



NORTH OGDEN CITY

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MEMORANDUM

TO: North Ogden City Council
Mayor Richard G. Harris
Ed Dickie, Manager

FROM: Dave Carlson, City Attorney/
Dir. Community & Economic Development

DATE: June 10, 2011

RE: *Conservation Easement: Former Barker Family Property*

Mayor Harris has asked that I explain to you a proposal to place a “conservation easement” on the former Barker family property adjacent to and north of Barker Park (“the Property”). Attached is a template of a conservation easement in case you would like to get a feel for what is involved.

Some of the features of conservation easements are:

1. They are the preferred method to preserve recreation property, trails, open lands, etc.;
2. They describe in good detail the restrictions on the use of the property;
3. They are recorded as part of the record chain of title putting future owners and the public on notice of the restrictions; and
4. The easement is held by a third party which adds assurance the easement will be followed.

To establish a conservation easement on the Property, the City would execute a document similar to the example attached, conveying the easement to an authorized entity. Under Utah law an organization must be a non-profit 501(c)(3) entity to take the grant of a conservation easement. There are several entities that specialize in this area; however, my recommendation is that the City create its own.

The Council has held recent discussions about acquiring trail right of way and there could be other open space the City would like to preserve in the future. Having a qualified open lands 501(c)(3) entity affiliated with the City could be a good tool to have. Private property owners who wished to donate land to be preserved as open space would receive tax advantages for their donation. The non-profit creates sufficient independence to prevent future elected officials from using land contrary to the intent for which it was donated.

Setting up the non-profit is not as difficult as it might seem. I have the expertise to do so. Several elected and appointed officials would be “ex officio” members of the Board of Directors assuring significant City control. I look forward to answering your questions.

Sincerely,

Dave Carlson