

## NORTH OGDEN CITY COUNCIL MEETING MINUTES

February 14, 2012

The North Ogden City Council convened in a regular meeting on February 14, 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 February 9, 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	
	Dave Hulme	Temporary Council Member	
	Cheryl Stoker	Council Member	
STAFF PRESENT:	Annette Spendlove	City Recorder/HR Director	
	Edward O. Dickie III	City Manager	
	Debbie Cardenas	Finance Director	
	Dave Carlson	City Attorney/Economic Development Director	
	Craig Barker	Community Development Director	
	Polo Afuvai	Police Chief	
	Dave Nordquist	Community Services Director	
	Julia LaSeure	Deputy City Recorder	
	Lorrie Frazier	Special Events Coordinator	
VISITORS:	Sherry Bernard	Canton Clarke	Brian Russell
	Ilene Nordquist	Bill Bernard	Lynn Millard
	Larry Florence	Ronald Harris	Marilyn Harris
	Elaine Jensen	Pam Trimble	Aaron Farr
	Lana Tolman	Dan Carter	David L. Powers
	Jack Troyer	Carolyn Troyer	Jim Suhr
	Blaine G. Seamons	Blaine L. Seamons	Justine Seamons
	Rachel Trotter	Stacey Giatras	Blake Welling
	Fred Philpot	Julie Anderson	Dale Anderson
	James Mackley	Toby Mileski	

Mayor Harris welcomed those in attendance and thanked them for coming tonight.

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

**Council Member Bailey moved to convene the RDA. Council Member Fawson seconded the motion.**

### Voting on the motion:

Council Member Bailey	yes
Council Member Fawson	yes
Council Member Bigler	yes
Council Member Hulme	yes
Council Member Stoker	yes

**The motion passed unanimously.**

**RDA**

**1. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION APPROVING AMENDMENTS TO THE REDEVELOPMENT AGENCY MAP, LEGAL DESCRIPTION AND PLAN.**

Dave Carlson, City Attorney/Economic Development Director, said this proposal is to make some amendments to the current Redevelopment Area (RDA) in the City shown on the attached map. The Boyer Company has acquired development rights to some property at 2700 N and Washington Blvd. They are interested in developing that and there has been discussion about a Commercial Development Area (CDA) to assist them with their goals there. One reason to create a CDA is to take some future tax revenues and use them to build improvements to the city's infrastructure in that area. The 2700 N and 2550 N rights-of-way are in the old RDA created by the city about 30 years ago. They don't generate any taxes and offer no benefits to the city. In a CDA the funds can only be used in a CDA. This is the first step to moving forward with this but in no way binds the city and does not affect the existing RDA at all. In order to do this we have gone to the City Engineer who has amended the RDA legal description and map and created a new map and legal description for the CDA. The final thing to do is the redevelopment plan. The amendments have been prepared and staff recommends adoption of the amendments to the legal description, map and plan.

**Council Member Bailey moved to approve Resolution 101-2012. Council Member Bigler seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>yes</b>
<b>Council Member Fawson</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Hulme</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>

**The motion passed unanimously.**

**2. ADJOURNMENT.**

**Council Member Fawson moved to adjourn and reconvene as City Council. Council Member Hulme seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>yes</b>
<b>Council Member Fawson</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Hulme</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>

**The motion passed unanimously.**

**CONSENT AGENDA**

1. Consideration and/or action to approve the minutes of the January 17, 2012 City Council and Planning Commission Training meeting.
2. Consideration and/or action to approve the minutes of the January 24, 2012 City Council meeting.
3. Consideration to approve Business Licenses.

Council Member Bailey moved to approve the consent agenda. Council Member Bigler seconded the motion.

**Voting on the motion:**

Council Member Bailey	yes
Council Member Fawson	yes
Council Member Bigler	yes
Council Member Hulme	yes
Council Member Stoker	yes

The motion passed unanimously.

**ACTIVE AGENDA**

**4. PUBLIC COMMENTS.**

Mayor Harris stated that both items 14 and 16 will offer an opportunity for citizens to offer comments and asked the public to please wait for those agenda items.

There were no public comments.

Council Member Bailey moved to consider item 5 after item 10. Council Member Hulme seconded the motion.

**Voting on the motion:**

Council Member Bailey	yes
Council Member Fawson	yes
Council Member Bigler	yes
Council Member Hulme	yes
Council Member Stoker	yes

The motion passed unanimously.

**6. PRESENTATION OF 5-YEAR SERVICE PIN TO MARC LEE.**

This item was postponed.

**7. PRESENTATION OF 5-YEAR SERVICE PIN TO DAVE NORDQUIST.**

Edward O. Dickie III, City Manager, asked Dave Nordquist to stand and he introduced him to the City Council and members of the audience. He stated that Dave is the Community Services Director and oversees parks, trails, recreation, the aquatic center and special events. He said Dave is a great team player. He appreciates him and his willingness to help other departments. Dave frequently offers his services to help out other departments and North Ogden City is lucky to have him. Edward O. Dickie III presented Dave Nordquist with a five year service pin. The City Council and staff offered their congratulations.

**8. PRESENTATION OF 10-YEAR SERVICE PIN TO OFFICER JASON CHILD.**

This item was postponed.

**9. PRESENTATION OF 15-YEAR SERVICE PIN TO SERGEANT DIRK QUINNEY.**

This item was pulled from the agenda.

**10. PRESENTATION OF 20-YEAR SERVICE PIN TO SERGEANT BLAINE SEAMONS.**

Polo Afuvai, Police Chief, recognized Sergeant Blaine “Butch” Seamons and introduced him to the Council and audience. He thanked the Council for the opportunity to highlight some of North Ogden’s finest. Sergeant Seamons was hired in 1991 and it has been a pleasure to have him on the force. Prior to becoming an officer he worked as a reserve officer in Ogden City. He has worked as a Scout merit badge counselor, in crime prevention and fingerprinting. In January 2001 he became a Sergeant working patrol. He did a fine job and taught the younger officers. He has a good knowledge of computers and that is a great help for those out in the field. He is alternate Terminal Agency Coordinator (TAC) and speaks fluent Spanish. Sergeant Seamons is a great asset to the entire county when there is a need for translation. He and his wife Nikki have three daughters; Taylor, Bailey and Grace who are all straight A kids. His parents are here tonight as well. Chief Afuvai said he is proud to be on the same team with Butch and is impressed with his loyalty to the City of North Ogden. Chief Afuvai presented Sergeant Seamons with a 20 year service pin. The City Council and staff offered their congratulations.

**5. DISCUSSION ON MEDIA REPORTING.**

Council Member Bailey stated that he received some communications from citizens of North Ogden over the last few weeks. He said he had a phone call the other night from a resident earlier this week asking “What in the world is going on over there? From the media reports it sounds like the City Council is out of control.” Earlier he received an email from a citizen who took him to task for “throwing Councilman Bigler under the bus”. He said he had to tell this citizen that nothing could be further from the truth and the citizen went back to a media report and he had to reread it again to realize that it was written in such a way as to portray a controversy that existed when there was no controversy .

He said he decided that he wanted to go back and look at some of the other media reports that have appeared since the beginning of the year.

He said he encountered a number of incidents of inaccurate reporting in the media that he thinks is having on this group as a Council:

On the 7th of February, he quoted one of the media reports , it says  
Councilman Dave Hulme agreed with Harris and referred to issues in the summer and fall where two council members were on the public works committee and the spouse of another council member on the committee.

He pointed out at the time, **Bigler accused the committee members** of making a decision before the council meeting because they had a "de facto"

Council Member Bailey said the actual statement that was made that night as he personally remembered it as he went back to the minutes of the meeting that night, there was no mention of Councilman Bigler, it simply said

Council Member Hulme said we had a situation where he thinks we want to avoid. The Public Works Committee had two City Council members and the husband of another sitting on it and they were accused at that time of having a de facto majority and once it came to the City Council meeting it didn't really matter... and it goes on like that. There was no mention that any accusation of anybody's name so in this media report words were put into the mouth of a Council Member which didn't actually take place. In another Council meeting he himself was misquoted

as saying "We would be going over details, and I don't think the public even cares." He said he received a number of phone calls about that. He stated what he actually said , and he went back to the minutes to read through this. It says in the minutes

Council Member Bailey said our discussion this evening is a great case in point. There are details that he doesn't think the public cares about and if everything we have to deal with is like this we will be having Council meeting every week and we will go until 12:30 in the morning.

So both the content of what he said and the tone and the intent of what he said was very different in the media report.

On the first of February in a media report it said, "

The **previous council** had suggested that email discussions among the council, mayor and staff should be kept to a minimum, so the procedures were set to change that The wording the **previous council** had come up with was set to be voted on Jan. 4th.

The truth of the matter was that

- The current council at the request of Council Member Bigler asked to discuss and amend some of the city council's policies and procedures. The request had nothing to do with the previous council.
- The language dealing with group email discussions had never been seen by the current council until it appeared in the packet for the January 24<sup>th</sup> council meeting.
  - He said he asked the city attorney if he could offer some history as to where the wording came from. He replied to the council via email ...it was first attached in the draft amendment to the rules which my records show was created in June 8, 2010. I am a little foggy on the background as to why it was dicussed or who recommended it. To the best of my

recollection someone on Council or the administration described the "problem" to me and I suggested a solution. I honestly don't remember why it was not adopted.

- He said his feeling is as the media report said that the previous council had recommended this that felt strongly about it they had over a year and a half to do something about it which they never did.
- There are numerous other quotes in that report that are attributed to council members that do not appear in the official minutes of the meeting.

On the 30<sup>th</sup> of January the media reported that

The project was shelved after approximately 3,000 residents signed a petition saying they wanted a vote on whether the city should sell \$5 million in revenue bonds The actual proposal Resolution 16-2011 proposed that the sell \$7,000,000 in revenue bonds... Again that is a factual error as reported in the media.

Another one happened on the 30<sup>th</sup>, he stated he believes it was in the same article where it attributes to Councilman Bigler as strongly opposed building the complex with bond money. In actuality on the August 23, 2011

Councilman Bigler actually offered a compromise proposal for \$3.8 million which would have required a modest level of bonding.

He said he guesses his favorite one is a headline that appeared this week that says

Confusion Reigns in North Ogden. This article also has a number of factual errors including stating that the council approved the water rate increase in January when in fact the water rate increase was approved by the previous council December 13th.

Council Member Bailey said his conclusion in doing this in what he wanted to say tonight is that he would like to ask you, the media, to please be more accurate – Not only in the facts but also the context behind the facts.

1. He said it is unfair to take parts and pieces of council discussions and craft them into a news report that makes it appear that controversy exists when there is no controversy.
2. He said he wants them to remember that virtually every resolution that has been passed by the city council since the new council has been seated has passed unanimously. We have a high level of cooperation and a great support for one another.
3. A suggestion or an idea proposed by a council member during a public discussion should not be misconstrued to mean they are evil, or uninformed, or bigoted, or expressing deeply held beliefs, or anything else. Council meetings are the only places we have to share ideas and to brainstorm and it is certainly not in the public interest to have council members ridiculed or vilified for suggesting their ideas. The ultimate result will be a forum in which council members are afraid to say anything at all.

Council Member Fawson said he also received a number of emails, calls and face to face comments specifically asking why there is so much controversy in North Ogden. He said this has been a very united Council and he thinks they are getting good things done. He said we owe it to the media to reach out and communicate with them. He encouraged the Council to communicate with the media, preferably via email, to correct any inaccuracies because we owe it to the residents also to communicate and ensure they are getting the right news.

Council Member Stoker said she got emails and concerns about this too and she was confused and shocked because she felt that every meeting has gone well and those who attended have made similar comments after those meetings. Referring to the Council, she said there isn't any division between us and she thinks we get along well. It has been a very positive working environment. She said she agrees with Council Member Fawson with regard to the emails to give us all some protection.

Council Member Bigler said he has actually tried what Council Member Fawson suggested, to try to help things be more accurate to no avail. He also wanted to refer to the front page of the Standard-Examiner on Tuesday, February 7, 2012. It says 'Bigler wants check on Mayor'. This had to do with committees and he had simply recommended that Council be able to recommend names to the Mayor to serve on committees. In the article it said he wanted to do that but then not have the Mayor do it and that is completely false. He stated that he never said that; the Mayor will still appoint with consent of the Council. He said he thinks there have been three or four articles since our last meeting. Another one, in big, bold print, stated 'One North Ogden Council Member wants greater use of email...' and so forth. He said that kind of makes it sound like he is pushing that kind of thing and in reality that was not even his agenda item. He asked staff, if a Council Member has an agenda item, like he did; to look at some policies that we are doing and he recommended two little changes. He said staff had thrown a different change in there on his agenda item so it looks like it was his item. He asked that if staff has something different to put it on a different agenda item instead of under his name. On that one, it says that he is trying to push for all these things. That was the word used, push, and the minutes to the meeting actually say that he recommended leaving it as it currently is. The staff had recommended a change in there; he did not recommend any change he just asked that it be kept like it currently is. Those minutes end with 'Council Member Bigler proposed we keep it the way it is.' It made it look like he is pushing for some big change and he didn't put the agenda item on the agenda, staff did. He just recommended that it stay as it was which was no controversy at all, but it kind of takes on that flavor unfortunately. It looks like there is going to be an article coming out about the staff compensation and our last meeting. He said he would invite anybody to actually go to the minutes of the last meeting on January 24, 2012 and read the minutes of what was discussed. He said it is as if they want to say that maybe Council had talked about doing some other things and then they didn't do them. So they are trying to dig up mud, Council talks about a lot of things. He said he would just hope that, like on an issue like the benefits package where he had recommended that we just update it and look at the total compensation package. He said in the minutes that the salaries might go up, the benefits might go up. They might go down, we don't know at this point in time. Rather than try to crucify us in the media, saying they were looking at this and doing this; the Council looks at a billion different things, how about just reporting on what we do. If it is the total compensation package of City employees, why don't you let us do our jobs as City Council and put the committee together which is what he suggested. We put the committee together of experts and a third party and look at it so we can have a complete unbiased opinion about that and then we will go accordingly. He said when that is done he has to be able to look at residents in the eye and tell them they are getting what they pay for and he needs to be able to look every City employee in the eye and say with a clear conscience and say 'you are getting a fair and competitive package'. Right now that hasn't been done in the two years he has been on the Council and we simply asked for it to be updated. He said he would just hope that the media that is causing all this mud about stuff that didn't happen that they wait and give it a chance and then report on what actually happens with the compensation package instead of trying to muster up mud so we can do our jobs so we don't have to worry about, every time they open their mouth it's going to pit one against the other and so forth. The last thing he wanted to say on this is that the Council hash things out in a City Council meeting; that is the very purpose for the meeting. For example, last time he was on the agenda and made a proposal and that's a sketch, they chimed in and others made comments and recommendations and then it appears that we are pitted against each other and there is this extreme one here and this one is extreme and they don't get along. He said he did not resent one ounce of them improving what he put on the table. That is why he brought it here and then when we are finished, it is called brainstorming, and that's what we're elected to do and by the time we're finished

we have a better product for North Ogden City and its residents. He said he would hope that they would be allowed to do that without all these things that are said that just are not accurate at all and very skewed. He said it seems like we are trying to find mud and are digging for it instead of just reporting. When we do the Public Works Committee and when we do the facility report on it and then residents can make a determination whether we were extreme, whether we were just knuckleheads or whether we did a decent job for the City. When the compensation package is ready salaries may be reduced, they may increase, he doesn't know but there certainly should not be anything wrong with asking for that to be updated. He said he hopes in the future that we can just move forward in a positive manner. He said he understands and he is sure the rest of the Council does too, that the media has a job to do and so do we. He asked that it not seem to be so skewed at negativity or trying to make one Council Member or another purposefully look like they're out there in right field or out of the ball park when that is not the case at all.

**11. DISCUSSION AND/OR ACTION TO CONSIDER FUNDING THE JULY 4<sup>TH</sup> FIREWORKS.**

Mayor Harris stated the Cherry Days Committee met January 26<sup>th</sup> to start getting ready for this year's celebration. During discussion the possibility of reinstating the fireworks came up. The fireworks has been such an integral and important part of Cherry Days it was felt that to not have them would be to lose a major reason for the celebration. The committee was unanimous in its desire to, if at all possible, have the fireworks again this year. It was also felt if the fireworks could be held at one of our own city parks we wouldn't have to rent the Weber High School stadium. The committee also recommended we not hire the entertainment nor rent the expensive sound system. This would result in a savings of \$5,600.00.

He said since the committee meeting Lorrie Frazier has contacted Fireworks West, the company that has furnished our fireworks in the past. Ordinarily we have to reserve fireworks a year in advance. The company has agreed, however, to provide the same fireworks show as last year for the same price - \$20,000.00. I have checked with Debbie Cardenas to see if funding in that amount is even available, given the budget stresses we have experienced over the past three years. The audit of last year's budget was recently concluded. Because of very careful spending by the city, there are savings available to carry over to this year that will cover that amount. If the City Council wishes to approve this proposal, it can vote at tonight's meeting to make funding available. The budget will have to be opened at a later date to incorporate this, along with other changes that may occur during the year, into the current budget.

He added that after discussion concerning viewing, parking, space to congregate, etc., the committee recommended the fireworks be held at Barker Park. If the fireworks can be launched from Lyman Barker's field behind Deer Meadows subdivision, they can be viewed from Wadman and Oak Lawn Parks as well as Barker Park. This will provide plenty of room for as large a crowd as we can anticipate and will help the parking as well. Lorrie has contacted Lyman Barker and he has agreed to let the city use his field. The owner of Fireworks West visited this site last week and stated that this venue as proposed is the best he has seen in any city. He will substitute fireworks that detonate at a higher elevation for the lower ones we have used at the stadium in the past, thus ensuring a magnificent show as viewed from all three locations.

He requested, on behalf of the Cherry Days Committee, that the City Council approve the expenditure of \$20,000.00 for fireworks for this year's Cherry Days celebration.

Council Member Fawson said in the Economic Development Committee meeting prior to this one when we talked about some fireworks. We talked about potentially having some businesses with booth space to help offset the cost. Understanding that budget is available doesn't mean that we should not explore other options of offsetting costs. We should not ditch the previous consideration of having booths. Lorrie

Frazier, Special Events Coordinator, said she spoke with a vendor today who would like to sell some things like glow sticks and sno-cones and would pay a booth fee of approximately \$60. We considered doing it ourselves but we don't know what the revenue would be and were concerned that we would be losing money. There is not a budget for this; it is all being done by donations.

Mayor Harris said the feeling is that our businesses are about tapped out and that's one reason we are asking for these funds. This is an opportunity to keep the fireworks tradition going. Lorrie Frazier said a few years ago our budget for the entire Cherry Days was about \$70,000, putting \$20,000 in is a big achievement for us.

Council Member Bailey asked how much of the evening experience the entertainment is. Lorrie replied that she wrote a RAMP (Recreation, Arts, Museum and Parks) grant for the daytime entertainment with a provision for nighttime entertainment and she got \$4,000 that would pay for the entertainment and if we did it at Barker Park because we could use our own sound system.

Council Member Bigler said that was discussed shortly ago and he mentioned that we have lots of entertainment during the day and if it's a matter of not having fireworks or having them, to cut out the singer for that night where we have all kinds of entertainment during the day, but still have the fireworks show. He said that in the Cherry Days Committee meeting and he said it in a Council meeting too recently and it was said back that we were not talking about the fireworks that night entertainment because that's not an issue; that's off the table and we were strictly talking about the daytime entertainment when we talked about proceeding with that grant. So now you're saying that night thing was included. Lorrie Frazier said it was included with the wording that it could be a nighttime concert at Barker Park. Council Member Bigler said he was never opposed to the day thing but if we are saying that the fireworks show is too expensive every other community they go with their families or friends or whatever and have a wonderful time at the fireworks show, they don't need a singer necessarily. The several thousand dollars we would pay the singer; he is for having the fireworks and he thinks the great majority of the community wants the fireworks. He said he thinks people would come and just enjoy the fireworks show. Dave Nordquist said, to be clear, that this is not the city's money that we are generating from our general fund. This money is a gift to us from the RAMP people and it is an arts grant which is hard to come by and cannot be used for anything else. This grant will pay for the daytime entertainment and there will be enough to do a little entertainment at night. Lorrie Frazier said she got the proposal for the exact amount to cover the entertainment so we don't need and can't use the funds for daytime entertainment but we could give it back. She said she wishes there was a grant for fireworks because she would be the first one to write it but there isn't.

Council Member Bigler asked Brian Russell if he is over the day and night entertainment and whether we could use those funds to make the day entertainment better? Mr. Russell said he has possibly a conflict of interest as he is the business manager of a local band but stated that the way this grant is written he agrees with Lorrie that we don't need to do more for the daytime.

Council Member Fawson said he thinks it is fantastic that we are doing it locally. Saving the money by not doing it at Weber High is a great idea.

Mayor Harris said there is some urgency to this because we need to reserve the fireworks if the Council decides to do this.

Council Member Bigler said this amount of money that needs to be approved is not what it will end up costing us to do this because we have donations from businesses. He said some of the local businesses are tapped out but he has asked that we go outside the city to some bigger businesses that certainly have North Ogden residents as customers to advertise for us. The amount that we are asking for tonight is to

purchase the fireworks but that will not necessarily be the end cost. He said Lorrie Frazier has done a great job on this and cutting the costs and we will continue to do that.

Council Member Bailey said he is excited about the whole idea; the move to Barker Park and having fireworks. He thinks we are going to engender a whole new thing with the booths and it is a great opportunity to make Cherry Days something that is distinctively ours.

Council Member Hulme said he appreciates the efforts that went into this but he cannot support this request for using taxpayer money for entertainment. He said he thinks the residents should pay for it. He is not comfortable with the idea that the majority of taxpayers want this.

**Council Member Bailey moved to authorize the expenditures of \$20,000 for fireworks as proposed. Council Member Stoker seconded the motion.**

Council Member Fawson said he is torn because he sees this as a want vs. a need. The city needs to provide certain things to the residents and this is definitely not something that has to be provided. He said he stands with Council Member Hulme. He would like to see this happen but he would like to see the money come from revenues generated at the events.

Council Member Bigler said we are working hard to meet that for sure. He said he is also very careful with how we spend taxpayers' money and he completely understands what Council Member Hulme is saying. This is why there are five Council Members; we can give our input and vote our conscience. He said he thinks there are some things that we need to look to the majority of residents for guidance. This is a wonderful community and the majority of people do want this. He said he thinks the 4<sup>th</sup> of July celebration and Independence Day is something worth celebrating. He said he feels very similar about the recreation program, you don't have to do everything for all people but it's a good thing in our community. This creates a neat community and you get to know people and this is a worthwhile thing to have fireworks. He said there are some things in his mind that we have to balance out so we're not one extreme this way or that way. For him this celebration is that balance and it's a worthwhile thing to have fireworks. We will continue to work hard getting the costs as low as we can. He said in the years that he has been here we have cut tens of thousands of dollars off the Cherry Days celebration. He said he will support this, for him it is worth it.

Council Member Hulme said he appreciates that and he agrees with a lot of that. It is so exciting for him to see the City hadn't budgeted anything for this this year, that we are funding this with grants and private donations. He thinks that's great. He said he will put in \$100. Only 199 more people need to do that and we have all the money we need for the fireworks.

Council Member Bigler said it was looked at in the Committee to do that and charge people to come and that was determined to be impossibility for the fireworks show. He said he would actually like to see Pleasant View and North Ogden City come together on a fireworks show. He said he knows their celebration is for their City and our celebration is for ours and there is a lot of deep tradition there so as far as the celebration goes, that's not going to happen. He said he would love us to work together on a fireworks show. We could have a tremendous show and save the residents a lot of money. They have three new Council Members and we are going to see what their feelings are on this.

Mayor Harris said we have tried to work with Pleasant View in the past on combining some aspects of our celebrations and their Council has felt like they couldn't do that because of citizen input.

Council Member Fawson said he will support this but added that he agrees with Council Member Hulme and would be happy to put in his own personal money and he thinks other residents would too. He said he thinks we should look, as much as possible, at contributions from the community.

Council Member Bigler said this is a one-time kind a weird deal because last budget it was not included and at this point if we determine that we want this for the next year we have our budget coming up. If we determine that we've got a lot more time to get working with businesses and so forth for next year where we won't be in this same predicament so to speak.

**Voting on the motion:**

<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Hulme</b>	<b>no</b>
<b>Council Member Stoker</b>	<b>yes</b>
<b>Council Member Bailey</b>	<b>yes</b>
<b>Council Member Fawson</b>	<b>yes</b>

**The motion passed 4 to 1.**

**12. AUDIT REPORT FOR FISCAL YEAR 2010-2011.**

Kent R. Christensen, with Crane, Christensen, Palmer & Ambrose thanked the Mayor and Council for allowing them to serve the City and acknowledged the City Staff for their assistance in this process. As stated in the Audit Report, the auditor's job is to render an opinion on the financial statements of the City and the City has received a clean audit opinion. He said that is the best they can offer. They feel these financial reports accurately represent what happened in the City during that period of time. He added that because of what has gone on tonight and today he would open it up to take questions.

Council Member Bailey asked Mr. Christensen about a comment in the documentation that the major difficulty encountered in performing the audit was the timely preparation of year end trial balances and the related reconciliations of several accounts. He asked Mr. Christensen if he was waiting for the City to get things to him. Mr. Christensen said yes and explained that during the six month period from June 30<sup>th</sup> through when we actually able to start the audit procedures. There were lots of requests for lots of information and a number of demands on the finance department during that period of time. He stated that comment is not in the audit opinion but rather a letter addressed to the Mayor and Council. Pages 1 and 2 of the actual audit report state our audit opinion. There is a narrative format of what took place during that 12 month period. There are two perspectives provided, a government-wide perspective and the funds perspective. Both sets of financial statements indicate that the City is in good/great financial condition. On page 42 of the financial statements there is a comparison of budgeted revenue to actual revenue and shows that the City received about \$481,000 more than what was budgeted. The City received an A grade. On pages 23-27 there is a set of financial statements on the enterprise funds which show the balances on each fund. He stated that Debbie Cardenas and her staff can answer any questions as well. There is a lot of disclosure information about accounting procedures in there. There were some legal compliance findings on page 57 dealing with fund balance issues which the City has addressed. One of those findings is the General Fund exceeding the 18% of expected revenue as allowed.

Council Member Bailey said the General Fund balance exceeding the 18% is a snapshot of a specific point in time and asked if there is a requirement when the City needs to be within that? Mr. Christensen said it is based on June 30<sup>th</sup>. Council Member Bailey said we are out of compliance as of June 30, 2011 is there a ramification of being out of compliance. Mr. Christensen said yes, you're out of compliance and the City will get a letter from the State Auditor asking what we will do about these and the City has already answered those questions. He said to keep up the good work.

Mayor Harris asked Mr. Christensen to explain some more of these things and how hard it is to come in on budget. Mr. Christensen said the audit is a historical record and a budget is a plan. That plan will

come into place in five months. You are basically looking at what you think has happened in the past seven months and the next five months. It becomes difficult for you make it happen. There has been discussion about why don't we save for things if we have a huge capital need but the State won't let you do that because you can't exceed your 18% in the General Fund. You have your own desires and goals and then you have to live within the requirements and laws are placed on you by others. Certain revenue lines are based on what others do so it is difficult to predict what revenue you will get. You budget for building permit income but if the banks decide they don't want to loan much; you budgeted based on 100 permits but you only issued 15. North Ogden has budgeted conservatively which he thinks is wise and these external things affect what you do.

Council Member Hulme said the General Fund balance exceeds the 18% allowed, he asked if the allowable amount is in the plan? Mr. Christensen replied no. Council Member Hulme asked if there is a way to calculate those numbers. Mr. Christensen said you can get next year's budget and multiply that by 18% which will give you what the fund balance can be. It is based upon next year's budgeted revenues.

Mayor Harris thanked Mr. Christensen for his report.

### **13. DISCUSSION ON DISPROPORTIONATE FEES.**

Mayor Harris stated that Council Member Bigler asked that this be placed on the agenda. He asked Council Member Bigler to lead the discussion.

Council Member Bigler said the disproportionate fees that we are currently charging businesses; we started doing that last year when the State started allowing that. So we jumped on that and are now charging businesses those fees. He explained briefly as a summary what that means is we charge businesses a disproportionate fee because we say that they are using a disproportionate amount of police calls. So we are charging the businesses more for those police calls. He proposed that we set the March 27, 2012 City Council meeting as the date for staff to give Council the following information for each of the North Ogden businesses for the years 2010-2011. He said when this was voted on originally he was against doing this. He said to him the question is do we look at businesses as a liability or an asset? He said we get a lot more from them financially then they take for sure. He said he would like prepared for that meeting the following:

1. The number of police calls to each North Ogden City business.
2. The nature of each police call.
3. The date of each police call.
4. What each business's fair portion is.

Council Member Bigler said if we are saying that a business is using a disproportionate amount of police calls so we charge them more, logic would say that we have to know what their portion is. If he tells his kid they ate a disproportionate amount of pie that can only happen if I say each of you get one piece. That's your portion and you ate three portions therefore you are a disproportionate amount. He would like to know what each businesses fair portion is for police calls. If we are going to charge them a fee for using more than their portion, each resident pays for police and other services through property taxes and so forth which are based on home values. So businesses, he feels, should be allowed a higher portion of police calls because they pay more to North Ogden in their taxes and so forth. They also pay different taxes that residents don't pay as well so what are that extra taxes paying for. He said he would also like this information included as well though it wasn't in the memorandum, how much sales tax revenue do our businesses bring in? He would certainly think and hope that in today's world we keep an electronic record of all police calls to residences or to businesses so that should be able to be obtained. Just those facts are what he is after to see if this is justified or if it's just a source of revenue because the state said

we could start charging this new fee. He wants these facts, it is mathematics to him and with the factual information that he is requesting either these facts can and will be proven to be valid and justified by the facts or will be proven unjustified by the lack of facts. He asked that on the March 27, 2012 City Council agenda to discuss and vote on the disproportionate fees and as part of that have staff report on those things that he has asked for as far as police calls to businesses. This has not been shown to him up to this point. Our businesses are an asset, not a liability.

Council Member Bailey said if we are going to discuss this on March 27, 2012 he knows it has been stated in the past that the fee structure the City was using was not supportable. He could not find a discussion on that in the documents that were sent to the Council over the weekend. In the case that Council moves to modify, change or abandon the disproportionate fee structure he would like to have enough information so they can replace it with a fee structure that is at least revenue neutral to where we were before so we are not hurting the City financially. He would like to have the information that would help us set and establish a fee structure that is appropriate or verifiable.

Council Member Hulme said he is not sure it is possible to be revenue neutral without the disproportionate fees because we were charging \$100 for a business licenses and we can now only charge \$64. We have been put in a little bit of a difficult position with the State with what they are even allowing us to do in fact they don't even allow us to look at the businesses individually they have forced us to look at them categorically. You could have a situation where there were five businesses and four of them have private security or something that ensured that the police almost never went there and the fifth that is forced into that same category could be completely responsible and have a huge amount of police presence there and there would be very little that we could do about it because the State has said you can't single out an individual business. In studying that it was one of those things where what he feels is fair is not an option because of the state law. Dave Carlson said levying taxes and charging fees is never an exact science. They have to roughly approximate the costs to the city to provide services. There is always going to be some that are winners and some that are losers. There is no way to make it an exact science. You can't give out invoices every time you plow in front of their house and that would be the only way to make it fair. This was a way to make it more equitable; that was the intent. You have to have the municipal services study and they have to withstand peer scrutiny. The models have to be able to be justified. He suggested that if the Council feels like the fee study doesn't accurately reflect the demand for services they may want to have the study updated. He is not sure you can get out a napkin and calculator and try to come up with different numbers. There is a certain methodology that has to be followed and it ends up being a policy question in the long run.

Council Member Bigler said he would still like that on the agenda for March 27, 2012. He thinks it is reasonable and fair and we have had the study already so we don't have to have another one. He asked how much that study cost. Debbie Cardenas said she doesn't know right now but stated that we had them look at all of our fees. We wanted to make sure we could justify all of our fees not just the business licensing. Council Member Bigler asked if the study cost tens of thousands of dollars. Debbie Cardenas replied yes and added that what he is asking for is what we did. She said what Council Member Bigler is asking for is what we did and we can't just arbitrarily go back to the \$100 business license fee because we have shown that the reasonable fee is \$64.

Council Member Bigler said business owners he has talked to have said the same as he does on this. The City can determine, to a point, what their fees will be and if it was necessary they would rather just pay \$10 more than to have these additional fees generating revenue. If it isn't justified he would not be in favor of keeping that fee in place, if it's justified the information he is asking for will show that it's fair and just.

Council Member Fawson said this to him feels like conveyance of funds from businesses to the City so we can decide what programs we want to fund for those businesses. He stated he would rather have the businesses spending money on what they want than giving us the money to have us spend; understanding that those programs are probably good programs. He said he is looking forward to seeing this information. Debbie Cardenas said we didn't do the study to charge the fees so that we could help the businesses. This was to recoup the expenses that the City incurs in providing services to the businesses. Council Member Fawson said that it is revenue generating so we do have funds left over that we allocate to them. Dave Carlson said it is supposed to be revenue neutral. Debbie Cardenas said what happened is the Economic Development Committee met with the businesses to discuss this and what they wanted was to get some of that money back toward their businesses. That was something that they agreed on but that wasn't the City's intent when they went to do the study.

Dave Carlson said that is the difference between a fee and a tax even though it feels the same to the businesses and residents. A fee has to be tied to a cost of providing service so it doesn't have anything to do with how much revenue the City wants to generate it has to do with an analysis of what it costs the City to provide services and trying to determine the fair way to allocate those costs. Disproportionate fees give the City a little but more flexibility in looking at who is demanding the services. The idea is that those who demand more pay more and those who demand less pay less. Council Member Fawson said the fact of the matter is that we have more money is needed to provide those basic services so we offer additional services to those businesses with those funds so that we zero out at the end of the day. Dave Carlson said the law on fees is that they have to be roughly proportionate to the cost of providing the services; you are never going to get it with NASA precision. It can be a little more or a little less but it has to be in the ballpark of what services cost. Edward O. Dickie III said the study recommended a certain amount but the Council only adopted a small portion of that. Debbie Cardenas said that is correct we only adopted about 10% of the disproportionate fee and we put a max on that too. There is a cost to provide services to businesses and there is a huge difference, approximately \$60,000 that the City is still providing in services that we are not recouping the revenues on. That money is coming from somewhere; obviously it is coming from the General Fund which is funded through property taxes, sales taxes, the franchise tax, and all the revenues that fall into the General Fund. So we are not recouping the costs right now of the services we are providing the businesses. The businesses are not providing all of the revenues that we should be receiving to offset the costs for the services we are providing. She said she thinks what Council Member Bigler is asking for are updated numbers now to make sure that is still the case.

Council Member Bigler said no, not just updated numbers. He said he requested this last year and has never seen the numbers. He wants exactly what he said earlier. He wants to see the numbers. He asked referring to the comment that residents are paying for that, if there were no businesses would the residents be paying more or less. He thinks they would be paying a lot more. These businesses are an asset. He said the other thing is not recouping the extra cost. We already have police officers working 24 hours a day anyway, it's not like we are paying them extra to do this; they are already working. He just wants to see the data that he is asking for tonight. He said he appreciates the fact that we wanted to look at disproportionate fees last year. We did and had to have the study done to meet the legal requirements; that was done but now he would like to see the specifics of our City because last year we had a lot of business owners asking 'can you tell me how many police calls my business had?' and we had no idea. He said he would just like to see the data if that's ok. Debbie Cardenas said they would have received that on the disk that was sent out last week. That's where that data is. Council Member Bailey asked if that is the data from the original study. Debbie Cardenas replied yes. Council Member Bigler said that doesn't have what he is asking for; he just wants what he is asking for at this point. Debbie Cardenas said staff doesn't do that, that's what the consultant does. Council Member Bigler said they told us they couldn't tell us what businesses they were. Fred Philpot, Lewis, Young, Robertson and Burningham (LYRB), said he can get all the 2007 and 2008 data that was requested.

Council Member Bigler asked whether we keep that in the database for our Police Department. Debbie Cardenas said the County does that. We don't. Council Member Bigler said we don't keep a record of the calls here. Mayor Harris said all the information is kept with the County through Dispatch; that's where the records are. Council Member Bigler said when we get multiple calls for a drug house or something we have no record of that. Debbie Cardenas said we can call the County. Council Member Bigler said he knows the study was done through the County but he had asked for the specific businesses and was told that it doesn't have the names of the businesses, you just went by address.

Fred Philpot said they do have data from 2007 and 2008 the calls they pulled from dispatch through the County. He explained that how they go through that process is by using Geographic Information System (GIS) which is a program that actually maps all of the calls and then joins the different data sets together. He provided the data that they received from dispatch is just a list of every single incident, where it occurred and the coding for that call for service. He said the call data doesn't necessarily apply to any business information. If we respond to a call at a Burger King it just puts the address and the incident code or what the police were responding to. They take that address and look at combining all the data sets; you've got your business licenses and their addresses and we code those on a map so we put all those points on a map and then we get all the calls coded as well so we can overlay those data sets. Whenever you have a point that matches up with another point we join that data and analyze the calls to make sure that, like Council Member Bigler said, if there is a strip map and we can't reasonably attribute a call to a specific business we take that out and don't count it because we don't want to disproportionately ding a specific category with incomplete data. He said they go through and filter all that data and take out traffic related calls because those generally aren't tied to a specific business. They filter all that data and join several data sets together to get at what specific calls to go a specific business. The information doesn't come in the form he is asking for but they do have the data from 2007-2008.

Mayor Harris said one statement that has been made a number of times by some business owners is that the disproportionate fees are based on traffic stops outside their business that they didn't have any control over. Fred Philpot said they take out the incidents that are coded as traffic calls. He said some of them could be incidents that take place in their parking lot and they may have no knowledge that they occurred but it was on their property. The idea is that this shouldn't be a one-time analysis because hopefully the disproportionate fee created improvements and the call volumes are reduced over time and the disproportionate fee could hypothetically disappear altogether as a result of that.

Council Member Bailey asked Mr. Philpot if he is aware of how many cities in Utah are using the disproportionate fee based on police calls. Mr. Philpot said he doesn't know the exact number but it is quite a few. He said it is not uncommon though. Council Member Bailey asked is it 5% or 10%? Mr. Philpot said he doesn't know but he can get that information to staff. Council Member Bailey said he would like that information and would also like a list of the cities that charge a disproportionate fee and what services they are based on.

Council Member Bigler said when we discussed this previously he had some local cities that we had checked on and it was mentioned in Council meeting that they weren't using disproportionate fees. He said that his request has nothing to do with LYRB not doing their job, they were hired to do a job and they did it. He said for him the study is more the number of calls and he would not dispute the fact that there is more calls along Washington Blvd. and at those businesses than there are in our residential zones. The other aspect of it though is what their portion financially, what are they bringing to us vs. the cost of more calls on Washington Blvd. The number of calls is not in dispute with him. He said, in other words, if he is a business owner and doesn't want to spend money on paper he can't say that it's a waste. If the paper he is printing on or a copy machine or fax machine is something he doesn't want to pay the money for, if that fax machine makes me more money than it costs me to own it and maintain it, it's a good deal. He said that is the way he is looking at the businesses. They've got these calls in those areas but what are

they bringing in. The fact that there are more calls along Washington is not being debated but we still need to know what their base portion is. Council Member Bailey said it seems to him from the study like the greatest volume of calls came from our retail areas like Smith's or Lee's but at any given moment how many of our residents are standing in those businesses. Is it Smith's responsibility because 400 of our residents happen to be standing in their store at any given time? He has a real philosophical problem with this.

Fred Philpot said they will talk with staff about the scope of what the Council is requesting because it does come down to philosophy and policy decisions based on how you want to define what is the baseline. In this study it is utilizing single-family residential and as Council Member Bigler mentioned, if you looked at a different average like a commercial base you would have a larger base but they generally generate more calls for service than residential but they are not the majority of the land use in the municipality. The more recent data would have to be analyzed and reviewed.

Council Member Bigler said, without costing the city any money, he would like staff at the March 27, 2012 meeting to bring in all the information that we can that he has requested; gather whatever you can. He said we don't have to go to the County to get the information on sales tax revenues and that kind of thing. He is not proposing doing another study and spending tens of thousands of dollars. Debbie Cardenas said he is just talking about revenue figures then because staff has no data on the calls at all. She said we can bring the information on the sales tax that we bring in but will have to go to the County to get property tax information and the State does not like to release the information on what each individual business brings in for sales tax. Council Member Bigler asked if the study took into account what each business brings in or just the number of calls. Fred Philpot said a full cost-benefit analysis has not been done and there is merit to that. Council Member Bigler said to do whatever you can do. Mayor Harris said that discussion was already held by the previous City Council and that is one reason that they decided to only charge 10% of the disproportionate fee because they were cognizant that businesses bring benefit to the City. He said the kinds of things that Council Member Bigler is asking for require a lot of data and a lot of study and he is not sure we have the staff time or the expertise to do that. It has been looked at and thought about and considered in the past. Council Member Bigler said he respects that and he requested that it be on the March 27, 2012 meeting and without that he will put forth a motion at the next meeting to do away with those without that.

Council Member Bailey said it has been looked at but that by was a previous council who probably had some different philosophical leanings about this so perhaps we can look at the same data again. Would that be acceptable? Council Member Bigler said he wants to see just what he asked for, that is what he wants to look at. Debbie Cardenas said she can bring in what we get as revenue and what the City provides as overall services. Council Member Bigler said that would be good.

Mayor Harris suggested a short break. The meeting recessed at 8:43pm and reconvened at 8:50pm.

**14. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION AMENDING THE CONSOLIDATED FEE SCHEDULE TO INCLUDE CHANGES TO THE UTILITY RATES THAT WERE APPROVED AND PASSED BY THE CITY COUNCIL ON DECEMBER 13, 2011; OR DISCUSSION AND/OR ACTION TO SET THE DATE FOR AN ADDITIONAL PUBLIC HEARING TO BE HELD ON FEBRUARY 28, 2012.**

Mayor Harris explained that the City Council on December 13, 2011 passed the utility rate increase that was preceded by a public hearing. We had been discussing these utility rate increases for months and he thinks we may have taken certain things for granted that we shouldn't have. It turns out in reviewing the minutes of previous meetings we only addressed the base rate increases, not the incremental usage rate

increases and this Council recognized that. We put some examples on the website of what those rates would increase to and what a person would actually be paying. We need to incorporate those rate increases into our CFS. The problem is whether we disclosed all of those costs to the public and the answer is no. He said he thinks the Council can take a couple directions on this; the Council can discuss it tonight or postpone this and start over with this process and have another public hearing.

Debbie Cardenas said it was not discussed in the public hearing itself but it was brought up in previous meetings and an explanation was given at that time.

Council Member Bigler said he would like to vote tonight on the \$2.80 and leave the other part. He said he had quite a few residents talk to him about it and he told them \$2.80 because that's what the Council was told. He told them he was going to vote for that because it is needed but he wouldn't feel comfortable voting for both of those changes. Debbie Cardenas said that the \$2.80 will not help to keep the funds healthy. She said the Council could approve the \$2.80 tonight and if you would like to have another public hearing the Council can do that but then it looks like two increases to the residents. In order to keep the enterprise funds healthy you really need to do approve the increases in their entirety and see how it flows through the whole rate system. Council Member Bigler said he would rather not do either tonight. When residents have asked him he has told them \$2.80. He said he would be comfortable voting for the \$2.80 tonight or waiting on the whole thing. He said when we determine what we're going to do with the public works facility there will be an increase at that point too. Debbie Cardenas said that is true if the Council decides to go forward and bond for it.

Annette Spendlove, City Recorder, said there was an increase to the Central Weber Sewer District (CWSD) that was adopted previously and has been charged but it was not changed in the Consolidated Fee Schedule. The residents have been paying that since last July though.

Council Member Stoker said she thinks it would be wise to just have another public hearing to avoid any confusion. Mayor Harris said the soonest would be February 28, 2012.

**Council Member Stoker moved to set a public hearing for February 28, 2012 on this. Council Member Bailey seconded the motion.**

After some discussion Council Member Stoker withdrew her motion.

Debbie Cardenas said she would like to make an assumption that the Council will pass it that night so we can pass the Consolidated Fee Schedule at that time. Dave Carlson said it has been the Council's custom to hold a public hearing and not make a decision at the same meeting but there is no reason they couldn't do that if they chose to.

**Council Member Fawson moved to adopt Resolution 3-2012 with the exception of the per 1,000 gallon water usage increases. Council Member Hulme seconded the motion.**

**Voting on the motion:**

<b>Council Member Hulme</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>
<b>Council Member Bailey</b>	<b>yes</b>
<b>Council Member Fawson</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>

**The motion passed unanimously.**

**15. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AUTHORIZING NORTH OGDEN CITY TO “PICKUP” AN EMPLOYEE’S CONTRIBUTORY AMOUNT IN THE UTAH RETIREMENT SYSTEMS CONTRIBUTORY RETIREMENT PLAN FOR 2012.**

Debbie said the City is required to pay into the Utah Retirement System (URS) and back in the 1980’s there were two plans. URS decided at some point to that would not allow the option and employees had to elect which plan they would choose.

**Council Member Bailey moved to approve Ordinance 2012-4 authorizing North Ogden City to “pickup” an employee’s contributory amount in the URS Contributory Retirement Plan for 2012. Council Member Bigler seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>yes</b>
<b>Council Member Fawson</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Hulme</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>

**The motion passed unanimously.**

**16. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING SECTIONS 11-22-2 “DEFINITIONS” AND 11-22-8F “COMMUNITY SIGNS” OF THE NORTH OGDEN CITY ZONING ORDINANCE.**

Craig Barker referred to the Staff Report and reminded the Council that any changes to the Zoning Ordinance start with the Planning Commission. The Planning Commission has discussed this and recommended an ordinance amendment which the Council will consider. The amendment allows a longer period of times for these types of signs to be displayed to three weeks which is the same as the commercial signs. A public hearing is required and any decision can be made then.

Council Member Hulme asked how concerned he should be that it isn’t listed as a public hearing on the agenda. How does the Council feel? Council Member Bailey said people who may be watching the agendas for public hearings would not have known that this is a public hearing. Mayor Harris said he doesn’t think this is that urgent so we could re-advertise this. Craig Barker suggested simply postponing this public hearing and announcing the new date and time. Dave Carlson said he likes that idea and that would take care of it.

**Council Member Bailey moved to continue this item to the next City Council meeting. Council Member Hulme seconded the motion.**

Council Member Fawson said although this is a minor change, extending the time frame they can put up the signs, he would like to take a look at the larger sign ordinance on the business side. He would like the Planning Commission to take a look at it. Craig Barker said the Planning Commission and Economic Development Committee spent hours all last summer going over that and doing a significant revision to that ordinance. Council Member Hulme said at some point the EDC should take a look at what was done and consider that the impact has been and assess whether that is enough or if we should do more. Council Member Fawson said temporary signs were revisited as recently as late last year and he would like to see those loosened up even more. Craig Barker said that is entirely within the Council’s prerogative.

Council Member Fawson said he worries whether we are business friendly; he is very pro-business and he will always fight for the businesses rights to advertise and get their message out. His other concern is enforceability or lack thereof. When we set timeframes on these things our enforcement guys have to stay up on who has what out and when. He said his preference would be to look at something that talks about the sign itself; the condition of the sign. If the condition stays good they should be able to have it and advertise. Craig Barker said that is up to the City Council and Planning Commission.

Council Member Bigler said he had a question about the word ‘community’ in this ordinance. Why can the government put signs in that strip but it can’t be done by others whether it is businesses or residents? For example we say ‘no wooden signs’ but the Welcome to North Ogden signs are wood. Craig Barker replied that it is public property and is owned by all the public and the responsibility for the upkeep and maintenance of those belongs to the City. To allow private property owners to put signs out there where they establish public liability is a serious question the City has to take under advisement. Craig Barker said in a nearby city there were a number of cinder block mailboxes in the public right-of-way in the park strip. An individual was making a U-turn in the street; the vehicle never left the right-of-way but the bumper extended over the curb and hit one of the mailboxes. The city was sued and was found liable because they allowed it.

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>yes</b>
<b>Council Member Fawson</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Hulme</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>

**The motion passed unanimously.**

**17. DISCUSSION AND/OR ACTION TO CONSIDER THE FIRST AMENDMENT TO NORTH OGDEN CITY CENTRAL BUSINESS DISTRICT DEVELOPMENT PLAN (DATED SEPTEMBER 18, 1990).**

Dave Carlson said this item of business is a companion to the action taken in the RDA. The Council has to adopt the amendment by ordinance to make this final.

**Council Member Bailey move to ratify ordinance 2012-5 approving the first amendment to North Ogden City Central Business District Development Plan. Council Member Fawson seconded the motion.**

**Voting on the motion:**

<b>Council Member Fawson</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Hulme</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>
<b>Council Member Bailey</b>	<b>yes</b>

**The motion passed unanimously.**

**18. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION AMENDING THE NORTH OGDEN CITY COUNCIL RULES OF PROCEDURE.**

**Council Member Bigler moved to accept Resolution 4-2012 with the yellow highlighted portions removed on Rule 14 #4 and everything left else as is. Council Member Fawson seconded the motion.**

Council Member Hulme asked who wrote the language in Rule 4 #18 and said he appreciates that and he thinks it codified the intent there. He said he prefers Rule 14 #4 the way it is currently.

Mayor Harris asked the Council to reconsider removing that sentence as well. There are really good ideas to limit the number of Council Members to two. It is very intimidating and inefficient and also if you have three or more Council Members on a committee you are biasing any decision that should be made later.

Council Member Stoker said her understanding is that even if there are only two Council Members on a committee all five Council Members could attend a committee meeting and listen in and make public comments but only committee members would be voting. Mayor Harris said that is correct.

Council Member Bailey said as a practical matter he struggles a little bit to see how, if the Council would like to have three Council Members present or involved in a committee but it is the exclusive right of the Mayor to appoint to that committee, practically the Mayor could just not appoint Council Members and it would not happen. Mayor Harris said we would get in a deadlock in that case. He said the reason for the advice and consent is so the Mayor doesn't appoint inappropriate members to a committee. The other reason is intended so we get along so we agree on who goes on a committee. He said, to him, in the public eye it would look better if you only had two Council Members on a committee as opposed to more than two.

Council Member Bigler said he has had a lot of residents say the opposite of that. In fact, there was a thing in the newspaper, thumbs up-thumbs down thing that said one of the thumbs down was a loophole where only two members could be on different committees and it can have the appearance to the public of trying to go around the open meetings law. He doesn't think that every Council Member has to do that but if they desire to they should be able to participate. It doesn't matter who but people elect their officials and want them to participate in the process not just voting on it afterwards. Brainstorming and using their intellect. These committees don't just sit around a table; they will be going out and doing work. He thinks residents would like the elected officials to be allowed to participate if they choose to. It is in no way, shape or form against the law or unethical. We already have it in place where it's an open and public meeting and he thinks this is just another way to control what is done on a committee.

Council Member Hulme said he knows the article Council Member Bigler is referring to and what it says, he'll read it from the Standard-Examiner website, "Thumbs down to those who try to skirt Utah's Open and Public Meetings Act. One way it's done by secrecy loving pols is to meet without a quorum in subcommittees. It's a loophole that needs to be closed." He said his argument would be that because we notice all our meetings we are not trying to skirt anything. He can see what they are talking about but he doesn't think it is referring to anything that he has seen done here. He said when it talks about a loophole that needs to be closed he doesn't think the action we are taking addresses that. He said what are they referring to doesn't apply to us in his opinion. Council Member Bigler said his point with that is because it is an open and public meeting already. So he thinks it would be silly to have an elected official sit there but he has to button his mouth and not participate on the committee. If somebody is elected to do a job, they can sit there but they can't say anything. They can't do any work with the committee. It doesn't make a lot of sense to him. Once again, we aren't forcing more work; it is up to the individual Council

Member whether to do that or not. Why shouldn't five City Council Members and an elected Mayor all participate on these things like the Public Works Facility Committee? Put the politics aside so we can come up with the best possible result for our City that we possibly can. He thinks it is vital that we are there and participating.

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>yes</b>
<b>Council Member Fawson</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Hulme</b>	<b>no</b>
<b>Council Member Stoker</b>	<b>yes</b>

**The motion passed 4 to 1.**

**19. DISCUSSION AND/OR ACTION TO CONSIDER FINAL ACCEPTANCE OF LEGACY NORTH PHASE #3 PLANNED RESIDENTIAL UNIT DEVELOPMENT.**

Dave Carlson said he thinks there is an error on this and it should be Legacy 2 not Legacy 3. He reviewed the process for final acceptance and stated that staff recommends the Council grant final acceptance of this.

**Council Member Fawson moved to table item 19 until the next meeting. Council Member Bigler seconded the motion.**

Council Member Hulme said he is confused looking at the map. He doesn't recall having seen anything done in there in the past six years and wondered why this has not been given final acceptance yet.

**Voting on the motion:**

<b>Council Member Fawson</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Hulme</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>
<b>Council Member Bailey</b>	<b>yes</b>

**The motion passed unanimously.**

**20. DISCUSSION AND/OR ACTION TO CONSIDER A NEW PUBLIC WORKS FACILITY COMMITTEE.**

**Council Member Bigler moved to form a new public works facility committee as the former committee has been disbanded.** He said it was stated all along by him and others on the Council that there is a definite need to upgrade our facilities and this is the next natural step in the process of what some of us have believed in all along. In order to move forward with a facility he said he would like to have a committee. He said he thinks we can handle this committee and the employee compensation package committee so we can move forward instead of putting this off for a long time. He said his thinking for the future is after we roll up our sleeves and go to work on this, keep the residents informed every step of the way, give regular updates in Council meetings, so there are no surprises and when we have a pretty good idea of what's going on we can announce a meeting and hear from the public and

present what we have come up with and see how the residents feel about it. We are going to end up with a very usable facility that is done with fiscal responsibility and will serve our needs into the future.

**Council Member Bailey seconded the motion.**

Council Member Hulme said he likes what Council Member Bigler said about regular updates and the public involvement but he stated for the record that he feels very strongly that is exactly what was done before. He said he didn't bring that up to reopen wounds; he brings that up because as the committee moves forward he would like them to look at what the former committee actually did and at the point where the public wasn't satisfied, look and see what the former committee actually did. He doesn't want a repeat of what we have seen. He suggested this committee try to look at what was done and see what can be done differently. He does feel like what Council Member Bigler suggested is what was done before. Also, someone spoke at a meeting last week, the Weber School District Superintendent, about their plans for construction on schools and stated it was their intention to put a revenue bond on the ballot in June? He asked whether we can save a lot of money by piggy backing on that if we decide to do an election on this. Annette Spendlove said she has already looked into this and we could piggyback on it but would have to get moving right away because there are some deadlines. Council Member Hulme said his thinking is if the committee decides to go ahead with the election as was requested on the petition, he suggested putting forth something on the same election that says what a plan is so the residents have a chance to say whether they agree. He thinks the Council is allowed to put something on the ballot but thinks there are different requirements for the timeframe and he would like to know that ahead of time. Annette Spendlove said we are getting close to that deadline if the Council wants to put something on themselves besides the petition that's out there now; it's in April.

Council Member Bigler said, for clarification, the reason for letting the public know exactly in the end what we're doing is because then they can decide whether they still want to vote on the old one. That petition was not to say that this will not be built, it was to give them the right to vote on it and we need to respect that. However, he said he thinks if we can roll up our sleeves and go to work and come up with a product that we're satisfied with and present it to the public then they have an option. Do they want to still vote on it? He said he doesn't think they do. If we present something that is acceptable to them he thinks we can move forward and not have to go that route but residents need to see what their option is with that.

Council Member Hulme said his opinion is that short of going to everyone who signed the petition and asking if they would withdraw from that and getting unanimous approval it is really incumbent upon us to let them vote and have an election. It is unfortunate that we need to spend money to do that but he would be completely uncomfortable assuming that we knew what the public wanted to do. Council Member Bailey said he absolutely agrees with Council Member Hulme on that. His question then is what the Council needs to do. Annette Spendlove said the Council will need to put that on the next agenda for a vote. Council Member Hulme said he would like to know what the deadlines are before that meeting. Council Member Bigler stated that if we're doing the vote and everything, that's great; what he didn't want to have happen is for us to wait and not do anything until that happens. We need to get moving on it now. There's a need there, that's great as long as we can get going on this now.

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>yes</b>
<b>Council Member Fawson</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Hulme</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>

**The motion passed unanimously.**

Mayor Harris said he looks for recommendations and guidance from the Council on members.

## **21. PUBLIC COMMENTS.**

Brian Russell, 1151 E 3400 N, said it is interesting that the last topic on the active agenda was very similar to the first topic in his view. He said as a result of last year's efforts on the Public Works project a lot of rancor was created in the community. A press report that came from a local paper whipped up a frenzy that made things very ugly in our community and set forth a firestorm of things that he doesn't think we based fully on fact and that was unfortunate. Consequently he, as a citizen, has seen the new Council Members with a lot of mistrust and deep seeded mistrust and he has had to bury his anger to try to keep civility in the situation. He said he would like to let them know that in attending the last Council meeting and attending this Council meeting in time he thinks it will work itself out. He said he isn't going to agree with everything the Council Members do but he has seen some honest communication between the Council Members. He saw some disagreement between others who he thought were in lockstep together and that made him very worried as a citizen. He has seen some good suggestions come out of people who he might have opposed. He said to Council Member Bigler that they see differently on things. He said Council Member Bigler probably noticed that in some of the comments that he has made but he heard some things tonight and thought 'boy, that's good.' He had an interest in the fireworks so he will be part of that because he will be participating with that. If they weren't there he wouldn't come and he would be ok with that too because he'd have the day off. He is glad to see that there is a variety of individuals here rather than a single ideology that's going to possibly have what he might consider ill effects in the community. He said he thinks over time he is walking away from this telling his friends that he is scared to death about this Council, before he came and saw them. Now he is getting renewed faith. He told the Council that he appreciates what he has seen here and wants them to know that he is coming away with a new respect of what is happening here.

Toby Mileski, 3325 N 1000 W, Pleasant View, said he would like to discuss a couple items that weren't brought up under the business license disproportionate fees. Before last year's meeting he filed a Government Records Access Management Act (GRAMA) request to get all those dispatch calls for a particular period of time. He went over the numbers and the percentage of calls that were to businesses and non-owner-occupied properties, residential owner-occupied properties and the balance of those were traffic related stops. In the meeting Council Member Rich Harris asked if Mr. Mileski's figures were correct and the gentleman from Lewis, Young, Robertson and Burningham verified that those numbers were correct. He said he doesn't remember the exact number but it was around 53-57% of all the calls generated to dispatch were traffic related. Approximately between 13-17% were non-owner-occupied properties, about 8% were to the businesses and the other 27-33% was to the owner-occupied properties. So the businesses and the non-owner-occupied property owners are not the majority of the calls. Over half the calls were to traffic related incidents. He said a lot of talk was brought up tonight about offset of revenues, the revenue they failed to bring up tonight was the actual property tax revenue. For example, Lee's Marketplace property tax bill is approximately \$40,000 per year. North Ogden's rate is 10% of that so approximately \$4,000 comes to the City of North Ogden by way of the business property tax from Lee's Marketplace. He doesn't enjoy the 45% discount because it is not a primary residence. The owner of a \$200,000 home in North Ogden pays approximately \$150 a year in property tax. He would think they would be allowed more services than the average homeowner. He will try to get a little bit more detailed letter to the Council prior to them making a decision on that.

Jim Mackley, 2803 N Hwy 89, Pleasant View, gave a big thumbs up to all the elected officials here tonight. Good things are happening. He said he appreciates the discussion tonight on disproportionate fees and business licenses. He encouraged the Council to continue on the path of freedom though it's not easy and there will be people who disapprove. He said he looks forward to seeing some great things.

## **22. COUNCIL, STAFF, AND MAYOR COMMENTS.**

Council Member Stoker said she would like to thank the Planning Commission for their work on the sign ordinance. She stated it is wonderful that we are recognizing our officers and their service. She expressed her thanks to the Council and Staff and said she is enjoying serving and feels that it is a great opportunity and she is glad for it.

Council Member Hulme asked whether we have a meeting on March 13, 2012. Annette Spendlove stated that we do. Council Member Hulme asked that we consider cancelling that meeting because that is the night of the caucuses. He would rather not have to force the residents or Council Members to choose between attending a City Council meeting or a caucus meeting. Mayor Harris stated that the legislature is considering making that a requirement. He suggested putting that on the agenda for the February 28, 2012 meeting. Council Member Hulme said he believes in smaller government and a lot of his votes show that. Sometime they don't show as much of a change as he would like to see in the long run. He said he wanted to mention that he believes in Ezra Taft Benson's political philosophy and in a lot of his comments he mentioned making changes slowly. He will often vote to take things slowly and assess the impact, not to change the whole structure overnight.

Council Member Bigler said he agrees with Council Member Hulme and these changes shouldn't be an event they should be a process. He stated that he is not against business license fees; he thinks there is a proper place for that. He invited everyone here and any resident to attend the meetings as often as possible. There have been a lot of things reported in the media and by people in the community lately that are just false. He said he for one will always stand behind the way he votes on any issue and if a resident has a question on where he stands on an issue or how he voted he will always shoot straight and explain it. There needs to be a balance with governments, there are ruts on both sides of the road, too far left and too far right. We have to use wisdom and balance things out he thinks it makes things safer to stay in the path. He has tried to do that and sometimes it has been painted as he is extreme or associated with different groups but that is not true. He said he considers it a privilege and an honor to serve the residents of North Ogden. He said he takes it seriously and he will study every issue and vote his conscience. He encouraged everyone to attend the meetings or read the minutes and see for themselves because there has been terrible misinformation out there. It's great to work with people who can brainstorm and he will never be offended if he brings something to the table and someone else has an idea or suggestion.

Council Member Fawson said he understands and appreciates what Council Member Hulme said. He said we were elected to make some changes and that will take place over time. He said he attended a constitution class on municipalities that was offered by the Freedom Coalition and he found it interesting and educational. There is a class available on Wednesday nights starting tomorrow at Harrisville City Hall.

Council Member Bailey said it has been a good evening.

Annette Spendlove said the Utah League of Cities and Towns' Mid-year Conference is coming up on April 11, 12 and 13, 2012 in St. George. She asked that the Council Members get in touch with her as soon as possible so she can start making the necessary accommodations.

## **23. ADJOURNMENT.**

**Council Member Hulme moved to adjourn. Council Member Bigler seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>yes</b>
<b>Council Member Fawson</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Hulme</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>

**The motion passed unanimously.**

The meeting adjourned at 10:28pm.

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Richard G. Harris, Mayor

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S. Annette Spendlove, MMC  
City Recorder

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Date approved