

NORTH OGDEN CITY COUNCIL MEETING MINUTES

September 7, 2010

The North Ogden City Council convened in regular session on September 7, 2010 at 5:30 p.m. at the City Offices. 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 September 3, 2010. Notice of the annual meeting schedule was published in the Standard-Examiner on January 24, 2010.

PRESENT:	Richard G. Harris	Mayor
	Wade Bigler	Council Member
	Ronald Flamm	Council Member
	Martha Harris	Council Member
	Brent Taylor	Council Member
	Carl Turner	Council Member
STAFF PRESENT:	Edward O. Dickie	City Manager
	Annette Spendlove	City Recorder/HR Director
	Julia LaSeure	Commercial Development Coord.
	Gary Kerr	City Building Official
	Dave Carlson	City Attorney
	Polo Afuvai	Chief of Police
	Debbie Cardenas	Finance Director
	Mike Tribe	Police Officer
VISITORS:	Richard Brimhall	Margaret Beus
	Pam Trimble	Helen Taylor
	Margaret Schvaneveldt	Noel Schvaneveldt
	Dave Hulme	Ken McCormick
	Lorraine Tennant	Bruce Jones
	Bruce Hall	Carson Jones
	Bruce Beckley	Judy Beckley
	Joan Brown	Robert Bolar
	Craig Speechly	

CONSENT AGENDA

Council Member Harris moved to approve the consent agenda. Council Member Taylor seconded.

Voting on the motion:

Council Member Turner	yes
Council Member Taylor	yes
Council Member Bigler	yes
Council Member Flamm	yes
Council Member Harris	yes

Motion passed.

PUBLIC COMMENTS

There were no public comments.

PRESENTATION OF A 10 YEAR PIN TO MIKE TRIBE, POLICE DEPARTMENT.

Police Chief Polo Afuvai introduced Mike Tribe and stated that he is a lucky man to have such great officers working for the City. Mike Tribe has been with North Ogden City for 10 years. Prior to becoming a detective he worked in the Patrol Division. He was very effective in arresting DUIs and warrants and other criminal activities in the City. He then spent some time, over two years, in the Weber-Morgan Narcotics Strike Force. He is well respected in the County and throughout the State for the work he has done and continues to do today. He is a member of the Homicide Task Force with the County. He is very effective in writing search warrants and interviewing people; he is a very intelligent young man. Mayor Harris stated that Detective Tribe's hard work is appreciated and this award is well deserved.

PRESENTATION ON THE CHERRY DAYS PARADE.

Robert Bolar, 684 E 2900 N, said he wanted to visit with Mayor Harris and the City Council about the parade. He and his family look forward to it every year. There is a video on YouTube where you can see the masses come out into the street. Every year that he and his family have come to the parade the kids go into the road like crazy. He believes it is a huge safety problem. The North Ogden City parade is one of the only parades that allows candy to be thrown from floats. He said if you Google "parade accidents" you can see images of accidents and people who have been run over or have other parade injuries. These accidents can be avoided. We've got to get it right. We need to send a uniform consistent message – this is a safety issue. We are not just taking candy away from the kids. Entries can have people walking that throw candy back beyond the curb. We need to be united. This idea has been squashed in the past. Let's worry about the safety aspect not the political aspect. We could have someone like Jason Child start the parade. Mr. Bolar said you can set your watch by when Officer Child will be on 850 E. 2450 N. Somebody like that should start the parade. Each entry could pass by someone like Jason to make sure they understand that nothing can be thrown from the float. They could sign a letter of agreement.

Mr. Bolar said the other thing that is important is we promote the parade. Let's seek out entries that are just awesome; the Ogden parade had some great entries. We can do a little recruiting. Take some of the candy funds to recruit and let's get some entries here that will bring the folks out. We should require that all items must be thrown by a walker on the parade route. We need to deal with it now. It's not going to work to bring it up in the spring. If we promote it right, this is the best place to live in Utah. We can have a great safe parade and 20 years from now everybody will say that we did the right thing. Mr. Bolar said that Craig Speechly is here; he was working (volunteering) along the parade route and would like to share some of the things that were said to him.

Craig Speechly, 3452 N 950 E, said he brings a little bit different perspective to this situation. He has chaired the parade in the past and to his understanding it was the only time that candy was not thrown from vehicles. People were allowed to walk along the parade route and toss candy into the crowd. His duty this year was to somehow corral the children and keep them out of the street; it was a complete failure. The incentive for the children was thrown within feet of the float. Any attempt on his part was discarded and ignored. Parents were yelling at him and telling him to stop trying to keep their kids from getting the candy. He said he understands that there was an injury during this parade. It was not a child but it was somebody on a float who was throwing candy and getting on and off the float to get more candy. Some significant situation might happen to a spectator. He had one final thought to share; he has been a resident of North Ogden for over 30 years. He has always gone and enjoyed the parade but if candy throwing is continued he will probably not continue going to the parade. It's just no longer

enjoyable to go and set up your chairs, stake out your area, invite friends and family and then not be able to watch the parade. You are no longer front and center; you are 15 people deep and can't see anything. Anything the City Council does will be much appreciated. He said his feeling that he will not continue coming to the parade may not make things happen but he thinks it is indicative of what others may be thinking.

Council Member Flamm said he thinks that the individual injured was not one of the kids trying to get candy. If we say let's have them distribute candy from the street we may have more risks of people trying to get the candy off the float. Mr. Speechly said that could be solved by those people pulling a wagon. Council Member Flamm said there are risks we have to address each year. To him moving the candy out to the side and running back to the float for candy is a safety issue. He said we need better instruction on who can throw candy, how to throw it and what types of candy to get because some of the candies don't throw very well. Council Member Flamm added that our parade is very early in the season and a lot of floats are not done yet. They are created for parades later in the season. It has been a challenge with the timing.

Council Member Bigler said he is on the Cherry Days Committee. He thanked Mr. Bolar for presenting this and said there is no question that all of us up here have the same concerns. The Committee will go to work and think on this. He doesn't think they will stop throwing candy but they will address the concerns. The Committee will work on it and try to do better.

Council Member Taylor asked Mr. Speechly if from his experience it has always been this way. Mr. Speechly said before he chaired the parade throwing candy was done and after he chaired the parade it was reinstated again. Council Member Taylor asked whether the number of people in the street about the same? Mr. Speechly said it has grown and this year is probably the worst but it is hard to classify that. It seems to be getting worse and worse. As a spectator it is no longer enjoyable. The year he chaired the parade it was not a problem. This is something to look at and consider the options. He thinks the City should look into it.

Mayor Harris said that the City talks for hours and hours every year about the parade and the candy. We are acutely aware of the safety issues; we need to change something and are going to look into it. The Committee will be getting together and talking about this.

DISCUSSION AND/OR ACTION REGARDING A PENALTY ORDINANCE.

This item was pulled from the agenda at the City Attorney's request.

DISCUSSION AND/OR ACTION REGARDING A CODE ENFORCEMENT ORDINANCE.

Dave Carlson, City Attorney, stated that this came up because of discussions on going from criminal code enforcement of zoning violations to civil code enforcement. The Planning Commission recommended this to the City Council. This proposal is being presented tonight. Basically this Code Enforcement ordinance creates a Code Enforcement program for the City and authorizes a designated individual or individuals to enforce those things. It allows certain City codes to be done by civil citation. Generally the kinds of things we are talking about are zoning violations such as junk cars, weeds, things in a state of disrepair. That's a general summary of what the Code Enforcement Ordinance is intended to do.

Council Member Flamm said these things are currently in the criminal code and this will make it civil. He said in section 1-9-23 it looks like in addition to fines, if a person is in violation the City can withhold certain things such as utility services, business licenses, etc. Dave Carlson said that is one of the differences with doing it as an administrative process. You can't arrest people or put them in jail so there

is always a challenge with certain individuals to collect fines. Adding in those things gives the City some leverage to try to collect fines. Basically this authorizes the City to withhold City services.

Council Member Turner asked who will be writing citations. Ed Dickie, City Manager, said it will be code enforcement working closely with Dave Carlson.

Mayor Harris said he thought it would be helpful to go over the criminal vs. civil issue and explain how they go together.

Dave Carlson said the Administrative Hearing ordinance is the heart and soul of this; you are decriminalizing certain violations of City Code. This provides more efficient ways to handle those concerns. The criminal process is not very efficient in dealing with weeds, junk cars, etc., things that are bothering the neighborhood; it isn't set up to do that. It's not very cost effective as it can take a year to resolve a problem through the criminal process. The City may also have the obligation to pay for defense council if the person is indigent and it is very adversarial. Criminal is an arena dominated by lawyers and judges; it is difficult to navigate for the average citizen. This is a lot easier for the layperson to deal with. It's not so complicated that it takes a lawyer to understand the procedures. It has that benefit. Another advantage for the City is that the 4th amendment does apply to these kinds of City activities and the administrative hearing process take care of that concern. Courts have said if the property owner has been given adequate notice and has had the opportunity to come to an administrative hearing, the City can abate the nuisance without violating their 4th amendment rights. The other thing is that when you prosecute something through the criminal system the person ends up with something on their criminal record and in these cases it could be for something as minor as not mowing their lawn.

Council Member Flamm asked who the Administrative Law Judge would be. Dave Carlson said the ordinance speaks to who it can be. Someone who is law trained, not just with a lot of experience in code enforcement issues.

Ed Dickie said currently Judge Lambert sees these cases but not administratively. The Judge is alright taking this is on but Mayor Harris will have to recommend a name to the City Council, if this ordinance is passed tonight. We would not be paying him any more salary; we'd just see how it goes for a couple years.

Council Member Taylor asked how an administrative hearing differs or if it differs from a criminal trial? Is the process different, can the person still bring witnesses or evidence? Dave Carlson said the main difference is that there would be no lawyers. The Code Enforcement Officer will present the City's case and the property owner or business owner will represent themselves. There will be one hearing and the Administrative Hearing Officer would hear both sides. Both sides can bring in evidence and call witnesses, but it would probably take place in about 30 minutes. The criminal process would require several hearings and then eventually go to trial, the best case scenario there is several months.

Council Member Taylor asked if there are potential cost savings. Dave Carlson said he thinks there is no comparison in the efficiency from the City staff's point of view. It is a more effective tool to deal with these problems. There is probably a lot of code enforcement that doesn't get done because there is no effective tool right now.

Council Member Taylor asked if the language in sections 1-9-22 and 1-9-23 binds the City so that it has to be done in every case. Dave Carlson said if it says "shall" it is mandatory. Council Member Taylor said that both of these ordinances say shall, will we do this every time? If not, should it say shall. Dave Carlson said that is a good comment and he is not sure. Ed Dickie said there are letters and phone calls first to try to get them into compliance. There is a lot that we do over a month or two. If they aren't going

to work with us, this is a last resort. Dave Carlson said this will only be used for those citizens that the City has run out of options with. This is the process that is used if you have to make somebody do it. The reason the lien procedure is there is to give a mandate to City staff to ensure it is done right. The City hires a contractor, the contractor goes on the property and cleans it up, they send the City a bill and the City sends the property owner the bill. If it is not paid the information is given to the Weber County Treasurer and it becomes a lien. Eventually the City gets the money. This is in here to say that there are certain steps that have to be followed in order for the lien to be done properly. It's very formal and you have to everything just right.

Council Member Taylor asked if the City will also retain the option to cite the property owner criminally. Will it stay on the City code the way it is written now? When would we use the criminal process and how would that decision be made? Dave Carlson said his experience is that you never pick the criminal process over the civil process but if what they are doing is that inappropriate you may want to do that. It keeps the City's options open. Council Member Taylor asked if there is any guidance in the State law when it would be appropriate. Dave Carlson said there is not, it is up to the discretion of the City officials involved.

Council Member Taylor said he is supportive but would want to make sure any complaints of bias are headed off, anything that could potentially be interpreted one way or another. Dave Carlson said there is always that potential, the best thing is the Administrative Hearing Officer. The property owner will have the opportunity to meet with that Hearing Officer or Administrative Law Judge. They have to be independent, not the City's puppet. These hearings have to be recorded and will probably be held in the City Council chambers.

Council Member Bigler said he appreciates Dave Carlson putting this together adding that it makes a lot of sense to him. He asked if we are going to be asking for another employee to do this or can we do it with the staff we have now? Ed Dickie said we will use the current staff for now but we may look at adding another part time person in the spring. Council Member Bigler said his concern is safety like the weeds on 2100 N and other streets with no sidewalks. For him private property owners can generally take care of themselves but for safety issues we should have a way to enforce them to do that or pay for it to maintain safety. He would like to see citizens police it a little bit rather than have an employee go around looking for problems. If there is a safety issue then we need to take a look at it but he wouldn't want a guy out there nit picking on things.

Council Member Flamm said, for Council Member Taylor and Council Member Bigler's benefits, in prior years we have had a full time Code Enforcement officer. With the budget restraints, Gary Kerr and his department have taken that over; the inspectors have been able to pick up a lot of the slack. As building picks up we will probably need another person to come in and do that. As far as people out there looking for violations vs. letting the neighbors call in. It's a double edged sword. Either we are picking on people or we aren't doing enough,

Council Member Turner asked if there is an appeal process after the administrative hearing decision is made. Dave Carlson, City Attorney, said there is an appeal process; it goes straight to the District Court. Council Member Turner said is that criminal. Dave Carlson said that's why you keep a recording of the hearing, a transcript is prepared from the recording, and it then goes to District Court for a judge to look at it, to make sure everything is in order. There is no further appeal.

Mayor Harris said, as a matter of practical experience that he has had, Judge Lambert always asks the person if they are guilty, not guilty or if they will plead no contest. People can't explain their side unless they plead guilty and go to trial. The administrative hearing process would be a benefit to the citizens to be able to tell their side. He asked the Council to keep that in mind.

DISCUSSION AND/OR ACTION CRIMINAL VS. CIVIL ORDINANCE

Annette Spendlove said that the Code Enforcement Ordinance is #2010-09 and the Criminal vs. Civil Ordinance is #2010-10.

Council Member Flamm moved to pass the Code Enforcement Ordinance #2010-09. Council Member Taylor seconded.

Voting on the motion:

Council Member Taylor	yes
Council Member Bigler	yes
Council Member Flamm	yes
Council Member Harris	yes
Council Member Turner	yes

Motion passed.

Council Member Taylor moved to approve Ordinance #2010-10 for the Administrative Hearing Process. Council Member Bigler seconded.

Voting on the motion:

Council Member Bigler	yes
Council Member Flamm	yes
Council Member Harris	yes
Council Member Turner	yes
Council Member Taylor	yes

Motion passed.

IMPACT FEE (NORTH VIEW FIRE DISTRICT) AGREEMENT.

Dave Carlson, City Attorney, stated that the City enacted an impact fee prior to the creation of the North View Fire District (NVFD). This Interlocal Agreement has to be approved by the governing body of each entity and Utah State law spells out what they have in them. The purpose of this agreement is to authorize the City to take the impact fees that have been collected and give them to the NVFD. NVFD intends to enact their own impact fee agreement; the City will still collect those fees. NVFD will do their own study; this agreement is to bridge until then to pay the impact fees that the City is collecting to NVFD.

Council Member Flamm mentioned that page 1 refers to Pleasant View City where it should read North Ogden City. Annette Spendlove, City Recorder, said it is wrong on page 4 also.

Council Member Bigler said we've already been doing this and now are trying to clean it up. Dave Carlson said yes we have been collecting the fees.

Mayor Harris said there is a provision for the City to collect an administrative fee in the agreement to allow the City to cover any administrative costs. Council Member Bigler asked if we are doing that currently. Mayor Harris said we are not now but it does provide for us to do that if we so choose. Council Member Bigler asked who would choose to do that; would that be the Council. Mayor Harris

said the agreement says on Impact Fee Collections one of the sentences is North View also agrees that the City may charge an administrative fee for its services in assessing, collecting and delivering impact fees for North View. So that is not taking part of the impact fee and keeping it as an administrative fee, it's charging an administrative fee on top of that. Council Member Bigler said in order to do that it would have to come back before the Council for the amount or does what we're doing here tonight give the green light to do that. Mayor Harris said no, what we're doing here tonight authorizes us to charge that fee but the amount has to be decided by the City Council and whether or not to do it. Ed Dickie, City Manager, said if we were to do an administrative fee it would have to go in the consolidated fee schedule and be brought back before the City Council for approval. We don't know now if there should even be a fee and what it should be. Right now, we just collect the impact fee and send it on.

Council Member Taylor said he would like us to take a look at that administrative fee. With the number of permits we are issuing now it's probably a small amount but if we have a time when construction is going again it could be substantial. He said he would appreciate at some point finding out whether that fee might be necessary so our taxpayers don't subsidize the collection of that fee.

Annette Spendlove, City Recorder, referred to item 7 on page 3 which states that this Agreement is not effective until approved by a resolution of the governing body of each party. There is a resolution to be passed and that is Resolution # 18-2010.

Council Member Flamm moved to approve Resolution #18-2010 entering into an Interlocal Agreement with NVFD. Council Member Harris seconded.

Voting on the motion:

Council Member Flamm	yes
Council Member Harris	yes
Council Member Turner	yes
Council Member Taylor	yes
Council Member Bigler	yes

Motion passed.

DISCUSSION AND/OR ACTION REGARDING THE MISS NORTH OGDEN PAGEANT.

Annette Spendlove, City Recorder, reminded the City Council of last spring when the City decided not to have the pageant. She said, as the person that oversees the pageant, she would like to start the process now. She has had people express that they would like to be on a committee to do this. There is a citizen that would like to be over marketing and getting sponsors. We need to start working on this. By the time we are ready to get the information out we'll have it together. She said she wants to have a deadline of February 1, 2011 so we can be sure that we have the required eight girls and they have paid. She said we budgeted for the pageant. I need to ask the Council these questions: Do we want the pageant; do we want to be affiliated with the Miss America pageant; do we want girls from outside North Ogden to be in the pageant? This year there were some consequences from not having the pageant, we have the Little Miss pageant and they are involved heavily with the Miss Utah pageant. We didn't realize then that our current Little Miss North Ogden will probably not be attending that next summer. Mrs. Spendlove asked for some input so she knows how to move ahead on this.

Council Member Flamm said he likes the ideas of promoting it and starting early. This next time could be a decision point; if we can't get enough girls two years in a row maybe we should not consider it in the future. We should give the community the opportunity to try to put this together. If girls outside North

Ogden want to participate, their City or a sponsor should be required to pay their cost. We could go back to the old definition of who would be eligible to submit paperwork; those girls that either went to Weber High or have families who live or work in North Ogden. The City will only pay for North Ogden residents.

Annette Spendlove said the current application says they have to be a North Ogden resident, go to Weber High or work in the City. Council Member Flamm said he is comfortable with that if the City is willing to pay for only residents to participate.

Council Member Bigler said he thinks starting this early is a great idea. He said he would like to see if there are people who are willing to go out and raise the funds. He doesn't think the government should spend taxpayers' dollars on this. He said he would be willing to bet that if a committee went to work they could come up with enough to pay for it by getting sponsors. He said he would be willing to help in that regard. He suggested that they see what they can raise and do the pageant on that amount.

Council Member Taylor asked how much it costs the City to be associated with the Miss America pageant. Annette Spendlove said it costs \$1500. Council Member Taylor said the rest of the money budgeted is for scholarships and to run the pageant. Annette replied that is correct.

Council Member Taylor said he likes what Council Member Flamm said and he likes what Harrisville City offered to do last year; contribute for their girls. He said he would like to try that. He would also like the girls to be able to raise the money themselves. Our taxpayers can't subsidize girls from other cities. He said he agrees with Council Member Bigler in that funding the full pageant is not appropriate. We have been funding it for decades but if we gave them the chance to get some sponsors they might be more successful in keeping it going.

Council Member Harris asked what amount is in the budget now. Annette Spendlove said there is \$9600. Council Member Harris asked if you take the scholarships and Miss America fees out of that what is left. Annette Spendlove said it leaves \$5600. Council Member Harris said her opinion is if we can have eight North Ogden girls or nonresidents who fall under the Weber High umbrella she is ok with having the pageant if you can run it and not exceed the \$9600 including the Miss America fees and the scholarships. She expects a report back. Annette Spendlove said she would like to get the information out to the school and would like to know by February 1, 2011.

Annette Spendlove said since she took over the pageant she has really cut down on the spending. The budget was \$18,000 originally. Council Member Harris said she doesn't think the quality of the pageant has diminished at all. Annette Spendlove said she would like a March 1, 2011 deadline.

Council Member Turner asked if Annette Spendlove will get a group together to form a committee on this. Annette Spendlove replied yes. Council Member Turner said if we meet the criteria set earlier this year then we have the pageant, if not there is no pageant.

Council Member Bigler asked what if we have more than 8 North Ogden girls and go ahead and spend the money and then we have girls drop out? He said looking at the economy and the Public Works complex and bonding; if we have \$9,600 we could take that money and put it toward a property purchase. What if the girls can't get the money together? Annette stated that the plan is to get this funded. In all the years she has done this she has only had one girl drop out. Council Member Bigler suggested telling them to go out and raise the money. Mayor Harris said requiring the girls to complete their paperwork and pay their fees will mean that they will likely not drop out.

Council Member Taylor said he would like the participants be required to raise a set amount in order to participate so the girls know we're a partner but not the sole sponsor. He made a motion that we set a budget at 50% of last year's budget to be readdressed next year.

The motion died for lack of a second.

Council Member Flamm said we already approved the budget with the \$9,600 in it; to change that it would take a budget reopening. Debbie Cardenas, Finance Officer, said the City would have to do a budget reopening to raise it, not to reduce it. Council Member Flamm said the ideal goal is to get them to go out and try to get sponsors.

Council Member Taylor said having a requirement that they have to raise the money is different than knowing the money is in the bank.

Annette Spendlove said the goal of this committee is to be self funding. She is not saying they can do it all this year but that would ultimately be the goal.

Council Member Harris moved to continue the Miss North Ogden pageant with a budget not to exceed \$9,000. Out of those fees are to come the Miss America fees and scholarships. Eight North Ogden girls are still a requirement and additional contestants could come from adjoining communities if they pay their portion. Council Member Flamm seconded.

Council Member Harris said if you have some coming from another community there has to be some formula that will need to be worked out. That is something to think about.

Mayor Harris said staff would keep the City Council up to date on what is happening. There were some consequences to not having the pageant this year. There are tangible and intangible things that we get from having a queen and great benefits to North Ogden that we missed out on last year.

Council Member Taylor said he wants to make the statement that he is going to vote no. He said he would like to have a set amount to what we're doing and an amount that the girls will be required to raise.

Council Member Bigler said he would be ok with paying the Miss America fee but have the girls raise the rest. If they were told they need to go out and find the sponsors, they would work hard. If we want to wean them off the government, sponsor the pageant and let them come up with the rest.

Voting on the motion:

Council Member Harris	yes
Council Member Turner	yes
Council Member Taylor	no
Council Member Bigler	no
Council Member Flamm	yes

Motion passed 3 to 2.

Annette Spendlove stated that the goal of this committee is to use the money raised to fund the pageant and they will try to do it this year.

DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION DEFINING A “UNIT” IN REGARD TO THE UTILITY BILLING BASE FEE.

Annette Spendlove said a few months ago the City contracted with a company that audits the way the utilities are billed. They found some errors in the way that we are charging customers. There were three 4-plexes in one area with only 1 water meter. If there are three 4-plexes, that's 12 families. We charge a single family residence \$6 to have water; that's the base fee. That doesn't include what they use, only the base fee. In those three 4-plexes there are 12 families and they are only being charged one base fee of \$6 instead of 12 base fees of \$6 which totals \$72. We found this situation with sanitary sewer also if there is one meter. The City is paying Central Weber so the City is picking up what those citizens aren't paying for. After discussing this and reviewing it with the Mayor Harris, Ed Dickie and Dave Carlson, we needed to define what a user was. It was defined as one meter years ago and that has been passed down through the years. 4-plexes are now required to have 4 separate meters. This resolution defines what a unit is.

Council Member Flamm moved to approve Resolution #19-2010 adopting a definition of Unit. Council Member Harris seconded.

Council Member Taylor asked if in one of these situations will there need to be three new meters installed now. Annette said no; we couldn't afford to do that. This will not be retroactive. We will send letters out and inform those residents. Three Fountains has one meter and there are 60-80 units there. They would be charged the base fee individually. No one wants a new fee but everyone else is paying that fee. You have to treat everyone the same. Council Member Taylor said he is supportive of this but we need to make it equitable across the board.

Council Member Bigler asked if the water and sewer are all separate. Annette said the fees are all separate but they are billed on one bill. Everyone is charged a base fee just to be hooked up to the meter. The base fee does not include the first 5,000 gallons. Council Member Bigler said if it's showing that they're all under one meter don't they start paying the extra fees really quick? Mayor Harris said that 0-19,999 gallons is one amount and over 20,000 gallons is another. Three Fountains would still get one bill. Mayor Harris said the Home Owners Association (HOA) is being charged one fee and it is paid through HOA fees.

Debbie Cardenas, Finance Director, said the base fee is to make sure that our costs are being covered to maintain our system. Once they go over that certain amount they should then start to pay more. We have to make sure that the base fee covers the system.

Council Member Bigler said he would like to study this a little bit more. They ought to have the same benefits to water and not be charged the fee and the higher water rate.

Ed Dickie, City Manager, said those are the logistics, this resolution points out what a unit is. From there we can figure out how we are going to charge for this. There are a lot of different scenarios here.

Annette Spendlove said this only defines what a unit is. Mayor Harris said the resolution allows us to go ahead and decide what our fees are. Debbie Cardenas said we would need to do that.

Ed Dickie said the fees will be in effect when the City Council considers the Consolidated Fee Schedule; this will come back to the Council before we start charging for this.

Council Member Harris said if we use a certain development as an example they will have sewer usage and water usage but some areas might not use garbage service from the City and shouldn't be included in that.

Council Member Flamm asked Dave Carlson, City Attorney, whether we need to make any conditions in this resolution so it would be effective upon adjusting the Consolidated Fee Schedule. Dave Carlson said the Council could specify a new effective date. Council Member Bigler asked why staff doesn't just bring it back once we have all the details. Dave Carlson said City Council could adopt the resolution tonight but make it effective after the fee schedule is changed or wait and do them both at the same time.

Council Member Flamm amended his motion that this becomes effective after the City Council has amended the Fee Schedule to include this change. Council Member Harris seconded the amended motion.

Council Member Bigler said if that's the case why even do it now? Why not just do it all together? Council Member Flamm said this helps the staff in preparing the information to go out to the units of what the changes are. It gives them something they can move ahead with. Council Member Bigler said if we're saying yes tonight are we saying yes to a change before we know what we're doing on the other end? Mayor Harris said he doesn't think so. Council Member Flamm said it is contingent upon making the changes to the Fee Schedule. Mayor Harris said he wants to be fair. Ed Dickie, City Manager, said the sooner we get this cleared up the better. He said he is concerned also; we are talking water right now but there is also the sewer fee of \$14.30 per household. Council Member Flamm said he would like to look at all of this on the Fee Schedule at the same time.

Council Member Taylor said the enterprise funds are not general government funds. The fees can only be used for that enterprise. This money goes back into the maintenance of the system. These are hard hit funds the last few years. He said he thinks we need to, in the interest of all the taxpayers; move on that as quickly as possible. He said he is fine with us making some adjustments and would like to see it done as quickly as we can.

Ed Dickie, City Manager, said the sanitary sewer is a set fee of \$14.30 a month. He asked if the Council could give staff direction to start implementing that one. That's what we're being charged anyway. Annette Spendlove said the situation is usually a landlord with multiple tenants. The landlord usually pays the bill and all of the fees are all charged on that one bill.

Voting on the motion:

Council Member Flamm	yes
Council Member Turner	yes
Council Member Taylor	yes
Council Member Bigler	yes
Council Member Harris	yes

Motion passed.

CONSIDERATION AND FINAL ACCEPTANCE OF THE REQUIRED IMPROVEMENTS FOR PHASE 3 OF THE QUAIL PONDS PRUD.

Gary Kerr, Building Official, stated that the Developer has completed the improvements. Bruce Higley has inspected this development and gave them a list of items to do quite a few months ago. Gary Kerr stated that all the improvements have been completed. When he went out and visited a couple times he noticed that the sidewalks need to be cleaned and the gutter also. We talked with the developer's employee and told him that it needed to be done before City Council tonight. There are some weeds that need to be cut back from the curb and gutter and the sidewalk and a temporary turnaround that the fire department, garbage and any other large truck can use. It is very rough; it has road base down but he thinks the developer needs to grade it so we have a smooth surface. He recommended Final Acceptance

with two conditions. The first is that they clean the curb, gutter and street to Gary Kerr's satisfaction and second, that they grade the temporary turnaround so we have a smooth finish to the satisfaction of the Fire Marshal.

Council Member Taylor asked how much time it would take to complete these items. Gary Kerr said they could do it in a couple days. Council Member Taylor asked if there is any requirement in the code about the temporary turnaround. Gary Kerr said it has to be a road base type surface that is rolled so it's hard. It does not have to be asphalt. Council Member Taylor said this is the first one where we've had this conditional final approval. Gary Kerr said it just took so long for the punch list to be completed. Council Member Taylor said he would think if it's not a normal process that we've done he is hesitant to start now. Gary Kerr said we have done this in the past and it is fairly common to put conditions on these things.

Council Member Harris moved to grant final acceptance for Quail Pond Phase 3 with the conditions that the curb and gutter are cleaned, the temporary turnaround is graded to fire marshal's satisfaction and no escrow is to be released until these items are completed. Council Member Flamm seconded the motion.

Voting on the motion:

Council Member Taylor	yes
Council Member Bigler	yes
Council Member Flamm	yes
Council Member Harris	yes
Council Member Turner	yes

Motion passed.

DISCUSSION AND/OR ACTION ON BUSINESS LICENSE FEES AND SET A PUBLIC HEARING.

Debbie Cardenas, Finance Director, reminded the Council that we hired Lewis, Young, Robertson and Burningham, (LYRB) to do an analysis on our fees. It was a two year process by a Utah firm with over 30 years of experience. We had them make a couple of presentations to the City Council and there was discussion on February 9, 2010 and a Public Hearing on April 13, 2010. The study has been posted on the website. Staff needs to know where to go with this. Comparative data has been delivered to the City Council. The consensus at the last Council meeting was that this be put on the back burner until the Business Development Committee (BDC) could take a look.

Ed Dickie said rather than putting this on the consent agenda we thought we'd let the Council discuss it instead. Mayor Harris explained, for the new members, that the City Council used to set Public Hearings as a separate agenda item. We had some members who didn't want to do that so it has been done as part of the consent agenda.

Council Member Turner asked if this is the business license fees and also the disproportionate fees. Debbie Cardenas said yes. Council Member Turner said he has had some business owners call him and one of them had heard that a certain business's fee had been raised \$1,500. That was just a rumor. There was one girl who runs a daycare that was told that it is going to go up thousands of dollars. That's not true. The study is on the website.

Debbie Cardenas said there is base service that the City provides for each business. The disproportionate fee covers any additional cost that is above what the normal fee is for the City. Certain types of businesses would be charged a disproportionate fee. In some cases the base fee will actually be lower. The study found the fact that the City does not charge rental units as businesses. That's a big part of what the study has discovered. We're providing services to those rental units, which run as a business that they are not paying for. Staff believes that they all should be charged. That is also up for discussion. Mayor Harris said the Good Landlord Program will be part of the discussion.

Council Member Harris said he thinks this is a topic that certainly warrants a Public Hearing and he would like to set a date for a public hearing. She asked if there is a date that staff has in mind? Annette Spendlove stated September 28, 2010.

Council Member Harris moved to set September 28, 2010 to hold a Public Hearing to discuss business license fees. Council Member Turner seconded.

Council Member Taylor said he knows we have mentioned that the Good Landlord Program will be part of the discussion and if it is also decided to do the Good Landlord Program he would like to present some items on that as well in that meeting.

Voting on the motion:

Council Member Bigler	yes
Council Member Flamm	yes
Council Member Harris	yes
Council Member Turner	yes
Council Member Taylor	yes

Motion passed.

COUNCIL/PUBLIC COMMENTS.

Bruce Jones, 750 W. 4300 N. in Pleasant View, told Mayor Harris and the City Council Members that he appreciates this opportunity. He said he has felt lately like there has been a ball game being played and there was only one team. He said he should have been here and been in the game but he was out of town for those meetings. There was a promise that Quail Ponds would be a senior living area; it was designed as an adult living area but for various reasons they decided that wasn't what they wanted to do. He expected there would be an active HOA and these projects are designed around that but the actual function of the HOA doesn't get into gear until the 2nd Phase. It has been said that all of the homeowners are frustrated by Bruce Jones' failure to deliver. He said, all along the way except for some problems he has met every point of the zoning ordinance. He said he is having a hard time understanding why he's such a culprit. One comment he read was that the City has been given this bad bag and now we have to live with it. He said his premise is that Quail Ponds has met all of the City's ordinances. He said he would like to have one inning in the ball game. He would like to read a document that he has prepared that will give some factual information. He asked the Council to keep some of these things in mind. A copy was given to Julia LaSeure to be included as part of the official minutes. Mr. Jones read a statement titled: "Addressing some issues of dispute that have arisen in Quail Ponds" dated 09-01-10. (Attachment A)

Mr. Jones asked the City Council not to prolong the meeting but asked what the summation is of all the things he has been accused of, and what has he not done. Mr. Jones said that Council Member Harris was quoted that Bruce Jones and the City Council have a black eye over this project. Council Member Harris

stated that she has been on the City Council for 10 years. The City had to get involved in a situation in that people were told that they could fence into their yards some areas of common area. She said in her file she has letters from quite a few people, in fact, several that are now deceased, it's been going on that long. It is a beautiful development; the people make sure that their yards look good, their homes are well kept. The City Council went forward on the vacation and perhaps it's best to just move on.

Mr. Jones said he agrees but stated that the issue with the fencing is there was discontent with the privacy issue. He said he talked with his attorney and there was a very short gap of time that issue was on the table. He said he just had a need to have at least one inning in the ball game. He said he would like this body to judge the project not quite so harshly; not with the attitude that it is so messed up down there.

Council Member Taylor said he thinks Council Member Harris hit it on the head, it's not really appropriate to discuss this here. Mr. Jones wasn't here last time when all the residents were here. Now Mr. Jones is here and the residents are not here. Council Member Taylor said he thinks we can't really have a discussion about it now because it's not a public hearing and we can't get both sides. The Public Hearing was held and we can't recreate that at this point.

Richard K. Brimhall, 3120 Mountain View Dr., said he would like to thank Council Member Bigler for his observation to what is fair and equal. The City has some significant savings if they handle one water meter instead of four. There are some savings there for the City. He really thanked the Council for their position on it tonight. He said he also would like to thank the Council for holding a public hearing on the licensing things. He would like to read what is on his mind. Mr. Brimhall read a statement. (Attachment B) He said he owns 4-plexes, and is the founding President of the Northern Utah Apartment Association. He said he checks the court records of everyone who rents from him and he rents to maybe one out of every three applicants.

Dave Hulme, 513 E 1700 N, said he was curious what the per thousand gallon rate is above 20,000 gallons. Annette Spendlove, City Recorder, said it is \$2 per thousand gallons over 20,000 gallons. Up to 19,999 gallons it is \$1.50 per thousand gallons. The suggestion that they have been getting away with this all along is maybe not true. Ed Dickie, City Manager, stated that statement only addressed water. Dave Hulme said yes, perhaps utility billing ought to have its own base fee. Regarding the Miss North Ogden pageant, Mr. Hulme said if the City is involved, he would like to see the pageant have some portion of civics, government or the Constitution. The past pageant winners that came and spoke, he said he is quite confident that all of them disappointed him with their thoughts on what the proper role of government is. They didn't, in his mind; act as if they understood that individual taxpayers are paying for this. He suggested putting in some sort of requirement like that. If each girl was required to get pledges, if they needed to come up with \$500 from neighbors within so many blocks that would mean that we have girls who are dedicated to this and have a stake in the pageant.

Pam Trimble, 1229 E 2600 N, said she is just going to keep coming up and telling the Council the same thing. This is not the right time to do licensing and fees on rental properties. The City is going to do the \$6 per unit and the sewer and those fees will be put onto the tenant. This is all passed onto the renters and they can't afford it. She said she will be back for the hearing.

Helen Taylor, 194 E 3250 N, suggested that for the parade the City modify an Army cannon to shoot marshmallows in a wide spread to safely disperse candy to the children.

Council Member Taylor said the stuff the public saw tonight regarding civil vs. criminal enforcement is an example of the stuff we are getting from our new City Attorney who he is really impressed with. He looks at the whole picture; this is an example of the City getting some really good work. He said he appreciates that same thing along the lines of the study. Staff is trying to save money for the City. Every

dollar is a burden on the taxpayer and he appreciates the staff's effort. Money is a big thing for all of our families right now.

Council Member Flamm said when he attended the latest board meeting of the Ogden Weber Chamber of Commerce they had put out their recreation and relocation guide that has great information and interesting statistics.

Ed Dickie, City Manager, reminded the Council that the Utah League of Cities and Towns conference is coming up and they should see Annette Spendlove tonight to let her know if they are planning to attend. He said regarding the user rate or the units, his concern is not the water. He doesn't see that changing much but we will look at it. He said he is more concerned about the sewer, garbage and storm water. He said a meeting was held today and we are going to write up an offer, contingent on City Council approval, for the property that the City is looking at (not for public works).

Mayor Harris said the Youth City Council is sponsoring a dance this Saturday at Barker Park.

ADJOURNMENT.

Council Member Bigler moved to adjourn. Council Member Taylor seconded.

Voting on the motion:

Council Member Bigler	yes
Council Member Flamm	yes
Council Member Harris	yes
Council Member Turner	yes
Council Member Taylor	yes

The meeting adjourned at 8:45pm.

Richard G. Harris, Mayor

S. Annette Spendlove, CMC
City Recorder

Date approved