

NORTH OGDEN CITY COUNCIL MEETING MINUTES
May 11, 2010

The North Ogden City Council convened in regular session on May 11, 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 January 8, 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-teleconference
Carl Turner	Council Member

STAFF PRESENT:

Edward O. Dickie	City Manager
Annette Spendlove	City Recorder/HR Director
Sue Richey	Deputy City Recorder
Craig Barker	Community Development Director
Gary Kerr	Building Official
Polo Afuvai	Chief of Police
Debbie Cardenas	Finance Director

VISITORS:

Dave Hulme	George Parsons
Allan Dalpias	Pam Trimble
Margaret Beus	Natalie Nigro
Shirley Nigro	Kelsey Spaulding
Bob Napoli	Nick McIntosh
Gene Smith	Rich Brewer
Rachel Trotter	Russell Crocker
Shawn Maynard	

WELCOME

Mayor Harris welcomed those in attendance. Council Member Turner gave the invocation and led the audience in the Pledge of Allegiance. Mayor Harris recognized Bob Napoli, a former City Council Member. Mayor Harris announced that Brent Taylor will be joining tonight's meeting via conference call from his job assignment in Washington, DC.

CONSENT AGENDA

1. Consideration to approve minutes of the April 27, 2010 Council meeting.

2. Consideration to approve minutes of the March 30, 2010 meeting.
3. Consideration of Business Licenses; Home Occupations – MARJAM LC DBA GRAVEL MASTER, BCS National Enterprises, Pro Fundrazors; Commercial – O L Price Enterprises, LLC and American Promotional Events, Inc (TNT)

**Council Member Flamm moved to accept the Consent Agenda as presented.
Council Member Harris 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
Council Member Martha Harris-yes**

Motion passed.

AGENDA

4. Public comments.

Nick McIntosh, 2230 N. Fruitland Drive, said he had come to Council meeting to talk about the Good Landlord Ordinance, which North Ogden has been considering. He said he would like the City to take a serious look at implementing this. Mr. McIntosh informed the Council that he works in law enforcement and he works in some of the cities that have this ordinance in place. He said it is amazing the effects the Good Landlord Ordinance has had in these communities. Mr. McIntosh said that Ogden has this ordinance and as a result people are coming out to North Ogden to rent instead. If the City doesn't approve a Good Landlord Ordinance it will be getting all the renters that can't qualify under the ordinance in Ogden. Mr. McIntosh said he has talked to several landlords and they have a hard time getting information from the police department. A Good Landlord ordinance builds a partnership between the landlords and the police department. The landlords know who to contact for information. He said as a resident of North Ogden he was asking the Council to look at implementing a Good Landlord Ordinance. Mayor Harris said the Council will be considering doing that but it won't be for a while.

5. Presentation regarding a proposed ATV Ordinance.

Allan Dalpias, Planning Commission Member, thanked the City Council for an opportunity to present this information to its Members. He explained that his presentation was up on the City's web site so they could follow along as he spoke. Mr. Dalpias said he would like to start by supplying some background information. He said he had gone through the process as stated in State Code to register his ATV as a street legal vehicle. After he had done this he found out his ATV may not be legal in North Ogden. Mr. Dalpias presented a flip chart presentation that illustrated his information to the Council. He read sections of Utah Code Title 41 Motor Vehicles, Chapter 22 Off-

Highway Vehicles, Section 13 Street Legal All Terrain Vehicles. The law, which was passed in the 2010 Legislative session, allows ATVs to be driven on certain types of roads once they have passed the listed requirements for a safety inspection, are insured and are registered with the State. Mr. Dalpías passed out information to the Council that listed the features that must be added to an ATV for it to pass safety inspection as street legal. Mr. Dalpías reviewed these.

He then moved on to discuss where street legal ATV's are allowed. Utah State Code states that street legal ATVs may be operated on a street or highway that is a highway with one lane in each direction. However there are exceptions. In municipalities with a population of over 7,500, Street Legal ATV's are restricted. Mr. Dalpías informed the City Council that Utah Code Section 41-22-10.5 allows a municipality to adopt an ordinance designating certain streets and highways under its respective jurisdiction as open for Street Legal ATV use. He then presented a draft ordinance to the Council that he felt would fulfill state requirements and allow Street Legal ATV's on certain designated streets in the City.

The ordinance would require the owners of these ATVs to meet all State requirements, which are vehicle registration, safety inspection certification and proof of insurance. The ordinance would restrict street legal ATV use on arterials, major collectors and collectors. All other streets (25 mph) would be designated for street legal ATV use. Operators of these vehicles would be required to have a valid Utah State driver's license. He invited the Council to ask for any additional information they might need.

Council Member Turner asked if there is a definition of what is considered an ATV. Mr. Dalpías explained that Section 13 of the Utah Code has pictures and requirements that designate a vehicle as an ATV. He asked Council Member Turner to remember that no matter what kind of ATV it is it has to be street legal which means it must meet the stringent requirements mandated by the State in order to pass a safety inspection which then allows the owner to register the vehicle.

Council Member Bigler asked Mr. Dalpías why he wanted to do this. Mr. Dalpías said he owns one, they are quieter than motorcycles and he would like to be able to ride his in the City. The State says street legal ATV can be driven on certain public streets and they have to comply with the added features required by the State. They would only be driving on City streets with a speed limit no higher than 25 mph. Council Member Bigler said as he was going through the ordinance he had some questions or potential concerns. He said where some streets are open to these ATVs and others aren't how much of a headache will it be for the Police Department to enforce this ordinance. He asked if ATVs could only cross over roads with a higher speed limit, could they also go diagonally. Council Member Bigler said this ordinance assumes that everyone has access to a street with a 25 mph speed limit. What about people who live on a collector street or an arterial, they wouldn't be able to drive their ATVs out of their driveways unless they live on a corner. Council Member Bigler said while he is for less government, this proposed ordinance would seem to stretch the limited resources of the City's Police Department; giving officers one more thing to have to oversee.

Chief Polo Afuvai, North Ogden Police Department, had been invited to speak to the Council concerning Mr. Dalpiaz's proposal after having done some research on this topic. Chief Afuvai thanked the Council and said he appreciated the opportunity to be here. He addressed the Council on some of his concerns. He reassured Mr. Dalpiaz that he didn't have any problems with ATVs but he said he felt that they belong up in the hills. The Utah State Legislature did pass a law to legalize ATVs for street use if the owners purchased the proscribed kits to upgrade their machines. Legislature considered this at length before it was passed. Chief Afuvai said it was his opinion that North Ogden is too large for legalized ATV use on its streets and the City will continue to grow. He told the Council it is a big concern to the Police Department with safety, speed and congestion. One of North Ogden's Police Officers who lives in North Ogden sees ATVs going by his house driven by young children. It has been shown that ATVs are susceptible to accidents because of their short wheel frame. Chief Afuvai said their tires are adapted to dirt and rough terrain, not asphalt. They have already been legalized for agricultural use but the Chief said he is very concerned about child safety in residential areas where the ATVs would be driven on area roads competing for space with trucks, cars, trailers and motorcycles. He said according to the State Drivers' License Division drivers of the street legal ATVs must have a motorcycle endorsement on their license. Drivers of ATVs can be as young as 16 yrs old and when going off road as young as 12 years.

Chief Afuvai asked how many drivers will remember which roads they can use. North Ogden doesn't have a lot of trails and most property is privately owned. If this ordinance were approved it will require more time from police officers. They would have to pull people over and check the ATV thoroughly to ensure it is street legal. The officers would also not be able to pursue if that occasion arose because of the off-road ability of the ATVs. The Chief said he had checked with Roy and South Ogden about allowing ATVs on their streets and they didn't want to comment on it. They are waiting to see what other cities will do. He said he can understand Huntsville allowing this because it is very rural; North Ogden is urban. The City has a lot of people and a lot of traffic.

Council Member Turner asked Chief Afuvai if he felt there is a difference between a Ranger (a bigger one) and other smaller ATVs versus safety on the streets. Council Member Turner said he felt a Jeep with top off and no wind shield looks very similar to a Ranger but he said he could see a big difference with safety. What do you think; is there a difference? Chief Afuvai said he doesn't see a difference but he said he wasn't an expert on these vehicles.

Council Member Harris asked if these vehicles allow for passengers. The Chief said if they do they would have to have a car on the side like a motor cycle does. Mr. Dalpiaz said if the ATV has a car or room for passengers it would need to have seat belts. Council Member Harris also asked if the ATVs are licensed are they also safety inspected? Chief Afuvai said they are just like a vehicle. Council Member Harris asked how thorough was the examination at the time of the safety inspection to ensure the vehicle complies with all the state requirements. She said she was trying to decide how much a safety inspection gives your officers when they have to decide if the vehicle is in

compliance. Is it enough or do they have to go through and do their own inspection. The Chief said an officer shouldn't have to do that. It should be taken care of when the vehicle receives its inspection.

Council Member Harris asked the Chief if the City knows how many of street legal ATVs there are in the community. Mr. Dalpiaz said he only knows of three. He said it is a great deal of work to have a street legal ATV safety inspected; there are only 3 safety inspection stations in the County that can do this type of inspection. It is very thorough. Council Member Harris asked Mr. Dalpiaz if he had to trailer his ATV to have it inspected. He said yes because the closest licensed station is in Ogden. Council Member Harris asked about insurance. Mr. Dalpiaz said he has to carry insurance the same as on his car. State Code requires it. Council Member Harris said the City is already having complaints that vehicles don't comply with the 25 mph speed zone. How necessary is it to put this type of vehicle out on our busy streets. She asked if the Utah Department of Transportation (UDOT) has any requirements. Mr. Dalpiaz said he thought the UDOT streets in the City all fall in the category that doesn't allow the ATVs.

David Carlson, City Attorney, said State law allows them on one lane roads that are state highways. They are not allowed on limited access roads like Mountain Road, interstate highways or any roads with two lanes or more on each side of the yellow line. In response to Council Member Turner's question Mr. Carlson explained that there are two types of ATVs allowed one is utility vehicles, which generally have side by side seating and then the ATV with a motorcycle seating arrangement. Mr. Carlson explained that both can become street legal with a kit. Council Member Harris said, then, any ATV could be legalized. Mr. Carlson said he would have to check definitions again but they seem to be pretty broad. He said the only limits he recalled were on tire size and modifying them beyond factory specifications. He gave the Council some background on why this legislation was presented and passed. It was primarily in response to concerns originating from rural communities. Ranchers needed to get their working ATVs to their land on state highways. This is addressed in another part of the motor vehicle code. In the case of communities such as Huntsville they may have adjacent ATV roads and a desire to legalize the ATVs on their city roads so people could drive around the community and access those trails. Mr. Carlson said this recent change in the law is a lot broader than just allowing farmers and ranchers access to their land. Mr. Carlson replied that Mr. Dalpiaz is correct that North Ogden could legalize the use of ATVs on its City streets with a few exceptions.

Council Member Flamm asked if ATVs are allowed over North Ogden Pass. Mr. Dalpiaz said he thought they could right now. Chief Afuvai said that is a county road and he isn't sure what the County would say about that. The road is very narrow and he would hesitate to allow them up there. Mr. Dalpiaz said concerning the size of an ATV, putting a kit on one, doesn't change the size of the vehicle. He explained that he has one of the larger ones with two rows of seats.

Mayor Harris said he would like to continue the discussion until either a decision is made to move forward or to drop it.

Council Member Flamm said he owns several ATVs but none are street legal. Up in Wyoming, people have been able to license their ATVs as street legal and that is what they did at first. People couldn't even take them off-road unless they were licensed as street legal. He said he personally carries insurance on his ATVs even though they aren't driven on the streets; the expense of buying a kit and having only a few areas to ride in, he wouldn't do it. He feels there are only a few instances where they could be used. He didn't think this ordinance would affect many people if it were passed.

Council Member Turner asked about item #6, "Set a date for a Public Hearing to receive comments regarding a proposed ATV ordinance." Mayor Harris said item #6 is dependent on what Council wants. It doesn't have to be set for the next Council Meeting; it is up to the Council.

Council Member Taylor said his family has ATVs and the way they drive them off road is a lot different than what they would be in the City. He said he didn't feel that skills from off-road driving would transfer well to urban areas. Council Member Taylor said he could see the potential of having people driving off-road on their neighbor's property instead of using the road. He said he wondered what the benefit there would be for people to use ATVs instead of cars. Council Member Taylor said where there are some safety issues, he isn't sure there are enough benefits realized to offset the concerns he has.

Council Member Harris said she wasn't in favor at this time of holding a Public Hearing. She said she felt there was only a small target group that would be interested. She didn't feel there is enough data to proceed. It could be brought to Council at a future date.

Mayor Harris asked if the Council wanted to table this. Council Member Harris asked if there was anyone who would like to speak to this. Council Member Bigler said he felt it would cause the City more headaches. He said he didn't see how it would better the community. Who is going to tell people who drive these where they can drive in North Ogden? It would make it very difficult for the police to enforce.

6. Set date for a Public Hearing to receive comments regarding a proposed ATV Ordinance.

Council Member Martha Harris moved to table the request to set a Public Hearing to receive comments regarding a proposed ATV Ordinance. 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

Council Member Martha Harris-yes

Motion passed.

7. Discussion concerning a petition presented by Paul Harding with problems on 3575 North with traffic.

Ed Dickie, City Manager, asked Chief Afuvai if he would give a presentation and recommendation on this situation brought to the Council by Paul Harding. Mr. Harding presented the City with a petition signed by 21 City residents living along 3575 North. They are concerned about the increasing number of vehicles speeding on 3575 North, which they believe presents an eminent danger to the residents of this street, specifically to the children that live and play in the neighborhood. Mr. Peterson and the signers of the petition are asking the City to take immediate action to resolve this serious public safety threat by posting four traffic signs at both ends of 3575 North and also on 225 East for north and southbound traffic. The petitioners would also like the City to put in a yield sign at the cul-de-sac intersection of 375 East and 3575 North.

Chief Afuvai said the police understand this type of situation and have received calls quite often about speeding along City streets. This can occur even on side streets. Chief Afuvai said the department has a traffic trailer that shows the speed of on-coming cars; collects data on speeds and times cars travel certain roads; and gives information on the average speeds along a specific road for that day. Once the data is collected from the traffic trailer if the department sees problems with higher speeds in that area, an officer will be sent to patrol and cite the offenders. Officers work to make drivers aware of the posted speed limit and have them slow their vehicles.

Chief Afuvai said there has been and continues to be speeding problems in large areas of City no matter how many signs are put up. The Chief handed out copies showing the data that was collected by the traffic trailer. He said the speed is posted on top of the trailer and the sign flashes to alert drivers if they are going too fast. The trailer records average speed of cars traveling through that section of the road; the maximum speed traveled, the number of vehicles traveling above the speed limit and the number of vehicles that past the traffic trailer during that time span. This information is given to the officers so they can pinpoint the time of day and the days of the week when speed is a problem in this area. On this particular street an officer was up there for two hour segments and wrote one citation. When these situations occur the Police Department does respond.

Council Member Flamm said he has seen other cities post signs that say 25 mph unless otherwise posted so as a vehicle enters the municipality's limits the driver knows what the speed limits are in that City. He asked Chief Afuvai if these are effective. The Chief said they can be but only impact those drivers who are looking.

Mayor Harris thanked the Chief of Police for his report. Mayor Harris said the Council will consider the proposal presented in the petition. He said the City has these problems

on every street in town. We would have a forest of 25 mph signs if they solved the problem. He asked the Council and audience to please spread the word; obey the law especially when driving. Mayor Harris said he has seen people speeding on his street and there are multiple problems with people ignoring stop signs and speed limits. The Mayor said he would like the residents to start obeying the law; let us all be an example. North Ogden Police Officers write about 400 traffic tickets a month. This isn't to generate revenue for the City; the state gets 80% of the fine revenue. Despite what Mr. Harding and others think the City is concerned and is acting to resolve the problem.

Council Member Bigler asked if officers are driving around in the City's neighborhoods and on its roads. Chief Afuvai said officers are kept very busy responding to calls but they do get out and around to have a presence in the City. The Mayor thanked the Chief and the City's Police Officers for all their work and efforts to keep the City safe.

Council Member Turner asked if someone would be contacting Mr. Harding. Council Member Flamm said he would.

8. Discussion and/or action to approve Ordinance 2010-05, an ordinance amending Section 11-2-1 of the North Ogden Zoning Ordinance to change the definition of a front yard.

Craig Barker, Community Development Director presented this item. He reminded the Council that a Public Hearing had been held at the last Council meeting to receive public comment on the proposed change. Mr. Barker explained that the change allows a homeowner, building a new house on a corner lot, to use either side of the property as frontage as long as the house placement can meet the City's setback requirements

Council Member Flamm moved to approve Ordinance 2010-05, an ordinance amending Section 11-2-1 of the North Ogden Zoning Ordinance to change the definition of a front yard. 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
Council Member Martha Harris -yes

Motion passed.

9. Discussion and/or action to approve Ordinance 2010-06, an ordinance amending Section 12-3-6 of the North Ogden City Subdivision Ordinance extending the expiration period for the recording of a final subdivision plat from 60 days to 1 year with a possible 1 year extension and correcting the name of the approving body.

Craig Barker presented this item reminding the Council Members a Public Hearing has been held at the last Council Meeting on these proposed changes to the City's Subdivision Ordinance. This would not apply to a situation like "The Cove" development. This ordinance would only extend the time period a developer has to record the subdivision after he receives final approval of his development plat. A developer can't sell any lots until it is recorded with the County. Mr. Barker also pointed out there was one other change made during the last State legislative session that requires all utilities sign the final subdivision plat before it is recorded. Mr. Barker said staff was recommending passage of this ordinance.

Annette Spendlove, City Recorder, pointed out that under Section D: Final Approval: Item #4 – it should read that "within 1 year of the Land Use Authority's approval of the final plat the subdivider shall submit to the city.... The Land Use Authority may grant one extension for a one year period." Mayor Harris said there is one other change which will designate the Planning Commission as the Land Use Authority instead of the City Council.

Council Member Harris moved to approve Ordinance 2010-06, amending Section 12-3-6 of the North Ogden City Subdivision Ordinance extending the expiration period for the recording of a final subdivision plat from 60 days to one year with a possible one year extension and with the correction as noted. 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
Council Member Martha Harris -yes**

Motion passed.

10. Public Hearing to receive comments on consideration of "restaurant liquor licenses" and "limited restaurant licenses."

Ed Dickie, City Manager, said this has been placed on the agenda at the request of several residents and Council Members to hold a public hearing to receive public comment on the possibility of a change in the City's ordinance. They are hoping this change will make North Ogden more inviting for restaurants exploring the possibility of locating in North Ogden.

Dave Carlson, City Attorney, was asked to look at the City's Alcohol Ordinance. The State Alcohol Code changed in 2002 and the only thing municipalities can license is light beer. This can involve sales in grocery stores, convenience stores and restaurants who serve beer on tap. State of Utah licenses everything else. Cities, however, must give

their consent for the State to issue a license to business asking to serve alcoholic beverages other than beer. There are strict criteria these businesses have to follow. Cities can limit the proximity of sales in ways different than State Code requires. A municipality can only withhold consent for a license because of its zoning and building codes. Mr. Carlson said the greatest power a city has to control liquor sales is through its zoning ordinance. The State can't give a license to a business in zone that doesn't allow the sale of alcohol. If zoning allows or doesn't address liquor sales then a city can't limit it. Mr. Carlson said he would recommend that the City clarify its zoning code so it gives a clear indication of whether zones that allow restaurants either allow alcohol to be served on the premises or they don't. This prevents confusion for a business that sees that restaurants are allowed in a certain area of the City and doesn't see anything listed for the sale of alcohol and so assumes that sales are permitted. Council Member Flamm asked about bars and taverns. Craig Barker explained that they are not listed as a use and when they are not listed that means they are not permitted.

Mr. Carlson said there were additional changes made during the 2008 State Legislative Session. Since North Ogden isn't interested in having taverns and clubs, the City would be looking at two types of licenses; limited service and full service. Full service allows a retailer to sell most type of liquor that the State licenses; there are restrictions on who can serve the drinks, how it is stored plus 70% of the business' gross revenue must come from food. A limited service business can serve light and heavy beer, malt liquor and wine but no other liquor by the drink. Mr. Carlson informed the Council that North Ogden's Alcohol Ordinance is obsolete, given the changes in 2002 and 2008. He made the recommendation that if the City wants to have a discussion on whether to have liquor by the drink, it should start with the Planning Commission. Task the Commission with deciding where this activity should take place in the City. Then the Planning Commission would hold a Public Hearing. The Council will have the final say.

Council Member Bigler asked if this could be considered as a land use. Mr. Carlson said it can be. Since the most current change in State law the only real regulatory power a City has over this issue is through its zoning power. Mr. Carlson said if the City hasn't excluded a use through zoning there is a good possibility the State could license a restaurant and the City would have few if any options to prevent this action. He said zoning is the place where the City should decide what it does and doesn't want within its boundaries to the extent that it has the power to regulate.

Council Member Harris said when this discussion recently came up it was centered around restaurants. She said she didn't think there had ever been advocates for bars and clubs in North Ogden. Council Member Harris said she would like the discussion to focus on restaurants and their location in the City. She said she would like to take bars and clubs off the table and focus just on restaurants that serve food.

Council Member Taylor said he likes what Council Member Harris just said. He thanked the City Attorney for the information he provided for this discussion. Council Member Taylor said the Council needs to look at proposals that will legally prevent bars and pubs in the City but will be supportive of restaurant sales. He asked the City Attorney if there

was a way to structure City ordinances to achieve this goal. Mr. Carlson said that was possible. He wasn't aware of any requirement that would force the City to have clubs or taverns. The Council can make that distinction. Council Member Taylor said he would be in favor of looking at ways to encourage restaurants that would want to service alcoholic beverages to look at North Ogden as a possible location. They may not have been interested in the past because of the City's current Alcohol Ordinance. Council Member Taylor said he felt having these types of businesses would be very beneficial to the City bringing in more tax dollars and giving residents more options of where they could eat in North Ogden.

The Public Hearing opened at 7:13 pm.

Council Member Harris moved to close the Public Hearing. 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
Council Member Martha Harris- yes

Motion passed.

Public Hearing closed at 7:14 pm.

Mayor Harris said this is something that the City will be looking at in regards to its zoning ordinances. It will go before the Planning Commission and there will be a Public Hearing. It will also go before the City Council and there will also be a Public Hearing. Any changes made to the City's Zoning Ordinance will go through these steps so there will be at least two more Public Hearings held to receive comments from North Ogden City residents.

11. Discussion and/or action to approve Resolution 07-2010, a resolution setting the cost of fuel for the Ben Lomond Cemetery and the North View Fire Department.

Ed Dickie, City Manager, presented this item to the Council stating that staff had recommended adding a 5% fuel charge starting June 1, 2010 to fuel purchased from the City by the Ben Lomond Cemetery and the North View Fire District. This recommendation would also include any other taxing districts that were allowed to purchase fuel from North Ogden City.

Council Member Flamm reviewed the process with Mr. Dickie, confirming that buying fuel from the City provided a substantial benefit for the Fire District and the Cemetery. Council Member Flamm said he would be in favor of assessing a fuel surcharge. Council Member Bigler asked for clarification on what the City's administrative costs are for the

fuel program. Mr. Dickie confirmed that they were 8.7%. Council Member Bigler asked; why not charge the 8.7% so the City is breaking even? He said he wasn't comfortable with North Ogden residents subsidizing the cemetery and the fire district's fuel purchases. Mr. Dickie said the Council could consider Council Member Bigler's suggestion but he wouldn't recommend charging more than the actual cost to the City. Mayor Harris said he thought the rationale for the 5% was these are sister agencies and maintaining good relationships. Council Member Harris asked if the 8.7% was the actual cost. Mr. Dickie said that is what staff estimated was the cost which includes staff costs, monthly billings and other activities attached to the process add to the cost of the fuel.

Council Member Bigler said he didn't want the City to make one penny out of the charges but North Ogden residents shouldn't have to pay extra for other agencies using the City's resources. Having the City break even is fair and the other entities will be able to understand that. They are free to purchase fuel someplace else if they don't want to pay the surcharge. Council Member Taylor asked if the City had information showing how much fuel was purchased by the cemetery and the fire district. Mr. Dickie said he didn't but he can find out for the Council. Council Member Taylor said he agreed with Council Member Bigler. He wouldn't want to profit from providing this service but he doesn't want the resident to have to pay extra to provide it.

Council Member Harris said she agreed with Council Members Taylor and Bigler, actual cost is a fair way to do it. She said if 8.7% is not comfortable then the Council could look at it again at the next Council Meeting when there is more information. She said she would like to see the surcharge changed to the actual costs. Council Member Bigler asked if the 8.7% cost ever changed, could the motion be worded so the cemetery and fire district pay the actual costs and the City breaks even. Mr. Dickie suggested reviewing the surcharge every six months.

Council Member Bigler moved to approve Resolution 07-2010, a resolution setting the cost of fuel for the Ben Lomond Cemetery, the North View Fire District and any other taxing entity with the substitution of 8.7 % instead of the 5%; to be reviewed every six months to determine costs to the City with an effective date of June 1, 2010. Council Member Martha Harris 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
Council Member Martha Harris- yes

Motion passed.

12. Discussion and/or action to adopt the Tentative Budget for Fiscal Year 2010-2011.

Debbie Cardenas, City Finance Director, said the Council held discussions on the Tentative Budget at the last Council meeting. State law requires a City's tentative budget be adopted in the first scheduled meeting in May. Having already held the Public Hearing at the last Council meeting, Ms. Cardenas said it was on the agenda tonight for the Council's consideration and approval.

Council Member Flamm moved to approve the Tentative Budget for Fiscal Year 2010-2011. Council Member Harris 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
Council Member Martha Harris-yes

Motion passed,

13. Council/Public comments.

Michaela Barnett, 925 E 1751 W., thanked Council Members for the opportunity to speak before them. She said she had been a contestant in the North Ogden Pageant that was subsequently cancelled. This would have been her first year participating. Ms. Barnett said she would like to explain why she wanted to participate. She said she was doing it for herself and she can use the experience. The pageant enables contestants to find confidence in themselves and to make a difference by themselves. This is why she is doing it. Ms. Barnett also said the scholarship money would be great. She explained that a pageant isn't just about beauty; it is about what is inside and it is more the beautiful things you do. She said she can remember seeing the Queen and her attendants riding on the float in the 4th of July parade when she was a little girl and wanting to be one. Ms. Barnett said she would like Council to reconsider, have pageant and not crush little girls' dreams.

Dave Hulme, 515 E. 1700 N. said he would like to comment on ATVs. As this item was discussed with a speed limit of 25 mph being proposed, he said he wondered if it was changed to 30 mph, would that change some of the concerns. If streets with a speed limit of 30 mph were opened to the ATVs then there would hardly be any place they couldn't go. This would hopefully reduce the logistical work for the police trying to enforce it. Mr. Hulme also suggested putting something in the City newsletter and ask for responses on whether residents would support this proposal.

Mr. Hulme also said he assumed that there would be no opposition from the Council if the pageant wasn't publically funded. He said if a group of people wanted to have a beauty pageant that was privately funded that wouldn't be an issue.

Tamera Ellis, 3446 N. 875 E. asked to see if for sure the pageant is dead. She said she felt that by doing that the Council is saying they don't want Weber State to give some of our North Ogden girls a scholarship and they don't want Utah State to give our girls a scholarship. Ms. Ellis said she wanted to be sure the Council won't sponsor the pageant. She asked if this was an indication that the City didn't care anymore. Mayor Harris said it wasn't a case of not caring; it is the process that the Council has gone through for many weeks. There was a requirement that a certain number of girls from North Ogden had to sign up to participate in the pageant. That deadline was missed a couple of times. Mayor Harris said at this point it isn't that we don't care it is just the process is such that the time has passed. Ms. Ellis said she understood that but she felt it was sad when it could have been announced last summer that this is the last time the pageant will be held. The girls have worked really hard, been given false hope and then it was taken away. This has happened several times. Ms. Ellis said it has been really hard and it could have been done better.

Mayor Harris said the Council has been looking at this ever since staff and Council started discussing budget cuts and lack of revenue. This has been discussed for months and months. There are a lot of things on the chopping block; the process had the Council agreeing to hold the pageant if there were enough girls entered from North Ogden to make it worthwhile. This was approved by Council and passed by resolution. Mayor Harris said he understands how disappointing this is for the girls.

Council Member Flamm said it isn't necessarily the last pageant but if it is done again there will be a number of contestants attached in order to hold the pageant. He said the cost per girl is significant and I'm a supporter of it but the finances are difficult. Council Member Flamm said he was the Judges Chairman for three years and so is a big supporter to this event. He explained that the Council is trying to stretch the money as far as it can to balance the budget.

Council Member Flamm took a minute during Council comments to add that the Council agreed to reconsider it at the last Council meeting because it was thought that there were more girls who were willing to participate but there wasn't. Council Member Flamm said he loves to see the girls on the float and participating in the Miss Utah Pageant. He said he would like to see the Council give it another try some other year. He suggested that supporters begin working with potential contestants now to develop more interest. Mayor Harris said that it is worth noting that the current royalty had been asked to serve in their capacity for another year so there will be royalty riding on the float.

Council Member Bigler said the pageant is a wonderful thing to develop self-esteem but should tax payers pay for it. This is the issue. He said if there is a greater interest, it could be a wonderful event, if private parties could provide the financial support. The Council is dealing with citizens' money for this event and he doesn't think it is a responsible way to spend tax dollars. It is a tough issue. Council Member Bigler said there are people without jobs. The City is taking tax money and the Council has to be responsible in how that money is used. The bottom line is there wasn't the interest there

for the pageant. If you calculate how much the City would be spending on each girl with limited funds there are more prudent ways to use that money. Council Member Bigler said he knew several of the contestants and they are all wonderful young women. He suggested that if supporters of the pageant are really passionate; they can work on fundraising for next year. This is one way for the Council to gauge how much interest there is. City could sponsor the pageant but contestants could help raise funds to pay for it. Council Member Bigler said even with the City paying for it only seven girls signed up. He said he was sorry it didn't work out this year.

Council Member Turner said he would like to remind everyone that tomorrow at 5:30 pm at the Community Services Building will be the combined Trails and Parks Committee meeting. He invited everyone to come out and attend. He thanked Rachel Trotter, Reporter for the Standard Examiner, for her article announcing the vacancies on the Parks and Trail Committee. He has had three people call and volunteer to serve and Ken Kolb, Parks Supervisor had two others also volunteer. Council Member Flamm asked about activities that are scheduled to go on up at Frog Rock. Council Member Turner explained that there had been volunteers up there last Saturday and there had been some talk about organizing with a scout troop to do some work in the area this Saturday but that may change because the Jamberall is being held at the Weber County Fairgrounds to celebrate the 100 anniversary of Scouting. Mayor Harris said if he remembered correctly the major contractor out at the Central Weber Sewer Project will have a crew out there this Saturday. Council Member Turner said as a correction it isn't really called Frog Rock Park it is Lake View Park.

Council Member Taylor thanked everyone, especially staff, Debbie Cardenas, City Finance Director and the Mayor for their guidance on the City's budget. He said he was very happy with the budget and the priorities within it. Council Member Taylor said he voted against funding the pageant, deciding that \$10,000 was too much money for so few girls. The Council did vote to fund it as long as eight North Ogden girls signed up. He said since the Council was willing to do that for eight, why aren't we willing to fund a lesser amount for seven? Council Member Taylor said he felt the pageant could be done for a lot less than \$10,000. The Council could reduce the scholarship money, ask the parents to volunteer to help reduce cost, spend \$4,000 or \$5,000 for the seven girls. Then the pageant could continue but with a smaller amount of funding from the City. Council Member Taylor said he would like the City to get out of the business of supporting a pageant. He would like to give the pageant folks an opportunity to get a funding source to make up for what the City can't do. Council Member Taylor said that taking a pageant that the City has funded for 75 years out of the City's budget is not reasonable. He said he doesn't think this is a fair way to go about it, a transition would be much better instead. He said he would support funding it at a much lower level and it is a good compromise between all the interests. It would help the pageant keep going. This is the way he would like to go. Cancelling it with the hope of privatizing it all in one year is too much to handle at once. He would like to see it brought back for further discussion if there is enough support.

Mayor Harris said if the Council opens it up now there would have to be another decision made. He said he thought the decision had already been made. He asked the Council if they felt like they wanted to discuss it further.

Council Member Bigler said when the original discussion and decision was made the Council did talk about a transition year. However, there is a legal process when the Council considers and approves a budget. There has to be noticing and the Members did vote, rather than cancel it, to set a minimum of 8 and this was the transition year. Four Members voted for the transition year. If that decision is changed then the Council would have go through the process all over again. Council Member Bigler said there could also be a problem where there are seven tonight and five tomorrow. He said he thinks it is important to follow legal process and the voting so the Council isn't going back every few months to revote on the same issues.

Council Member Flamm said he was against a transition and just wanted it to be held when the first vote was taken. He said he thought the standard has been set and the Council should stick with its original decision.

Mayor Harris said decision stands then to cancel the pageant for the year 2010.

Council Member Flamm said he had an additional comment on the trail. He said he had received an email on Lake View Park. The email indicated that Saturday, May 15th the neighbors are going to be working over there from 9 am until Noon and to bring shovels and racks, anything that could be use to work on the trails. Council Member Flamm said if anyone else who lives close to the Lake View Park would like to join them, I'm sure they would love to have the help.

Mr. Dickie said in response to the Council's question about the number of gallons the cemetery and fire district use per year, he said while he doesn't have the gallons he has the average monthly billing for each entity. The fire district is approximately \$1,065 and the cemetery is approximately \$210. The total is \$1,275. He said he would also like to remind Council and those in attendance that the Tentative Budget passed tonight by the Council does include next year's pageant 2011. This means the pageant hasn't been cancelled entirely it is funded in the next fiscal year. The pageant being discussed tonight is the one that would have been held this June 2010.

14. Adjournment.

Council Member Turner moved to adjourn the regular meeting and convene in the RDA. Council Member Flamm seconded the motion.

Voting on the motion:

All Council Members voted aye.

Motion passed.

The meeting adjourned at 7:50pm.

Richard G. Harris, Mayor

S. Annette Spendlove, CMC
City Recorder

Date minutes approved. _____

NOT APPROVED