

# NORTH OGDEN CITY COUNCIL MINUTES

September 25, 2012

The North Ogden City Council convened in an open meeting on September 25, 2012 at 6:30 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 September 20, 2012. Notice of the annual meeting schedule was published in the Standard-Examiner on January 16, 2012.

PRESENT:           Richard G. Harris       Mayor  
                      Kent Bailey           Council Member  
                      Wade Bigler           Council Member  
                      Justin Fawson         Council Member  
                      Cheryl Stoker         Council Member  
                      Brent Taylor          Council Member

STAFF PRESENT:   Ron Chandler           City Manager  
                      Annette Spendlove    HR Director/City Recorder  
                      Jon Call               City Attorney  
                      Polo Afuvai           Police Chief  
                      Mel Blanchard         Public Works Director  
                      Craig Barker          Community Development Director  
                      Jim Wells             Sanitary Sewer Supervisor  
                      Trent Wilkins         Utility Maintenance Worker

VISITORS:           Ryan Udell             Nola Howelle           Justin Scott  
                      Robert Merritt        Joan Brown             Don Brown  
                      Carl Turner           Rachel Trotter         Phillip Swenson  
                      Brian Russell         Jim Suhr               Deb Grushlow  
                      Ned Jensen Malan     Laura Stellmon        L. Steve Davies  
                      Ruben Alvarez        Dave Hulme            Kris Barker  
                      Annie Barker          Don Mathewson        Blake Welling  
                      Elaine Jensen         Jim Flinders           Julie Anderson  
                      Bonnie Bailey         Austen Mackley        Mark Mackley  
                      Stacey Giatras        Merrill Greenwell     Jaylene Greenwell  
                      Alane Currier Griggs  Brooke Call            Melanie Call  
                      Steve LaValley

Mayor Harris welcomed those in attendance.

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

## CONSENT AGENDA

1.     **Consideration to approve the minutes of the August 28, 2012 City Council meeting.**
2.     **Consideration to approve business licenses.**

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

**Voting on the motion:**

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

**The motion passed unanimously.**

**ACTIVE AGENDA**

**1. PUBLIC COMMENTS.**

Mayor Harris explained to the audience this would be the chance for audience members to address the City Council. He stated those who would like to speak should approach the podium and state their name and address.

Debra Grushlow, 1355 E. 2925 N., stated she just heard about the discussion about the City parks and asked why they discussing closing the parks on Sunday. Mayor Harris replied this is not a question and answer forum. He asked that the public step forward and make their comments. He said the Council will note the questions and answer them at a later time if they deem it appropriate. Debra Grushlow stated she thinks the parks should be open and available to all citizens in the North Ogden City for any purpose. She said they should be able to go to the parks on a Sunday.

Carl Turner, 2683 N. 950 E., stated he had two questions about the Public Works Facilities Committee. He said he hopes Mel Blanchard, the Public Works Director, will be on the Committee and asked whether the Opheikens property is still available.

Ruben Alvarez, 1048 N. 1025 E., said he is here representing La Liga. He said La Liga is for kids between the ages of seven and ten. He said these kids already play in the seven to 13 age groups. He said he spoke to the City Manager and complied with all the requests. He said he believes he has gone above and beyond. If you go to the park on a Sunday the park is clean, if you go on a Saturday afternoon the park is filthy. He said he thought the trash would be the number one reason they would be kicked out.

Ned Malan, 1055 E. 1700 N., said he thinks they are discussing whether to observe the Sabbath Day or to disregard it. He said the Lord commanded us to leave the Sabbath Day alone as far as work. He said he thinks sports are one of the heaviest works that people do, they destroy their bodies. He said he hopes that tonight things will be discussed and things will go on the Lord's side so they can have his protection. He said this country has forgotten God as a whole and that is one reason we have problems. He encouraged everyone here today to let the Lord have his ground. He said let's leave the Sabbath Day alone.

Alane Currier Griggs, 834 E. 1800 N., said not everyone's Sabbath Day is Sunday.

Justin Scott, 3024 N. 100 W., said he feels like he is in a Footloose movie. He said his big question is why Sunday is a big deal. He said he cannot believe they are really bringing this up for discussion. He said it seems like they are targeting a specific demographic, which he thinks is very dangerous for the North Ogden City Council to do. He said it also has a feeling of religious undertones, which he also does not think is wise for the Council to do. He said last he checked his tax dollars are good seven days a week. He said he doesn't play soccer on Sunday, but if these guys want to do something that is supportive of kids he thinks they have every right to do that. He said what he understood is that family members would be able to use the park. He asked why they are targeting these other groups. He said he wants answers to why they are targeting the groups, why are they trying to force their values on others, and why is Sunday such an issue.

Laura Stellmon, 1125 E. 3200 N., said she would respectfully submit that those who do not desire to use the parks on Sunday are free to stay home and those who desire to do so should be able to do so respectfully within legal limits. She said they should keep the park keep and not provide an over abundant amount of noise to disturb neighbors. She said those who would like to use the park on Sunday should be granted that ability.

Julie Anderson, 940 E. 2600 N., asked that the Council respect all members of the City. She said some of us go to church and some don't. She said they need to be very respectful of everyone and these parks are for the people. She said they should allow the people to enjoy them if they so choose and everyone else can go to church. She said she thinks the Lord will respect their decisions as to how they take their Sabbath.

Steve Davies, 2675 N. 850 E., asked if anyone has noticed how beautiful the leaves are. He asked what everyone is doing at the parks; they should be up in the mountains.

Elaine Jensen, 2218 N. 575 E., said she was born and raised in North Ogden. She said she is Carl Turner's mother-in-law and there was some question whether she attended previous City Council meetings. She said there are three rosters that she did attend but she didn't sign in on a couple of them.

Mayor Harris stated that brings up a good point, everyone here needs to sign in.

Brian Russell, 1151 E. 3400 N., said he is a member of the predominant religion and he would support the use of the City parks on Sunday. He said he thinks that is what parks in the City should be involved in and allow people to do that if they so choose. He said it is a worthy purpose. He said it is not just those who may have a different Sabbath day. He added that he thinks they have some of the nicest parks in Utah and it is good for them to be enjoyed.

Ben Garrison, 683 E. 2650 N., said he also a member of the predominant religion. He said he feels that there are people that choose not to attend church and they need to look at the interest of all people. He asked, if the City does not supply the parks for worthy activities, what alternatives are there for some individuals. He said he would rather see activities like soccer. He said if those kids are not provided clean activities... he does not want to see things like the Alexis Rasmussen case where some of the teenagers gets caught up in things that are not good. He said those are some of the things they need to be aware of. He said there are good purposes.

Brent Code, 482 E. 1850 N., said he worked for a nearby city as a police officer in the past. He said he thinks the city has drawn a lot of attention to them. He said people are coming up using this as a

soundboard for their faith. He said it doesn't matter what faith people are or what day people use the park, the Council is opening them up for lawsuits and it is a waste of our money and our tax dollars. He said the Council needs to be careful and watch what is happening there.

Phillip Swanson, 1066 E. 3300 N., said a very wise man said they believe in worshiping almighty God according to the dictates of their own consciences and allow all men the same privilege to worship who, what, or where they may. He said he thinks they are getting into real thick and muddy waters by shutting down the parks on Sunday.

Mary Beth Ford, 608 E. 2650 N., said this is not a religious issue it is a public issue they are public parks. She said everyone should be able to use these parks at any time without any discrimination. She said she feels closing the parks down on any day of the week is wrong. Anyone should be able to use them for whatever purpose they choose as long as they are being respectful.

Dave Hulme, 513 E. 1700 N., said a lot of the discussion has been about this being a public park. He said he wanted to mention the fact that these are some of the nicest parks and they are paid for by the tax dollars of the citizens of North Ogden City. He said they are used by people from all over. He said in an ideal world there would be reciprocation and the people of North Ogden would go and use nice parks elsewhere, but at the end of the day what happens is the citizens of North Ogden end up subsidizing parks for people to use. He said if the City did not own any parks they would not be able to shut them down on Sundays. He said the decision on whether or not to have park be available would be a commercial decision similar to the grocery stores in our area, one chooses to close on Sundays. He said this discussion has the ability to spill over into things such as the swimming pool, senior center, skate park, library, and virtually anything owned by the government could have this type of discussion. He said there will be those who say everything should be open on Sunday regardless. He said once that door is opened it may become impossible to close.

**2. PRESENTATION TO CROSSING GUARD, JAYLENE GREENWELL.**

Polo Afuvai, Chief of Police, said this is a great day and he is glad the media is here to show off one of our best crossing guards. He said Jaylene Greenwell was hired August 1992 and her post is located at 650 East 2600 North. He said she has been with us for 20 years keeping most of the kids that go to North Ogden Elementary School safe. He said that is what she does every day five days a week in the snow, rain, and wind. He said she is there to protect the kids and instruct them and make sure they are safe going to school. He said they take for granted what these people do for your children. Polo Afuvai presented Jaylene Greenwell a plaque recognizing her 20 years of dedicated service in North Ogden City as a school crossing guard.

Mayor Harris recommended they move to agenda item six.

**Council Member Fawson made a motion to move item six to the next agenda item. Council Member Bailey seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**6. DISCUSSION REGARDING THE USE OF NORTH OGDEN CITY PARKS ON SUNDAYS.**

Council Member Bigler said this item came up because many residents around Orton Park were complaining about the noise and traffic. He said this is just a preliminary discussion and Council has not had one word of discussion on this. He said the media jumped the gun and put a report out. He said he does not know how they get information because they have not had a chance to discuss it yet. He said there were a couple of things in the report that were not accurate. He said for the record a Council Member was talking on the records stated this was discussed previous to him being around, so he did not know anything about it. He said the first email on this was September 9<sup>th</sup> and the second email was on September 10<sup>th</sup>. He said everyone was involved in the email and knew about it. He said another thing that was incorrectly reported to KSL was that this league was in compliance. He said originally they were not in compliance. He said they just came without contacting the City and that is when this was put on the agenda. He said since then they have come in and paid the fee. He said the City Administration had no knowledge about the league until residents began to complain. He said he agrees with what has been said and they need to look at all residents, and that includes both sides. He said it has nothing to do with the predominant religion. He said years ago a master plan was put together and they had to decide what to do with parks. He said a survey was done with the residents and the option was either a big park complex or more cozy residential parks. He said overwhelmingly the residents voted to have the neighborhood parks. He said this item was put on the agenda by the residents. He said most items on the agenda have been brought up because of the resident's concerns. He said it is a challenging issue. He said residents who live by the parks have had a real challenge.

Council Member Bigler said North Ogden City does not have any Sunday City leagues. He said it is not against the law to have a league on Sundays. He said the issue is regarding official leagues; people can still rent the boweries and play at the parks. He said the issue is with official leagues comes heavy traffic. He said the whistles are blowing every 10 seconds throughout the day and some residents want a break. He said Ogden City rotates days because the grass needs time to recoup. He said they have leagues every day of the week and all day on Saturday. He said this is brought up because of the concern of residents. He said North Ogden does not have leagues on Sundays. He said some other leagues from other cities to use North Ogden parks. He said administration has stated this issue has not come up in their City before. He said North Ogden residents pay for the parks and they live here for the serenity of the City. He said it is a tough issue. He asked why leagues from other cities are coming to North Ogden on Sundays. He said he imagines there is a reason besides making parents and people from the other teams drive further. He said there is a fine line with government where you step in and where you let things go. He said the nonstop whistles and traffic by the houses, the residents have asked for a break from that. He said the issue for Council is our residents live here for a reason. He said the residents also pay for the parks. He said the fee for the parks does not produce revenue, it goes toward the upkeep. He said if this continues to go and more leagues decide to bring their leagues here at what point do they say these are not our kids and we do not have leagues on Sundays. He said they have leagues every other day. He said the issue with residents is to have a little peace and quiet and no congestion on Sundays.

Council Member Bigler said the City Attorney was asked about some of the legal issues and he asked to hear from him. Jon Call said he was asked what the cities options were and what they could do. He said it focuses on constitutional issues in the sense that several communities have restricted

activity on Sunday and those are always based on an appropriate purpose that does not focus on religion. He said several of the comments tonight have focused on religion. He said there is a lemon test that focuses on the intent of the speaker or the Council and what is the message that is conveyed in the community. He said if either of those prongs entangle religion with what the government is doing then the action taken is inappropriate. He said one famous case focused on two displays around the holidays. In one there was a nativity scene and in another there was a Christmas tree and a Menorah and that scene was less focused on a religious aspect. He said the court decided the nativity scene was inappropriate. He said the court stated the Menorah was fine because it had a historical purpose. He said as long as there is a valid reason that is not based on religion it does not necessarily give them the green light. He said you have to look at that message it conveys.

Council Member Bigler said there are other cities that set aside a day to let the grass recoup. He said all the other days of the week they have cities leagues for our kids. They pay for the parks. He asked if they allow it on Sundays and not on Thursdays. He said Sunday is the day North Ogden City does not have any leagues and it is a day where the park can rest, get some peace and quiet, and the upkeep it needs.

Council Member Bigler asked Jon Call how other cities have passed an ordinance for parks. Jon Call replied he has not found any other city that has passed an ordinance for parks. He said there are states that prohibit alcohol sales on Sundays. He said there used to be a law in Utah that prohibits motor vehicle sales on Sunday. He said it was later changed to say there could only be six days of vehicle sales. He said if the Council decides to go forward with this then it has to be a legitimate reason that is not focused on religion. Council Member Bigler asked if that only applies to parks. Jon Call replied the State Code declares every Sunday as a holiday and that is why the County Libraries are not open.

Council Member Bigler said there is no other day to close it to give the parks a break. He said it is very noisy when there are leagues and there is traffic in front of the resident's houses. He said they do not have another option to give that park a break. He said the residents have asked for at least one day of peace and quiet. He said North Ogden City does not have any Sunday leagues for our kids. He asked if that is why other leagues are coming to North Ogden. He said the residents are complaining about the whistle blowing and noise and it is not even our kids. He said he is sure it is a fine line legally. He said he contacted Weber County and they have tons of leagues all day Sunday and they have the parks for that, why not play there. He said they have six days a week with their residents; can they ever have a break? It is a tough issue.

Jon Call agreed that it is a tough issue and these are all things the City Council will have to consider. Council Member Bigler asked if they can close them if Sunday is considered a holiday. Jon Call said he believes all State and National parks are open on Sunday. He said he thinks that the Sunday holiday applies to business operations, so the commerce and legislature department can shut down.

Council Member Bailey asked if Orton Park is the only park that has leagues. Jon Call asked another consideration is what constitutes league play, how many kids have to come together before it is considered league play. He said there are a lot of issues that come up and how is it enforced.

Mayor Harris asked Jon Call for more clarification on what he mentioned about intent. Jon Call replied it is called the "Lemon Test". He said the first one is actual intent and the other point is what intent the government is conveying to the community and what they feel the intent is.

Mayor Harris said the problem would be if the City came up with a reason to close the park, yet everyone knew it was for religious purposes. Jon Call said even if the majority of the people felt it was religious. He said it is how it is perceived not necessarily if there is a real argument for it or not. Mayor Harris commented that the perception becomes quite an issue.

Council Member Fawson said that he understands the current ordinance allows for league play if they follow the proper procedures and pay the fees, but they do not offer any City Employee support. He said to him it makes sense, they do not pay their employees to work on Sunday regardless of whose Sabbath it is.

Ron Chandler pointed out that the ordinance does not specifically say anything about a league it states that it shall be unlawful for any person to hold a meeting, gathering, picnic, musical, theatrical, or other entertainment in any park without first obtaining a permit. He said if it is a league play or family reunion on any day of the week they would have to first obtain a permit. He said the fee schedule provides the cost for the permit. He said the only time the parks are closed is between 10pm and 6am every day.

Council Member Taylor stated that he has not heard this particular concern from any resident in the past. He said he would like to take the time to ask residents how big of an issue it is to the neighborhood. He said he has a way he keeps the Sabbath personally that is in line with his religion. He said personally he would not be on a league on Sunday, but if others would like to have an event and they are doing something that is great for the kids, he wouldn't want to stop them from doing that especially when he hasn't heard the concern from any of the residents. He said when they get into this area where there are such strong viewpoints on both sides there has to be a compelling reason for the City to get involved in something that could be perceived as religious and he is not seeing that in this discussion. He said he would rather see them keeping things the same so if someone wants to do a league they can if they follow the procedure.

Council Member Stoker asked if they can set a time for how long a league can play. Ron Chandler said the time frame is determined by the leagues itself except when they winterize the fields. He said that goes from the mid October to April. There is nothing in our ordinance that limits the number of weeks a league will play.

Council Member Stoker said everyone has their own personal religious views. She said she is very uncomfortable saying who can be at a park and who cannot. She said she has not heard this issue brought up before. She said she does think their kids should have a safe place to play and be healthy. She said she doesn't know how to separate religion and state. She said it is a real struggle.

Council Member Bailey echoed Council Member Taylor that in absence of them being aware of a compelling argument or that this is a nuisance, or any other significant problems. He said he would be in favor of leaving things the way they are and inviting people to use our parks. He said Mr. Hulme brought up the concern of people coming from other communities. He said he does not know how pervasive the problem is or if they even want to study the problem.

Council Member Fawson said if they were going to restrict other leagues from coming into the City they need to look at it from that perspective. He said he would hate to restrict play or activities in the parks.

Council Member Bigler said his biggest for him is at what point they should step in to protect North Ogden residents' way of life. He said he knows the room is full of people who have spoken against it, but he guarantees there are a lot of people who feel the opposite and those are the people who live right by these parks. He said if it is protecting the outside leagues and not our residents then he would rather represent our residents and the lifestyle they want. He said he doesn't see it as a religious issue. He said Ogden City has different days to give the grass and parks a break. He said our community does not support leagues on Sunday. He said it would be different if North Ogden residents requested to play softball on Sunday. He said these people are not even from North Ogden. He said he feels like it may be an issue later to open the flood gates for all these other cities to start bombarding us on the day our community has chosen not to have leagues. He said it is important to let the turf recoup and it is an issue with other cities as well. He said if there was enough support for leagues on Sundays from the people that pay for the parks then maybe they could let the grass rest another day. He said there is just not the support on Sunday and they are used the other six days a week.

Mayor Harris said what he heard from the majority of the Council is they would let this issue rest and see what happens in the future.

**3. DISCUSSION AND/OR ACTION TO ACCEPT AN APPLICATION TO START THE ANNEXATION PROCESS FOR PROPERTY LOCATED AT APPROX. 1400 E. 2900 N., NORTH OGDEN, UTAH.**

Annette Spendlove said they have received a request to annex George Hall's property that will be included in the Halltree Subdivision. She said the property is located at 1400 E. 2900 N. She said tonight the City Council is only accepting the application to begin the process. She said this will come back to them at a later date once the City Engineer and all the utility companies have agreed to this. She said Weber County has already approved this application.

Council Member Bigler asked if Mr. Jones had another property that he wanted to annex. Annette Spendlove said Carson Jones is the one who filled out the application, but George Hall signed the documents.

Council Member Bigler asked the affect on the City. Annette Spendlove stated they are creating a subdivision to build more homes and bring in more citizens. Mayor Harris said it is currently unincorporated land and the annexation will add the property to the City so it can be subdivided. Annette Spendlove said the property taxes will come to North Ogden City rather than Weber County.

**Council Member Bailey made a motion to accept the Halltree annexation application. Council Member Stoker seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**4. PUBLIC HEARING TO RECEIVE COMMENTS ON AMENDMENTS TO THE NORTH OGDEN CITY ZONING ORDINANCE SECTION 11-10-5 SPECIAL PROVISIONS FOR SIDE YARD REDUCTION.**

Craig Barker, Community Development Director, referred the City Council to information they received regarding the proposal. He said City staff went to the area that was identified as having been recorded prior to 1980. He said they walked the streets and measured all single car garages or carports to the property line. He said they were not sure of the exact property line, but could come within six inches to one foot to determine if their proposal would allow these people to build a double car garage.

Ron Chandler stated they looked at 509 properties, which either had either a carport, one car garage, or no garage. He said 56% would be able to put a garage in under the proposed recommendation. He said that is an increase of about 130 homes that cannot do this under our existing ordinance. He said they also went further and researched whether those homes had other options such as putting the garage in the backyard and most of them did.

Craig Barker stated that they have had two applicants go before the Administrative Law Judge for approval to build a two car garage and both were approved. He said they looked at it and determined those people should have the same opportunities that the rest of us have. He said currently the ordinance requires a two car garage.

Craig Barker reviewed the proposed ordinance.

Council Member Fawson asked if adding living space above the garage is allowed. Craig Barker said they have not said anything about that, so it would be allowed.

The public hearing opened at 7:42pm.

Dave Hulme, 513 E. 1700 N., said he thinks this is great and a practical solution that helps residents out. He said it allows people to improve some of the aging properties in the City and older neighborhoods viable. He said when he read section B he was confused as well. He said it would be good to improve that language so it is not ambiguous.

Ryan Udell, 576 E. 2800 N., said the current requirements would require it to be 24 feet deep and 22 feet wide and a minimum of eight feet on the side yard. He clarified they are proposing to reduce the side yard requirements and the width of the garage to allow people to have a garage.

**Council Member Bailey made a motion to close the public hearing. Council Member Taylor seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**The public hearing was closed at 7:45pm.**

Council Member Bailey said they have one citizen that has been waiting to have her appeal heard by the Administrative Law Judge. He made a proposal that we suspend the rules and vote on this tonight. Mayor Harris asked Jon Call if they can take action tonight if it is not listed as an action item on the agenda. Jon Call said according to State Code the City Council does not have to hold a public hearing and is able to take action that same day.

**Council Member Bailey moved to approve Ordinance 2012-23 amending the North Ogden City Zoning Ordinance 11-10-5 Provisions for Side Yard Reductions. Council Member Fawson seconded the motion.**

Council Member Fawson asked for clarification in the future on section B. Craig Barker stated they can ask the Planning Commission to look at the language and clarify the language in section B.

Council Member Bailey asked the required width of a parking space. Craig Barker replied nine feet. Council Member Bailey asked if there is something magical about the 20 foot number. Craig Barker said most cities use the 20 foot requirement. He said that requirement will usually accommodate the larger vehicles.

Council Member Bailey said he is so impressed with the proactive approach they have taken with this problem and the opportunities they are creating to hopefully help revitalize some of the neighborhoods in our City. He proposed to change the ordinance amendments to allow garages to be reduced to 18 feet wide. Ron Chandler asked if that would make the magic number 24 feet instead of 26 feet. Craig Barker replied yes.

**Council Member Bailey moved to amend his motion to approve Ordinance 2012-23 changes to the North Ogden City Zoning Ordinance 11-10-5 with amendments to define the minimum size for a garage as 18 feet, opposed to 20 feet. Council Member Taylor seconded the motion.**

Council Member Taylor echoed Council Member Bailey's appreciation toward staff and the Planning Commission. He said he think it is a great move to provide more people better opportunities to use their properties.

**Voting on the motion:**

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

**The motion passed unanimously.**

**5. DISCUSSION ON THE IRRIGATION CANAL LOCATED AT 525 E. 1700 N.**

Mel Blanchard, Public Works Director, stated he wanted to provide some follow up regarding the resident at 525 E. 1700 N. He stated that he and Ron Chandler met with Terrill Grimley from Pineview Water Systems. He said they received clarification from him on some of the issues. He went over the map (included in the packet) and stated they are required to maintain all of the channels in the City that were here before the City was built. He said they maintain and watch over

the channels that the subdivisions were built around. He said their concern was how they identify who has the responsibility to clean some of the channels in the City. He said the large channel that runs through the Bicentennial Park has always been a concern for them. He said Terrill Grimley has been with Pineview Water Systems for 34 years and he is also on the Board of Directors for the North Ogden Canal Company. He said they have a circuit rider who is responsible for checking the canal and its maintenance.

Mel Blanchard stated Terrill Grimley explained that the people who have the water rights to the water that runs down the channel on 525 E. 1700 N. are responsible for that maintenance, which means North Ogden City does not do anything with it. He said they asked to provide a list of names of people who have shares on that water, but Terrill Grimley could not provide the names. He said they put a lock on the head gate that feeds that channel to determine who owns the water rights. He said right now they have no jurisdiction to clean or do any maintenance on the irrigation canal located at 525 E. 1700 N. The only thing they can do is try to provide the resident with the names of the people who are responsible for it.

Ron Chandler said when they met with Terrill Grimley they stated they wanted to make sure that when people are calling the City or when they are calling Pineview Water Company they are being given the same information. He said what they have been able to come up with is that the canals themselves are the responsibility of the irrigation company and the natural streams are the responsibility of the local government. He said the maintenance of the laterals or ditches is the responsibility of the water users. He said the maintenance of the sides of the ditch is the property owner's responsibility. He said they spoke with the resident and she has difficulties in trying to keep her property maintained. He said they are trying to get a hold of neighbors and ecclesiastic leaders to see if they can pitch in and help her with getting that cleaned up. He said he thinks a Boy Scout group can have that cleaned up in about three hours. He said he has tried to call her Bishop and is following up with that.

Council Member Bailey asked if all the red lines are active drainage. Mel Blanchard replied no, only when there are storms. Council Member Bailey asked if those are natural channels and if development is allowed to encroach in that area. Mel Blanchard replied no if they do encroach they are required to install piping.

Council Member Fawson stated he appreciates the work that was done and knows it is a big accomplishment to get this worked out with Terrill Grimley.

**7. DISCUSSION AND/OR ACTION REGARDING CANCELLING THE OCTOBER 23, 2012 CITY COUNCIL MEETING.**

Annette Spendlove, City Recorder, stated that October 23, 2012 is the start of early voting for the November Election from 9am to 5pm. She said they are a Voting Center and anyone in Weber County can vote here. She said there are voting machines and it is very busy. She said there is a work session on October 2, 2012 and suggested the Council has a work session the first part of the meeting and an active Council Meeting the second part of that. She said the October 9<sup>th</sup> meeting will still be held.

Mayor Harris restated there is a work session on the 2<sup>nd</sup> of October, which could be an active session, and there is a regular meeting on the 9<sup>th</sup> of October. He said they are proposing to cancel the meeting on the 23<sup>rd</sup> of October because the voting machines will be in the City Council Chambers.

Council Member Fawson asked if they have an alternative site available for the City Council meetings. Annette Spendlove said they could check to see if the Senior Center is available. He said he would rather have a meeting if they can.

Council Member Bigler asked Mayor Harris to tell the residents what the work session is about. Mayor Harris stated the work session with the Planning Commission. Ron Chandler stated the Planning Commission has requested this work session to discuss some land use issues.

Council Member Bailey brought up the training session they have scheduled on October 17<sup>th</sup> with Pleasant View City. Ron Chandler said there is also the Economic Development Committee meeting on the October 16<sup>th</sup>.

Council Member Bailey asked if there would be time for them to have a regular City Council meeting on the October 2<sup>nd</sup> work session. Annette Spendlove replied that would be up to the Council.

**Council Member Bigler made a motion to cancel the October 23, 2012 meeting. Council Member Bailey seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**Mayor Harris convened into the Board of Equalization at 8:09pm.**

**8. BOARD OF EQUALIZATION**

**a. A request for a refund on a Business License by Stacey Giatras.**

Ron Chandler stated the City does not charge for business licenses unless the owner makes \$500 or more. He stated they also charge \$150 deposit that is refunded if the property is left in good condition. He said they received an application for a fruit stand and the applicant estimated they would make more than \$500. He said they charged them \$250. He said it turned that the applicant paid more in fees than what they made. He said the deposit has been refunded but staff does not have the authority to refund a business license. He said staff recommends the refund be granted.

**Council Member Fawson made a motion to refund the business license fees to Stacey Giatras. Council Member Stoker seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**9. DISCUSSION ON CHANGES TO SECTION 4-1-5 OF THE NORTH OGDEN CITY CODE – BUSINESS LICENSES.**

Ron Chandler said they are asking the City Council to consider changes to section 4-1-5 to give a staff member the ability to provide a refund in unusual circumstances. He said normally a Board of Equalization is only used really under tax assessments. He said the County is really the only one who uses a Board of Equalization. He said the only time a refund is given outside of the Board of Equalization is if there is a disaster. Council Member Bigler asked if they can include that in the motion. Ron Chandler suggested they direct the staff to bring back an amended ordinance. Mayor Harris restated that staff will bring back a draft ordinance which will loosen it up so they do not have to convene a Board of Equalization. Council Member Bailey said he thinks they need to keep it significantly tight and state who will have the authority to provide a refund and under what conditions a refund will be approved. Council Member Bigler said he would think the conditions would remain the same.

**10. DISCUSSION AND/OR ACTION TO APPROVE MEMBERS FOR THE PUBLIC WORKS FACILITIES COMMITTEE.**

Mayor Harris said Carl Turner asked if the proposed land was still available for the Public Works Facility Complex. He stated the landowner withdrew his offer. He reminded the Council of discussions how to form this committee. He said it is his responsibility to propose the makeup of the committee with the advice and consent of the City Council. He stated Brent Chugg would serve as the chair and a voting member. Mayor Harris went over all the names on the list.

**Council Member Bailey made a motion to approve the members for the Public Works Facilities Committee as presented. Council Member Stoker seconded the motion.**

Council Member Taylor asked with the committee chair being voting member and there being 14 members, what would they do in the event of a tie. Mayor Harris said he thinks the probability of a tie vote is small and they will address it at that time.

Council Member Fawson said this has been a hot issue for a long time and some have supported the petition to get this on the ballot to allow residents voice their concerns with the bond parameters. He said he feels there is balance on the committee and thinks it would be unfair and improper to stack the committee with only those who supported the petition. He said he hopes to move ahead.

**Voting on the motion:**

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

**The motion passed unanimously.**

Mayor Harris said they will gather contact information and establish a first meeting.

## **11. PUBLIC COMMENTS.**

Dave Hulme, 513 E. 1700 N., stated Janet Manley is his next door neighbor and their bishop's name is David Godfrey. He said he know people who claim water rights and will pass that information on. He said there are a couple of questions. He said one problem is the heavy flow of water and who do they contact. He said the other question is who the owners of the water rights should contact. He said he appreciates the City dealing with that.

Carl Turner, 2673 N. 950 E., thanked the Council for forming the Public Works Facilities Committee. He suggested that the committee looks at what was previously done. He said he was on the first committee, but asked to be removed when it went out for bid because of conflict of interest. He said he hopes they look at the Blaylock Study and it would be great to include Jones and Associates.

Mark Mackley, 1730 N. 600 E., thanked the Council and Ron Chandler for the action taken on agenda item eight. He said he allowed that to be put on the agenda was more of a civic responsibility rather than being overly concerned about the financial side of it. He said he appreciates his efforts to help and this was more or less his way of getting his boys and the neighborhood boys involved in something productive. He said one suggestion he would make is to look at changing the cleanup deposit. He pointed out that they conduct the business on private property. He said he doesn't understand why the City would be involved in that. He said the process to obtain the permit is intimidating. He said the boys were intimidated by the City Employee who threatened to call the cops if they sold one more bushel of apricots. He said anything they can do to ease up the ordinance and allow people to be free. He said every business owner has the responsibility of safety, security, and cleanliness of their own property. He said he appreciates your efforts in that situation.

Don Matthewson, 2277 N. 515 E., said he talked with Val Berrett and they have gone to the trouble of establishing the course of the canal and recording it. He said the right of way has been established and may be useful to Mel Blanchard. Mayor Harris stated there has been some recent legislation requiring cities to inventory all the flows that come from cities drainage system. He said our City Engineer has been working on that as well.

## **12. COUNCIL/STAFF AND MAYOR COMMENTS.**

Council Member Bailey said he appreciates all the work that has gone into everything that has taken place tonight. He said he thinks they have had an efficient and productive meeting. He said there is a vacant home on 2741 N. 400 E., that has a sump pump running continually and they are getting a nasty moss build up. He said he thinks this is a public safety hazard.

Council Member Fawson said the Council had a resident email them about a light being out and it has been out several months. He said he understands Ron Chandler and Mel Blanchard are working on that and it is still a Rocky Mountain Power issue. He said they have had the discussion about other utility companies and the inability to get the work done faster. He said one thing he would like to recommend some kind of reporting method. He said he would love to see an app that can be used or something on the website where they can report it on the website. He said that would enable us to track the issues and long-term it would give us the power to track the service level to the residents. He said if there are issues like with Rocky Mountain Power they would have a record of how long it takes. He asked for an update on the City website. Annette Spendlove said they are currently working on that and hope to have it up and going in a couple of weeks. Council Member Fawson

said there are some issues with residents trying to send emails to the Council or staff. He said if they do not have Outlook there is an error. He recommended creating a forum in the website. Mayor Harris said that is a good suggestion. Council Member Fawson said he mentioned earlier that he coauthored the petition and he put a lot of work into that because at the time they did not feel like their voices were being heard. He said his view has not changed. He said his view of the overall cost has not changed, nor has his view of the makeup of the committee. He said he feels like they need to move forward as much as possible for as little as possible. He said Pleasant View has done a great job and he said he thinks they can do a great job too. He said he is on the same path.

Council Member Bigler asked regarding the canal issue how they let people know who to contact for help. Ron Chandler stated the most important thing is that they are giving everyone the same information. He said there will be times when residents will not like that they are responsible for the weeds alongside the ditch. He said if they get a call from a water user we generally get information and call them back. He said the first person who gets the call should be able to get their information so they are not being passed from person to person.

Council Member Bigler said he has not heard back on the sinking road. He said they were looking at the water source and asked if they can follow up on that. Mel Blanchard said they ran all the obvious tests, culinary water, sanitary sewer, and irrigation and not one is the source of that water. He said the best thing they can come up with is that it has to be ground water and to find a ground water source is next to impossible. He said they will watch it at the next rain storm to determine what to do. He said they may need to put in a land drain. He asked if they require sidewalks in the new development along 2100 N. Ron Chandler replied yes, all new subdivisions are required to have sidewalks. Mayor Harris said they need to be aware that on small subdivisions the owners will have to agree to put in sidewalks when the City determines it is necessary to put sidewalks in the rest of the area. Council Member Bigler said rather than require the resident to put in the sidewalk later why don't they require the developer to install the sidewalks upfront. Mayor Harris said they are trying to avoid piece mealing it out. Council Member Bigler said the specific issue with the out buildings in the back yard will be on the first meeting. He said he thought they directed the Planning Commission to give them some different options like lot sizes, and the overall height. He said the option was nothing. He said he hates for it to come back to the City Council and then back to the Planning Commission and it gets caught up in red tape for another three months. Ron Chandler stated once the City Council receives the recommendation from the Planning Commission they have the option of accepting the recommendations as is, not improving them, or modifying the recommendation. Council Member Bigler said they would need to have a public hearing so the process is lengthy. He said he wants to make sure that specific item will be discussed in their work session. Ron Chandler stated it is.

Council Member Bailey asked Jon Call about what he mentioned earlier about zoning and public hearings. Jon Call stated the State Code does not require the City Council to hold a public hearing for land use items. He said if it is a land use ordinance the public hearing is held at a Planning Commission meeting, but if it is another ordinance the City Council will hold the public hearing. Ron Chandler stated the City Council has the option to hold a public hearing and that has been the practice.

Council Member Bigler stated there was previous discussion regarding what was going to happen with the Orton Farms development and the rear property line and fences. He asked what was going to happen with that. Mayor Harris said the rear property lines run along the rocks that line the basin. He said it is impossible to put a fence in there. He said there is an easement to allow the City to

maintain that area. He said the fence will be built at the bottom of that slope rather than where the property line is. He said the City will install a guardrail on the top of the dike. He said there will only be one fence and a guardrail. Council Member Bigler asked if the City will be able to maintain that area if a resident puts a fence up. Mayor Harris replied yes and stated that is why the City has an easement.

Council Member Stoker thanked the residents for coming tonight and stating their thoughts and feelings. She said that is what makes this City a great place to live. She said the wonderful thing about their freedom is they can all agree to disagree. She thanked the staff especially Ron Chandler, Mel Blanchard, and the Chief of Police. She said she appreciated the Police Officers and stated she feels very safe when she walks home. She said if they have any concerns the staff is always right there to take care of things. She said she is very excited about the Public Works Committee and think it will be fair and cost efficient. She said she thinks great things will come from it and it will be pleasing to all.

Council Member Taylor said he thinks the Public Works Facilities Committee will be a great committee. Everyone had input in it and he is excited to see what they will come up with for the City. He said he likes Council Member Fawson's proposal on the tracking system for service requests from the residents.

Jon Call recommended the City Council not hold public hearing on land use issues. He said they can hold a public meeting with public comments. He said the court can scrutinize public hearing much more, plus the notice requirements are much more expensive. Council Member Bigler said it would be cheaper to not have a public hearing. Jon Call said that is correct you only have to send out one notice. He said when they talked about the closed meetings earlier they need to hold separate closed meetings.

**13. DISCUSSION AND/OR ACTION TO ENTER INTO A CLOSED MEETING TO DISCUSS LITIGATION.**

**Council Member Bailey made a motion to go into a closed session. Council Member Bigler seconded the motion.**

**Voting on the motion:**

<b>Council Member Fawson</b>	<b>no</b>
<b>Council Member Bigler</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Taylor</b>	<b>aye</b>
<b>Council Member Bailey</b>	<b>aye</b>

**The motion passed 4 to 1.**

**The City Council recessed at 8:50pm and convened in a closed session.**

**The City Council reconvened in an open session at 10:00pm.**

**Council Member Bailey made a motion to go into a closed session. Council Member Taylor seconded the motion.**

**Voting on the motion:**  
**Council Member Fawson**                    **no**  
**Council Member Bigler**                   **aye**  
**Council Member Stoker**                   **aye**  
**Council Member Taylor**                   **aye**  
**Council Member Bailey**                   **aye**

**The motion passed 4 to 1.**

**The City Council convened in a closed session at 10:03pm and reconvened in an open session at 10:11pm.**

**14.    ADJOURNMENT.**

**Council Member Bailey moved to adjourn the meeting. Council Member Stoker seconded the meeting.**

**Voting on the motion:**  
**Council Member Fawson**                   **aye**  
**Council Member Bigler**                   **aye**  
**Council Member Stoker**                   **aye**  
**Council Member Taylor**                   **aye**  
**Council Member Bailey**                   **aye**

**The motion passed unanimously.**

**The meeting adjourned at 10:11pm.**

\_\_\_\_\_  
Richard G. Harris, Mayor

\_\_\_\_\_  
S. Annette Spendlove, MMC  
City Recorder

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Date Approved