

1 **NORTH OGDEN CITY COUNCIL MEETING MINUTES**

2
3 October 25, 2011

4
5 The North Ogden City Council convened in regular session on October 25, 2011 at 5:30 pm in the North Ogden
6 City Council Chambers at 505 East 2600 North. Notice of time, place and agenda of the meeting was delivered to
7 each member of the City Council, posted on the bulletin board at the municipal office and posted to the Utah State
8 Website on October 21, 2011. Notice of the annual meeting schedule was published in the Standard-Examiner on
9 January 1, 2011.

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11
12 **PRESENT:** Richard G. Harris Mayor
13 Wade Bigler Council Member
14 Ron Flamm Council Member
15 Martha Harris Council Member
16 Carl Turner Council Member
17 Dave Hulme Temporary Council Member

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19
20 **STAFF PRESENT:** Annette Spendlove City Recorder/HR Director
21 Dave Carlson City Attorney/Economic Development Dir.
22 Debbie Cardenas Finance Director/Acting City Manager
23 Dave Nordquist Community Services Director
24 Julia LaSeure Deputy City Recorder
25 Craig Barker Community Development Director
26 Polo Afuvai Chief of Police
27 Mel Blanchard Public Works Director

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29
30 **EXCUSED:** Edward O. Dickie III City Manager
31 Brent Taylor Council Member (deployed)

32
33
34 **VISITORS:** Ken Kolb Debbie Gailey Connor Shaw
35 Steve Shaw LaVern Cottrell Bruce Hall
36 Karen Hall Josie Hulme Meg Hulme
37 Justin Hulme Emma Hulme Phillipa Hulme
38 Dagny Hulme Nathan Kendall Brandon Kitchens
39 Jeremy Kitchens David Suisse Michael Durbano
40 Trevor Kitchens Margaret Beus Merrill Spendlove
41 Terry Bexell Aaron Farr Joseph Smith
42 Mary Smith Tim Smith Justin Fawson
43 Gary Hoopes Don Mathewson Jim Suhr
44 Glenn Donnelson Stacey Giatras Cheryl Stoker
45 Gary Rands Kent Bailey Rachel Trotter
46 Lana Tolman Molly Rands George Comber

47
48 **WELCOME**

49
50 Mayor Harris welcomed everyone in attendance. He stated that Edward O. Dickie III, City Manager, is excused
51 tonight, sitting in for him is Debbie Cardenas, Acting City Manager.

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

53

54 Annette Spendlove, City Recorder, led Dave Hulme in taking the Oath of Office. Council Member Hulme
55 introduced his wife, Josie, and five children.

56

57 **CONSENT AGENDA**

58

59 Mayor Harris explained that the minutes of October, 11, 2011 are being pulled until the next meeting because
60 there was a request for some major revisions and staff didn't have time to take care of that business.

61

62 **Council Member Harris moved to approve the business licenses. Council Member Turner seconded the**
63 **motion.**

64

65 Discussion on the motion:

66

67 Council Member Bigler said he thinks it may be worthwhile to have Dave Carlson explain the one, so it is on the
68 record for residents and so forth because there may be, down the road, some residents that have some concerns
69 about that if that's okay. He said it is probably better to explain it now. Mayor Harris asked Dave Carlson to
70 speak to that.

71

72 Dave Carlson, City Attorney, said he thinks the business license Council Member Bigler is referring to is for a
73 group home that provides housing and treatment to troubled youth. The area of group homes is a ticklish subject.
74 It is typical when people in a neighborhood to learn that a group home is coming to their neighborhood for them
75 to be concerned. The fact is that this kind of business activity is highly protected by the federal law. There are
76 two pieces of federal legislation that protect group homes; the Fair Housing Act and the Americans with
77 Disabilities Act. Without getting into too much detail about the federal laws there is very little that cities can do
78 to regulate group homes. Federal laws require cities to treat group homes just the same as they treat other
79 families. Generally speaking the regulation of group homes is done primarily at the State level by the State of
80 Utah. They have to be licensed by the Department of Human Services, there is a licenser assigned to each group
81 home who is responsible for making sure each group home is in compliance with State regulations. Dave Carlson
82 said the term disability is very broad and it is easier to define what a disability isn't than it is to define what is.
83 There are really only about three areas that federal laws don't protect. One is persons who are actively using
84 drugs, youth offenders and adult offenders. Even at that it doesn't protect group homes that are specifically
85 targeted to those populations. You can have youth offenders in a group home that is primarily aimed at treating
86 drug addiction or alcohol addiction or some other kind of behavioral problem. It's not that those kinds of persons
87 can be kept out of group homes, they can't. It's just that a group home can't specialize solely, for instance, for
88 people who are actively using drugs.

89

90 Council Member Bigler said this one is particularly adolescent males and alcohol and drug rehabilitation. Dave
91 Carlson said that is his understanding. He mentioned the business that is getting ready to set up a group home
92 already operates a group home in the city and there have been no complaints or trouble.

93

94 Council Member Bigler thanked Dave for the explanation and said he has one more question. He said he wanted
95 people to hear that our hands are kind of tied as far as federal law goes. The issue is not just a drug or alcohol
96 rehabilitation place but for him it was putting a business in a residential area but our hands are tied with that. So,
97 if anybody wonders about that as we go along that is not necessarily a choice that we have to make. Council
98 Member Bigler said his question is that it said up to 15 youth and 10 workers. Is there a law that says for a certain
99 amount of people you have in there, his concern is in a residential area, isn't necessarily the nature of what is
100 happening there but the business itself next door to neighborhoods. If you have 15 people and 10 workers there in
101 a 1,200 to 1,500 sq. ft. home that's going to be an awful lot of traffic. Do you know if it's going to be 10 workers
102 at the same time and if so, where are they going to park? Dave Carlson said it his understanding that there are 10

103 workers total but they wouldn't all be there at the same time. Council Member Bigler asked if that is going to be
104 under the same parking laws as residential because we can't discriminate with this as far as parking goes and so
105 forth. Just so it is not a disturbance to the neighbors; 25 people in a 1,200 sq. ft. home that's a business. Dave
106 Carlson said right now if a family has 2 adults and 4 teenagers that all have their own car we don't prohibit that
107 and we also don't regulate group homes. He said from what he understands that parking and vehicular traffic at
108 the existing group home has not been an issue. Council Member Bigler asked if they have the same specifications
109 on the current one with 15 and 10. Dave Carlson replied that he doesn't know but our City ordinance does not
110 place a limit on the number of humans that can live in one home. The building code does but those are the only
111 restrictions we have. Council Member Bigler said the law doesn't consider this a business then because we restrict
112 how much traffic goes into a home based business. Dave Carlson said we have to treat it like it's a family.

113
114 Mayor Harris said the Applicant is here and invited him to speak. Derek Bowles said it is almost 6,000 sq. ft.
115 home and the way they decide how many students can fit into that home is based on state licensure. They give us
116 a capacity level and we then determine the number of residents and staff members. He said their hope is that it
117 can be licensed for up to 16 but they are going to run it at a 12 bed capacity. He said there is ample parking as
118 well.

119
120 Council Member Bigler said he thought the application said 1,200 to 1,500 sq. ft. Mr. Bowles said that could be
121 per level but there are three levels. Council Member Bigler said he wants people to understand so they don't get
122 upset. Mr. Bowles said he understands that and added that people can go talk to them too.

123
124 **Voting on the motion:**

125
126 **Council Member Flamm** **yes**
127 **Council Member Bigler** **yes**
128 **Council Member Hulme** **yes**
129 **Council Member Turner** **yes**
130 **Council Member Harris** **yes**

131
132 **The motion passed unanimously.**

133
134 **PUBLIC COMMENTS.**

135
136 Terry Bexell, 3432 N 875 E, said he realizes the Council talked about ATVs being legal for street use previously
137 but he was unable to attend those meetings. His understanding was that we would wait to see what Pleasant View
138 would do and we know how that ended. He said he has some information that would clear up some
139 misunderstandings or misconceptions. Mayor Harris said the Council has fully considered that when it was
140 brought up previously but decided that it is not the right thing for North Ogden City. Mr. Bexell asked the
141 Council to consider it again. Mayor Harris said he is welcome anytime and suggested he prepare a presentation.
142 Mr. Bexell said he has something prepared now or he can come back. Council Member Bigler asked Mr. Bexell
143 if perhaps he has something that he could email something to each member of the Council so they could look at it
144 to see if there is any new information. He said he is happy to look at the information he has so he can decide from
145 there if we decided to put it on the Council meeting agenda, maybe they could look at it first. Mr. Bexell said that
146 is fine and he would get that put together.

147
148 **SWEARING IN OF TEMPORARY COUNCIL MEMBER DAVE HULME.**

149
150 Mayor Harris asked to move item 4 up to the beginning of the agenda.

151
152 **Council Member Harris moved to suspend the rules and move item 4 to beginning of the agenda. Council**
153 **Member Bigler seconded the motion.**

154 **Voting on the motion:**

155

156 **Council Member Flamm** **yes**

157 **Council Member Bigler** **yes**

158 **Council Member Turner** **yes**

159 **Council Member Harris** **yes**

160

161 **The motion passed unanimously.**

162

163 **PRESENTATION AND GIFT TO THE CITY.**

164

165 Mayor Harris stated that Mr. Joseph Smith, a former resident or North Ogden, is here and would like to make a
166 presentation.

167

168 Mr. Joseph Smith said he serves on the board of the Pioneer Chapter of the Sons of Utah Pioneers along with his
169 brother Tim. He was recently asked to speak and as part of that presentation he did a painting of a house that is
170 very much a part of the history of North Ogden. He said his grandfather had 75 acres which became the Shooting
171 Star Ranch and it was the largest house built in Northern Utah at that time. He had a picture done and asked
172 Annette Spendlove to show the picture to the Council and visitors. He said he used the original picture of the
173 house and using Photoshop he put Ben Lomond in the background with clouds, etc. It shows his grandfather, his
174 grandfather's brother and the children. He would like to donate this picture to the City. He said he has loaned it
175 to the City and it was hung in the foyer of the new museum but he wanted to officially give it as a gift to the city.
176 He hopes that this will lead to placing some sort of a memorial at the site of where the house stood which is just
177 past the Montessori School. The Sons of Utah Pioneers do that sort of thing and they memorialize history of the
178 pioneers of Utah.

179

180 **PRESENTATION OF A 5 YEAR SERVICE PIN TO KEN KOLB AND 10 YEAR SERVICE PIN TO**
181 **DEBBIE GAILEY.**

182

183 Dave Nordquist, Community Services Director, introduced Ken Kolb to the Council. He said Ken was hired on
184 Sept 5, 2006 in the Parks Department and prior to that he worked for Ogden City. Ken grew up in Washington
185 State and graduated from BYU. He and his wife have four daughters. He is the Parks Supervisor and City
186 Forester. He holds a number of certifications including arborist, playground safety inspector, pool inspector, and
187 tree climber and worker. Ken is very dedicated and knowledgeable as well as extremely talented. Dave
188 Nordquist congratulated Ken and presented him with a five year service pin.

189

190 Polo Afuvai, Chief of Police, introduced Debbie Gailey to the Council. He said she was hired July 11, 2001 and
191 has been with him for 10 years. Debbie is the first contact for their department by phone. She is the receptionist,
192 the City's representative to the Weber Consolidated Dispatch Consortium and part of a committee that deals with
193 the radios and records system in Weber County. Debbie is the contact person that deals with our IT specialist and
194 helps maintain our computers. She trains all employees with computer problems and saves the City a lot of
195 money that way. Debbie is a hard worker and is dedicated. Polo said they have gotten along real well over the
196 years and he enjoys her spirit. She is a single parent with one daughter and does a great job for the community.
197 He congratulated Debbie and presented her with a ten year service pin.

198

199 **PRESENTATION OF THE COMCAST NEWSMAKERS INTERVIEW.**

200

201 Debbie Cardenas, Finance Director/Acting City Manager, said this past September at the Utah League of Cities
202 and Towns Fall Conference, CNN ran a Comcast Newsmakers Series and as part of that series the Mayor was
203 interviewed by Alexis Cairo, Adjunct Assistant Professor with the Department of Communications at the
204 University of Utah. The Mayor did an excellent job in representing North Ogden City. He talked about the City's

205 beautiful and inviting atmosphere, the business climate, economic development and the City's challenges. She
206 said the interview that will be shown tonight is also on the City's website.

207

208 **RESULTS OF THE REFERENDUM AND PROCEDURE.**

209

210 Annette Spendlove, City Recorder, stated Council, as you're aware there's a petition that went around, a
211 referendum and 3,459 signatures were submitted, 2,987 were valid, 295 were invalid, and there were 177 that
212 were unable to be verified as either valid or invalid. A certified letter went out today to all the sponsors and a
213 letter was distributed to the Council tonight. She said there were a sufficient number of signatures to place the
214 proposition on a ballot. She said she has let the City Attorney know that. The City Attorney then prepares a
215 proposed ballot title and sends notice to the sponsors and City Council within 15 days after certification. She
216 said she did that yesterday and the City Attorney has prepared the ballot title. The Council Members each have a
217 copy of that and the sponsors should be getting that in the mail tomorrow. The sponsors and Council both have
218 five days to provide the City Attorney with comments on the proposed ballot title language. Once they do that,
219 within five days the City Attorney reviews the comments and prepares the final ballot title. The final ballot
220 language may be appealed to the Utah Supreme Court. The proposition is then voted on at the next municipal
221 election, which is November 5, 2013 unless the City Council calls for a special election June 26, 2012. 50 days
222 before the election those wishing to publish arguments for or against the proposition to be printed by the City in a
223 voter information pamphlet may make application to the City to do that. Those wishing to publish arguments are
224 selected as provided by law. A voter information pamphlet is printed by the City and mailed to every registered
225 voter no later than eight days before the election. That is the process for the referendum.

226

227 **DISCUSSION AND/OR ACTION TO APPROVE THE SALE OF SURPLUS PROPERTY TO BRUCE**
228 **HALL AND KAREN HALL.**

229

230 Craig Barker, Community Development Director, referred to the Staff report and explained this is property is part
231 of an abandoned gravel pit. He said in the past 15-20 years, since Heritage Grove was built, a number of property
232 owners have encroached on this City owned property for whatever reason. The City did declare this property
233 surplus and that is a necessary step to allow the City to sell it. He referred to a map of the property showing lot 20
234 and parcel A which is included as attachment A. Near parcel A are shown other parts of Heritage Grove and you
235 will see a temporary turnaround which is required when a subdivision is built to allow emergency vehicles access.
236 This is in the area the Hall's desire to purchase. When we are faced with the issue of the temporary turnaround it
237 needs to be kept in place and Mr. Hall said signed a document stating that it will remain. We will require
238 notification on the deed recognizing that. The Planning Commission did approve a building parcel designation
239 for this piece plus lot 20. He is joining two pieces together that will be recognized as his building parcel. This
240 new piece cannot be separated from the home and built on because it does not meet the zoning requirements. We
241 have reviewed this and checked with the City Engineer who said we need to maintain the turnaround. He is here
242 tonight to ask the City to agree to the sale of the property. The City Manager and City Engineer recommend the
243 sale of the property.

244

245 **Council Member Bigler moved to approve the sale for Bruce and Karen Hall to purchase the property on**
246 **the north property line of lot 20 in the Heritage Grove Subdivision, approximately 2548 N 1550 E, for**
247 **\$4,813.90 plus all other associated costs. Council Member Turner seconded the motion.**

248

249 **Voting on the motion:**

250

251	Council Member Flamm	yes
252	Council Member Bigler	yes
253	Council Member Hulme	yes
254	Council Member Turner	yes
255	Council Member Harris	yes

256 **The motion passed unanimously.**

257

258 **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE ANNEXING 40.61 ACRES**
259 **LOCATED AT APPROXIMATELY 175 E. 2550 N. INTO THE CITY.**

260

261 Annette Spendlove stated that Double Ott Ranch submitted an application petitioning for annexation of property
262 located at approximately 175 E 2550 N. It was brought before the City Council to accept the application to be
263 processed on August 9, 2011 and the City Council did accept it. It was brought again before the City Council
264 certified by her on August 23, 2011 and a public hearing was held September 27, 2011 to receive comments from
265 the public. The petitioners have met all qualifications and fall into our annexation declaration policy. There is an
266 ordinance before the Council for consideration.

267

268 **Council Member Harris moved to approve Ordinance 2011-19 annexing 40.61 acres located at**
269 **approximately 175 E 2550 N into the City. Council Member Hulme seconded the motion.**

270

271 **Voting on the motion:**

272

273 **Council Member Hulme** **yes**

274 **Council Member Turner** **yes**

275 **Council Member Harris** **yes**

276 **Council Member Flamm** **yes**

277 **Council Member Bigler** **yes**

278

279 **The motion passed unanimously.**

280

281 **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING SECTION 9-1-2 OF**
282 **THE CITY CODE TO REQUIRE AN OWNER OF PROPERTY TO BE CURRENT ON EVERY DEBT**
283 **OWED TO THE CITY TO BE ELIGIBLE FOR CITY SERVICES.**

284

285 Dave Carlson said this is the second time this item has been on the Council's agenda. At the last City Council
286 meeting he was directed to go back and make some amendments. There is a provision in this ordinance that states
287 that when a resident's account for services gets more than a certain number of days delinquent the City can
288 terminate their services. What this does is allow the City to terminate any account or any services that the
289 resident has with the City regardless of which account is delinquent. The recommendation that was made was to
290 change the number of days delinquent that accounts had to be before the City could take that action from 60 to 90
291 days. He said there is a new version of the ordinance that was in the packet that makes that change. He mentioned
292 that after making that change he had some discussion with the City Recorder, who is over the utility billing, who
293 brought it to his attention that making that change could create some confusion or conflict with the way the City
294 has traditionally done a water shutoff when utility accounts for water become delinquent. It is the
295 Administration's recommendation that we go back to the 60 days. Annette Spendlove distributed a new third
296 version of the ordinance which the Council is seeing for the first time. This is basically the same version that the
297 Council saw at the last meeting but it adds one sentence added to the end of paragraph A of Section 9-1-2 of the
298 code. It says that by making this change we don't intend to create a conflict with another provision of code that
299 deals with the shutoff of water for nonpayment. There is a specific section of the City Code that deals with shutoff
300 of water so it is his recommendation that if the City Council is going to adopt this ordinance that is the best way to
301 handle this, to alleviate some kind of conflict or confusion in the future. So that it's clear that we are not changing
302 our policy on shut off of water; that wasn't the intent.

303

304 Council Member Bigler asked what that policy is. So we're excluding water shut off with this? Dave Carlson said
305 basically what we are saying is that we already have a code section that deals with water shutoff. This is to deal
306 with the nonpayment of other utility accounts such as sewer or garbage or as we discussed, it could be

307 nonpayment of other fees that are owed to the City; like business license fees or fees that are imposed from Code
308 Enforcement purposes. Mayor Harris said Dave mentioned this third proposal but it actually says 90 days rather
309 than 60. Dave Carlson said that is a mistake. Council Member Bigler said there is a 60 day and a 90 day but it
310 doesn't make the change that Dave just made. Mayor Harris said the third proposal the Council has before them
311 says 90 days his understanding was that we were going to go with 90 days for everything but water. Dave
312 Carlson said that is another option and you can do that too. His said his intent was go back to the 60 days so that
313 is just an error in the copy.

314
315 Council Member Harris asked Dave Carlson whether he is going to look at it and bring back a change. Dave
316 Carlson replied that he thinks the important thing, after talking with the City Recorder, is that we make it clear
317 that we are not changing the City's shutoff policy for water accounts. Council Member Bigler asked what that is.
318 Dave Carlson said there is a specific code section that he doesn't have in front of him. He asked Annette
319 Spendlove to explain that. Annette Spendlove said like she explained at the last Council meeting we bill in
320 arrears so if someone uses services in June we bill in the first part of July and that bill is due the end of July.
321 Then in August if they have not paid by the end of August their utility will be shut off. Council Member Bigler
322 asked if that is just for water. Annette Spendlove replied it is utilities. Council Member Bigler said Dave referred
323 to other utilities except the water so he is wondering what the difference is. Dave Carlson said as he explained at
324 the last meeting almost every account holder in the City has both water and sewer services that we bill together
325 and garbage but there are some that don't and that is one of the loopholes that we are trying to close. So that we
326 have some way to reach those account holders that don't get all of their utility services from the City. For
327 example, we have some people who have water but not sewer; we have some that have sewer and not water.
328 Annette Spendlove said there are those who have garbage and sewer but no water if they have a well. Council
329 Member Bigler said he is still not clear why we exclude water. If they don't have water then you turn off another
330 service? Dave Carlson said if they don't have water then we don't have that recourse to shut off the water; and
331 we can't shut off sewer so it's not a perfect fix but it closes some of the gap.

332
333 Mayor Harris said the Council needs to decide. He said, to him, at the last meeting it was 60 days which
334 coincided with the water shut off procedure that we now use and it was suggested that we probably ought to allow
335 90 days rather than the 60. As we got looking at that it conflicted with how the water shutoff ordinance reads and
336 it throws a wrench into the works when all it does is, by long and sad experience, it just extends the delinquency
337 for another 30 days so we didn't want to have that happen with respect to the water utility. That's the reason we
338 thought we'd come back with this third version. He said it can be 60 or 90 days as long as we exclude water.

339
340 Council Member Bigler said he had a question from the memorandum. This is already in place with the 60 days?
341 Dave Carlson said it is on the water. Council Member Bigler said all of it except for the fees and fines? Other
342 than utility isn't it already in place or is it just water? Dave Carlson said it is just water. Council Member Bigler
343 said it just says the utility department here and they don't want to change the way they are already doing business.
344 He just assumed that was already in place. Dave Carlson said what is already in place is that they have
345 traditionally handled delinquencies in water accounts in a certain way and that is what they didn't want to upset.
346 We wanted to be able to continue to do business as usual there and then avoid having two different systems.
347 Council Member Bigler said we are just adding fees and fines. Dave Carlson said we are adding fees and fines
348 and that we can turn the water off for nonpayment of other services. For example, if they get late on their garbage
349 or some other fee. Mayor Harris said we actually have units that receive sewer from the City but they have their
350 own well or they have Bona Vista so they can refuse to pay their sewer bill. Council Member Bigler said the only
351 one we have on this then on this is the water; it doesn't include sewer at this point. Council Member Harris said
352 you can't turn off sewer. Council Member Bigler replied, not sewer, sorry. You are saying they don't have sewer,
353 they just have water. Mayor Harris replied, some do, yes. Council Member Bigler said right, so you can turn off
354 the water. Mayor Harris said we have always had that ability. Council Member Bigler said he is trying to figure
355 out what the difference is. Dave Carlson said on sewer we can because we can turn off the water if they get late on
356 their sewer because we bill them in tandem but if they don't have water we can't do that. Some have sewer but
357 not water. Council Member Bigler asked how this changes that. Dave Carlson replied we would take their

358 garbage cans away, some leverage so we can try to get people to pay their bills rather than have them have to go
359 to collections because our collections isn't a very satisfactory way of getting people to comply.

360
361 Council Member Harris said we have always been able to, if someone doesn't pay their utilities, to turn off their
362 water now we are dealing more with some additional fines. She used the scenario of let's say she has a dog and
363 she chooses not to license it and it got in trouble. She got fined because she didn't have a licensed dog and she
364 said I don't care. Dave Carlson said yes, try to collect from me. Council Member Harris said now if she kept that
365 posture of I don't care then she could have some other consequences that would be tied to her utility services.
366 She asked if she had that put together. Dave Carlson said that is right and another way to look at it is that, as
367 Annette explained with the water, we are actually extending credit to people. We are providing services to them
368 and then letting them pay us later. So the policy question is then, if you have people who are delinquent, who are
369 not paying according to their agreement with the City, do you continue to extend credit to them in other areas or
370 do you have to continue to extend credit to them in other areas if they're not paying. What this does is allow you
371 to cut off all their credit until they bring their accounts current. Council Member Bigler said that's what he
372 thought, so we are adding fees and fines like the dog or if somebody has a trailer parked in a place in their
373 driveway that their not supposed to, any time we give a fine. Dave Carlson said if it is a civil fine, if it's through
374 our new administrative hearing process, if it's civil in nature that would be true, that we could collect those.
375 Council Member Bigler said it says all fees and fines.

376
377 Dave Carlson said there is a problem with doing it, he said he thinks he explained this at the last meeting, that
378 trying to collect criminal fines won't work through this system because when you have criminal fines it is divided
379 up to a lot of different people. The County gets a little bit of it, the State gets a little bit of it and we get to keep
380 some of it. Council Member Bigler said if somebody has got a trailer parked in the driveway too close to the
381 sidewalk or something is that criminal. Dave Carlson said it could be, it is a criminal violation and it could be
382 cited that way by the police but we've created this new administrative hearing process to try to get away from that
383 and handle those things civilly. Council Member Bigler said that is his question and concern, if someone is not
384 paying their utility bills and they have been contacted, some people are chronic that way, they need to pay their
385 bill or not have the service. He stated his concern is these other fines that have nothing whatsoever to do with
386 utilities; if they're paying their utility bill he thinks we ought to give them those utilities. Not, because you're not
387 doing this, even though you're paying your utility bill, I'm going to turn this off. He said he thinks that is wrong
388 because we already have a process in place for those types of fines. Do we not? Didn't we just change that
389 recently? He said there is a process in place so he doesn't see that. If someone is paying their utility bill why we
390 should say, you're parked in the wrong spot or this or that, if you don't pay it I'm going to turn off your utilities.
391 He said they are not related. Dave Carlson said that is perfectly valid. This basically gets down to a policy
392 decision and that is a perfectly valid argument. Council Member Bigler said we have a process in place. Do we
393 not? To handle those? Dave Carlson said we don't have a very good process in place. When it comes to
394 collecting, it's as he explained at the last meeting, if somebody doesn't pay their criminal fine there are a lot of
395 teeth in the criminal law and eventually people can go to jail if they don't pay their criminal fines. That doesn't
396 happen with civil fines; people don't go to jail for civil fines, we have to send them to collections and collections
397 is kind of a hit or miss kind of an enterprise. Usually we pay the collection agency about 50 cents on the dollar to
398 collect it and then they are only successful in collecting some percentage. Chances are the City is only going to
399 see some small percentage of what is owed if it goes to collections. The idea is to try to use what leverage the City
400 has to try to get people to be honest and pay what they owe. It is a policy question. It just comes down to how
401 you want to do it. As we've seen there are a lot of different ways that you can skin this mule.

402
403 Mayor Harris said we still have the 60 vs. 90 day situation and asked Dave Carlson if he has a copy of what the
404 Council received tonight. Council Member Turner said he thinks the way this is written, it says for 90 days but
405 then that new line they added covers the clarification of the 60 days. He thinks this one here, the way it is written,
406 is for 90 days; if he is suggesting we go back to 60 days then that would be the one that was emailed to the
407 Council but he thinks this one is worded correctly. Mayor Harris said, in his mind, the third version handed out
408 tonight meets the intent of the Council from the last meeting but it also allows our water collections to go forward

409 in the way that has been proven over time to be the most effective. Council Member Turner said that is the way
410 he reads it too. Dave Carlson said he doesn't see a problem with adopting it the way it is drafted in the copy the
411 Council received tonight. He thinks we can work that out. He agrees with Council Member Turner in that adding
412 that last line will avoid that confusion as it pertains to water.

413
414 **Council Member Hulme moved to adopt Ordinance 2011-20, an ordinance of the North Ogden City**
415 **Council amending Section 9-1-2 of the City Code to require an owner of property to be current on every**
416 **debt owed to the City to be eligible for City services as presented in the meeting as the third version.**
417 **Council Member Turner seconded the motion.**
418

419 Council Member Bigler apologized because this was just given to the Council and asked if this new one says fees
420 and fines anywhere. Council Member Hulme replied it is underlined part. Council Member Bigler asked if that
421 needs to be reworded because it says any fee or fine or other debt. Council Member Hulme replied it says owed
422 to the City and that is clarification that it is not owed to whatever criminal body is collecting it. Council Member
423 Bigler said the City collects it. He said from his point of view there is two parts to this; one is if you're not
424 paying your utility bill then you get them shut off and he is certainly okay with that, so he is going to vote no on
425 this because of the other part. He thinks it is wrong to use this, utilities, as a heavy handed way to get people to
426 pay every little fine or something. There is already a process in place for that; if there isn't, we need one. Rather
427 than, if I'm not paying a certain bill then they take action on that certain bill. They don't go and say I'm going to
428 take your car. He just wanted to make it clear that he is okay on the utility part but the fees and so forth to turn
429 off utilities he is not okay with. He said he thinks it is wrong. Council Member Hulme said for him, the reason he
430 supports this is because if his wife lends the neighbor \$30 and they don't pay it back on time and she chooses that
431 she is no longer to teach them piano lessons as a result of that until the bill is paid, to him that would be
432 acceptable even though they are completely unrelated. He said he views it as really the same thing, for him, any
433 time the City is dealing with someone and they owe money for any reason then he doesn't have a problem with
434 them exercising that and finding a way to collect that money. He thinks we owe that to the taxpayers.

435
436 Council Member Turner asked Annette Spendlove if the City is rampant this. Annette Spendlove asked, rampant
437 with people who not paying their utility bills. Council Member Turner replied paying their fees and such. Is it a
438 big problem? Annette Spendlove said no, we've a got a couple but it's not rampant. She said on shut off day we
439 usually have six pages of accounts that we shut off but we have a process in place that we do. We probably shut
440 off 58 people per month and you have to realize they have an opportunity to call before shut off day to make
441 arrangements. She said even then we send a notice out to them letting them know that. Mayor Harris said the City
442 is very fair and patient in this, we're not being draconian, but there comes a point where, just like Dave
443 mentioned, out of respect for the other taxpayers that are paying their bills, we need to take action. This gives us
444 some leverage to be able to do that.

445
446 Council Member Bigler said as far as respect to the other taxpayers and so forth, if you loan somebody money,
447 that's why if they're using the service that's costing all of the other residents money if that's not being paid. The
448 concern he has is what we've dealt with for the last year is, and to the Mayor and Staff's credit, they've cleaned
449 this up. But there is quite a few residents that have received letters saying they owe this fine if they don't change
450 this or this, and we've been hearing from all over the City people that don't even know each other that a certain
451 City employee told them that it was okay to do that. If one person says it and it's not in writing that's one thing
452 but when you start hearing the same thing all over the City that an employee has said I can go ahead and put this
453 pad of cement here and then we go by now 10 years later and say you've got to move it. Now what we're trying
454 to do is if you don't move it then we're going to turn off your utilities. That is a concern. It doesn't cost the
455 taxpayers any money in situations like that. They're not paying a utility bill the City is just saying you put this in
456 the wrong spot. He said he has had no less than ten different people in the City tell him the same thing about the
457 same past employee that don't even know each other that said he said we could do this, he said we could do this.
458 Well now a decade or so later we're sending these letters out saying we're going to fine you if don't change this.
459 And they're like what's the deal? I contacted the City. The guy came out and said go ahead and do it. To do the

460 utility bill and turn that off to force their hand to pay something that is really in dispute, that's an ethical challenge
461 for him. It doesn't cost the City anything because they're not using any service to have something on their
462 property like that.

463
464 **Voting on the motion:**
465

466 **Council Member Turner** **yes**
467 **Council Member Harris** **yes**
468 **Council Member Flamm** **yes**
469 **Council Member Bigler** **no**
470 **Council Member Hulme** **yes**

471
472 **The motion passed 4 to 1.**
473

474 **DISCUSSION AND/OR ACTION ON FINAL ACCEPTANCE FOR NORTH VIEW ESTATES PHASES**
475 **3A AND 3B.**
476

477 Dave Carlson explained that this item is to grant final acceptance to these two phases of the North View
478 Subdivision. He stated that Phase 3A is a property that is owned by the LDS Church so it's not really a
479 subdivision it's just one building parcel. Phase 3B is a subdivision that contains building lots. Our Public Works
480 Inspector has inspected both of these phases and reports that the developer has installed all the required
481 infrastructure, has completed all of the performances that were required of the developer in order to obtain a final
482 acceptance from the City. The only thing outstanding on any of them is that there is still a warranty on the
483 sidewalks that is in effect for a year. Generally when infrastructure goes in the City requires the developer to
484 warrant it for a year and if any defects manifest themselves within that year then we require the developer to
485 remedy that. The City holds a retainage of 10% in the escrow so that we have money on hand. So that's the only
486 loose end that is left from this but the entire infrastructure is in and the Public Works Inspector is recommending
487 that we accept it.

488
489 **Council Member Flamm moved to grant final acceptance for North View Estates Phases 3A and 3B.**
490 **Council Member Turner seconded the motion.**
491

492 **Voting on the motion:**
493

494 **Council Member Harris** **yes**
495 **Council Member Flamm** **yes**
496 **Council Member Bigler** **yes**
497 **Council Member Hulme** **yes**
498 **Council Member Turner** **yes**

499
500 **The motion passed unanimously.**
501

502 **DISCUSSION AND/OR ACTION TO CEASE ALL SPENDING ON THE PUBLIC WORKS COMPLEX.**
503

504 **Council Member Bigler moved that we cease all spending from our savings account that we have been**
505 **collecting for the Public Works facility from this moment on. The motion dies for lack of a second.**
506

507 Mayor Harris asked if the Council wants to have additional discussion on this item, what the plans are and what
508 the process will be in the future. He indicated that he would like to make a few comments. He said we are in
509 agreement that the petition was filed and we need to wait now until we have a vote but we do need to do a couple
510 of things to get to a stopping point on the design which we are very, very close to and we need to pay off the

511 existing bills. He said it is his proposal and what his intent is to bring the project to a halt as quickly as we can,
512 that would be at the end of the schematic design phase which we are just in the process of finishing up. That is a
513 milestone in the design process and that leaves us with a product on the shelf rather than just scattered drawings
514 and scattered information. It brings everything together in one point and leaves us a product that we can use to
515 either go forward on or use sometime in the future. We have a good design, we have a good project and we need
516 to utilize the expertise and the professionalism that has gone into that. Mayor Harris said that would be one thing
517 that he would do is get to this schematic phase and then we'll stop and then we need to pay off our existing bills
518 for the work that has been done to this point. That is the way he would handle it and we'll just go from there.
519

520 Council Member Bigler said he mentioned last time that we need to pay the existing bills but at this point, I guess
521 anything I say they would probably be against, but to cease the spending from this savings account at this point
522 when it's not going through. We know that for a fact at this point. Council Member Flamm said no, we don't
523 because the vote hasn't been taken. Council Member Bigler said yes, exactly. Until the spring so why spend
524 money now? Mayor Harris said he doesn't think we are going to be spending any money. He stated that is what
525 he just said; we will bring everything to a halt. Council Member Bigler said not one person would second to stop
526 spending the residents' money and he thinks that is very irresponsible at this point when it's on hold and there
527 will be a new council on that's going to look at things thoroughly and they will make the decisions. He said we
528 are just spending residents' money and it's just not right. He said he can tell you the residents don't think it is
529 either, the great majority of them. Mayor Harris said we're not spending residents' money; we're not spending
530 any more than... Council Member Bigler said we are spending residents' money that's why they didn't want...
531 Mayor Harris said this was a project approved by the City Council and it is one that we have gone forward with...
532 Council Member Bigler said it's a project approved by the Council but it was... Mayor Harris said Wade you do
533 not have the floor. Council Member Bigler said well, it was voted by a petition that the Council doesn't get a vote
534 on it. Mayor Harris replied to Council Member Bigler you don't have the floor and you're out of order. He stated
535 that is the way we will handle this project, we will bring it to a close just as soon as we can and the spending will
536 be stopped at that point.
537

538 **PETITION AND BOND.**

539
540 No comments or discussion on this item.

541 **PUBLIC/COUNCIL COMMENTS.**

542
543
544 Stacey Giatras, 1116 E 3250 N, said this is in regards to utility shut off discussion that was going on earlier. She
545 said she knows the Council has already voted on it but she recently was talking to the lady that runs Mrs.
546 Cavanaugh's and they have had a disproportionate fee or extra police use fee. She said a lot of apartment
547 complexes or businesses are charged this fee because they have extra calls to the police and keep them extra busy.
548 She said she is not sure of all the details on it but she doesn't think it's right. She said in Mrs. Cavanaugh's case
549 she has never called the police; however, there have been three traffic accidents on Washington Blvd. in front of
550 her business and they have to list an address apparently so they put the address of Mrs. Cavanaugh's. So she is
551 being assessed a fee for extra use for the police that she hasn't used at all and it has nothing to do with her. She
552 indicated that her concern would be, could she have her utilities shut off for that? She said she is afraid there
553 would be some fees, as were discussed, for parking a trailer somewhere or things like that. That people don't
554 think are a very fair fee but to have your water turned off is entirely different than not getting piano lessons. She
555 said turning water off is unrelated and many Cities don't have that opportunity to do something like that because
556 they don't run the utilities. She asked the Council to think about that because she thinks it is a concern.
557

558 Aaron Farr, 820 E 1850 N, said he would like to bring up a comment about this issue of fees. The young lady just
559 before him brings up a valid point. It's hard to understand how the City could charge a fee for police use when
560 she is not involved in using the police. He said the thing he wanted to bring up is that most the areas that he has
561 been privy to if you do not have water in your home, or you do not have electricity or both, you cannot inhabit the

562 house. He asked if the City has a law to that effect. He said when he built his home they wouldn't let him move
563 into the home until he had everything. He said he is just bringing up a point that we're having some problems
564 with making this decision on this particular item with fees and fines and he wonders if there is a family with
565 children, can you just go turn their water off. He said it seems kind of strange.

566
567 Council Member Turner asked everyone to get out and vote.
568

569 Mayor Harris asked Annette Spendlove to explain early voting. She stated that early voting started this morning
570 and runs throughout this week and all next week during business hours except on the last Friday it ends at 5pm.
571 Mayor Harris asked if it runs from 9am to 530pm all other days. Annette Spendlove replied yes, but the last
572 Friday, November 4th the hours are 9am to 5pm. She added that the general election day is November 8th.

573
574 Council Member Hulme thanked the Council and Staff for the warm welcome. He expressed his appreciation for
575 the Police Department for the last few weeks. The manner in which they have handled the press and the
576 investigation regarding Alexis Rasmussen is absolutely outstanding and he is grateful for them. He said they
577 represented the City really well in this tragic circumstance.
578

579 Council Member Bigler agreed with Council Member Hulme and said he also sent an email to that department but
580 he wanted to publicly thank them. They were very professional and also empathetic toward that family every step
581 of the way and we have a great police force. He said his hat is off to all the officers. He expressed his thanks and
582 said they did a great job.
583

584 Council Member Flamm said on Thursday morning the Chamber of Commerce is doing their annual planning for
585 next year. If there is anything he can take and include with serving their annual planning meeting. He said for the
586 Miera-Rasmussen family on Friday evening from 6-8pm at the North Ogden Stake Center located at 626 E 2600
587 N the family will be there. Because this is closed casket so there will not be a viewing. The family will be there
588 so people can go visit with the family and then from 9:30 to 10:30pm there will be another opportunity to visit
589 with the family. The funeral will be at 11am on Saturday morning. Alexis will be buried near her uncle, who
590 passed away recently, down by the Valley View Memorial Park in West Valley. He said we are very sad about
591 what has happened and our thoughts and prayers are with the Miera-Rasmussen families.
592

593 Mayor Harris thanked Council Member Flamm for his comments and mentioned that Council Member Flamm has
594 worked closely with the family during this very tough time. He thanked Council Member Flamm for his service.
595

596 Council Member Harris said everything she was going to say has already been said.
597

598 Dave Carlson referred to the disproportionate fees and stated that all cities do is provide services. That's what
599 they are created for; we provide road services, water services, sewer services, police services. We are a service
600 providing organization. The City has to figure out a way to fund the services it provides. Cities are created by the
601 legislature and everything a City does is determined by State law. The kinds of services we can provide, the way
602 the City can raise revenue to pay for those services; those are all decisions that are made by your State legislature.
603 The disproportionate fee is also a policy that is determined by the State legislature. That is an option that the
604 State legislature provided the Cities. Taxing people and charging fees is never an exact science in fact, he said the
605 most fair way would be for the Police to bill people for the services they provide or the City would hand each
606 person a bill for the services they provide but the State law actually won't let you do that. So we tax people and
607 we charge fees and disproportionate fees was actually a way of trying to make the raising the revenue to pay for
608 City services more equitable by placing it more on those kinds of uses of City land that drive up the demand for
609 City services. In order to do a disproportionate fee we have to hire economists to come in and look at the City
610 and look at our services and make some calculations on where those services are going. Then they divide out
611 rough categories of uses and say these uses are demanding this level of service, these uses are demanding this
612 level of service. It may well be that Mrs. Cavanaugh's doesn't drive any demand for City services but she is in a

613 category of uses that do. That's how that happened. When the City enacted its disproportionate fee it followed the
614 State law precisely as the State legislature had enacted it.

615
616 Debbie Cardenas stated that the economists know that traffic citations count to the address so they took them out
617 first. Those calls were not included in that disproportionate fee.

618
619 Dave Carlson said as the City Council is aware after the July 12th City Council meeting this year at which the first
620 bond resolution was adopted there was a lawsuit filed against the City by former Councilman Steve Huntsman. In
621 that lawsuit he alleged that the City had violated State law in a number of regards in the way the City conducted
622 that July 12, 2011 meeting. The City responded to that lawsuit when we filed a motion for summary judgment
623 where we presented the evidence to the Court to demonstrate to the Court that we had in fact complied with the
624 law in every particular in the way that meeting was conducted. Mr. Huntsman then had an opportunity to respond
625 to our evidence to see if he could controvert any of the facts that were presented. Recently we received a ruling
626 from Judge Jones at the Second District Court in which he found that Mr. Huntsman failed to controvert any of
627 the evidence that the City had provided and granted judgment in the City's favor on that lawsuit. He said he
628 thinks that is important to know because in essence it is an attack on the integrity and honesty of the public
629 officials here and it is reassuring to know that when an impartial third party looked at the records he concluded
630 that Mr. Huntsman's allegations were without merit.

631
632 Debbie Cardenas said Ed wanted me to let you know that he is back and the baby is growing. Ed watched the
633 baby in Disneyland so the other kids could enjoy it. Debbie Cardenas stated that Dave Carlson did an excellent
634 job clarifying the disproportionate fees.

635
636 Mayor Harris echoed the sentiments of the Police Department.

637
638 **ADJOURNMENT.**

639
640 **Council Member Turner moved to adjourn. Council Member Flamm seconded the motion.**

641
642 **Voting on the motion:**

643
644 **Council Member Harris yes**
645 **Council Member Flamm yes**
646 **Council Member Bigler yes**
647 **Council Member Hulme yes**
648 **Council Member Turner yes**

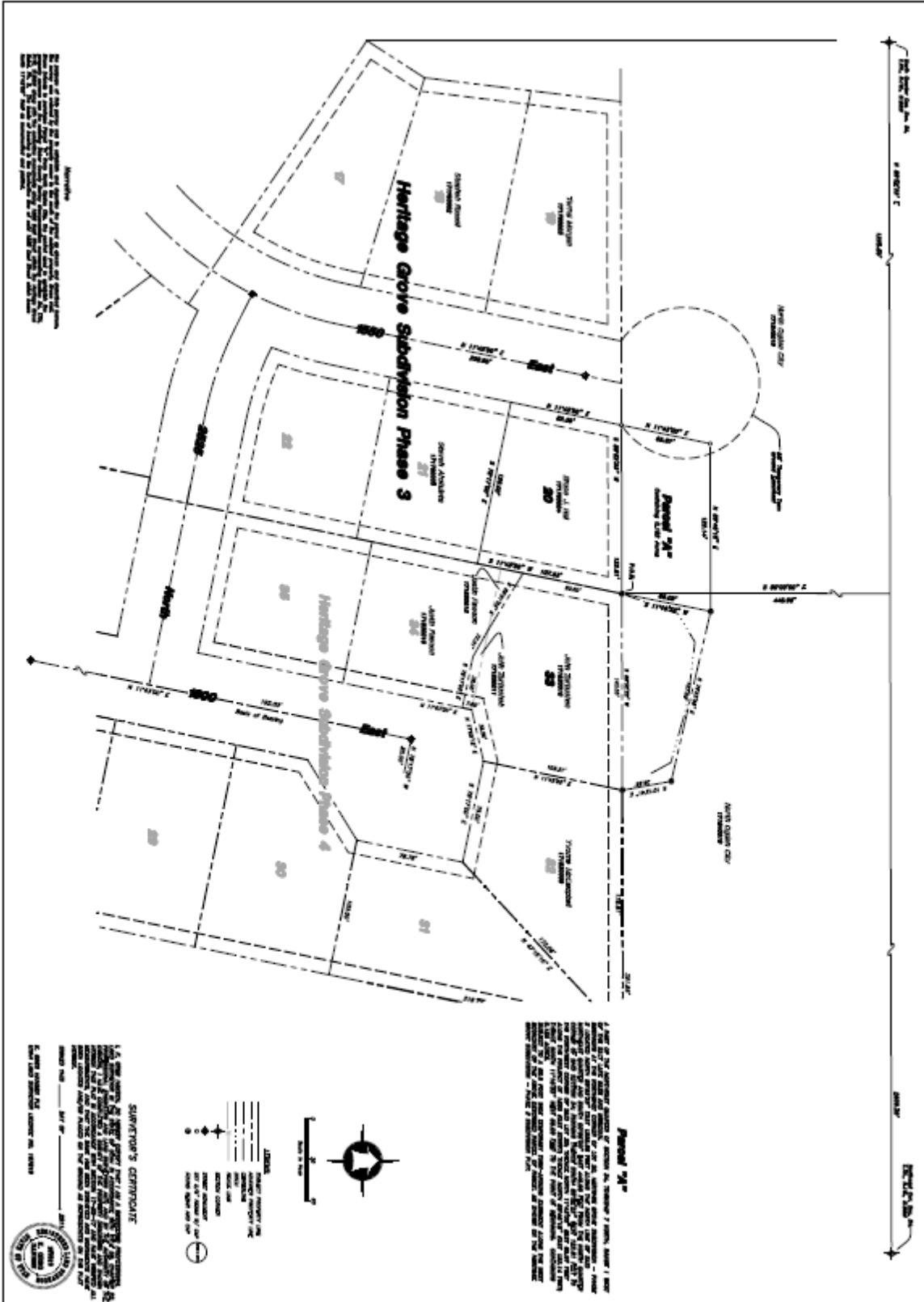
649
650 **The motion passed unanimously.**

651
652 The meeting adjourned at 7:10pm.

653
654 _____
655 Richard G. Harris, Mayor

656
657 _____
658
659 S. Annette Spendlove, MMC
660 City Recorder

661
662 _____
663 Date approved



<p>PROPERTY SURVEY FOR Bruce Hall 2348 North 1250 East North Ogden City, Weber County, Utah A Part of the Northeast Quarter of Sec. 36, Township 7 North, Range 7 West of the 52nd R.</p>	<p>Drawn by: JRM - John R. McCarty Designed by: JRM Approved by: [Signature] Map No: 2348 Drawing File: 11-2-100230 JOB NUMBER: 11-2-100</p>	<p>HAI HANSEN & ASSOCIATES, INC. Consulting Engineers and Land Surveyors 234 North West Street, Brigham City, Utah 84302 Utah Lic. No. 1000-00000000 Alpharetta City, Georgia Lic. No. 1000-00000000 2002-00000000 2011-00000000 2012-00000000</p>	<table border="1"> <tr> <th>No.</th> <th>Date</th> <th>By</th> <th>Revisions</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	No.	Date	By	Revisions												
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<p>DATE: 11/2/10</p>	<p>SCALE: 1" = 40'</p>	<p>DATE: 11/2/10</p>	<p>SCALE: 1" = 40'</p>																