

1 **NORTH OGDEN CITY COUNCIL MINUTES**

2
3 February 12, 2013
4

5 The North Ogden City Council convened in an open meeting on February 12, 2013 at 6:30 pm in the
6 North Ogden City Council Chambers at 505 East 2600 North. Notice of time, place and agenda of the
7 meeting was delivered to each member of the City Council, posted on the bulletin board at the municipal
8 office and posted to the Utah State Website on February 8, 2013. Notice of the annual meeting schedule
9 was published in the Standard-Examiner on December 30, 2012.

10
11 **PRESENT:** Richard G. Harris Mayor
12 Kent Bailey Council Member
13 Wade Bigler Council Member (arrived at 7:36pm)
14 Justin Fawson Council Member
15 Cheryl Stoker Council Member
16 Brent Taylor Council Member
17

18 **STAFF PRESENT:** Ron Chandler City Manager
19 Annette Spendlove HR Director/City Recorder
20 Bryan Steele Finance Director
21 Jon Call City Attorney
22 Gary Kerr Building Official
23 Craig Barker Community Development Director
24 Mel Blanchard Public Works Director
25 Polo Afuvai Chief of Police
26 David Espinoza Water Superintendent
27

28 **VISITORS:** Kevin Burns Ken Hill
29 Joan Brown Scott Warren
30 Don Brown Joseph Trotter
31 Bob Napoli Mark Kubridey
32 Gary Cook George Nichols
33 Josh Phipps Gwynne Nichols
34 Tyson Wight Rachel Trotter
35 Trace Mcintosh
36

37 Mayor Harris welcomed those in attendance.
38

39 Mayor Harris offered the invocation and led the audience in the Pledge of Allegiance.
40

41 City Manager Chandler stated he had gifts to present to the entire Council; he noted Cherry Days is
42 coming up in five months and the City wants to actively advertise and promote the event so they had
43 shirts and hats made for the Council with the new design for the event. He stated the Cherry Days
44 Committee has been very active; there are some changes to the event to the effect that the fair will be
45 brought back to the event and he reviewed some of the activities that will be taking place during the
46 celebration. He stated staff wanted to give the Council their hats and shirts so they can start
47 advertising the event for the City.
48
49
50

51 **CONSENT AGENDA**

52

53 Mayor Harris stated that item one of the consent agenda has been pulled and the minutes of the
54 January 8, 2013 Council meeting will be considered at the next meeting.

55

56 **1. Consideration to approve the minutes of the January 8, 2013 City Council meeting.**

57 **2. Consideration to approve the business licenses.**

58

59 **Council Member Bailey moved to approve item two of the Consent Agenda. Council Member**
60 **Taylor seconded the motion.**

61

62 **Voting on the motion:**

63

64 **Council Member Bailey aye**

65 **Council Member Fawson aye**

66 **Council Member Stoker aye**

67 **Council Member Taylor aye**

68

69 **The motion passed unanimously.**

70

71

72 **ACTIVE AGENDA**

73

74 **1. PUBLIC COMMENTS:**

75

76 There were no public comments.

77

78 **2. PUBLIC HEARING TO CONSIDER A COMMUNITY DEVELOPMENT BLOCK**
79 **GRANT.**

80

81 A memo from City Manager Chandler explained North Ogden City will hold a public hearing to consider
82 potential projects for which funding may be applied under the CDBG Small Cities Program for Program
83 Year 2013. Suggestions for potential projects will be solicited, both verbally and in writing, from all
84 interested parties. The expected amount of CDBG funds for this program year will be discussed along
85 with the range of projects eligible under this program and a review of previously funded projects. This
86 item was on the last agenda, but we had to re-notice the public hearing because the proper wording
87 needed for the application was not stated in the last meeting.

88

89 Mayor Harris introduced Mark Kubricky from Better Cities Consultants. He stated that Mr. Kubricky is
90 working with the City on this grant application.

91

92 Mr. Kubricky stated that as part of the process to apply for CDBG funding, the Council must hold a
93 public hearing and a statement must be read into the record during that public hearing. He read the
94 statement as follows:

95

96 "CDBG money must be spent on projects benefitting primarily low and moderate income
97 persons. The Wasatch Front Regional Council (WFRC), of which North Ogden City is a
98 member, is expecting to receive approximately \$900,000 in this new program year. All eligible
99 activities that can be accomplished under this program are identified in the CDBG application
100 policies and procedures manual and interested parties can review it at any time. Several of the
eligible activities listed include construction of public works facilities, water and sewer lines, fire

101 stations, acquisition of real property, provisions of public services such as food banks or homeless
102 shelters, and economic development work to create jobs for low to moderate income persons.
103 Also eligible are loan programs for private businesses which would then hire low income persons.
104 The program can also pay for housing rehabilitation or down payment assistance for low income
105 home owners. In the past North Ogden City has received three CDBG grants, two of which
106 helped pay for water line replacements and the other helped pay for sidewalk, curb, and gutter.
107 The City has made available its capital investment plan as part of the regional consolidated plan.
108 This list shows which projects the City has identified as being needed in the community.”
109

110 Mayor Harris opened the public hearing at 6:38p.m. There were no public comments.

111
112 **Council Member Fawson moved to close the public hearing. Council Member Bailey seconded the**
113 **motion.**

114
115 **Voting on the motion:**

116
117 **Council Member Bailey aye**
118 **Council Member Fawson aye**
119 **Council Member Stoker aye**
120 **Council Member Taylor aye**

121
122 **The motion passed unanimously.**

123
124 The public hearing was closed at 6:38pm.

125
126
127 **3. DISCUSSION AND/OR ACTION TO APPROVE A FENCE REQUEST FROM DAN**
128 **PARKINS.**

129
130 A memo from City Manager Chandler explained Mr. Parkin and Mr. Cook asked the City to assist them
131 in building a fence along their back property line, (a map was included in the Council packet). Mr. Parkin
132 stated that they are willing to install the fence if the City reimburses them for the cost of the fence through
133 a reduction of their water bill. There is currently a wire strand across Mr. Parkin and Mrs. Anderson’s
134 property and a 4’ fence across Mr. Cook’s property. The fence and strand are not on the property line.
135 The property line is approximately 2’ to 6’ from the strand/fence and Mr. Parkin requested that the
136 construction of the fence follow the strand and fence. He requested that you donate the City’s property to
137 the homeowners. The City surveyed the property and established the property line but we have not
138 established the value of the property. The cost of the fence is approximately \$5,160.00, (430’ x \$12 per
139 foot). Mr. Chandler explained he spoke with Mrs. Anderson several weeks ago and she said that she was
140 not interested in paying for a fence. In 2008 and 2009 the City entered into a similar arrangement with
141 Brent & Carolee Barker at 2673 North 1125 East and Kirk Jensen at 2665 North 1125 East. The Barker’s
142 installation price was \$1,793.04 and the Mr. Jensen’s price was \$2,365.25. Their water bills were
143 credited for these amounts.

144
145 Mr. Chandler reviewed his staff memo. He stated Mr. Parkin has requested the installation of a fence
146 between his property and the City owned property at Wadman Park. He stated there are four homes in the
147 vicinity. He stated Mr. Parkin is seeking an arrangement similar to agreements that were made in 2008
148 and 2009 between the City and two different residents. He stated he informed Mr. Parkin that this was a
149 budget decision and that it could be discussed further with the Council. He stated Mr. Parkin and Mr.
150 Cook are present this evening to review their request.
151

152 Mr. Parkin stated that he first approached Mr. Chandler about this issue in August of 2011. He reviewed
153 a map and highlighted the unfinished portion of the fence bordering the north part of Wadman Park. He
154 stated that the eastern border of the park was completed three or four years ago. He stated that several of
155 the neighbors along the east part of the park are friends and neighbors of his and he has discussed with
156 them what the City did at that time. He stated that in addition to the cost of the fence, there is also an
157 issue with the placement of the fence. He explained that he requested that the fence be placed on the
158 existing grass line that has been in place for a number of years; that would allow the four property owners
159 along the border to utilize the space as garden area. He stated that Mr. Chandler suggested a survey be
160 conducted to see exactly where the property line is and it appears that there is a gradual angle of the
161 property line and it does not follow the grass line. He stated that it is two and a half to three feet apart
162 bordering his property, but by the Cook property the difference between the grass line and the actual
163 property line is nearly five to six feet. He stated that he has requested that the City vacate that property
164 and allow them to install the fence on the existing grass line. He stated that would be beneficial to the
165 City as well because it will not be necessary to move sprinklers and plant grass up to the fence line. He
166 stated that Mr. Chandler was concerned about how to handle that legally, which is why the survey was
167 completed. He stated that as far as the cost, if the City can budget to install the fence that would be
168 terrific, but if that is not feasible he would be willing to enter into an arrangement similar to that with the
169 property owners to the east. He stated that he has obtained a couple of bids for the work and the fencing
170 installed would match what is already installed around the park. He stated that the estimate was roughly
171 \$1,600 to \$1,700 per 110 feet of fence. He stated there is approximately 430 to 440 feet of fencing to be
172 installed. He stated the only other issue the property owners have is that Ms. Anderson, who lives
173 between him and the Cooks, is a widow. He stated that he and the other two property owners have no
174 problem absorbing the cost of the fence and being reimbursed through their water bill, but Ms. Anderson
175 cannot do that. He stated that he would ask that the City budget enough to pay for the portion of the fence
176 that abuts her property, which would be approximately \$1,800. He stated that if that is absolutely not an
177 option, the other three property owners would absorb the cost of the fence along Ms. Anderson's
178 property. He then referenced the issue of the property line not matching the fence line and he stated that
179 he and the other two property owners would be willing to pay the cost of recording any document that
180 would change the actual property line.

181
182 Mr. Chandler stated that if the Council desires to vacate the property they must first declare it surplus
183 property and then advertise the property as available for purchase and anyone would have the opportunity
184 to bid on the property. He stated the City would ultimately award the bid and more than likely the
185 adjoining property owners would be the only bidders, but there is nothing to prevent anyone else from
186 bidding as well. He then stated that he added this item to tonight's agenda to allow the Council to
187 consider or take action on the request. He stated that another option would be to add the project to the
188 budget so the City would front the entire cost of the fence rather than pay back the owners for the
189 installation of the fence. He stated that when the City has received requests like this from residents in the
190 past, he has given them the opportunity to make a presentation to the City Council. He stated he has
191 followed that same practice with this issue.

192
193 Mr. Parkin stated that he wanted to point out that the fence installed on the east side of the park was done
194 before Mr. Chandler became the City Manager, but the existing fence line does not follow the property
195 line. He stated there is a considerable amount of property that was unofficially given to the neighbors
196 abutting the park. He stated that precedence exists, but he and his neighbors are willing to follow any
197 process the City wishes to implement.

198
199 Mr. Cook added that it seems like common sense to him to follow the existing fence line; it does not
200 make any sense to only do part of the fence. He stated that his preference is that the City budget to put
201 the fence in, but he is willing to front the cost and follow arrangements that have been made in the past.
202 He stated, however, that he would be much less inclined to do that if the City wishes to follow the

203 surveyed property line rather than the existing fence line. He stated that the City has a fence in place that
204 follows the existing fence line and if it were to be moved to the property line that will create a cove-like
205 area in the park. He reiterated that it makes the most sense to install the new fence along the existing
206 fence line. He stated he hopes that is something the Council will consider.

207
208 Mr. Parkin added that on the north side of Wadman Park there are two levels of the park because it was
209 originally built as a detention basin. He stated that it is considerably away from any area that the public
210 would want to use. Mr. Cook agreed and stated that he cannot see how adding an additional two to five
211 feet or property to the park would benefit anyone at the park. He stated that all that will do is cause
212 additional work to move the sprinkler heads and add grass in the area.

213
214 Mayor Harris stated the Council really has two issues to consider tonight; the first is the construction of
215 the fence. He stated it has been City practice and policy to construct a fence around parks. He stated he
216 does not know why that was not done when Wadman Park was constructed. He stated there is an
217 opportunity now to construct the fence and pay the cost back via waiver of utility fees for a specified
218 amount of time. He stated the other issue the Council must consider is the strip of property that has been
219 referenced by Mr. Chandler and the property owners.

220
221 City Attorney Call stated that he reviewed plat maps for the park and the strip of property that Mr. Parkin
222 referenced on the southeast corner of the park is technically still owned by the City, so there is City
223 owned property on both sides of the fence. He stated the abutting property owner is using that property
224 for a garden. He stated he does not see that it would be a problem to allow the fence to be constructed in
225 a manner that there is City property on both sides of it with the understanding by both parties that the City
226 still owns the property. Mr. Chandler stated it is a procedural issue. He restated the process for declaring
227 a parcel of property as surplus and ultimately selling the property.

228
229 Council Member Bailey stated that his understanding of what Mr. Call is saying is that the City could
230 retain ownership of the property and the fence could be installed where the homeowners are requesting it
231 be installed. Mr. Call stated that is what happened on the southeast corner of the park and the City still
232 owns property on both sides of the fence. Council Member Bailey asked if that creates any kind of
233 liability for the City in the event that someone was to be injured on the property. Mr. Call stated that
234 could happen or there could be the claim that the property is owned by the City but has been made
235 exclusively available to just one person. Council Member Bailey wondered if that issue should be
236 cleaned up while the City is addressing this new request.

237
238 Mayor Harris stated that he feels the Council needs to make a decision, but he is not sure they are
239 prepared to make that decision tonight. He stated he thinks the Council needs to give the issue further
240 consideration with the understanding that there are a number of ways to handle the request.

241
242 Council Member Bailey asked if it is City policy to pay for fences around City parks even when park
243 property adjoins private property. Mayor Harris answered yes. He stated the City installs six foot fences
244 and it is good policy to separate a public park from private property.

245
246 Council Member Fawson stated that he used to live adjacent to a park and when his family installed their
247 fence they were not only required to pay for the fence, but they were required to follow the property line.
248 He stated from his own experience he does not see a parallel with this request. He stated that he is not
249 opposed to putting a fence around the park, but he wants to see it done the right way. He stated he
250 wonders what benefit the residents get from the fence. He stated installing the fence at the expense of the
251 rest of the residents of the City does not make a lot of sense when considering that when two private
252 property owners seek to install a fence between their properties they each pay half of the expense
253 associated with that work. He stated those are his initial thoughts.

254
255 Mr. Parkin stated that security and privacy are both issues that he is concerned about. He stated that in
256 August of 2011 Ms. Anderson's husband passed away and while she and most of her neighbors attended
257 the funeral there was an attempted break-in at her house. He stated that is very possible that the intruder
258 came from the street, but it is also possible that they came from the open backyard after parking in the
259 parking lot for the park. He reiterated privacy and security are issues related to the desire for the fence.
260

261 Council Member Bigler stated it is his understanding that Ms. Anderson did not want the fence installed
262 along her property because she liked her yard being open to the park. Mr. Chandler stated that when he
263 spoke with Ms. Anderson several weeks ago she mentioned two things; one was the lack of funding to
264 pay for the fence and the other was that she did not want the fence installed.
265

266 Council Member Taylor stated that he visited the park to consider this issue and he thinks this is a
267 reasonable request and it is fair to expect to have a fence. He stated he has lived next to a park himself,
268 but when he purchased the home there was already a fence in place. He stated if there had not been a
269 fence there he would have felt no separation between his own space and public space. He stated he would
270 be supportive of doing something similar to what was done for the other neighbors at this very park,
271 especially since it sounds like it will be possible to install the fence using City utility forgiveness to fund
272 the project. He stated that regarding the property line issue he would like to see a little more information
273 about it, including a staff report detailing the pros and cons to the City related to taking management of
274 the area and the costs associated with that. He stated weighing those issues will bring fairness to the
275 process for all citizens living in the City. He reiterated that he would be supportive of installing the fence,
276 but he would like more information about the property line issue.
277

278 Mr. Cook stated that he has only lived in his home for about three years, but the other neighbors have
279 been told for a long time that there would be a fence separating their property from the park. He stated it
280 would be nice for the residents to know what the City is going to do one way or the other so that this
281 spring those that are anxious to have the fence installed will know what direction the City is going to go.
282 Mayor Harris stated that is a reasonable request and the City will work on addressing it.
283

284 Council Member Bailey asked if the proposed fence line is a natural fence line. He asked if it makes the
285 most sense relative to shapes of property, etc. Mr. Parkin stated if the fence is placed at the edge of the
286 grass at the park, that is perpendicular to the back of the residents' properties. He stated that to put the
287 fence in following the actual property line, there would be a six foot jog in the fence line. Mr. Chandler
288 stated that running from the southeast corner of Mr. Parkin's property to the corner of the existing fence
289 line, that is a straight line; but, if the fence follows the property line the fence line will actually move five
290 or six feet to the north. Mr. Parkin stated the difference between the existing fence line and the actual
291 property line is a long thin triangle that measures six feet at its widest.
292

293 Council Member Bailey stated that the City also needs to consider Ms. Anderson's desires and the
294 Council needs more information about that.
295

296 Council Member Bigler asked if the homes were built before the park was in. Ms. Parkin stated that their
297 home has been there for nine years, years before the park was built. Mr. Parkin stated that Ms.
298 Anderson's house was there before the park as well. Ms. Parkin stated Ms. Anderson's home has been in
299 place for 40 years. Mayor Harris stated that the property adjacent to their property was always owned by
300 the City; it was referred to as 'the pit'. Council Member Bigler stated that even though the property has
301 been owned by the City for several years there has never been a fence around it. Mayor Harris stated that
302 the City received a grant four or five years ago that assisted in the construction of the park. He added that
303 a sizeable donation from Wadman Construction assisted in the construction of the park as well. He then
304 stated that if there is no further discussion the item can be closed and the Council will work with staff to

305 arrive at some resolution. Mr. Parkin stated that, with all due respect to Ms. Anderson, there are three
306 property owners that do want the fence and the City did fence the east and south side of the park.
307

308
309 **4. DISCUSSION REGARDING NICHOLS PROPERTY.**
310

311 City Attorney Call explained he provided a sample memorandum of agreement in the Council packet; it
312 was generated 15 years ago when this issue came up in the past. He explained that in 1980 when this
313 garage was built it was done so legally, as far as staff can tell, relative to being situated legally on the lot.
314 He stated at that time there were no setback requirements associated with the size of the building. He
315 stated the issue that has arisen is that the eaves of the building hang over the property line. He stated that
316 the City has been in discussions with both individuals that share the property line and he is to a point
317 where he thinks he has a solution, but the Nichols' are requesting that the City help with the cost of the
318 remedy because there are some issues that have come up that possibly occurred during the building
319 inspection associated with the issuance of the building permits. He stated one document that was not in
320 the Council packet, but that was provided to each member of the Council, was the building permit that
321 was filed in August of 1980; the issue with the eaves seems to be a recurring issue. He stated that one
322 thing staff did not realize until recently is that on the second page of the building permit there is a note
323 made by Ken Martin, building inspector at the time, saying that the eaves hang over the property line and
324 they need to be corrected. He stated that the Nichols' are present this evening and he told them they
325 would have a chance to address the Council and make a formal request for what they are asking for.
326

327 George Nichols stated that he has moved into a new home, but the home he wishes to discuss with the
328 Council tonight is located on 1050 East at 2821 North. He stated his new address is 2255 North 575 East.
329 He stated that he appreciates Mr. Call's work on this issue; he has been very fair and open minded
330 throughout this process. He stated that he built a garage at his home on 1050 East 33 years ago this
331 summer; it was built by a licensed contractor, Ralph Butler, who worked with Ken Martin, the City's
332 building inspector at the time. He stated that he apparently had too much trust in them because he thought
333 they would be able to meet all the requirements of the City. He talked about the building permit that Mr.
334 Call just referenced and noted that today is the first time he saw the second page of the building permit
335 with the note about the eaves. He stated when Mr. Chandler came to his home a few months ago he
336 delivered the front page of the building permit and he was not made aware 33 years ago that his garage
337 did not meet the North Ogden City requirements. He stated he did tell Mr. Butler that he wanted his
338 garage built as close to the property line as possible and he worked with Mr. Martin and got approval
339 from him to build the garage one foot from the property line and there was nothing said to him about the
340 eaves at that time. He stated this issue did come up about 17 years ago in 1995 when his neighbor at the
341 time went to Mr. Martin and complained about his garage. He stated that is when he created the sketch to
342 try to solve this issue. He stated the problem was that if one looks at the original document written in
343 1995, his neighbor, Kathy Wangsgard, would not sign that document. He stated that his neighbor raised
344 the issue and he wanted her to be in agreement with the solution he had arrived at, but she would not
345 agree. He stated that she had recently gone through a divorce and for some reason she would not agree
346 with anything he wanted to do. He stated that she basically wanted him to tear his garage down; that was
347 the only solution she would be happy with. He stated that his assessment is that Mr. Martin, in
348 frustration, stuck the paperwork back in the North Ogden City files and it was not raised again until his
349 new neighbors brought it up again three or four months ago. He stated he is willing to correct the issue
350 on his garage, but he feels that the City should take some financial responsibility due to the fact that they
351 participated in inspecting the garage while it was being built by a licensed contractor in order to ensure
352 that it met City Codes. He stated that in talking to Mr. Chandler he has been told that he has no way of
353 authorizing City funding for that and that the issue would need to be reviewed by the City Council. He
354 stated that is why he is here tonight. He stated that he has received a quote for the work and it will cost
355 \$900 to modify the garage to cut the eaves off and install rain gutter in its place. He stated his personal

356 opinion is that he feels the City has some fiduciary responsibility in correcting the issue because of
357 oversights that were made almost 33 years ago.

358
359 Council Member Bigler stated that he did not think the Council had the authority to address this issue and
360 that it needs to be referred to the Judge. He stated that a similar issue was brought to the Council
361 regarding an awning and the Council discussed the issue and decided their hands were tied. He again
362 asked if the Council has the authority to address this issue. Mr. Chandler stated that this issue was
363 initially brought to his attention by Mr. Nichols' neighbor. He stated that he also has not seen the
364 occupancy permit portion of the inspection card until today as well. He stated that the City initially
365 approached this as a civil matter – that it was a matter between the neighbors and they would need to
366 resolve that between themselves and that if they could not do that, they could involve the courts. He
367 stated the issue at that point became that the City could not find any evidence that the City had done a
368 final inspection and granted an occupancy permit. He stated that when he talked to Mr. Call about the
369 issue the question was whether there was any liability on the City's part because the City did not have
370 record of the final inspection and the occupancy permit. He stated that he also found in the
371 documentation that the City tried to deal with this issue in 1995 and it got as far as an agreement that Mr.
372 Nichols signed, but no other parties, including the City, signed the document. He stated that the issue
373 died again and finally rose again when the Nichols were trying to sell their home and their neighbors were
374 concerned this issue would carry forward with the new home owner. He noted the occupancy permit has
375 surfaced and it does state that the eaves are hanging over the property line and they are to be taken care
376 of. He stated that he feels that causes the issue to become a civil matter, but he pointed out that the issue
377 has not been appropriately followed-up on over the years. He stated he does not want to second guess
378 what anyone has done several years ago, but he cannot find anything that happened until 1995 that
379 documents that the issue needed to be taken care of. He then stated he would let Mr. Call discuss the
380 legal issues associated with this instance.

381
382 Council Member Bigler asked if the note was made October of 2000. Mr. Call stated it was made in
383 October of 1980. He then added that many of the City's documents have been scanned and digitized and
384 the reason that the second page of the inspection report was not found was that the staff never looked at
385 the original copy of the report; rather, they were referencing the scanned version, which only included the
386 first page. Council Member Bigler stated that a full copy of the inspection report should have been given
387 to the resident and he asked if that was done. Mr. Call stated he cannot say if that was done. Council
388 Member Bigler asked if that is being done now. Mr. Chandler answered yes.

389
390 Mr. Nichols then stated that he got a copy of both pages of the inspection report today. He stated that the
391 copy that he got from Mr. Chandler several months ago only included the first page. Council Member
392 Bigler asked Mr. Nichols if he received a copy of both pages of the report when the building was initially
393 constructed. Mr. Nichols stated that he does not remember; it has been 32 years ago. He stated he does
394 not remember getting a copy of the building permit from Mr. Martin. He added he does not recall any
395 comment from Mr. Martin regarding the eaves violating City Code. He stated if that would have been the
396 case he would question why he received the certificate of occupancy. He stated it was signed by someone
397 from North Ogden City saying the building could be occupied. He stated it was dated December of 1980
398 and nothing was said to him at the time about his garage violating City Code.

399
400 Council Member Bigler stated that there is a note written on the front page of the document saying that
401 the eaves were hanging over the property line and it would have to be corrected. Mr. Nichols stated that
402 is the back page. Mr. Chandler agreed. Mr. Nichols stated he has seen the front page before today and he
403 reiterated that is the same document that Mr. Chandler brought to him months ago.

404
405 Council Member Fawson stated that there is no way for the City to know when the note was written on
406 the document. Mr. Nichols stated he was going to make that same comment. Council Member Fawson

407 stated he cannot tell if it was even written by the same person that filled out the rest of the report. Mr.
408 Nichols agreed and stated that the handwritten note is not dated.

409
410 Council Member Bailey inquired as to the City's policy at the time that the building was built. He asked
411 if the records would have been shared with the contractor that built the building. Building Official Gary
412 Kerr stated that the inspection card is normally given to the contractor. Council Member Bailey stated
413 that if that were the case, it would not be unusual for all correspondence to be between the City and the
414 contractor and that the homeowner would not be 'in the loop'. Mr. Kerr stated that is correct.

415
416 Mr. Call stated that one other thing to note is that the building permit is also for the addition to the home
417 that was constructed at the same time as the garage. He stated that part of the issue could have been that
418 the garage was built in December of 1980 and there would have been snow everywhere and it would have
419 been difficult to cut the roof off the building, but the Nichols wanted to be able to use the addition to their
420 house prior to Christmas. He stated that is speculation, but there may have been discussion about fixing
421 the problem in the spring, but there is also the possibility that the note was written on the document at a
422 later date. He stated that he thinks the note was written by Mr. Martin based on a comparison of the
423 handwriting on the rest of the document.

424
425 Council Member Bigler stated there is a possibility that the note was on the document, but the
426 homeowner did not get it. Mr. Nichols stated that he did not get the document with the noted.

427
428 Council Member Bailey asked Mr. Call to enlighten the Council on any legal issues that may be
429 surrounding this situation. Mr. Call stated there are some competing legal issues, but the bottom line is
430 that it is not worth anyone's time or money to fight over it. He stated that it is not worth Mr. Nichols'
431 time to push the City and it is not worth the City's time to try to fight it. He stated that the total cost to
432 correct the problem is \$900 and it is not even possible to speak to an attorney for \$900. He used the term
433 'zoning estoppel' and stated that is an idea in Utah that if an individual relies on an official act by a
434 representative of the government, they are entitled to rely on that act and complete a job. He stated there
435 was a case where a resident was building a home on a ridgeline in Summit County and the building
436 official did not check to make sure the houseline was not going to be above the ridgeline of the mountain.
437 He stated the homeowner poured his foundation and started building walls, etc. and the building inspector
438 came to the site and told him he could not finish the job. He stated the courts said that the resident could
439 finish the job because he had gotten to a certain point in the job and had relied on direction from the
440 building official. He stated that the issue in this case is that anyone that looks at the property can tell that
441 the eaves are hanging over the property line because the fence was in place when the structure was built.
442 He stated the question that raises is whether that was the City's fault or the contractor's fault and if it was
443 the contractor's fault, that transfers onto Mr. Nichols even if the contractor never told him about the issue.
444 He stated that what this comes down to is what the City wants to do. He stated there are some additional
445 considerations to be made in the sense that there are several other issues like this that might arise.

446 Council Member Bigler stated there are other issues like this that have already popped up. Mr. Call stated
447 this may be the least expensive issue of this kind.

448
449 Council Member Bigler stated the Council has discussed several of these types of issues that happened in
450 the same time frame with the same people involved. He apologized to Mr. Nichols and stated that he is
451 not the only one that there has been a problem with. He stated that when the Council has tried to deal
452 with the issues in the past and reach some sort of resolution and they were told that it was out of the
453 Council's hands. Mayor Harris stated that in those cases the homeowners had a code violation and they
454 had applied for a variance and the variance was not granted because it did not meet the criteria for a
455 variance. He stated they appealed that decision and that is when it had to be handled by the courts.
456 Council Member Bigler stated that the Council still tried to help them and he would like to help these
457 people as well because he knows things 'were a mess back then', but he is afraid that the City will have a

458 lot of problems because in the past others have come to the City and the City told them that the Council
459 could not handle their issue and it was referred to the courts. He stated there was obviously a problem
460 with the City in the past. Mayor Harris stated he is not sure there was obviously a problem with the City.
461 Council Member Bigler stated there have been multiple similar issues so it appears that way.
462

463 Council Member Bailey stated from his own personal experience in doing some building during the same
464 time frame as the Nichols he can remember getting documentation from the City that allowed him to
465 build within one foot of his property line so long as his roofline did not drip onto his neighbor's property.
466 He stated there is a technical code violation related to the eave line, but he thinks it could have been
467 mitigated without a variance in this case. He stated he thinks this case differs from cases in the past
468 whereas there were definite code violations in the past. Council Member Bigler stated that one of the
469 other issues in the past was that the building was too close to the property line; the eave did not hang over
470 the property line, but the building itself was too close to the property line.
471

472 Mr. Call stated there is a distinct difference in this case in that everyone agrees that the problem must be
473 corrected. He stated a variance for this issue would not be allowed because it would be impacting the
474 neighbor's property. He stated that this is a matter of Mr. Nichols asking the City to help accept some
475 financial responsibility. He stated it is his perspective that Mr. Martin or someone should have made sure
476 he was aware of the issue and that did not happen.
477

478 Council Member Bailey stated that he has known Mr. Nichols for a number of years, but he has a real
479 concern with setting a precedent with this issue. He stated that he is aware of other situations where he
480 knows things were allowed on a conditional basis and the issue was never followed through on and if the
481 City has liability for every one of those situations, the City is in big trouble. He stated that those issues
482 would be much more expensive than \$450. He stated that if every time a citizen brings to the Council a
483 situation where staff did not follow up on something that was noted or in the case where a conditional
484 certificate of occupancy was issued, there are other situations that are going to cost a lot more than \$450.
485 He stated he is worried about establishing a precedent.
486

487 Council Member Taylor stated that he is split on this issue; on one hand he is very sympathetic to the
488 Nichols' situation because he experienced a similar situation on his own home. He stated that his
489 building inspection noted that Pineview water had not been connected, which is required by City Code
490 and that proof of connection had to be shown before the final permit would be granted. He stated the
491 final permit was granted and the builder never paid to connect to Pineview so when he moved in months
492 later in the middle of winter he did not know that and when he tried to turn his sprinklers on the next year
493 there was no water. He stated he called Pineview about the issue and he appealed to the City, but the City
494 did not pay any portion of the connection fee. He stated he paid \$1,800 for a connection even though it
495 had been noted in a recent building inspection as needing to be done. He stated he thought at the time that
496 the City should have borne some responsibility for that. He stated that on the other hand he thinks
497 Council Member Bailey's comments are very important because he can also think of situations in the past
498 where houses were allowed to be built too close to other houses and if this precedent were applied to that
499 situation and the house were to be moved, the expenses would be incredible. He stated that no matter
500 what the Council needs to look at what has been done in the past and his question for Mr. Chandler is
501 whether there have been situations like this in the past where the City has paid some amount for a remedy.
502 He stated that for him to support Mr. Nichols' request he would need to see some division of the financial
503 responsibility between the City, the Nichols', and the builder.
504

505 Mr. Chandler stated he is not familiar with any other examples of these kinds of cases in the past, but he
506 had not really dug into the issue yet.
507

508 Council Member Bailey stated that he would hate to see the Council agree to assist in this instance
509 because it will only cost \$450 and set that precedent so someone else can come to the City with a similar
510 issue that would cost the City thousands of dollars. He stated he does not think that is good public policy.
511 He stated he is very sympathetic to the situation, but those are his feelings.

512
513 Council Member Bigler asked if the overhang goes over the neighbor's driveway. Mr. Nichols answered
514 no and stated the garage is in the backyard and there is nothing in the area of the neighbor's yard where
515 the eave is hanging over. He stated he thinks that part of the reason that Mr. Martin allowed the building
516 to be built one foot from the property line was that there were no other structures in that area. He stated
517 he wished that when the garage was built he was made aware of this so that it could have been built to
518 meet City Code. Council Member Bailey stated that in 1980 the Code allowed for building one foot from
519 the property line; the issue is the eave hanging over the property. He stated that building one foot from
520 the property line was allowed up until two years ago. Mr. Nichols stated that he left this up to his
521 contractor and he discussed it with the North Ogden Building Inspector and they created the garage.

522
523 Mr. Chandler stated that, in hindsight, what the City probably should have done was refuse to grant an
524 occupancy permit until the issue was fixed.

525
526 Council Member Bailey stated that in the past the way the City has handled these issues is to make sure
527 the process is corrected. He stated that does not help people like Mr. Nichols, but it helps to ensure that
528 the City will not be dealing with similar issues five, 10, or 15 years into the future. He stated everything
529 is being documented and taken care of. Mayor Harris stated that is correct. He then stated that he cannot
530 speak to what happened so many years ago. Council Member Bigler stated that he is simply saying that
531 he wants to make sure everything is documented going forward. Mayor Harris stated that he thinks it is
532 appropriate to look back and realize that the City never had a very big staff and in 1980 there was only
533 one Building Inspector. He stated he is not sure what happened in 1980, but there were years when there
534 were over 100 homes being built and there is no way one person can handle all of that on their own. He
535 stated he can see how mistakes could have happened, but the City now has improved processes in place
536 and staff is doing their best to make sure all bases are covered.

537
538 Council Member Taylor asked if the Council can get some information about whether this has been done
539 in the past. He stated if there is some precedent in the City where this has been done he would like to
540 consider that further. He stated, however, if the City has never done that he thinks doing it now would be
541 creating a problem for the City in the future. He stated he would like a little more information before
542 making a final decision.

543
544 Mayor Harris asked Mr. Chandler to work with Mr. Call to further research the issue and bring that
545 research back to the Council at the next meeting if possible.

546
547

548 **5. CONSIDERATION TO BE CONNECTED TO CULINARY WATER**

549
550 Mayor Harris asked Mr. Mossi to briefly provide an explanation of his request to the City Council.

551
552 Mr. Mossi stated that he and his wife Sherry reside at 1920 Fruitland Drive, which is outside of the City
553 limits. He stated they are just barely outside of the City limits; their north property line is the boundary
554 line of the City. He stated that he is here to ask for a culinary water connection. He read a statement
555 explaining his situation as follows:

556 "Our home was originally built in 1955 and it has been continuously supplied with water from an
557 artesian well since that time; however, recent circumstances have combined to make our water
558 supply uncertain. The line from our well to our home is badly corroded and rusted and it does not

559 draw water from the well very well and when it does it spits out a lot of air, which makes my wife
560 very unhappy. This has gotten progressively worse; we have only lived in the home for a short
561 period of time, but it has gotten progressively worse over that time. It leads us to believe that we
562 will wake up one morning and turn on the faucet and there will not be any water. Repairing the
563 well is not an option for us; things were a little different in 1955 when the home was built and the
564 well that supplies the home is actually on my neighbor's property and it also supplies his home.
565 So, there is one well on my neighbor's property that supplies his home and my home. That was
566 probably acceptable in 1955, but our neighbor obtained the water rights to the well back in 1995
567 so I have no rights to the well and it is just by his good grace that I am able to use water. I do
568 have an easement that has been recorded with Weber County that allows him access to the well,
569 but in reality I do not have any rights to the water. I am in a very tenuous situation. Our neighbor
570 has encouraged us to seek water elsewhere, not because he minds us using the water, but he
571 knows the well is old and he does not want to be responsible for us not having water. I have
572 looked at other options; we contacted Bona Vista Water and they have a main that runs down
573 1700 North and they supply water to Farr West. They indicated they do supply water on
574 Fruitland Drive, but their water main stops 300 feet short of my home and they indicated it would
575 be extremely expensive to continue the main and they have no desire to do that. They actually
576 indicated they wanted to get out of the business of supplying water to customers on Fruitland
577 Drive. They have backed out of supplying water to people on 1700 North as well. Another
578 option is to procure water rights and drill a well on my own property. I have initiated that
579 process, but I am running into a lot of dead ends because new water rights are not available in our
580 area; you either have to buy them or find someone that is willing to sell them to you and then you
581 have to get a permit to dig the well. That is fraught with some peril because there is no way to
582 know if you will hit water at a reasonable depth. I know North Ogden City has a water main that
583 runs right past the front of my home and it supplies other homes on my street. We live in a small
584 pocket of unincorporated Weber County and that line supplies other North Ogden City residents.
585 The North Ogden City Code allows connections to non-residents for culinary water provided that
586 the City Council votes to approve that. I am requesting the City Council approve a connection for
587 me being a non-North Ogden City resident to connect to the culinary water. And, one further
588 request is that this be allowed without requiring that I annex into the City. The reason for that
589 request is that the annexation process can take up to several months and I may not have several
590 months before my water gives out. The process will require \$1,000 to \$2,000 on my part for
591 legal fees and legal notices, etc. so that would be difficult for me to bear on top of the fees that
592 would be charged for connection to the City water; there are impact fees and connection fees and
593 a water meter fee, not to mention a road cut fee that I would have to pay, plus the plumbing and
594 excavation fees. Those all add up to about \$8,000 for connection to the water. To pay an extra
595 \$2,000 to annex into the City would be adding to that. The other reason that I ask that I be
596 allowed to connect to the water without annexing into the City is because I would like to have
597 access to all of the City services if I did annex into the City; that includes water, sewer, and trash
598 collection. All those are available to me except for sewer; the sewer line stops about 300 feet
599 from my property and I cannot connect. That would be a very compelling reason for me to annex
600 into the City, but unfortunately it does not look like there is any plan to run the sewer line to my
601 house. If I paid to annex I would be paying the cost to come into the City and be paying taxes to
602 the City, but I would not have access to all City services. For these reasons I would like to
603 request the Council consider a motion to allow me to access the City water without annexing into
604 the City.”

605
606 Council Member Fawson asked Mr. Mossi if he is willing to pay the impact and connection fees, but that
607 he not be required to annex. Mr. Mossi stated that is correct, as long as the impact fees are the same as
608 they would be for a resident of the City.
609

610 Mayor Harris stated the City would need to look into the fees, but he noted there are number of non-
611 residents that are connected to the City's utilities. He asked Mr. Chandler about impact fees. He stated
612 he knows that Mr. Mossi would be required to have a meter on his house, but he believes that non-
613 residents pay double the utility costs as non-residents. Mr. Chandler stated the fee for a water connection
614 for a resident in a single family dwelling is \$6.49 per month, which is the base fee. He stated for a non-
615 resident user the base fee is \$12.98. He stated the impact fee for non-residents is the same as for a
616 resident.

617
618 Council Member Bigler stated he does not have a problem with the request as long as there are no costs to
619 the City and residents.

620
621 Mayor Harris stated doubling the utility cost makes up for the fact that non-residents to not pay taxes to
622 the City.

623
624 Council Member Fawson stated he is not opposed to the connection; there are cases like this all over the
625 City and he does not think the City should be in the business of holding an annexation over a residents
626 head to make that happen.

627
628 Council Member Bailey asked if that has happened in the past; has the City ever required someone to
629 annex in order to connect to the water system. Mayor Harris stated he is not aware of that happening in
630 the past. He stated that if someone wants to annex into the City, but the annexation would create an
631 island, an annexation can be required to eliminate that island. Council Member Bigler stated he believed
632 that is why annexations are only approved by a Council vote because each situation is different.

633
634 Mayor Harris stated a motion is required to allow Mr. Mossi to connect to the City's culinary water
635 system.

636
637 **Council Member Fawson moved to allow connection to culinary water. Council Member**
638 **Bigler seconded the motion.**

639
640 Council Member Taylor stated he agrees with everything that has been said; this is a very reasonable
641 request and there is no reason to tie it to annexation as long as the fees are covered.

642
643 Council Member Bailey asked if the services are available to Mr. Mossi. Water Superintendent Espinoza
644 stated that staff has measured and the water main is 13 feet away from Mr. Mossi's property.

645
646 Mayor Harris stated there has been a motion and a second and he called for a vote.

647
648 **Voting on the motion:**

649
650 **Council Member Bailey aye**
651 **Council Member Bigler aye**
652 **Council Member Fawson aye**
653 **Council Member Stoker aye**
654 **Council Member Taylor aye**

655
656 **The motion passed unanimously.**

657
658
659

660 **6. CLARIFICATION OF IMPACT FEE POLICY**

661
662 A memo from Mr. Chandler explained that on May 9, 2000 the City adopted Resolution 2000-04 setting
663 the impact connection fees. Section 2 states “No building permit shall be issued in North Ogden City for
664 a new primary use until the following impact fees have been paid” A resident who lives on 2100
665 North is remodeling his house. He receives culinary water from his own well and wants to switch to the
666 City’s water system. He asked Council Member Bigler if the impact fee applies to remodeled homes and
667 he in turn asked me. When I discussed this with our community development staff, they felt that a
668 remodeled house that switched from a private well to the City’s system constituted “a new primary use”
669 because of the impact it creates on the water system. We could not find however an application for a
670 remodel where the applicant requested to switch to the City’s water system. We did find two occasions
671 where we waived the impact fee in order to switch people from their wells or other water systems to the
672 City’s system. In 2010 the Bona Vista Water Improvement District discontinued servicing homes on 1700
673 North. The City connected thirty-five houses onto our water system without charging an impact fee. In
674 1997 the City upgraded the water line on 2100 North and offered to switch residents from their private
675 wells to the City’s system without charging an impact fee. Bill Goss, the City’s former water
676 superintendent, remembers three switching over. There are still seven houses on private wells on 2100
677 North. Section 2 of Resolution 11-97 states “No building permit shall be issued until the following fees
678 have been paid”. One of the houses on 2100 North that did not switch to our system in 1997 is the
679 resident remodeling his house although he was not to my knowledge the homeowner in 1997.

680
681 Mr. Chandler summarized his staff memo. He stated a resident living at 709 East 2100 North contacted
682 him through Council Member Bigler. He stated the resident purchased his home some time ago and has
683 been remodeling it; his home is on a well and he is interested in connecting to the water system, but the
684 question that came up is whether he will be required to pay the impact fee. He stated that when that
685 question was posed to him, he researched the legislative intent of the resolution adopting impact fees. He
686 stated he found Resolution 2000-04, which states “no building permit shall be issued in North Ogden City
687 for a new primary use until the following impact fees have been paid”. He stated all changes to the
688 impact fee since that time have been done via amendments to the consolidated fee schedule so he asked
689 staff whether a remodeled home constitutes a new primary use. He stated staff’s understanding and
690 interpretation of the policy and purpose of the impact fee is that it would constitute a new primary use.
691 He stated the second question he asked is if there were any example in which the City either did or did not
692 apply an impact fee for a remodel and he could not find an example for a remodel application. He stated
693 he did find other examples of when impact fees have been waived; the first occurred two to three years
694 ago on 1700 North. He explained the Bona Vista Water District was installing a transmission line and
695 they wanted to use it only as a transmission line and not a distribution line to the residents. He stated they
696 contacted the City and ask that the City connect 35 residents on that street to the City’s system. He stated
697 the City agreed to do that and did not charge impact fees for those residents, but the City did require that
698 Bona Vista repair the entire road and do all the work regarding the connections. He stated they installed
699 the City’s water line. He stated the second example was in 1997 when the City upgraded the water line
700 on 2100 North and at the time there were 10 homes that had their own wells; the City offered at that time
701 to connect residents to the City’s water system without charging them the impact fee. He stated of the 10
702 houses, three connected and one of the remaining seven homes is the home that is being considered
703 tonight. He noted the current resident was not the owner at the time. He then stated the next thing he
704 considered was how many possible situations there are where this same issue could occur. He stated there
705 are currently 39 residences that are on wells; three on springs; and 54 that are using septic tanks. He
706 stated he did find occasions where the City has not charged the impact fee, but not an occasion that is
707 exactly comparable to this issue. He added that if the Council feels there needs to be further clarification
708 of the definition of a new primary service – whether that is a new house, a remodeled house, or a new

709 connection into the system – that would go a long way in helping staff when dealing with these kinds of
710 questions.

711
712 Council Member Bigler stated he thinks that the resolution is left up to interpretation and it talks about
713 new primary uses. He stated there are different sections of the resolution that address the different impact
714 fees charged in the City and he thinks it is pretty clear that the resolution is intended for new building. He
715 stated the resident lives in the first home to the east of where the new homes on 2100 North are being
716 built. He stated that it was an old, beat up home and a young couple bought it a couple of years ago and
717 they have beautified it and it has helped the City to make the area more beautiful. He stated they do not
718 have any water pressure from their well. He stated the couple is Cole and Morgan Abbott. He stated they
719 realized and are willing to pay all the costs to make the connection, but they were also told they needed to
720 pay \$3,000 to the City for a hook-up fee, but in looking at the resolution he feels that it applies to more of
721 a primary residence rather than an existing home. He reiterated they have beautified the area, but there is
722 no way they can pay for all the labor associated with the connection as well as pay a \$3,000 hook-up fee
723 to the City.

724
725 Mayor Harris asked Council Member Bigler if he means hook-up fee or impact fee. Council Member
726 Bigler stated it is the impact fee. He then stated the home has been in place for a long time and it seems
727 to him that the issue is how to interpret the resolution. He reiterated that he believes that the resolution
728 applies to building a new home.

729
730 Council Member Bailey asked how this situation differs from the last situation the Council considered.
731 He stated he does not see a lot of difference. Council Member Bigler asked if Mr. Mossi is going to pay
732 the \$3,000 because he is not a member of the City. He stated the Abbotts are paying every month.
733 Council Member Bailey stated Mr. Mossi is being assessed and impact fee and he does not see a
734 difference between what Mr. Mossi is asking and what the Abbotts are asking. Council Member Bigler
735 stated that Mr. Mossi is not paying anything to the City. Council Member Bailey stated he is paying an
736 impact fee. Council Member Bigler stated the Abbotts have been paying the City and they are actually
737 members of the City. Council Member Bailey stated he understands that, but if Mr. Mossi's residence
738 was actually located in the City and he was using a well, but wanted to connect to City water, he thinks
739 there is ample precedent because the City has always charged an impact fee whenever someone has gone
740 from using a well to connecting to the City's water system. Council Member Bigler stated there has not
741 been any precedent according to what Mr. Chandler said. Council Member Bailey stated his
742 understanding is that there were two instances where the City did not charge impact fees. Council
743 Member Fawson stated one of those instances was because there was no cost to the City. Council
744 Member Bigler stated there is no record of charging impact fees for a remodel. Council Member Bailey
745 stated that the issue of the remodel is totally irrelevant and the issue is that they did not have water
746 supplied by the City in the past and they now want to have water supplied by the City. He reiterated the
747 fact that it was a remodel is irrelevant and the fact that they did not have water supplied by the City in the
748 past and now they want that supply is the issue. He asked Mr. Chandler if it has been City policy to
749 always charge an impact fee when someone transitioned from using a well to connecting to the City's
750 water system, with the exception of the two instances that he already mentioned.

751
752 Mr. Chandler stated staff looked specifically for remodeled homes. Council Member Bailey stated he
753 was not asking about remodels. Mr. Chandler that is specifically what staff has considered, but they have
754 not looked at cases where people were transitioning from using a well to being connected to the City's
755 system. He stated he does not have an answer to Council Member Bailey's question.

756
757 Council Member Bigler asked Mr. Chandler if that is not what he researched. He stated he thought Mr.
758 Chandler had done research and found that there is no record of anyone doing this same thing and being
759 charged a fee. Mr. Chandler stated the cases he found were associated with the projects he referenced,

760 but he did not find any cases with other circumstances. He stated that his research may not be complete
761 because there could be cases like Mr. Mossi's where he has requested to be allowed to connect to the
762 City's system after using a well. He stated he looked for cases dealing with remodels where someone was
763 not charged an impact fee. Council Member Bigler asked if by remodel he means moving from a well to
764 the City's water system. Mr. Chandler answered no and stated he means the remodel of a house. He
765 stated previous to the adoption of the resolution in 2000, it did not talk about primary uses and instead it
766 said no building permit shall be issued, so that language was clarified in 2000. Council Member Bigler
767 stated that issue needs to be further researched because the correspondence he received said that after
768 researching the issue staff could not find anything on record where someone has gone from a well to an
769 existing home.

770
771 Building Official Gary Kerr stated that when he did his research he looked at the full gamut; he looked at
772 everyone that had moved from wells to the City's water system and he did not find any.

773
774 Council Member Bigler addressed Council Member Bailey and stated that a difference in his mind
775 between a new home and older homes is that some of the older homes have wells that are extremely old
776 and this home does not have water pressure and they would never be able to sell it in the future without
777 that. He stated that to upgrade it from something that is preexisting; he would like the impact fees to
778 apply more to new homes because people know what they are getting into with fees associated with new
779 construction. He stated he would like to maybe waive the impact fee; the resident will pay their water bill
780 and they will pay all the expenses for the connection. He stated if the impact fee is not waived they will
781 not be able to make the connection.

782
783 Council Member Stoker stated that she agrees with what Council Member Bailey said because this would
784 be setting a precedent. She stated she is one of the 54 homeowners that are on a septic tank. She stated
785 she has been there for 33 years also, and she realizes that the time will come when she will need to
786 connect to the system. She stated at the time she built her home sewer was not available to them, but she
787 knows full well that she will have to pay the impact fee to connect. She stated she believes the language
788 needs to be clarified to define when an impact fee is required and if that is when someone moves from a
789 well to a connection to the water system, that needs to be considered and clarified. She stated she thinks
790 they should have to pay the impact fee because they have never been connected before. She stated she
791 does not know why the City and the rest of the residents should absorb the fee.

792
793 Council Member Taylor stated he agrees; the impact fee is paid at the time the home is constructed or at
794 the time that the resident joins the service. He stated the resident should pay the same impact fee that
795 anyone that is joining into the service is paying. He stated that he did not think the Council would have
796 even considered Mr. Mossi's request if he had also been asking for a waiver of the impact fees. He added
797 that enterprise funds are not regular government funds and they must be run in a quasi-business fashion.
798 He stated they are not supported by the general tax dollars of the City and instead they are supported by
799 the fees that are collected. He stated that if he tries to put himself in the shoes of all the other residents
800 that were required to pay impact fees when their homes were constructed, it would be a matter of fairness
801 that anyone new joining the system should pay the same impact fee. He stated that he does not see a
802 reason to set that precedent. He stated he knows people that are on well water that would love to get off it
803 if the City were going to bear some of the costs. He stated the Council needs to treat the enterprise like
804 business funds and business decisions need to be made.

805
806 Council Member Bigler addressed Council Member Taylor's comment about setting a precedent and he
807 noted the challenge is that the precedent has already been set; there is no record of someone moving from
808 a well to the water system and being charged an impact fee, but 30 were waived on 1700 North and on
809 2100 North the City offered to connect people to the system during another construction project. He
810 stated the City actually came to this very home when it was owned by a previous owner and offered the

811 connection, but that was denied. He stated three people took the City up on their offer and the precedent
812 was set because the fee was waived. He stated the precedent has been set with a whole lot of homes – 38
813 to be exact.

814
815 Council Member Fawson stated he was wondering along the same lines as Council Member Stoker and
816 he asked if a precedent has been set as far as residents moving from a septic tank to the City’s sewer
817 system as far as impact fees are concerned. Mayor Harris stated that there have not been any of those
818 situations since he has been around. He stated laying new sewer line is extremely expensive.

819
820 Council Member Taylor stated that he wants to get clarification so he understands what Mr. Chandler is
821 saying. He stated that in the two precedents that have been mentioned, they were done at times when the
822 City already had the roads torn up and infrastructure was being worked on so the connections could be
823 done at that time for much lower costs, or in the case of the Bona Vista issue, all costs were covered by
824 them. He stated this is a home that is not in that situation, but they want to connect to the system and he
825 thinks that there should be clarification that they are required to pay the same fees anyone else connecting
826 to the system pays for the health of the system.

827
828 Mayor Harris stated that the Council must look at these issues on a case-by-case basis, but there were
829 incentives offered in both those cases; in the case of 1700 North the City had an entire road reconstructed
830 and Bona Vista just wanted to make a road cut down the middle of the road and re-patch it. He stated the
831 City would have been left with a patched road for the length of 1.5 miles. He stated through negotiations
832 with Bona Vista, the City agreed that if they replaced the entire road other costs would be waived. He
833 stated the City received a benefit in that case.

834
835 Council Member Bigler stated it was not that the road was ripped up and therefore the fees were waived;
836 rather the road was ripped up in order to do the water lines. He stated that was not the case on 2100
837 North. He stated that he thinks the City is going to be in trouble. Mayor Harris stated that on 2100 North
838 the case was made that the line was open and accessible and the incentive was offered to residents so that
839 future road cuts would not be necessary. Council Member Bigler asked when that happened. Mr.
840 Chandler answered 1997.

841
842 Council Member Bigler stated that this discussion is about the impact fee and not the fee to dig the road
843 up. He stated the residents are willing to pay that fee, but not the impact fee. Mayor Harris stated it is a
844 trade-off and the incentive was offered to residents on 2100 North because the trench was opened and
845 allowing to connect at that time rather than in the future saved the City future costs. Council Member
846 Bigler stated he thinks they are talking about two different fees. Mayor Harris stated the impact fees were
847 waived for people on 2100 North because there were other benefits the City accrued by allowing people
848 to connect while the road was torn up. Council Member Bigler stated he does not see what benefits
849 would come from that. Mayor Harris stated future road cuts were avoided. He stated he does not know
850 all the details because he was not there and he is just speculating at this point. Council Member Bigler
851 stated this very home was offered the same option before. He stated they are now willing to pay for all
852 the physical labor to make the connection. Mayor Harris stated he thinks the policy needs to be clarified
853 and Council input can be considered in that process. He asked if there were any other comments.

854
855 Council Member Bigler stated that consistency is important.

856
857 Council Member Bailey stated his feeling has already been expressed and he thinks that as the Council
858 moves forward they need to clarify what a new connection is, but in his mind a new connection is a
859 connection to the system that did not exist before, whether it is associated with new construction or a
860 remodel or something else. He stated that this is a fairly clear-cut issue for him. He stated he can see
861 huge differences between what happened on 1700 North and 2100 North. Council Member Bigler asked

862 the difference. Council Member Bailey stated the City was upgrading the water lines on 2100 North and
863 it was already exposed. Council Member Bigler stated that he was told the staff was not sure of what
864 happened on 2100 North. He stated that again Council Member Bailey is talking about the costs
865 associated with the physical connection rather than the impact of having a new home connected to the
866 system. He stated the residents are willing to pay for the physical labor and he asked what an impact fee
867 has to do with the road being ripped up. He stated they are two different issues. Council Member Bailey
868 stated that in his mind if someone is not connected to the system and they now want to be connected to
869 the system, regardless of the reason they were not connected to the system in the past, in the interest of
870 fairness they should be paying the same impact fee that everyone else pays. Council Member Bigler
871 stated he agrees that there must be consistency, but the problem is that this very home and their two
872 neighbors were offered the connection; the neighbors got the connection for free. Council Member
873 Bailey stated they were offered it under special circumstances and that offer does not still stand for the
874 others. Council Member Bigler stated that they are talking about an impact fee and the impact is the long
875 term connection of a home to the water system. He stated it is not the physical labor of making the
876 connection and the resident is willing to pay that. Council Member Bailey stated he understands that, but
877 he feels that if someone is not connected to the system and they now want to connect to the system, they
878 should be paying the same impact fee as others unless there are some mitigating circumstances.
879

880 Council Member Fawson asked what the impact fees go towards. Mayor Harris stated they go towards
881 the infrastructure that must be provided to accommodate growth. Council Member Fawson asked if it is
882 ongoing maintenance. Mr. Call explained impact fees only cover infrastructure and no operations and
883 maintenance is included in that. He stated that there are several things the state requires relative to impact
884 fees; one is a storage requirement for fire flow and there must be 400 gallons per house per day for
885 storage capacity in the system. He stated there are all sorts of things that come into play and there may be
886 a situation here where the impact fee does not have to be a full impact fee because this person already has
887 some fire flow and there may be some ways to reduce it. He stated there is a lot of infrastructure that
888 comes in to play and it is not just the water one drinks. He stated that park impact fees are fairly simple
889 because a park is a park, but for culinary water there is a lot of infrastructure that comes into play.
890 Council Member Bigler stated that is why he thinks there is a difference between an existing home and a
891 new residence. He stated he is not trying to fight for this one person; he simply knows the precedent has
892 already been set and it is a challenge when their neighbors got the connection for nothing.
893

894 Mayor Harris asked Mr. Chandler to formulate a policy statement to be brought back to the Council for
895 further consideration.
896

897 Council Member Fawson stated that he would also like to see something included regarding the remodel
898 aspect. He stated it would be hard to say at what point an impact fee would be waived relative to the
899 extent of the remodel taking place. Council Member Bailey agreed and stated that it becomes an issue of
900 if there was no connection before and now the owner wants a connection. He stated that is where the
901 impact comes in. He stated he thinks that should be clarified in regards to sewer connections as well as
902 water connections. Mayor Harris asked Mr. Chandler to consider those comments as well. Council
903 Member Bigler added that along with that he would like to see where the \$3,000 fee comes from. He
904 stated the resident was told there would be a \$3,000 fee from the City in addition to all of the costs
905 associated with doing the actual work.
906

907 Council Member Taylor stated that he agrees with Council Member Bailey and stated that this should be
908 based on connections. He stated that if someone has not been connected to the system they should have
909 to pay the same impact fee as anyone else with a new connection and clarifying that would be good.
910
911

912 7. APPOINTMENT OF CITY COUNCIL MEMBER TO SERVE ON THE PARKS, TRAILS
913 AND OPEN LANDS CORPORATION BOARD

914
915 A memo from Mayor Harris explained that in accordance with the North Ogden Parks, Trails, and Open
916 Lands Corporation organizational structure, I propose to appoint Council Member Cheryl Stoker to the
917 Board of Directors and ask for your consent to this appointment.

918
919 Mayor Harris read his memo for the record.

920
921 **Council Member Bigler moved to approve the appointment of Council Member Stoker to serve on**
922 **the Parks, Trails, and Open Lands Corporation Board. Council Member Fawson seconded the**
923 **motion.**

924
925 **Voting on the motion:**

926
927 **Council Member Bailey aye**
928 **Council Member Bigler aye**
929 **Council Member Fawson aye**
930 **Council Member Stoker aye**
931 **Council Member Taylor aye**

932
933 **The motion passed unanimously.**

934
935
936 8. KIWANIS CLUB PRESENTATION

937
938 Mayor Harris explained the Kiwanis Club has asked for the opportunity to make a brief presentation to
939 the Council. He stated Lynn Millard, John Reynolds, and Larry Florence are present to provide
940 information to the Council.

941
942 John Reynolds approached the Council and explained they appreciate the opportunity to be here to talk
943 about the Kiwanis Club. He stated there are members from Pleasant View and Harrisville as well. He
944 provided them with a handout regarding the Kiwanis Club and explained it was chartered 67 years ago
945 and has been in continuous operation ever since then. He stated one of the questions he gets asked often
946 is the meaning of the word ‘Kiwanis’. He stated that it is an Indian word from the Otchipew Indian Tribe
947 and it means “to serve”. He stated that has been broadened as the Club’s motto “to serve the children of
948 the world”. He stated that the international club has 600,000 members and there are 30 members locally,
949 so they are .000005 of the total membership, but they are small and mighty. He stated that in looking at
950 some of the things the Club has accomplished over the past few years, one might agree with that
951 assessment. He directed the Council’s attention to the second page of the handout, which included some
952 photographs of Kiwanis Club activities having to do with the youth in the community. He then stated that
953 he failed to introduce the two other members that are also present tonight. He stated Larry Florence is
954 from North Ogden and he has been president of the Club three times. He stated Lynn Millard is the
955 current president of the Club. He stated their activities are directed at helping the youth and there have
956 been essay contests and scholarship contests and the Club has given a lot of books to the local schools –
957 mostly the schools in this area. He stated they are quite excited about a new project that still has to do
958 with books for schools, but the schools have started using e-books and the Kiwanis Club will be giving a
959 \$3,000 check to the Weber Foundation, who will match those funds, and e-books will be purchased for
960 children in the Weber School District. He stated that they will continue their scholarship programs with
961 the two local high schools; that was started last year and the idea is to recognize graduating students who
962 haven’t received scholastic scholarships, but have improved a lot in areas other than grades. He stated

963 last year a couple of scholarships were awarded and the Club plans to do the same thing this year. He
964 then stated they gave the Mayor a jar of M&Ms that is part of their current campaign. He stated that to
965 the Kiwanis Club M&Ms means money and members; they are on a campaign to raise funds and increase
966 membership. He stated if anyone would like to participate in either way, there are membership
967 applications and the Club is more than happy to take contributions. He stated they have called on
968 businesses throughout the community to try to raise funds so they can continue the same types of projects
969 that are reviewed in the packet. He stated they appreciated the opportunity to be here.

970
971 Mayor Harris thanked the members of the Club for attending tonight and for the information they
972 presented. He stated the City very much appreciates what they do for the City as well as several other
973 entities. He thanked them for their patience in waiting for their time to present this evening.

974
975
976 **9. DISCUSSION AND/OR ACTION TO APPROVE AN ORDINANCE AUTHORIZING**
977 **NORTH OGDEN CITY TO "PICK-UP" THE EMPLOYEES CONTRIBUTORY**
978 **AMOUNT IN THE UTAH RETIREMENT SYSTEMS CONTRIBUTORY RETIREMENT**
979 **PLAN FOR THIS CURRENT YEAR 2013**

980
981
982 A staff memo from City Recorder Annette Spendlove explained North Ogden City is required by the Utah
983 Code and the IRS, to annually adopt in a formal meeting, any member's contributions paid by employers
984 in the Utah Retirement Systems Contributory Retirement Plan. North Ogden City has one employee in the
985 Contributory Plan for which the City pays 18.03%. For the City Council's consideration is an Ordinance
986 which complies with Utah State Code Title 49 and IRS ruling 2006-43, authorizing the City to contribute.

987
988 Ms. Spendlove reviewed her staff memo for the record. She stated this is a housekeeping item and the
989 City is required to adopt an ordinance like this annually. She stated there is one employee in the
990 contributory retirement plan and the Council must annually approve the contribution made to his
991 contributory plan. She stated the rest of the City employees are in a non-contributory plan so there is no
992 requirement for those employees.

993
994 Council Member Bailey asked what it means that one employee is in a contributory plan and the rest are
995 not. Mr. Chandler explained the Utah Retirement System (URS) has two plans; one is contributory and
996 one is non-contributory. He stated contributory means the employee themselves are not contributing into
997 their retirement. He stated this is not a 401(k) account; it is regular retirement that is based on a
998 percentage of an employee's salary.

999
1000 Council Member Bailey stated that the ordinance says that the Council is authorizing North Ogden City to
1001 pick up the employee's contributory amount. He asked if that means the employee should be paying into
1002 the account, but the City is paying into the account for the employee. Mr. Chandler stated that is right
1003 and all other employees are non-contributory, which means the City pays the entire bill. He stated he
1004 does not know why this employee is on a contributory plan; he is a long term employee and has been on
1005 this plan for several years. He stated that he has been a contributory employee and the City has been
1006 paying the contribution amount just as is done for all other full-time employees.

1007
1008 Council Member Bailey asked if the net effect is neutral to the City or if the employee is getting any
1009 benefit above and beyond what other employees are getting. Ms. Spendlove stated he is not getting any
1010 additional benefit. Council Member Bigler stated he was going to ask that same question.

1011

1012 Council Member Fawson stated that as he recalls, there were two employees in this situation last year and
1013 he asked if that is correct. Ms. Spendlove answered no and stated there was only one employee last year
1014 as well.

1015
1016 **Council Member Bailey moved to approve Ordinance 2013-02 authorizing North Ogden City to**
1017 **“pick-up” the employee’s contributory amount in the Utah Retirement Systems contributory**
1018 **retirement plan for the current year 2013. Council Member Taylor seconded the motion.**

1019
1020 **Voting on the motion:**

1021
1022 **Council Member Bailey aye**
1023 **Council Member Bigler aye**
1024 **Council Member Fawson aye**
1025 **Council Member Stoker aye**
1026 **Council Member Taylor aye**

1027
1028 **The motion passed unanimously.**

1029
1030
1031 **10. CONSIDERATION AND/OR ACTION TO APPROVE A RESOLUTION AMENDING**
1032 **THE CITY’S CAFETERIA PLAN**

1033
1034 A memo from Ms. Spendlove explained the City is creating a short plan year of six (6) months from
1035 January 1, 2013 to June 30, 2013 for the flex spending in order to accommodate the QHDHP that is
1036 scheduled to begin on July 1, 2013. The plan year after this short year will be July 1 through June 30 of
1037 the following year. Before the City Council is a resolution amending our current plan.

1038
1039 Ms. Spendlove read her staff memo for the record. She stated employees are not allowed to have a flex
1040 spending account for health if they have a health savings account (HAS) which staff is suggesting be
1041 approved in July. She said that left employees wondering what to do and that is the reason for this
1042 recommendation. She stated the next plan year will be based on the next insurance plan year.

1043
1044 Mayor Harris stated that this resolution simply changes the timing for the plan. Ms. Spendlove answered
1045 yes and stated that it changes the contract with the City’s cafeteria plan provider.

1046
1047 Council Member Bigler asked if there are any other changes being made to the plan besides the date. Ms.
1048 Spendlove answered no.

1049
1050 **Council Member Fawson moved to approve Resolution 1-2013 amending North Ogden City’s**
1051 **cafeteria plan year for flexible spending accounts. Council Member Stoker seconded the motion.**

1052
1053 **Voting on the motion:**

1054
1055 **Council Member Bailey aye**
1056 **Council Member Bigler aye**
1057 **Council Member Fawson aye**
1058 **Council Member Stoker aye**
1059 **Council Member Taylor aye**

1060
1061 **The motion passed unanimously.**

1063
1064
1065
1066
1067
1068
1069
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1080
1081
1082
1083
1084
1085
1086
1087
1088
1089
1090
1091
1092
1093
1094
1095
1096
1097
1098
1099
1100
1101
1102
1103
1104
1105
1106
1107
1108
1109
1110
1111
1112
1113

11. CONSIDERATION AND/OR ACTION TO APPROVE A BEER LICENSE FOR LEE'S MARKETPLACE

A staff memo from Building Official Gary Kerr explained Lee's Market Place has submitted a renewal application for its 2013 beer license. The required BCI background checks have been completed. This information has been provided to Chief Afuvai for his consideration. The Chief reviewed the application and background checks and has signed off on the application. I am recommending Council approval the Lee's Market Place application for a 2013 beer license.

Mr. Chandler read Mr. Kerr's staff memo for the record.

Council Member Fawson moved to approve application for beer license for Lee's Marketplace for 2013. Council Member Bailey 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.

12. PUBLIC COMMENTS

Bob Napoli, 816 East 2760 North, stated that it has been interesting to listen to the back and forth discussion regarding some of the issues tonight. He stated he would like to comment on impact fees and he thinks Council Member Bailey is correct in stating that impact fees are for new hook-ups. He stated that the City can only connect so many water lines to a line and in the past the City has wasted money by drilling two dry wells that cost \$800,000. He stated that impact money paid for that and to go ahead and give impact money to someone else to hook on to the water lines does not make sense. He stated the City will still need to hunt for more water to handle the other connections that will take place in the future. He stated someone connecting to the system is impacting the system right now. He stated the water on 2100 North is coming out of the ground, but water in other areas of the City is coming from somewhere else and it has to be pumped. He stated it is very important to note that this is for a hook-up to water coming from the system. He then stated that another thing is related to the park fence issue and he is not sure the City can take money from the enterprise funds to pay for a fence when it does not impact any of those enterprise funds. He stated a fence does not affect water, sewer, and other utilities so waiving utility costs to pay for it may not be appropriate. Mayor Harris stated that is good point and the City will check into that. Mr. Napoli then stated the other issue is pocket annexations. He stated the ideal thing is for all property within City boundaries to be in the City. He stated some of the problems those pockets create is that when there is an emergency at one of those pocket locations the City cannot respond and someone from the County must be called. He stated it is always beneficial to get as many of those properties integrated into the City as possible. He added that the resident is driving North Ogden City roads continually to get home and not paying a nickel for them. He stated it is better to have him in the City and paying his share for wearing out the roads. He again referred to the fence on the park property and stated he has mixed emotions about it. He stated that he thinks the City should pay it because it is like a commercial property; when a business owner builds a new business he is required to have a fence

1114 between his business property and residential property. He stated the commercial entity has to pay the
1115 entire cost and he thinks the same should be true for the City park property. He stated he thinks the fence
1116 needs to follow the property line. He stated that there was discussion about declaring the property as
1117 surplus property and making it available for sale and he explained similar issues that occurred in the past.
1118 He noted that if the property is only usable for one person and it really does not have any value, the
1119 neighbors would have first option to purchase the property.

1120
1121

1122 **13. CITY COUNCIL, MAYOR, AND STAFF COMMENTS.**

1123

1124 Council Member Fawson stated he wanted to clarify a statement that he made earlier; the cost of the fence
1125 that his family erected was split and they did not cover the cost of the entire fence. He then stated he
1126 appreciates Mr. Napoli's public comments because it is helpful to have input.

1127

1128 Council Member Bigler stated that he agrees with others about the water connections, but he wants to
1129 make sure there is consistency in order to avoid problems. He stated when a resident contacts him and
1130 tells him they were told by the City they would be required to pay \$3,000 to connect, but their neighbors
1131 were not required to pay, that can be a problem. He stated the City needs to be careful or the City will be
1132 opened up for problems. He stated he does not have a special interest in the issue, but it was brought to
1133 his attention and the resident asked why they were required to pay the fee when their neighbors were not.
1134 He stated that would be like him paying for one of his kids' senior trips and refusing to do the same for
1135 his other children because he did not want to set a precedent. He stated it has already been done. He
1136 stated he wants to clarify the issue and he thinks there needs to be consistency. He stated that he wished
1137 the projects on 2100 North had been done differently and it is totally different than the situation on 1700
1138 North.

1139

1140 Council Member Stoker stated she wanted to thank the other Council Members for appointing her to the
1141 Board of Parks and Trails. She stated she was a little surprised that there was no discussion about the
1142 appointment. She then stated she appreciated the comments that have been made tonight and the input
1143 from Mr. Napoli. She stated it is always good to get someone else's perspective and thoughts.

1144

1145 Council Member Taylor stated that he thinks Council Member Stoker will do a great job on the
1146 Committee. He then stated that he has one comment related to the United States Selective Service
1147 System. He stated he has recently been tasked by the National Guard to find some people to serve on the
1148 draft board. He stated he did not know that draft boards still existed, but they do and they are in a state of
1149 readiness in case a draft becomes necessary. He stated that he would be happy to hear from anyone
1150 interested in participating and he explained it is a very small commitment of two to four hours a year. He
1151 stated it is a great way to serve and it is a presidential appointment.

1152

1153 Council Member Bailey stated that he lived in a time when there were draft boards and people did not like
1154 those that participated on the draft board so he does not want to be signed up. He thanked Mr. Napoli for
1155 his comments; it is great to have public input and it is really great to have comments from someone that is
1156 informed; Mr. Napoli has been a member of the Council and has now observed as a community member.
1157 He then stated that Council Member Stoker will be a great member of the Parks and Trails Board; it is a
1158 tailor made position for her and she will great in that responsibility. He stated he is very supportive of
1159 her.

1160

1161 Mr. Call stated that he really enjoys this job, but it is difficult to stay out of policy decisions. He stated
1162 there are times when he will not issue an actual decision because he thinks they are policy decisions and
1163 the Council needs to weigh the pros and cons on those. He stated that is their job and he tries to stay out
1164 of it.

1165
1166 Mr. Chandler stated that he wanted to follow up on some of the emails staff has received regarding the
1167 City's webpage and the links for email addresses for the Council. He stated staff believes they have
1168 found a solution and that is to go away from using the City's server to handle the delivery of messages.
1169 He stated he is trying to come up with prices for what it will take to make that change and it may be
1170 something that he will not wait to implement until the next fiscal year. Council Member Bigler stated that
1171 if the decision is made to wait until July he would recommend removing the email link from the website
1172 so that people are not confused and frustrated. Mr. Chandler stated that he is working with a couple of
1173 programmers to figure out how to fix that issue. Council Member Taylor suggested that the links only
1174 include the email addresses and the form. He stated that is the way several other cities have their contact
1175 pages for Council and Mayor set up. Council Member Bailey stated that there are some advantages to the
1176 current system because it validates the senders email address; they are required to send their email from a
1177 real email server.

1178
1179 Mayor Harris stated that there is a statement on the bottom of the agenda to allow convening in a Closed
1180 Session. He stated that it is necessary tonight to convene in a closed session to discuss the character,
1181 professional competence, or physical or mental health of an individual as per Utah Code 52-4-205. He
1182 asked for a motion to that affect.

1183
1184 **Council Member Bailey moved to go into a closed session to discuss the character, professional**
1185 **competence, or physical or mental health of an individual as per Utah Code 52-4-205. Council**
1186 **Member Stoker seconded the motion.**

1187
1188 Council Member Bigler stated that in as much as Council has to vote on this issue he would like for the
1189 City to give the Council a little detail prior to the meeting so they know what they are voting on. Mayor
1190 Harris stated that information will be shared in the meeting. Council Member Bigler stated that the
1191 Council is asked to vote before knowing the purpose of the meeting. Mayor Harris stated sharing the
1192 information prior to the meeting defeats the purpose of the meeting, especially under the circumstances
1193 for which the closed meeting is being convened tonight. Council Member Bigler stated the Mayor could
1194 call the Council Members and explain the situation. He stated if he is being asked to vote on it he would
1195 like to have a heads up. He stated that it does not need to happen in a public meeting.

1196
1197 **Voting on the motion:**

1198 **Council Member Bailey aye**
1199 **Council Member Bigler aye**
1200 **Council Member Fawson nay**
1201 **Council Member Stoker aye**
1202 **Council Member Taylor aye**

1203
1204 **The motion passed by a vote of four to one.**

1205
1206 The closed session convened at 8:43 p.m.

1207
1208 The regular meeting reconvened at 8:52 p.m.

1209
1210
1211 **14. ADJOURNMENT.**

1212
1213 **Council Member Fawson moved to adjourn the meeting. Council Member Bailey seconded the**
1214 **motion.**

1215
1216 **Voting on the motion:**
1217 **Council Member Bailey** aye
1218 **Council Member Bigler** aye
1219 **Council Member Fawson** aye
1220 **Council Member Stoker** aye
1221 **Council Member Taylor** aye

1222
1223 **The motion passed unanimously.**

1224
1225 **The meeting adjourned at 8:52 p.m.**

1226
1227
1228 _____
1229 Richard G. Harris, Mayor

1230
1231
1232 _____
1233 S. Annette Spendlove, MMC
1234 City Recorder

1235
1236 _____
1237 Date Approved