

## NORTH OGDEN CITY COUNCIL MEETING MINUTES

July 12, 2011

The North Ogden City Council convened in regular session on July 12, 2011 at 5:30 p.m. in the North Ogden City Council Chambers, 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 July 8, 2011. Notice of the annual meeting schedule was published in the Standard-Examiner on January 1, 2011.

PRESENT:	Richard G. Harris	Mayor	
	Wade Bigler	Council Member (arrived at 5:37pm)	
	Ron Flamm	Council Member	
	Martha Harris	Council Member	
	Brent Taylor	Council Member	
	Carl Turner	Council Member	
STAFF PRESENT:	Annette Spendlove	City Recorder/HR Director	
	Edward O. Dickie III	City Manager	
	Dave Carlson	City Attorney/Economic Development Director	
	Debbie Cardenas	Finance Director/Acting City Manager	
	Craig Barker	Community Development Director	
	Mel Blanchard	Public Works Director	
	Julia LaSeure	Deputy City Recorder	
VISITORS:	Jim Harris	Paul Himle	Tom Sawyer
	Jeff Pinegar	Dustin Matsumori	Justin Fawson
	Charles Crippen	Mike Gale	Joan Brown
	Taylor Spendlove	Josh Davenport	Lois Green
	Mary Settlemire	Bruce Hall	Cheryl Stoker
	Gary Rands	Linda Miner	Reva Bain
	John Zurbuchen	Doug Christensen	Phillip Swanson
	Bob Napoli	Nicole Thompson	Walter Neibauer
	James Mackley	Lynn Satterthwaite	Rachel Trotter
	Slade Opheikens	Bruce Catanzaro	Cal Hansen
	Doug Bronson		

### WELCOME

Mayor Harris called the meeting to order at 5:30pm and welcomed everyone in attendance. Dave Carlson, City Attorney/Economic Development Director, offered the invocation and led the audience in the Pledge of Allegiance.

### CONSENT AGENDA

1. Consideration to approve Business Licenses.
2. Consideration and/or action to approve the minutes of the June 28, 2011 City Council meeting.

**Council Member Harris moved to approve items 1 and 2 of the consent agenda. Council Member Turner seconded the motion.**

Discussion on the motion:

Annette Spendlove, City Recorder, suggested that we pull the minutes as there was a City Council Member that has some comments on them.

Council Member Harris said she found no errors and is fine with approving them in their current form.

**Voting on the motion:**

<b>Council Member Taylor</b>	<b>yes</b>
<b>Council Member Flamm</b>	<b>yes</b>
<b>Council Member Harris</b>	<b>yes</b>
<b>Council Member Turner</b>	<b>yes</b>

**Voting was unanimous. The motion passed.**

Council Member Bigler arrived.

**PUBLIC COMMENTS.**

Joan Brown, 2010 N 775 E, said she and her neighbors heard Mr. Jones of Quail Ponds would be at the meeting today and they are here to clarify that they are interested in vacating the PRUD. They have not been sabotaging it and there are indications in an email sent today that need clarification for the City's benefit. She read from a document which is Attachment A. The homeowners met as a group to put together a list of their concerns to be presented to Mr. Jones. Evidently it was presented to him in a manner that it came just from her. It did not come from her specifically, it came from the group. She has copies of those comments if the City Council has not seen them. If those concerns have been addressed then there is no problem. She took this list to Mr. Carlson to give to Mr. Jones and obviously when he received it somehow the waters got poisoned because it was not just from her. They are asking that lot 36 be sold separately and not intermingled with the vacating costs. We are asking that he provide us a list of his expenditures in detail. We are asking that he sign a liability on unpaid bills prior to the vacating and that is based on the fact that she received a phone call from a maintenance company that wanted monies that were incurred earlier. They want to be comfortable that when it's vacated they aren't going to have surprises of people coming out wanting money that they don't have. She doesn't think they are asking for a terrible amount. They are asking that lot 36 be planted in the pond area so that it looks nice until it is sold to be built on. She apologized for the rancor that has developed. She is truly sorry for the hurt feelings on both sides. She thinks we are all above this. She understands that the City officers think the neighborhood is destroyed as that has been told to her face. It is quite the contrary. Neighbors have been brought together and spoken to one another that they have never done before. Bad feelings are never good but a lot of good has come from this experience. She thinks the answer right now is that she doesn't think the city should keep mediating the way they have been. There has been some confusion and some information that has not been accurate. She asked the Council to give them a short time more for a meeting of the homeowners to compare the easements and see if we can agree on them. She thinks the other things should be workable. She doesn't see why there is any hesitation in exposing all the financial amounts spent. She suggested that Mr. McCormick call a meeting of all the homeowners immediately to give them a list of the corrections and easements. Those are the last two things they need and then it should be able to vacate.

Cal Hansen, 1957 N 775 E, said his property adjoins some common area in Quail Ponds. He has been feeling bad about the vacation of this and is upset because he has not seen the new plats. He said he is also upset about two emails that went to Ms. Veeder and Mrs. Brown. He asked who is going to take care of the mowing of the lawn next to him. He is worried about that common area.

Lois Green, 2037 N 775 E, said she is like Cal; she has been offended by the letters that have come to Charlene Veeder and Joan Brown. She sent an email to the City a while ago expressing her concerns. She agrees that they need more time to do this and she would like someone else there to see what is really said at that meeting.

Paul Himle, 1733 N 225 W, said last Saturday he had an opportunity to see the Public Works facilities. He spent most of the time talking to the architect and Jim Harris. His concerns are not whether they need a new facility; he noticed it is old, that is true. His concern is the \$8 million price tag. His experience says that is a little much for a building. He said the answer to most of his questions about the examples was "it's conceptual". The examples shown were quite magnificent with complex rooflines which are not really needed in a public works complex. He understands that there is a desire for a building that looks nice. He said he works for a company that built a complex in Idaho and spent around \$2.7 million for a facility roughly as large as one to one and a half football fields so these numbers sound high to him. He said he is also concerned about ensuring that the purposes of the facilities are met; we need to be careful not to spend too much on the building and not enough on tools for the employees. It is important that we don't strive for an architectural masterpiece but pay attention to what our needs are. This is still not a stable economy, a lot of people are still getting laid off and the money for this will come from utilities. He asked whether the loan terms and length have been considered so that the City gets the best bargain. He thinks the concepts that have been shown are elaborate for a public works building and suggested that the City look at some locations that will allow us to serve our purposes and save some money.

Charlene Veeder, 2017 N 775 E, in Quail Ponds, said she is the one that hasn't signed the plat map and the easement. She stated that she has been receiving nasty emails. She said she is not crazy and does not have a personal grudge against Bruce Jones. She explained that when she purchased her home there was fencing on two sides of the yard. She assumed it was installed where the property lines were but found out later that her backyard is not her property. The bottom line is she does not like the way this whole business has gone down. It has turned into the nastiest thing it could have. She said there are people with the City who have decided to be instigators instead of mediators; she has received some nasty emails and she doesn't appreciate it. She just wants it to be fair. The homeowners want an accurate accounting of what Mr. Jones said she had spent. They have invoices that don't match checks, checks with no invoices. She said they don't understand where this accounting came from and as homeowners they are just trying to protect themselves. She said she has lived in HOAs with legal problems in southern California and when that happens things get all tied up and people can't sell their homes. She said until it is straightened out she will not sign anything and if she gets any more nasty emails she will take legal action against the City.

Reva Bain, 2089 N 775 E, said she did sign the plat and easements in good faith. Since then she began to see things she is deeply concerned about. How much money is Bruce Jones entitled to? She said they don't have a good accounting of that and it is confusing. She stated if she had to do it over again, she would not have signed either. She is truly sad about what has been going on with this. She said they want to be able to say 'this is our home' but they don't know exactly where they stand on anything anymore. She wants to be able to look at her home and yard and say 'this is mine' and not worry about having assessments against them for anything down the road.

Taylor Spendlove, 830 E 3550 N, thanked the City Council and employees for the 4<sup>th</sup> of July events. He said it was great. He said he noticed a lot of employees volunteering their time without pay and expressed his thanks to them.

Mike Gale, 190 W 3325 N, said thank you for allowing the public to have a voice. He said he is very much in favor of the new facility. He has been there many times and it's a very scary place to be in. He thinks it is past due and it needs to happen now while there is good buys in the construction market. This is a very competitive market. He said he hopes that this thing wouldn't be put off hoping things are going to get better because the price of construction will go up if that happens. He has heard comments that it is too extravagant and it shouldn't be this pretty. He asked why not have a complex we can be proud of? Some citizens have suggested that it can

be built by City employees. He said that is not a good idea; they are not qualified builders. His vote is in favor of this complex and he asked if not now, when? When it's more expensive? That's what will happen if we wait.

Dianne Clydesdale, 533 E 2050 N, said we may need this building but she doesn't think we need this to be so extravagant. If we need it that's one thing but to spend more money on it than we need to is unnecessary and she doesn't feel the city can afford it. She heard the increase of \$5 or \$6 is only going to be for 12 months. She thinks the city of North Ogden needs to know how much longer and how much more that is going to be. She stated that it isn't an \$8.5 million project anymore.

Nicole Thompson, 1228 E 2625 N, agrees we need a new building and she has been over to look at it. She said she agrees with these folks, as homeowners you have to have 20% down when you purchase a home. In her opinion if we have \$500k saved that should be our 20% down and then we pay the 80% after that. She said we are being unprofessional in our expectations of what this building should be. She said \$8.5 million is a lot and we could do it for a lot less if we shop around if we are open minded about things and not set on what one company recommended.

Phil Swanson, 1066 E 3300 N, seconded the idea that we need a new building. He said it is painfully obvious but we are only being given one opportunity or alternative. Steve Huntsman sent an email some time ago about a less costly building that would meet our needs. Mr. Swanson said buildings are built for form and function, not beauty. The problem is that we have not been given any less costly alternatives. He suggested letting the citizenry make the decision and maybe spend more on trees to hide a plain building.

Justin Fawson, 2539 N 1600 E, agreed that we need a new building but not for that price tag. He said this is a great time to buy a car or a house but he can't afford it so he will keep what he has. His recommendation is build a smaller building now that we can add on to in the future.

Mary Settlemire, 2701 Mountain Rd, agreed we need a new building but said the one we have planned is too costly. She has to be on a budget and this building needs to be within the citizen's budgets.

Tom Sawyer, 1106 E 2925 N, authorizing the Mayor to sell property at any commercially reasonable means. How can we measure this? What is at stake here? He said he appreciates his opportunity to come here and talk today. He reads the papers; don't know what properties we are talking about. Maybe decisions being made will affect their quality of life. The City Council needs to give facts, be accurate, and be timely. This isn't a timely occasion, this is vacation time and it seems like the Council is avoiding the people. He said he doesn't know if we need a new building or not. He suggested we cope, we wait, we plan better, and it needs to be efficient but not overdone. He said the residents got colored fliers in our bills and there was a truck in the parade, most people think the City is pushing this. This isn't a great time to do this.

#### **RECOGNITION OF FORMER PLANNING COMMISSION AND BOARD OF ADJUSTMENT MEMBERS.**

Mayor Harris stated that we have people who have served on our Planning Commission and Board of Adjustment. Mayor explained that the City has changed the way it handles variance requests. There is now an Administrative Law Judge that hears the things that the Board of Adjustment used to hear. Mayor Harris presented plaques to each of the following former members thanking them for their service to the City.

Cheryl Stoker served on the Board of Adjustment from January 2002 to June 2011 and was serving as the Chair. Douglas Christensen served on the Board of Adjustment from March 1992 to June 2010. Linda Miner served on the Board of Adjustment from January 2002 to June 2011. Walter Neibauer served on the Board of Adjustments from March 2007 to June 2011. Taylor Spendlove served on the Board of Adjustment from July 2010 to June 2011. Bruce Catanzaro served on the Planning Commission from February 2007 to January 2011.

Two former members were unable to attend tonight's meeting and receive their plaques, they are Jon Bingham who served on the Planning Commission from March 2005 to May 2011 and Larry Residori who served on the Board of Adjustment from July 2010 to June 2011.

**DISCUSSION AND/OR ACTION TO ADOPT A RESOLUTION DECLARING REAL PROPERTY SURPLUS AND AUTHORIZING THE MAYOR TO SELL IT BY ANY COMMERCIALY REASONABLE MEANS.**

Edward O. Dickie III, City Manager, stated this has been before the Council previously but there were some questions. Since then we found out there are additional parcels off Mountain Rd. adjacent to the Heritage Grove Subdivision. This has been appraised at \$260,000. There are three parcels total and there is access off of Mountain Rd. by an access easement through Rocky Mountain Power. He explained the revenue to go toward the General Fund which would pay off some other property that the City wants to purchase or go toward the new public works complex project. The Mayor is the one that sells and purchases property for the City by statute. One other thing to mention is there are some property owners adjacent to the larger property that would be interested in purchasing a piece of the property. Mayor Harris said that property would expand those owners' existing lots.

Council Member Bigler asked whether this could be amended to state that those home owners could do that, so it is in writing. He would like that. This does give the Mayor the right to sell this by any commercially reasonable means but it is also subject to approval of the City Council of the final terms of the sale. If there are concerns that one man is doing all this that is not the case. He said he would like the current language 'the revenue taken from the sale of this property *can be used* toward paying back the sewer fund for the McCormick property' changed to '*will be used*' toward paying it back. To ensure that when we sell this, we are selling this as surplus, but we have purchased another piece of property so there is an exchange so the McCormick property is paid for in whole. He would like to make that mandatory, that we will use that to pay back the sewer fund in its entirety for the McCormick property of \$219,000.00 and also add that all remaining funds go to the public works complex savings account. Which it states currently but it states we can, he would like it to be more binding. If we are going to sell it we ought to put it toward the other properties that we just bought or are planning on buying. He also wants to verify that if this property is built as a neighborhood it does have access from Mountain Rd. Edward O. Dickie III said there is an easement right now with Rocky Mountain Power but the developer would have to negotiate with them directly. Council Member Bigler said he needs that clarified then, is there a possibility that the new neighborhood is going to be coming out of that one road. Edward O. Dickie III said right now there is a road that ends and a roundabout. Council Member Bigler said it's not guaranteed then, his understanding is that there is a connection to Mountain Rd if that neighborhood is built; that's not guaranteed? They may have to go through the existing neighborhood to get access? Edward O. Dickie III said he can't guarantee that, they would need to do their due diligence and work with Rocky Mountain Power on that. Council Member Bigler asked whether anyone from administration has contacted the power company to see what their feelings are on that. Mayor Harris said the City has an easement there and would retain that. If a developer came in and wanted to develop that ground, the City's subdivision ordinance would require them to have access and the City could require the existing easement be preserved. Council Member Bigler asked if the City controls that easement and whether we would grant access to a development through our easement. Edward O. Dickie III said Rocky Mountain Power owns the property but the City will still have access through the easement. Council Member Bigler said the City could allow the developer to put a road in through that easement and access the neighborhood, is that right? Mayor Harris said it would depend on what the developer proposed. He would have to meet standards and one of those standards is to have more than one access so the developer would have to negotiate with whomever.

Council Member Harris said we can declare this surplus and as the Resolution is presented it takes care of declaring it surplus and granting the Mayor the ability to sell it. If some property owners wanted to purchase some of that property that they have encroached upon, we would be open to that.

Council Member Bigler asked if it would be appropriate for the property owners to come up and show the Council where their property is. Bruce Hall, 2548 N 1550 E, pointed out the property on a map. He said they are looking at buying a narrow piece of land to the east of 1550 E to provide a buffer from whatever goes in there to the north.

Mayor Harris said the question before the City Council tonight is whether to declare it surplus, anything else is separate and apart.

Council Member Taylor asked if this is the right time to sell this property. He said one of things we are talking about is that it is a great time to buy and the flip side is that it is not a great time to sell. What value might be in this property when the economy changes? He would like more information on that. His concern is whether this is the right time to sell it. His other comment is that we should dedicate these funds, if it is sold, to the new Public Works facility. That amount will bear interest on the bonds so it would save our taxpayers some money.

**Council Member Bigler moved to approve Resolution 07-2011 declaring real property surplus and authorizing the Mayor to sell it by any commercially reasonable means as amended to include that any revenue taken from the sale of this property would be used to pay back the sewer fund in its entirety for the McCormick property and all remaining funds to be added to the Public Works Complex savings account. Council Member Harris seconded the motion.**

**Voting on the motion:**

<b>Council Member Taylor</b>	<b>no</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Flamm</b>	<b>no</b>
<b>Council Member Harris</b>	<b>yes</b>
<b>Council Member Turner</b>	<b>yes</b>

**Voting was 3 to 2. The motion passed.**

**DISCUSSION ON VERTICAL BANNERS.**

This item was pulled due to a need for more information.

**DISCUSSION AND/OR ACTION TO APPROVE A BEER LICENSE FOR MARY'S RESTAURANT FORMERLY WINGER'S.**

Dave Carlson, City Attorney/Economic Development Director, said this application is a formality; there is no change in the ownership, only the name of the business. It will now be known as Mary's Restaurant.

**Council Member Turner moved to approve a beer license for Mary's Restaurant. Council Member Taylor seconded the motion.**

**Voting on the motion:**

<b>Council Member Taylor</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Flamm</b>	<b>yes</b>
<b>Council Member Harris</b>	<b>yes</b>
<b>Council Member Turner</b>	<b>yes</b>

**Voting was unanimous. The motion passed.**

Council Member Bigler said this is the exact same license that Winger's had but because it's going to be a different restaurant they need a new license. Mayor Harris replied yes, that is the case.

**DISCUSSION AND/OR ACTION TO ENTER INTO A CLOSED MEETING TO DISCUSS THE PURCHASE, EXCHANGE OR LEASE OF REAL PROPERTY TO BE HELD IN ACCORDANCE WITH THE PROVISIONS OF UTAH CODE 52-4-204-5.**

Council Member Bigler asked if this item could be moved to the end of the agenda so people don't have to wait. Mayor Harris said he is hoping we won't be that long on this item and the next item is contingent upon this item so that won't work. Council Member Flamm said he agrees we need to do this first.

**Council Member Harris moved to enter into a closed meeting to discuss the purchase, exchange or lease of real property to be held in accordance with the provisions of Utah Code 52-4-204-5. Council Member Flamm seconded.**

Council Member Taylor said the reason the property is discussed in a closed session is that the owners have asked that their properties not be disclosed. He wanted to share that with the public so they know why this happens in a closed meeting. He asked that the public not leave.

**Voting on the motion:**

<b>Council Member Taylor</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>no</b>
<b>Council Member Flamm</b>	<b>yes</b>
<b>Council Member Harris</b>	<b>yes</b>
<b>Council Member Turner</b>	<b>yes</b>

**Motion passed 4 to 1.**

The City Council entered into a closed session at 6:44pm.

The City Council reconvened in a regular meeting at 7:49pm.

**Council Member Flamm moved to direct staff to enter into a purchase and sale agreement and to get a geotechnical study and appraisal done. Council Member Harris seconded the motion.**

Discussion on the motion:

Council Member Taylor said he is satisfied that the site is being made public. He explained that a number of properties were considered and the Shooting Star Property is the top property recommended. That property is not being purchased right now we are just getting a study done on the soils and an appraisal.

Council Member Bigler said he is against doing this because it is not on the agenda that we are going to vote on this. We are not purchasing the property but it will cost us \$8,000 to do the study and appraisal. He said we are in a grey area here. We are required by law to have those items on the agenda and it's not there. He said this is being pushed through before the next election. The City Council members take the hits from the public and he thinks whoever runs for election and whoever makes it, the public wants those people to represent them and make those decisions. We haven't even voted to build the thing and we're going to spend \$8,000 to do the studies. We are doing everything out of order and there are a lot of upset residents. For that to be denied, some people have their heads in the sand. It is wrong to put a motion forth.

Council Member Flamm said he has a client who lives in Cornish, UT and after WWII he decided he was going to build a house. It was going to cost \$3,500 at that time and he had about \$3,000. He decided to save up and pay cash for it but by the time he saved the other \$500 the cost had gone up to \$4,000. Construction costs were going up faster than he could save so after a couple years he decided to take out a mortgage and pay it off in a couple years. Construction costs are low right now and we don't know what it's going to cost later. If we wait a year, we may find that the costs have escalated considerably. Interest is also low and there's a good chance it will go up. A year from now we will be looking at a more expensive facility for our residents. We are trying to hold the overall costs down and have been looking at this for over two years. The study on the website was presented to the City Council in February 2010 and people could come here and talk to the City about it for 16 months. There is a process we have to go through and the most important part is getting the property. If we want to move ahead, we have winter coming up, and if we can do some of the site work before winter hits they can work through the winter. There were some Build America Bonds that were available last year that we missed out on. He asked what else we are going to miss out on if we continue to wait.

Dave Carlson said, with the direction that was given tonight, the City Council hasn't taken any binding action other than to give its consent to the Administration to move forward and the Mayor already has that authority but it is important to know that he has the Council's support. Concerning the amounts that were discussed for study and appraisal, there has already been a budget procreated and he doesn't need the Council's approval to spend that money. The Council has already given the Mayor that authority to spend on it. No one at this meeting should have been surprised that the Council was going to go into a closed session to discuss this. That notice requirement was met according to State law.

Council Member Bigler asked where it says that, whether it is on the agenda or not.

Dave Carlson read from the Utah Code Ann. 52-4-202(6)

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

Council Member Bigler said this was not brought up by the public. Dave Carlson said if you check the minutes you will see that it was. Council Member Bigler said the Council came out of a closed meeting and the motion was proposed immediately. He said regarding the comment that this has gone on for 16 months, since he has been in for a year and a half, he has never had any discussion about different types of buildings possibly being built. He said he believes we do need something. The trucks and equipment is very expensive, they need to be covered, that is very important. The office building is not safe and needs to be redone. He said he as well as many residents thinks the City needs to scale it down. He said every time there has been a suggestion of looking at other options for what the complex will look like and the size and scope it is just tossed aside like 'forget you, we've had a professional company do this.' He said he doesn't think that's the sacred cow. In all this time with the discussion it has been on different sites and property and been very thorough with that. He said what Jim Harris presented tonight was awesome, the best we've had yet as far as land goes. There has been nothing, no discussion about the type of materials, the size or what it's supposed to look like and that is his concern. He said it is obvious that he doesn't speak for all residents but guaranteed he speaks for a lot of them that are not saying 'suffer, don't do anything' but let's look at all the options. He said personally he thinks it can be scaled down and still be very usable but with less cost. To say we have been dealing with this for 16 months, never on a proposed what it's supposed to look like. He said he sent an email suggesting that because this is vacation season and if we care about what people think we wait until September when a maximum number of people can be here to participate. Immediately he was told no, we are proceeding now and it was stated in the closed meeting why. He said he thinks things are being done for the wrong reasons and he wants us to discuss building options because he

is 100% confident that we can build a nice facility that will suit our purposes for a lot less money. He said he visited several sites because he wanted to find out if this is normal for a City, what we're proposing. He said there is nothing between here and Kaysville that is even close to what we are proposing. He said he suggested building it in phases and was told no. He said that's what South Ogden did. He said he suggested maybe where we park our trucks we put them in a large premade metal building and was told no. Mayor Harris asked Council Member Bigler to summarize. Council Member Bigler said that's what South Ogden and several other cities have done but when we recommend it, no, no, no. So we are putting this through, that 16 month thing, forget it. We have done nothing as far as the elected officials brainstorming and discussing together possible ideas nor I don't think the Committee has as far as what the building with look like. They have spent all of their time on land issues.

Council Member Harris said we have been saving \$100,000 for five years out of the various enterprise funds and that is an indication that not just this Council but previous councils saw the need for this facility. You really can't save fast enough to keep up with the costs of construction. Regarding the comments about different materials she stated this complex has not yet been designed. There have been architects present at many public meetings and on board working with the committee. The City has been clear on the message that this community wants to get this done in as frugal a method as possible. The committee has worked on many sites and they have had many opportunities for the public to participate. We have had all sort of publicity lately, Cherry Days, the flier, the article in the Standard-Examiner. There are a lot of people in the community that are allowing the City Council to represent them the way they see fit. She added that her term does not end until January 1, 2012. She said she doesn't think it is appropriate for someone to say we need to delay this. We have been working on this for years and years and years. She said she does not feel her position is being pushed forward inappropriately.

Council Member Bigler said it was clearly stated that it is being pushed forward before the election. Mayor Harris told Council Member Bigler he is out of order.

Council Member Taylor said when this came up to a vote on whether to proceed or not he voted no as did Council Member Bigler. The biggest issues for him were a lack of public involvement and notice. He has had a chance to put forth some ideas to do a lot of things to get the word out: a booth at Cherry days, an entry in the parade, a special tour of the existing facility to the newspaper, open houses to let the residents come and see the facility, a flier that went to everyone in the City, a new tab on the website and a new email address that goes specifically to the committee. He feels like we are giving our residents every chance to know what is going on with the facility. Other concerns were cost and materials, he is not a contractor but that was one of his concerns. He formally requested that the committee take up a discussion of buildings. He has a presentation that he will present on other building types and he would like those to be looked at. He thinks the committee will do that. Any final vote for him will be contingent on getting an answer to that. If there are real reasons that other types of materials aren't best, he will vote for that. He has made the request for that to be included. He said we need to get a site and do our due diligence and he is satisfied that we are putting the site out publicly weeks before a decision will be made on it. That will allow us to find out what type of building can work there. He said he has never heard a member of the City Council say this needs to get done before the next election. He suggested a compromise, with the Mayor's authority he could proceed on this facility and bring it on the next meeting after the residents have had a chance to think about it. That won't slow the project down, if the Council doesn't make a vote tonight. He said let's err on the side of caution and asked Mayor Harris to use his authority to bring this back at the next meeting.

Mayor Harris said we have an independent study by a professional firm that worked hand in hand with Mel Blanchard to come up with what our needs are going to be. It is presumptuous for someone to say 'sure we got the study but I don't believe it. We can do something else'. This study was done by a professional firm and our Public Works Director who knows what is necessary. The landowners have asked us not to disclose the sites and we had to respect that. We did look at other sites and made two of them public but found there were issues with those. We have a 'conceptual' look only and now is the time to get the architect involved to look at different construction methods, different materials and the study to see if it is still valid. They are trained; they have the

professional licenses to do that. We have done everything according to professional standards. We are going through that process for a reason and it is perfectly valid. That being said we had a suggestion to withdraw the motion. He asked Council Member Flamm if he would like to withdraw that motion. Council Member Flamm said he would like to go ahead as a vote of confidence.

**Voting on the motion:**

<b>Council Member Harris</b>	<b>yes</b>
<b>Council Member Flamm</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>no</b>
<b>Council Member Taylor</b>	<b>no</b>
<b>Council Member Turner</b>	<b>yes</b>

**Voting was 3 to 2. The motion passed.**

Mayor Harris said we will go ahead with the purchase and sale agreement.

**DISCUSSION AND/OR ACTION TO ADOPT A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$10,000,000 AGGREGATE PRINCIPAL AMOUNT OF REVENUE BONDS, SERIES 2011 (THE “SERIES 2011 BONDS”) OF NORTH OGDEN CITY, UTAH, FOR THE PURPOSE OF FINANCING THE CONSTRUCTION OF A PUBLIC WORKS BUILDING AND RELATED IMPROVEMENTS, CALLING A PUBLIC HEARING AND ESTABLISHING A TIME, PLACE AND LOCATION FOR SAID PUBLIC HEARING; PROVIDING FOR PUBLICATION OF A NOTICE OF PUBLIC HEARING AND BONDS TO BE ISSUED; PROVIDING FOR A PLEDGE OF REVENUES FOR REPAYMENT OF THE SERIES 2011 BONDS; FIXING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF THE SERIES 2011 BONDS, THE MAXIMUM NUMBER OF YEARS OVER WHICH THE SERIES 2011 BONDS MAY MATURE, THE MAXIMUM INTEREST RATE WHICH THE SERIES 2011 BONDS MAY BEAR, AND THE MAXIMUM DISCOUNT FROM PAR AT WHICH THE SERIES 2011 BONDS MAY BE SOLD; PROVIDING FOR THE RUNNING OF A CONTEST PERIOD; AND RELATED MATTERS.**

Debbie Cardenas, Finance Director, referred to the memo in the City Council packet and read that memo for the public’s benefit. (Attachment B)

Marc Edminster with Lewis, Young, Robertson and Burningham, (LYRB) said they have been retained as the City’s financial advisor on this project. Their role is to advise the City as to bonding options, look at all the bonding options and secure the least cost financing available. He explained that a parameters resolution is not a binding commitment of the City to issue bonds. That would be a step that’s taken in the future all it does is fulfill the statutory requirements and sets in motion the 30 day contestability period. Before that period runs the City can’t issue bonds in any event. This starts the process so in the event the City decides to issue bonds you have met all the requirements and complied in every way with State law.

Council Member Turner said August 9<sup>th</sup> will be the public hearing and asked will the bond parameters be set forth at that time or is that in the future? Marc Edminster said the parameters resolution is what is on the agenda tonight to be adopted. Council Member Turner said we are having a public hearing but what would we be hearing if we don’t know the specifics? Mr. Edminster said we won’t know the final amount until the bonds are sold but we can estimate the interest rate at the time of the public hearing. It will take sixty days at a bare minimum to get the final numbers; there is a process with a lot of steps that are required by State law and there are very few ways to shorten that time period. Council Member Turner asked whether the City will take any action that night. Mr. Edminster replied no. Council Member Turner said the Council is just discussing this to get the process started to get the bond. Mr. Edminster said that is correct, it just gets the machine moving.

Council Member Taylor asked if the contestability period is extended if we don't have all the information we need to make a vote. Mr. Edminster stated there is a vote that is taken at the end of the 30 days. Within those 30 days citizens can file comments not with regard to whether the bonds should be issued but with regard to the legality of the parameters resolution. The public hearing is to talk about the bonds and the project and is just that, the Council would not be expected to take any action at that time. That will come much later.

Council Member Bigler asked if Blain Carlton employed with LYRB. Mr. Edminster replied that he is not; he is a bond attorney with the firm Ballard Spahr. Council Member Bigler said he doesn't believe the Council can do anything with this tonight as it was all changed this afternoon and Council has to have a 24 hour notice. So the City Council can't do anything with this tonight. Debbie Cardenas said nothing of substance has changed except the date of the public hearing and the fact that we will not be issuing sales tax bonds. She said there is not a big change. It has always been made known to the Council that the intent has always been to raise utility rates to pay for this, not issue sales tax bonds. Council Member Bigler referred to the packet the City Council got for this meeting, he said the resolution is roughly fifteen pages that they were familiarize themselves with was changed this afternoon and this is what it said, and it was put together by Blain Carlton who is the bond attorney. It says North Ogden City Sales Tax Revenue Bond Series 2011. He read from an email sent by Annette Spendlove that states there have been a few changes to the parameters resolution scheduled for tonight's meeting Section 2 Page 3 states 'The issuer proposes to pledge the local sales and use tax funds received by issue pursuant to Title 59, Chapter 12, Part 2 Utah Code Annotated 1953 as amended for repayment of the Series 2011 bonds.' This will be removed from the resolution the City will not be pledging any sales or use taxes. Debbie said yes it also says we changed the date of the public hearing from August 2<sup>nd</sup> to August 9<sup>th</sup>; those are the only two changes in there. Council Member Bigler said his understanding is the law reads that the City Council has to have 24 hours with the information. Annette said no, that is the noticing requirement for the agenda. Council Member Bigler said staff can change things an hour before. Debbie Cardenas said it was for the Council's benefit so they would know.

Council Member Bigler said Mr. Carlton is the bond attorney and we don't want to be presumptuous saying that we know more than he does. He put this together and included the sales tax combined with the utilities together. Is it because we get the lowest bond and interest rates? Why did he include those two together in our official document that we were to vote on tonight? Mr. Edminster said the original draft that came out did refer to utility revenues and sales and use tax but he believes the language is and/or. He asked to see what Council Member Bigler is looking at and said that is a worksheet not an official document. He said Blain Carlton put that title on their internal working document and it is not on the resolution. Council Member Bigler asked why the Council doesn't get the official document. Annette Spendlove stated the Council does have the resolution. Mr. Edminster said legally speaking you could finance this type of facility and that language gives the City the most flexibility and most options to use whichever turned out to be best scenario. The City Council could have changed that themselves in this meeting. He stated the 24 hour requirement is on the publication of the agenda item itself and that hasn't changed.

Debbie Cardenas said she has been very clear in the past on how the City is going to fund this bond. Council Member Bigler asked if that has nothing to do with the bond rating. Mr. Edminster said of course you want to get the best rating and added there are pros and cons to all kinds of bonds; this type of bond with the guaranteed revenue stream that the City has control over would get a better rating. Council Member Bigler asked if sales tax could help our bond rating. Mr. Edminster said a utility rated bond would be a better rated bond than a sales tax bond. It wouldn't gain you anything to use sales tax and you would be tying them up in the future when you may want to use them.

Council Member Bigler said he went in and talked to Administration last night and brought this up and it was changed today. It seemed questionable to him that it was changed shortly before the meeting. If sales tax is used in whole or in part with this bond it can be petitioned by residents for it to come to a vote but if it is a utility bond they cannot. Mr. Edminster said the public can petition either way. Council Member Bigler said that wasn't in the paperwork he got.

Council Member Taylor said he disagrees that it is illegal or questionable for that to have been changed. It can be changed in the meeting, sentences can be stricken out or added, and things can be changed. He respectfully disagreed with Council Member Bigler and added that it is perfectly within the spirit and the letter of the law to do this. He doesn't want any more controversy added to this than there needs to be.

Council Member Flamm said he thinks this is more for public interest, it shows on here that we wouldn't issue more than \$10 million. He asked if we can do it for \$8 or \$9 million how that impacts this. Mr. Edminster said that is the very nature of the parameters resolution, it doesn't impact it at all. Council Member Flamm said if the architects come back with a lesser number then we start at a lower amount. Mr. Edminster said you could adopt a new parameters resolution with a lower figure but you don't have to, you can issue anything less than that. Council Member Flamm stated that the length could be anything up to 30 years. Mr. Edminster said that is correct. Council Member Flamm said if rates went crazy and the bonds came in higher we would have to start over again. Mr. Edminster said yes and added that they try to be conservative so that doesn't happen. He thinks a 20 to 25 year bond would cover the useful life of the building. 30 years is an outside number. He thinks we are looking at interest of no more than 4.25% but obviously that is subject to change. There are a lot of factors that play into it. Mr. Edminster said a bond rating agency rates the particular bond issue, the last one was for the pool. Standard and Poor's gave it an A rating and Fitch was an A+ which are good, solid ratings. Based on an A rating the City could get bond insurance and if you can do that it will help lower the interest cost. He said when they came up with the \$10 million figure they were looking at the worst possible scenario they could think of but don't expect it to come anywhere close to that figure.

Council Member Harris asked Mr. Edminster if he recalls what the numbers on the spreadsheet were based on. Mr. Edminster replied it was based on 25 years.

Debbie Cardenas said the reason for all the scenarios is that the City was going to try to use property the City already owned which would have meant a lower cost.

Council Member Turner asked if we adopt this resolution does the 30 days start today. Mr. Edminster said the 30 days starts with the 1<sup>st</sup> publication. It was asked what day that would make it.

Council Member Bigler asked if Mr. Edminster could tell us if the interest does go to 6% what will the total cost be. Mr. Edminster said he could calculate it but he hasn't calculated it yet. Council Member Bigler suggested that he figure that out. Mr. Edminster said \$9.5 million over 25 years is \$743,000 per year for 25 years so \$18.5 million is the total cost over the life of the loan. Council Member Bigler said he thinks we should hope for the best and plan for the worst. He asked regarding the changes to this item tonight and the legality, if he has a 15 or 20 page document to review how he could read through that within five minutes to review all the changes. To govern well that is necessary and to him still being expected to vote on this tonight is not fair to us. He did his due diligence and spent a lot of time reviewing it. Debbie Cardenas said she was trying to help the City Council and clear up the confusion by explaining that we are not using sales tax revenues, only utility revenues, the only other thing that has changed is the date of the public hearing. The 2<sup>nd</sup> isn't a regular scheduled City Council meeting so it will be held on the 9<sup>th</sup>.

Edward O. Dickie III said Ms. Cardenas did that just to help the City Council. She didn't have to change it; we could have left that in. It could have been brought to the City Council to make those changes during the meeting. Council Member Bigler said he feels bad because people that know him personally know that he is not the fighting type or a jerk or anything. He said as long as he has time to read through it he doesn't have a problem with it; this all could have been avoided. He tried to do it and ask his questions while studying the issue. Debbie Cardenas restated that it was done for his benefit and other City Council members.

Mayor Harris said his copy shows five words were omitted and one number was changed. Debbie said that is correct. Council Member Bigler said that's fine. Mayor Harris asked Council Member Bigler what the question

is. Council Member Bigler said he didn't know that those were the only changes until now that's why he brought it up. Mayor Harrop said the other thing is that those five words didn't need to be omitted because it said and/or but we changed it to make it clear. Council Member Bigler said he just saw that it was being changed after he spent much time reviewing it.

Council Member Taylor asked LYRB to give us the total numbers at 4.25% interest so people don't walk out of here with the \$18.5 million number. Mr. Edminster calculated \$9.5 million at 4.25% for 25 years said that is approximately \$641,000 per year. Council Member Taylor said that is over \$100,000 per year savings or about \$2.5 million less in interest total. Council Member Taylor said if we can do this project with this economy and these rates that we are seeing now it will save our taxpayers millions of dollars in interest in the long run because it's not just the cost of the building. He said as he looks at this it's a gigantic balancing act for him; he made a list: 1. Involving residents. 2. Getting best costs. 3. Materials. 4. Timeframe. 5. Financial situation. To him, we have to look at all of those and for him issuing these parameters tonight makes sense. He intends to vote yes on that. He said that doesn't mean he is going to vote yes to issue the bonds but we need to start that process. If we wait we may remove the possibility of getting the best deal for our residents. He said he feels comfortable about issuing those, there is still going to be a minimum of a month for public input before a decision is made and likely longer.

**Council Member Taylor moved to adopt Resolution 08-2011 a Resolution authorizing the issuance and sale of not more than \$10,000,000 aggregate principal amount of revenue bonds, series 2011 (the "Series 2011 Bonds") of North Ogden City, Utah, for the purpose of financing the construction of a public works building and related improvements, calling a public hearing and establishing a time, place and location for said public hearing; providing for publication of a notice of public hearing and bonds to be issued; providing for a pledge of revenues for repayment of the Series 2011 Bonds; fixing the maximum aggregate principal amount of the Series 2011 Bonds, the maximum number of years over which the Series 2011 Bonds may mature, the maximum interest rate which the Series 2011 Bonds may bear, and the maximum discount from par at which the Series 2011 Bonds may be sold; providing for the running of a contest period; and related matters as amended with the minor changes that have been discussed in the email and this meeting. Council Member Flamm seconded the motion.**

Discussion on the motion:

Council Member Bigler said since it was mentioned that we have want to include the public he proposed seeing if there are any City Council members opposed to letting the residents vote on this issue. He said that is the true way to see the voice of the people.

Council Member Flamm asked when that could be. Annette Spendlove, City Recorder, said it is too late for this election. Council Member Flamm said he is opposed to waiting a year. Council Member Bigler asked why it is too late for this election year. Mrs. Spendlove said for bonding to go on the ballot it had to be prepared in June. Council Member Bigler said if 20% of registered voters petition then this cannot be voted on until next spring. Mrs. Spendlove said they changed a few of the laws and the County is delivering the new law information next week and she wouldn't be comfortable explaining it today. We could have that information to Council Member Bigler next week. Council Member Bigler asked that the time doesn't start clicking off the clock until we get that information. Annette asked what time he is referring to. Council Member Bigler said there is a certain window where you have to have the names of the 20%; a beginning date and an ending date and if it doesn't happen by that time period then it is too late. Mrs. Spendlove said that time doesn't start until the petition is delivered and all the names are checked; the Lt. Governor's office checks that. Council Member Bigler said if we don't have the names in to her by a certain date and time then it is null and void; he wants to know that date. Mrs. Spendlove said she doesn't have that information right now. Dave Carlson said we would have to research that. Council Member Bigler asked if the time could not start ticking until we know. Dave Carlson said he can't answer that without researching it.

Council Member Bigler said if that is a legal right for the residents to do that we need to know those dates. He said he would like to see as soon as we know that then the time can start ticking. Dave Carlson said he can't answer if what Council Member Bigler is proposing is legal. He will research that and let Council Member Bigler know what the options are.

**Voting on the motion:**

<b>Council Member Flamm</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>no</b>
<b>Council Member Taylor</b>	<b>yes</b>
<b>Council Member Turner</b>	<b>yes</b>
<b>Council Member Harris</b>	<b>yes</b>

**Voting was 4 to 1. The motion passed.**

**PUBLIC/COUNCIL COMMENTS**

Paul Himle, 1733 N 225 W, said he agrees with Council Member Flamm that, often times, it does end up that now is the time to act but we also need to not be too hasty. He said he can tell from the comments that are being made that the City Council is putting too much faith in the architects. The customer dictates what they want; the architect is going to give you what they want. It is much more fun for an architect to do a complex job so it is important for the City to be the dictators of where this is going. The City Council needs to step up. He said he personally was impressed with the architect and spent a lot of time with him. It is important to keep this moving also important not to be too hasty. If the study comes back in an unfavorable way we don't want to be too far into it. He said he also sees Council Member Bigler's point; it seems that he feels there has not been enough input. He asked them to keep in mind that the City Council needs to steer this boat. The architect is not the steerer, he is the employee. From the number of comments from the public that have spoken the concept plans are too much. He believes these renderings are fairly serious concepts or proposals because it takes time to do these. He said he also knows the Architect involved is a resident of the City and wants to make sure it does look good so that is not a worry, we just also need to make sure that it doesn't look too excessive.

Joan Brown, 2010 N 775 E, asked why a building permit was issued for a home in Quail Ponds when the City Council said there would be a moratorium on building permits in Quail Ponds Phases 1, 2 and 3. Mayor Harris said the developer met all the requirements that were put on him when that motion was made. Joan Brown said the motion from the Council was that no building permits would be issued in Phases 1, 2 and 3 until the vacating was settled. Mayor Harris said his understanding was that all the requirements have been fulfilled and it was issued. Joan Brown said she challenges that. Mayor Harris said staff will take a look at it.

Phil Swanson, 1066 E 3300 N, said all the economic indicators out there indicate that there is no economic recovery coming. Unemployment is still at 9.2% and growing. The Fed is not touching interest rates because we are in a very serious economic problem here. We have to be careful that we are getting the best interest rates out there. Things are bleak at best and interest rates are very unlikely to go anywhere. He doesn't think we are in as big of a hurry as Council Member Flamm thinks we need to be in. We are a long way from bouncing back, there isn't going to be a sharp rebound out of this economy so we don't need to be afraid to move slowly. The sky is not falling on interest rates and far as then bouncing up and going crazy anytime soon. He thanked each of the Council Members for their service and said he appreciates their service and the time that they give. It is a sacrifice and he appreciates that.

Charles Crippen, 3576 N 575 E, asked if these are going to be incremental bonds over the life of the project. If that is the case are we going to have increases in fees or is that going to be a flat fee each year? That's going to impact what the fees are going to be to the citizens and their utility rates. Right now we are looking at 8% to 12% increase depending on the size of the family.

Justin Fawson, 1600 E 2925 N, said he is hearing a lot of infomercial mentality, 'Buy now! Build now because of the interest rates.' When what the residents are saying is please consider building something smaller. The interest rates are great and he would love to get in on them but he doesn't think the building is right. He thinks we are spending too much and rushing in. He proposed for a public hearing; holding it somewhere else rather than cramming into this room, consider a larger area.

Bob Napoli, 816 E 2750 N, said that property is not in North Ogden City and asked is it zoned for that use. Mayor Harris said the property is in the unincorporated area of Weber County but it is within North Ogden City's annexation declaration. Mr. Napoli asked if he is sure. Mayor Harris replied yes. Mr. Napoli said that has changed then.

Gary Rands, 2941 N 1050 E, toured Public Works today and agrees that we need a new facility. He said he thinks people would be able to stomach this better if they didn't know the \$10 million window. Why don't you give the Architect \$5 million and tell him to build it in that scope. Why is the checkbook wide open? Why can't we put a limit on what we are going to spend on it? We are talking about a \$6 fee increase but that is only for 12 months. He asked how many residents know that. Mayor Harris said it will raise a small percentage every year. Mr. Rands said the residents don't know that. That wasn't printed in the flier that went out in the utility bill. Tell them the truth, those costs will escalate. Council Member Flamm said the escalation is not for the bond, it is the anticipated increase in the cost to administer water. We know there will be increases in fuel, inflation and the cost of operations. Mr. Rands said at \$6 per month it would take 23 years to pay back \$10 million without interest. He said be honest with the citizens and tell them it's going to go up every year. It's not just \$6.

Dianne Clydesdale, 533 E 2050 N, told Council Member Flamm his friend that bought the house for \$3,500 had 70% down. If the city had 70% down, she would be good with this.

Council Member Turner said he had a number of residents approach him about his work and in full disclosure when you get elected to office you fill out a full disclosure form and declare who you work for and if there could be conflict of interest. He works for a company called Big-D Construction. Once you do that, by law, you don't have to recuse yourself and you can vote on things. He said he declared that almost four years ago when he was elected. He wants people to know that he would recuse himself when it comes time for the General Contractor. He explained he is not involved in any of the estimating or marketing. He is a superintendent; he runs the jobs. He said he knows that Big-D was invited to some walk through the City had but he doesn't know if they are even bidding on it. He said he just wants everybody to know that is the way it is.

Council Member Taylor thanked everyone for coming and sharing their input. It is really important and not a lot of people come to these meetings. This is one of the most heavily attended Council meetings in a long time and it is commendable. People may think 'I'm just one person' but everyone has ten, twenty, fifty or one hundred friends and family members in the City that think along the same lines. There are a lot more meetings to be had on this. He explained there will be a Public Works Committee meeting on July 14, 2011 at 5pm and they usually last about two hours. We are trying to look at everything and continue giving the input.

Council Member Bigler said, first of all, he wants everyone to know and be on the public record as saying this. He stated Council Member Turner is a completely honest man, he has integrity. In his opinion he would never do anything that was not just, illegal or unethical. Anyone with questions about that can put them to rest; it is not part of his makeup. The second thing, the resolution we passed on the bond included the date for the public hearing. Annette Spendlove replied that it did. Council Member Bigler said that was changed to August 9<sup>th</sup> today, he will be on family vacation on that day, he will be in Disneyland. He said he wondered if the rest of the Council out of courtesy to himself and to allow the opportunity for every elected official to be here since that's a very big issue. He said he has never asked for an item to be put on a different agenda before and he is not doing it to try to delay the process. He has had this trip planned for a very long time and up until today it was scheduled for August 2<sup>nd</sup>. He said he will be here August 2<sup>nd</sup> or the next regularly scheduled meeting on the fourth Tuesday of August. He

asked for the courtesy to let all the elected officials, himself included, to have a say in that public hearing on whether we bond for this building or not because it is such an important issue. He said he would never vote to try to exclude anybody else. He said he would have mentioned it previously but the packet said August 2<sup>nd</sup> so he thought it was okay. It was changed to the 9<sup>th</sup> and he won't be here and he would like to be here for it. He asked if there is a possibility of moving that to a different date.

Council Member Harris said prior to the motion it was mentioned several times that it was changed to August 9<sup>th</sup>. She said she wished he would have said something earlier. Council Member Bigler said he did apologize and added that the information he has been studying since Friday says the 2<sup>nd</sup>. He said he doesn't know how hard it would be to make a motion to allow all Council Members to be here even if they feel differently than you on the issue. He said he would never try to exclude any of the others. Edward O. Dickie III said we will see what dates that will affect. Annette Spendlove said it will change publications also so she will need to figure that out. She said it can't be held on the 2<sup>nd</sup> because there isn't enough time to publish the notice. Council Member Bigler asked if it could be held at the next regular Council meeting. Council Member Taylor said he will be out of town on the 23<sup>rd</sup>. Council Member Bigler said that is why he recommended waiting until the first week in September when everybody is done with vacation. Council Member Taylor asked whether Council Member Bigler can call in and added that is what he has done several times on a Council night. Council Member Bigler replied he was out of town once and called in on family vacation but he hasn't been to Disneyland in many years. He said he doesn't think he would be able to hear. He stated if it were anywhere else he would call in but he doesn't think it would be fair to his family to have to leave them. He said he is hoping we are not worried about having to do this and stay on this timeframe. He said he emailed the Council earlier and asked if this could be moved to the first meeting in September.

Annette Spendlove stated the September 13<sup>th</sup> meeting will be cancelled because of primary elections. Council Member Flamm said he thinks we should just move ahead. Annette Spendlove said there is no way we can do it the 2<sup>nd</sup> because of publication guidelines. Council Member Bigler said we can't hold one on the first week of September like we were going to on August 2<sup>nd</sup>. Council Member Taylor said then we are putting it off two months. Mayor Harris said it looks like we have to stick to the 9<sup>th</sup>. Council Member Bigler asked if it could be done on a day other than Tuesday. Council Member Flamm said the regular meetings are Tuesdays and people may get confused because the meetings are always scheduled for Tuesdays. Council Member Bigler said he wondered the same thing when he saw this was scheduled for the 2<sup>nd</sup> because people know these meetings are held on the second and fourth Tuesdays and the 2<sup>nd</sup> is the first Tuesday of the month so it is the same kind of thing. Annette Spendlove said the first Tuesday is always set aside in case the Council needs to hold a meeting. Council Member Bigler said people don't know that. Annette Spendlove replied that they do because it is posted on the top of every set of minutes and published in the newspaper in January of each year.

Council Member Bigler said if he was in the others' shoes he would vote to accommodate so everyone can have a voice even if you feel different than him. He said he didn't do this on purpose; he didn't know until this afternoon that it was changed to the 9<sup>th</sup>. Mayor Harris said the Council can decide what they want to do. Council Member Flamm said he would rather leave it on the regular scheduled day. He explained that several years ago for the budget retreat he was on a family vacation to San Diego but felt it was important enough that he bought plane tickets and flew back to attend those meetings. He said there are ways for Council Member Bigler to participate and if he really wants to be involved he can participate and it would be easier for him to part himself from his family at Disneyland rather than get the entire community and all the Council to change their schedules to try to accommodate his vacation plans at Disneyland. Council Member Bigler said until this afternoon it was scheduled for August 2<sup>nd</sup>, he is not the one changing the schedule. He said he loves the City and it is important to him but he doesn't love it as much as his family. He said he would have to leave the park and his family in order to hear and it's not fair to residents for him to be there and pretend he is hearing stuff if he is hearing every tenth word. Just for the public record the City Council has spoken apparently. He said he doesn't know, if this was going to be a really close vote whether to bond and build this stuff or not and he was on their side of the issue they may be

more eager to accommodate him and have him participate. He has had this planned for months and some of his kids have never been to Disneyland. He isn't leaving them and going to a hotel room.

Council Member Taylor said he can do the 2<sup>nd</sup> or the 9<sup>th</sup>. He said he is in Council Member Bigler's shoes a lot because he travels a lot. He has been on the phone for some major meetings including the Barker Park issue. August 9<sup>th</sup> has been a City Council meeting since the first of the year. If it can work on the 2<sup>nd</sup> he's game for it but outside those dates he agrees with Council Member Flamm. He suggested Council Member Bigler find somewhere to call in; he has done it ten times this year. He hasn't missed a meeting. He understands but feels that we should stick to the schedule. Debbie Cardenas clarified we never scheduled August 2<sup>nd</sup> for the public hearing; it was a printing error and we clarified it so it would be on the regular scheduled City Council meeting. Mayor Harris suggested moving on.

Annette Spendlove said she was leaving last Friday to go out of town and was here until 9pm Thursday waiting to get the documents from the bond attorney so she could get the document out. She said she kind of rushed him to get it to her. He said if there were going to be corrections it would be Monday. She needed to get the agenda out before leaving for a family event on Friday and Carlton was hurrying to get those done for her sake. Debbie Cardenas said she doesn't know who is here or who is going to be gone as far as the Council is concerned.

Council Member Bigler thanked Council Member Turner. He said he hopes that the Council will follow through and consider Justin Fawson's proposal to hold the public hearing in a different room. Regarding the brochure that was sent out, he said he wants the residents to know the \$6 is the first 12 payments and it will continue to go up each year after that. He said he did request where in the study that reference came from and was told that it had been discussed a number of times and it is in the study. He said he apologized that he can't find the reference to the \$5 or \$6 a month and asked for the page number on that and that request went unanswered. He said he specifically asked if that increase is based on a \$40 per month utility bill, \$50 per month, \$60 per month. The pamphlet doesn't say that the rates are going up each year for 25 years, it only addresses the first year at \$6 per month. What we do now will bless or hurt the City down the road. The issue was brought up that the annual increase is not because of the bond, yes it is. Technically it is not but it's not really full disclosure to say it isn't. We have to increase the utility rates in order to get the bond rating that we are talking about. Debbie Cardenas said that is not the rates are going up because we have capital improvement projects and estimated inflation for operating costs. As far as the brochure is concerned, she said we couldn't put everything in it so we tried to summarize. The entire study has been on the website for months for the citizens to look at it. Council Member Bigler said he is going to pull the minutes from a previous meeting where it was discussed that we have to increase utility rates in order to get the highest bond rating; make no mistake about it. Debbie Cardenas said that is true, in the initial one that is true; we have to raise the rates to pay for the bonds and they have to be assured that those bonds are going to be paid for and to get the best possible rating they have to have that but it's not the reason that it is being increased year after year, that needs to be clear. Council Member Bigler said it's to pay for the bond. Debbie Cardenas said we are doing that in the first year. Council Member Bigler said the first year increase is going toward that? Debbie Cardenas said that is going to stay in there. If we have to raise the rates \$6 to pay for the bond that \$6 is going to stay in there and continue for the entirety of the bond. The \$6 per month goes toward paying the bond but the rest goes toward capital improvement projects and inflation for operating costs. Council Member Bigler asked what capital improvement projects. Debbie Cardenas replied the capital improvement plan which the Council approved in the budget.

Council Member Bigler stated that at 6% interest \$18.5 million and at the lower end at 4.25% interest it is \$16.5 million. He asked that everyone keep that in consideration and perhaps we can downsize this and scale it down. Council Member Bigler told Mel Blanchard that he does need a new facility and upgrades; he just doesn't think it's to the extent of this. He hopes we can put our minds together and come up with a compromise so we are not saying \$16 million to \$18 million for a public works complex. Council Member Bigler said, regarding the building permit issues in Quail Ponds, he lives by Joan Brown and he saw the pile of dirt and you can dig a hole without a permit so he waited to see but then pretty soon the foundation went in and they kept working so they do

need a permit. He was under the understanding that he could do that because that lot didn't have anything to do with the easement. If that is the case, that's not at all what the Council vote was. It was not just to put a freeze on the lots with the easement; it was the meat behind making the developer do certain things. He requested that we follow up on that ASAP and get an answer to the people in Quail Ponds and include him as well. He said he went back and read the minutes again where we voted on that and the way he sees it was is a blatant disregard to the City Council and it was a unanimous vote. There was a decision made within the staff to let someone have a building permit without coming back to Council and notifying us. He found out by driving by it so please follow up on that and include him as well and the residents. He said he appreciates everyone being here tonight and thanked them for your input. He said he loves North Ogden City. It is beautiful and we have as good of people here as anywhere on the planet. He considers it a privilege and an honor to serve on the City Council and he is willing to listen to all sides to base his decision on.

Council Member Flamm said we had a great open house and booth at Cherry Days. The first open house on Saturday went from 1pm to 2:30pm and we had three visitors. On Monday we went from 6pm until 7:30pm and we had two visitors that night. This morning we went from 10am to 11:30am and we had four visitors and this afternoon we went from 2pm to 3:30pm and had six visitors. So for a total after sending brochures to everyone in the City in their utility bills, so that was over 6,000 people invited to the open house. Out of 6,000 people 15 individuals showed up and some of those were from the same residence. That is a very small percentage but we do appreciate the people who did come out. What he challenged Council Member Bigler to do is, the architects sat down with Mel and all the employees to find out exactly what everyone's job is and what their needs are, after they did their analysis they came back and said here is what we need. He challenged anyone who says 'Let's cut back on the site. Let's build a smaller complex' the information is in the study, it's there; every citizen of North Ogden can look at that and see exactly what each department needs. He suggested he take the time, instead of throwing out 'let's make it smaller' after the study has been published and people have spent numerous hours determining what the needs of the City are, that study has been on the internet since last February. Council Member Flamm said he would like some specific suggestions of where to reduce size or use cheaper materials. Anyone who wants us to make it smaller or do something different would like something send out your suggestions and we would be happy to respond to them. We are open to suggestions. The Committee looks at them and will respond to them.

Council Member Bigler said, in response to Council Member Flamm's challenge, he took a lot of time and went to various public works facilities between here and Kaysville. He said he doesn't know if anyone else has done that. He said it is one thing to look at it on paper what a recommendation is; he took the time to actually go out and look at them and talk to the city people about what they were using and how they were getting by with it. He wants it on record that he did his homework and he thinks we can do better.

Council Member Harris said, just as a comment and maybe a head nod from the Council, two weeks ago when the meeting was convened we received a change to the minutes that was brought before us and we did just approve that with those changes. In the powers and duties book it states on page 77 there is a minimum content for the minutes: minutes of an open meeting must include date, time, place of the meeting, names of Council Members present, the substance of the matters considered including a record of votes taken, the names of any members of the public who speak and the substance of what they say. She said a key word to her is substance. There is another item listed which is, and any other information that any member of the Council requests to be entered into the minutes. Our City Recorder and Deputy City Recorder do what she would say is an excellent job doing our minutes they do many times substance, just now we have had a 4.5 hour City Council meeting. If we asked for a transcription it would greatly change the product they give us. She personally doesn't want a transcription. She doesn't feel that is appropriate or necessary. The substance of content of the conversations is fine. However, any Council Member can make a request that certain things be entered into the minutes. Her proposal would be if a Council Member wants to make those changes it is done in the public meeting not prior to the meeting so that we are all able to look at it and think about it. If recordings need to be listened to that makes more work for the City Recorders however, she thinks they are willing to do it. She just doesn't want our type of minutes going to

transcribed. Her proposal is that if a Council Member wants to have some things included in the minutes they bring it to everyone at the Council meeting.

Council Member Bigler said we have always done it ahead of time before. Council Member Harris said it was mostly grammatical errors that would be changed ahead of time. Council Member Bigler why would you correct a grammar error. Council Member Bigler said he made the request. He has not requested tons and tons of stuff but he did request a few changes. Council Member Harris asked that it be done in the public meeting. Council Member Bigler said apparently some of those present have talked and complained about him and his request but he has a legal right to do that. What happened is that there were certain discussions and things that he and others had said and it was a very incomplete record. He said he would never do to a Council Member what was just done; if a Council Member requests to have something they said be put in the public minutes that was not there they have the legal right to do that. He said he doesn't know why anyone would fight against this; he is not asking to change what he said he just had a few things where he said 'make this more thorough so it makes sense in the public record'. Nobody should have a problem with that. He wouldn't have a problem with any other Council Member if they said 'You put this little tidbit in. I want you to put in the two sentences before that so it makes sense.' He said he has the right to do that. Council Member Harris said she is just requesting that he do that in the public meeting. Mayor Harris said when we vote on minutes in a public meeting any substantive changes would be brought forward at that time and then voted on. Council Member Bigler said the problem with that is this; any Council Member has the legal right to have something on there if it's not on there during the meeting. It does not require a majority vote of the Council to make changes. That's not the proper procedure. The vote is after all the changes are made is every Council Member satisfied with what is in there and what was recorded and what was put in the minutes. This time he was not and last time. In over a year he has only requests changes three times for something to be added to the minutes. He felt it was substantive whether anyone else thinks it is or not because it was representing was he said on public record and he has that right without a public vote and so does any other Council Member.

Council Member Taylor said minutes are the public record and it is important that they be accurate. He is fine with having some procedures for the request. He likes that the minutes are written, not by us but, by a staff member. Whatever our procedures end up being, it is important to keep it that way so it doesn't get politicized. Council Member Bigler said no one can change the minutes if it wasn't said in the meeting he just wants a more accurate representation of what is said. Edward O. Dickie III said Annette Spendlove would have to go back and listen to the tape and make sure it was stated in the public meeting. Edward O. Dickie III said in other cities he has worked in they do it in the meeting. One reason they do is so everybody is on the same page and they understand the reason for the changes and it goes pretty quickly. He said everyone usually votes for it.

Council Member Flamm said a concern he has is that when the minutes go out with the agenda and a Council member starts sending emails it is like doing business not in front of the public. Not everyone in the City is receiving those emails so he thinks Council Member Harris' suggestion makes sense because that way it is done in front of everybody. If you don't like the minutes at one meeting you don't approve them that night and ask for the changes to be made, then approve them at the next meeting. Personally he likes things being done in the public rather than by email. Council Member Bigler said there was nothing secretive about it; it was all things that were said in the meeting.

Annette Spendlove said she has been doing minutes for 21 years and has seen them done lots of different ways. Some Council Members wanted them done verbatim though she would never suggest that. You can approve the minutes with the changes as recommended and if you decide to do that, if a Council Member comes to the meeting requesting changes and it is what was said the Council certainly will approve the minutes with those changes. Council Member Bigler said it can be approved with the changes but the minutes have to be approved anyway so even if the Council votes not to approve the changes, they have to be changes anyway. The Council Member has the right to clarify their comments in the way they are represented in the minutes. He doesn't have a problem doing it in the public meeting; it was something he said in a public meeting. Just make it clear that even

if it is voted to pass the minutes they still have to be changed and he was not requesting any change, only additions this time.

Council Member Turner said he had some changes to some minutes like if he came in late but was shown to have been here. He is confused on where we are going with this; he doesn't care if it is done in a public meeting or by email because the minutes are going to be published anyway. He said he likes the idea of doing it in the public meeting because it is in a public meeting. If he is reading the minutes on a Friday night and sees something he would just send an email to Annette that he wasn't there.

Edward O. Dickie III said he thinks what Annette Spendlove would like is just if Council is ok with the way minutes are done now and if Council is ok to just send an email, just decide to do that. She will verify that it was in the recording, it takes some time so be a little sensitive to that. Council Member Flamm said his only suggestion is that if changes have been made after it has been published to the website those changes be mentioned in the meeting before the vote. Council Member Bigler said they already say 'not approved' on them so you know right away; another option is to wait until they are approved to put them on the website.

Council Member Harris said she loved the YouTube video that was emailed about the flash mob at the fireworks by the swimming pool staff and members of the community. What a great tribute.

Annette Spendlove said we have had 11 citizens file for candidacy and it closes Friday. Council has asked for an email that just goes to the entire Council. We will have our IT person work on that when he gets back from vacation. She said Cole Spicker, who was on the Youth City Council for years, has had a stroke and is in Intermountain Hospital in Murray. Mayor Harris said he has been serving as an intern for Senator Hatch for several months.

Mayor Harris said we have retained Jim Harris as our Project Manager for the Public Works Complex. Jim retired from Weber State University. We are getting a seasoned professional for little or no cost to the City and we appreciate his efforts on our behalf. There was some question raised in the past about whether there is a conflict with him serving in that position with his wife Martha serving on the City Council. Dave Carlson said he issued an opinion that states unequivocally there is no conflict of interest, Jim is not benefiting, Martha is not benefiting. The value we are gaining as a City is over \$56,000 by him doing this. Rather than benefitting in any way he is donating a lot of valuable services to the City.

Edward O. Dickie III said he wants to recognize Zella Richards tonight because she does a great job keeping the Senior Center running.

**ADJOURNMENT.**

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

**Voting on the motion:**

<b>Council Member Taylor</b>	<b>yes</b>
<b>Council Member Bigler</b>	<b>yes</b>
<b>Council Member Flamm</b>	<b>yes</b>
<b>Council Member Harris</b>	<b>yes</b>
<b>Council Member Turner</b>	<b>yes</b>

**Voting was unanimous. The motion passed.**

The meeting adjourned at 10:23pm.

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Richard G. Harris, Mayor

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S. Annette Spendlove, MMC  
City Recorder

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Date approved

Attachment A

Presentation to North Ogden City Council, July 12, 2011

NAME       Joan Brown  
ADDRESS  2010 N. 775 East

Many of the home owners in Quail Pond PRUD had thought that tonight might be the time when we would be able to finally get some real action about moving toward vacating the Quail Pond PRUD and making it a regular North Ogden housing subdivision with property lines clearly established.

Some of the home owners are here tonight because we found out that the developer of Quail Pond PRUD had been invited to this meeting. This invitation was extended by Mr. Carlson, the city attorney, to Mr. Jones, Quail Pond developer. None of the home owners were invited or notified of this meeting. The city seems to have the attitude that the homeowners don't want the vacating procedure to happen.

I am the person that brought up the subject of vacating the PRUD in the first place. I circulated the petition that put the whole matter into motion. We want to vacate. We have worked harder than anyone else for its completion, and today we want it even more.

Last Friday, some of the homeowners outlined on paper some statements of concern that we would like to have settled to complete the vacating procedure. The listing of these concerns was a suggestion from Councilman Bigler in hopes of helping to mediate a closure. These concerns are what I want to mention now. I gave a copy of these statements to Mr. Carlson last Friday. And he gave a copy to Mr. Jones. The intent of this was to make sure that the developer was aware of these concerns before this meeting. Also, Mr. Jones had previously asked Mr. Bigler to provide him with information about Quail Pond if it were going to be discussed in a meeting.

Here are the concerns:

#1 Easement control statements need to be agreed upon. When the new corporation was formed to proceed with the vacating procedure, the city told us that we should write easement controls for the new subdivision. After we gave the city this document, it was passed on to the developer. He changed it. We need to sit down with him and go over the statements and agree upon them. The final easement control statements need to be given to new home buyers, and they need to sign the document. They must be informed that it is mandatory to pay monthly maintenance fees, the amount to be the current charge at the time of the sale (currently \$15).

Questions?

#2 Vacating costs and maintenance fees for the subdivision (now PRUD) will be paid by the new corporation from the date of April 16, 2009 (forward). This is the date when the developer called a meeting and said it was time to organize the home owners' association (HOA), and the first officers were elected. It is also the time when the first check was issued under the account "Quail Pond PRUD." We are asking for a chronological list of expenses as they were incurred—date, amount, and canceled check front and back. The new corporation has been paying maintenance expenses since the vacating procedure began. We have also paid some from earlier dates. We ask that the developer and Mr. Carter (purchaser of new lots) bring up-to-date their share of the fees. Mr. Jones did pay the first month, so I assume he did recognize the need in the beginning. Mr. Carter has never paid.

Questions?

#3 Money from the sale of lot 36 will not be intermingled with the monies used for vacating and maintenance. We fully acknowledge that Mr. Jones will be buying the lot for \$36,000. We also acknowledge that we are committed and obligated to satisfy the agreed-upon vacating expenses. We would have to sell the lot. There is no other way we would have funds to satisfy our obligations.

- A We vacate
- B Lot is sold
- C We pay our part of the vacating costs as agreed upon

Questions?

#4 We ask the developer to sign a statement indicating that the new corporation is not responsible for any expenses or commitments that existed prior to the date of the vacating that were not previously agreed upon.

Questions?

#5 The owner of lot 36 must plant the pond area and maintain the entire lot as prior to the vacating in a park-like atmosphere until such time as a building permit is secured and construction is begun.

Questions?

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According to Mr. Carlson, the amount of \$15,000 (to go to the new Corporation) is agreeable to both sides unless the disclosure of financial expenses are obviously different. If we can sit down and solve these items, the PRUD will be vacated. I apologize for all the rancor that has developed. I am truly sorry for the hurt feelings on both sides. I think we are all above this. I understand that the city officers think the neighborhood is destroyed. Quite the contrary. Neighbors have been brought together that have never

spoken to one another before. Bad feelings are never good, but a lot of good has come from this experience.

Thank you for your time.

JOAN BROWN



# North Ogden City

## Memorandum

**To:** Mayor and City Council  
**From:** Debbie Cardenas, Finance Director *DMC*  
**Date:** 05/18/11  
**Re:** Parameters Resolution

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There are several reasons for a Council to adopt a Parameters Resolution. It serves the following purposes.

- It notifies the citizens that the City has a specific need and identifies what that need is; in this case the Public Works building.
- It notifies the citizens of the City's intent to issue bonds to fund the project.
- It sets the parameters approved by the Council establishing, among other things, a "not to exceed" bond issuance figure based on the estimated cost of the project, including bond issuance costs.
- It authorizes publication of a "Notice of Intent to Issue Bonds" which, when published, triggers a statutory 30-day public contestability period during which citizens may contest the legality of the Parameters Resolution and related bond documents by filing a written complaint with the appropriate court.
- It sets the date, time and place for a public hearing to invite citizen comments, both oral and written, on the proposed bond issuance and on the economic impact of the proposed project.
- It notifies citizens that copies of the draft bond documents are available for inspection at the City office during the 30-day contestability period

The adoption of the Parameters Resolution does not constitute approval to issue bonds by the Council, nor does it commit the City to issuing bonds. The Parameters Resolution is simply a statement that the Council intends to proceed forward with satisfying the requirements of state law regarding the issuance of bonds should the Council vote to issue bonds at a future date.

Thank you.