

**NORTH OGDEN CITY COUNCIL
MEETING MINUTES**

September 8, 2015

The North Ogden City Council convened in an open meeting on September 8, 2015 at 6:32 p.m. at the North Ogden City Council Chambers at 505 East 2600 North. Notice of time, place and agenda of the meeting was delivered to each member of the City Council, posted on the bulletin board at the municipal office and posted to the Utah State Website on September 3, 2015. Notice of the annual meeting schedule was published in the Standard-Examiner on December 21, 2014.

PRESENT:	Brent Taylor	Mayor
	Kent Bailey	Council Member
	Lynn Satterthwaite	Council Member
	Cheryl Stoker	Council Member
	Phillip Swanson	Council Member
	James Urry	Council Member

STAFF PRESENT:	Bryan Steele	City Administrator/Finance Director
	Annette Spendlove	City Recorder/HR Director
	Jon Call	City Attorney
	Rob Scott	City Planner
	Matt Hartvigsen	City Engineer

VISITORS:	Matt Ivester	Heidi Ivester	McKay Ivester
	Bridgett Ivester	Carol Williams	Rick Scadden
	Darin Oberg	Brent Barker	Carolee Barker
	Lori Berrett	Doug Hunt	Laura Hunt
	Brian Robbins	Karen Collman	Keri Harris
	Todd Harris	Sheri Mossi	Dean Mossi
	Angela Gowans	Yuka Jenkins	William Breckbill
	Steven Rasmussen	John Hansen	Peter Waite

Mayor Taylor welcomed those in attendance.

Council Member Satterthwaite offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

- 1. CONSIDERATION TO APPROVE THE JULY 28, 2015 CITY COUNCIL MEETING MINUTES**
- 2. CONSIDERATION TO APPROVE THE AUGUST 11, 2015 CITY COUNCIL MEETING MINUTES**

Council Member Swanson motioned to approve the July 28, 2015 and August 11, 2015 City Council meeting minutes. Council Member Satterthwaite seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Urry	aye

The motion passed unanimously.

AGENDA

1. PUBLIC COMMENTS

There were no public comments.

2. DISCUSSION ON A REQUEST FROM CENTURY LINK TO ADD A PUBLIC UTILITY EASEMENT AND AGREEMENT ONTO CITY OWNED PROPERTY LOCATED AT APPROX. 3715 NORTH FOX LANE

A memo from City Planner Smith explained CenturyLink is requesting the City Council approve a utility easement to install equipment on city owned property located at approximately 3715 North Fox Lane. The property is currently a detention basin owned by the city.

When this Subdivision was approved this parcel did not have a public utility easement placed upon it. Century Link is requesting that a public utility easement be established. Century Link has prepared an agreement establishing an easement.

ZONING ORDINANCE COMPLIANCE

12-2-2: Definitions

EASEMENT: That portion of a lot or lots reserved for present or future use by a person or agency other than the legal owner or owners of the property or properties. The easement may be for use under, on or above the lot or lots.

The memo offered a summary of potential City Council considerations:

- Does the proposed use meet the requirements of the applicable City Ordinances?
- Should the easement be granted for all utilities?

The memo included the following recommended conditions of approval:

- Applicant to obtain appropriate building permits

The memo concluded that if the City Council determines that granting the easement to Century Link with the recommended conditions is appropriate, then the agreement can be approved.

City Planner Scott reviewed the staff memo and used the aid of a PowerPoint presentation to illustrate how and where the proposed equipment would be installed on City property located at 3715 North Fox Lane.

Council Member Bailey asked if the utility boxes will be located on the bank of the detention basin, to which Mr. Scott answered yes. He added he spoke with Building Official Kerr today who indicated he would desire that the equipment be placed on flat ground and that any work required to make the area flat would be the responsibility of Century Link.

Council Member Satterthwaite asked if Century Link would have liability for damage to the equipment associated with water in the detention basin. City Attorney Call answered yes.

Council Member Swanson asked if the trenching required to install the equipment would harm the integrity of the retaining walls at the detention basin. City Engineer Hartvigsen stated he is unaware of trenching through the basin; rather, connection will be provided from the street and that should not be problematic.

Council discussion ensued regarding the exact location of the utility easement and connectivity to existing infrastructure, with Council Member Swanson asking if the easement size is 10 feet by 15 feet or 15 feet by 20 feet in size. Mr. Scott deferred to the applicant to answer that question. Century Link representative Matt Ivester approached the Council to address the questions asked by the Council; first, he indicated that Century Link will bore under the sidewalk and into the detention basin to connect to the new equipment. He added the size of the easement will be 10 feet by 15 feet and that is based upon the size of the concrete base needed to accommodate the equipment. He added that Century Link will assume responsibility for all equipment onsite.

Mayor Taylor asked how it is possible to improve internet speed in North Ogden. Mr. Ivester stated that fiber optic infrastructure will facilitate speed improvement in the future. Mayor Taylor asked where equipment like this is typically located. Mr. Ivester stated Century Link tries not to intrude on City or private property whenever possible, but in this case, that was not possible; he provided an explanation of how the infrastructure connects together.

Council Member Urry asked if Century Link typically pays a lease amount for transactions such as this one. Mr. Ivester stated that he cannot answer that question, but he is aware that cities generally require landscaping amenities to screen the equipment from public view. Council

Member Urry stated that the City enters into lease agreements for other utility companies to locate on City property or equipment. Mr. Ivester stated that is a valid question, but another representative of his company would need to answer it.

Mayor Taylor asked if there are any other existing pieces of equipment in the City similar to the one being discussed this evening. Mr. Ivester answered no.

Discussion then ensued regarding the opportunity the equipment will provide for new developments and residences in the City to access service through the fiber line, after which Council Member Urry addressed the City Attorney to ask if the City should require a lease agreement for this arrangement. Mr. Call stated that for these types of utilities the City receives franchise revenue for connections; all roads in the City have public utility easements and this type of equipment is usually placed there, but that is not possible in this case. He stated that typically the City does not charge a lease fee for this type of arrangement.

Mayor Taylor stated that the basin in which the equipment will be located is a natural basin with no landscaping and he asked if the City should require any landscaping associated with this agreement. Mr. Scott stated there is an opportunity to require low maintenance landscaping near the equipment or in the park strip adjacent to the area. Mr. Ivester stated that Century Link may be able to provide decorative rock or other landscaping elements at the site. Mayor Taylor addressed Mr. Call and asked who would be responsible if the City were to perform work on the detention basin that resulted in damage to the concrete pad. Mr. Call stated if the City damages their equipment, the City would be responsible, but if the equipment were damaged by a natural event the end result may be different.

Council Member Urry stated the City's Economic Development Committee is considering beautification efforts that would improve the appearance of utility boxes throughout the City and he asked Mr. Ivester if Century Link would be averse to allowing a beautification measure. Mr. Ivester stated that the cabinets are a light tan color that might blend with the landscaping, but if the City were to desire the box to be wrapped someone else at Century Link would need to approve that.

Council Member Swanson stated he would like to have an understanding of the type of landscaping that would be used around the structure; he would like it included in the agreement. Council Members Bailey and Satterthwaite agreed. Mayor Taylor stated staff will work to include landscaping provisions in the agreement and bring it back to the Council at the next meeting.

3. DISCUSSION ON QUESTAR'S OFFER TO PURCHASE PROPERTY ON 450 EAST

A staff memo from City Planner Brian Smith explained Questar Gas Company is proposing to purchase property owned by the City located at approximately 400 East 2900 North for the purpose of constructing a public utility station. The property is currently zoned Single Family Residential (R-1-8 AG). The City acquired the property in 2006 for the purpose of drilling a water well; however the well is not functional.

The applicant is proposing to purchase the property from the city. The applicant, after receiving approval to consider selling the property will proceed with the acquisition process. During this process the applicant will order a title report, appraisal for valuation for the site, and provide a written offer to purchase the property.

Questar gas will be improving the utility service for the residents and businesses in the area. If the property is purchased, the site will go through a conditional use permit review.

ORDINANCE COMPLIANCE

3-1-9 DISPOSAL OF CITY PROPERTY

- A. Petition: Department heads shall petition the city administrator and mayor to declare property surplus, obsolete or unusable.
- B. Advertise: Any property thus classified with resale value shall be advertised for sale by the city recorder.
- C. No Resale Value: Property not deemed to have any resale value shall be disposed of by the department head in the manner deemed to be in the best interest of the public and approved by the city administrator.
- D. List; Bid Refusal: The department head shall provide the finance director with a list of all such property disposed of so that it may be removed from the list of city assets. The city may refuse any or all bids on items offered for sale.
- E. Alternative Disposition: In accordance with the terms of Utah Code Annotated section 10-8-2, the city may make a finding that a use or disposition of certain city property provides for the safety, health, prosperity, moral wellbeing, peace, order, comfort or convenience of the inhabitants of the city, in which case the city council may authorize the purchase, receipt, holding, selling, leasing, conveying and other disposition of real and personal property for the benefit of the city, whether the property is within or without the city's corporate boundaries and under the terms of such a finding is not obligated to sell such property at bid but may improve, protect, and do any other thing in relation to this property that an individual could do.

The memo offered the following summary of potential City Council considerations:

- Does the City Council want to entertain selling this property?

The memo concluded if the City Council determines that this property should be sold; then staff will process the appropriate advertisement and receive offers for purchase. These offers will be brought back for City Council final approval.

City Planner Scott reviewed the staff memo.

Questar representative Angela Gowan stated she is a right-of-way agent with HDR Engineering who has been contracted to handle the acquisition of this site. Mayor Taylor provided Ms. Gowans with questions the Council had last time this item was reviewed; the list of questions included: what service will the station provide; is it a risk to nearby properties; what safety controls are in place for surrounding neighbors; will roadwork be necessary to connect infrastructure at the site; what will the structure look like; and what landscaping or fencing will

be done to screen the view of the property. Ms. Gowans stated that her role is to facilitate the acquisition, but she introduced Darin Oberg and asked him to address the questions. Mr. Oberg stated the goal of the facility is to provide gas service to homes in the City; Questar uses high pressure gas lines and this facility reduces the pressure of that gas and feeds it into the distribution system that is used to provide gas to homes. He stated the facility will serve future growth of the City and will meet current demands on the distribution facility. He stated the facility is designed to be incredibly safe; if there were ever a problem at the site a notification system would be used to notify Questar of a problem and the equipment could still continue to function on a back-up system. He added that to screen the equipment from nearby properties Questar would use a precast six-foot concrete wall; this would also provide security.

Council Member Bailey asked if there are other facilities like this one in North Ogden. He stated he has viewed photographs of this type of facility and it is very unattractive and would not be pleasing to the neighbors. Mr. Oberg stated the facility may not be beautiful in appearance, but it is critical in providing reliable service to residents. He stated the closest similar structure is on 2700 North east of Interstate 15. Council Member Bailey pointed out that facility is not located on a main thoroughfare in a residential area. Another Questar representative reiterated the facility will be surrounded by a concrete wall; she added the structure will be setback 20 feet from the road and Questar is willing to install attractive landscaping surrounding the wall.

Mayor Taylor asked how tall the highest point of the structure is. Mr. Oberg stated that upon installation of the equipment, the tallest point would be approximately three feet in height, but it may be necessary to install additional heaters at the structure in the future and they could be taller than the fence. The building on the property would be approximately eight feet tall. Mayor Taylor asked if the high pressure pipes are already in place or if Questar will be conducting an additional project to install them in Washington Boulevard. Mr. Oberg stated that a future project is planned to install the high pressure pipes. He discussed the overall plan for the northern region.

Council Member Bailey stated that a residential area does not seem like a good place for this type of structure. Mr. Oberg stated that the proposed location is the most sensible for pushing gas into the distribution system; as the infrastructure is pushed further away it will be necessary to construct larger and more costly facilities, which impacts user rates. He stated that if it is not an option to locate facilities in residential areas in North Ogden, the facilities in the area will be dramatically oversized to provide service to residents.

Mayor Taylor inquired as to the size of the area the structure would serve. Mr. Oberg stated that the facility would serve 25 years of growth; he is aware of future development plans to the north and south as well as to the east and the facility will serve all of that growth. Mayor Taylor inquired as to the timeframe for constructing the facility. Mr. Oberg stated that Questar's plan is to construct the facility by 2017; there are plans to install a pipeline in Pleasant View Drive and Elberta Drive and the facility will be constructed in conjunction with that project.

Council Member Bailey stated that the City has plans to widen Washington Boulevard to the north and it may be necessary to take a portion of the subject property for that widening project.

Mr. Oberg stated Questar is aware of required setbacks and will construct the facility as compactly as possible to ensure that setbacks are met.

Council Member Satterthwaite asked to review photographs of existing structures that are similar in appearance to what is being proposed.

Council Member Swanson asked if City staff has investigated whether the project is compatible with the City's future project to widen Washington Boulevard. Mr. Scott stated that the site plan for the project will need to go before the Planning Commission and the design and compatibility with future projects will be considered then. City Engineer Hartvigsen stated that it will most likely be necessary to take 11 feet from either side of Washington Boulevard to accomplish the widening. He stated it would be his advice to preserve at least 11 feet of the property or 22 feet at most to accommodate the future project. The Council reviewed photographs provided by Questar as well as the layout of the area and adjacent properties that will impact the future widening of Washington Boulevard between 2600 North and 3100 North. Discussion continued regarding the location of existing infrastructure in the area and connectivity to the proposed facility continued.

Mayor Taylor stated he feels the biggest concern regarding the project is how it will impact neighboring properties and he asked Mr. Oberg to illustrate the view those property owners will have of the facility. Mr. Oberg stated that someone standing on the roadside of sidewalk looking at the facility will be able to see the wall and the roofline just over the wall; there would also be a two-inch diameter pipe sticking out of the building and in the future a heater that will be protruding from the building. Examination of photographs of similar facilities and structures continued, with a focus on the appearance of the precast concrete wall. The second Questar representative stated that Questar has not prepared a site plan or conceptual design for the facility to date because the first step in their process was to acquire the land for the project. She stated she would be willing to develop a conceptual design prior to acquiring the property.

Council Member Bailey stated that he cannot vote to allow the structure near residential properties without understanding what it will look like. Council Member Swanson agreed and suggested that trees be used to provide a visual barrier as well. Council Member Satterthwaite agreed and added that Washington Boulevard is the most traveled road in North Ogden and every resident will see it on a daily basis. He suggested that something be done to beautify the facility. Mayor Taylor stated it would be very helpful to have a rendering or photographs of what the facility would look like. Council Member Stoker agreed and asked if design renderings could be available at the next meeting, to which Mr. Oberg answered yes. Council Member Urry suggested that Questar also provide addresses for similar facilities so that the Council can personally visit them to see what they look like and how they may impact nearby residential areas. Council Member Swanson suggested that Questar also visit with adjacent property owners to discuss the project with them before they are notified by other means.

4. PUBLIC HEARING TO RECEIVE COMMENTS TO CONSIDER A VARIANCE FOR WARD FARMS SUBDIVISION

Mayor Taylor provided those in attendance with information regarding the variance process; a variance is essentially an exception to an existing ordinance requirement of the City. He noted this is not a legislative decision the Council makes without following certain procedures and protocol outlined in State Law and North Ogden City Code. City Planner Scott offered a brief summary of the requirements of North Ogden City Code relative to the granting of variances.

Council Member Urry stated there is 2,600 feet between 1700 North and 2600 North and he inquired as to the reason the intersecting street is required within that distance. Mr. Scott stated the City's Code indicates an intersecting block can be no longer than 1,300 feet.

Council Member Bailey asked for an opportunity to review the map of the area and the plan for the subject project. Mr. Scott reviewed the plan being proposed by the applicant and identified the proposed roads within the project and the location where a road would connect the development to Fruitland Drive. Mayor Taylor noted the developer has applied for a variance and asked that he not be required to provide the connection road between the project and Fruitland Drive.

Council Member Swanson addressed the existing homes south of the subject property and asked if some of them are located in the City while others are located in Weber County. Mr. Scott answered yes. Council Member Swanson asked if portions of Fruitland Drive are considered to be located in the County, to which Mr. Scott answered yes.

Mayor Taylor opened the Public Hearing at 7:55 p.m.

Peter Waite, 1776 N. 925 E., stated he lives on the road running north and south into the proposed development. He noted that the proposal for the variance would direct more traffic onto his road and through his neighborhood; the area already receives a good amount of traffic associated with Green Acres Elementary. He noted there are 22 children living on his street and it is a relatively quiet street, but an increase of 58 homes and the variance would increase traffic and cause concerns for him as a homeowner. He stated he can understand the reasons the applicant is asking for the variance because he is aware of traffic conditions on Fruitland Drive, but he wondered if other options for accessing the development have been considered. He stated that there is so much property in the area that he believes other options must be available.

Dean Mossi, 1920 N. Fruitland Drive, stated he lives on the east side of Fruitland Drive almost directly opposite of where the proposed road would connect to Fruitland Drive; he is one of the dozens of homeowners on Fruitland Drive that understand the special circumstances surrounding the road. It is a narrow two-lane road with no shoulder; it is enjoyable for many people to use and recreate on. He stated that every morning he sees joggers and bikers and even people using the road for reasons it was never intended for. The road has a lot of history as well and it is a nice road to drive on, however, that can be somewhat dangerous and has caused it to turn into a thoroughfare due to the fact that there are no stop signs except for at the beginning and end of a 1.4 mile length. He stated people tend to drive in excess of the posted speed limit and many of the homes on the road only meet the minimum setback of 55 feet. He stated that he has noticed traffic patterns on the road and many people drive in excess of 50 miles per hour in the mornings and evenings when commuting to and from work or school and on Saturday. He stated the Police

Department have done a good job patrolling the road, but people have learned the hiding spots for the officers and if they do not see one on the road they increase their speed. He stated he and the fellow homeowners on the road have assembled a petition and he read the intent statement for the record: "We would like to prevent the creation of a new access road from the Ward Farms Subdivision onto Fruitland Drive. We the homeowners and residents of Fruitland Drive do hereby petition the City Council of North Ogden and the Planning Commission to seriously consider all of the impacts of creating an additional access onto Fruitland Drive from the Ward Farms Subdivision. We believe the negative aspects of such an access greatly outweigh any perceived benefits to the community and that will ultimately compromise the safety and welfare and degrade the quality of living of those who reside along this thoroughfare. We believe that once all of the facts are taken into consideration, the Council and Planning Commission will agree. The petition argues the following points:

- Fruitland Drive is a narrow two-lane country-type road with no shoulder and there is no room for left turn lanes or merging traffic
- Fruitland Drive only has stop signs at the beginning and the end and is 1.4 miles long and because of this it is a favorite road of bikers, runners, and longboarders
- The posted speed limit is 30 miles per hour but is regularly exceeded by motorists and traffic typically moves at 40 to 45 miles per hour
- Traffic is already heavy on the road during commute times
- The addition of the access road will only serve to increase the traffic and congestion leading to more dangerous situations
- The location of the proposed access is adjacent to a blind curve in the road
- Over half of the residents on Fruitland Drive must cross the road to get their mail and this is already very dangerous and will only worsen with increased traffic
- Increased traffic will only increase the danger for pedestrians on the road
- There are many undeveloped areas in the close vicinity and the traffic on Fruitland Drive will only increase"

He concluded that Fruitland Drive is already a very dangerous road and adding a new subdivision of 58 homes and providing a connection road to Fruitland Drive will only worsen those situations. He provided a copy of the petition for the record of the meeting.

William Breckbill, 1890 N. Fruitland Drive, stated he has lived at his home for 35 years; it has always been a 22 foot wide road though modern day roads must be much wider.

Council Member Bailey inquired as to the typical pavement width in a standard subdivision, to which City Engineer Hartvigsen answered 36 feet. Mr. Breckbill added there is no access for pedestrians on Fruitland Drive. He stated that throughout discussion of the required access one person talked about how the project may increase traffic on 925 East, but he pointed out there are five other access points from the development not including Fruitland Drive. He stated that the connection to Fruitland Drive is not necessary for entering or leaving the subdivision and as North Ogden continues to develop, Monroe Boulevard will be constructed through the City, which will further alleviate traffic in the area. He emphasized there is good access to the subdivision from the north, south, and west; this is not a matter of access, rather, it is a matter of looking at a rule that applies to a standard subdivision and he wondered if the access to Fruitland Drive is something that is good for the public and adds value. He stated the width of Fruitland Drive is 22 feet wide and does not have sufficient room for vehicles to pull to either side of the

road when an emergency vehicle is travelling and Fruitland Drive is east of any route that an emergency vehicle would be using to access the development. It is hard for him to agree with a benefit the road would offer and it should be considered why a law like this would apply to this area. He added there has been talk about how the connection road would increase traffic and he agrees with those claims. He reiterated several of the previous comments about current traffic conditions on Fruitland Drive because it is a thoroughfare from 2nd Street in Ogden all the way to 2600 North in North Ogden and many people travel it at higher rates of speed. He stated that he has been a builder nearly all his life; he knows the City is very concerned about the quality of life and the safety of residents, but in this case common sense must be considered greatly to determine whether there is any value to providing connectivity between the proposed development and Fruitland Drive.

Laura Hunt, 1889 N. Fruitland Drive, stated that considering the four criteria that must be met in order to grant the variance, she feels the concerns the residents have meet those criteria, especially related to safety. She has lived on Fruitland Drive for 30 years and it is a raceway. She added that since Barker Parkway was connected to the road, hundreds of more cars access the road. She stated it used to be a quiet country road, but it is now dangerous and it is difficult for residents to get out of their driveway. She stated that her biggest concern is safety and if someone is coming out of the development and trying to access Fruitland Drive from a hill, it will be difficult for them to see in either direction and that will only be worsened by the proximity to a blind curve and a dip in the road. She stated the road connection is asking for a disaster. She reiterated previous comments about additional development to the east and she feels that will only increase traffic levels on Fruitland Drive as well.

Todd Harris, 1834 N. Fruitland Drive, stated he has been a resident in his home for 24 years; the most dangerous part of his day (he travels for a living) is getting out of his driveway on Fruitland Drive and making a left hand turn. He stated that in the morning when people are driving fast it is very difficult; he lives near a curve in the road and he cannot see to the right and he is hopeful that he will not be pulling in front of someone when leaving his property. He stated that North Ogden Police have acknowledged it is one of the most heavily patrolled streets in the City because they recognize the safety issues there. He reiterated this is about safety and public safety is one of the criteria for a variance that must be considered. He indicated he conducted some research regarding Fruitland Drive: it used to be called Old Pioneer Road and was built primarily to help farmers get their cattle from the north end of the City to the south end without having to travel to the west which was typically muddier in the spring. He stated that Fruitland Drive is not intended for higher volume. He noted he is not opposed to growth and additional development of the area, but Fruitland Drive is so small and cannot handle additional traffic. He added the road slopes to the west and during winter months with snow and ice accumulation on the road it is not improbable for a car to drift off the roadway and into yards. He stated that he would like to see everyone be safe in the area and he feels that increased volume will impact safety.

Carol Williams, 850 E. 2100 N., stated that she uses Fruitland Drive regularly and she cannot figure out why the City would want to require an additional connection road when there are already five options for entering or exiting the proposed development. She stated she travels the

road at night and it is very dangerous even at 20 miles per hour. She stated it does not make sense to connect to Fruitland Drive.

Sheri Mossi, 1920 N. Fruitland Drive, stated she still has resonating in the back of her mind the sound of an impact that occurred on the road nearly a year ago; she and her husband were working on their home and a car heading northbound collided with a car trying to exit the driveway to the south of them. She stated that it was very frightening and she would hate to see that become a regular occurrence because of an additional road accessing Fruitland Drive. She stated she works from her home and does not leave her home during typical commute times, but whenever she leaves her home it can take some time to get out of her driveway. She added any time her children come to visit she is always concerned about them trying to get back onto Fruitland Drive to return to their homes. She stated her father was a Planning Commissioner for a small town in California; it was a tourist town with a lot of visitors in the spring and summer months and one thing she learned from that experience is that there is always another way with an emphasis on being creative and respecting the community and the people living in and around the community. She asked that the proposal for the variance be granted. She stated there is a family with three small children living on Fruitland Drive very close to the blind corner and their frontage cannot be more than 30 feet and she would hate to see their children put in peril by this situation. She stated her husband crosses the road to get the mail because he is faster and anyone crossing can be in peril at any time on the road.

Steve Rasmussen, 1092 E. 3250 N., stated he hates traffic and for that reason he usually uses Fruitland Drive rather than Washington Boulevard to get out of the City; the City needs more roads that serve as exits or entrances to the City. He stated that having driven Fruitland Drive for many years, he feels adding another access to the road would be a bad idea; he does not see any way to provide an access from the subdivision where it would be necessary for that access to be on a hill as drivers would not be able to see clearly to turn either direction. He stated that it would be necessary to ensure nothing was blocking their view for 20 yards in either direction. He stated the grade of the road would be too steep and he does not know how it can be done safely. He concluded it is his opinion that another access onto Fruitland Drive is a bad idea.

Council Member Swanson motioned to close the public hearing. Council Member Stoker seconded the motion; all voted in favor.

The public hearing was closed at 8:25 p.m.

5. DISCUSSION AND/OR ACTION TO CONSIDER A VARIANCE FOR WARD FARMS SUBDIVISION

Mayor Taylor thanked everyone that has spoken out about this issue tonight and prior to tonight's meeting; he indicated he is very familiar with conditions on Fruitland Drive as his family lived there for a time. He noted that public safety is a high priority for the City. He then discussed a series of different meetings that were held to discuss Monroe Boulevard; during those meetings hundreds of people participated in discussions about the road and many of those people wanted to push traffic to Fruitland Drive rather than building a new road that would

impact residents living through the middle of the City. He stated the Council voted with his support to proceed with the Monroe Boulevard project because Fruitland Drive cannot handle increased traffic and Monroe Boulevard can serve as a collector road. He reviewed a Google earth map of the eastern side of North Ogden City and noted that the City is very interested in proceeding with the Monroe Boulevard project to handle traffic and serve as the major north/south route on the east side of the City, but in the interim Fruitland Drive will likely be busier until that road can be built. He stated that there have been some great suggestions tonight regarding enforcement of traffic laws on Fruitland Drive and City Administration will work with Police Chief Warren to address those suggestions; if the additional connection road is required it may be necessary to further increase enforcement efforts. He stated that he hopes that everyone understands that no matter the decision that is made tonight all residents understand that he and the City Council care about them and any action taken is not personal. He then stated it is his opinion that the connection road from the Ward Farms Subdivision should be required as a long term solution for the City; the lack of connections on City streets creates danger because it may take people longer to travel to their destination, which creates impatience and increases the risks to other neighbors. He stated it is his opinion that connection roads are needed throughout the City to make it easy for people to get where they need to go. He stated there is some precedence in the City; immediately east of the subject property there is a large residential neighborhood that sits on the west side of Mountain Road and connects to Mountain Road; the connection road is every bit as steep approaching Mountain Road, but it is a very important connection and is what people use to get in and out of the neighborhood. He stated there are many streets in the City that provide connectivity upon difficult topography because much of the City is built on a hill. He stated the hill is on the east side of Fruitland Drive in this case so it is not obstructing the view of the lanes from the west side of the road. He stated there are other connections on Fruitland Drive north of 2100 North and they provide access to neighbors. He reiterated he feels Monroe Boulevard will be built in the future and will alleviate traffic concerns in the future. He stated that it is important to provide property connectivity, otherwise traffic will be pushed into other neighborhoods where residents live with their children and are concerned about their safety. He then asked the City Engineer and City Planner to provide additional information regarding why the City feels the connection road is best for the City. He indicated the applicant, Rick Scadden, will be given an opportunity to address the Council as well.

City Planner Scott summarized his staff report included in the City Council packet, which read as follows:

The applicant is requesting a variance to the North Ogden City block length standard as part of his subdivision application of the Ward Farms subdivision, a 58 lot subdivision located at approximately 1900 North 900 East. The Planning Commission considered this request on August 19, 2015. The following is a chronology of the Ward Farms subdivision review process.

A Planning Commission meeting was held January 21, 2015, to discuss the possible options for transportation, connectivity, access onto Fruitland, and possible scenarios for this area.

Fruitland Drive is shown as a collector road on the City's Transportation Master Plan. The Planning Commission also discussed a pedestrian / bike / road cross-section with smaller than normal width sidewalks and or way to incorporate a bike, walk, and curb and gutter

improvements along Fruitland Drive. Staff recommended that 1900 North connect to Fruitland Drive, as recommended in the General Plan.

On February 14, 2015 an application was submitted for the Ward Farms Subdivision with 58 single family residential lots, and the design of the plan showed 1900 North extending all the way through from east to west onto Fruitland Drive.

A Technical Review Committee meeting was held on February 26, 2015, where comments were submitted in regards to this application. The City Engineer submitted a Staff report dated July 3, 2015. The City Engineer recommended that 1900 North connect to Fruitland Drive, condition 5.

On June 21, 2015 the Fernwood Subdivision received preliminary approval with the understanding that Staff would bring back design options for the Fruitland Drive cross section. On June 25, 2015 a meeting was held with Staff, the applicants, their consultants, and adjoining property owners to identify Fruitland Drive design options. The cross section for Fruitland Drive will be discussed in a future joint work session with the City Council and Planning Commission.

At the time this application was submitted, the first plat showed 1900 North extending all the way east to Fruitland Drive. Subsequent plats have been submitted, one showing no access to Fruitland Drive, and another showing access onto Fruitland Drive.

On July 22, 2015 the Planning Commission considered the preliminary plat for this subdivision and granted preliminary approval with no connection from 1900 North to Fruitland Drive. As part of the Planning Commission's deliberations a question was asked about the block length standard and whether or not a variance could be granted regarding block length standards. Staff subsequently researched this question and determined there is a subdivision variance process in the subdivision ordinance. The City appealed the approval of the preliminary plat in order for the variance process to proceed. This led to the applicant making this request.

The specific variance request is to Subdivision Ordinance: 12-6-3 (4) (b).

4. Blocks:

a. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths.

Exceptions to this prescribed block width may be permitted in blocks adjacent to major streets, waterways or topography concerns.

b. The lengths, widths and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed one thousand three hundred twenty feet (1,320') nor be less than four hundred feet (400') in length.

Wherever practicable, blocks along major streets and collector streets shall be not less than six hundred sixty feet (660') in length.

c. In long blocks, the planning commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities or pedestrian traffic.

Pedestrian ways or crosswalks, not less than six feet (6') wide, may be required by the planning commission through the center of blocks more than eight hundred feet (800')

long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the planning commission for prospective use.

5. Access To Major Streets: Where a subdivision borders on or contains an existing or proposed major street, the planning commission may require that access to such streets be limited by one of the following means:

- a. The subdivision of lots so as to back on the street and front on a parallel local street; no access shall be provided from the street in the rear, and screening shall be provided in a strip of land no less than five feet (5') in width along the rear property line of such lots.
- b. A marginal access or service road (separated from the street by a planting or grass strip and having access thereto at suitable points).

SUBDIVISION VARIANCES

12-1-12 of the subdivision ordinance spells out the subdivision variance process. The applicant submits a variance petition request, the Planning Commission considers the request and makes a recommendation to the City Council. The City Council holds a public hearing and takes action to either approve or deny the request. The City Council can require conditions associated with the variance to 'secure substantially the objectives of the standards or requirements of these regulations.'

Variance Criteria

The following paragraphs identify the ordinance variance criteria along with the applicant's comments, staff comments, and Planning Commission comments.

12-1-12 Variances

A. General: Where the city council finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purpose of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured; provided, that such variance shall not have the effect of nullifying the intent and purposes of these regulations; and further provided, the city council shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property;

Applicant Comment: Enforcement would cause an increase in the safety risk associated with this area.

Staff Comment: The City Engineer recommended on July 3, 2015 that 1900 North be connected to Fruitland Drive. At the August 19, 2015 planning commission meeting, Matt Hartvigsen presented additional information at the meeting. He showed several drawings demonstrating how creating an intersection at approximately 1850 / 1900 North and Fruitland Drive will meet the national AASHTO design standards for horizontal and vertical curves. (See Exhibit G)

Planning Commission Comment: The lack of connection to Fruitland Drive will not cause additional safety issues and will not be injurious to adjoining properties.

2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property in the city;
Applicant Comment: Elevation changes, along with turns in Fruitland Drive.

Staff Comment: There are many roadways within North Ogden City that have similar conditions, e.g., topography. This is not unique. There are other examples of roadways with long blocks with little or no intervening block connections that have proved to contribute to an inefficient road system. Because these roads exist doesn't justify perpetuating this design error.

The need for connectivity is important in all neighborhoods. It is important for neighbors to have a sense of community. Well connected neighborhoods promote communication between neighborhood residents, they know each other and feel connected as people. Placing obstacles to prevent this dynamic creates an artificial separation.

From an emergency response standpoint neighborhoods should be designed to provide for emergency egress for residents as well as emergency personnel.

Planning Commission Comment: Fruitland Drive's present condition as a narrow road makes this request unique to this property. The future cross section for Fruitland Drive has not been resolved.

3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.

Applicant Comment: Property owners have expressed (at city meeting) that this variance is in their best interests.

Staff Comment: North Ogden City has steep terrain through the majority of the city. It is more expensive to develop on hillsides than on flat land. It is part of the cost of doing business in these conditions. The city values the input from residents; however expert testimony should be the basis for these types of decisions.

Planning Commission Comment: There is a hardship based upon topography, the slope of the road, possible requirement for retaining walls, and hardship for lots in the area near the connection / intersection. Some of the corner lots at the intersection will be difficult to build upon.

*The vote was not unanimous on this issue. One commissioner felt that this is an inconvenience rather than a hardship.

4. The variance will not in any manner vary the provisions of the zoning ordinance, general plan or official map.

Applicant Comment: Public interest is the same as our proposed plat. General Plan is not affected by our design. Granting approval of variance is the request of all affected property owners.

Staff Comment: The General Plan map shows the connection to Fruitland Drive. It does not vary the provisions of the zoning ordinance.

Planning Commission Comment: The General Plan Transportation Map is a guideline, Fruitland Drive is a collector. The request does not vary any zoning ordinance provisions.

The memo offered the following summary of potential City Council considerations:

- Does the proposed variance request meet the variance criteria?

- The City Council should go through each of the four criteria and make an official finding on the record so that the basis of the City Council's decision is clear. Focusing on the specific terms in the four requirements is important.
 1. Public Health, Safety, and Welfare.
 2. Unique conditions of the property not shared with other properties in the City.
 3. Physical surrounding of the property cause a hardship.
 4. Consider the zoning ordinance, general plan, and official map.

The Planning Commission reviewed the Staff report and heard from the applicant. The Planning Commission reviewed the variance process, discussed each of the criteria individually and voted on each one separately, and finally made an overall motion with their recommendation.

There was some concern over whether or not the request had to meet all four criteria. Legal Counsel advised that the request must meet all four criteria in order to recommend approval of the variance.

The memo concluded the Planning Commission is recommending approval of the variance based upon the request meeting the variance ordinance criteria.

City Engineer Hartvigsen then stated it is obvious that improvements to Fruitland Drive are needed and the approval of this subdivision should be no exception; he will ask Mr. Scadden to make improvements to Fruitland Drive that will include widening the roadway and installing curb and gutter to control drainage and provide a barrier to prevent cars from sliding off the roadway. He stated many of the concerns the residents have about the section of the road will be resolved by the improvements he is recommending if they are approved. He then noted traffic counts from 2008 are 5,000 vehicles per day and with the expected growth in the City those traffic counts are projected to increase to 9,000 per day with the completion of Monroe Boulevard or 11,000 per day without Monroe Boulevard. He stated additional improvements he would like to see to Fruitland Drive include widening the travel lanes and adding four feet on each side of the road to serve as a shoulder; he would recommend 30 feet of total pavement and curb and gutter. He stated that the section adjacent to the Ward Farms development can be improved in conjunction with that project, but other sections could be improved in the future. He then reviewed renderings of how the potential appearance of the intersection of the road is constructed; renderings provided varying angles from all directions on the road. He addressed the curve and dip that many residents discussed during their comments and stated that it meets the standards for horizontal and vertical curves on a 30 mile per hour road. He stated he understands that people do not travel at 30 miles per hour on the road and that can be cause for concern. He reviewed additional engineering standards pertaining to road construction and reiterated he feels many of the concerns that have been raised by residents will be addressed by the improvements that he is requesting, particularly the installation of curb and gutter and increasing pavement width to provide a road shoulder. He noted the City's standard road width for a collector road is a 66 foot right of way and it will ultimately be necessary to widen the entire width of Fruitland Drive to meet that standard. He stated that his biggest concern is the requirement for residents to cross the road to retrieve their mail and it may be necessary to see if it is possible to locate those mailboxes on the other side of the street.

Mayor Taylor asked if it would be an option to install a three-way stop sign at the intersection that would be created if the connection road were required by the City. Mr. Hartvigsen stated that some cities have used that option, but it should be warranted by traffic counts. Mayor Taylor asked if a traffic count of 5,000 cars per day would warrant a three-way stop sign. Mr. Hartvigsen indicated that he would need to look into the question further, but indicated that it is not uncommon to use the tool to control traffic or speed limits. He reiterated that he would prefer the installation of curb and gutter and eventually the City will need to widen the east side of Fruitland Drive and possibly build retaining walls and even acquire residential properties to accommodate the road improvements.

Council Member Bailey asked Mr. Hartvigsen if he is familiar with the road that exits the Graystone Subdivision on Mountain Road. Mr. Hartvigsen answered yes and noted he has provided a series of Google earth images of the area surrounding that road. Council Member Bailey stated that he visited the site tonight to compare it to the subject property and he feels they are very similar in many respects; Mountain Road was very narrow just like Fruitland Drive and it appears that when the Graystone Subdivision was built the developer deeded a significant amount of property to serve as right-of-way. Mr. Hartvigsen stated he was not employed by the City when the development was built, but judging by the fact that the increased road width mirrors the length of the development, it is his assumption that the developer was required to provide the property and road improvements. He agreed it is a similar situation and he identified the road layout in the area of the Graystone Subdivision and compared it to certain topographical features on the Ward Farms property. The Council and Mr. Hartvigsen engaged in a discussion regarding the several similarities between the subject property and the Graystone Subdivision, with a focus on the grade of the proposed road that would exit Ward Farms onto Fruitland Drive. Mr. Hartvigsen also reviewed photographs of other roads in the area that connect to Fruitland Drive or other roads in the area, with a continued focus on road grades.

Council Member Bailey noted Mr. Hartvigsen indicated that the City's transportation plan calls for Fruitland Drive to be a collector road and he inquired as to the typical width of a collector road. Mr. Hartvigsen noted the right-of-way width for a collector road is 66 feet, but the pavement width would be 42 feet. Council Member Bailey asked if Mr. Hartvigsen has suggested that the developer be required to widen the section of Fruitland Drive adjacent to his development to meet those standards. Mr. Hartvigsen stated it would be very difficult for the applicant to widen the road in that area without taking homes on Fruitland Drive; for that reason he had recommended lesser improvements that would still improve safety conditions on the road. Mayor Taylor asked if the recommended improvements would accommodate a turn lane at the intersection, to which Mr. Hartvigsen answered yes and identified the road design on a conceptual drawing of the roadway. He stated the turn lane would allow through traffic to go around north bound vehicles stopped to turn into the Ward Farms Subdivision. He concluded that he wants to be clear that regardless of the decision that is made he will be asking the developer to widen Fruitland Drive in the area of his project; he noted that he feels an intersection can be added to Fruitland Drive as it meets the design standards for the proposed location, sight distances, and other standards for a 30 mile per hour road.

Mayor Taylor asked Mr. Hartvigsen if he believes the proposed connection road would present any danger. Mr. Hartvigsen stated that accidents happen at intersections, but he does not feel that

is a reason to decide against constructing this intersection. He stated he is not saying that since the intersection meets all pertinent standards that there will never be an accident there, but he feels any accident would be a result of driver error and not a design issue.

Council Member Swanson stated that the slope of the road exiting the Graystone Subdivision seems to be similar to the slope of the road that would exit Ward Farms. He also referenced an aerial photograph of the two areas and noted there are only two exits from the Graystone Subdivision, while there are already multiple exits from the Ward Farms development. Council Member Stoker stated it is true there are only two exits from Graystone, but if the additional exit to the north had not been an option, the second exit also would have connected to Mountain Road.

Rick Scadden stated yet again he is hearing new information that has not been made available to him prior to the meeting; he stated that is very difficult for a developer to handle. He stated that he does not control the east side of Fruitland Drive and cannot require widening the road in both directions in conjunction with his project. He stated he has several frustrations: first is that this marks the 12th month that he has been working with the City on this project. He noted he approached the City with two development options, one with the connection road to Fruitland and another without. He stated that he indicated that he did not care which option the City preferred, but asked for direction so that he could proceed. He stated that he received a recommendation from staff, but the Planning Commission voted against the road and now he is before the City Council tonight. He stated he does not care which development plan is selected by the City and at this point he just wants to move forward as the process has taken much too long. He then reiterated his point that he has consistently not received information in a timely manner from the City. He stated he understands development and he has attended city council meetings in four different cities in the last couple of months and he has not encountered a situation like this one. He stated he lives in North Ogden and loves to live here, but he is not proud of how this has been handled. He stated that he is constantly at a disadvantage because of the lack of information that is provided to him; at every meeting he attends there is a new diagram or new road design presented that has not been provided to him before the meeting. He stated he is not prepared to argue against something that he was unaware of before the meeting and that makes him angry. He stated staff has had his development plan for several months and should have informed him that it may be a possibility that he would be required to improve Fruitland Drive; he should not find out about that after a vote has already been taken by the Planning Commission.

Mr. Scott stated that at the Planning Commission meeting a question was posed to staff as to whether there was a variance process for the block standard and at that time staff was not aware there was a variance process. He stated that after the meeting he reviewed ordinances and found there was a variance process and he discussed it with legal counsel who reached out to Mr. Scadden after the meeting; this was not an effort to subvert the process as he prides himself in helping applicants navigate through the development process. Mayor Taylor added that staff and City Administration was very surprised that the Planning Commission would approve an something after the City Attorney had told them that it violated the City ordinances; no one expected this to be a variance situation since it is uncommon for the Planning Commission to act outside of their authority and take an action contrary to City ordinances. Mr. Scadden stated that

the minutes of the Planning Commission reflect otherwise. Mayor Taylor then added that all renderings and documents regarding items listed on the agenda are part of the City Council packet and are made public prior to every meeting; he apologized that Mr. Scadden did not personally receive a copy of the documents reviewed this evening, but he reiterated they are public documents. Mr. Scadden stated he is the applicant and he should be contacted by staff rather than be expected to search through City Council packets to gather materials pertaining to his application. Mayor Taylor stated this is a quasi-judicial appeal hearing and communication between the City and Mr. Scadden should be somewhat limited. He added that the City does not handle many variances and the process for handling these situations is somewhat undefined in the City. Mr. Scadden stated that his point is that staff knew that his application did not comply with the City's land use ordinance yet they did not inform him of that. He stated that he could have had his application approved in June if the Planning Commission had not voted against requiring the connection road, but instead he received preliminary approval without the road. Mayor Taylor stated that the Planning Commission did something they did not have the discretion to do; if the ordinance is incorrect or inappropriate, they should use the process to amend the ordinance or ask for a variance rather than grant approval of an application that does not comply with the ordinance. Mr. Scadden then stated that he appreciated comments made about the similarities between the Graystone Subdivision and his proposed project, but he clarified that the grade of the road would not be the same as the road exiting Graystone. He noted that there is a 27 foot drop from the edge of Fruitland Drive to the subject property. He added that he feels Fruitland Drive is very unique, even more so than Mountain Road. He addressed safety concerns associated with connecting the development to Fruitland Drive and noted that initially he did not care whether or not he would be required to provide the connection, but he was steered in the direction of not providing the road by the Planning Commission and since then every time he has met with the City he has received different information.

Brian Robbins, Mr. Scadden's partner on the Ward Farms development, approached and reiterated that neither he nor Mr. Scadden cared whether the connection road to Fruitland Drive would be required so they prepared drawings with and without it; they were aware that Mr. Scott wanted the road so they designed the subdivision with it. He stated it is his opinion that it does not make sense to require the road and the Planning Commission agreed. He stated he and Mr. Scadden were not trying to go against staff's recommendation and he always planned to provide a utility easement to protect and preserve the area and the homes in the development in the event there are concrete plans to widen and improve Fruitland in the future. Mayor Taylor stated that the Council does not believe there was any mal-intent on Mr. Scadden's or Mr. Robbins' part and the Council feels it is unfortunate that everyone is in this situation. He reiterated that the subdivision that was approved does not meet the City's ordinance and rather than approving it the Planning Commission should have considered a code amendment or a variance. He noted that was made clear to the Planning Commission that evening by the City Attorney. City Attorney Call noted that he was addressed by a Planning Commission who asked if there was a way for the body to 'change the rules' and he informed them that they cannot and that they should change the ordinance; they went on to focus on other topics. Mayor Taylor noted that the ordinance currently reads that a block cannot be longer than 1,320 feet without an intersection and a change to the ordinance would have amended that language to allow the Planning Commission to consider the plan without the road; this change would also impact all future developments. Mr. Robbins stated that he does not feel it makes sense to change the ordinance

because the circumstances associated with the Ward Farms development are not present in other locations in the City; there is only one Fruitland Drive. Mayor Taylor stated he understands, but reiterated that the Planning Commission should have considered an ordinance change or a variance rather than acting contrary to the ordinance in place. Mr. Robbins then concluded the last thing he would like to say is that he is hopeful the Council can see the difference between the Graystone Subdivision and the subject property; Graystone was forced to provide the second access on Mountain Road because it would not have been possible to build so many homes with only one access. He reiterated there are currently five access points to the Ward Farms property and he hopes that is taken into consideration. Mayor Taylor asked how many of the five connections lead to an undeveloped field. Mr. Robbins answered just one and noted the other four connect to existing roads.

Council Member Satterthwaite referenced Mr. Scadden's comments about the fact that new information has been presented tonight and he asked Mr. Scadden if he would like additional time to prepare. Mr. Scadden indicated he would prefer to move ahead. Mayor Taylor asked Mr. Scadden what new information has been presented tonight. Mr. Scadden stated there are new diagrams and photographs that have been presented. Mr. Robbins then added there was extensive discussion regarding a variance in the Planning Commission meeting where the plan was reviewed and approved and that was what made the difference to he and Mr. Scadden; he stated it is possible staff interpreted that they were opposing their recommendations so they started providing data and renderings that were not made available to them prior to the meeting. Mayor Taylor stated staff was not acting in an adversarial manner; rather, they were simply representing their position and City Administration's position and they used engineering data to do that. Mr. Robbins stated he is simply trying to explain why Mr. Scadden is frustrated. Council Member Bailey stated that he would like Mr. Scadden and Mr. Robbins to understand that this is also the first time that the Council has seen the information included in the City Council packet.

Council Member Urry addressed Mayor Taylor's previous question about the option of placing a three-way stop sign at the intersection of the proposed road and Fruitland Drive. He noted that in years past there was a four-way stop sign at 1700 North and Fruitland Drive and it was deemed inappropriate and removed in favor of using just a two-way stop sign. He stated that was brought to the City Council by the Chief of Police. He then addressed the earlier agenda item regarding the potential sale of property to Questar Gas and he reference Council Member Bailey's comments that he could not sell the property knowing how the future development would impact the neighbors. He stated that he has lived in his home on Fruitland Drive for nearly 40 years and he has witnessed the traffic worsen over the years and it is his opinion that the left hand turn lane recommended by Mr. Hartvigsen will not work. He stated there is a left hand turn from Mountain Road near his home and every time he tries to use it he has to look in the rearview mirror to ensure no one will rear-end him. He then stated that he used to purchase hay from the subject property and he knows from experience that someone turning from a road coming from that property onto Fruitland Drive will not be able to make a right hand turn and stay in the right hand lane without crossing the center line, especially if they are driving a large truck or pulling a trailer. He stated that he also has personal experience with vehicles sliding into him on Fruitland Drive; it is a dangerous road and one thing that has not been addressed is the close proximity of an existing barn that is setback no more than 20 feet from the road and several

trees that impede the view to the north of the proposed road. He noted this will make it difficult for someone to see a vehicle coming from the north until it is directly on top of them. He stated that common sense leads him to believe, after driving Fruitland Drive and Mountain Road for several years, that he cannot vote for a subdivision plan on the subject property that requires a road connecting to Fruitland Drive.

Council Member Stoker discussed her feelings regarding Mountain Road; she lives in an area where there was previously a blind curve, but at one point the City made efforts to straighten that curve and it did reduce the number of traffic accidents. She added, however, that oftentimes she exits her property from her driveway and she looks north and south to ensure there are no vehicles coming, but once she is actually on the road a vehicle is upon her. She stated that when dealing with curves such as that it can be difficult to see oncoming traffic. She stated three subdivisions have been developed that required roads onto Mountain Road and those developments required widening of Mountain Road adjacent to the property, but the road still narrows on either side of the section that was widened and the safety issues are not addressed on the entire road. She stated she runs on Fruitland Drive daily and she understands the concerns that have been expressed by the residents. She agreed that what Mr. Hartvigsen is suggesting will address some of the safety concerns, but she ultimately agrees with Council Member Urry that she cannot vote to require a road onto Fruitland Drive because she feels not all safety concerns can be addressed.

Council Member Swanson stated he feels the Council should review each of the four criteria that must be met in order to grant a variance. Mr. Call noted that the City's ordinance indicates that all four criteria must be met in order for the variance to be granted. He reviewed the four criteria and reiterated the information provided in Mr. Scott's staff report relative to the comments that have been provided by staff, the Planning Commission, and the applicant regarding each criterion.

The Mayor and Council then offered their comments in regards to each criterion.

1. The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property.

Mayor Taylor stated that he agrees with staff that failure to require the road connecting to Fruitland Drive will result in a safety hazard because it will force traffic through all other neighborhoods in the area.

Council Member Swanson stated that requiring the connecting road forces traffic onto Fruitland Drive and that creates a safety hazard for the residents there.

Council Member Urry stated that he does not believe residents of the new subdivision will wind through other neighborhoods to exit their neighborhood; rather, they will take the simplest and most straight route of their neighborhood.

Council Member Bailey stated that it is important to focus on whether granting the variance creates any safety problems or hazards. Council Member Urry stated he is disputing the staff

and Mayor's position that failure to provide the connecting road will create a safety hazard by forcing traffic through adjacent neighborhoods.

Council Member Swanson stated it is his position that granting the variance is not detrimental to public safety. Council Member Urry agreed.

Council Member Satterthwaite stated that most of the concerns expressed by residents regarding safety on Fruitland Drive could be mitigated by speed control and possibly relocating mailboxes. Council Member Bailey stated he feels that most of the concerns could be addressed by the recommendations of the City Engineer as well; he relies heavily on Mr. Hartvigsen's expertise. Council Member Stoker stated she also relies upon him, but arguments can be made on both sides of the issue. She reiterated there is not a stop sign along Fruitland Drive between Mountain Road and 2600 North and there is nowhere else in the City where those kinds of conditions exist. Council Member Bailey stated that is by design. Council Member Stoker stated she realizes that, but requiring a connecting road will add more traffic to Fruitland Drive increasing safety problems.

Council Member Swanson stated that the question the Council must ask is if the granting of the variance creates a detriment to public safety. He stated that in his mind the variance would not be detrimental to public safety and will not be injurious to other property.

Council Member Satterthwaite stated the issues on Fruitland Drive should be addressed regardless of whether the variance is granted. He added that if traffic from the Ward Farms development is routed through other neighborhoods in the area because of the lack of a road connecting to Fruitland Drive, that will be detrimental.

Mr. Call noted that the ordinance calls for a finding based upon fact and if the Council is going to make a motion regarding each of the four criteria someone should make a statement that serves as the finding of fact that is being relied upon for the motion. Council Member Satterthwaite stated that he supports making a decision based upon fact.

Council Member Urry stated that he feels that the decision should be based upon how the subject property will be impacted by the lack of the road, not how to improve safety on Fruitland Drive because Fruitland Drive should be considered independent of this issue. Council Member Satterthwaite stated that he feels the lack of the road would be detrimental to adjoining neighborhoods as all traffic would be forced through them. He added that a study has been done by City staff and the City Engineer has determined that his recommendation would meet road design standards. Council Member Swanson clarified the safety of the intersection has been studied, but no study has been conducted regarding doubling the vehicle count on the road until Monroe Boulevard is constructed. Mayor Taylor noted the Ward Farms development would not double traffic counts on the road as it only includes 58 new homes. He stated all traffic increases on the road are associated with new developments to the north of the road. Council Member Satterthwaite added that the traffic count discussed earlier in the evening was from a study conducted in 2008 and staff conducted a preliminary count on 2600 North recently and found that traffic counts had not increased dramatically. Mayor Taylor asked Mr. Hartvigsen if he has

a more current preliminary traffic count for Fruitland Drive, to which Mr. Hartvigsen answered no.

Council Member Swanson motioned that based upon the fact that there are currently four available access points to the subject property with a fifth to be available upon future development, there is not a detriment to the public safety, health, or welfare nor is there injury to other property by granting the variance. Council Member Urry seconded the motion.

Voting on the motion:

Council Member Bailey	nay
Council Member Satterthwaite	nay
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Urry	aye

The motion passed on a 3-2 vote.

2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property in the City.

Council Member Satterthwaite stated that he has driven through the Graystone Subdivision and he has visited the subject property as well and it appears to him as if there is a greater drop into the subject property from Fruitland Drive than there is into the Graystone Subdivision from Mountain Road. He stated he is not sure the difference is too significant to overcome, but that was his observation.

Mayor Taylor summarized the Planning Commission's comments regarding this criterion, indicating they found that the conditions associated with the property that justify the variance are unique, but staff found the opposite as they believe there are many other roadways in the east and north ends of the City that have similar topography, including along Fruitland Drive where other connections have been made. Council Member Stoker addressed the connection to Fruitland Drive from Barker Park and indicated that the road is straighter and there is not a blind curve nearby. She stated she does feel Fruitland Drive is unique in the area of the subject property. Council Member Bailey argued that the City will require widening of Fruitland Drive in the area of the subject property, which will improve safety and make the stretch of road more similar to what exists near the Graystone Subdivision on Mountain Road. Mayor Taylor pointed out that on the east side of Fruitland Drive north of Barker Parkway is a large hill.

Mr. Scadden stated it seems unfair that staff has the opportunity to provide their perspective on each of the four criteria but he is not being asked for his opinion. Mayor Taylor stated that he is a member of the City Council and is charged by the voters of the City to present information to the rest of the Council, though he does not have a vote. He stated this should not be a debate and Mr. Scadden had an opportunity to present his arguments.

Council Member Urry stated he feels there are things different about the area of Fruitland Drive near the subject property and one of them is the issue that he discussed earlier regarding the existing barn that is not setback more than 20 feet from Fruitland Drive and would interfere with the sight line of motorists trying to exit or enter the subdivision using Fruitland Drive. The Council reviewed maps of the area to understand the exact location of the barn Council Member Urry is referencing with Council Member Urry noting that the only way to widen Fruitland Drive in that area would be to cut into the hill and build a retaining wall. He then stated that he is not sure that widening the road would actually increase safety; he referenced the widened portion of the road on Mountain Road and noted no one uses it because there is a cement barricade that forces traffic back into the narrow part of the road. Council Member Bailey stated that the lane is meant for those trying to merge onto the road from the subdivision, to which Council Member Urry responded that no one uses it. Council Member Bailey asked why any road is ever widened at any intersection if people do not use them.

Mayor Taylor asked Mr. Hartvigsen to again indicate where the road would intersect with Fruitland Drive. Mr. Hartvigsen noted the exact location has not been determined and, instead, there are a few options which he identified on a map of the road. Mayor Taylor stated he does not believe the hill near the proposed intersection would impede view. Council Member Urry disagreed.

At this point in the meeting Mayor Taylor addressed members of the audience who were speaking out or making noises or gestures, creating a distraction for the Council. He asked them to respect the process or they would be asked to leave the meeting.

Council Member Swanson stated that the first portion of the sentence making up criterion two reads “the conditions upon which the request for a variance is based” and he asked how broad those conditions are. He stated a large spectrum of items are being raised. Mr. Call stated that the Council should be focusing on the presence or absence of unique characteristics of the property in order to determine findings. Council Member Swanson asked if that should be limited to topography of the property. Mr. Call stated the next criterion focuses on topography, but that does not mean that one issue cannot overlap multiple criteria. He advised there are a variety of unique conditions that may not be related to topography.

Council Member Satterthwaite stated that he is striving to be objective and trust in the scientific data gathered regarding the topography of the area, but it is his own opinion that there is something unique about this area and the drop from the road to the property is more significant than in other locations.

Council Member Urry stated he is struggling because even if it is true that the property is not unique, he would argue that other intersecting roads that are considered similar in nature also should not have been built.

Council Member Bailey stated he also visited the property and came to the opposite conclusion as Council Member Satterthwaite; he felt that the drop from Fruitland Drive to the subject property was less severe than the fall into Graystone Subdivision. He stated he does not feel he can support a finding that the property is unique based upon topography and due to the fact that it

is possible to mitigate other road issues. Council Member Urry reiterated he can attest to the fact that the grade is very steep; he has driven it several times trying to haul hay from it to his home. He then discussed other items he feels are unique about the area; one is the speed with which people drive on the road. He noted it is difficult for him to hear someone that does not live on Fruitland Drive or even in North Ogden say that the conditions of the road are acceptable because they meet nationwide standards. Council Member Bailey stated the Council must rely upon expert testimony rather than anecdotal testimony whenever possible. Council Member Urry stated that the road standards are put together by engineers and he relayed a joke to communicate that some engineers are not very wise; he indicated that road standards are developed to work nationwide, but it may be possible that they do not apply to a certain location in North Ogden unless the people developing the standards have driven the road. Council Member Bailey stated that the City applies nationwide standards in several areas, including zoning, infrastructure development, etc. Council Member Bailey agreed and noted that sometimes following those standards can create problems as has occurred in the instance where areas have been designated as flood plains that were not actually flood plains.

Mayor Taylor asked if the Council was ready to make a motion regarding the second criteria. The Council engaged in a brief discussion regarding the characteristics of the property that may be considered unique, with Council Member Stoker again asking if all four criteria must be met in order for a variance to be granted. Mr. Call answered yes and read the section of the City Code to offer clarification:

“ . . .the City Council shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that (supports the variance). . .”

He stated that it is his interpretation of that ordinance that the Council must issue findings in favor of the variance for each of the four criteria or the variance cannot be granted. He stated there were members of the Planning Commission that disagreed with that interpretation and they felt that though findings for the four criteria may not unanimously support the variance, there is an opportunity to take a final vote regarding the granting of the variance. He stated his interpretation and opinion is based on similar language in Utah Code which requires a certain number of criteria to be met in order to grant a variance.

Council Member Bailey motioned that criterion two fail as the property is not unique and a variance should not be granted. Council Member Satterthwaite seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	nay
Council Member Swanson	nay
Council Member Urry	nay

The motion failed on a 3-2 vote.

Mr. Call stated that means that three of the Council Members find the property unique and it is not necessary to consider an additional motion and take a vote.

3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.

Mayor Taylor stated he feels this criterion is very similar to the previous one and City Administration does not feel a variance should be granted based upon this criterion as there are other areas throughout the City with similar topography and conditions upon which roads have been built. He stated he believes constructing the road is the cost of doing business in the City.

Council Member Bailey stated that he feels the developer has addressed this issue when he said that he did not have a preference regarding whether he should be required to build the road. Council Member Swanson agreed and stated that he does not feel a hardship exists since the developer has indicated that he would be willing to construct the road.

Council Member Satterthwaite motioned that the physical surroundings, shape or topographical conditions of the specific property involved do not create a particular hardship for the owner. Council Member Swanson seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Urry	aye

The motion passed unanimously.

4. The variance will not in any manner vary the provisions of the zoning ordinance, general plan or official map.

Council Member Bailey asked for guidance on this criterion. Mr. Call noted the staff's comment is that the General Plan map calls for a connection to Fruitland Drive and that is one reason staff has recommended that the Council not find in favor of the applicant. He stated the map is current as of 2006. He noted every city must have an official map as part of their general plan and the map he is referencing serves as that official map. He noted the Planning Commission felt the map is intended to serve as a guideline and granting the variance would not vary the General Plan. He stated he has no advice for the Council except to inform them that the General Plan is intended to be a cohesive document with four components: future land use, transportation, housing, and land use. He stated the road was shown on the transportation map and he is unaware of any case law regarding an issue where there has been a dispute regarding the map controlling an entities general plan.

Council Member Bailey asked if the verbiage in criterion four is taken from Utah Code, to which Mr. Call answered no and indicated he has communicated to the Planning Commission that he does not like the verbiage and the City's standards are somewhat lower than State standards. He stated he has tried to refer to the City's variance process as a special exception to avoid confusion between the City and State variance laws. He stated that is a harsh standard to say that one cannot modify the General Plan, zoning ordinance, or official map because the City's subdivision and zoning ordinances are in place to promote the General Plan. Council Member Bailey suggested that the Council revisit this issue in the future and bring the City's variance standards in line with State standards. Council Member Urry agreed and added that criterion four makes it nearly impossible for anyone to ever receive a variance in the City.

Mayor Taylor then provided the Council with a draft image of a new map proposed for inclusion in the updated General Plan for the City and he pointed out that the map calls for a connection to Fruitland Drive at approximately 1850 North. Mr. Call then reviewed the staff, applicant, and Planning Commission comments included in Mr. Scott's staff report.

Council Member Bailey asked if the Council would be violating City ordinance if it were to grant a variance waiving the requirement for a road that is called for on the official map of the General Plan. Mr. Call stated the General Plan is a guideline for the future development of the City, but the City's variance ordinance gives it some weight. He reiterated that the Planning Commission felt the map is a guideline and is not meant to be controlling and is also not a vital part of the General Plan. He stated the Council could issue findings contrary to that, but any decision made will set a precedent regarding how future variance applicants, staff, and the Planning Commission should view the General Plan.

Council Member Bailey asked that City Administration create a task for staff to research potential amendments to the City Code relative to variances in order to bring variance criteria more in-line with State Code.

Council Member Swanson referred to Mr. Call's explanation of the intent of the official map of the General Plan and noted that is the argument the City has used repeatedly in regards to the need to construct Monroe Boulevard. He noted that road has been on the map since 1956. Council Member Bailey added that the City has preserved a corridor for that road as well. Council Member Swanson agreed and noted that he feels precedent has been set in that the map has been used as more than just a loose guide for transportation needs in the City. Council Member Urry argued that Monroe Boulevard may have been planned for over a long period of time, but the location has changed. Council Member Bailey disagreed and stated that every property along the corridor has developed as the City has directed corridor preservation be part of that development; the only parts that were never clearly identified are those that have not been subdivided to date. He added 30 percent of Monroe Boulevard has been built.

Council Member Urry stated that he views the official map of the General Plan as a guideline.

Council Member Swanson motioned that granting the variance would vary the provisions in the General Plan or official map. Council Member Bailey seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Urry	nay

The motion passed on a 4-1 vote.

Mayor Taylor summarized the votes taken regarding the four criteria and asked the Council how they would like to proceed. Council Member Bailey noted that Mr. Call has advised that all four criteria must be met in order for a variance to be granted and since that did not happen the Council has no choice but to deny the variance. He asked if a separate motion is needed to do that, to which Mr. Call answered yes.

Council Member Bailey motioned to deny the variance based on very careful consideration of each of the four variance criteria included in the North Ogden City Code. Council Member Satterthwaite seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	nay
Council Member Swanson	aye
Council Member Urry	nay

The motion passed on a 3-2 vote.

Mayor Taylor declared the variance denied and asked that staff work with the developer to design the roadway. He then addressed the audience and asked them to recognize that the Council took this issue very seriously; they listened to all input given and tried to make a decision that is best for the entire City. He stated he respects that some may not agree with the decision that took place this evening.

Karen Collman, 1988 N. Fruitland Drive, stated that her concerns were never addressed and she inquired as to the process from this date forward. Mr. Scott provided an overview of the subdivision review and approval process, noting the next step is for the developer to apply for final approval of his subdivision. He stated that action could take place as soon as the next available Planning Commission agenda. He added that the Planning Commission and staff are already working to address the future improvements of Fruitland Drive. There was a brief discussion regarding the process staff and Mr. Scadden will follow to identify the most appropriate project to be completed to meet safety standards on Fruitland Drive.

Mr. Scadden stated that he has already planned to dedicate a 66 foot right-of-way for the roadway. He reiterated that his project has been delayed substantially and he will consult with his legal counsel to determine if that constitutes irreparable damage. He then asked for confirmation that he has preliminary approval for his plan with the road connection to Fruitland Drive and he is now able to proceed to the final approval step in the process, to which Mr. Call answered yes.

Keri Harris, 1834 N. Fruitland Drive, stated that she understands the City Council and Mayor have a job to do, but she feels this was personal and she will personally hold the City responsible if someone in her family is killed on Fruitland Drive due to increased traffic associated with this road. Mr. Harris stated that there are people that have lived on Fruitland Drive for 30 years that can attest to the conditions on the road, yet the Council relied upon someone that used Google Maps and took some photographs of the area.

The meeting recessed at 11:01 p.m.

The meeting reconvened at 11:09 p.m.

Mayor Taylor moved item six up on the agenda.

6. PUBLIC HEARING TO RECEIVE COMMENT ON A REZONE APPLICATION AT APPROXIMATELY 2750 NORTH 1275 EAST FROM SUBURBAN RESIDENTIAL (RE-20) TO SINGLE FAMILY RESIDENTIAL ZONE (R-1-10)

A staff memo from City Planner Scott explained when the City Council is acting as the land use authority, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

The applicant is requesting a map amendment to change zoning for the property located at approximately 2750 North 1275 East (See area map). The applicant has submitted a companion application for a subdivision called Canyon Vista Subdivision. The property currently has two zoning designations, RE-20 and R-1-10. The proposed new zone for the property would change it from Suburban Residential Zone RE-20 to Single Family Residential R-1-10, and has a minimum of 10,000 square foot lot size. The applicants proposed land use for this property is single family residential homes. Notices have been sent to property owners within 300 feet of this request.

The General Plan calls for “All development in the community should be built on land suitable for the intended use.” Additionally, “A variety of housing opportunities should be available to the citizens of the City. Quality residential development will be measured by design, maintenance, preservation of community resources, and open space.”

The Zoning and Land-Use Policy includes guidelines for how zoning changes should be considered:

General Guidelines

1. A definite edge should be established between types of uses to protect the integrity of each use.

Staff comment: The proposed land use is complimentary to existing single family developments in the area.

2. Zoning should reflect the existing use of property to the largest extent possible, unless the area is in transition.

Staff comment: The area is in transition from agriculture to single family residential homes.

3. Where possible, properties which face each other, across a local street, should be the same or similar zone. Collector and arterial roads may be sufficient buffers to warrant different zones.

Staff comment: All the lots fronting each other will have the same zoning.

4. Zoning boundaries should not cut across individual lots or developments (i.e., placing the lot in two separate zones). Illogical boundaries should be redrawn to follow property or established geographical lines.

Staff comment: If approved, all properties will be in the same zone.

Residential Guidelines

8. Avoid isolating neighborhoods.

Staff comment: The proposed project will be located along an existing street, 2750 North, and will not isolate any neighborhoods. The proposed project will include street improvements along 2750 North and also the general plan calls for a trail along the north side of this property.

The street layout provides for adequate access and includes access of the City's trail system.

The General Plan map calls for this property to be developed as single family residential, low density. The R-1-10 Zone is identified as low density single family residential.

The memo offered the following summary of potential City Council considerations:

- Is the proposal consistent with the General Plan?
- How does the proposal relate to the Zoning and Land-Use Policy for evaluating zoning requests?
- Does the proposal meet the North Ogden Zoning ordinance standards?
- Is the R-1-10 request appropriate for this neighborhood?

The memo concluded this is a policy decision; the General Plan recommends this area as low density single family zoning. The Planning Commission found that the zone change from RE-20

to R-1-10 is appropriate; that the application is consistent with the North Ogden General Plan and zoning ordinances, and the City Council can approve the rezone.

Mr. Scott reviewed his staff memo and a map to identify the location of the subject property.

Mayor Taylor opened the public hearing at 11:15 p.m.

Brent and Carolee Barker, 2673 N. 1125 E., stated they are not specifically concerned about the rezone of the property. Ms. Barker explained they share a property line with Wadman Park and also with Council Member Satterthwaite; she oriented the Council to the location of her property as well as the Wadman Park property and noted their concern relates to plans to connect a new drain line in the subdivision to the retention basin at the Park as that could be very problematic in heavy storm conditions. She stated she is also concerned about larger roads and increased traffic. She stated that the edge of her deck is only 17 feet from the property line and that would put her very close to people travelling on the sidewalk or walkway adjacent to her property. She stated she is not opposed to the subdivision, but she and her husband have some concerns about the structures or infrastructure that will be built in the development. She stated that some of the amenities in her yard are actually located on Council Member Satterthwaite's property and she would like for the relationship they have to be allowed to continue even with the proposed development.

Mr. Scott noted that the action before the City Council tonight is to rezone the property; at the next Planning Commission there will be discussion about the preliminary plat for the development. Ms. Barker addressed the walking path and stated she would prefer that the route follow the route that residents have had an understanding of for several years rather than for it to change as is included on the developer's drawing of the project. Mr. Barker stated there is a better location for the debris basin as well.

Council Member Satterthwaite motioned to close the public hearing. Council Member Bailey seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Urry	aye

The motion passed unanimously.

The public hearing was closed at 11:25 p.m.

Council Member Satterthwaite then stated that many of the questions raised during the public hearing are not germane to the action before the Council tonight. Mr. Scott agreed and stated that he would ask that staff have the opportunity to meet with the Barkers independent of this issue to ensure their concerns are addressed. Mayor Taylor asked staff and the developer, John

Hansen, to address the concerns raised this evening. Mr. Hansen stated that he is aware of the concerns raised by the Barkers and he will work to ensure that any infrastructure installed will not increase the chance of flooding in the area. He stated he is confident the project will be beautiful.

Council Member Swanson asked how many homes will be constructed in the development, to which Mr. Hansen answered 42. Mr. Scott reiterated the preliminary plat for the project will be included on the Planning Commission agenda for September 16.

7. DISCUSSION AND/OR ACTION TO CONSIDER A REZONE APPLICATION AT APPROXIMATELY 2750 NORTH 1275 EAST FROM SUBURBAN RESIDENTIAL (RE-20) TO SINGLE FAMILY RESIDENTIAL ZONE (R-1-10)

Council Member Satterthwaite stated that he has reviewed the plat for the area surrounding the subject property and all the existing homes that border the new development on the south sit on lots that are 13,000 square feet or larger even though they are located in the R-1-10 zone for the City. He asked for consideration of transition zoning by way of zoning all lots on the south end of the development R-1-12.5; he would recommend the same for the lots that will abut the Tanner property. He identified the locations he was referencing on a map. Mr. Call noted that the City's zoning ordinance calls for the same zoning designation to be assigned to all properties within a subdivision; the applicant has submitted a complete application for R-1-10 zoning for the entire subdivision and they are now vested. He stated the Council does not have the opportunity to amend the application that has been submitted. Mayor Taylor asked if Council Member Satterthwaite's recommendation could be accomplished via a development agreement. Mr. Call noted a development agreement could be used to specify lot sizes for certain lots within the development.

Mayor Taylor inquired as to the sizes of the proposed lots. Mr. Hansen stated the subdivision has been laid out and the zoning of adjacent properties on three sides of the property is also R-1-10 and he feels what he has applied for is compatible with the surrounding area. He stated that he feels strongly that the R-1-10 zoning designating should be approved. He stated that the minimum lot size is 10,000 square feet, but many lots in the development will be larger. He added that the plan has been modified in a way to not impact the Rice Creek channel. Council Member Satterthwaite stated that he understands that the adjoining properties are zoned R-1-10 and the application is compatible with the neighborhood.

Council Member Stoker motioned to approve Ordinance 2015-19 approving a rezone application at approximately 2750 North 1275 East from Suburban Residential (RE-20) to single family residential zone (R-1-10). Council Member Bailey seconded the motion.

Voting on the motion:

Council Member Bailey **aye**
Council Member Satterthwaite **aye**
Council Member Stoker **aye**
Council Member Swanson **aye**
Council Member Urry **aye**

The motion passed unanimously.

8. DISCUSSION AND/OR ACTION TO CONSIDER AMENDMENTS TO THE NUISANCE ORDINANCE

A memo from City Attorney Call noted significant concerns have been raised by citizens and City officials about the growing number of nuisances in the city. In addition to this our current ordinances do not authorize some of the remedies which are available under state code. I have reviewed our code and made several recommended changes. Attached to the memo was a complete document including all nuisance regulations in the City as well as the amendments proposed by Mr. Call to streamline the nuisance process.

I have included one provision in 1-9-18(B) which provides for the physical posting of the notice to abate the nuisance 24 hours before the City enters the property. This is not required in state code, though I believe it is advisable to give the land owners one final opportunity to realize that the city is serious about eliminating the nuisance. This is a policy decision and the council should consider it carefully before agreeing with my suggestion.

These changes have been reviewed by the code enforcement official and others. I believe this ordinance is now ready for the Council to review and make a decision on how to proceed. The passage of this ordinance does not automatically change the policy regarding nuisances, but it provides the necessary tools, allowed for under state code, to abate nuisances should that be required in the future.

The memo concluded Mr. Call recommends the Council review the proposed language and make the necessary amendments to the nuisance ordinance. Mr. Call recommended the Council pay particular attention to sections 5-1-1, 5-7-1, and 5-7-2 where we define exactly what constitutes a nuisance and we can determine whether additional language should be added or removed prior to passing the ordinance.

Mr. Call reviewed his staff memo and provided a brief overview of the proposed amendments as well.

Council Member Bailey stated that given the late hour of the meeting he would like to table this item to give the Council additional time to review the recommendations as well as hold a public hearing.

Council Member Bailey motioned to table this item. Council Member Satterthwaite seconded the motion.

The Council engaged in a brief discussion about various nuisance regulations, with a focus on allowed weed height throughout the City.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Urry	aye

The motion passed unanimously.

9. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION APPOINTING POLL WORKERS FOR THE NOVEMBER MUNICIPAL ELECTION

A memo from City Recorder Spendlove explained Utah Municipal Election Code 20A-5-602 requires the governing body to appoint poll workers and alternates; Utah Municipal Election Code 20A-5-602 4a requires the municipality to compensate the poll workers for their services. The City has asked Weber County to select poll workers they are familiar with because those poll workers have the background and training to do the job well. Before the Council is a resolution for you to consider which includes the names of the poll workers and their compensation.

Council Member Urry motioned to approve Resolution 19-2015 appointing Poll Workers and their compensation amount for the November 3, 2015 Municipal Election. Council Member Bailey seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Urry	aye

The motion passed unanimously.

10. PUBLIC COMMENTS

There were no public comments.

11. COUNCIL/MAYOR/STAFF COMMENTS

Mr. Call noted that he has reviewed the Planning Commission minutes for the meeting during which the Ward Farms application was considered and his advice to the Commission regarding varying from the ordinance was as brief as he indicated earlier in the meeting.

Ms. Spendlove reminded the Mayor and Council of the Utah League of Cities and Towns (ULCT) Conference scheduled for September 16 through 18. The Mayor and Council discussed the agenda for the conference and selected a time to meet for dinner outside of the meeting.

Council Member Stoker stated she understands that the Council voted in accordance with City ordinances regarding the Ward Farms variance, but that does not make it right. She stated she thinks the Council made the wrong decision tonight. Council Member Bailey stated that his biggest issue he has with the entire situation is that the Planning Commission violated City ordinances with the action they took and for the City Council to do the same thing just because they did not agree with the ordinance would have been wrong. He stated that if the City Council feels so strongly about something they should amend the City ordinances rather than violate them. He stated he feels the Council did what they had to do tonight based on the ordinances that have been adopted by this Council and previous Councils. Council Member Stoker stated she understands, but still feels that what was done tonight was wrong. Council Member Satterthwaite stated he would support Council Member Bailey's recommendation to not amend the ordinance. Mayor Taylor stated that he appreciates that everyone was able to engage in a difficult discussion and debate and still be friends with one another afterwards. Council Member Bailey agreed and concluded he feels the Council acted appropriately and no one could dispute that. Council Member Satterthwaite stated he appreciated how Mayor Taylor conducted the meeting tonight.

Council Member Satterthwaite asked for an update on discussions regarding the North Branch of the Weber County Library. Mayor Taylor stated he will be sending an update to the Council in the coming days. Council Member Bailey stated he would like to know what else the City can do to take action in support of the City's position rather than waiting for a decision to be made. Mayor Taylor stated that Representative Fawson has held meetings with local representatives and he suggested that the Council begin calling key people to talk about the issues at hand. The Council and Mayor engaged in a discussion regarding the most recent communications regarding the Library, ultimately concluding that each Council Member will engage persuasive citizens to work on the campaign.

Council Member Urry stated that he is concerned by Mr. Scadden's claims that it has taken him 12 months to get to this point in the development process in the City. He asked that Mayor Taylor and City Administrator Steele review the situation and determine where the break-down occurred. He then stated that two different people thanked him today for recruiting Hobby Lobby to the City. He stated that one of them told him that the store would be occupying the building vacated by Smiths. Mayor Taylor stated that communication has been sent to Hobby Lobby regarding a move to North Ogden, but the City has not heard back from them. Council Member Urry then stated in the past the Mayor has indicated a gym may be locating in North

Ogden and he asked if it is the same gym that has since announced they will be locating in the old Stop and Shop building in Ogden, to which Mayor Taylor answered no. Council Member Urry then stated that he feels the discussion regarding the Ward Farms subdivision was very valuable tonight, but noted that he agrees that the wrong decision was made tonight.

Council Member Swanson stated he would like to have a discussion in the near future regarding tiering water usage rates according to the location in the City where a property is located; with the increased water to pump water up the hill to new developments it would be appropriate to have a discussion about increasing the base rates in those areas. Mr. Call stated the Council has the right to increase a fee as long as there is reasonable justification. Council Member Swanson stated that he agrees with Council Member Stoker and Urry that the decision to force a connection to Fruitland Drive from the Ward Farms subdivision is problematic, but he took an oath to uphold laws and the constitution and he felt he had to follow that tonight. He stated he would like more information about the possibility of installing a three-way stop at the intersection. He then stated he feels the City needs to take steps to train the Planning Commission regarding their role in the City. Mayor Taylor stated that he would like to have a discussion regarding the issue between the Council and Planning Commission. The Council engaged in a discussion regarding problems that are the result of actions taken by the Planning Commission, after which they engaged in a discussion regarding the option of installing a three-way stop sign at the intersection. Mr. Call suggested the Council solicit input from the City Engineer regarding the option.

Council Member Urry asked for an update regarding the City's utility billing system. He noted that he and Council Member Bailey observed the City's utility billing clerk processing utility bills recently and she found several errors to correct that should have been corrected long ago. Council Member Bailey indicated that Public Works Director Espinoza asked them to give the clerk a month to work through some of the issues she has identified; he concluded he and Council Member Urry plan to observe the process again next month. Mayor Taylor stated he feels many of the errors have been caught, one of the problems being that residents with wells are not paying their utility bills because they have access to water and a water shut-off does not impact them. He stated that some residents have outstanding utility bills of \$1,000 or more. He stated the City will begin charging those citizens with theft of service. Council Member Urry reminded Mayor Taylor that there are some residents that are located in Weber County, but they access the City's water system. He asked that work be done to ensure they are paying the appropriate rate as well. He stated he is willing to help with or audit the process to help address regularities. Mayor Taylor stated he feels the new clerk is doing a great job in working to address the utility billing issues.

Council Member Satterthwaite then stated he would like for the City to be proactive in making Fruitland Drive safer. Council Member Urry stated one way to improve safety would be to build a round-a-bout at 2100 North. Mayor Taylor stated staff can brainstorm regarding ways to improve safety on the roadway and schedule a future discussion for the Council, after which the Council engaged in a high level discussion regarding various traffic calming measures.

Mayor Taylor stated that tomorrow he will be sending an email to the Council to follow-up on items they have raised in the past to which they have not received a response.

12. ADJOURNMENT

Council Member Swanson motioned to adjourn. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Urry	aye

The motion passed unanimously.

The meeting adjourned at 12:21 a.m.

Brent Taylor, Mayor

S. Annette Spendlove, MMC
City Recorder

Date Approved