

1 **NORTH OGDEN CITY COUNCIL MEETING MINUTES**

2  
3 January 11, 2011

4  
5 The North Ogden City Council convened in regular session on January 11, 2011 at 5:30 p.m. in the North Ogden  
6 City Council Chambers, 505 East 2600 North. Notice of time, place and agenda of the meeting was delivered to  
7 each member of the City Council, posted on the bulletin board at the municipal office and posted to the Utah State  
8 Website on January 5, 2011. Notice of the annual meeting schedule was published in the Standard-Examiner on  
9 January 1, 2011.

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11  
12 **PRESENT:** Richard G. Harris Mayor  
13 Martha Harris Council Member  
14 Wade Bigler Council Member  
15 Brent Taylor Council Member (on the phone)  
16 Carl Turner Council Member  
17 Ron Flamm Council Member (left at 8:25pm)  
18  
19 **STAFF PRESENT:** Edward O. Dickie III City Manager  
20 Annette Spendlove City Recorder/HR Director  
21 Dave Carlson City Attorney  
22 Debbie Cardenas Finance Director/Acting City Manager  
23 Gary Kerr Building Official  
24 Craig Barker Community Development Director  
25 Julia LaSeure Deputy City Recorder (arrived at 7:03pm)  
26 Jennifer Thomas Planning Technician (left at 7:05pm)  
27  
28 **VISITORS:** Joan Brown Nick Forney  
29 Jason Hogge Jason Beal  
30 Pete Buttschardt Matt Hartvigsen  
31 Bob Napoli Emma Chambers  
32 Shelby Miller Jessica Staley  
33 Nan Searle Gerad Corbin  
34 Thomas Sawyer Doug McGregor  
35 Ned Malan Jeanne Kempe  
36 Virginia Kendall Kurt Nygaard  
37 Desi Malan Rocky Hayner  
38 Scott Feller Jerry Holt  
39 Rudy Fernandez Rachel Trotter  
40 Dennis Glover Dani Ruiz  
41 Tyler Whiteley Tyler Newy  
42 Lauren Puzey Reed Mackley  
43 Thomas Stowers Seth Hilton  
44 Liz Messerly Nigel Masters  
45 Greg Martin Lorin Gardner  
46 Ken McCormick Tommy Saface  
47 Dave Hulme Jay Johnson  
48 Jim Mackley Josh Davenport  
49 Gordon North Tiffany Turner  
50 Katie Egbert Mark Benign  
51 Mark Enders Debbie Pilkey

52	Natalie Teeples	Jason Reed
53	Emily Passey	John Crimm
54	Bill Treadway	Alex Treadway
55	Rachel Snider	Alyssa Cole
56	Chris Beseris	Blake Pront
57	Rachel Kilgore	Chelsea Nelson
58	Brandon Mason	Carson Jones

59

60 **WELCOME**

61

62 Mayor Harris welcomed those in attendance and called the meeting to order at 5:30pm. Council Member Bigler

63 gave the invocation and led the audience in the Pledge of Allegiance.

64

65 **Council Member Harris moved that Council Member Taylor be allowed to participate electronically by**

66 **phone Council Member Bigler seconded the motion.**

67

68 **Voting on the motion:**

69 **Council Member Harris**        yes

70 **Council Member Flamm**        yes

71 **Council Member Bigler**        yes

72 **Council Member Turner**        yes

73 **Council Member Taylor**        yes

74

75 **Motion passed.**

76

77 **CONSENT AGENDA**

78

79 **Council Member Harris moved to approve the Consent Agenda. Council Member Flamm**

80 **seconded the motion.**

81

82 **Voting on the motion:**

83 **Council Member Harris**        yes

84 **Council Member Flamm**        yes

85 **Council Member Bigler**        yes

86 **Council Member Turner**        yes

87 **Council Member Taylor**        yes

88

89 **Motion passed.**

90

91 **PUBLIC COMMENTS**

92

93 Mayor Harris reminded those in attendance that there will be no public comments during the agenda.

94

95 Doug McGregor, 228 W 3450 N, Pleasant View, said he is the Utah Society President of the Sons of the

96 American Revolution, Vice-President of the Freeman Coalition and a Chairman of a constitutional study group.

97 He is here to make some comments concerning the trails and property discussion. As an individual that carefully

98 saved his money for 21 years and was able to buy a nice home in the Pleasant View area he is very aware of the

99 importance of being a property owner. As a matter of principle and thinking about our great country we know that

100 the 5<sup>th</sup> amendment tells us that property not be taken without due compensation. The Constitution exists for two

101 purposes, the first is for the protection of the public good and the second is for the protection of private rights. We

102 as American citizens are blessed to live in a country that allows us to own and have property. He is certain that as  
103 the Council makes their decision on this they will remember the Constitution and the legacy of our Founding  
104 Fathers. He said he is certain that in making the decision they will compensate those property owners. Let us  
105 remember the great principal that something should not be taken for nothing. Please remember that if you are  
106 going to take property it needs to be compensated for. He said he appreciates the City's efforts to make North  
107 Ogden a great place to live. The Declaration of Independence tells us that our unalienable rights given to us by  
108 God are life, liberty and the pursuit of happiness. In the original drafts of the Declaration instead of happiness it  
109 was possession of property. Our Founding Fathers knew that property was important to liberty and freedom.  
110

111 Mayor Harris reminded the public to sign the roll to record attendance.  
112

113 Pete Buttschardt, 2680 Foothill Dr., Ogden, said he is here to encourage the Council to amend the Subdivision  
114 Ordinance. He said it is such a small effort for developers to accommodate the trails plan yet it is much harder to  
115 develop trails after the development. He said they need to make sure there is something there for their children  
116 and grandchildren and not make the same mistakes with regard to the foothills.  
117

118 Rudy Fernanadez, 991 E Coldwater Way, said they have a trail in their area. This last year they have had nothing  
119 but trouble. A homeowner had a break-in on Christmas Eve. There is no lighting in the trails. He lived there for  
120 10 years and didn't have problems until the trail went in and the transients have come to live in that area. They put  
121 up a fence and the problems went down but once it is opened up to North Ogden the whole trail is going to be  
122 done and there will be nothing but problems. He said he understands that people like trails and he enjoys walking  
123 every day. But there are plenty of trails already. He worries about the safety of the people that live right by the  
124 trail. The police said the lighting problem is the homeowner's. Sooner or later someone is going to get hurt. The  
125 kids are throwing rocks at the ducks and it is just a sad situation. He said North Ogden will have the same  
126 problems unless they put lighting in there but it will be very expensive. We have a problem and we wanted to let  
127 you all know of the potential problems for North Ogden.  
128

129 Shelby Miller and Jessica Staley came to Council meeting. Shelby Miller is the President at Weber High School  
130 for FFA. She said they want to inform the Council about a fundraising concert with the Bar J Wranglers and  
131 mentioned they are always looking for sponsors. She wondered if any of the Council Members or anyone in the  
132 audience would sponsor them. She said they can get a hold of them and the money will go to scholarships for  
133 seniors. Mr. Dickie asked her not to give out her number because it goes on public record. She gave Weber High  
134 School's phone number 801-476-3700 and said to contact Brynn Campbell or Mr. Shafer. She said it is a great  
135 organization that she has been in for past three years and it has really helped her. The concert is February 26<sup>th</sup> and  
136 the Bar J Wranglers are really good and fun to watch.  
137

138 Greg Martin, 950 E 2650 N, asked if it is a possible that the City would take land without compensation. Mayor  
139 Harris said they will not answer questions at this time but are ready to take comments. Mr. Dickie said the  
140 Council still needs to hear the presentation. Mr. Martin asked if that did occur is there a potential that the City  
141 would be sued and incur expenses that some of the residents would then have to pay for. Mayor Harris said the  
142 issue will be deliberated; there is always a potential for someone suing but that will be discussed later in the  
143 meeting.  
144

145 Debbie Pilkey, 2220 Fruitland Dr., said we live in Utah; "Life Elevated" is the slogan. She said she puts on her  
146 adventure gear and where does she go? In her dreams she goes on a trail and enjoys the air and points out fish  
147 and birds to her toddler in the stroller. She said in reality, she lives on a busy street in North Ogden. She said she  
148 goes to the Bonneville Trail, which is just outside the City limits or maybe she drives into Ogden to use their  
149 trails. Why can't she just leave her house and be on the scenic Cherry Way loop, because right now it is an  
150 imaginary line on the City's Master Plan. She said she supports the development of North Ogden trails. Trails  
151 provide a safe, scenic way for people to get out and exercise. She said most residents of North Ogden go for the  
152 occasional stroll around the block to the nearest park. Every day she said she sees joggers. She said the City has a

153 slogan “Making Life Better”; trails will make life better. It would be nice to have someplace away from cars and  
154 exhaust and safe for kids. It would be great to take toddler out for a stroller ride someplace where we are not  
155 dodging traffic and breathing in car exhaust. She said she knows if they are built they will be used. She applauds  
156 the people who are working hard to bring trails to North Ogden. She said she wonders what is stopping us, where  
157 are these trails, why can’t we follow through with the City’s Master Plan. It promised many things and she wants  
158 the City to keep those promises. She doesn’t want new development to step all over the planners and Council  
159 Members. (Attachment A).

160  
161 Dave Hulme, 513 E 1700 N, said he thinks trails are great. He said he is reminded about a time when we talked  
162 about a swimming pool here. He said that he likes trails but doesn’t want the City to pay for them. He said it is  
163 great for the subdivision and he thinks it would be crazy for a developer not to put a trail in. He still thinks we  
164 have an obligation to landowners. He said the City did perhaps make promises by putting out a Master Plan that  
165 included trails. But that can’t possibly supersede the promises made to every property owner in the City that they  
166 would be able to develop their personal property and the City would not take away their property. He talked about  
167 canals in England. He said he would discourage the City from taking property for canals in the same way he  
168 would for trails. He said trails are fantastic and he thinks developers would be foolish not to include them. He said  
169 he would like developers to voluntarily include them.

170  
171 Jay Johnson, 981 E 2700 N, said he is not here to talk about trails. He said he came here about a year ago with a  
172 problem with the road grader and nothing has been resolved. He sent an email to Mr. Blanchard stating his  
173 frustration in regards to the snow storm on the 29<sup>th</sup> and never got a response, He said that he is frustrated because  
174 he clears his drive and goes to work and then gets a call from his wife that they have a four foot berm of snow  
175 blocking the driveway and she can’t get out. He said when he doesn’t get a response he gets more frustrated. He  
176 wanted to bring this to their attention.

177  
178 Jerry Hoyt, 992 Coldwater Way, said his back yard backs up to North Ogden City limits on 1500 N. He said he  
179 has had some experience with canal trails; in the past year they had a child fall in the canal. He has seen mothers  
180 on the trail and the kids are 500 feet ahead of them, sometimes even out of sight. They have had the HOA install a  
181 gate that closes off the canal waterway. He would like to make a statement. If they live on the canal trail they are  
182 not going to be in favor of it. There are people walking by every five minutes, kids throwing rocks and people  
183 teasing his dog. He said he thinks someone will drown in that canal. He said the Council should accept all  
184 liability.

185  
186 Chelsea Nelson, 366 E 3350 N, she said she thinks someone previously mentioned that the City made promises.  
187 She said she didn’t know that the City used the word promise when they did a Trails Plan; it was probably more  
188 an idea than a promise. She said the thing stopping the City from going forward with this, hopefully, is the  
189 constitutional legality. Private property is a right and it is protected. There should be compensation offers but if  
190 people say no, don’t push it, it is their land. Trying to find a loophole is wrong and immoral. It is their land; it  
191 doesn’t belong to the citizens of North Ogden. She said she will not walk a trail that has been taken by extortion  
192 or by any other kind of force. Not one of us in this room has the right or a moral obligation to take their property  
193 from them.

194  
195 Tiffany Turner, 2673 N 950 E, said she is all for trails because as a mother she thinks they are good for kids. She  
196 said there is no lighting on sidewalks either and people will be using the trails during the day so that isn’t a  
197 problem that even needs to be addressed. She said they will connect to Ogden, Clearfield, Layton, and Kaysville  
198 and down the line; we don’t want to be the dead end for the trail system. They talked about compensation and a  
199 residential situation; they plan for sidewalks and streets. The compensation the developers get is the trails and  
200 they sell the homes at better prices and there is a better value for them. She asked if other cities have lawsuits  
201 because of trails. She said she would love to hear from developers and whether it is a benefit; if they felt like they  
202 were blackmailed into it or if they made more money. She feels there is a need for trails and 50 years from now  
203 they won’t be able to complete them and then what will be left is eminent domain.

204 Brandon Mason, 1114 E 3300 N, said he loves the idea of the master plan and trails. Go trails!  
205

206 Mayor said Mr. Martin can state his concerns but asked him not to ask questions at this time. Greg Martin, 2657  
207 N 950 E, said he is a first time speaker. The issue is what is constitutionally founded. Is it the right of the Council  
208 Members to take property from someone else? If it is not granted to you individually then it is not granted to you  
209 as a Member of the Council.  
210

211 Jason Reed, 494 E 3600 N, said that his streetlight is out and it's hard to see at night.  
212

213 Mathew Glover, 993 E 2700 N, said he is here with some other neighbors. They are grateful for the service the  
214 City provides but the way it is done is inconvenient to the people on the south side of the street. They don't have  
215 enough sunlight so it has become an annoyance and nuisance; so if the Council can address the issue they would  
216 appreciate it.  
217

218 Mayor Harris thanked everyone for their comments.  
219

#### 220 **PRESENTATION OF A 5-YEAR SERVICE PIN TO JULIA LASEURE**

  
221

222 This item was pulled until a future meeting.  
223

#### 224 **QUAIL PONDS SUBDIVISION DISCUSSION.**

  
225

226 Joan Brown, 2010 N 775 E, read from a document (Attachment B). She discussed the vacating of Quail Ponds  
227 PRUD. She said they need to get this done in a timely manner  
228

#### 229 **QUAIL PONDS SUBDIVISION UPDATE.**

  
230

231 Craig Barker, Community Development Director, referred to a staff report and stated that there are a lot of  
232 additional items. There are six months of emails between him and the people interested in what has transpired  
233 with Quail Ponds. He said he understands Mrs. Brown's concerns. The meeting with the engineer took place the  
234 end of September not August. At that time Mr. Jones was informed that he did not meet the requirements for the  
235 permit. Every five years the Corps updates their guidelines. Since we're beyond 2007 he was told he has to meet  
236 the updated guidelines for the permitting process. What does that include? It does include some additional items;  
237 he has to conform to the Environmental Protection Act, the Endangered Species Act, and dealing with historic  
238 preservation. The Council Members have a copy of Mr. Jones' response. Mr. Barker said it is possible to move  
239 forward with this. The approval of the Army Corps of Engineers is not a required sign off on the subdivision. The  
240 City does ask for comments and requests of agencies. We ask the developer to discuss the conditions required by  
241 other agencies. We investigate these as part of the review process. We attempt to address each item they get in  
242 turn to make sure the property is suitable for future property owners so they can be informed about the ground  
243 they are purchasing.  
244

245 The Community Development Department received a petition from the Quail Ponds PRUD owners to vacate. We  
246 didn't receive, until August 17, 2010, the information and the documents that needed to be recorded when a new  
247 subdivision is approved. We went ahead with their request and scheduled a hearing. On July 13, 2010 the Council  
248 did that and took action to vacate. There is a two track process. The Council has to get the vacating done and then  
249 the Planning Commission considers approving the development of a new subdivision. The vacation was  
250 approved; however no recording is to be done until the new plat is ready to be recorded. He said on the July 21,  
251 2010 the Planning Commission took action to approve the new subdivision and that was moving forward. With a  
252 new subdivision there is a new engineered and surveyed plat that has to be reviewed by the City and County to  
253 make sure it conforms to the regulations to record. During that process the City Engineer had concerns with the  
254 wetlands and floodplain areas. They wanted to put into portions of the new lots to be created when the new plat

255 was filed. Mr. Hartvigsen, from Jones and Associates, made a call to the Army Corps of Engineers and their first  
256 response wasn't until August 31, 2010. Their response was that they thought Mr. Jones had met all the  
257 requirements. The next day they said all of the requirements of the 2002 permitting process had not been  
258 completed. They set a meeting in September with the City, Quail Ponds, and the prior developer who is also a  
259 member of the HOA to discuss what had transpired and that his permit has expired. He has to reapply under the  
260 2007 Act. Craig said there have been a number of conversations and he has talked with the Corps and Mr. Jones  
261 on numerous occasions. Mr. Jones has indicated he has purchased wetland credits and that is one way of dealing  
262 with this. That is a negotiation and they have to discuss it and agree on a price. Mr. Jones gave the names of the  
263 people doing his surveys regarding archeology and endangered species. Mr. Barker said he doesn't know how  
264 difficult they are but it can be very difficult or simpler. The Corps is waiting for the applicant to submit his  
265 application. The application isn't a two page document; it is the information and the data they are asking for and  
266 the data lists the studies. Mr. Barker said they are waiting for the approved plat. The Planning Commission has  
267 approved it but it has to be signed by all the owners and reviewed by staff so it can be put on record. The vacating  
268 Resolution, a vacating plat to accompany the Resolution and all that can be put together rather simply but we are  
269 waiting for it to be submitted to us. He said he doesn't know how that will be done or who orders that. The  
270 Council does have the ability to tell staff to ask the Land Use Authority to sign the plat and record it. There are  
271 some reservations that staff has expressed but they are willing to do it under the Council's direction.  
272

273 Matt Hartvigsen, Jones and Associates, he said he is trying to make sense of all of it. The original plat that was  
274 recorded had an area of wetland that was in the common area. The Home Owner's Association (HOA) was  
275 responsible to take care of the common areas which include the wetlands. He said there are restrictions on how  
276 that land can be used. He said he thinks the HOA is trying to take on those responsibilities. He said that is a lot of  
277 work and responsibilities to put on an HOA. He said he does not mean to be speaking for them but he is trying to  
278 make sense of what he thinks is happening. The proposed plat puts the responsibility of those restrictions on the  
279 individual home owners having property up against the wetlands. Then the individual homeowners would have to  
280 take care of that. He said that makes some sense to him. The Corps of Engineers does not like that because they  
281 would have more people to work with in order to take care of one wetland area. He said his concern is that the  
282 common area is a public utility easement; there is a storm drain and a ditch that runs through there and some  
283 spring lines in a common area. If the wetlands are put into individual properties they would have to work with  
284 each person to maintain that. That is the big issue that he is seeing. He did talk to Joan Brown about options that  
285 would make it easier for the City to maintain; one solution would be to divert the water through the storm drain  
286 ditch out into the public right of way. Those are the issues he has with the plat and the way the property lines are  
287 shown.  
288

289 Council Member Harris said Quail Ponds has been around the whole time she has been on the Council. When it  
290 comes up before the Council it has been because of the residents. The City doesn't desire the role of mediator or  
291 clearing house but with the motion to vacate they have taken on that role. She said perhaps there is a learning  
292 curve but it shouldn't have taken this long. She is in a trust but verify mode. She wants documents that have dates  
293 with actions and completion, so it is not just whenever it will happen at whoever's convenience. She has asked  
294 that the Council Members are copied with emails since they do take action on it. She thinks that it has a potential  
295 of going on and on and on. In order to get it resolved in an expeditious manner she will make a motion with two  
296 parts and there is probably a resulting action. The Council will have to be willing to proceed with.  
297

298 **Council Member Harris made a motion that the City sends a letter to Mr. Jones requesting the final plat be**  
299 **delivered to the City by March 1, 2011. There may be an issue that they cannot complete the Corps'**  
300 **requirements but we know there is no legal obstacle to recording.** Dave Carlson, City Attorney, said that is  
301 correct. **The second part of the motion is that until the plat is delivered there will be no building permits**  
302 **issued for that development. The letter will act as a quasi-lien. Perhaps we need to have something to give**  
303 **some teeth to it. Council Member Bigler seconded the motion.**  
304  
305

306 Discussion on the motion:

307

308 Council Member Flamm asked, going back to the legality, is there anything that will come back to bite us.

309 Mr. Carlson said the only leverage the City would be asserting is that the City would not be issuing building  
310 permits until the new plat is recorded. He thinks it is a reasonable thing to do because the status of that  
311 subdivision is in limbo. The City has already agreed to vacate the existing subdivision plat. The only thing that  
312 stands in the way of making that ordinance to vacate effective is the new plat. He thinks they shouldn't issue any  
313 permits anyway and doesn't think they will get in trouble for not issuing building permits in that development  
314 until the plat is recorded.

315

316 Council Member Bigler said he is 100% in agreement with Council Member Harris. In the spirit of fairness, this  
317 has gone on and on and on and on. He has spoken with various people and asked once this is done will this be it?  
318 He said he doesn't think it is one person that's dragged their feet on it. He thinks there is probably enough blame  
319 to go around. He thought if there is money involved the people would have gotten together and it would have  
320 been done.

321

322 Council Member Turner asked if there is a way they can take the Corps out of the equation. Can we move the lot  
323 lines so they don't have the wetlands? He said there are only six lots. If they kept the property lines where they  
324 were initially would it not be their issue. Craig Barker said it's still their issue, until the wetlands are taken out by  
325 wetland credits. He said they bought wetlands out by the Great Salt Lake marshes, so then they can do whatever  
326 they want

327

328 Council Member Bigler said if the homeowners are taking responsibility for those wetlands then what is the  
329 problem. Craig Barker said the Corps has their reasons and he can't speak for them. He said the Corps said they  
330 no longer approve that.

331

332 Council Member Turner said he has worked with the Corps and they do have some stipulations on their time  
333 frame and what they can and can't do. He said five or six months with the Corps of Engineers is not a long time.  
334 It is just the way the process is. He said it drives him nuts because it seems like they take forever. He said they  
335 have 60 days to review anything and they can disagree and then they have another 60 days.

336

337 Council Member Taylor said he likes that idea and it is great putting emphasis about getting it done. He said what  
338 if Mr. Jones does put forth the effort and it is tied up by the Corps of Engineers. He said he would hate to see the  
339 City holding him up and not issuing permits because of the Corps. He said he likes the idea but is concerned about  
340 that. Council Member Harris responded by saying she would refer that to Dave Carlson's comments that in order  
341 to issue a building permit it has to be associated with a plat that has been recorded. That is probably our safety net  
342 right there. Mr. Carlson said in order for the change in the subdivision plat to progress the ball is in their court  
343 they have to provide the amended plat to the City. Until the City receives that there is nothing we can do.

344

345 Council Member Flamm said it seems to him that if they place the restriction on Mr. Jones he can come before the  
346 Council on that and ask for adjustments to be made. It seems at this point the Council needs to do something. He  
347 said the Council is very frustrated and if it slows down the selling of lots, maybe Mr. Jones needs to push towards  
348 expediting this.

349

350 Mayor Harris said the problem is the City does not have a plat to approve. He said they need to have the plat and  
351 they will sign it regardless. Dave Carlson, City Attorney, said if that is what the property owners want they need  
352 to know that is the cost of getting it done quickly. They could have the Corps of Engineers and the  
353 Environmental Protection Agency as partners in this subdivision for a long time to come.

354

355 Edward O. Dickie III asked if that is a final plat with signatures or just a final plat. Council Member Harris said  
356 that is a time line and it has to come from Mr. Jones and then the new Corporation will get the signatures. They  
357 are waiting for the City. Edward O. Dickie III said the City has agreed to pay for some of the recording.  
358

359 Council Member Turner said the City has already vacated the PRUD so the plat will come to the City with all the  
360 signatures. Craig Barker said the Land Use Authority chair will sign it. Edward O. Dickie III said the Council is  
361 giving staff direction to ask the Planning Commission if they want it signed and recorded without the Corps.  
362 Council Member Turner asked if the City would be done with it after that. Council Member Taylor asked for  
363 clarification on the discussion about the Corps, does the motion ask if the City will sign it with or without the  
364 Corps' approval. Mayor Harris said it will be signed without the Corps' approval. Council Member Taylor asked  
365 if they know that all the homeowners will have to deal with the Corps of Engineers. He doesn't want them to  
366 come back to the City to be involved if it gets worse with the Corps. He said he understands the need for speed.  
367 He is concerned about moving forward without the Corps of Engineers; then the residents may have a bigger  
368 problem. He said the developer should do everything he can do. Council Member Bigler said they all signed it and  
369 are ready to go. Craig Barker said the HOA already owns the common space. Council Member Flamm said Mr.  
370 Jones may make the property owners deal with the Corps and down the road that may be a problem for the  
371 homeowners. Mayor Harris said the City is acting judiciously and the homeowners are pressing for a solution to  
372 the issue so they need to vote. Council Member Taylor asked if they have anything from those six or if all those  
373 six are present to acknowledge this. Craig Barker said Mr. Jones owns five of them and the other one is sold.  
374

375 **Voting on the motion:**

376 **Council Member Flamm**        **yes**  
377 **Council Member Bigler**       **yes**  
378 **Council Member Taylor**       **yes**  
379 **Council Member Turner**       **yes**  
380 **Council Member Harris**       **yes**

381  
382 **Motion passed.**

383  
384 **PRESENTATION BY THE PARKS AND TRAILS COMMITTEE.**  
385

386 Joel Grasmeyer, Chairman of the North Ogden Trails Committee, said that he wanted to read the amendment they  
387 are proposing tonight. He said they are talking about amending the City's Subdivision Ordinance so that every  
388 developer has to abide by that when developing a subdivision. They are proposing the establishment of the trails  
389 shown in the North Ogden City General Plan. He read the ordinance (Attachment C) that they are proposing  
390 tonight. He said they have done research to make sure the trails are constitutional. It does not authorize eminent  
391 domain. He said it has been used for road, sidewalks, etc. there are at least 14 other cities in Utah that have  
392 ordinances with similar wording. He said that the City will not take land away from existing owners. He said that  
393 it is just the new subdivisions. This will prevent future problems and will give people a choice if they want to live  
394 next to a trail. He said there are studies that show trails increase the value of a lot and make sales happen faster.  
395 He said for every dollar spent the developer can earn 15 dollars back. It is a win/win for everyone. He said they  
396 are not proposing trails along open canals. He said before they put in an official trial the canal will be covered. He  
397 said that is not what they are proposing. He showed the presentation (Attachment D).  
398

399 Council Member Bigler asked about the definition of eminent domain. Mr. Grasmeyer said the Legacy Highway  
400 is an example. The government has to put it in and can't just depend on voluntary donations. The government  
401 compensates the landowners for their chunks of land. Dave Carlson, City Attorney, said the 5<sup>th</sup> amendment  
402 requires that if the government is going to take land for public purposes there has to be just compensation. It is the  
403 power of the government that it can take private property for public purposes. When government exercises that  
404 power there must be fair compensation.  
405



406 **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING THE CITY'S**  
407 **SUBDIVISION ORDINANCE TO INCLUDE TRAILS.**  
408

409 Craig Barker said the City Council has a copy of the proposed ordinance that has not changed since it was first  
410 submitted. There are many opinions on how to do this. Ogden City has a sensitive lands overlay zone that  
411 requires developers to consider the trails in their plan. Layton City does it by development agreement; most of  
412 the undeveloped land in the city is a zone that is not normally used for development so every development has to  
413 go through a rezoning. Others use a trails ordinance, others use a subdivision ordinance. He said staff looked at a  
414 number of communities around the area.

415  
416 Council Member Flamm stated he has to leave soon but wanted to say he has used the trails here in town and  
417 appreciates them. To put in some of these trails has been pretty minimal; a new trail is going to take more money.  
418 There will be grading and fencing in order to be adequate. He said he personally doesn't think that even though a  
419 property owner may benefit, he wouldn't have them incur the expense. He would like to try voluntary donations  
420 or increasing our taxes. Those are the options. The City receives a very small portion of what is paid in property  
421 taxes. He said he would be happy to pay his fair share toward having a trail system. One thing that bothers him is  
422 the standards, those standards could change as time goes on and it could be very expensive for a property owner  
423 to develop. He is in favor of a Master Trails Plan but thinks we need to figure out as a community if we want  
424 trails, if we do, we need to pay for them.

425  
426 Council Member Bigler said he appreciates all the work that Joel Grasmeyer and the Committee has done. They  
427 spent some time to be really thorough. He would like to respectfully state his opinions. The summary says we  
428 need to base this decision on factual evidence, sometimes when people mention the constitution there are some  
429 people who take that as you are an extremist. He said he is not an extremist. Regarding the comment that trails  
430 affect our ability to attract businesses; he contacted ten family members who are business owners and none of  
431 them said they looked at the trail system when deciding where to locate a business. I don't think most business  
432 owners come into a city asking if there is a trail system. He does understand that the court system has become  
433 more lax over the years. The presentation states 'people need trails for health and happiness'. Council Member  
434 Bigler said he is happy and doesn't need trails for health and happiness. As far as trails being more interesting to  
435 use than a sidewalk; trails help motivate people to exercise and there could be a link between trails and obesity; is  
436 that the role of government, to get people to exercise? He said he has read a lot of these court cases, at least 30  
437 throughout the country; there is a common thread and which is due compensation is required. The city can make  
438 an offer and the owner can accept it or reject it. Developers benefit big time here, spending \$1 to receive \$15 in  
439 return. Council Member Bigler said he doesn't think we will need to be forcing developers to do this. We can  
440 sell it on the fact that they will make more money. Developers will want to do this if that's true. The last thing is  
441 regarding constitutionality, this is saying that it's not eminent domain because we are not taking developed  
442 property. It doesn't have to be developed property. In the 5<sup>th</sup> amendment and other rulings, the word necessity  
443 comes up over and over again. To compare this to streets or canals, those are more of a necessity than a trail. It's  
444 like comparing an ambulance to a gymnasium. This is definitely not a necessity. Council Member Bigler said he  
445 is not in any way against trails but this isn't about trails, it's an issue of taking private property without  
446 compensation so we can have a trail system. A trails system is a nice thing but it's not going to take away cars.  
447 He said he has had quite a few residents in the past year mention sidewalks to him. They've asked if we could see  
448 about getting sidewalks where there are none. He said he would rather take the funds and get sidewalks in these  
449 areas. It's a matter of principle for him and he thinks it goes against the 5<sup>th</sup> amendment and the Constitution.

450  
451 Council Member Harris said we have the ordinance before us and she said that she would easily vote for this. She  
452 thinks it is appropriate for the City to have trails. The legal constraints have been addressed and Council Member  
453 Harris said she would have no problem voting for this. She said she understands through some conversation with  
454 staff members that there might be a way to sweeten the pot for a developer. She said when she thinks of  
455 compensation she automatically thinks dollars and cents but there are other opportunities to compensate someone.  
456 She asked Craig Barker to explain.

457 Craig Barker said there are also bonuses or reductions in lot size or standards. If we have an area available for  
458 20 lots but the main trail goes through there, the City can offer a reduction in the lot size, 9,500 instead of 10,000  
459 square feet, the left over property is used for trails in that development. The other system is that we use the bonus  
460 factor. If the same situation occurs you have 20 lots, you may get 21 lots with the addition of the trail.  
461 Another method is go through a review process and preserve that connection for up to 2 years to allow the City or  
462 Trails Committee to purchase the trailhead or trail property. Salt Lake City uses this method. You don't take  
463 anything away from the developer. You can also use easements for trails. Council Member Harris said we could  
464 have if the end result is that there is a contiguous trail system it could be obtained without some of the concerns  
465 being voiced tonight. We could still develop the land and have a functional trail system. Mr. Barker said he  
466 thinks so. He said he has tried to take the view of a developer and the option of an additional lot gets the  
467 calculator going.  
468

469 Council Member Turner said he sits on the Trails Committee but is not a voting member. This Committee is  
470 trying to protect the trails. He said he likes the idea of compensation to keep it within the questions and concerns  
471 that Council Member Bigler has and others have brought up. He likes that idea and said Council Member Flamm  
472 has a good point regarding the standards on these trails. Mr. Grasmeyer said the standards are included in the  
473 General Plan. Council Member Turner said if you look at the Cherry Way Loop and most of our trails you'll see  
474 they are in areas that are undevelopable. He suggested that the standards be addressed to be more clear and  
475 realistic. He said he would like to see if the Trails Committee can tweak it a bit and bring it back to the City  
476 Council. Craig Barker said any amendment would have to go back through the Planning Commission for review.  
477 Council Member Turner said he would be interested in doing that. He would like to know how many people use  
478 the trails, how many people have worked on the trails.  
479

480 Council Member Taylor said he has been researching this the last few weeks, and his concerns were centered  
481 around the lack of compensation for the developer. He still has some concerns about the disproportionate burden  
482 on developers that lie in the path of these trails vs. those that don't. In a perfect world, he would like to see a  
483 small impact fee for trail development that would be supplemented by the City, which would give some money to  
484 be able to compensate for some of this land. If the developer would prefer a different type of compensation, those  
485 should be options for them. Cash compensation, additional lots, smaller lot sizes, etc. could all be considered.  
486

487 Council Member Harris said she doesn't want this to die, we have heard some great ideas.  
488

489 Council Member Flamm said he likes the idea to give the community time to purchase the property; donations  
490 could be used to come up with money for trails. That would take the burden off the tax payers. He still thinks the  
491 trails are used by everybody in the City. If there are ongoing fees we need to find a way to take care of that. He  
492 said he doesn't mind paying more in taxes for something that he uses. It is a difficult decision, how do we pay for  
493 things? He would like to see that worked over a little more.  
494

495 Council Member Turner said he wanted to thank the Parks and Trails Beautification Committee. There are 11  
496 Members and they have literally had hundreds more people come and help. Barker Park, Lakeview Park, the  
497 Wadman Soccer Complex, trees have been planted, it benefits all of us. He said it has been a great experience for  
498 him to serve.  
499

500 Mayor Harris said the Council will remand this back to the Planning Commission to take care of some of these  
501 concerns and bring it back to the City Council in the near future.  
502

503 Council Member Flamm left at 8:25pm.  
504  
505  
506  
507

508 **DISCUSSION AND/OR ACTION TO APPROVE A BEER LICENSE FOR 7-ELEVEN.**

509  
510 Annette Spendlove, City Recorder, said 7-Eleven applies annually for a beer license. They have done their  
511 background checks and the Chief of Police has reviewed them, Staff recommends approval of a beer license for 7-  
512 Eleven.

513  
514 **Council Member Harris moved to approve a beer license for 7-Eleven. Council Member Turner seconded**  
515 **the motion.**

516  
517 **Voting on the motion:**

518 **Council Member Bigler**            **yes**  
519 **Council Member Taylor**       **yes**  
520 **Council Member Turner**       **yes**  
521 **Council Member Harris**       **yes**

522  
523 **Motion passed.**

524  
525 **DISCUSSION AND/OR ACTION TO CONSIDER A SOCIAL MEDIA POLICY.**

526  
527 Dave Carlson, City Attorney, said Edward O. Dickie III brought this to his attention and asked him to create a  
528 policy for social media. He said he did some research and came up with the policy that is before the City Council.  
529 There is a memo on it as well. Basically this sets up some standards. The main concern is people on the outside,  
530 citizens interacting with the government. We need to set some standards though, because some comments on  
531 some of these sites don't seem very appropriate. There will be provisions for someone from the City to monitor  
532 those sites and rules to govern the City's conduct as well.

533  
534 Council Member Bigler said that's great. Communication is turning toward this. Page 2, #5 states that any  
535 content removed based on this policy must be retained for a reasonable period of time. He said he would hope that  
536 we put a specific period of time on that. Number 8 on page 2 states that the City's website will remain the City's  
537 primary and predominant Internet presence. He asked what happens if the residents use this instead of all the City  
538 Council Members emails. Edward O. Dickie III said the City's website will still be the main place for people to  
539 go for information. Council Member Bigler said policy states that the purpose is to disseminate information about  
540 the City. He said he thinks the City's website is more for disseminating information. He doesn't want anyone  
541 thinking that the City Council Members are reading all of these things. He asked whether we could put a  
542 disclaimer on there saying if you would like to talk to the City Council or Mayor you should contact them by  
543 email or phone. Edward O. Dickie III explained where this came from and said there will be a dynamic piece to  
544 that and we will have to work through those things. Annette Spendlove, City Recorder, will be the Social Media  
545 Coordinator.

546  
547 Council Member Turner said we all agree that we need to adopt something but is this document or do we need  
548 to have it come back with some of these concerns addressed. Council Member Bigler said he would also like  
549 some of these concerns addressed.

550  
551 Mayor Harris said we will bring this back at the next meeting. Dave Carlson, City Attorney, said we could put a  
552 disclaimer in there too. Council Member Bigler said he thinks that would easier.

553  
554 Annette Spendlove, City Recorder, said this was brought up because some employees were having Facebook or  
555 Twitter pages and they can't just do that without some policy in effect. This will always be a working document.  
556 We were not going to start anything new. Council Member Harris said this is a policy to govern what employees  
557 can do. Annette Spendlove said that is correct.

558

559 Council Member Turner moved to adopt the social media policy contingent on the items that were  
560 discussed. A specific time period for retention, ensuring that someone is monitoring this and a disclaimer  
561 that this is not a method to communicate with the Mayor and City Council. Council Member Bigler  
562 seconded the motion.

563

564 **Voting on the motion:**

565 Council Member Bigler           yes

566 Council Member Taylor        yes

567 Council Member Turner        yes

568 Council Member Harris         yes

569

570 **Motion passed.**

571

572 **DISCUSSION AND/OR ACTION TO CONSIDER CHANGES TO THE EMPLOYEE PERSONNEL**  
573 **POLICY.**

574

575 Mayor Harris stated that this could be exceedingly lengthy. He suggested if there are editorial comments they be  
576 given to Annette Spendlove and she will make those changes. He said he wants the Council to understand that  
577 the highlighted items are totally new and being added.

578

579 Annette Spendlove stated that in Chapter 9 – Safety Procedures and Requirements a section titled ‘Protection of  
580 Children and Vulnerable Adults’ is new also.

581

582 **Council Member Harris move to adopt the North Ogden Employee Personnel Policy as presented with any**  
583 **editorial changes permitted. Council Member Turner seconded the motion.**

584

585 **Voting on the motion:**

586 Council Member Bigler           yes

587 Council Member Taylor        yes

588 Council Member Turner        yes

589 Council Member Harris         yes

590

591 **Motion passed.**

592

593 **COUNCIL/PUBLIC COMMENTS.**

594

595 Carson Jones, 1106 W 4050 N, Pleasant View, representing Bruce Jones, said they are in full favor with the  
596 landowners in Quail Ponds. He said they are not dragging their feet. They have been trying to contact the Corps  
597 of Engineers and hired two engineering firms to guide them through this process. The only reason they don’t  
598 have a plat in the City’s possession is that they want to make sure this is the last time they do this. He said they  
599 want this to be over with and the fact remains that they own the majority of the lots that are affected and it’s  
600 costing them time and money. He said this is super expensive and he has a hard time with the City not allowing  
601 any building permits.

602

603 Ken McCormick, 2073 N 775 E, said, regarding trails, we need to remember the law of unintended consequences.  
604 He mentioned the muggings and rapes in Ogden on the parkway and the increase in taxes to the citizens due to  
605 having to have a police presence. He said the law abiding citizens are only using the parks and trails during the  
606 day; at night there is a whole other element that comes out.

607

608 Jim Mackley, 2803 N Hwy 89, President of the Freedom Coalition, said we just heard about unintended  
609 consequences. The City has the power of force so any ordinance that affects the public is something that he knows

610 the City Council considers and they try to do what is best for the citizens. He said he appreciates that. He said he  
611 like hiking and trails and he always has. Just as a doctor takes an oath that he will first do no harm. He knows  
612 that we want to get involved and help things improve but maybe we need to step back and remember to first do no  
613 harm. He thanked the City for all that they do. The Committee has been working on the trails for a long time and  
614 the people have volunteered their time. The more we can volunteer rather than force people to do good, the better  
615 off we're going to be. He suggested to the Committee that maybe as they start continuing to think how to get  
616 trails in North Ogden City, it might take a mind shift to do it but how can it be done without passing an  
617 ordinance? Mr. Mackley said Council Member Flamm said he would be willing to donate some money. He  
618 suggested working with the landowners more. Hopefully we can become more knit together as a community. He  
619 would have preferred that the City Council said they will never build trails by force.

620  
621 Joel Grasmeyer thanked everyone for their participation. He said he thinks we made a lot of progress tonight, and  
622 that we can reach a compromise. He asked for the Council's participation in the process of this revision. What  
623 they need is for the emails to go back and forth and for participation from the City Council Members and the  
624 public. If we are in a situation where people are just going to vote against anything the Committee does that is  
625 going to be difficult. In response to Council Member Taylor's comment, he thinks that any developer should be  
626 able to put in trails whether they are in the path or not. He said donations are fine but in order to build a trail  
627 system you need a guarantee that you are going to make those connections. It is unfair for whoever is then  
628 expected to go out and raise donations. Parks and baseball fields are not a necessity either but we do have an  
629 impact fee for parks. So even though that's a recreation item we do it now and it is considered constitutional.

630  
631 Council Member Turner said he will not be present at the next meeting and he will be unable to call in.

632  
633 Council Member Harris said she will need to participate electronically at the meeting on the 25th.

634  
635 Edward O. Dickie III said we missed out on the lift truck we were considering but we found another one that we  
636 will be looking at for about the same price.

637  
638 Mayor Harris said Local Officials Day is coming up and we need the registrations in soon. We will take the  
639 Youth City Council to that and will need some drivers.

640  
641 **ADJOURNMENT.**

642  
643 **Council Member Bigler moved to adjourn. Council Member Harris seconded the motion.**

644  
645 The meeting adjourned at 9:06pm.

646  
647  
648  
649  
650 \_\_\_\_\_  
651 Richard G. Harris, Mayor

652  
653 \_\_\_\_\_  
654 S. Annette Spendlove, CMC  
655 City Recorder/HR Director

656  
657 \_\_\_\_\_  
658 Date approved  
659