

NORTH OGDEN CITY COUNCIL MINUTES

October 9, 2012

The North Ogden City Council convened in an open meeting on October 9, 2012 at 6:35 pm in the North Ogden City Council Chambers at 505 East 2600 North. Notice of time, place and agenda of the meeting was delivered to each member of the City Council, posted on the bulletin board at the municipal office and posted to the Utah State Website on October 5, 2012. Notice of the annual meeting schedule was published in the Standard-Examiner on January 16, 2012.

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| PRESENT: | Richard G. Harris | Mayor |
| | Kent Bailey | Council Member |
| | Wade Bigler | Council Member |
| | Justin Fawson | Council Member |
| | Cheryl Stoker | Council Member |
| STAFF PRESENT: | Annette Spendlove | HR Director/City Recorder |
| | Bryan Steele | Finance Director |
| | Jon Call | City Attorney |
| | Craig Barker | Community Development Director |
| | Gary Kerr | Building Official |
| EXCUSED: | Brent Taylor | Council Member |
| VISITORS: | Kevin Burns | Rachel Trotter |
| | DeAnn Burns | Art Stowers |
| | Phillip Swanson | Pegge Stowers |
| | Marjean Swanson | |

Mayor Harris welcomed those in attendance.

Council Member Fawson offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. Consideration to approve the minutes of the September 25, 2012 City Council meeting.
2. Consideration to approve business licenses.

Council Member Bailey moved to approve the Consent Agenda. Council Member Fawson seconded the motion.

Voting on the motion:

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| Council Member Bigler | aye |
| Council Member Stoker | aye |
| Council Member Fawson | aye |
| Council Member Bailey | aye |

The motion passed unanimously.

ACTIVE AGENDA

Mayor Harris invited anyone who may have a comment to approach the podium to speak.

PUBLIC COMMENTS.

Alana Fawson, 2533 N. 1600 E., thanked the City for having the students from her school, Venture Academy, at the City Offices today. She said it was great to learn about how City Councils work.

Council Member Fawson commented there were 100 first and second graders here at the City Offices from 9am to 11:30am. He said they had a civics lesson and performed in a mock City Council meeting. He said they all chose to talk about chickens. He said it was a great group and a lot of fun. He thanked Annette Spendlove, City Recorder, for her help.

1. DISCUSSION AND/OR ACTION REGARDING LARGE ACCESSORY BUILDINGS.

Craig Barker, Community Development Director, reviewed the staff report. He reminded the Council that a few City Council meetings ago the issue of where large accessory buildings could be located was brought up. There was a resident that had an issue and the City Council asked the Planning Commission to review this item. He stated he has provided a copy of the Planning Commission minutes of the discussion. He said the Planning Commission recommended the ordinance remain the same. He stated the City Council has the option to ask legal counsel to prepare an ordinance, which is sent to the Planning Commission. He said the Planning Commission would then need to hold a public hearing and those results would be sent to the City Council for their decision. He said any citizen can petition the City to change an ordinance and would also go to the Planning Commission for a public hearing and then be forwarded to the City Council for their decision.

Council Member Bigler said Jon Call, City Attorney, and Ron Chandler, City Manager, previously stated that this does not need to go back and forth and that the Council has the option of having public comments rather than public hearings. Jon Call stated that once the Planning Commission holds a public hearing on a zoning ordinance the City Council can adopt, modify, or completely reject the change. He said all the State Statute requires is that the Planning Commission hold a public hearing first and provide the City Council with a recommendation. The City Council can then take action in any direction from there. He said the City Council does not have to hold a public hearing; they can ask for public comment on that specific issue.

Council Member Bigler clarified that the Planning Commission did not hold a public hearing. Craig Barker replied that they reviewed what the City Council asked them to review. He said there was some concern about height issues rather than were there are located on the property.

Council Member Bigler stated City Council provided a couple of considerations to take back to the Planning Commission; to lower the height of the structure to allow it to be closer to the property line, and to take into account the size of the lot. Craig Barker said he did discuss those items with the Planning Commission and there was talk about the RE-20 zone. He said he thinks if the Planning Commission had some specific ideas they would have taken some action with regard to those.

Council Member Bigler said he feels the same as he did during the last City Council meeting. He said he has tried hard to protect residential neighborhood, trying to keep the Public Works facility out of residential neighbors, and so forth. He said on issues like this they need to use some common sense. He said he would like to see the height requirement lowered and allow them to be closer to the property line. Craig Barker explained the regulation states if the building is 15 feet or lower it can be within 15 feet of

the property line. Council Member Bigler said that puts the building right in the middle of the back yard. Craig Barker stated that is right if you are looking at lots that are 10,000 square feet or less. He said if it is on an RE-20 lot there is a great amount of property on which to put the accessory building.

Council Member Bigler said he would like the Planning Commission to look at lowering the height and look at the size of lots. Craig Barker suggested he and Jon Call create an amended ordinance.

Mayor Harris said he thinks there are issues with having the large accessory building in the residential zones, especially with the smaller lots. He said that is a basic philosophy the City Council needs to address. He suggested they address specific zones or specific lot sizes.

Council Member Bailey agrees with Mayor Harris. He said he is aware of a number of large accessory buildings that are out of place in these zones. He said he thinks they need to be careful to make sure they are doing the right thing for the city overall rather than just making exceptions because they have a difficult situation.

Council Member Fawson said it all comes down to a discussion Craig Barker had. He said one of the biggest conflicts arises when a structure has an impact on the neighbor. He said there was discussion regarding allowing these buildings with the permission from the neighbors. He said maybe there should be some type of allowance with where the houses sit and if there is any type of conflict within the neighborhood.

Council Member Bailey said the problem he has is that one neighbor may not have an issue with the accessory building, but if the house sells the new neighbor may have an issue with the building. Council Member Bigler said if the structure exists they don't have to buy it. Council Member Bailey said he is not sure they should have zoning based on arguments between neighbors. He said he would rather they take an approach based on lot size or zone.

Council Member Fawson said neighbors typically complain because of the height of a building. He said he agrees with what Council Member Bigler suggested on the height.

Council Member Bailey asked Council Member Bigler is he is proposing lowering the height restriction or raising it. Council Member Bigler replied lowering it. He said there are many different ordinances and they should look at all of them. He said they are discussing lowering the maximum height and allowing it closer to the property line. He said he would rather his neighbor have the accessory building in a back corner rather than the middle of their yard. He said they are not discussing increasing the size they are talking about location. He said if the height is lowered he does not see the problem with allowing it up to six feet from the property line.

Council Member Bailey asked the maximum height allowed. Craig Barker replied 25 feet, but if it is less than 15 feet it can be within three feet of the property line. He pointed out a typical garage is 400 square feet and that can be as close as three feet from the property line if it is under 15 feet high. Council Member Bigler said that 25 feet is high for most residential areas.

Council Member Bigler said most issues come up through residents and this was the case here. He said the resident's accessory building is located eight feet away from the property line. It is a matter of location and that is why it was brought up.

Council Member Fawson asked if it is possible to look at a sliding scale with the smaller increments. For example, if it is closer to the property line it has to be lower in height. Craig Barker said that is a possibility. He said they have some issues when you discuss yard space. He said there is a regulation

that only allows a certain amount of the rear yard to be covered with buildings. He said the ordinance does allow the accessory building to be closer to the property line if the lot is over one acre, with a conditional use permit. He said he thinks a sliding scale for 10,000 square foot lots may not work.

Council Member Bigler said they need to protect property rights and at the same time they need to protect the neighbors' property rights and property value. He said if they lower the height and allow accessory buildings to be closer to the property line, it will not ruin any neighborhoods. Craig Barker said they would need to provide a height recommendation. He said currently they allow accessory buildings to be up to 25 feet in height. He said that is why they asked the Planning Commission to do that. He said he went out to the resident's property they were talking about and you cannot even see his neighbor's house. He said somehow they need to use some common sense, this is their property and they have big lots, can they change something to reflect the size of the lots.

Craig Barker said Commissioner Thomas discussed many people who build these types of accessory buildings use them for specific purposes and they need a higher door to fit the RVs and boats. He said they end up building a higher building than 15 feet.

Council Member Stoker agreed with lowering the height in the size of the lot. She said the Planning Commission should keep in mind that depending on where a resident would want to place the building would need to be lower. She said she agreed with Council Member Bailey and they should not allow this based on neighbor's arguments because things do change; that shouldn't even come into a consideration.

Council Member Bailey said the issues here seem complicated. He said he understands that they allow 25 feet maximum height if the building is 20 feet from the property line. Craig Barker replied that is correct and added that if the building is over 600 square feet, but lower than 15 feet high it can be up to 15 feet from the property line. He said anything less than 600 square feet and less than 15 feet high can be up to three feet from the property line.

Council Member Bailey asked what they are proposing to the Planning Commission. Council Member Bigler said he is proposing to reduce the 15 foot setback requirement. He said he is not giving a specific height, but wanted to pass that suggestion along for some proposals from the Planning Commission.

Council Member Bigler asked if they could have Art Stowers explain his issue.

Art Stowers, stated they are looking to build a 15 foot high building with two garage bays and a work shop on the side. Craig Barker asked the square footage. Art Stowers replied 1,000 square feet. He said it is 25 feet by 40 feet. Council Member Bigler said he understands he can have the building closer to the property line if it is less than a certain square footage. Craig Barker replied the building would have to be less than 600 square feet. Council Member Bigler said they should look at the size of lots, because that size of a building is not that large in his back yard. Craig Barker pointed out a two car garage is approximately 440 square feet, so he is looking at an additional 600 square feet. Art Stowers said it will be used for a shop. Council Member Bigler said that footage would not work in his neighborhood. He said it would be logical to look at lot sizes.

Mayor Harris asked for clarification on what they are trying to propose. Craig Barker restated the setback requirements for the large accessory buildings. Mayor Harris asked if they are proposing smaller setbacks. Council Member Bigler suggests they increase the 600 square foot determination.

Council Member Bailey stated the combination of his lot as well as the neighboring lots have an effect. He said they need to take more into consideration than just the size of the property owner's lot because there could be issues for the smaller lots that are next to larger lots. He explained there is a large building

in his neighborhood which has made the lots next to it less usable. He said that building feels inappropriate in the neighborhood. He said they should also look at the size of adjoining lots. He said it seems that they are trying to create an ordinance to fit a situation. Council Member Bigler said that is not so for him. He said it seems like common sense that if you are looking at square footage you would need to make it commence with the size of the lot. Council Member Bailey said on larger lots he would think they would want to have larger setbacks rather than smaller setbacks. He said he thinks they would want to keep the buildings farther away from the setbacks.

Council Member Fawson said it seems strange their requirements would place these buildings right in the middle of a yard. He said it doesn't seem like a good use of space to him.

Mayor Harris said they may need to look at it as a conditional use. He said they may want to consider lot size with conditional uses. He said the height of the building will depend on the size of the building. He said they could have a maximum height. He said they may need to go through each zone individually and use a sliding scale. He said there could be larger lots in smaller zones as well. He said it looks to him like they need to have a sliding scale that is indexed to lot size as well as the zone. He said they could tie that into a conditional use also.

Council Member Bailey asked how conditional uses work. Craig Barker explained in certain zones a use may be satisfactory in one location but not another. He said those uses would need to be approved through a conditional use. The conditions would be outlined such as the distance from another residence, distance from property lines, certain heights, etc. Council Member Bailey asked if those conditions are established through ordinance. Craig Barker replied yes.

Craig Barker explained that in the past when he worked for Weber County they dealt with a similar situation. In the agricultural zones, which are the smaller half acre zones, they required that if a building is 20 feet tall it would need to be a certain distance from the property line. He said if the building is 100 feet back from the public street the building can be closer to the property line because it has less impact on the neighbor's livable space in the rear yard. He said that was one way Weber County handled it and it may work in the half acre zones but it would depend on the location.

Council Member Bailey asked if the Planning Commission considered the large accessory buildings from a conditional use perspective. Craig Barker replied no. Council Member Bailey said they may want to look at establishing that. Craig Barker said it gets pretty complicated with the size of the lots and it may take some time to consider that.

Council Member Bailey said in the smaller zones he cannot imagine anyone building anything larger than the 600 square foot accessory buildings. Craig Barker said up until they made this change to the ordinance they began seeing those large accessory buildings in the smaller zones. He said that is when the City Council and Planning Commission decided to address it. He said people were building them right up to the property line and they were 30 feet high. Council Member Bailey commented he is aware of some of those buildings.

Council Member Bigler said if City Council is in agreement he would like this to go back to the Planning Commission for some proposals. He said his big concern is the large buildings in the middle of the back yard. He said if someone is going to build something like that it would be easier to have a driveway on the side of the house. He said he would like the Planning Commission to come up with some type of proposal. Craig Barker suggested there be some area size by zone to allow people with larger lots to build closer to the property line.

Mayor Harris stated he thinks they will need a sliding scale based on lot size and adjoining lot size. He said they may want to consider them as conditional uses. He added that they have to be careful because they cannot just pick and choose. He said if there are some conditions that were specified and those conditions are met then the conditional use permit must be granted.

Jon Call stated part of the issue with conditional uses is that it flips the burden. He said with a variance the property owner has to prove the burden. With a conditional use a city must prove why the conditional use cannot be there. He said a city would have to prove there are no reasonable conditions they could require to mitigate the impacts.

Mayor Harris said the Planning Commission needs something to look at and they are having the same issues as the City Council, deciding what to look at. He asked Craig Barker to write an ordinance based on lot size and building size. Craig Barker stated he would be glad to. He said he will first do some research and communicate with the City Attorney. He said between the two of them they can create something.

Mayor Harris suggested he use lot size, building size, and some sort of sliding scale. Council Member Bigler said that is fine but also the placement on a lot. He asked why the larger lots should have to put it in the middle of their yard. He suggested Craig Barker look at lot size and placement.

Mayor Harris suggested Craig Barker come up with an ordinance and send it to the Council Members for feedback. Council Member Bigler asked if they could get some rough drafts sent to the City Council. Craig Barker replied yes.

Council Member Bailey asked if this would come back to the City Council or if it would go to the Planning Commission first. Jon Call explained that since it is changing a land use ordinance the Planning Commission would need to hold a public hearing before any decision is made. Council Member Bigler stated that is why he was asking if they could get a draft.

Mayor Harris suggested they need to be more specific on what they give the Planning Commission for their consideration.

2. DISCUSSION AND/OR ACTION TO AMEND RESOLUTION 4-2012, RULE XV PARAGRAPH 8 AND ADD A PARAGRAPH 9 OF THE COUNCIL RULES OF PROCEDURE THAT DEAL WITH THE MEDIA POLICY.

Jon Call stated the reason this is on the agenda is because some City Council Members asked if he would propose some new language. He said his idea is to help facilitate between the City Council. He said he is trying to create two separate paragraphs that distinguish the difference between the City policy and a personal opinion as it specifically relates to the elected officials. He said their distinction with employees and staff is concrete. He said if staff has a personal opinion they must disclose that. He said that is what he attempted to do with the proposed language.

Mayor Harris said he is concerned because Council Member Taylor is not present and he has a large investment in this issue. He said he does not know why he hasn't called in. The equipment may not be working correctly. He suggested they continue it at another meeting. Council Member Bigler stated if the equipment is faulty then they should wait, if he just did not call in then they should proceed.

Council Member Stoker stated she had problems calling in on a previous meeting. She stated Council Member Taylor has a large investment and she doesn't know they should discuss this without him being present because they may be back at it again.

Council Member Bigler asked if Council Member Taylor stated he would call in. Mayor Harris stated there was an official request that he would call in. He said they set up the conference call equipment.

Council Member Bailey motioned to table this to a future City Council Meeting. Council Member Fawson seconded the motion.

Voting on the motion:

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| Council Member Fawson | aye |
| Council Member Bigler | aye |
| Council Member Stoker | aye |
| Council Member Bailey | aye |

The motion passed unanimously.

3. PUBLIC COMMENTS.

Philip Swanson, 1066 E. 3300 N., stated regarding accessory buildings that they should also consider open space. He said he heard comment that only 25% to 30% could only be covered by buildings. What about asphalt or concrete. He said there was an accessory building built in his neighborhood well over 750 square feet and 18 feet high. He said he thinks it is three feet from the back property line and the entire back yard is covered in asphalt. He said open space should be more than buildings. He said he would be concerned with run off if he lived downstream from this person. He said there is no back yard to absorb anything. He said this is a new building and he doesn't know how it got built. He said they need to take a look at some of these things. He asked if permits were pulled for these buildings. Mayor Harris stated the ordinance was changed just last year. He stated they will make sure Craig Barker gets that information.

4. CITY COUNCIL, MAYOR, AND STAFF COMMENTS.

Council Member Fawson stated he appreciates the responsiveness of the Public Works Department putting up signs that restrict traffic in dead ends. He said a resident asked about a house being built with stair wells on the outside of the building. He said he was asked by a resident about solar easements so their sunlight is not restricted by neighboring trees. He said if they haven't addressed it they may want to look at it. Mayor Harris said they had huge issues when the dish antennas first came out and they addressed many of these issues during that time. He said he isn't sure they have anything regulations on solar easements, but they will look into that.

Council Member Bigler thanked administration and staff for being attentive to residents in a timely manner. He said we can't always fix residents' concerns but we can be responsive. Mayor Harris agreed and stated there have been a number of requests with the crosswalks that have been taken care of quickly. Council Member Bigler stated North Ogden Elementary School is very appreciative of what was done for them.

Mayor Harris stated the Trails Committee asked us to look at crosswalks coming off of trails. He said they have addressed that and put one cross walk in already and will put another one in where they are required. He said a number of residents were concerned about crosswalks on busy streets. He said they are addressing those as best as they can. He explained they sometimes require a third party to get it taken care of.

Council Member Bigler stated a resident had a concern about a street light. He said this resident contacted all the elected officials with frustration. He said the administration and staff got right on it. He

said it is Utah Power and Light's jobs to get it fixed. He said they have done everything they could do, but staff was in contact with the resident right away. He said the resident appreciates the attentiveness of staff.

Council Member Stoker also said thanks; she noticed the crosswalks and the orange flags. She said she has also noticed the green pedestrian signs that have been put up. She asked staff to look at Mountain Road and Fruitland Drive and asked if it can be repainted. Mayor Harris said some people ignore the paint and the signs regardless. Council Member Fawson asked if we could look at rumble strip. Mayor Harris said they will have to look at it. He said you cannot use speed bumps in the road to control traffic. Council Member Stoker stated repainting the lines may work.

5. ADJOURNMENT.

Council Member Fawson moved to adjourn the meeting. Council Member Bigler seconded the meeting.

Voting on the motion:

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| Council Member Fawson | aye |
| Council Member Bigler | aye |
| Council Member Stoker | aye |
| Council Member Bailey | aye |

The motion passed unanimously.

The meeting adjourned at 7:40pm.

Richard G. Harris, Mayor

S. Annette Spendlove, MMC
City Recorder

Date Approved