have been involved every step of the way as it is in everyone's interest to
362 get finality to this. He said there is nothing major here; the only things left to another day are those things
363 that can't be accomplished right away; the things that will take a lot of time and money to complete. We
364 have built in provisions within the development agreement to make sure they get done. The City has
365 already approved the subdivision and now what we've tried to do is to work cooperatively with the
366 developer to come up with reasonable measures to make sure this subdivision is completed right. He said
367 it may not be perfect but he can guarantee that it is a whole heck of a lot better than the deal the City had
368 before, this is a substantial improvement for the security. He said at some point it becomes a
369 constitutional taking. Our ability to require things of a property owner is hinged upon our ability to grant
370 or deny development approval. The Supreme Court has said if we could tell them flat out no then we
371 could also bargain for yes and we can require then to perform certain things in order to get our
372 development approval. The issue we have is that we already said yes and a developer bought it with all
373 those entitlements as part of the property. Now if we are going to ask for more, where is our authority to
374 exact more from them? We have to be careful; we don't want to get into a situation where we are accused
375 of taking property.

376
377 Council Member Bigler said this is a place where there is some disagreement perhaps. The City approved
378 it and then he went and bought the property. He said he thinks this has to go through the Planning
379 Commission and City Council to approve it. If the developer was buying this development under a
380 certain set of rules and the homeowners bought their homes on what that development was going to look
381 like the developer knew what was required previously and went ahead and bought it. That's not the right
382 process and he shouldn't have done that. Council Member Bigler said there are a number of things and
383 mentioned the fencing around the detention basin, the City's ownership and responsibility of certain
384 areas; the other thing that residents are concerned about is islands in the middle of the street. He asked
385 why that can't be done before we do this to determine what that is going to look like. Why can't we do
386 those things now so the owners of the development can say that it's done? It seems very premature.

387
388 Bruce Baird, 2150 S 1300 E, Suite 500, Salt Lake City, told Council Member Bigler that there is a
389 fundamental misunderstanding in what Mr. Carlson said about the conditionality and the approval and
390 issuance of building permits. The plan is to close this entire deal into escrow including the settlement
391 agreement with the neighbors and all these pieces are about 98% done. He said they have been in
392 discussions almost daily by phone and email for months. The point is that the ten building permits we are
393 talking about are not ten building permits now; they are ten building permits when the plat has been
394 recorded. Bruce Baird said the purpose of this is to close it into escrow. He said the facts are that this
395 deal is going to close into escrow and it doesn't get recorded until the homeowners sign a settlement
396 agreement and approve the new CC&Rs, and the issue on fencing has been resolved. Until these things
397 are done the plat is not recorded and until the plat is recorded there is nothing to sell. Council Member
398 Bigler said that's great, then let's just do that at the next Council meeting after that's done. Mr. Baird
399 said he has probably done this in this way in twenty different jurisdictions and the attorney for the
400 homeowners is comfortable with this. We need to move this forward because they have cleaned it up and
401 are ready to go; there is no need to come back. He said this deal has been worked on very hard and he
402 can't guarantee that this deal will stand if there is no approval tonight. He said they have worked with the
403 Council, the Mayor and Dave Carlson and they can't do this any more carefully than they've done it.

404
405 Council Member Fawson said it is apparent that the developer is satisfied with the plat. He said he would
406 like to hear from the lot owners' attorney. Kimberly Chytras is with Parsons Behle & Latimer, 201 S.
407 Main St., Suite 1800, Salt Lake City, and represents 7 of the 8 lot owners. She said this meeting is a

408 culmination of a lot of effort and work. It began very contentiously but with this amended plat the lot
409 owners have come to a resolution that they are comfortable with but with conditions that will protect the
410 homeowners. She said she appreciates Council Member Bigler's concern for the homeowners but they
411 are ready to move forward with this amended plat. She said she sees this in two segments. The
412 development agreement in her mind is between the City and the developer. The two have come to an
413 agreement and she appreciates the consideration. The homeowners have to agree to vacate the plat where
414 they live; they have to sign the amended plat, there are the new CC&Rs, the settlement agreement which
415 will lay out everything that has to be done, the landscaping plan and fencing. She said they have asked
416 for an upgrade of an enforceable plan so when Craig Barker goes out he knows exactly what is required
417 and can check things off as they are completed. Regarding fencing, she said the homeowners and
418 developer both feel strongly that fencing is not in their best interest aesthetically or for the use of the
419 property. Chain link fencing would certainly be not welcome. She said there are design guidelines that
420 should govern the fencing and they have asked that this issue be resolved. There has been some level of
421 discomfort and distrust both with the developer and the City but the homeowners are willing to take this
422 leap of faith and feel comfortable moving forward with this if it is very clear that these things are
423 satisfied. If the homeowners don't get what they want there is no deal and none of this moves forward.
424 Council Member Bigler said if the homeowners are okay with this that's all he wanted to make sure of.
425 He said as late as today a resident told him that they don't want building permits issued before some of
426 these issues are covered. Kimberly Chytras said building permits are not issued until the development
427 agreement is signed and all those other things are done. Council Member Bigler said the Council just
428 received a document that was not part of the packet with that change and the Council was not able to
429 review it. With this new information this is a whole different thing and if the homeowners are happy, he
430 has no issue. If this information was available before the meeting he wouldn't have even spoken on this.

431
432 Dave Carlson said the thing that the Council got new tonight is the current punch list with the engineering
433 estimate; it didn't exist earlier so it could not have been provided sooner. This has been a dynamic
434 process and we had to send our public works inspectors up there to take a snapshot in time to see what the
435 developer has done and what is left. We then had to get it to our engineer and have him rework the
436 numbers to determine what the escrow numbers are. That's why we waited, to get the best picture we
437 could so there weren't arguments later on. Council Member Bigler said that's fine as long as it is
438 understood why he brought it up because there was a missing piece to the puzzle. Dave Carlson
439 apologized and said this was all discussed literally about an hour before the meeting.

440
441 Council Member Hulme said when this came before the Planning Commission he wasn't sure it would
442 ever get this far. He thanked everyone for their hard work and willingness to compromise. Bruce Baird
443 thanked the Mayor, Planning Commission, City Council and staff. Mayor Harris said this has been a
444 difficult process and we have had to weigh everybody's needs and circumstances in this.

445
446 Council Member Bailey said in Dave Carlson's memo it looks like we have had a cascade of failures on
447 the part of the City on this project. He suggested that this may be is an issue for a future City Council
448 meeting. He asked what has changed in the City to make sure we are not creating new problems. Have
449 we changed our process? Dave Carlson said that is a great question. He said the Planning Commission
450 has been reviewing changes to the PRUD ordinance and a lot of them are aimed at closing loopholes. He
451 said there is never going to be a perfect system because we are dealing with human beings but we have
452 tried to tighten things up as much as we can to make sure that these things are caught before a PRUD gets
453 final plat approval and is recorded. He said we need to catch those things before we give them a green
454 light and there are some things on the way.

455
456 Craig Barker said the Planning Commission has completed an evaluation of the PRUD chapter and that
457 has been brought to administration for a future agenda. He said Dave Carlson was highly involved in that
458 and the changes do a lot to clarify things. Council Member Bailey asked if the things that were

459 highlighted by the City's failures are being addressed in the changes. Craig Barker replied yes, a number
460 of items the Planning Commission felt needed to be addressed have been discussed. The City Council
461 will have the opportunity to look at that. Some of the items that were discussed include guarantees,
462 construction costs and a third party review of construction costs. Council Member Bailey said he will be
463 looking for that. He said another issue is allowing the letters of credit to expire; he would like to know
464 how that happened; that is fundamental. He said regarding the current development agreement that some
465 things have been removed; in section 6 the language specifying the development of parks has been
466 deleted. Is that right? Dave Carlson said the changes reflect the way that the project has evolved. This
467 agreement was originally to be used when Republic Mortgage owned the property and then the bank.
468 This document has been modified over time.

469
470 Council Member Bailey asked, regarding the basins and avalanche control berm that will become the
471 city's responsibility, whether the liability issues are understood by the City well enough. He said he is
472 concerned because it seems like we are plowing new ground with this. Dave Carlson said he believes so;
473 they are basically just earth work. He said the Mayor may enlighten us more on this but his
474 understanding is that it is basically an inspection to make sure that they are not compromised in any way.
475

476 Council Member Bailey asked about a catastrophe event like the 500 year flood. Dave Carlson said it
477 could damage things and you'd have to go back up and put things back the way they were to correct those
478 issues. Craig Barker mentioned the debris basin that was built after the debris flow incident years ago.
479 Council Member Bailey said he was told that there was an avalanche in 1937 that came down Ben
480 Lomond and the outflow came down to 3100 N. He said we are way above 3100 N now and asked if the
481 fencing is going to be a big enough issue. Ron Chandler said he brought that up initially and we will
482 touch base with our insurance company. He said there may be some ways to change the design so that a
483 fence is not necessary and that will be discussed. Council Member Bailey said if it is going to be City
484 property and the City's responsibility it should be the City's call though he understands the homeowners
485 have some concerns about aesthetics.

486
487 Mayor Harris said we have a number of these debris basins that we maintain. Council Member Bigler
488 said he understood that only one of those was steep enough that it would need to be fenced. He thought
489 there was discussion about things they could do with the others but that the one was so steep and
490 dangerous that it would have to be fenced. Dave Carlson said those are all things that we need to discuss.
491

492 Council Member Bailey said we are being asked to approve the incomplete development agreement
493 giving the Mayor and Craig Barker the authority to fill in the details. Dave Carlson said it is complete
494 there are just some blanks to fill in regarding the escrow numbers. He said he couldn't tell you what the
495 technical changes could be; a comma here or there.

496
497 Council Member Bigler asked if the homeowners are going to be involved in the technical things added
498 tonight. He said he would rather have that defined. Craig Barker said if he is the person working for the
499 City making sure those things are met he will go to the attorney for the homeowners to get their approval.
500 Dave Carlson said the development agreement is between the City and the developer but the City has
501 been open with that up to this point. Kimberly Chytras agreed that the homeowners would review all
502 changes.

503
504 Kimberly Chytras asked if this would also include the landscaping and the homeowners' approval. Dave
505 Carlson replied yes.

506
507 **Council Member Hulme moved that the City Council grant the Developer's appeal for the Planning**
508 **Commission's amendment on the final development plan by modifying the final development plan**
509 **to correspond to the approved amended plat. Council Member Bigler seconded the motion.**

510 **Voting on the motion:**
511 **Council Member Bigler** yes
512 **Council Member Hulme** yes
513 **Council Member Stoker** yes
514 **Council Member Bailey** yes
515 **Council Member Fawson** yes

516
517 **The motion passed unanimously.**
518
519

520 **10. CONSIDERATION AND/OR ACTION TO ADOPT AN ORDINANCE VACATING**
521 **PORTIONS OF THE NORTH OGDEN COVE PRUD PHASE I - FIRST AMENDMENT**
522 **AND NORTH OGDEN COVE PRUD PHASE 2 - FIRST AMENDMENT PLATS.**
523

524 **Council Member Fawson moved to adopt Ordinance 2012-10 vacating portions of the North Ogden**
525 **Cove PRUD Phase 1 – first amendment and North Ogden Cove PRUD Phase 2 – first amendment**
526 **plats. Council Member Bailey seconded the motion.**
527

528 **Council Member Fawson amended the motion by adding the language “to take effect on the**
529 **Mayor’s execution of the final development agreement”. Council Member Bailey seconded the**
530 **amended motion.**
531

532 **Voting on the motion:**
533 **Council Member Hulme** yes
534 **Council Member Stoker** yes
535 **Council Member Bailey** yes
536 **Council Member Fawson** yes
537 **Council Member Bigler** yes

538
539 **The motion passed unanimously.**
540
541

542 **11. DISCUSSION AND/OR ACTION TO CONSIDER AMENDMENTS TO THE NORTH**
543 **OGDEN COVE PRUD DEVELOPERS AGREEMENT.**
544

545 **Council Member Hulme moved to approve amendments to the North Ogden Cove PRUD**
546 **Developers Agreement and authorize the Mayor to execute said agreement upon completion of the**
547 **following six items:**

- 548 **1. Submission by the developer to the City of new CC&Rs to be reviewed and agreed**
549 **upon by the lot owners.**
- 550
551 **2. Submission by the developer to the City of a more detailed landscape plan consistent**
552 **with the final development plan as amended by the Planning Commission and as modified**
553 **by the City Council to be reviewed and agreed upon by the lot owners.**
554
- 555 **3. Agreement on the issue of fencing the detention basins between the City, developer**
556 **and lot owners. He said they would like to continue the discussion on that and suggested**
557 **putting that requirement on the punch list instead of the development agreement.**
558
- 559 **4. Lot owners to review and sign the final plat before it gets recorded.**
560

561 5. Allow staff to make technical changes to the development agreement that do not
562 substantially alter any provision.

563
564 6. Completion of the settlement agreement between the lots owners and developer.
565

566 Council Member Fawson seconded the motion.

567
568 Voting on the motion:

569 Council Member Stoker yes

570 Council Member Bailey yes

571 Council Member Fawson yes

572 Council Member Bigler yes

573 Council Member Hulme yes

574
575 The motion passed unanimously.

576
577
578 12. SECOND PUBLIC HEARING TO RECEIVE COMMENTS REGARDING THE 2012
579 COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT.

580
581 Gary Kerr, Building Official, stated that this hearing was called to allow all citizens to provide input
582 concerning the project that was awarded under the 2012 Community Development Block Grant Program.
583 The City Council has amended its Capital Investment Plan and decided to apply for funds on behalf of the
584 Green Acres street improvement project area; 1750 N between 450 E and 600 E, 1800 N between 450 E
585 and 475 E, 1850 N between 450 E and 600 E, and 1950 N between 450 W and 500 E. Gary Kerr stated
586 that he will ask as the project manager. Gary Kerr explained that the application was successful in the
587 regional rating and ranking process and North Ogden City has been awarded \$88,929 for the Green Acres
588 street improvement project.

589
590 Council Member Bailey said this is probably irrelevant but asked why the federal government requires
591 two public hearings. Gary Kerr said it is the same every year; the first hearing is to have input on what
592 project what the public would like. The second hearing is to inform the public of the chosen project and
593 allow them to give input on it specifically.

594
595 Council Member Bigler said that 1900 N was redone recently so it is not included in this project. Gary
596 Kerr replied that is correct; 1900 N is not included in this project. Council Member Bigler asked whether
597 these are overlays. Gary Kerr said 1950 N and 1850 N are not being overlaid but we are doing curb and
598 gutter and driveway approaches. Council Member Bigler asked how it is determined what is overlaid and
599 what has material taken away. He said it is an issue on 1700 N with cars bottoming out all the time. Gary
600 Kerr said they already thought of that and they are overmilling the outer 8 feet of each side of the road.

601
602 Council Member Hulme asked if the City solicits input from the homeowners when sidewalks are redone.
603 Gary Kerr said the homeowners are informed. He said if there is a very narrow driveway the City allows
604 the homeowner to pay to widen it and they do it at the same time.

605
606 Gary Kerr stated that copies of the capital investment plan are available if anyone would like a copy.

607
608 Mayor Harris opened the second public hearing for the CDBG program at 8:43pm.

609
610 There were no questions or comments from members of the audience.

612 Council Member Bigler moved to close the public hearing. Council Member Fawson seconded the
613 motion.

614

615 **Voting on the motion:**

616 Council Member Stoker yes

617 Council Member Bailey yes

618 Council Member Fawson yes

619 Council Member Bigler yes

620 Council Member Hulme yes

621

622 **The motion passed unanimously.**

623

624 The public hearing closed at 8:43pm.

625

626 **13. CONSIDERATION AND/OR ACTION TO ADOPT AN RESOLUTION AMENDING**
627 **SECTION 11-7A-2 OF THE NORTH OGDEN CITY ZONING ORDINANCE TO ALLOW**
628 **THE KEEPING OF SWINE FOR EDUCATIONAL PURPOSES.**

629

630 Craig Barker referred the City Council to the staff report and reminded them that staff was directed to
631 research this issue and draft a proposed ordinance. The 4-H group produces recommendations which staff
632 has reviewed and included some of those as part of the ordinance. Information was also requested from
633 the University extension office but none was received. He explained that what the City Council has is the
634 culmination of what research staff has done. The essential character of this ordinance is that it is only an
635 amendment to our residential RE-20 zone. That zone is primarily on the south end of the city but there is
636 some that swings east to Mountain Road. He mentioned that if a date range were to be added it would be
637 April 1 to August 31. 4-H only requires that they own the hog for two months prior to the exhibition but
638 we gave them a full six month period.

639

640 Council Member Hulme said he doesn't understand part of this and asked what inside space means as
641 mentioned in the ordinance. Craig Barker said the person who said they were going to do that said they
642 have some kind of indoor facility. It may be a shed of some kind where the animal would be kept out of
643 the weather part or all of the time. Council Member Hulme pointed out that there is no number 4 in this
644 ordinance. Craig Barker said that will be corrected. He said there was some discussion and we said one
645 acre or larger parcel. In one particular case this individual has three acres that they control. The City
646 Council may want to consider a change if they think that could become too dense. If it is left as is they
647 may be able to keep six hogs if they have three children. He said it might be worth thinking about what
648 those impacts might be.

649

650 Council Member Fawson asked why we went to two pigs instead of one. Council Member Bailey said
651 the tentative proposal discussed by the Council allowed one pig but somehow it became two. Craig
652 Barker said the idea came up that some people have more than one child. Council Member Bigler said it
653 came up because the fair allows a child to show two pigs but we didn't take into account if someone has
654 six children. We are trying to come up with something without it getting overblown.

655

656 Council Member Bailey said he feels strongly that there are concerns with smells for adjacent
657 homeowners. A major concern is that the homeowner agreed that the smells were there but did nothing to
658 remedy the problem. He said he doesn't know that the City wants to get into the business of telling
659 people that they have to clean up the manure daily. He said the biggest objection is the smell and he
660 would like to provide some protection for the neighbors if we decide to allow this exception. Dave
661 Carlson said our animal control regulation has a nuisance animal smell provision and we do deal with this
662 from time to time. It is an enforcement issue for the City but we do have an ordinance that we could

663 enforce it with. Council Member Bailey said if we are going to allow the keeping of hogs he would hope
664 that the people with hogs would be good neighbors if there is an issue. He said he is not convinced that
665 we need to make the allowance. He would like to limit the number to one rather than two and include the
666 April 1 to August 31 time limit.

667
668 Council Member Hulme said regarding the list from 4-H that he thinks a statement that manure needs to
669 be removed from the pen each day should be added. In general he said he would prefer to see the
670 ordinance reference something so that it's not just a list of rules.

671
672 Council Member Bigler said removing manure every day is really not enforceable as far as he sees it but
673 the nuisance ordinance is there. He said that the neighbors never contacted this particular owner about the
674 smell at all. He said he went and looked at the property because in his mind these pigs were almost in this
675 person's backyard but the nearest home is quite far away. A key point for him is even if someone has
676 property that is an acre or more, if it's not zoned for this then they can't do it. He said he would prefer we
677 keep it at two hogs but keep it in this RE-20 zone and not open it up anywhere else.

678
679 Council Member Hulme said he agrees with Council Member Bigler about the nuisance ordinance. He
680 said the reason he brought up the manure is that as he looks at the list a lot of these things on the list are
681 unenforceable but that stood out as the thing that would perhaps be an issue.

682
683 Council Member Bailey said he had an issue a number of years ago with an animal and it was really bad.
684 He went to the neighbor to talk about it and nothing was done so he went to the City Animal Control
685 Officer and the next day he received a death threat. He would like to make sure that if we are going to
686 open the door he would like some assurances that those coming through the door are model citizens in
687 every sense. Council Member Hulme said he thinks that if we need to go back and make change this can
688 be revisited if it becomes an issue.

689
690 Mayor Harris asked about the grandfathering issue here; if we open it up to two pigs and decide that was a
691 bad decision can we undo it. Dave Carlson said grandfathering only applies to those uses that were
692 commenced while it was legal and this is only a six month window. That is really not an issue.

693
694 **Council Member Fawson moved to approve Ordinance 2012-11 with the following changes: except**
695 **one pig may be kept and between the dates of April 1 and August 31 and correct the numbering of**
696 **#4. The motion died for lack of a second.**

697
698 **Council Member Bigler moved to approve Ordinance 2012-11 with the following changes: between**
699 **the dates of April 1 and August 31 and correct the numbering of #4. Council Member Fawson**
700 **seconded the motion.**

701
702 Council Member Stoker asked if this is two pigs per child or two pigs per parcel. Mayor Harris replied
703 two pigs per parcel.

704
705 **Voting on the motion:**
706 **Council Member Fawson** **yes**
707 **Council Member Bigler** **yes**
708 **Council Member Hulme** **yes**
709 **Council Member Stoker** **yes**
710 **Council Member Bailey** **no**

711
712 **The motion passed 4 to 1.**

714 **14. DISCUSSION AND/OR ACTION TO ADOPT AN ORDINANCE AMENDING SECTION**
715 **11-10-22 OF THE NORTH OGDEN CITY ZONING ORDINANCE TO ALLOW**
716 **TEMPORARY RV PARKING IN ONE’S PERSONAL DRIVEWAY.**
717

718 Craig Barker said this ordinance was the result of the City Council’s request for discussion by the
719 Planning Commission. We presently prohibit the parking of RVs in the driveway but we do allow them
720 to be parked on the street for two days for the purposes of loading and unloading. The proposed
721 amendment would allow RVs to be parked in one’s personal driveway for loading and unloading. Craig
722 Barker said he had a Suburban that was 18 feet long and now the Excursion is 19 feet long which puts
723 you right up to the property line. The Planning Commission did recommend that the restriction of the 10
724 foot limit in front of the front plane of the home remain.
725

726 Council Member Fawson asked if there was any consideration given to the idea of all obstructions being
727 equal. Craig Barker said there was some discussion from the residents that this will alter the visual
728 quality of the neighborhood.
729

730 Council Member Hulme said this gives people a far better option than the current ordinance. He said
731 parking in the driveway is far safer than parking in the street.
732

733 Council Member Bigler said this is the third meeting that this issue has been brought up and it needs to be
734 made really clear that this is only for loading and unloading for two days. This has nothing to do with
735 permanently parking there. There are some parts of the City that people don’t even have enough of a side
736 yard to park them. If you store your RV offsite you still have to bring it home to load and unload. You
737 can’t do that in a storage unit.
738

739 **Council Member Bailey moved to approve Ordinance 2012-12 as submitted by the Planning**
740 **Commission. Council Member Hulme seconded the motion.**
741

742 **Voting on the motion:**
743 **Council Member Bigler** yes
744 **Council Member Hulme** yes
745 **Council Member Stoker** yes
746 **Council Member Bailey** yes
747 **Council Member Fawson** yes
748

749 **The motion passed unanimously.**
750
751

752 **15. PUBLIC HEARING TO RECEIVE COMMENTS REGARDING THE FISCAL YEAR**
753 **2012-2013 TENTATIVE BUDGET.**
754

755 Ron Chandler, City Manager, said he is going to present the budget highlights and leave the details to
756 Bryan Steele, Finance Director. He said Bryan Steele has done an outstanding job over the last month
757 working with the staff to finalize the tentative budget. Despite this there may be things that we are unable
758 to answer. The budget is better than we anticipated just a few months ago. We are headed in the right
759 direction but there is still work to be done. The City budgeted \$297,716 appropriation of the general fund
760 balance to cover the operating costs. Item 10-38-900 the plan is to appropriate \$293,541 of the fund
761 balance but not all of that is for operating expenses. We project that the general fund balance will exceed
762 the 18% so we will propose to transfer approximately \$170,000 over to the capital improvement fund for
763 future use to keep at the 18% level of the fund balance. This means that the amount we plan to transfer to
764 cover operating expenses is \$123,000. This fiscal year we propose appropriating \$166,794 of the general

765 fund balance to cover operating expenses. The City had set a goal of maintaining a 10% fund balance
766 however he discussed this with Bryan Steele and the Mayor and they felt more comfortable in the 15% to
767 16% range. The general fund balance can be the City's rainy day fund and a 16% fund will equal about
768 \$900,000. This is good news. Ron Chandler said that except for the solid waste fund all other enterprise
769 funds are projected to appropriate their fund balance or retained earnings. The largest is the water fund.
770

771 He said the largest increases we are seeing in the water fund are preventive maintenance and depreciation.
772 The sewer fund is proposing appropriation of our retained earnings of \$379,198, of that amount \$183,059
773 is for capital projects and \$194,139 is for operations. Storm water is proposing appropriating \$266,389
774 from retained earnings, of that amount \$162,661 is for capital and \$103,661 is for operation. He said he
775 is actually a little more concerned about the enterprise funds this year than he is the general fund. Even
776 though the general fund is appropriating part of its fund balance, it is going in the right direction. The
777 enterprise funds are going up compared to last year which is the wrong direction.
778

779 Council Member Bailey said we did just increase some utility rates recently. Bryan Steele said we will
780 need to do some more analysis to see what effect that has. Council Member Bailey said the original
781 increases were intended to be approved earlier in the fiscal year and we were several months late getting
782 those in place.
783

784 Ron Chandler said the budget does not fully fund the motor pool. The motor pool is not being funded by
785 the finance, animal control, community development, building inspection, community services, parks and
786 recreation departments. Those departments are not contributing anything to the motor pool fund. The
787 police and streets are partially funding that compared to previous years and water, sanitary sewer, solid
788 waste and storm water are also partially funding it. The total unfunded amount is about \$386,000. He
789 said overall he feels pretty good about where we are but we have work to do here also.
790

791 Council Member Bailey said the enterprise funds are not fully funding their share of the motor pool fund.
792 Ron Chandler replied not as compared to previous years. Council Member Bailey said that surprises him
793 because there should be no reason not to completely fund the motor pool. Ron Chandler apologized and
794 said he gave the Council the wrong information on that. The storm water had a very high lease in the
795 2012 budget. He said he doesn't know exactly why but then it drops back down to what it has historically
796 been.
797

798 Regarding employee compensation Ron Chandler stated there is no salary increase proposed in this
799 budget. The City's 3% contribution to the employee 401k has been eliminated; however, the matching
800 contribution we make which is up to 3% remains in place. We have built in a 10% increase for health and
801 dental insurance. We are currently negotiating and are very hopeful that it will come in much less than
802 that but we are not prepared to disclose those figures while those negotiations are ongoing. The state
803 retirement had some required increases; 2.27% for all non-public safety employees, 4.93% for public
804 safety employees. Ron Chandler said we have reallocated some public works employees' salaries among
805 the different funds and departments. We also added is that we did budget \$2,500 for an employee
806 Christmas party.
807

808 Ron Chandler explained that when the City bought the property at North Ogden Park and used that
809 building as a museum the Council approved of paying for the property out of the sewer fund. That was
810 \$222,000 but the transfer was never made from the sewer fund to the capital improvement fund to pay
811 that. We were left with a couple of choices. We could have made a prior year adjustment entry and made
812 that transfer or simply eliminate that debt. We chose to simply eliminate that debt which will save us
813 \$22,000 a year. City Council agreed that was best choice.
814

815 Ron Chandler said he was very impressed with how little debt we actually have. The largest debt we have
816 is the aquatic center; we are in quite good shape.

817
818 He said the Council received a petition from some residents around the elementary school requesting a
819 crossing guard and some traffic lights. The Police Department is currently conducted a study to
820 determine whether that will qualify under the State's requirements. We will bring the results of that
821 survey back to the Council with the final budget and the cost of doing that.

822
823 Council Member Hulme said particularly to the public that there are things that we have gone without so
824 when the revenue starts to come back up we are not going to immediately be able to do new stuff; we are
825 going to have to make sure we fund that motor pool and a number of other things that we have neglected
826 like cost of living adjustments and the 401k. Things that might need to come back. That is just sort of a
827 reminder to everybody that as many years as we have been scrimping we might have to spend some more
828 of that as we come back.

829
830 Ron Chandler said he has worked quite a bit with staff on different ideas on how to increase revenues and
831 save money. He said we will likely be coming back to the Council with some budget amendments as
832 these things come together.

833
834 Mayor Harris complimented Ron Chandler and Bryan Steele for all their hard work this past month. It is
835 commendable and they deserve kudos for that.

836
837 Council Member Bailey said he would welcome the opportunity of looking at the budget sooner than they
838 did this year. Mayor Harris said he thinks we will see some huge improvements in that. The City
839 Council made a number of suggestions during the budget retreat and we are looking at those for next year.

840
841 Mayor Harris opened the public hearing at 9:38pm.

842
843 There were no comments.

844
845 **Council Member Hulme moved to close the public hearing. Council Member Bailey seconded the**
846 **motion.**

847
848 **Voting on the motion:**

849 **Council Member Bailey** **yes**

850 **Council Member Fawson** **yes**

851 **Council Member Bigler** **yes**

852 **Council Member Hulme** **yes**

853 **Council Member Stoker** **yes**

854

855 **The motion passed unanimously.**

856

857 The public hearing closed at 9:38pm.

858

859

860 **16. CONSIDERATION AND/OR ACTION TO ADOPT A RESOLUTION APPROVING THE**
861 **FISCAL YEAR 2012-2013 TENTATIVE BUDGET.**

862

863 **Council Member Hulme moved to adopt Resolution 9-2012 approving the Fiscal Year 2012-2013**
864 **Tentative Budget. Council Member Fawson seconded the motion.**

865

866 **Voting on the motion:**
867 **Council Member Fawson** **yes**
868 **Council Member Bigler** **yes**
869 **Council Member Hulme** **yes**
870 **Council Member Stoker** **yes**
871 **Council Member Bailey** **yes**

872
873 **The motion passed unanimously.**
874

875
876 **17. PUBLIC COMMENTS.**
877

878 Nancy Toman, 4154 N Jackson Blvd, The Cove, said she appreciates the comments and concerns for the
879 rights of the residents that are living in The Cove and purchased lots under the original agreement. She
880 wanted to make some comments on what is different now. She said they bought a lot in a development
881 that was approved by the City that had ordinances that were in place to protect them. They were told that
882 ordinances were followed and escrow was in place and plans were followed and everything would be
883 covered. She said they bought in 2009 so it wasn't the boom time of the real estate market. They were
884 aware that things were not well everywhere. They anticipated that things could happen and were told that
885 they had protection. She said tonight the Council approved a PRUD that doesn't meet any of the City's
886 PRUD ordinances. There are no escrows in place for some important things like the avalanche berm. She
887 said she feels like, as a resident, they should not have to hire a lawyer to force the City to do what they are
888 supposed to do to protect them. The Council spends a lot of time writing and passing ordinances but she
889 wishes they would spend more time figuring out why they are not being followed. She said she knows
890 that if her daughter is walking the dog and doesn't pick up the poop she will be cited for it. Why are there
891 some things that are not enforced and others that are? She said they have lost a lot of money on this and
892 they will recoup their legal fees but they have lost money and they shouldn't have had to hire people to do
893 this. She asked the Council to look at that when they consider what to do in the future.

894
895 David Price, 914 E 3450 N, said his issue is with business licenses. He said it has been very educational
896 to see the local Council in action from very complicated developments to manure waste all in the same
897 timeframe. He said he and his wife were born and raised in Utah and recently returned in January after a
898 number of years away. He has applied for a home occupation license that deals with a Federal Firearms
899 license. He said staff has explained a restriction and he would like to inform the City Council. The
900 Federal Firearms license is issued by the Bureau of Alcohol, Tobacco and Firearms (ATF). It is licensed
901 to a specific location with an individual or individuals on that license. Firearms transfers occur only at
902 that location. The conflict seems to be that the transfer of the firearm must take place at the location
903 listed on the license. In the process of transferring his current license from Virginia he became aware that
904 there is a local ordinance prohibiting the transfer of retail items at the home. This is the difficulty that he
905 has. He said he is pointing to the 2nd amendment which states 'a well-regulated militia being necessary to
906 the security of the free states the right of the people to keep and bear arms shall not be infringed.' He said
907 it is his argument is that at this point he has to choose between following a federal statute or a local
908 ordinance and there is no way for him to honestly and correctly transfer a firearm to a person who is
909 legally eligible to purchase that firearm. He suggested that there be an exception where this local
910 ordinance is in conflict with a federal statute, the federal statute should prevail. Staff has been very
911 professional but their paradigm is 180 degrees different from his. It seems to be that the burden is on him
912 to show how he can complete this but he thinks the City should be responsible to show him why this isn't
913 possible.

914
915 Craig Barker said he can speak to this and the home occupation ordinance does read that way.
916

917 Council Member Hulme said he was on the Planning Commission when this was passed so he
918 understands the intent of the ordinance and in his opinion the Planning Commission never considered this
919 at all. He recommended asking the Planning Commission to review this and include an exception for this.
920 In his mind what the Planning Commission was attempting to do was keep the commerce out of the
921 neighborhood as much as possible. This is probably not something that happens often enough that we
922 would see a steady parade. He has no issue with an exception in these cases.

923
924 Craig Barker said the issue is retail trade of goods that aren't produced on the premises. The sale of
925 goods is only allowed as those that are made on the premises. To reduce the impact of retail trade out of
926 their house so there may be a constant stream of people in the neighborhoods. Harrisville City doesn't
927 have an ordinance and there is a woman selling chocolates out of her basement and once a week a semi-
928 truck pulls up and delivers a load of chocolate. That is extreme but that is what we have to look at. He
929 said he did contact the ATF to find out what they require. He said a lot of these people have a drop place
930 such as Kent's on Washington Blvd. and the people pick the item up there.

931
932 Council Member Hulme said the language was recently added to 11-16-1 and when we changed that we
933 added subsection N to allow certain types of items and he would approve of adding weapon transfer as
934 well to make it happen. Craig Barker said this will be on the Planning Commission agenda for an
935 upcoming meeting. Council Member Hulme said we should make it happen as soon as possible.

936
937 Dave Carlson said the issue is to restrict it to firearms and the volume of sales. He said his guess is that
938 there will not be ten customers per day. Council Member Fawson said when he has to sell them out of his
939 place of business it makes no sense to him to limit the amount of business he can do. Council Member
940 Bigler said we already opened the door on this by allowing Mary Kay and Avon and those types of
941 things. Dave Carlson said the point is that residential areas are not commercial areas and we need to
942 maintain the residential feel of those areas. Council Member Bigler said we already cover that with the
943 limit of vehicle trips per day for instance.

944
945 Dave Carlson asked Mr. Price how many guns he typically sells in a month. Mr. Price replied that in his
946 best month he sold three guns. Council Member Bigler said three guns in a month, he's not selling
947 chocolates. Mayor Harris said if he can sell guns why can't someone sell chocolates. Mayor said we
948 need to look at this. Council Member Bailey said that Mr. Price could sell a gun and deliver it to a drop
949 location as Craig Barker said. Mr. Price said that is not his understanding at all and he disagrees with
950 that.

951
952 Mayor Harris said it is obvious that this requires some research. There are all kinds of things being said
953 here tonight. Dave Carlson said we can't make assumptions. Council Member Fawson said that's why
954 we need to look at it. Council Member Bigler said we also need to clarify what that law is to make it
955 clear for the Planning Commission so they don't have the same discussion of trying to figure out what
956 law is in question. That would take time and another meeting. If we can get that information to them
957 initially it would save time. Council Member Hulme said that is a good point. He added that he would
958 like Mr. Price to be notified of when the Planning Commission will discuss this so he can be there too.

959
960 David Price said the law he is referring to is Title 1 Gun Control Act of 1968, Chapter 44, Title 18
961 specifically what he is referring to. He said he has everything to present and thanked the Council for their
962 time. Mayor Harris thanked him and said there may be some state laws as well.

963
964 Mayor Harris said he is troubled because as he recalls it hasn't been too long since we had a gun dealer
965 come in and assure us that he can do internet sales and if he had guns delivered to his home he could take
966 them somewhere else rather than having a retail outlet. Council Member Hulme said we need to look into
967 that and if he was wrong we need to revisit it. Mayor Harris said we need to do the research and find out.

968 **18. COUNCIL AND MAYOR COMMENTS.**
969

970 Mayor Harris said no good deal goes unpunished. He said he thinks we need to be really careful of what
971 we are doing. We were told a lot of things by a zealous developer. We tried to facilitate that process of
972 the development of The Cove and the City was made to look like we made a lot of errors. He doesn't
973 agree with that. A lot of that occurred because we were trying to facilitate the developer's process.
974

975 Council Member Stoker said regarding The Cove she was at the Planning Commission meeting and the
976 lawyer was basically pushing just like he did tonight and it was a nightmare. She said she thinks we need
977 to look at our PRUDs and put some protections in place so we don't end up in this situation again. She
978 said she felt then and she still thinks the homeowners got the shaft. She didn't agree then and she doesn't
979 know that she agrees now.
980

981 Council Member Bigler said thanks to the staff for following up on North Ogden Elementary School's
982 concern. That is really important. He asked regarding the animal shelter, if a resident brings in an animal
983 we are paying for that right? Mayor Harris said that is correct. Council Member Bigler said we have a
984 resident who said they did that and he was told that North Ogden isn't a part of them. We need to talk to
985 the shelter or something. Gina Kochendorfer said that residents can't take their own animal to the shelter
986 but if they pick up a stray there is a cost to them of \$35. Council Member Bigler said someone there
987 doesn't know that then because this resident was told they would not take it. Mayor Harris said South
988 Ogden isn't part of it so maybe that person was mistaken. They should have taken the cat but they would
989 have been charged \$35. Council Member Bigler asked that streetlights be on the next agenda. Mayor
990 Harris said it is on the next agenda. He said we all agree that it needs to be done to our standards we just
991 need to find the money and do it. Council Member Bigler said he wanted to thank Ron Chandler and
992 Bryan Steele for all that they have done. He said when we are ready to go through the disproportionate
993 fees he would also like to have the business license fees on there at the same time. He said we talked
994 before about what that additional fee was for, we weren't calling it a disproportionate fee but are those
995 businesses paying more than those businesses that have business offices. Mayor Harris asked if he was
996 talking about the landlords. Council Member Bigler replied yes. He asked how many employees we
997 have. Annette Spendlove replied there are 58 full-time and 5 part-time employees. Council Member
998 Bigler said, regarding the Christmas party, that a lot of businesses do that but this is \$40 a head. Ron
999 Chandler said that also includes the City Council and spouses. It wasn't based on per head cost. We
1000 looked at how much was spent in the past and the answer was \$2,500 to \$3,000. Council Member Bigler
1001 said he thinks it is appropriate but it seems like a lot. Council Member Bigler said we have this issue of
1002 people that are not in line with an ordinance. This one we are talking about who has had the covering on
1003 his house for about 12 years and how we changed the process from the Board of Adjustment to the judge
1004 system. He said he would like the Council to discuss that and perhaps take a look at putting back the
1005 Board of Adjustment if someone wants to appeal a decision. That Board would be a group of residents
1006 that would look at it. This is different than having an outside judge look at these cases. The judge is the
1007 employee of North Ogden City and if the North Ogden City Attorney goes and fights the case on behalf
1008 of North Ogden City and the judge deciding the case is paid by North Ogden City it might be worth us
1009 looking at making the appeals board a group of North Ogden City residents. This resident is now
1010 required to rip out the covering that he has had at his house for 12 years. It seems like a little bit of a
1011 conflict to have a judge employed by North Ogden City deciding these things. He said that was a shame;
1012 it's been there so long and they have to rip it out. He said he disagrees with that and he would like this on
1013 an upcoming agenda.
1014

1015 Council Member Stoker asked if the appeals judge is bound by the same requirements that the Board of
1016 Adjustment was. Mayor Harris replied yes, that is State law. Dave Carlson said it was an unfortunate
1017 situation and nobody likes to see those things happen but that was not even a close case. Unless they
1018 ignored the law and didn't apply it but that is a State law and it is very particular. He said it wouldn't

1019 matter who was enforcing it if they are doing their job he wouldn't win his case. Dave Carlson said the
1020 unfortunate thing is that usually these things start with neighbors pointing fingers at neighbors and that's
1021 how this case started.

1022
1023 Council Member Fawson said he is looking forward to seeing the safeguards we have in place now
1024 regarding PRUDs. He said it is worrisome to him and it makes the Council's job difficult going back and
1025 cleaning up messes. He said he wants to make sure we are keeping the access to trails a priority as we
1026 develop. He agreed with the others regarding Ron Chandler and Bryan Steele and is happy that the
1027 employees are getting a Christmas party. He feels it will be good for morale.

1028
1029 Council Member Bailey said it may transcend PRUDs but it almost seems to him like when we get these
1030 high powered people coming in and pushing and anytime we try to do something to make it easier or
1031 grease the wheels or whatever... he said he hates being in the situation when we have a citizen come in
1032 saying that they shouldn't have to hire an attorney to get the City to do something. He thinks we need to
1033 take time to visit all of the issues that are involved in that. He said we have limited staff and a fairly
1034 volunteer City Council who have to trust what they are told. He wonders if we have enough resources at
1035 our disposal sometimes to deal with these issues. He said he is hoping that as the Planning Commission
1036 proposes some things maybe we should be looking at it from as many angles as we possibly can.

1037
1038

1039 **19. STAFF COMMENTS.**

1040
1041 Ron Chandler said the County Commission and the Council of Government has funds available for right-
1042 of-way acquisition for traffic corridors and the deadline for submitting applications is June 1st. Monroe
1043 Blvd. is a main north-south corridor on our transportation plan and we would like to submit an application
1044 for those funds. The primary area would be the area between 2100 N and 2600 N. He said a very rough
1045 estimate is \$1.5 million to get that right-of-way. He said we will continue to have issues at the 2600 N-
1046 400 E intersection and this is an opportunity to acquire some funds so that if we want to move quicker on
1047 that we have the opportunity. Council Member Hulme said he finds it difficult to keep his personal
1048 feelings out of this as he lives on 1700 N and he thinks it will negatively affect that area to connect to
1049 Ogden in one more place. He asked if those people are aware of this or if they will be surprised by this.
1050 Ron Chandler said this process came to our attention just about a week ago. Mayor Harris said it has
1051 been on the transportation plan for years. Council Member Hulme just wants to be clear that it is many
1052 years in the future. Council Member Hulme said if we get approved the first thing he would like to see is
1053 an impact study for that area.

1054
1055 Annette Spendlove said early voting starts on June 12, 2012 and goes from 9am to 5:30pm. That is a
1056 Council meeting night so we'll start the early voting and then move the voting machines into her office.
1057 The primary election is June 26, 2012 so at the next City Council meeting we will have an item to cancel
1058 the June 26, 2012 City Council meeting. Council Member Hulme asked when the City Council will
1059 approve the voter information pamphlet. Annette Spendlove said it is in the works right now. She asked
1060 Dave Carlson whether the Council has to approve that in a meeting. If so, we will have to call a special
1061 meeting as those have to be out on June 8, 2012. Council Member Bigler asked if Council can just give
1062 their approval by email. Dave Carlson said he will check the law on that.

1063
1064 Dave Carlson said the last person that needed to sign the new plat for Quail Ponds came in and signed the
1065 final plat.

1066
1067
1068
1069

1070 **20. ADJOURNMENT.**

1071
1072 **Council Member Hulme moved to adjourn the meeting. Council Member Stoker seconded the**
1073 **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
1085 **RDA**

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

1088
1089 Bryan Steele, Finance Director, said the RDA is a special redevelopment area and this item is just to
1090 approve the tentative budget.

1091
1092 Mayor Harris said this is essentially the same as every year.

1093
1094 Mayor Harris opened the public hearing at 10:38pm.

1095
1096 There were no public comments.

1097
1098 **Council Member Bigler moved to close the public hearing. Council Member Stoker seconded the**
1099 **motion.**

1100
1101 **Voting on the motion:**
1102 **Council Member Fawson yes**
1103 **Council Member Bigler yes**
1104 **Council Member Hulme yes**
1105 **Council Member Stoker yes**
1106 **Council Member Bailey yes**

1107
1108 **The motion passed unanimously.**

1109
1110 The public hearing closed at 10:38pm.

1111
1112
1113 **2. CONSIDERATION AND/OR ACTION TO ADOPT A RESOLUTION APPROVING THE**
1114 **FISCAL YEAR 2012-2013 RDA TENTATIVE BUDGET.**

1115
1116 Annette Spendlove said this is already part of the other Resolution.

1117
1118 **Council Member Hulme moved to approve the RDA portion of Resolution 9-2012. Council**
1119 **Member Bigler seconded the motion.**

1120

1121 **Voting on the motion:**
1122 **Council Member Fawson** **yes**
1123 **Council Member Bigler** **yes**
1124 **Council Member Hulme** **yes**
1125 **Council Member Stoker** **yes**
1126 **Council Member Bailey** **yes**

1127
1128 **The motion passed unanimously.**
1129

1130
1131 **3. ADJOURNMENT.**
1132

1133 **Council Member Hulme moved to adjourn. Council Member Bigler seconded the motion.**
1134

1135 **Voting on the motion:**
1136 **Council Member Fawson** **yes**
1137 **Council Member Bigler** **yes**
1138 **Council Member Hulme** **yes**
1139 **Council Member Stoker** **yes**
1140 **Council Member Bailey** **yes**

1141
1142 **The motion passed unanimously.**
1143

1144
1145 The meeting adjourned 10:40pm.
1146

1147
1148 _____
1149 Richard G. Harris, Mayor

1150
1151 _____
1152
1153 S. Annette Spendlove, MMC
1154 City Recorder

1155
1156
1157 _____
1158 Date Approved

1159
1160
1161
1162
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1164
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1169
1170
1171

ATTACHMENT A



State of Utah
GARY R. HERBERT

Department of
Environmental Quality

Amanda Smith

Jason Kelley
North Ogden City Water System
505 East 2600 North
Ogden, Utah 84414

The Division of Drinking Water wants to express our thanks to you for the help and knowledge you extended in our Sanitary Survey Training. The knowledge of your system and ability to provide guidance to those who we were trying to train was extremely valuable to the Division of Drinking Water in what we were trying to accomplish. Jason thank you also for taking time to show the University of Utah Doctors your water system. Again I want to express my sincere thanks to you for your time and effort.

Sincerely,

A handwritten signature in black ink, appearing to read "David F. Hansen".

David F. Hansen MPH
Environmental Scientist
Division of Drinking Water

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ATTACHMENT B

EXHIBIT A

May 23, 2012

roads. A stop sign is required on all the private roads coming on to public roads. All signs shall conform to the requirements of the manual on Uniform Traffic Control devices.

4. All detention ponds' slopes need to be completed as per improvement drawings, 3:1 or 2:1 slope.
5. Middle storm detention pond. There is gravel stock piled in this pond; all of the gravel needs to be cleared out of the pond so the pond can work as designed.
6. All detention ponds need a 6-foot chain link fence with 12-foot wide gates installed.
7. The temporary turnarounds need to be completed as per improvement drawing and North Ogden City Standards, at the east & west end of Nebo Drive, and at the end of Michelle Lane.
8. The avalanche control needs to be installed.
9. The secondary water reservoir needs to be completed and the secondary water system made available to all building lots, and a letter of completion from the irrigation company shall be provided.
10. The intersection at Dillon Way and Mountain Road needs to be resolved with Clay Thomas.
11. All the streets & curbs & gutters need to be cleaned and all the weeds cleaned out of the park strip, roadways.
12. Streetlights, not working, need to be repaired.
13. The culinary water meter boxes, rings and lids if broken need to be replaced.
14. All sewer manholes that are behind the lots need to have asphalt accesses to the manhole.
15. Ten L.F. of ribbon curb has settled in front of lot #98. This needs to be replaced.
16. 60 L.F. of ribbon curb has settled in front of lot #166. This needs to be replaced.
17. 30 L.F. of ribbon curb has settled in front of lot #149. This needs to be replaced.
18. Concrete sidewalk two (2) sections by lot #165 are broken and needs to be replaced.
19. One (1) section of curb and gutter has settled on Nebo Drive by lot #150 and needs to be replaced.
20. One (1) section of curb and gutter has settled on Michele Drive on the east end and needs to be replaced.
21. All new lot changes with the new plat need to be surveyed and property corners marked and pinned at the curb and gutter.