

NORTH OGDEN CITY COUNCIL MEETING MINUTES

December 9, 2014

The North Ogden City Council convened in an open meeting on December 9, 2014 at 6:30 p.m. in 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 December 4, 2014. Notice of the annual meeting schedule was published in the Standard-Examiner on January 24, 2014.

PRESENT:	Brent Taylor	Mayor	(excused)
	Kent Bailey	Council Member	(Mayor Pro Tem)
	Cheryl Stoker	Council Member	
	Phillip Swanson	Council Member	
	James Urry	Council Member	

STAFF PRESENT:	Bryan Steele	Acting City Manager
	S. Annette Spendlove	City Recorder/H.R. Director

VISITORS:	Norman Schmehl	Matt Hartvigsen
	Roger Hepworth	Debbie Hepworth
	Blake Welling	Julie Anderson
	Dale Anderson	Rachel Trotter

Mayor Pro Tem Bailey welcomed those in attendance.

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

ACTIVE AGENDA

1. PUBLIC COMMENTS

Boy Scout Camden Morris, 3041 N 550 E, stated he is working on his Citizenship in the Community merit badge.

Mayor Pro Tem Bailey moved item two to the end of the agenda.

3. DISCUSSION AND/OR ACTION TO CONSIDER A CHANGE ORDER FOR THE UPSIZING OF THE DETENTION POND AT THE NEW PUBLIC WORKS SITE

A staff memo from City Planner Scott explained when the City Council is acting in a legislative capacity it has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Since this legislative action does not involve the zoning ordinance it does not require that the Planning Commission give a recommendation to the City Council.

Typically the criterion for making a decision, related to a legislative matter, requires compatibility with the general plan and existing codes. The Valley View Estates subdivision was granted final approval on March 27, 2007. One of the conditions of approval relates to the requirement in 9-2-4 (Use of Culinary Water for Irrigation Prohibited) that requires all subdivisions to provide secondary water. Pineview Water District is unable to serve all 8 lots of this subdivision; they are currently serving 2 lots. The applicant is requesting that the City Council amend 9-2-4 to grant an exception to this provision for Valley View Estates subdivision until the appropriate easement and construction of the secondary water line is completed. The secondary water lines are in place within the Valley View Estates subdivision but are not connected to the Pineview System at 3650 North.

9-2-4: USE OF CULINARY WATER FOR IRRIGATION PROHIBITED

It is unlawful for any person, whether owner or occupant, of any residential or agricultural property, to use culinary water from the city waterworks for the purpose of irrigating any yard, garden, lawn, field or for livestock watering. Building permits for residential structures shall not be issued unless there is a pressurized secondary water system serving the property. Property located in the Ben Lomond estates subdivision, Roylance farms PRUD subdivision, phases 1 and 2, and the Roylance farms phase 3 subdivision are excluded from this section until secondary water is available.

Adopted by Ord. 2001-04 on 2/13/2001

The Ben Lomond Estates subdivision and Roylance Farms subdivision were granted a temporary reprieve from having secondary water installed to give time for Pine View Water to extend lines to these subdivisions. The difference between these two circumstances is that access was available to the secondary water system; there was a construction timetable to get the water lines extended that the City Council granted the temporary exception. In this case the water lines are also available but an access across an intervening property is not currently available. In Mr. Schmehl's letter he indicates that Pine View Water District has agreed to condemn the water line easement but has not completed this process. Mr. Schmehl is requesting that the City Council amend the ordinance to allow the use of culinary water for irrigation purposes until secondary water is available. Staff has contacted Mr. Terel Grimley, Pineview District General Manager; he confirmed that he has been in contact with the property owner. He is going to make another offer before condemning the easement. His goal is to have the water line in before next year's water service begins. If building permits were issued today it would take about 6 months to complete a home. New homes have 18 months to landscape front and side yards and two and half years to landscape back yards. The City could require no landscaping be allowed until secondary water is available. The proposed subdivision conforms to the North Ogden City General Plan. The General Plan map calls for this property to be developed as single family residential. However, unless the City Council amends 9-24 the subdivision cannot meet that ordinance requirement. The memo concluded that if the City Council is satisfied that there is sufficient information to grant the request; they will direct Staff to bring back an ordinance amendment and a revised development agreement that the building permits for Valley View Estates will have a stipulation that no landscaping will occur until the secondary water system is connected.

Acting City Manager Steele reviewed Mr. Scott's memo.

Norman Schmehl, 1731 Whispering Oaks, Ogden, UT, stated he is the co-developer of the subject property and the project was completed in 2007; the warranty period for the project expired in 2009 and at that time he entered into an agreement with the City to put money in escrow to guarantee the installation of the line as required by Pineview District. He stated he has tried diligently over the past six years to secure an easement for the installation of the line and in each and every case he was denied the easement for several reasons. He stated that in 2011, former City Manager Ed Dickie wrote a letter to the District asking for information to assist in determining whether the connection on 3650 North was actually needed. He stated he is asking to be allowed to use culinary water for irrigation purposes so that he can proceed with selling the lots in the subdivision and so that those that purchase the lots can secure a building permit. He stated he feels his project has been halted because of the City and Pineview and he would like for the City to revise its ordinance to allow him to use culinary water to irrigate the six lots in the subdivision in the interim while additional work is done to determine how much water is actually needed for the subject property. He stated he would also like the ordinance amended to modify the requirement for water needed at the property. He stated he has spoken with the City Engineer and Fire Marshall and found that the water pressure in the area is sufficient and it is not necessary that houses be built with sprinkling systems; since that time he has been able to sell two lots in the project and if the ordinance revision he is requesting were to be approved he would be able to sell the remaining parcels.

Jill Taylor, co-developer of the subject property, indicated that one of the problems she has experienced with this project is that Pineview District and the City would not talk with one another to address the issues with the property; at the final engineering meeting where all parties gathered to discuss the project, a representative of Pineview was not present and they were told that they had not been informed of the meeting. She stated that if Pineview had made her and Mr. Schmehl aware that they did not feel there was enough pressure to serve the project without looping a line in the area, they would not have proceeded with the development. She stated that for six years the project has been at a standstill and the adjacent property owners do not want to grant an easement to allow for the installation of the water line being requested by Pineview.

Mr. Schmehl added that the money has been put in escrow and there is sufficient funding to complete the project.

Mayor Pro Tem Bailey asked if the project has just been sitting for six years. Mr. Schmehl answered yes and reiterated all other infrastructure work for the project was completed in September of 2007. Mayor Pro Tem Bailey stated he believes the applicants should be talking to Pineview and not North Ogden City because Pineview is the entity that can provide the solution needed to make the project viable. He stated he is confused as to why the applicants have come to the City. Mr. Schmehl stated that he has been made many promises by Pineview over the years and he feels there is sufficient water at the connection at 500 East to serve the project and he feels the City has the responsibility to verify that what they are requiring is actually necessary; if there is sufficient water in the area he should be allowed to proceed with the project. He stated Mr. Grimley has refused to help him complete the tests to determine if there is sufficient water in the area so he is asking the City for help. Ms. Taylor added that every solution she has offered to Pineview has been rejected; Pineview has been holding the key and they are placing fault with the City for approving the subdivision without getting better input from Pineview. She stated she

feels she and Mr. Schmehl are caught in the middle between the City and Pineview. She stated that the owner of the adjacent property has been opposed to granting an easement for the pressurized water line, but her daughter understands that the line is likely needed. She stated that the daughter will not go against her mother's wishes for her property. She stated Pineview has told her that they will use eminent domain to take the property for the easement because the installation of the water line is part of their master plan. Mayor Pro Tem Bailey asked if Pineview intends to pay for the easement. Ms. Taylor answered yes and noted they indicated they will have the property appraised. She reiterated she feels this issue has been created by miscommunication between North Ogden City and Pineview.

Council Member Urry stated he does not feel the City should be involved other than possibly facilitating a meeting between the applicants and Pineview. He stated he is opposed to approving the use of culinary water for irrigation. He stated that if he were installing a subdivision he would have conducted testing to ensure there was appropriate water in the area to serve it. Mr. Schmehl and Ms. Taylor stated they did such testing; they received a letter from the City Engineer and their own engineer to verify the testing, but Pineview was not involved. Mr. Schmehl stated that he did everything asked of him by the City, yet he is still in a bind and he feels the City has the ability to provide oversight and protect him. Council Member Urry stated he does not feel the City has the responsibility to protect anyone that chooses to subdivide property. Mr. Schmehl stated he is not asking the City to protect him; he is asking the City to verify what Pineview is trying to require of him is valid. Ms. Taylor added she feels the City is at fault for approving the subdivision without requiring more from Pineview.

Council Member Swanson stated he has several concerns and wondered what would happen is the homes were built and the pressure at 500 East were not sufficient as Pineview has claimed. He stated the individuals that build the homes will want to install landscaping but there is not sufficient water to do so; those individuals will need to use culinary water to maintain their landscaping for an undetermined amount of time. He stated the applicants are asking the Council to act on the issue based on several assumptions and he is uncomfortable doing that. Mr. Schmehl stated that he does not feel his claims are based upon assumptions. He added that he has authority to use secondary water for two lots, but he feels enough water is available to water the additional six lots as well. Council Member Swanson stated that he understands Mr. Schmehl's position, but he does not feel the City can pay for an engineering study to prove there is sufficient water for the development because that would mean the City would need to pay for such a study for every development proposed to be built in the City .

Council Member Stoker asked to hear from the City Engineer. City Engineer Hartvigsen stated he understands the State Property Rights Ombudsman has become involved in the situation and he does not want to provide an opinion on those dealings, but he noted Pineview agreed to serve the development in a letter that did not include any conditions of approval. He stated he is not surprised the City approved the development based upon that letter. City Attorney Call noted he has seen the letter and there were some things included therein that could be considered conditions, but they were not specific to the locations of lines. Mr. Hartvigsen added that once the development was under construction Pineview indicated they could not serve it unless a second water line was installed. He stated he attended a meeting with the applicants and Pineview and Mr. Grimley committed to provide a solution to the problem within 30 days, but

that has never happened and Pineview has continued to fail to respond to the applicant's request. He then noted that he does not feel the City has sufficient culinary water to serve irrigation purposes and he would hate to modify the City's ordinance to allow such a practice even on a temporary basis. He concluded he can sympathize with the position they are in due to no fault of their own, but the City cannot dictate how Pineview provides their services, though the City has tried to get involved in this situation.

Council Member Stoker asked if the main problem is that it is unknown if there will be sufficient water pressure even if there is an easement across the adjacent property to allow for the installation of an additional line. Ms. Taylor answered no and stated that Pineview has indicated that if the water is looped there will be sufficient pressure for the subject property as well as all subdivisions in the area. There was a brief discussion regarding the proposed location of the water line requested by Pineview, with Mr. Hartvigsen reiterating that Pineview has requested that the second line be looped to serve and provide a connection to all lots in the subdivision.

Mayor Pro Tem Bailey concluded he feels that the issue is between the developer and Pineview and the City's only role in the issue is the ordinance that requires that secondary water be available for the development. City Attorney Call noted the opinion of the Ombudsman's office is a very unique one and it essentially states that the City and Pineview are both obligated to make sure there is a fair exaction upon the property owners. The opinion also indicates the City is being fair in requiring secondary water be provided to every lot in order to allow the culinary system to remain dedicated to culinary purposes and alleviate any opportunities for shortfalls in the system. He added the City Council does have the authority to make an exception on a temporary basis to allow culinary water to be used for irrigation purposes.

Council Member Urry asked if the City could draft a letter to Pineview asking for the information that the Ombudsman has indicated they are required to provide. Mr. Call stated that there is not a specific indication of the type of information Pineview should be providing, but his conclusion is that the City could be made liable if what Pineview was trying to impose upon the developer exceeded what was reasonable. Council Member Urry stated he feels it would be in the City's best interest to find out if there is sufficient pressure at 500 West and it may be appropriate for the City to draft a letter to Pineview asking for information to make that determination.

Mayor Pro Tem Bailey added he feels Pineview is responsible for make the situation right, but he is sympathetic to the applicant's situation and wishes to help if possible. He asked if Mr. Hartvigsen has the ability to determine if there is adequate pressure to serve the development. Mr. Hartvigsen stated he can conduct a study, but it will be up to Pineview to ultimately determine if the pressure is adequate. Mr. Schmehl added he feels what Pineview is requesting is unfair; they are asking for a new line that will provide adequate pressure to 50 or 60 additional lots rather than just the six lots in his subdivision. Mayor Pro Tem Bailey asked if the applicants are seeking resolution to the problem or if they would like retribution as well. Mr. Schmehl stated he is simply seeking a resolution so he can proceed with his development.

Council Member Swanson stated he is concerned that the decision that is left to be made by Pineview is arbitrary and not based upon a policy requiring certain pressure or flows. Mr.

Hartvigsen stated he does not feel the decision to be made by Pineview is arbitrary and they will be required to prove that what they are asking for is reasonable. He reiterated that the decision can be made at their sole discretion. Mayor Pro Tem Bailey stated he feels the next step is to try to work with Pineview to encourage them to act on the issue. He stated he feels the Council is not supportive of considering a modification to the ordinance or to grant use of culinary water for irrigation purposes. Council Member Swanson stated that is correct and he added he is not sure the use of culinary water for irrigation would be a temporary situation.

Mayor Pro Tem Bailey asked staff to work to contact Pineview to discuss the situation and report back to the Council at the next Council meeting. Council Member Swanson added he would like the efforts between the City and Pineview to be regular and consistent. Ms. Taylor and Mr. Schmehl thanked the Council for their assistance.

4. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING OUR WATER CONSERVATION POLICY

Acting City Manager Steele explained a staff memo

City Engineer Hartvigsen reviewed the staff memo and briefly reviewed the statutory requirements relative to a water conservation policy. He also reviewed the process he followed to draft a water conservation policy, a draft of which was provided as an exhibit to the proposed ordinance included in the Council packet. He noted that in pursuit of solutions to the water conservation problems identified previously, and in light of the variety of conservation measures available to solve these problems, the following goals have been identified and included in the draft plan in order of priority:

- GOAL #1 –Education. Continue to provide information and education regularly in newsletters. Participate in educational programs provided through school district.
- GOAL #2 – Add Meters to Unmetered Connections. The city has added a meter to Green Acres Park this last spring. The city will continue to plan for and install meters at the Oaklawn Park and the shop building connections.
- GOAL #3 – Meter Reading System Update. The city is in the process of updating the radio read meter system to a fixed base monitoring system over the next few years. This will correct the zero usage errors currently plaguing the system. Additionally the fixed base monitoring system will allow for instantaneous meter reading and data collection. Currently meter usage data is collected monthly. The new system will make it possible to see up to the minute usage. It will also give the city the ability to detect continuous flow 10 meters which are indicative of leaks. These can even be reported to city personnel by notification/alarm so the city can follow up with residents to detect leaks earlier and conserve water.
- GOAL #4 – Weekly Meter Reading Audit. Perform weekly read audits to compare water use and check for leaks. This will be possible once the fixed base monitoring system is installed.

Council Member Urry stated he has had two negative experiences with remote meter reading systems with his electrical and internet providers. He stated he was told the reading problem was

his and he later found out it was the problem of the providers and he is not convinced remote read systems are reliable and accurate. Mr. Hartvigsen stated that he has not worked with a remote system and admitted that nothing electronic is foolproof. Mayor Pro Tem Bailey suggested those issues can be addressed during review of the capital improvement project list that would contain a project relative to remote read meters.

Mayor Pro Tem Bailey stated there are some things in the report that are concerning to him, such as the leakage data. Mr. Hartvigsen stated that is the data he has received, but he does not completely trust it at this point; the City has several meters that are failing or not reporting. City Recorder Spendlove added that when the majority of the City's meters were installed their life span was five years and they have exceeded that life span; they were all installed at the same time and now they are all failing at the same time. She noted the Public Works Department had originally suggested replacing one third of the City's meters at a time, but the meters are failing at a quicker rate and that replacement plan may not be sufficient. General discussion of the replacement plan continued, with Mr. Hartvigsen noting that the important aspect of the proposed ordinance and water conservation plan is that its adoption is meeting the statutory requirements and it will serve to educate the public on water usage. Mayor Pro Tem Bailey stated he was encouraged by the fact that the City's usage is lower than the state and national average. Council Member Urry questioned how the usage data is determined. Mr. Hartvigsen stated it comes from the City's utility billing system, but he reiterated that there is a portion of the City's meters that are not accurately reporting. Council Member Urry stated that when he receives his utility bill it does not indicate that his meter has been read each month. Ms. Spendlove explained the City's utility billing system and how the City's utility bills read and are formatted. Mr. Hartvigsen explained the City charges a rate for a flat usage amount and it is an option to reduce the overage amount charges to encourage reduced water usage.

Council Member Urry moved to adopt Ordinance 2014-28 amending the North Ogden City Water Conservation Plan. Council Member Swanson seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

5. DISCUSSION AND/OR ACTION TO CONSIDER A CHANGE ORDER FOR THE UPSIZING OF THE DETENTION POND AT THE NEW PUBLIC WORKS SITE

A staff memo from Acting City Manager Bryan Steele explained staff has been looking at the option of increasing the capacity of the storm drain detention basin at the new Public Works site. The main reason for doing this is in anticipation of selling the detention basin along 2600 North at some point in the future for commercial development. The additional capacity gained at this

site would help in replacing some of the capacity lost when that property is sold. The net price to increase the size/capacity of the storm drain detention basin is \$69,935. (The gross price is \$88,934 and the credit is being applied which was built into Lundahl's bid is \$25,358). The capacity of the detention basin will now be 2.7 acre feet which is an increase of 2.31 acre feet.

Mr. Steele reviewed his staff memo.

Council Member Urry asked if there is any opportunity for the cost to be more than \$69,935. Mr. Steele stated there may be increased costs associated with wetland mitigation. Council Member Urry stated he would like to understand the full potential amount for the change order. Mayor Pro Tem Bailey stated that the wetlands engineer that the City has been working with has met with the City and with Lundahl and has made a recommendation regarding active steps that can be taken to eliminate the disturbance of the wetlands and remove artificial water from the site. He stated it may take up to a year to determine if those steps are successful and if additional wetland mitigation is necessary. He stated that the issue of raising the height and expanding the size of the detention pond is independent of the potential wetland mitigation and he feels the change order is appropriate at this time.

There was a brief general discussion regarding the flow and direction of water to the detention basin, with Mr. Hartvigsen providing a brief description of the layout of the lines that feed water to the basin and how those lines will be rerouted to the new Public Works site. Mayor Pro Tem Bailey stated the City needs to be cognizant of overspending the contingency amount in the budget for the project and he indicated it may be more appropriate to use storm water or community development area (CDA) funds to pay for the increased cost.

Council Member Swanson made a motion to approve a change order for the upsizing of the detention pond at the new Public Works site. Council Member Bailey seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

6. DISCUSSION AND OR/ACTION TO APPOINT BRANDON MASON AS A PLANNING COMMISSION MEMBER

A staff memo from Mayor Pro Tem Bailey explained Mayor Taylor has interviewed Brandon Mason and believes he will be an excellent addition to the Planning Commission because he will be focused on enforcing ordinances as they are written. Mayor Taylor has proposed the City Council confirm Mr. Mason's appointment to the Planning Commission effective immediately.

Mayor Pro Tem Bailey summarized the staff memo and noted that Mr. Mason was not able to attend the meeting tonight to answer any questions the City Council may have.

Council Member Stoker stated she spoke with Mr. Mason earlier in the week and she feels he is very level headed and his appointment is appropriate. She likes that he has no outside interests in real estate and she feels that balance is needed on the Planning Commission.

Council Member Swanson stated he has had lengthy discussions with Mr. Mason and he has always appreciated his willingness to speak his mind and the fact that he is not easily swayed by popular opinion. He thinks things through reasonably and that is needed on the Planning Commission.

Council Member Stoker moved to appoint Brandon Mason to the Planning Commission. Council Member Swanson seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

7. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION, AGREEMENT, AND DONATION TO THE UTAH TRANSPORTATION COALITION

A staff report from Mayor Pro Tem Bailey explained the Utah League of Cities and Towns has become a partner in the Utah Transportation Coalition to support a funding mechanism to boost transportation funding for local governments. The state's gasoline tax is fixed at 24.5 cents per gallon and has not been changed since 1997, significantly eroding its purchasing power at a time when vehicles have become increasingly fuel-efficient, leading to a reduction in the overall tax collected. As a result, the state is facing a projected \$11 billion deficit in the unified transportation plan through 2040. Cities and towns face a combined \$150 million shortfall each year for local-road maintenance. This has forced cities to divert money from other pressing needs to fix and maintain roads.

The League is asking member cities to:

- Pass a resolution in support of the Utah Transportation Coalitions efforts at the Utah State Legislature. A key part of this request is a .0025 local option sales tax for transportation. Another part is a broadening of the types of projects for which state transportation funding may be used.
 - Refer to the attached model resolution
 - We may tailor this to the specific needs of North Ogden
 - A copy of the signed resolution should be sent to the Governor and the legislators who represent North Ogden

- Materially join in the lobbying and public relations effort by giving financial support of \$500 to help pay for it and to enter into a service agreement with the Salt Lake Chamber of Commerce to manage this effort.
 - Refer to the attached from the Utah Transportation Coalition
 - Refer to the attached Professional Services Agreement
- Use the media kit in city communications (website, utility bills, newsletters, etc.)

Mayor Pro Tem Bailey reviewed his memo.

Council Member Urry noted that the use of fuel efficient vehicles has been encouraged and that has impacted the revenues realized through gasoline taxes; now the State is complaining about that reduced revenue, but is also encouraging people to walk or use public transit. Mayor Pro Tem Bailey clarified that the recommendations are simply being sent to the Utah State Legislature to consider during their upcoming legislative session and if the tax increase is approved the City stands to realize \$475,000 in additional annual funding, which is very close to the amount the City receives in B&C Road funding each year. The money could serve as needed matching funds for various transportation projects needed in the City.

Council Member Urry stated he sees the needs for more funding for road projects, but he will have a hard time voting for the resolution as written based on the fact that the money will be used to encourage residents to walk or seek alternate modes of transportation. Council Member Swanson stated he interprets the resolution differently and noted he believes it is simply indicating the various projects that funding can be used for. Council Member Stoker stated she feels there is some irony in the resolution, but she agrees with encouraging people to live a healthier life by reducing pollution caused by vehicles. Mayor Pro Tem stated it is important to not overlook the whereas clause of the resolution that expresses that a safe and efficient transportation system creates the foundation for economic growth and improved quality of life. He reviewed the additional whereas clauses in the resolution and concluded that the resolution is a broad approach to what has traditionally been a very narrow focus on the usage of transportation funding.

Council Member Urry added that he has a problem with the City encouraging the State of Utah to enact legislation while allowing the chamber of commerce in Salt Lake City to be the governing board over the tax. Mayor Pro Tem Bailey noted the chamber is only managing the public relations aspect of the proposed action. The Council engaged in a general discussion regarding the history of transportation funding, with a brief focus on surveys where residents have indicated where they feel the state funding should be dedicated.

Council Member Swanson made a motion to adopt Resolution 21-2014 encouraging the State of Utah to address comprehensive transportation funding. Council Member Bailey seconded the motion.

Voting on the motion:

Council Member Bailey aye

Council Member Stoker **aye**
Council Member Swanson **aye**
Council Member Urry **nay**

The motion passed unanimously.

Council Member Swanson moved to approve Agreement A30-2014 for public relations professional services with the Salt Lake Chamber of Commerce. Council Member Bailey seconded the motion.

Voting on the motion:

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

8. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION APPOINTING BRYAN STEELE AS THE CITY ADMINISTRATOR

Mayor Pro Tem Bailey explained this item was discussed during the last City Council meeting, but the City Attorney was not present to answer questions regarding the ability of the Council to vote to reverse the appointment of Mr. Steele as the City Administrator. He asked Mr. Call to address that issue and noted Mr. Call has supplied a draft resolution that includes an additional provision that reads as follows:

In accordance with relevant Utah and North Ogden City code provisions the City Council may at any time remove the title of City Administrator and \$10,000 compensation from Bryan Steel while allowing him to continue as the Finance Director of the City.

Council Member Stoker moved to adopt Resolution 22-2014 appointing Bryan Steele as the City Administrator. Council Member Swanson seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

9. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE SETTING THE DATE AND TIME FOR CITY COUNCIL AND PLANNING COMMISSION MEETINGS FOR 2015

A staff memo from City Recorder Spendlove explained the City Council of each municipality shall by ordinance prescribe the time and place for holding its regular meetings § 1 0-3-502. The current schedule is the second and fourth Tuesdays of each month at 6:30pm unless otherwise noted and the first Tuesday at 6:30pm as needed. As part of the Ordinance we have included the Planning Commission aka (Land Use Authority) current schedule which is the first and third Wednesday of each month at 6:30pm and the second Wednesday as needed.

Ms. Spendlove reviewed her memo.

Council Member Swanson moved to adopt Ordinance 2014-29 setting the date and time for City Council and Planning Commission meetings for 2015. Council Member Stoker seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

10. PUBLIC COMMENTS

Blake Welling, 1098 E. 3100 N., addressed the agenda item relative to transportation funding and noted that he does not see the conflict between encouraging alternate modes of transportation while increasing the gas tax. He stated he bikes to work and his bike causes a lot less damage to the roads than vehicles; therefore, he would be reducing the cost of road maintenance. Council Member Urry noted Mr. Welling is not paying an annual tax for his bike like residents are required to pay for their vehicles. Mr. Welling stated he still owns a vehicle and pays the annual tax for it, but he chooses to park it in his garage and use his bike.

11. COUNCIL/MAYOR/STAFF COMMENTS

Council Member Swanson addressed the water conservation report and wondered if there is a creative way for the City to incentivize residents to fix any water leaks they may have on their property. Ms. Spendlove noted that when usage increases and the City determines it is likely due to a leak, a letter is sent to the resident explaining that if they fix their leak right away the City will split the usage cost for the overage likely caused by the leak. If the leak is not fixed right away the resident is responsible for the entire amount. Council Member Swanson stated that is

what he was thinking of and thanked Ms. Spendlove for the information. He stated he would like the City to do whatever possible to encourage water conservation.

Council Member Urry noted Standard-Examiner reporter Rachel Trotter reported on the City denying a resident the ability to run their storm drain into the ditch in their back yard. He stated after the article he was visited by a resident, Val Berrett, who took him for a ride to the detention basin near the medical clinic and he told him that the water dumps into an 18 inch pipe that ultimately leads to a ditch that runs through Harrisville. He stated Mr. Berrett also took him to another location where water was being routed in the same manner and explained to him that the same thing the City had denied a resident the ability to do was being done by the City in its detention basins. Council Member Urry asked if the City's water is supposed to be piped. Building Official Kerr stated there are many locations where the same situation is occurring and from this point forward the City is trying to set a policy requiring storm drainage to be piped. He stated the City will ultimately be required to follow the same policy. Council Member Urry then stated that there has been much mention in North Ogden lately of the creation of a CDA and the use of CDA monies for development purposes. He noted Kaysville recently had an audit finding related to excess spending of RDA funds and he stated this is another reason for the Council to have a spreadsheet detailing the accounting for such funding. He then added that he noticed South Weber City has questioned their sewer fees because they are based on a resident's property valuation; they feel that everyone should pay the same sewer fees and he tends to agree with them and would like to study the same issue. He then noted that the Council has received email correspondence from a resident referencing pods and he asked where the pods are. Mr. Steele stated they are located on Pleasant View Drive and they are storage trailers parked on the back of a residential property. He stated City Planner Scott is working on an ordinance to address the issue.

Council Member Stoker asked if staff has visited with the property owners that visited with the Council earlier regarding their dispute with Pineview over the secondary water pressure in the area of their development. Ms. Spendlove noted previous City Managers have met with the owner of the subject property as well as the owner of the property that has refused to grant the easement. Council Member Stoker suggested that additional visits could not hurt the situation.

2. DISCUSSION AND/OR ACTION ON THE MIDPOINT PAYMENT TO BETTER CITIES FOR THE SMITH'S BLOCK REVITALIZATION ECONOMIC DEVELOPMENT PROJECT

A staff memo from Mayor Taylor explained he is proposing that the City release the midpoint payment of \$12,000 to Better Cities for the Smith's Block Revitalization. Better Cities has been working very hard to revitalize this area and to attract quality tenants to the old Smith's building. Better Cities has successfully assisted Smith's in finding a high quality developer to enter into a contract to purchase the old building and has also be heavily involved in recruiting excellent tenants for that space. Additionally, they have been carrying out the City's vision for a revitalization of that entire development, including a potential expansion to the north and east. Please see a detailed market feasibility study from Better Cities relative to this project and the

direction we are proposing to head. Better Cities has done excellent work on this project and Mayor Taylor recommends that the City Council approve the midpoint payment for this project.

Matthew Godfrey, Better Cities, reviewed progress that has been made on the Smith's Block Revitalization as well as the redevelopment of the old Public Works site.

Mayor Pro Tem Bailey stated some of the information being provided by Mr. Godfrey regarding the Public Works site is not jiving with the information he has heard throughout the construction meetings for the new Public Works facility and he suggested that Mr. Godfrey get clarification of some of the plans for relocating all services at the current site to the new site. Mr. Godfrey stated that he will do that work and he will continue to analyze the market data for the property. He added the property is not large enough to develop commercially on its own and it may require joint development with the adjacent western property in order to get the best value out of the City property. He then continued his report regarding the Smith's Block revitalization, noting that much information regarding the redevelopment is private because purchase negotiations are ongoing. He suggested the Council meet in a closed session to discuss those issues.

Council Member Stoker asked Mr. Godfrey if he believes redevelopment of the Smith's block will potentially help the businesses on the north side of 2600 North. Mr. Godfrey stated certain types of redevelopment could really benefit the retail development to the north.

Council Member Swanson moved to convene in a closed meeting for the purpose of discussing the exchange, lease, or purchase of real property. Council Member Stoker seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

The closed session began at 9:05 p.m.

The regular meeting reconvened at 9:32 p.m.

Council Member Bailey moved to approve the midpoint payment to Better Cities for the Smith's Block revitalization economic development project. Council Member Swanson seconded the motion.

Council Member Urry stated he has brought up the issue before and he is still not sure what criteria must be met in order to approve a midpoint payment. Mr. Steele stated the issue was discussed in July when the contract was renewed; the contract now includes criteria that must be

met in order for Better Cities to qualify for the payment. Council Member Urry inquired as to the midpoint criteria for the Smith's project. Mr. Steele stated midpoint payment can be made upon delivery of a project land market study and the proforma to support the plan for project #1. He noted final payment would be due when there is an actual signed development agreement between a developer and the City. Council Member Urry asked that the Council be reminded of the criteria that must be met in order to approve a midpoint payment. Council Member Swanson agreed and noted it would be helpful to contain that information in any staff report for such future items.

Voting on the motion:

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

The motion passed unanimously.

12. DISCUSSION AND/OR ACTION REGARDING THE SALE OR PURCHASE OF PROPERTY.

Mayor Pro Tem Bailey stated that he would like to convene in a special meeting to review the terms of the agreement before it is executed.

Council Member Urry stated this item has not been listed on the Council's agenda for this meeting. Mr. Call stated the Council agenda has a disclaimer that allows for the addition of items during a meeting. He added that the action directly hinges on agenda item two listed on the agenda. After a brief discussion, clarification was made that the property to be purchased is directly tied to the Smith's block and the agenda notification regarding the item was sufficient.

Council Member Stoker moved to grant authorization for the sale and acquisition of property related to an RDA real estate transaction. Council Member Swanson seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

11. COUNCIL/MAYOR/STAFF COMMENTS (continued)

Mr. Steele reported that the City has purchased some new water meter equipment based upon a previous budget authorization and there will be future discussions regarding continued replacement of failing water meters as well as remote read transmitters.

Mr. Call then provided the Council with clarification regarding the purpose of retention basins; if the water is flowing directly from a basin into a stream or ditch, it may not be restricted enough. Council Member Urry agreed and stated there may be a design flaw that needs to be addressed. Mayor Pro Tem Bailey agreed.

13. ADJOURNMENT

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

Voting on the motion:

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

The motion passed unanimously.

The meeting adjourned at 9:50 p.m.

Brent Taylor, Mayor

S. Annette Spendlove, MMC
City Recorder

Date Approved