

1 **NORTH OGDEN CITY COUNCIL MEETING MINUTES**

2
3
4 February 22, 2011

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7 The North Ogden City Council convened in regular session on February 22, 2011 at 5:30 p.m. in the
8 North Ogden City Council Chambers, 505 East 2600 North. Notice of time, place and agenda of the
9 meeting was delivered to each member of the City Council, posted on the bulletin board at the municipal
10 office and posted to the Utah State Website on February 17, 2011. Notice of the annual meeting schedule
11 was published in the Standard-Examiner on January 1, 2011.
12

13
14 **PRESENT:** Richard G. Harris Mayor
15 Martha Harris Council Member
16 Wade Bigler Council Member
17 Brent Taylor Council Member
18 Ron Flamm Council Member
19 Carl Turner Council Member
20

21 **STAFF PRESENT:** Edward O. Dickie III City Manager
22 Annette Spendlove City Recorder/HR Director
23 Dave Carlson City Attorney
24 Debbie Cardenas Finance Director/Acting City Manager
25 Craig Barker Community Development Director
26 Julia LaSeure Deputy City Recorder
27

28 **VISITORS:** Dave Hulme Joel Grasmeyer
29 Jim Harris Rachel Trotter
30 Melanie Rhode Karryn Humphreys
31

32 **WELCOME**

33
34 Mayor Harris welcomed those in attendance and called the meeting to order at 5:30pm. Council Member
35 Bigler gave the invocation and led the audience in the Pledge of Allegiance.
36

37 **CONSENT AGENDA**

- 38 **1. Consideration to approve minutes of the January 25, 2011 City Council meeting.**
39 **2. Consideration to approve minutes of the February 8, 2011 City Council meeting.**
40 **3. Consideration and/or action to approve business licenses.**
41 **4. Consideration to set March 8, 2011 as the date to hold a public hearing to receive comments**
42 **on amendments to the zoning ordinance to add language as to the purpose of a sign**
43 **ordinance.**
44

45 **Council Member Taylor moved to approve items one through four of the consent agenda. Council**
46 **Member Turner seconded the motion.**

47 Council Member Bigler asked, regarding the public hearing, whether we have any others coming up that
48 we could consolidate to keep the cost of publication down. Annette Spendlove, City Recorder, said we do
49 have others; she didn't know how anxious the City Council was to get going on this ordinance but we can

50 wait if Council prefers. Council Member Bigler said it is not a problem but it would save over the long
51 haul. Annette Spendlove said we have been consolidating those but staff wasn't sure if Council wanted to
52 wait on this.

53 **Voting on the motion:**

54
55 **Council Member Harris** **yes**
56 **Council Member Flamm** **yes**
57 **Council Member Bigler** **yes**
58 **Council Member Taylor** **yes**
59 **Council Member Turner** **yes**
60 **Motion passed.**

61 **PUBLIC COMMENTS.**

62 There were no public comments.

63 **PUBLIC HEARING TO RECEIVE COMMENTS REGARDING AN APPLICATION TO**
64 **REZONE PROPERTY LOCATED AT APPROXIMATELY 800 E. 2100 N.**

65 Craig Barker explained that this property was rezoned from residential zone RE-20 to residential R-1-8 at
66 Lyman Barker's request about four years ago. There was a preliminary approval for a subdivision which
67 lapsed after one year. Mr. Barker now has a purchaser for this property who doesn't intend to
68 immediately develop. He is looking to purchase it and in the future there may be development on this
69 property. The petition is to rezone this property back to RE-20. The Planning Commission
70 recommended that as well.

71 Mayor Harris opened the public hearing at 5:42pm.

72 There were no comments.

73 **Council Member Flamm moved to close the public hearing. Council Member Taylor seconded the**
74 **motion.**

75 **Voting on the motion:**

76
77 **Council Member Flamm** **yes**
78 **Council Member Bigler** **yes**
79 **Council Member Taylor** **yes**
80 **Council Member Turner** **yes**
81 **Council Member Harris** **yes**
82 **Motion passed.**

83
84 The public hearing closed at 5:43pm.

85
86 **DISCUSSION AND/OR ACTION TO APPROVE THE FINAL ACCEPTANCE OF STONE**
87 **HOUSE SUBDIVISION.**

88 Debbie Cardenas, Finance Director, referred to a memo from Gary Kerr regarding this item. She
89 explained that we did have to pull money out of escrow in order to get the improvements completed. The
90 City Engineer's office has looked at it and it is ready for final acceptance.

91 Council Member Taylor asked how closely matched the money in escrow was to the amount needed.
92 Debbie Cardenas said she doesn't know but can find out. She explained that the City Engineer looks at
93 the required improvements and comes up with a total; that it is the amount we require to be put into an
94 escrow account.

95 **Council Member Taylor moved to approve the final acceptance of the Stone House Subdivision.**
96 **Council Member Bigler seconded the motion.**

97 **Voting on the motion:**

98

99 **Council Member Bigler** **yes**

100 **Council Member Taylor** **yes**

101 **Council Member Turner** **yes**

102 **Council Member Harris** **yes**

103 **Council Member Flamm** **yes**

104 **Motion passed.**

105

106 **DISCUSSION AND/OR ACTION TO APPROVE CONDITIONAL ACCEPTANCE OF COLD**
107 **WATER COVE SUBDIVISION.**

108 Debbie Cardenas, Finance Director, referred to a memo from Gary Kerr recommending conditional
109 acceptance. She stated we still have a year on the sidewalks.

110 **Council Member Harris moved to approve conditional acceptance of Cold Water Cove Subdivision.**
111 **Council Member Taylor seconded the motion.**

112

113 **Voting on the motion:**

114

115 **Council Member Taylor** **yes**

116 **Council Member Turner** **yes**

117 **Council Member Harris** **yes**

118 **Council Member Flamm** **yes**

119 **Council Member Bigler** **yes**

120 **Motion passed.**

121 **DISCUSSION ON AN ORDINANCE TO ALLOW BACKYARD CHICKENS IN CERTAIN**
122 **ZONES WITHIN NORTH OGDEN CITY.**

123 Craig Barker, Community Development Director, said this came up initially while the Council was
124 meeting in the Police Building. He said the Planning Commission did a tremendous amount of work on
125 this and staff researched ten to 12 ordinances from cities up and down the Wasatch Front and gleaned the
126 best parts of each of those. He said this proposal did not have unanimous support of the Planning
127 Commission throughout the process. Some members did not like the idea of keeping chickens but they
128 did come up with a recommendation. This proposal would amend Section 11-10 of the Zoning Ordinance
129 by adding Section E. The proposed amendment is on file. It talks about properties of less than one acre,
130 properties of one to five acres and properties of five acres or more. Each has specific requirements and
131 restrictions including the number of birds permitted and required setbacks. There are also standards
132 applicable to all properties which include coop location, sanitation concerns, permitting and violations of
133 this section. Craig Barker said the thinking now is that this would be enforced by Code Enforcement not
134 Animal Control but there may still be discussion on that.

135 Council Member Bigler thanked the Planning Commission and Joel Grasmeyer for their work on this
136 proposal. He suggested that item E-3 should read “more than 5 acres”. Craig Barker agreed and said that
137 would be addressed. Council Member Bigler said he thinks this is great. He asked about the issue that
138 the larger the property the more chickens you are allowed. He said this has to be not for profit; this is not
139 to become a commercial venture and if that is the case what is the point of allowing 50-60 chickens?
140 Craig Barker said they cannot sell the eggs no matter the lot size.

141 Council Member Flamm said “the selling of eggs is prohibited” should be put in sections 2 and 3. Craig
142 Barker agreed and said that will be addressed also. Council Member Bigler asked if anyone else could
143 think of a reason to have that many; that’s a lot of chickens. Craig Barker said that is what the City
144 Council has to decide. Do you want to allow a chicken farm? Council Member Bigler said the intent is
145 for families to be able to raise their own eggs; he would like to see that number decreased. He asked why
146 the coop setback requirements are different for dogs and chickens. A 10 foot setback for chicken coop
147 would be right in the middle of some people’s yards. Craig Barker said this section E was just attached to
148 the end of the existing ordinance. Council Member Bigler said he would like to see that changed. Craig
149 Barker said that is the purpose of the discussion. Council Member Bigler asked why the coop has to be
150 five feet from any dwelling on the same lot. Craig Barker said there are building code issues there as well
151 for fire conditions. If you have an un-fire rated structure you have to be six feet from any other structure.
152 Council Member Bigler thanked him for the clarification and mentioned item 4b which refers to clean
153 water, he would like to simplify this as much as possible. He said he doesn’t think that needs to be there;
154 it’s a given that you’re going to give them water. He said he would like to hear from the other City
155 Council members.

156 Mayor Harris said there are a couple things that the City Council needs to consider tonight. Do we want
157 to move this ahead? If so, what do we want this Ordinance to look like? He said it will require a public
158 hearing.

159 Council Member Turner said according to the ordinance you can have two dogs or two cats and six
160 chickens. Craig Barker said yes and added there are other household pets allowed as well. Council
161 Member Turner said we are addressing chickens here but he wonders what the unintended consequences
162 are. What if somebody wants ducks or turkeys? Craig Barker said they are already allowed under the
163 keeping of other animals but have to be on a property of at least 1 acre in size. There are only two zones
164 that allow those. There are also some properties that are legal non-conforming and that non-conforming
165 right passes from owner to owner. Council Member Turner said he is ok with the ordinance but wonders
166 if we are going to have people coming in for other birds. He suggested that we consider if a person has
167 six chickens, a chicken coop and a dog run, maybe we should address that and say if you have 6 chickens
168 you can only have one dog. He said his personal opinion is that the coop being in the middle of your yard
169 is fine if you want to have chickens; he is not against the ten foot setback requirement.

170 Edward O. Dickie III mentioned that the people who were against this are the same people who have had
171 experience with chickens. He wondered if there is something there that we don’t know. Craig Barker
172 said those Commissioners didn’t elaborate. Council Member Bigler said he knows people who have
173 raised chickens and say the exact opposite.

174 Council Member Harris said the decision has to come from the Council in the form of a motion to
175 proceed and that hasn’t happened yet. She agreed that prohibiting the sale of eggs needs to be included in
176 all sections. There is enough concern about this; there is not an overwhelming consensus that this is
177 something that our entire community wants. She said she would want to keep the 10 foot setback to
178 allow a buffer for those people who do not want chickens. She also said she would be interested in a “not
179 to exceed number” and thinks it should be something less than 60. She said she does not have any issue
180 with the requirement of clean water; some may say that’s a given but she said she has seen enough
181 neglected animals that she feels it is appropriate to keep that in.

182 Council Member Taylor said under section 1 item C requiring the animals to be kept in the rear yard does
183 not continue in sections 2 or 3. Craig Barker said we are looking at properties and say they have to be
184 100 feet from any public street. On larger parcels with homes set back 400 feet from the road, they would
185 be able to have a coop in the front yard, that is not so on the smaller parcels. Council Member Taylor
186 asked regarding item J, the licensing fee of \$5 per year, is that per applicant or chicken? Craig Barker
187 said that is per applicant. Council Member Taylor asked if there is going to be a plan for enforcement.
188 Craig Barker said it will likely be on a complaint basis. Council Member Taylor asked how enforceable
189 these things will be. Craig Barker said we are going to the civic procedure and this will be highly more
190 enforceable under the civil. Dave Carlson, City Attorney, said that is accurate; it fits well with the
191 administrative hearing process.

192 Council Member Bigler said if somebody is first doing it and it is new it might not be a bad idea to send
193 someone out to make sure they are complying with the code; to make sure the setup is done according to
194 the ordinance. Craig Barker said we intend to use booklets from the Utah State University Agricultural
195 Office that address the keeping of backyard chickens. We intend to hand those out to people who are
196 interested in that.

197 Council Member Taylor asked if the \$5 fee is going to be enough to cover the administrative costs to the
198 City. He said he can't imagine that is going to be enough to cover staff time. Craig Barker said he
199 doesn't know but that's what it is for a dog. We may have to give some kind of enforcement or
200 notifications if we have issues.

201 Council Member Flamm said the only comment he has is when it comes to the number of chickens
202 residents could want the chickens for meat not just eggs; 60 chickens could be eaten by a large family in a
203 year.

204 Council Member Taylor said we have folks that sell hay that is raised on their property. Some people on
205 those larger lots may think it's logical that they can sell their eggs. Craig Barker said we have two
206 historic agricultural zones where, if you happen to have over an acre, you can keep a certain number of
207 animals. You can say that the prohibition of sales does not apply to those historic agricultural zones.

208 Council Member Bigler said he is ok with chickens for eggs not for slaughtering. Mayor Harris
209 mentioned this is the very reason that Ogden City didn't pass a similar ordinance; they got into the "what
210 ifs" and decided to forget it.

211 Council Member Taylor said he will support a balance in property rights on these smaller lots. Both
212 parties will be giving something up in a sense. On the longer distances from the property lines, he agrees
213 that is a good balance. If we do pass it he said he thinks it has addressed most of those issues. Council
214 Member Taylor asked what was the Planning Commission's vote was. Planning Commission Member
215 Dave Hulme said it was 4-1.

216 Council Member Turner said he is fine with moving forward on it also but reminded everyone to think
217 about the unintended consequences.

218 Mayor Harris said it would be appropriate to have a motion to move forward and have a public hearing.
219 He said some of these things would be modified before it came back based on the consensus here.

220 Council Member Bigler said regarding the 10 foot setback requirement for chickens that dogs can be
221 within one foot of the property line. He suggested that some people might not want a barking dog within
222 one foot of the property line.

223 Council Member Flamm asked, if we set it at 10 feet, could a person request a variance. Dave Carlson,
224 City Attorney, said variances are complicated and there are very few situations that really qualify for a

225 variance. It can't be an inconvenience or because there may be a preferred location. It has to be
226 something about the land itself.

227 Council Member Taylor asked Craig Barker if this is approved and then turned out to be a horrible
228 decision would it create a non-conforming right for those with chickens at that point. Craig Barker said
229 you can establish a sunset provision; set a period upon which they have to give them up. Council
230 Member Taylor said they only lay eggs for a few years and that might be something we could work with.

231 **Council Member Turner made a motion that we move forward with the ordinance with the changes**
232 **that we have discussed to have a public hearing on March 8, 2011 to discuss the chicken ordinance.**
233 **Council Member Bigler seconded the motion.**

234 Council Member Harris said when we publish this on the website with the public hearing notice will it be
235 the one we are looking at right now or one with the modifications. Council Member Turner suggested
236 that staff put the modifications in.

237 Council Member Harris reviewed those modifications which include the following:

238 #1 will remain as written.

239 #3 will be changed to "more than 5 acres".

240 #2 and #3 will include "the selling of eggs is prohibited".

241 Council Member Harris suggested that roosters be discussed at the time of the public hearing.

242 **Council Member Turner amended his motion to include the specific items listed above. Council**
243 **Member Bigler seconded the amended motion.**

244 **Voting on the motion:**

245
246 **Council Member Harris** **yes**
247 **Council Member Flamm** **yes**
248 **Council Member Bigler** **yes**
249 **Council Member Taylor** **yes**
250 **Council Member Turner** **yes**

251 **Motion passed.**

252

253 **DISCUSSION ON "HAVE A HEART ORGANIZATION"**

254 Council Member Bigler said he sent the information he had to the City Council members. He said this
255 organization builds one or two homes per year and is recognized by the IRS as a charitable foundation.
256 They want to build one home here in the City. It would be handicapped accessible and their target is a
257 veteran although that is not a guarantee; somebody has to be willing to buy the home. The builders and a
258 lot of the supply companies, realtors, everybody involved is donating time and expertise. He said nobody
259 makes any money. Whatever the end cost is at the end of it all is what they sell the home for. Council
260 Member Bigler said Mike Ostermiller is the CEO of this foundation and it sounds like a wonderful thing.
261 They wondered if we could waive any fees; they will take any fees that we are willing to waive. He said
262 he doesn't have any connection to it at all other than he was contacted about it but he thinks it is
263 wonderful thing.

264 Council Member Harris said she has heard of this foundation and thinks it has done good things. She
265 wants to make sure we have the facts of what actually has been done by other cities and she thinks
266 Edward O. Dickie III, City Manager, or Annette Spendlove, City Recorder, may have that information.

267 Annette Spendlove, City Recorder, said she did contact this foundation. It's made up of the Northern
268 Wasatch Home Builders Association and Realtors Association. She said she talked to a contractor who
269 had built the homes in Ogden City. Ogden City did not waive any fees but they did have lots available.
270 Those homes were built on Ogden City's lots. Ogden City was able to subordinate those lots until the
271 homes were built and then the lots were sold. The lot cost was included in the cost of the home. Layton
272 City and Roy City did not waive any fees. She said she talked to Mike Ostermiller just before Council
273 meeting and he was really embarrassed as he did tell Council Member Bigler that those cities had waived
274 fees. Annette Spendlove reviewed the fees included in a building permit total. She explained that the
275 Uniform Building Code has a table that we use to calculate the permit fee. Each portion of a home has a
276 certain value; main floor, upper floor, basement, garage, etc. The impact fees, water connection fee, sewer
277 connection fee and others are listed in the City's Consolidated Fee Schedule. The cost to the City, not
278 including the actual building permit fee, plan check fee or the 1% State fee is about \$11,115.00.

279 Edward O. Dickie III said we welcome them to build in North Ogden but waiving fees is going to be up
280 to the Council. He said they are looking at Lewis Peak PRUD. Council Member Bigler said he would
281 like to see us do it. Council Member Turner said he wouldn't be opposed to seeing us waive some fees
282 but not all of them. He said he doesn't know if it is really feasible. We would need to address what some
283 of the actual costs are; look at hard costs vs. soft costs.

284 Council Member Bigler said there have been a lot of issues where we have looked at other cities,
285 sometimes we follow and sometimes we lead the way. We could cover our actual costs but there is
286 probably a lot we could help out with. He said he would love to see us help out as much as we can.

287 Council Member Taylor asked if there is any history of this, is this something the City has done before.
288 Are we aware of other cities that have done this? Have there been problems or legal concerns one way or
289 the other as far as waiving fees? Dave Carlson, City Attorney, said he has had no experience with Have a
290 Heart, but he is familiar with Habitat for Humanity. He said cities do provide assistance for them, like
291 Ogden put the land up to be built on and subordinating it. He said he doesn't remember whether he has
292 experienced a city waiving fees.

293 Council Member Harris said if the Staff can come up with some soft costs she would like to see that not
294 to exceed \$1,000. When it is brought back to the Council she would like to see if Council could come up
295 with a motion at that point. She said we can be philanthropic but someone is going to be paying through
296 their additional fees. She said she would be fine having it explored, not to exceed \$1,000 and then bring
297 it back to the Council with more information.

298 Council Member Bigler said with all the homes being built in North Ogden we don't have any idea what
299 it actually costs the City to have a home to be built? Mayor Harris said the Plan Check Fee could be
300 called soft on one hand but hard on the other. Our impact fees have been calculated and are based on
301 actual growth. That fee schedule is what it costs.

302 Council Member Taylor said this is a very worthy cause but on the other hand, these fees exist because
303 they are covering the costs to the City. He said he doesn't think we want to get into waiving impact fees
304 but he said he thinks it could be justified in the inspections and staff time for review. Our people are
305 already on salary so there may be a little more justification in those areas. He said he feels that we could,
306 in a sense, donate some of the City's time. Council Member Harris agreed but wants to have 'not to
307 exceed \$1,000' as a target. Council Member Bigler said he doesn't think we need to put a limit on it.

308 Debbie Cardenas, Finance Director, said the City Council may not want to get into the donation business.
309 If you start with one all the rest will start coming forward; how do you justify one over another? She said
310 this is something for the City Council to consider.

311 Council Member Harris said this reminds her that we may have a City policy in effect. Years ago there
312 used to be a parade of people coming and asking for money. The City Council finally had to say we will
313 not be having our taxpayers dollars used for philanthropy. This may be bordering on that. Edward O.
314 Dickie III said that is a good point. That may be one reason that a lot of these other cities did not waive
315 fees.

316 Mayor Harris said Weber High School has come in several times since he has been on the Council and we
317 have tried to accommodate them. We have said we will not give money but have tried to accommodate
318 them and donate pool passes for example. He said he is leery of getting into the philanthropy business.

319 **Council Member Harris made a motion that the organization itself work with staff and if they come
320 up with something that Staff would be comfortable recommending and the organization feels would
321 be beneficial that could come back to the City Council and Council could review it at that time.
322 Council Member Turner seconded the motion.**

323 **Voting on the motion:**

324

325 **Council Member Flamm** **yes**

326 **Council Member Bigler** **yes**

327 **Council Member Taylor** **yes**

328 **Council Member Turner** **yes**

329 **Council Member Harris** **yes**

330 **Motion passed.**

331

332 Council Member Taylor said that we should consider looking at having a policy in place. It's hard to
333 think from a policy perspective when there is a specific request tugging at the heart strings. Mayor Harris
334 said we do have one policy in place and that is when we have active duty service members deployed we
335 waive their utility bills.

336 **DISCUSSION ON THE SAND VOLLEYBALL COURTS.**

337 Council Member Bigler said he has had several people tell him that the sand feels like rocks and glass
338 when they are playing on it. He went and checked it out and agrees that it is very rough. He wondered
339 where we got the sand and whether we have the wrong kind in there. He stated there are certain

340 specifications for sand volleyball courts and we might have sand that is not supposed to be used for this
341 purpose.

342 Dave Nordquist, Community Services Director, said the volleyball court that was in North Ogden for
343 years was demolished because of the new school. We got a RAMP grant to build two new ones; we were
344 able to get some flat areas to accommodate the volleyball courts. He said he wanted it to have some
345 really pretty white bunker sand in it to make it look really good. The sand that it there is very fine and it
346 does have some sharp edges on it. He said the plan is for the top to be raked off, tilled and screened. This
347 has been done with the ball diamonds. That would be the best scenario. If that doesn't solve the problem
348 we would remove the sand; it would cause some damage to the park so he has been reluctant to do that.
349 He said he doesn't know if the issue is really that big. Your feet have to become accustomed to playing in
350 sand. Staff will try to rake that up, till it and then screen it. If it doesn't work then we will go to plan b.
351 We want to use it for tournaments so it is important to have them ready to play.

352 Mayor Harris asked Dave Nordquist to elaborate on the RAMP grant. Dave Nordquist said there are three
353 tiers of RAMP grants. We have never dealt with money in the top tier which is millions of dollars. We
354 have had a lot of experience with the middle tier. There isn't as much money available this year, but we
355 were funded at 100% for new basketball courts. There will be six baskets with a full size college court
356 one way and two short courts going the other way. The total grant amount is \$55,000. There is other
357 funding which will cover sound equipment, lighting for security, and some other things.

358 **DISCUSSION ON SEASONAL HIRING.**

359 Council Member Bigler said he brought this up a while ago. He said he thinks it would be a good thing
360 for us to hire only North Ogden residents for the pool and recreation. It helps parents and the parents are
361 paying the taxes and everything for the pool and parks. We had tons of interviews last year and we have
362 more youth in our City than the other two cities combined. We have a great pool of kids to choose from,
363 they are good kids and they're sharp. He said he would like to see us help families out and not hire kids
364 from Pleasant View and Harrisville.

365 Edward O. Dickie III said he supports the way we hire. They use choosing by advantages and hire the
366 best people available and by doing that we do actually hire more North Ogden kids. He said we have
367 about 50% that are North Ogden kids. One concern he has if we go to just hiring North Ogden kids, with
368 life guards, we wouldn't be able to find enough life guards. Council Member Bigler said he isn't talking
369 about life guards, just those kids taking the money. Edward O. Dickie III said he feels comfortable with
370 the way it's handled now.

371 Debbie Cardenas, Finance Director, said she wants to get this information out there so we are perfectly
372 clear. Not everyone was opposed to the pool, we had a significant number of residents that were for it;
373 the majority wanted the pool in there. She said the pool is being paid for by the RDA tax increment that
374 is being paid for by every citizen in Weber County. It is not the North Ogden City citizens that are paying
375 for that pool. The reason being is that under the RDA we are allowed to receive 100% for the first 5 years.
376 She said she thinks it is 85% for the next five years and it tiers down after that. If you build a pool or
377 recreation facility, the City is allowed to continue collecting 100% of the tax increment that would have
378 gone back to all the citizens. We did not increase the taxes to the citizens, and we were able to extend the
379 life of the RDA by seven years. The money coming in from the RDA tax increment money is from

380 everyone in Weber County. Council Member Bigler said that is part of the cost but we pay more than
381 other cities. We have the pool in the budget, we are paying for it. We had to replace the drain. There are
382 maintenance costs. Debbie Cardenas said we are bringing in other kids from other communities that are
383 coming in and spending their money in North Ogden. Council Member Bigler said all of us have been
384 hired by North Ogden City residents. He said there are a lot of jobs available and he doesn't know why
385 we argue that point. Debbie Cardenas said she is only addressing the comment about the taxes.

386 Council Member Flamm said in choosing by advantages you could put in resident over nonresident as a
387 factor which would give our residents an advantage. Mayor Harris agreed.

388 Council Member Taylor asked Debbie Cardenas what percent of sales tax the tax increment is financing.
389 Debbie said none; it's the RDA tax increment. She said if we had not built the pool it would be going to a
390 different city. Council Member Taylor said the pool allows us to capture a higher percentage of the
391 property tax increment.

392 Council Member Flamm said, regarding the pool, the school district had the option to buy in and they
393 chose not to.

394 Dave Nordquist said the hiring of staff is the biggest thing they do at the pool and the thing he worries the
395 most about. They did not have enough lifeguards at one point and had to open late. He said it's a very
396 delicate balance to be able to hire the right numbers of kids. It's the McDonald's theory of hiring, you
397 hire more than you need and then you allow them to do all the things they need to do throughout the
398 summer, with their families, with Scouts, ball games and camps. We need 50 lifeguards and we go
399 through about a 3 year cycle; we will be hiring more people this year. For lifeguards we will be hiring 30
400 and 20 will be returning. We will have a young staff. He asked the Treasurer to pull some information
401 together. There are 104 young people that work part-time in the recreation department. Exactly 50% are
402 from within North Ogden, Pleasant View has 23% and it is all single digits after that. Hiring has become
403 very competitive. For a lifeguard, they have 25 different criteria that they are judged upon, the cashiers
404 and grounds crew have the same. There is a lot of skill training and tryouts and role playing. He said he
405 honestly believes there isn't any place else close to the staff that we have. Everyone looks professional,
406 the grounds look good, and other cities have asked how we get our staff to do the things they do. He said
407 he cannot run the pool on North Ogden life guards alone but added that we could do something with the
408 other positions if it's legal. Council Member Bigler said that North Ogden is lucky to have Dave
409 Nordquist and this is not an attack on him personally.

410 Dave Carlson, City Attorney, said the federal courts have weighed in on residency requirements for
411 municipal jobs. In the Constitution there is the "right to travel" that emanates from the language of the
412 Constitution. Cities can have a residency requirement for certain positions or all positions but they have
413 to justify it. They have to set forth those reasons. The courts have unanimously said you can have a post-
414 employment residency requirement but you cannot have a pre-employment residency requirement. You
415 can make it a requirement of the job that you live in the City but everyone has to have the opportunity to
416 apply. There are residency requirements for hunting licenses, certain retirement benefits, etc. You cannot
417 say this job is only open to North Ogden residents. You can say if you get this job you will have to live in
418 North Ogden. He said he knows it sounds like splitting hairs but that is where they have drawn the line.
419 The City does have a policy regarding police officers; they have to live within a certain radius of the City.
420 Even if you do have a requirement you have to give a rational basis for it. There is at least one federal

421 case where a city's reasons have been found not good enough. Edward O. Dickie III said with Choosing
422 by Advantages (CBA) one of the factors is residency, he asked if that is a problem. Is there a way we
423 could give more advantage to the resident, an overwhelming advantage? He said he doesn't want to tie
424 our hands. Dave Carlson said he doesn't think it's a problem being a factor in the CBA as long as it
425 doesn't overshadow the other factors.

426 Council Member Bigler said as far as he's concerned we don't have to keep discussing this tonight.

427 Council Member Harris said she thinks we should keep it the way it is. We just reviewed our personnel
428 policies manual and this was never addressed. Our job is to hire the best people for the jobs. She said we
429 don't want to get into any problems legally, Debbie Cardenas has explained the money situation and Dave
430 Nordquist is doing a great job.

431 Council Member Turner agreed that Dave Nordquist is doing a great job. He said his role as a City
432 Council member is legislative not administrative and we should allow administration to do their job.

433 Council Member Taylor said he liked Council Member Flamm's suggestion to add residency to the CBA
434 but would not be in favor of a large benefit for residents. He said if staff thought it would be a good
435 addition to add that as a factor that would be fine with him.

436 **COUNCIL/PUBLIC COMMENTS.**

437 Joel Grasmeyer, 2220 Fruitland Dr., said, regarding sand volleyball courts, he used to play once a week
438 on a league. At one point they brought new sand in but it was construction sand not beach sand.
439 Construction sand has sharp edges; it feels like a bunch of tiny cuts and abrasions on your feet. He
440 recommended that the City try to find a source of beach sand. As for the chicken issue, he was involved in
441 the ordinance process and we have dozens of families in North Ogden that raise chickens. There have
442 been no complaints. He suggested the City at least give the chicken owners a chance to prove themselves.
443 We can address specific problems later if they come up. We don't want to take away existing rights of
444 property owners of large properties. A lot of hobbyists are doing this to preserve some diversity of
445 genetics in the chicken population. He brought a catalog of all the different kinds of chickens that are
446 available for people to purchase and raise. He said he thinks a lot of people envision the killing of
447 chickens as a bloody mess with a stump and an axe. He said personally he holds them upside down and
448 just breaks their necks. Regarding roosters, he said if you own an acre now you can have roosters and
449 they will likely want to maintain that right.

450 Dave Hulme, 513 E. 1700 N. said he was sitting at home late Saturday night and heard a snow plow going
451 by. He wanted to say thanks to those drivers because he knows they were not expecting to be doing that
452 that night. Mayor Harris thanked Dave Hulme for bringing that up and added that there were only six
453 plow drivers that night. They worked very hard to clear the roads.

454 Council Member Turner said the Volunteers in Police Service (VIPS) car is sitting in the parking lot and
455 he hasn't seen it moving. He asked if it is still being used. Edward O. Dickie III said they still do it and it
456 has helped our guys out quite a bit. Mayor Harris said they have helped in headquarters as well with
457 handling evidence and paperwork.

458 Council Member Bigler said he wanted to thank the Planning Commission and those involved with the
459 chicken ordinance for all their work. He also thanked Dave Nordquist and his staff again.

460 Council Member Flamm said staff and committee members have been going down to the legislature as
461 the bills go through and it has been interesting to watch.

462 Annette Spendlove said she needs everyone who is going to the Utah League of Cities and Towns to let
463 her know soon.

464 **CONSIDERATION AND/OR ACTION TO ENTER INTO A CLOSED MEETING TO DISCUSS**
465 **THE PURCHASE, EXCHANGE OR LEASE OF REAL PROPERTY; COMPETENCE OR**
466 **PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL; DISCLOSE THE APPRAISAL OR**
467 **ESTIMATED VALUE OF A PROPERTY UNDER CONSTRUCTION; TO BE HELD IN**
468 **ACCORDANCE WITH THE PROVISIONS OF UTAH CODE 52-4-204-5.**

469 Council Member Flamm moved to enter into a closed meeting to discuss the purchase, exchange or
470 lease of real property. Council Member Harris seconded the motion.

471

472 **Voting on the motion:**

473

474 Council Member Harris yes

475 Council Member Flamm yes

476 Council Member Bigler yes

477 Council Member Taylor yes

478 Council Member Turner yes

479 Motion passed.

480

481 The meeting recessed at 7:50pm.

482 The meeting reconvened at 8:55pm.

483 **DISCUSSION AND/OR ACTION REGARDING PUBLIC WORKS COMPLEX.**

484

485 Council Member Flamm moved that we put out an RFP to hire a Real Estate Professional to look at
486 the six properties that were discussed in the closed meeting to have them look at those in the order
487 that we discussed to come up with some prices and availability for us. Council Member Harris
488 seconded the motion.

489 Council Member Taylor asked how the compensation is normally handled in this kind of transaction.
490 What is the financial impact of that? Jim Harris said typically it is done by a percentage of the cost of the
491 sale of the property and that is negotiable. He said he would think it would be less than 6%.

492 Council Member Turner asked who writes the RFP. Mayor Harris said Dave Carlson, Jim Harris, Edward
493 O. Dickie III would be working on it and Debbie Cardenas would be involved as well.

494 Council Member Bigler said it was stated that those fees are negotiable. He asked if we go out and hire
495 one now how do we determine that. Jim Harris said his recommendation is that we put a cap on it. He

496 has a dollar figure in mind at \$30,000. Mayor Harris said hopefully it would be less than that with the
497 negotiation.

498 Council Member Taylor asked if we would save that much by using a Real Estate Professional. Jim
499 Harris said he thinks so, these people know what they are doing and would do their best to keep the costs
500 down. Council Member Taylor asked if there is a fee if we don't buy. Jim Harris said typically if we
501 don't buy there is no fee, there is nothing to bill us for.

502 Council Member Bigler asked if we are against trying talk to Mike Ostermiller. Annette Spendlove said
503 we have to go out to bid because of the cost. Council Member Flamm said he could respond to the RFP
504 just like anyone else. Jim Harris said he knows Mike Ostermiller quite well and he is not a Real Estate
505 Professional, he is the business end. Council Member Bigler said Mike Ostermiller is over their whole
506 organization and knows plenty of them that are involved in that organization. Council Member Flamm
507 said it would be difficult for Mr. Ostermiller to recommend one over another. Jim Harris said all Mr.
508 Ostermiller could do is disseminate the information and he already planned to talk to him about it when
509 the RFP goes out. He plans to call him and let him know it's on the website and give him as much
510 information as he can. Council Member Bigler asked if we are opposed to asking him because they asked
511 a favor of us. Council Member Flamm said the Realtor could turn around, instead of lowering his
512 commission; he could give it back to the charity in which case the end result would be the same. Jim
513 Harris said it doesn't hurt to ask.

514 Debbie Cardenas said her concern is that we don't know as a staff what we can offer as a City.

515 Council Member Turner said the motion is for an RFP for a Real Estate Professional, do we want to
516 include an architect in that motion or would that be a separate motion? Council Member Harris suggested
517 they vote on the current motion.

518 **Voting on the motion:**

519

520 **Council Member Harris** **yes**
521 **Council Member Flamm** **yes**
522 **Council Member Bigler** **yes**
523 **Council Member Taylor** **yes**
524 **Council Member Turner** **yes**

525 **Motion passed.**

526

527 Mayor Harris said the next question then is the hiring of an architect. We have had quite a bit of
528 discussion on that as well. It is probably timely that we start on that process.

529 **Council Member Turner moved that we put out an RFP to solicit architect services to be used**
530 **knowing that we don't have property purchased yet but that we can start doing design and start**
531 **getting them in value engineering and planning and public involvement. He said he is not sure how**
532 **the RFP will need to be worded. Council Member Flamm seconded the motion.**

533 Jim Harris said there are a couple ways to do this, one is to advertise subject to the availability of funding
534 and award would be contingent upon funding. He said he doesn't know how long it would take to get

535 funding. Another way is to possibly borrow from the enterprise fund to help pay for that and get the
536 architect on board. We could also hire an architect to help us with the public input aspect. In other words
537 they would be doing some renderings and plan views that we would use in an open house type forum to
538 inform the public. He said his suggestion is that we advertise subject to the availability of funding. He
539 said the architect fee is going to be in the \$400,000 range.

540 Council Member Turner said with that \$400,000 range, that isn't something they would need up front.
541 Jim Harris said that is right; typically there are three design phases; schematic, design development and
542 construction documents. Typically an architect will bill at the end of each of those phases. He said he is
543 anticipating a six month design schedule.

544 Council Member Bigler asked whether they need the exact location in order to start putting it together.
545 Jim Harris said not for schematic design but the civil design can't start until we have a site. Those are the
546 people who tell us what the soils are like and how we have to structure the footings and things like that.
547 Council Member Bigler said what we had the other company do, they just said we need buildings here
548 and here and this is basically the size of the building they didn't do any of the schematic design. Jim
549 Harris said no, they didn't, and they can only say these are the needs as we see them for the Public Works
550 folks. The bay sizes and office sizes are pretty standard. In the program document they had a couple
551 different shape sites. We told them to give us the ideal layout assuming the property would be suitable
552 for that ideal layout. The architect we hire will have to take that program document and adapt it to an
553 actual site.

554 Council Member Taylor said he is not opposed to hiring an architect on principal but he is not going to
555 support the motion at this time. He would like to see is a public discussion including estimates of the
556 impact of the costs of construction and that discussion. So we know if we will be able to do this project
557 in the near term. It seems that it would not be cost effective to hire an architect for a project that is not
558 100% certain. He said he would like to take the information we get from the Real Estate Professional and
559 get some estimates and then have a discussion during a Council meeting. He wants to have the discussion
560 with the residents and talk about why we feel this is necessary and important.

561 Jim Harris said he thinks we need to have an architect on board to help us with the public input. They can
562 help us with elevations and graphical representations to hopefully answer some questions that the
563 residents might have. He said without that we may not be putting our best foot forward.

564 Dave Carlson, City Attorney, said to build a ripcord into the RFP so we ask the architect to do certain
565 things and draft the agreement in such a way that the City can cancel the agreement at certain points. Jim
566 Harris said the State of Utah has an RFP document that states something very similar to that.

567 **Voting on the motion:**

568 **Council Member Harris** **yes**
569 **Council Member Flamm** **yes**
570 **Council Member Bigler** **no**
571 **Council Member Taylor** **no**
572 **Council Member Turner** **yes**
573 **Motion passed 3 to 2.**

574 **ADJOURNMENT.**

575 **Council Member Flamm moved to adjourn. Council Member Bigler seconded the motion.**

576 **Voting on the motion:**

577 **Council Member Harris yes**

578 **Council Member Flamm yes**

579 **Council Member Bigler yes**

580 **Council Member Taylor yes**

581 **Council Member Turner yes**

582 **Motion passed.**

583

584 The meeting adjourned at 9:20pm.

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589 _____
Richard G. Harris, Mayor

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593 _____
S. Annette Spendlove, City Recorder

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597 _____
Date approved

598