

NORTH OGDEN CITY COUNCIL MEETING MINUTES
June 22, 2010

The North Ogden City Council convened in regular session on June 22, 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 June 18, 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
	Brent Taylor	Council Member
	Carl Turner	Council Member
EXCUSED:	Martha Harris	Council Member
STAFF PRESENT:	Edward O. Dickie	City Manager
	Annette Spendlove	City Recorder
	Sue Richey	Deputy City Recorder
	Craig Barker	Community Development Director
	Gary Kerr	Building Official
	Debbie Cardenas	Finance Director
VISITORS:	Joan Brown	Dale Wride
	George Parsons	Dave Hulme
	Reese Barker	Nick McIntosh
	Stephen Rosier	Ned Malan
	Bob Napoli	Rachel Trotter

WELCOME

Mayor Harris welcomed those in attendance. Dave Carlson, City Attorney, gave the invocation and led the audience in the Pledge of Allegiance.

The Mayor excused Council Member Martha Harris.

CONSENT AGENDA

1. Consideration of Business Licenses: Home Occupation – DH Transportation.
2. Set July 13, 2010 as the date for a Public Hearing to receive comments regarding business licensing.
3. Set July 13, 2010 as the date for a Public Hearing to receive comments regarding the vacation of the Quail Ponds Subdivision Phases 1 through 3.

Council Member Taylor moved to approve items #1 and #3 on the Consent Agenda. He asked to have item #2 placed on the active agenda for further discussion. Council Member Turner seconded the motion.

Voting on the Motion:

Council Member Wade Bigler	yes
Council Member Ron Flamm	yes
Council Member Brent Taylor	yes
Council Member Carl Turner	yes

Motion passed.

AGENDA

4. Public comments.

Ned Malan, 1700 North Fruitland Drive, said he thought there would be some discussion on ATV's tonight. Mayor Harris stated that this topic will be put on an upcoming agenda. Mr. Malan said he foresees in the future where people will no longer have easy access to vehicles. He said he would like to see the City consider an ordinance allowing ATV use in the City.

Dale Wride, 2536 N. 575 E., pointed out the City's logo hanging on the wall of the Council Chamber. He said about 40 years ago the City had a contest and a little girl was awarded a prize for her design of the City logo.

Mr. Wride said he was in favor of allowing the larger ATVs on the road. His wife is handicapped and it is much more convenient to put her in the rhino (ATV) to go to the neighbors than to try to walk or use his car. He asked the Council to consider allowing the use of ATVs.

Discussion and/or action on Item #2 from Consent Agenda concerning the proposed action to set July 13, 2010 as the date for a Public Hearing to receive comments regarding business licensing.

Council Member Taylor asked what aspect of business licensing would be discussed during this Public Hearing; was it about information discussed in past Council meetings. Edward O. Dickie III, City Manager, said that was correct; the information contained in the study done by Lewis and Young will be discussed. Council Member Bigler asked if disproportionate fees and rentals would be discussed. Mr. Dickie said yes, those would be presented along with other fees and information. Mayor Harris asked if July 13 is convenient for Council Members and City staff. Council Member Taylor indicated he would not be able to attend on that date.

Council Member Bigler moved to change the date for the Public Hearing regarding business licensing to August 24, 2010. Council Member Flamm seconded the motion.

Voting on the Motion:

Council Member Wade Bigler yes
Council Member Ron Flamm yes
Council Member Brent Taylor yes
Council Member Carl Turner yes

Motion passed.

5. Public Hearing regarding amendments to the fiscal year 2009-2010 Budget.

Debbie Cardenas, Finance Director, reviewed the proposed amendments to the 2009-2010 Budget. She explained that the funds for the buyout of several employees had been charged to the Motor Pool Fund. Ms. Cardenas said because the other Enterprise Funds pay into the Motor Pool the charges for these buy-outs had to be divided between those funds to accurately reflect the expenses. This amendment will make those necessary changes. For Item #2 she said the expense for the fee analysis had originally been budgeted to come out of the Finance Department but the business license portion, the transportation fee study and the public safety fee study should be paid out of the City's General Fund. Ms. Cardenas said these expenses were moved from the Finance Department into the budget for the General Fund. There are also some allocations still being worked out between Administration and Finance. Finance had originally been part of Administration but is now separate so there are some changes needed there; these expenses included BMI and the Utah League of Cities and Towns.

Ms. Cardenas said there are several departments that share employees throughout the year. Some of the salaries and expenses need to be recoded so they more clearly reflect the actual expenses for each department at the end of the year. This involves Community Services and Parks. She explained that in the fund balance column where one department didn't spend the amount budgeted for the year it was used where other departments went over budget. She said the Council agreed to pay for the pad at the Wadman Park playground. That cost will be \$10,330 and the North Ogden Park has a new walkway that was paid for with street maintenance funds.

Ms. Cardenas then directed the Council to the second page of her report. The Wadman Park and North Ogden Park expenses have been charged to the Capital Projects Fund. The money has been taken out of the General Fund and placed in the Capital Projects Fund for these expenses. This information tracks the original expenses and then the payments of those expenses come out of the appropriate funds. She said the remaining items in the re-opened budget cover the employee buy-outs charged to the Motor Pool and the contributions from each fund to cover the expense of those buy-outs. This is just allocating the costs correctly.

Ms. Cardenas said she would also like to say that because of the departments watching their expenditures so carefully, the City was able to add more money into the General Fund balance. These savings have forced the City to address the issue of the State

regulated 18% cap on its General Fund balance. Ms. Cardenas said she would address this in the next budget for fiscal year 2010-2011.

Mayor Harris opened the Public Hearing at 5:55 pm.

There were no public comments.

Council Member Flamm moved to close the Public Hearing. Council Member Bigler seconded the motion.

Voting on the Motion:

Council Member Wade Bigler	yes
Council Member Ron Flamm	yes
Council Member Brent Taylor	yes
Council Member Carl Turner	yes

Motion passed.

The Public Hearing closed at 5:57 pm.

6. Discussion and/or action to approve amendments to the fiscal year 2009-2010 Budget.

Council Member Flamm moved to approve amendments to the fiscal year 2009-2010 Budget as presented by Ms. Cardenas. Council Member Taylor seconded the motion.

Discussion on the motion:

Council Member Bigler asked if the charges for the rental of the street sweeper and leaf blower came out of the 2009-2010 Budget. Ms. Cardenas said that is correct. She said that governmental accounting requires the entire cost be expensed for the year as is the entire revenue. Council Member Bigler thanked her for the information.

Voting on the Motion:

Council Member Wade Bigler	yes
Council Member Ron Flamm	yes
Council Member Brent Taylor	yes
Council Member Carl Turner	yes

Motion passed.

7. Discussion and/or action to approve Ordinance 2010-08, an Ordinance adopting the budget for Fiscal Year 2010-2011 final budget.

Ms. Cardenas said there was a correction on the last two pages of the budget. She pointed out that on page 7 the headings are a little off. However, the numbers are

accurate. She informed the Council this was discussed in the budget sessions held this spring. There has also been a Public Hearing held for the Tentative Budget. Ms. Cardenas said there were some changes made concerning the Utah Retirement System; changes that were reflected in some of the personnel costs. She said in this budget there was a change in Community Services to address the Utah Retirement System requirements for one individual.

Ms. Cardenas reported that the City is going to accept the tax rate as it was presented by the State so there will not be a Truth in Taxation Hearing. She said, however, the impact to the City's finances will include a reduction in the projected amount to be collected from the motor vehicle taxes for North Ogden City. This was caused to a large extent by the North View Fire District forming its own taxing entity. She explained that last year the City tried to adopt a rate that would give it the amount of property taxes and motor vehicle taxes that would meet the revenue projections for this coming fiscal year. Because the other entities involved didn't follow the same formula North Ogden City will experience a revenue shortfall from the motor vehicle taxes of about \$67,000 for the FY 2010-2011 budget.

Ms. Cardenas said the economies practiced by City departments allowed additional money to be added to the General Fund balance. However, State law will only allow the City to have up to 18% in reserve funds in the General Fund balance so \$67,000 was taken out of the General Fund and applied to the shortfall in the motor vehicle tax revenue. This brings the City back in to compliance with State law. Ms. Cardenas reported to the Council that this is a balanced budget. She said there will now be 10.85% in reserve funds in the City's General Fund Balance which is above what the Council recommended. Ms. Cardenas said the certified tax rate will be .001456 for fiscal year 2010-2011.

Council Member Bigler asked about the Aquatic Center Manager. Is this a year-round position? Annette Spendlove, Human Resource Director, explained that this is a seasonal employee but currently this position isn't filled. Dave Nordquist is overseeing both the Community Services Department and the North Shore Aquatic Center.

Council Member Taylor reported that the budget is on the City's website. He encouraged everyone to take a look at it. Council Member Taylor thanked the staff for all their work on the budget. He pointed out that the City's budget has decreased since 2007 and there continues to be good management of the residents' tax dollars. He said he would like all of the North Ogden City residents to know that the Council and City staff takes their job of spending the City's tax revenue very seriously. Council Member Taylor said there have been some increases but they are in areas of real importance such as the Police Force. He said he will continue in his efforts to look for ways to save even more.

Council Member Bigler moved to approve Ordinance 2010-08, an Ordinance adopting the fiscal year 2010-2011 final budget. Council Member Flamm seconded the motion.

Discussion on the motion:

Council Member Taylor reminded staff that there had been a discussion on the need to create a report that documents how much money is collected for sports activities sponsored by the City as compared with the expense of providing these activities. He said a motion was passed that required a higher proportion of these costs be covered by the fees charged for these programs. Council Member Taylor said he would like to see these programs become self-sustaining. Mayor Harris said he agreed with Council Member Taylor.

Mayor Harris said he would also like to see the pool become more self-sustaining, weather permitting. Dave Nordquist, Community Services Director, has been working hard to maximize revenue generation at the Aquatic Center and he is very hopeful this will be a good year. Ms. Cardenas pointed out to Council Member Taylor on page 5 the funding for recreation fees is listed. She said the recreation fees are funding approximately 32.9% of the recreation budget for this coming year.

Voting on the Motion:

Council Member Wade Bigler	yes
Council Member Ron Flamm	yes
Council Member Brent Taylor	yes
Council Member Carl Turner	yes

Motion passed.

8. Discussion and/or action to approve Resolution 13-2010. A Resolution of the City Council adopting the City Council's Rules of Procedure.

Mayor Harris said this item had been the focus of quite a discussion at the last Council Meeting. There were many suggestions on what changes would be included in the draft of the City Council's Rules of Procedure. He said all of those suggestions have been incorporated with an addition to Rule #11 in the section on Decorum. He said an item was added concerning text messaging during the meetings. Mayor Harris said the copy provided each Council Member should reflect those requested changes and is ready for their consideration.

Council Member Taylor moved to approve Resolution 13-2010, a resolution of the City Council adopting the City Council's Rules of Procedure as amended. Council Member Turner seconded the motion.

Voting on the Motion:

Council Member Wade Bigler	yes
Council Member Ron Flamm	yes
Council Member Brent Taylor	yes
Council Member Carl Turner	yes

Motion passed.

Council Member Bigler stated that he was in disagreement with #15 g, “A majority of those present will vote to allow a Council Member to participate via an electronic connection.” and Rule XIV #4, “ The City Council, by a two thirds vote, a quorum being present, may or may not elect to formally participate, either by its own membership or its designees, in a committee being established by the Mayor. To avoid complications involved when a quorum of the Council meets to consider Council business, with the exception of an oversight committee organized pursuant to paragraph (5) of this Rule, no more than two Council members will sit on a committee established by the Mayor.” Council Member Bigler voiced his dissent on both of those particular sections of the rules.

Mayor Harris pointed out Rule #18 requires the Council to readopt these rules every two years. This recognizes the change in Council Members that occurs every two years and allows the new Members to have input into what these rules say.

9. Discussion and/or action to approve Resolution 14-2010. A Resolution amending the Consolidated Fee Schedule.

Annette Spendlove, City Recorder, reviewed the proposed changes to the City’s Consolidated Fee Schedule. Under audio tapes the wording “each additional tape” was removed. The charge for tapes is now \$2.00 per tape. These don’t have to be sent out but can now be done in house. On page two the impact fees for Fire Service were increased from \$150 to \$202.21 as assessed by the North View Fire District after their fee study was completed. Ms. Spendlove said this increase was approved by the Council a while ago and is now corrected. Under the Aquatic Center a fee for a 10-punch pass for non-residents was added to the schedule as was directed by the Council. Under Animal Services the language was cleaned up under fees for dogs being used as guide dogs or service dogs.

Council Member Flamm moved to approve Resolution 14-2010, a resolution amending the Consolidated Fee Schedule. Council Member Bigler seconded the motion.

Voting on the motion:

Council Member Wade Bigler	yes
Council Member Ron Flamm	yes
Council Member Brent Taylor	yes
Council Member Carl Turner	yes

Motion passed.

10. Discussion and/or action to approve Resolution 15-2010. A Resolution authorizing the City to join an Interlocal Agreement between Weber County, Ogden City and Roy City for improvements to and operation of the Weber County Animal Shelter.

Mayor Harris announced that this item was pulled from the agenda. He explained that more information was needed before it will be considered by the Council.

11. Discussion regarding criminal vs. civil penalties for violations of the City Zoning Ordinance.

Dave Carlson, City Attorney, reviewed this item for the Council. He stated that there have been discussions with staff and the Planning Commission about this recommendation. He said currently all code enforcement matters for the City are handled through the criminal court. The suggestion has been made to create an administrative process to take these issues out of the criminal system. Mr. Carlson said the Planning Commission is recommending to the City Council that it consider approving this change after having seen a presentation provided by Mr. Carlson.

Mr. Carlson presented a short explanation on how this administrative process would work in cases of zoning violations. He explained the criminal process tends to be quite cumbersome and is not designed to resolve these issues in a timely manner. It usually works best for the City, the property owner and surrounding neighbors who are affected by a problem if it can be resolved expeditiously. Another benefit to the administrative process is it is less adversarial in nature than is the criminal process. The criminal process is dominated by attorneys and a judge with rules of evidence and procedure that are quite formal and intimidating. It is difficult for lay people to navigate. Mr. Carlson said the administrative hearing process by contrast is intended to be less formal and is presided over by an Administrative Law Judge who is not required to be legally trained. Property owners can represent themselves and generally City staff members represent the City instead of the City Attorney. Mr. Carlson said property owners do maintain the right to have an attorney represent them in an administrative hearing if they so desire. The City also has this right. He said the rules are more flexible. There aren't formal rules of evidence, discovery or procedure. Another advantage is this process tends to get things done more quickly. A criminal process can take up to a year to resolve a problem; the administrative process can resolve an issue in a month or two. Mr. Carlson said he would recommend Council approval of this when it appears on the agenda as an ordinance for their consideration.

Council Member Flamm asked who would serve as the Administrative Judge. Ed Dickie, City Manager, said it could be Judge Lambert but that could be decided later. Dave Carlson said he understood that the City has already decriminalized some parking violations and Judge Lambert sits as the hearing officer for these cases. He could be designated as the Administrative Law Judge to hear zoning violation cases too.

Council Member Flamm asked if the violator would not agree with the charges even after an administrative hearing could the City bring charges against him/her in criminal court

or can the defendant appeal. Attorney Carlson said there is an appeal process and such a case can be taken to the District Court. He said an order by the Administrative Law Judge is just as binding as an order from a criminal court. Council Member Flamm said if it is easier for residents he would favor looking into this.

Council Member Turner asked what this would cover. Attorney Carlson said any zoning violations would be handled by this process, such as trailers illegally parked or unkempt properties. Council Member Turner asked if the ordinance would specify what types of violations would be covered. Attorney Carlson said there have to be specifics in the ordinance as to what types of violations will be handled through the administrative process. He said these will be spelled out in the ordinance. Council Member Turner asked if there would be a cost savings. Gary Kerr, Building Official, said the biggest savings would be in man power. Mr. Dickie said this would take some pressure off the Code Enforcement Officer who is doing double duty right now.

Council Member Bigler said he would like to see a detailed cost analysis of this and if additional employees would have to be hired.

The Mayor said if the Council indicates they want to proceed, City staff will bring in a draft ordinance for the Council to review and make recommendations. Council Member Taylor said he would like to move ahead on this but he had a couple of questions. He asked how cities, similar to North Ogden, handle this and is this process preferred by these similar cities - if so, why and if not, why. Attorney Carlson said there is a clear trend for cities to go this direction. He explained to the Council that even if the City uses the administrative process it can still pursue the criminal process at a later date if it becomes necessary. The only thing that a judge can do to a violator through the criminal process that isn't possible in the administrative process is put someone in jail. Attorney Carlson said that would be very rare in the case of a code enforcement violation. The Council indicated they supported moving on with this.

12. Council/Public comments.

Nick McIntosh, 2230 N. Fruitland Drive, said Washington Terrace City uses something similar to what was just discussed; it is a fix-it ticket which allows the owner to fix the violation within 14 days and the ticket is dismissed. This keeps a lot of things out of court. He said another thing the judge has done in Washington Terrace is he will put people on probation and they are dealt with by a probation company who tracks their progress. The cost of this is paid by the defendant. Mr. McIntosh recommended giving this to Judge Lambert. He is a great resource.

Council Member Turner reported on the Park and Trails Committee. Elections have been held and the Committee is moving forward on their projects. Bob Christofferson, Grand Marshall of Cherry Days, was up at Lomond View Park on Saturday with another Eagle Project for the trails.

Council Member Bigler said #3 on the Consent Agenda concerning the Quail Ponds Subdivision Phases 1 and 3; could Council Members be given additional information on this item before they are asked to consider its approval. It has been quite an extensive process and the Council needs this information in order to make an informed decision. He also announced that the Cold Water Stake was putting together some things for the City float. The adults put in over 55 hours of work. He asked Mr. Dickie to check with the contractor working on the float to make sure this was reflected in the contract so the cost charged to the City can be reduced. The volunteers offered this help to reduce the cost of the float.

Council Member Flamm announced the Business Development Committee will be meeting next Tuesday.

Ed Dickie, City Manager, said he has the sign up list for the Cherry Days kiddie train. He asked the Council to please sign up to be the engineer during the day. He said the float is being done a little differently this year and the City should save about \$40,000 over the next three years. We are always looking for better ways to do things.

Mayor Harris asked everyone to remember Cherry Days will be on July 3, 2010 this year. He also announced that Kayley Saunders competed in the Miss Utah Pageant on Saturday.

13. Adjournment.

Council Member Flamm moved to adjourn the meeting. Council Member Bigler seconded the motion.

Voting on the Motion:

Council Member Wade Bigler	yes
Council Member Ron Flamm	yes
Council Member Brent Taylor	yes
Council Member Carl Turner	yes

Motion passed.

The meeting adjourned at 6:39 pm.

Richard G. Harris, Mayor

S. Annette Spendlove, CMC
City Recorder

Date minutes approved. _____