

## NORTH OGDEN CITY COUNCIL MEETING MINUTES

August 25, 2015

The North Ogden City Council convened in an open meeting on August 25, 2015 at 6:40 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 August 21, 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	
	Jon Call	City Attorney	
	Gary Kerr	Building Official	
	Stacie Cain	Deputy City Recorder	
	Paul Rhoades	Special Functions Supervisor	
	Matt Hartvigsen	City Engineer	
VISITORS:	Rick Scadden	Paul Rhoades	William Brechbill
	Sharon Brechbill	Keri Harris	Laura Hunt
	Karen Collman	Todd Marx	Mitch Sanders
	Brian Robbins	Peter Waite	Laura Waite

Mayor Taylor welcomed those in attendance.

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

Mayor Taylor then referenced items four and five on the agenda – consideration of a variance for the Ward Farms Subdivision. He noted that the City is required to send notification of such a request to the newspaper and to residents living within 300 feet of the subject property; while the notice to the newspaper was handled properly, there was an error in the notice sent to residents and not all residents received it. He recommended that the Council table consideration of the variance until all noticing requirements can be met. Council Member Bailey stated he would also recommend tabling the item as well to ensure all public are given the opportunity to be involved and the item is dealt with as transparently as possible.

**Council Member Bailey motioned to table items four and five on the agenda – Public Hearing to receive comments to consider a variance for Ward Farms Subdivision – until**

**the next regularly scheduled City Council meeting to be held two weeks from tonight. Council Member Swanson seconded the motion.**

Council Member Swanson asked if the lack of proper noticing could have impacted a decision were one made tonight by the Council. City Attorney Call stated it could have an impact on the decision; if someone who did not receive notice challenged the decision, the City would be forced to hold the hearing again.

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Rick Scadden, 118 E. Lomond View Drive, stated he understands that the Council cannot act on the variance this evening, but he addressed the preliminary plat for the development, which was approved by the Planning Commission. He inquired as to the next step in the process if the City Council approves the variance. Mayor Taylor stated that if the City Council approves the variance the plat would stand approved as is; if the variance is denied the plat will need to be adjusted.

**CONSENT AGENDA**

- 1. CONSIDERATION TO APPROVE THE JULY 7, 2015 CITY COUNCIL MEETING MINUTES**
- 2. CONSIDERATION TO APPROVE THE JULY 14, 2015 CITY COUNCIL MEETING MINUTES**

**Council Member Bailey motioned to approve the items listed on the consent agenda. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

## **AGENDA**

### **1. PUBLIC COMMENTS**

William Bricknell, 1890 Fruitland Drive, stated he has lived on Fruitland Drive for 30 years. He discussed traffic on the road, indicating the reason for increased traffic levels and higher rates of speed is that it is the only road that one can travel from 2<sup>nd</sup> Street in Ogden to 2100 North in North Ogden with no stop sign or traffic signal. He stated the corridor from 1700 North to 2100 North is very narrow and there are areas with steep slopes on the side of the road and there have been accidents where residents, livestock, and wildlife have been struck by vehicles travelling on the road. He stated that he understands the concern for safe neighborhoods on property near Fruitland Drive, but noted that connectivity to Fruitland Drive will not increase safety on the road unless it is widened. He stated there are geographical challenges along the corridor and he does not believe that it should be considered an emergency access for new developments below it. He reiterated the road is so narrow that emergency vehicles would not be able to pass other vehicles on the road without creating the potential for head-on collisions. He stated that other options should be considered and he is opposed to opening Fruitland Drive to new developments. He stated the standards or concepts that apply to other developments or roads in the City should not apply to Fruitland Drive because it is unique and connection cannot be made without creating unintended consequences.

### **2. DISCUSSION ON THE PUBLIC COMMENT PERIOD FOR THE WEBER COUNTY MITIGATION PLAN**

Mayor Taylor invited Paul Rhoades, Special Functions Supervisor for the Police Department, to provide the Council with information regarding the 2015 Weber County Mitigation Plan. Mr. Rhoades approached and explained the Plan must be updated periodically to demonstrate current activities and efforts of local jurisdictions to mitigate or prevent possible disasters. The Plan was last visited in 2009 and in order for the City to qualify for pre or post disaster mitigation funds from the Federal Emergency Management Agency (FEMA) they must prove the existence of a current mitigation plan. He stated currently in the State of Utah, Salt Lake County is the only jurisdiction that has a plan that would aid them in qualifying for FEMA funding. He reported that Weber County Emergency Management and each of the jurisdictions within the County have created a Pre-Disaster Mitigation Plan to identify the potential natural hazards that may impact the County and mitigation strategies to address these hazards. He stated that through discussion of the Plan he developed a list of projects or measures that have been put in place over the past several years that could serve as pre-disaster mitigation; at the top of the list was the construction of a Public Works Facility, which complies with current building codes. He added that efforts have also been made to improve in-ground infrastructure to stabilize them during a ground shift associated with an earthquake. He listed a few additional projects completed throughout the City that prove proactiveness on the City's part, after which he discussed a 'wish list' of projects that could be completed to further improve safety throughout the City. He stated

at the top of that list is the renovation of the Public Safety Complex and continuation of improving in-ground infrastructure lines. He stated some of the types of disasters that the City should be preparing for include: earthquakes, flooding, slope failure and landslides, and wildland fires. He then noted the City has been provided with a copy of the plan that is available for public inspection; the plan is also available online at [www3.co.weber.ut.us/mitigationplan2015](http://www3.co.weber.ut.us/mitigationplan2015). He stated a public input period is currently underway and at the conclusion of that period, the Plan will be sent to the State Division of Emergency Management for review before the final draft is completed; following an additional public input period, the Plan will be submitted to FEMA for their review and acceptance in order for the City to be eligible to pre or post disaster funding.

Council Member Bailey asked if the Council is required to take action on the Plan. Mr. Rhoades stated staff is required to officially introduce the Plan to Elected Leaders for review, but no action is required. Council Member Bailey asked if the document that is currently posted is a draft version, to which Mr. Rhoades answered yes.

Council Member Satterthwaite inquired as to who is funding the development of the Plan, to which Mr. Rhoades answered FEMA. He noted Weber County hired a consultant to compile the data that makes up the Plan.

The Council thanked Mr. Rhoades for the information provided regarding the process to update the Plan.

### **3. DISCUSSION AND/OR ACTION REGARDING A CONTRACT WITH GUNNERSON CONSULTING FOR CELL TOWER LEASE CONSULTING SERVICES**

A staff report from Finance Director Steele explained several months ago, Todd Marx from Gunnerson Consulting made a presentation to the City Council concerning cell tower lease consulting services. The council directed staff to look further into the work Gunnerson Consulting provides and to see if it would be of value to the City.

Staff sent a copy of the City's current leases to Mr. Marx and he and a colleague reviewed them and sent back an analysis of ways their company might be able to save/earn the City money. I have attached the e-mail I received with the results of their analysis.

The City has received a request from an existing cell tower lease holder, Crown Castle, to extend our lease with them. Currently our lease ends in 2021 and they are requesting an extension for another 20 years (4 5-years terms). I thought this might be an opportunity to use Gunnerson's services and possibly help us with the extension negotiations.

Staff asked Gunnerson for their pricing structure and contract which I had Jon review. A majority of the money they would get from the City would be tied to any increase in revenue from negotiations. The pricing in the contract is summarized below:

- \$200/hour in consulting fees
- \$50/hour in administrative fees

- For any annual increase rental revenue they are able to obtain for the City, they will receive an amount equal to 1 years' worth of the increased amount less any amount of fees already paid to them for consulting fees related to the negotiations
- For any one time revenue they are able to obtain for the City, they will receive 20% of the increase less any amount paid to them for consulting fees related to the negotiations

While the \$200/hr. consulting fees does sound like a lot, they do have relationships with Cell Tower Leasing companies and have experience in this area so it could benefit the City in the long run.

Mr. Steele reviewed his staff memo.

Mayor Taylor noted the City contacted some of the references provided by Mr. Marx, but they are all out of State and he asked if there are any local references. Mr. Marx stated he does not have any Utah references as this is a new market for Gunnerson Consulting; the firm has national cell provider contacts and that will aid in meaningful negotiations between the City and service providers. Mayor Taylor expressed his concern about the lack of local experience and local contacts. He then stated it was his understanding that the City would only be charged a fee in the event that work done by the consultant will result in cost savings or increased revenue, but the proposed agreement indicates the City will be charged regardless of the results of the work performed by the consultant. Mr. Marx stated his goal is to increase the City's revenue. He noted it could take up to 10 hours to negotiate agreements and the City would be charged an hourly rate for that time. Discussion then ensued regarding the means by which Gunnerson Consulting will be able to increase the City's revenues through improved contract negotiations.

Council Member Bailey inquired as to the typical increase in revenue for a renegotiated contract. Mr. Marx stated that contract increases are typically tied to the consumer price index (CPI), which is one percent over the past 10 years. He stated that if the City missed out on \$50 per month over the life of a 30 year contract, that can equate to tens of thousands of dollars and his company will help to ensure that the City is not losing that money. He stated Gunnerson Consulting has a database that includes revenues for tower sites throughout the country and that is the information used to aid in contract negotiations. Council Member Bailey stated his concern is that when Gunnerson made its initial proposal to the City they communicated that they would evaluate the City's agreements at no risk to the City to determine if there was an opportunity for increasing revenues; however, now the proposed agreement would require the City to pay for these services. Council Member Urry stated it is his understanding that the City would only pay if they chose to proceed with the proposal at the conclusion of the evaluation. Mr. Marx stated that is correct. Council Member Bailey stated that the evaluation that has been provided does not give an indication of the amount that could be saved or new revenue that could be generated. He stated he is concerned about moving forward because he is unsure of the potential results of working with Gunnerson Consulting. Council Member Satterthwaite agreed and added that the City's agreement with Crown Castle only has six years left and there may not be a potential for any savings. Mr. Marx stated that is correct and that would be determined through an evaluation. General discussion ensued regarding the various contracts to which the City is a party that Gunnerson would evaluate, with Mr. Marx stating there is no way for him to guarantee a projected revenue increase without proceeding with a thorough evaluation of such contracts.

Mayor Taylor inquired as to the typical length of a tower lease agreement, to which Mr. Marx answered that varies throughout the country, but in Utah the norm seems to be 30 years. Mayor Taylor asked if that favors the City or the lessee, to which Mr. Marx answered the lessee. Discussion then ensued regarding the terms of the proposed agreement between the City and Gunnerson Consulting, with Mr. Marx explaining that Gunnerson would be eligible for 20 percent of any revenue increases associated with improved agreements. Council Member Bailey stated he is willing to spend a couple thousand dollars to save \$10,000 but he is not willing to spend a couple thousand dollars to save \$2,000 and he asked how Gunnerson can assure the City that will not be the case. He stated that he feels the justification for the agreement provided by Gunnerson is very soft. Council Member Urry stated the worst case scenario would be that it could cost the City \$2,500 to determine whether any revenues associated with the agreements can be increased and he is willing to take that risk, especially given that Gunnerson has experience doing this same thing for other entities. Council Member Bailey asked Mr. Marx to indicate what he feels the worst case scenario could be for the Crown Castle agreement, to which the City is a party. Mr. Marx stated it is difficult for him to indicate a certain saving or increased revenue amount; all he can relay is what his firm has done for other entities in the past.

Council Member Swanson stated Gunnerson is asking the City to make an investment in hopes of getting a future return on that investment, but he feels the language in the packet and in the proposed agreement is too nebulous and risky; he is not comfortable with those types of investments because he feels it is a gamble. Mr. Marx stated he would be willing to provide additional information, specific to Crown Castle, that may address the Council's concerns regarding the proposed agreement. Mayor Taylor stated that would be appreciated. Mr. Marx then provided a brief overview of the professional background of the owner of Gunnerson Consulting stating he is confident that his firm can provide value to the City.

Mayor Taylor then stated that the termination clause in the proposed agreement was not clear to him; he asked if the contract would be terminated upon a notice of termination being issued or upon the termination of any agreements negotiated. City Attorney Call stated the City could terminate the agreement at any time upon giving 10-days notice to Gunnerson. He then noted there may be an opportunity for the City to negotiate more favorable terms in the agreement, such as waiver of the hourly fee in return for Gunnerson receiving a higher percentage of any increased revenues associated with tower contract amendments. He stated that would result in less risk to the City. Mr. Gunnerson stated that is something he has done for other entities and he is open to be flexible with the City.

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

This item was tabled until the next regularly scheduled Council meeting.

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

This item was tabled until the next regularly scheduled Council meeting.

**6. DISCUSSION AND/OR ACTION TO CONSIDER THE CITY ATTORNEY CONTRACT**

A memo from Mayor Taylor explained the City's contract with Anderson Call & Wilkinson for City Attorney services has expired. This firm has provided excellent services for the City, and the Mayor has been very satisfied with their work, availability, price value, and knowledge. While the City has been very satisfied with their work, the decision was made to go through a new bid process for City Attorney services, to ensure the City is receiving the best services and value for our residents. Accordingly a bid for City Attorney services was posted last month.

A Selection Committee comprised of the Mayor, City Council members Swanson and Stoker, City Administrator Bryan Steele, NOPD Chief Kevin Warren, and City Recorder Annette Spendlove interviewed applicants on August 19th. After concluding the interviews, the Committee unanimously agreed to recommend contracting with Anderson Call & Wilkinson for our City Attorney services. They felt this way because of the deep knowledge and experience of municipal and land use law matters in the firm, because this firm is local to our city and able to readily attend all City Council and Planning Commission meetings, and because the firm has provided excellent services to the City in the past.

Included in the Council packet was a contract for City Attorney services recommended by the Mayor. This contract is for a 2 year period, but may be terminated on 30 days' notice in the event the City is not satisfied with the services provided. There are various price tiers for services provided. In the previous contract, the City had opted to use Tier 1, paying for 22 hours of attorney time per month. The City has been using an average of 31.3 hours per month, however, and Mayor Taylor recommends the City start the new contract at Tier 2. The City has been using more attorney services over the past year because the Mayor has relied heavily on the City Attorney for a number of matters as the City no longer has a City Manager. Additionally, there are a large number of major initiatives going on in the City, which require extensive attorney services. These include development of a Master Planned Community zone and mixed-use projects, creation of a Community Development Area (CDA), etc. The Mayor expects to continue to use roughly 30 hours of attorney services for the foreseeable future, and it makes sense to pay for Tier 2, rather than consistently going over our tier's hours and paying the higher "additional time" rate.

Mayor Taylor reviewed his memo.

Council Member Satterthwaite asked if the City is locked into the tier selected for a six-month period, to which City Attorney Call answered yes; however, he noted it may be possible to decrease that period to four months if the City so desires. He stated that setting the time period helps his firm to understand the number of clientele they can serve at any given time.

Council Member Urry inquired as to the potential cost savings associated with moving to Tier 2 in the contract. Mr. Call stated that the City will no longer pay higher rates for “additional time”. He noted he had previously discussed possibly charging different rates depending upon the service he is providing for the City, but that would be too difficult for him and City staff to track so they opted to stick with one hourly rate included in Tier 2. Mayor Taylor noted that the difference between Tier 1 and Tier 2 for 30 hours in a given month is a \$350 per month.

Council Member Bailey inquired as to the amount of money included in the budget for attorney services. Finance Director Steele stated he cannot recall the exact amount off the top of his head, but he estimated the budget amount to be \$30,000. Council Member Bailey stated he appreciates the City having access to Craig Call for land use training. He stated he is very concerned about some of the recent actions of the City’s Planning Commission, which could create long term problems for the City and land use training would be very helpful in educating them regarding their responsibilities.

**Council Member Bailey motioned to authorize execution of a service contract with Anderson, Call, & Wilkinson for attorney services with Tier 2. Council Member Stoker seconded the motion.**

Upon discussion of the motion, the Council discovered the actual agreement was not included in the packet and they were not comfortable approving without access to the document. Mr. Call stated it would be fine to table the action until the next meeting and he will wait to begin billing under the Tier 2 schedule until that time.

**Council Member Bailey withdrew his motion.**

## **7. DISCUSSION ON A RAIN BARREL PROGRAM**

Mayor Taylor noted that several residents have expressed interest in a rain barrel program after hearing that many other entities have created similar programs. He noted staff has developed a presentation including information about such a program.

Finance Director Steele played a short video clip from a local news station providing information regarding rain barrel programs, after which he used the aid of a PowerPoint presentation to relay the information staff has gathered regarding rain barrel programs.

- Utah is one of the highest users of water in the country
- Idea was created to help conserve water by capturing rain water and re-using it to water plants, gardens etc.
- The gallons per capital per day of water usage is 295 in the average Utah city, compared to 144 in Los Angeles, 168 in Denver, and 223 in Las Vegas.

Council Member Swanson stated that he saw the water usage data in a recent Utah League of Cities and Towns (ULCT) training and the attendees were told that this data is inaccurate; in Utah the population is divided by the amount of water delivered, but in Las Vegas the water used

in hotels or tourism driven activities is not counted and all affluent that is treated and dumped back into Lake Mead is subtracted from that amount as well. He stated their water usage is much higher than any Utah city. He stated that he is very supportive of water conservation, but he wants it based on correct numbers. Council Member Bailey agreed and stated he feels there is enough justification for a rain barrel program without relying upon those numbers.

Mr. Steele continued his review of his PowerPoint presentation, beginning with a slide regarding how a rain barrel program works:

- Anyone can order a barrel and participate in the program
- People order up to 4 50-gallon barrels from the rain barrel program website
- They are given a location where they can pick up the barrel(s)
- Residents are required to do the installation of the rain barrels (You-Tube video on website or instructions)
  - There is some modification to the downspout to make the barrel fit
- Some cities are subsidizing part of the cost of the barrels

He then reviewed the costs associated with a rain barrel program:

- For residents of non-participating cities the cost is \$74 per barrel
- For residents of participating cities the cost to residents is \$40 per barrel (\$34 subsidy by the city)
- If the city decides to participate, the minimum quantity to subsidize is 100 (a minimum initial investment of \$3,400)
- If the city chooses to participate, the earliest they could have a Pickup event would be in the fall. (This would piggy back onto Ogden's Pickup)
- If the City wanted to do a separate event, then we could schedule one next spring (2016)

Council Member Bailey stated he is concerned about the high cost for a barrel, which should be fairly inexpensive. He added that he also does not like that the Utah Rivers Council is determining what the City's subsidy for the program should be and, instead, the City should have the opportunity to negotiate the subsidy amount, if any.

Mr. Steele then concluded by providing website addresses for entities that provide additional information about the rain barrel program.

The Council engaged in a discussion about the program with Council Members Swanson and Stoker stating they support the program, but they are not willing to subsidize it. Council Member Swanson stated he would like to provide all relevant information to the citizens and inform them of how they can obtain a barrel and participate in the program. The rest of the Council Members agreed and Mayor Taylor noted the City can provide information via the City newsletter and on the website.

## **8. DISCUSSION ON AN OFFER FROM QUESTAR TO PURCHASE CITY PROPERTY ON 450 E**

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 well-being, 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.

Finance Director Steele reviewed the staff memo.

Council Member Bailey inquired as to what Questar plans to build on the property and how it would impact nearby residents. City Attorney Call stated he has seen the site plan for the project, noting Questar would like to build a sub-station on the property and it would be surrounded by a concrete wall. Council Member Urry stated he would like to inform the nearby residents of the possibility of Questar purchasing the property and their plans for its use. After a brief discussion regarding the impact the proposed project would cause to the area and a review of the site plan, Mayor Taylor asked the Council to consider what else the City may like to use the property for. He noted that a portion of the property will be needed to accommodate the future widening of Washington Boulevard and he would like to preserve public access from nearby residents to Washington Boulevard.

Council Member Bailey stated it is very important that the City understand exactly what the project will look like and the impact it will have on nearby properties. Council Member Satterthwaite agreed.

Mayor Taylor then asked Mr. Call to summarize the process the City would need to follow if the decision were made to sell the property. Mr. Call noted the Council would need to act to declare the property available for sale after which an advertisement soliciting bids for the purchase of the property would be published. He added there is an opportunity to invoke restrictions on the sale as well. General discussion continued regarding the process for disposing of City property, with Mr. Call noting that anyone purchasing City property with the intent to develop it would need to follow the City's development approval process and comply with all City ordinances. There was also a discussion about some of the property's characteristics as the Council reviewed an aerial photograph of the property and photographs of the type of structure that Questar may be interested in building on the property.

Mayor Taylor concluded City Administration will work to determine the impact the development of the property would have on adjacent properties and obtain exact photos from Questar of what the structure would look like. He stated he will also find out if they will need to do extensive excavation in the area to complete their project. He noted he will provide information to the Council at a future date.

**9. DISCUSSION AND/OR ACTION TO ADD A PUBLIC UTILITY EASEMENT AND AGREEMENT ONTO CITY OWNED PROPERTY, LOCATED AT 3175 N FOX LANE**

A staff 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 the following 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 suggested conditions of approval:

- Applicant to obtain appropriate building permits

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

Finance Director Steele reviewed the staff memo.

Council Member Bailey asked where utility easements are typically located in developments. He stated he has noticed utility boxes in other areas of the City located in residents' yards or in the park strip. He asked why CenturyLink does not use an existing utility easement to install their infrastructure in this situation. Building Official Kerr noted that in this case the utility easement stops at the City's detention basin and picks up on the other side and they cannot get across the property. Mayor Taylor added CenturyLink is asking for a larger public utility easement than normal.

Council Member Swanson asked if this type of request is any different than a request to install a cell phone tower on City property. Mr. Call answered yes and noted a six foot height limitation would be imposed on CenturyLink for the structure they plan to install. Council Member Swanson stated that his question was from more of a lease perspective; he asked if CenturyLink would be required to lease the ground from the City for their infrastructure. Mr. Call noted that for the type of device CenturyLink is seeking to install the City recoups an amount of money through the franchise fee that residents pay; that is why these types of structures are allowed within a public utility easement.

The Council reviewed a photograph of the property and had a discussion regarding where the structure would be installed and what it's appearance would be, after which Council Member Satterthwaite stated he would like to delay making a decision on this issue until a representative of CenturyLink is available to provide the Council with more information. Mayor Taylor and the rest of the City Council agreed. Mayor Taylor added that he wants to have a large discussion regarding whether utility infrastructure should be permitted in detention basins of the City. Council Member Bailey stated he would support such a discussion. He asked if there is a way for the City to require that utility companies who install infrastructure in a City road have to repair the road to a certain standard. Mr. Call stated that the Utah Department of Transportation (UDOT) has a policy that enacts a moratorium on road digging for a certain period of time after completion of a road project; the road may only be disturbed in case of emergency and it may be possible for the City to enact a similar policy. Council Member Bailey stated he would like to

consider a policy so that new, beautiful roads are not disturbed once they are completed. Mayor Taylor suggested that the City should also enact a fine for utility companies that dig without a permit from the City. Council Members Bailey and Swanson agreed and stated that the impact of cutting and patching roads for utility installation is huge. The Council engaged in a brief discussion regarding various locations throughout the City where roadways are damaged or failing due to a company's failure to repair a road to public works standards. Mayor Taylor instructed Mr. Call to check into statutory limits for fines or fees the City can impose on utility companies or others cutting City roads without a permit. Council Member Swanson also asked Mr. Call to research the option for placing a moratorium on road cuts for a specified amount of time. Mr. Kerr added that the one question he has relates to a new home being constructed on a parcel of property and they must connect to utilities located in the road; he wondered if a moratorium would apply in those situations. Mayor Taylor stated that road boring may be required in those situations. He then concluded CenturyLink will be invited to a future meeting to discuss this issue further.

#### **10. UPDATE ON COMMUNITY DEVELOPMENT AREA (CDA)**

A memo from Mayor Taylor explained Utah State Law allows cities to create CDA's in order to foster commercial and residential development or to redevelop older, blighted areas. In many ways the CDA is similar to a Redevelopment Area (RDA), but the CDA format allows for greater flexibility between the city and taxing entities to arrive at a tax increment sharing proposal that works for all parties. The basic idea of a CDA is that a city identifies parcels that would benefit from development or redevelopment, and seeks to identify possible public contributions that could be made to stimulate development (contributions could include infrastructure items such as roads, utilities, etc., or items such as facade improvements, or building demolition in blighted areas). In order to get the funds to stimulate growth, the city asks other taxing entities to grant a certain amount of the future tax increment that will occur once on the CDA parcels to the city. This facilitates the City to make public participation investments into projects within the CDA, and all taxing entities benefit as the economic development occurs and property taxes are increased above what they otherwise would have been, due to the economic stimulus. The City will negotiate an agreement with each taxing entity relative to the terms of the proposed tax increment split, including a length of time and a percentage of the tax increment to be granted to the CDA.

Enclosed is our draft CDA plan that I will present during the City Council meeting. This plan represents nearly 18 months of work. Zion's Bank Public Finance has been the consultant for the development of this plan, and the plan has been carefully reviewed by the Economic Development Committee, who unanimously recommended adoption of this plan during the August 18th meeting.

The Plan will be before the City Council for final approval during the Sept. 22nd meeting. During the next month we will be receiving comments and input from residents, property owners, other taxing entities, and any other interested parties. Based on this input and your priorities, we will then prepare a formal proposed plan for the Sept. 22nd meeting.

Mayor Taylor reviewed his memo and reviewed a map to identify the proposed boundaries and the properties to be included in the proposed CDA. He also offered a summary of the reasons for including various commercial properties in the CDA, focusing on redevelopment opportunities throughout the City. He noted the focus of the CDA project area has been on and around Washington Boulevard and the Taxing Entity Committee (TEC) has expressed no opposition to the plan to date.

Council Member Urry asked if there is a requirement for the CDA plan area to be contiguous, to which Mayor Taylor answered yes and indicated that is why all of Washington Boulevard is included in the area as it connects all properties to one another. He then identified the properties along Washington Boulevard that are already included in the City's existing Redevelopment Area (RDA), noting that the same properties cannot be included in the CDA as well. He stated the City's RDA has been very successful and facilitated much economic development. He also briefly discussed a redevelopment plan in the works to revitalize the North Ogden (King's) Plaza and stated he is receiving regular updates from the City's Economic Development Consultant regarding the progress of that process. The Council then engaged in general discussion regarding the properties included in the CDA, with some suggestions to include additional properties. Mayor Taylor noted that including additional properties would require the City to go back to the TEC for approval. He then noted the total amount of property in the CDA is approximately 90 acres with a taxable value of \$16.9 million; much of the property is vacant and some of it is tax exempt, which was one selling point to the TEC as they are currently not getting any tax revenue from the properties, but will get tax revenue upon future development due to projections that the area could generate nearly \$12 million in new tax increment. He then provided a breakdown of the contribution each agency in the TEC would make to the CDA, noting in this case the Weber School District will only contribute a 35 percent share though it is common practice for taxing entities to contribute 50 percent of their share; the biggest contributor is North Ogden City contributing 75 percent of new increment to facilitate the completion of CDA projects. He added that the dollar amounts associated with new increment are very conservative as they only include development that could occur on two properties in the project area. He then read the following statement from the draft CDA Project Area Plan:

“Increment is needed in order to pay for the following infrastructure and improvements or like infrastructure and improvements to the Project Area as determined by the Agency. While flexibility is granted to the Agency in determining expenses in the Project Area, the following is the Agency's best estimate of projects and accompanying expenditures needed in the Project Area. In addition to the projects listed below, the Agency intends to keep four percent of the Agency revenues for administrative costs associated with administering the RDA. The projected administrative cost is approximately \$217,332.”

- Washington Blvd. Waterline (extraordinary cost of development) \$110,000
- Relocate 2700 N. Detention Basin to prepare exempt public land for commercial development \$1,680,240
- 2700 N. Detention Basin Fill to prepare exempt public land for commercial development \$320,000
- Bury Power Lines on Washington Blvd. to stimulate higher-end economic activity \$1,600,000

- 2550 N. Road & Sidewalk Improvements to prepare street for additional commercial traffic \$430,000
- 2700 N. Capping of Water Sources to prepare exempt public land for commercial development \$9,000
- Widen 2600 N. at Washington Blvd. to accommodate additional commercial traffic \$497,000
- Beautification of Washington Blvd. to stimulate economic growth \$125,000
- Widen Sidewalks on Washington Blvd. to facilitate bike/ped access to commerce \$500,000
- Demolition & Environmental Remediation of old Public Works Site to prep for development \$500,000
- Create Downtown Trailhead Park at Washington Blvd./1900 North \$300,000
- Install Pedestrian Bridge over Washington Blvd. to encourage pedestrian commercial activity \$900,000
- 1700 North Road Construction (extraordinary cost of development) \$1,050,000
- Old Smith's Building and Adjacent Strip Mall Façade Work Credit to stimulate redevelopment \$300,000

The total project value is estimated at \$8,321,640 and all taxing entities have looked favorably upon the proposal to date. He then stated he would entertain questions from the Council.

Council Member Satterthwaite stated it appears there are administrative fees associated with the CDA, but there will be a fair amount of work to be done to fund projects through other means. Mayor Taylor stated that is correct, but noted that many of the projects will be grant eligible. He added there is no obligation to complete the projects and spend the amounts listed in the Plan if funding is not available. He discussed various funding options until the CDA is creating a positive cash flow to reinvest in the area.

Council Member Urry emphasized his feeling that there are additional properties that would be prime for inclusion in the CDA. He stated he suggested the same throughout the process of consideration of creation of a CDA and he is unsure why those properties were not included in the draft Plan area. Mayor Taylor stated there has been much discussion about the project area and there are various reasons why certain properties were not included in the Plan area. He added that the Council adopted a resolution two months ago approving the draft Plan area and it would be very difficult and costly to amend it at this point to include additional properties. Council Member Satterthwaite added that there are some projects in the draft Plan area that are ready and waiting for this action to be completed. Council Member Urry stated he is simply trying to express that suggestions that he made early on in the process were ignored. Mayor Taylor apologized that Council Member Urry feels that way and indicated that was not done intentionally. Council Member Urry stated some have said the same thing about the General Plan update process; many steering committee members have indicated their concerns or suggestions were ignored. Council Member Bailey stated the most appropriate time for Council Member Urry to raise this concern would have been two months ago when the Council adopted the resolution approving the draft Plan area. He stated he feels the process is too far down the road to change the Plan now. He added that he makes suggestions all the time that go nowhere and he recognizes it is his responsibility to continue to raise that concern until it is addressed.

Discussion and debate regarding Council Member Urry's concern continued, with Mayor Taylor concluding there will be future opportunities for including additional properties in new CDAs. He then reviewed the timeline for establishing the CDA, which will set in motion the actions for various entities to consider agreements with the City giving their consent and support to the CDA. Council Member Bailey thanked the Mayor and staff for all the work that has gone into the proposal to create a CDA. Mayor Taylor stated that he feels if the RDA and CDA are handled appropriately, they are tools that will change the entire look of Washington Boulevard throughout the City. Council Member Bailey stated his only concern is trying to spread commercial uses too thin along the entire length of Washington Boulevard rather than focusing on a true commercial downtown or City Center. Mayor Taylor agreed and added that is why there is a need to include some residential uses along Washington Boulevard as well.

The Council engaged in a brief discussion about the potential to eventually acquire a home near Kirt's Drive-In to preserve as a historical site in the City as it was used as the first school house in North Ogden, which was followed by a high level discussion regarding road configuration throughout the CDA Plan Area, specifically around the North Ogden (King's) Plaza. Mayor Taylor provided the Council with information regarding work that has been done by the City's Economic Development Committee pertaining to beautification of the Washington Boulevard corridor, including adding new flower planters, benches, and trash cans with the City's logo to commercial properties. He added there are also plans to use vinyl wraps to cover utility boxes in the downtown area as well; it will improve the look of the area and convey a great message to visitors. He added the Economic Development Committee would also like to do a mural contest on the back of one of the older buildings in the North Ogden Plaza. The Council had a discussion regarding whether a mural would not comply with the City's zoning standards relative to colors allowed on buildings throughout the City. Council Member Bailey stated he would be most comfortable with a nature scene that blends in with the mountains behind the building. Mayor Taylor added there is also a proposal to paint murals on sound walls; the entire Council stated they would be opposed to that concept.

#### **11. PUBLIC COMMENTS**

There were no public comments.

#### **12. COUNCIL/MAYOR/STAFF COMMENTS**

City Attorney Call noted that he has been reviewing the City Code regarding unpermitted street cuts and found that such an action is a Class B Misdemeanor and a violator can face up to six months in jail and a \$1,000 fine. He stated that if anyone sees that happening again they should refer the situation to the City Police and the prosecutor. He stated there is a provision for emergencies.

Council Member Satterthwaite stated that he would like to see a copy of the documentation provided by City staff to Jack Barrett, the owner of the property to be developed south of Country Boy Dairy. Mayor Taylor stated that he would get that information to the Council. Council Member Bailey stated the proposal is being reviewed by the Planning Commission at

this point and it would be beneficial to provide input before it goes too far. Mayor Taylor agreed it is a project that needs careful review as it is a very far reaching project; if it is not done right it could turn into an eyesore. He stated it may be beneficial to have a discussion about the project during the September work session.

Council Member Satterthwaite then stated that the discussions about the North Branch Library project in North Ogden have been referred to as 'actively dying'. Mayor Taylor stated he has heard that as well and indicated there is still work to be done by the City, Pleasant View, and Harrisville.

Council Member Urry stated there is a section of the new 1700 North that is not completely paved and it looks like there is work to be completed. Mayor Taylor stated there is still utility and paving work to be completed on the street and the City will not accept the street until it meets public works standards. Council Member Urry then stated he heard from residents on Fruitland Drive who have been informed that their children will no longer be bussed to school so they may be making a request that the City construct a walking path from the road to Green Acres. He then stated that he approached City Recorder Spendlove a couple of weeks ago to provide her with names of vendors that could offer the City assistance with the sound system in the Council Chambers and he asked if she has followed up on that issue. Mayor Taylor stated he is not sure of the status of that situation. Council Member Urry then stated there is funding in the budget to finish the walking trail and he asked if that project has gone to bid. Mayor Taylor stated the project is nearly ready to bid. Council Member Urry stated he would like to see the project completed before the snow flies. He then stated that it would be nice for the City Council to know the step by step process City staff follows to complete monthly utility billing. Mayor Taylor stated something like that can be created now that the City has a new utility billing clerk. Council Member Urry then addressed items four and five on the agenda that were tabled due to the fact that proper notification was not sent to some residents. He stated he appreciates that the Mayor said he takes the blame for that problem, but it is his opinion that there is a breakdown somewhere in the City and those things need to be addressed. Council Member Satterthwaite stated that he attended a recent Planning Commission meeting because he was made aware by neighbors of a development to the east of him; there were many people in that situation that also did not receive notification so this is not a new problem. Council Member Urry asked that the Mayor find out what happened, why it happened, and how it is going to be fixed. Council Member Stoker added that it may be appropriate for City Attorney Call to pay closer attention to what is happening with Planning staff and the Planning Commission to address this issue. Mr. Call stated this is not a Planning Commission issue; staff is responsible for noticing.

Council Member Swanson expressed his appreciation for the relationship between the Mayor and all City Council Members; the body works well together and he is grateful for that in light of hearing of difficulties other cities are currently experiencing.

Mayor Taylor stated he sent an email to the Council regarding operation of the Senior Center and he asked for feedback as soon as possible. Council Member Bailey indicated he supports all of Mayor Taylor's proposals included in the email. There was a brief discussion about management and oversight of the Senior Center, with Mayor Taylor concluding he will continue to work on the issue and schedule an additional meeting with Weber Human Services. He then

reported the Youth Court has been approved and will be stationed at Weber High School. He stated he will gather additional information about the Youth Court before asking a member of the Council to commit to be a liaison for the group. He then reported the Barker Park Committee will be taking a fieldtrip to see a park in Springville and he feels it will generate some good ideas for the Committee.

Council Member Stoker reminded everyone of the upcoming employee pool party to be held at the Aquatic Center this Thursday.

**13. ADJOURNMENT**

**Council Member Bailey motioned to adjourn. Council Member Swanson seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**The meeting adjourned at 11:06 p.m.**

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Brent Taylor, Mayor

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S. Annette Spendlove, MMC  
City Recorder

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Date Approved