

NORTH OGDEN CITY COUNCIL MEETING MINUTES

November 14, 2017

The North Ogden City Council convened in an open meeting on November 14, 2017 at 6:02 p.m. at the North Ogden City Office at 505 East 2600 North. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on November 9, 2017 and amended on November 13, 2017. Notice of the annual meeting schedule was published in the Standard-Examiner on January 1, 2017.

PRESENT: Brent Taylor Mayor
 Lynn Satterthwaite Council Member
 Cheryl Stoker Council Member
 Phillip Swanson Council Member
 Carl Turner Council Member
 James Urry Council Member

STAFF PRESENT: Jon Call City Administrator/City Attorney
 Annette Spendlove City Recorder/HR Director
 Dave Espinoza Public Works Director
 Lance Call Police Chief
 Evan Nelson Finance Director

VISITORS: Marcea Hansen Owen Jeff Stark Dena Stark
 Ray Davis Eugene J White Dave Meents
 Brett Hamblin Gabe Noel Andrew Taylor
 Ryan Sparks Rich Kotter Eric Wolthuis
 Mike Thomas Gavin Carroll Kaleb Deboer
 David Hunsaker Owen Carroll Curtis Fuller
 Jordan Wayment Hailey Manscill Logan Manscill
 Brent Barker Carolee Barker Sara Fawson
 Randy Winn Bob Buswell Doug Oler

Mayor Taylor called the meeting to order. Council Member Stoker offered the invocation and Kaleb Deboer led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. DISCUSSION AND/OR ACTION TO CONSIDER SEPTEMBER 26, 2017 CITY COUNCIL MINUTES
2. DISCUSSION AND/OR ACTION TO CONSIDER OCTOBER 3, 2017 CITY COUNCIL MINUTES

Council Member Satterthwaite motioned to approve the September 26, 2017 and October 3, 2017 City Council Meeting minutes as presented. Council Member Swanson seconded the motion.

Voting on the motion:

Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye
Council Member Urry	aye

The motion passed.

ACTIVE AGENDA

1. PUBLIC COMMENTS

Carolee Barker, 2673 N. 1125 E., read the following written statement regarding the urban deer population in the City to the Mayor and Council:

“Thank you for continuing to follow up with the concerns of citizens with regard to the increasing population and damage being caused by our urban deer. This is a sensitive topic for many, with strong emotions being expressed on both sides. I appreciate the time and methodical research being done to make the best decision for the animals and for the citizens in the City being affected.

I do not share the view of those who say, "Leave the deer alone. They were here first." or "If you drove more carefully, used deer deterrents or fencing, or used less deer friendly landscaping", this wouldn't be a problem.

- 1) I do drive carefully, which is why I only hit one deer last year and had many near misses. Believe it or not, deer are not afraid of cars, nor do they look both ways before running across the street one right after the other!
- 2) I have used deer deterrents. They work for a while, and then the deer learn they are just a deterrent, and then come back...with their friends.
- 3) If I used only deer deterring landscaping, I would not have peach, apple, plum, pear, or almond trees. I also would only be able to grow onions and corn in my garden since they eat my tomatoes, peppers, grapes, pumpkins, peas, etc.
- 4) I have used fencing, and they jump it. I've watched them jump our 6 foot fences to get into Wadman Park and from Wadman into our yards. My yard looked like "Little Alcatraz" this summer with all the fencing we put up around our garden and trees. Jessie Felter from Parks and Recreation, and Jon Call were in my yard and garden for other concerns this year and could tell you what it

looked like from their perspective. We've tried hard to protect our gardens with very limited success.

As far as "the deer were here first" argument, that is true. Deer were in North Ogden before any of us were ever even born. However, these same deer were not here 10 years ago. I have lived in my current home for nearly 15 years, and have seen their numbers steadily grow. The deer I see around my home do not "go back to the hills". These are families of growing herds that live year round, breed, and teach their babies to do the same. My neighbor owns a peach orchard, and I consistently see 4, 8, 10 deer eating their trees summer and winter.

Two doe birthed three fawns (yes, twins) this spring and they have grown up in their orchard. Cute, yes, but they join their multigenerational herd in eating and damaging our properties, living fearlessly with no natural predators, preparing to add to their population next spring.

Several people on the Mayor's Facebook post have expressed concern over cougars coming into the city with an increasing herd population. Some have suggested that it could happen. Unfortunately, it already has happened. I have family that lives on the edge of the field at the bottom of 1125 E and 2600 N. They did have direct sightings of a cougar in the trees this summer. Interestingly enough, this is the same field where I see larger herds grazing on the alfalfa almost on a daily basis. There is no goodness or comfort in having cougars in the City for any reason.

Mayor and Council, I love the deer too. I do not want to see the entire population of deer decimated in North Ogden. I want to be able to look out into fields and see deer from time to time like I did 10 years ago, not herds of them on a daily basis literally eating my neighbor's retirement and the food storage for my family. I would like to see their numbers reduced. To "leave them alone" is not an option that is realistic. If their herd numbers were static, then maybe it would be, but they are not. The damage they cause will increase as their population growth continues to be unchecked. In my opinion, since this will continue to be an issue for many citizens now and in the future, it is important to address population control now.

I realize there are costs associated with either relocation or lethal control (archery hunt). I have read the memo the mayor placed on his Facebook page outlining the potential costs of both. I support the lethal population control through bow hunting for a few reasons.

- 1) No deer would be wasted after being shot. With relocation, it is my understanding that approximately 50% of relocated deer die from shock of the move. In essence, 50% of those deer would be wasted.
- 2) I do not believe it would cost upwards of \$20,000 to run a deer hunt. I believe there are enough expert archers in the city limits that could meet the qualifications like unto Highland City. I do not believe a separate group would need to be hired. However, even if I am wrong, the estimate of a deer hunt is less costly to the city than the estimated cost of relocating even 100 deer. Again, keep in mind that

possibly half of those deer would die after being relocated anyways, thus "wasting them".

I understand it is not my decision to decide how a deer population control program should proceed. Fortunately for us (and perhaps unfortunately for you in this situation) this is why North Ogden citizens voted for you. I only respectfully ask that you choose a plan to control the deer population in the very near future. If this proposal is rejected, then I ask for more tools for me and my neighbors to be able to protect our property, and in their cases, part of their livelihood. However, I feel like even if we were given more leniency in personal control methods, we will still continue to have severe damage to our properties and will most likely continue to need to address this problem with the city. Fences, deer deterrent, dogs, less tasty landscaping, "not building where the deer live", and leaving them alone are simply not viable long term options. Personally, we've "been there and done that" without good results."

Marcea Hansen Owen, 678 E. 3125 N., also addressed the urban deer population; she noted that her home was built in 1972 and at that time there were just two homes on the hill above hers. She has watched the City change tremendously over the years and the property behind her yard and her neighbors' yards is a birthing area for deer every summer. The area is fenced in and the deer stay there until they are big enough to jump over the fences. She has more problems in her yard with skunks, racoons, and other pests than she has had with deer. She stated that North Ogden residents live on a mountain and the deer have been attracted to the City by things that the residents have done. She knows that others have had problems with the deer, but she has not had that same experience. She is not supportive of killing the deer or relocating them. The lethal program that was implemented in Logan has been detrimental to the deer population as not just the males have been killed. She stated that it is her experience that the deer only come down in the summer to birth their young and she reiterated that other animals are more of a nuisance than the deer.

Dena Stark, 945 E. 1700 N., stated that her sons are excellent archers and they have participated in archery deer hunts in the past. Deer that are shot with an arrow typically run quite far before they die, and she feels it would be horrible to allow a lethal archery program in the City that could result in deer running through residential properties and ultimately dying on one of them. She stated other cities have implemented deer feeding programs that are more successful than lethal or relocation programs and she suggested the City look into that as an option.

Sara Fawson, 1205 E. 2325 N., stated that her property is surrounded by agricultural property and up to 35 deer live on that property, which is basically in her backyard. She stated that she enjoys watching the deer, but they are visiting the property to feed on the alfalfa over the winter months. Their herd is increasing in number unnaturally because they are a residential herd. The deer are devouring her garden plants and fruit trees and, while the deer were in North Ogden first, their population would not be as high as it is without quality farmland, orchards, and gardens during the season when natural food

sources are scarcer. Natural population control of the deer herd is not occurring in this environment and that is something the City should consider. Five to ten years from now the herd will be dramatically larger if the issue is not properly addressed.

Mayor Taylor recognized Ms. Fawson as a Council Member-elect. He also noted that Council Member-elect Blake Cevering was in the audience as well.

Dave Meents, 922 E. 3350 N., stated that over the past few years he has had more deer in his yard than ever before; he has been hospitable to them, but they are eating his shrubs and plants and they have damaged his fence. However, he does not think the City should be doing anything about the issue. He can fix his fence and replant his shrubs, but he does not want bow hunters in his neighborhood shooting deer. He would not give anyone permission to come into his backyard to shoot a deer.

Curt Fuller, 2912 N. 850 E., stated that he lives behind Mr. Meents and he also considers where he lives when thinking about the deer population; he would be opposed to anyone coming onto his property to shoot a deer. He has been a deer hunter most of his life and he is not opposed to controlling the deer population, but hunting is not allowed within City limits for a reason and he feels that this is an issue for the Department of Wildlife Resources (DWR) to take up. He stated that he read the City Attorney's memo regarding the potential costs associated with a deer removal or control program and he estimates costs would range between \$20,000 and \$30,000 depending on whether the program is handled by the City or the DWR, but he is hard pressed to believe that the deer have done \$20,000 to \$30,000 of damage to agricultural crops in the City. He does not believe that spending the money would be a good use of taxpayer money to address the concerns of a few.

Brett Hamblin, 963 E. Deer Meadow Drive, stated that he would also vote in the direction of doing nothing to address the deer population. He stated he would be interested in how anyone is able to determine the number of deer that are living in or around the City. He stated he has heard others comment that the deer herd near their home increased in population by about 15, which is interesting to him because the herd living near his neighborhood actually decreased by about 15. The most deer he has seen in one gathering in the last few years is 12 to 15.

Eugene White, 1919 N. 150 E., stated that he is a North Ogden business owner, a weapons expert, and avid hunter. He lives in the burrows of the City and the deer have moved into that area of the City as well; this is a result of increased residential development further up the mountainside in the City that has pushed deer down further where they feel protected or where they are being fed. He stated the deer resist moving back up into the mountains and they are at risk for being struck by a vehicle on a City street. The same situation has arisen in other bench cities along the Wasatch Front, but he would like to know how many deer have been hit in North Ogden and the amount of damage that has been caused to vehicles or other personal property. Pedestrians may also be in danger as well. He then noted that the DWR is limited in regards to implementing

an urban deer control program; their code is extremely restrictive and it limits when and where deer control can occur. Hunters are not authorized to remove deer from private property unless strict permission is given by the property owner, the Chief of Police, and the City Council. A lethal program can be more beneficial as meat can be harvested and donated to local charities for consumption. He used Highland Park as an example and noted their lethal program had a cost of \$2,000 and they harvested over 5,500 pounds of meat; this is compared to programs upwards of \$40,000 for deer relocation. He stated that specific training guidelines relative to discharging a weapon or using a bow and arrow in the City are very strict and, while a 'do nothing' approach may be preferred, it is possible to implement a program that would address concerns on both sides of the issue. It is necessary to maintain the beauty of the City and if nothing is done, the deer population will grow out of control and become unmanageable to the point that the City will have no choice but to remove the deer from public places and City streets at a much higher cost than a lethal program would otherwise be if it were implemented at this point in time.

Randy Winn, 2412 Barker Parkway, stated that he does not have strong feelings about the matter or controlling the urban deer population, but as he has listened to the comments made by those that spoke before him, he does feel some sort of program is needed to keep the problem from getting worse. He stated that he is leaning towards the more expensive relocation program versus lethal control of the animals.

Doug Oler, 687 E. 3050 N., stated that he has a small orchard in the City. He then noted that his daughter lives in Provo and her vehicle collided with a large buck deer last year; significant damage was done to the vehicle and if the vehicles windshield glass had broken, she would have been seriously injured. She still suffers from whiplash and she has been told that the situation she encountered is a daily occurrence in Provo because of their high deer population. He stated that as the deer population continues to increase in North Ogden, the damage to the trees in his orchard is continuing. He does believe something needs to be done to control the population to prevent further damage to crops and to keep someone from being seriously injured if their vehicle strikes a large deer.

Jeff Stark, 945 E. 1700 N., stated that after listening to all the comments he also believes something needs to be done. Relocation programs do not work and lethal programs simply thin the herd, but as the City grows the deer population will continue to grow no matter the program that is put in place. He does not want the deer to be killed, but he does not want other residents in the City to continue to experience property damage and he feels that something needs to be done, though there is no perfect solution.

Council Member Satterthwaite motioned to switch the orders of item three and two on the agenda given the large number of visitors interested in the discussion of the deer population. Council Member Swanson seconded the motion.

Voting on the motion:

Council Member Satterthwaite aye

Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye
Council Member Urry	aye

The motion passed.

3. DISCUSSION ON WHAT TO DO ABOUT THE DEER POPULATION

Mayor Taylor used the aid of a PowerPoint presentation to discuss options for addressing the urban deer population in the City. Several concerns have been raised by residents, generally those who manage small farms or orchards who are concerned about crop loss. The City has been considering options and no decision has yet been made. There is anecdotal evidence that the urban deer heard has been increasing in numbers each year. He reviewed several photographs of deer in local residential neighborhoods, orchards, and on City streets. He read comments provided by those that have experienced damage by the deer herd:

- “We have an orchard of over 600 fruit trees in the heart of North Ogden (one of the very last producing orchards left in North Ogden) and the amount of damage we undergo every single year due to the tree damage caused by the deer is significant and very expensive. We have replanted new trees every year for the last 4 years because the trees die due to the extensive damage. Planting new trees is expensive, time intensive (because it involves a lot more than just digging a hole and dropping a new tree in it), and the new trees have a less than 40% survival rate due to the deer. Deer LOVE new young trees and chew them to death. Also, when you consider the mature trees we have to cut down and start all over with a young, un-producing tree, the damage and expense is significant.”
- “The question that is being asked is how to manage the growing population. To do nothing means their numbers will continue to increase. To implement a controlled hunt would mean to thin the herd to more manageable numbers, not eradicate all of them. We have yards and yards of deer fencing around our garden and trees, a dog, and have used deer deterrent. The deer still continue to damage and kill our trees and garden plants despite our efforts.”
- “I appreciate the deer and I think they are beautiful to look at but I also hate the destruction they do in my yard and the yards of my neighbors. They have eaten or trampled untold numbers of our flowers, eaten our produce and fruit and they have even eaten the leaves and stripped the bark from several trees that we have had to remove and replace.”
- “For the past several years, the population has been increasing and has become a real problem. We live on 2 1/4 acres, with one acre planted in peach trees. All of our newly planted trees have been destroyed by deer as well as many of our older trees. We have an orchard with over 100 peach trees and there has been a lot of money and time spent on this orchard. We also have a large garden that we have

put an electric fence around. That doesn't seem to deter the deer much, as they just jump over the wires. We have spent a lot of money putting a fence around our orchard, but the deer find their way into the yard by coming through the front and they camp out in the orchard. . . and are multiplying. They are tamer and are not afraid of people. . . . We depend on our peaches for extra income and can't afford to keep replacing our trees.”

Mayor Taylor then invited Police Chief Call to provide the Council and audience with data regarding accidents that have occurred in the City related to the urban deer population. Police Chief Call reviewed a spreadsheet within Mayor Taylor’s presentation detailing reports of traffic accidents involving deer from July 1, 2014 to November 13, 2017. The minimum damages sustained in order for the accident to be reportable range between \$1,500 to \$2,000. He also reviewed report data for instances where Officers have been called to respond to other deer cases, such as deer being injured or deceased by unknown causes.

Mayor Taylor then noted in consultation with the Division of Wildlife Resources (DWR), City Administration has learned there are three basic options available to the City at this time. The DWR does not initiate any programs within City limits; it is up to the City to initiate any such program. He summarized options available to the City at this time:

- Do nothing: continue as we have and encourage landowners to protect their crops as best they can
- Re-Location: Work with DWR to re-locate deer from city limits to other areas of the state
 - Pay the DWR to remove the animals at \$200 per animal.
 - This will also require 1-2 hours per day to bait the traps from city employees and 10-12 additional hours per week on trapping days.
 - Estimated cost for 100 deer: \$27,200
- Lethal: Reduce the population by allowing the deer to be hunted, or by hiring professional hunters
 - Hunters pay to purchase tags and harvest the animals (low cost, higher risk)
 - We pay professional hunters to harvest the animals (higher cost, lower risk; cost unknown but thousands)
 - Antlers must go to DWR and meat must be used.

City Administrator/City Attorney Call then provided a brief overview of the program guidelines that would be implemented were the City to opt for a lethal program. He also facilitated discussion among the Council regarding potential ordinance amendments the City would need to consider in order to allow a lethal deer hunting program in the City.

Mayor Taylor reported Highland City implemented a lethal program to reduce the deer population in 2012, and has been very pleased with the success. Highland has similar

geography as North Ogden, with mountains on the north and east sides of the city, and other cities on the west and south. The Mayor of Highland has reported that less deer have been killed on roadways and residents are experiencing less damage to their yards. The negative response has been minimal, while the positive response has been overwhelming. A local archer did a larger portion of the hunting and, as a result, the cost was minimal. Mayor Taylor then noted that he conducted a poll regarding the issue on his Facebook page and there were nearly 400 comments from local residents; 585 respondents voted to do nothing and let nature take its course. The option to allow a lethal program received 183 votes and the relocation option received three votes. He then briefly summarized some of the comments made for and against the idea of implementing a deer control program, after which he provided his own thoughts on the matter:

1. If we don't provide some population control, some of our remaining agricultural producers will sell their land and close their farms or orchards. Doing nothing to control the increasing year-round urban deer will put additional pressure on the city's remaining agricultural operations to close shop and sell the land for new homes. The deer are not here eating grass on 1/4 acre lots....they are eating crops on farms & orchards throughout our city. By the way, the request for the city to control the urban deer population is NOT coming from land developers—it is coming from people who have small or medium-sized agricultural operations, often adjacent to their own home, who want to keep farming their land. Because they are in neighborhoods, large fences are not allowed under our zoning code and would really change the character of the neighborhood and will not be allowed.
2. In nature, deer herds are kept in check by predators. We don't want predators any more often in our city. We did have a number of mountain lion kills near or within city limits last year, and one lion was shot by a homeowner on his property. Well-fed deer living year-round in the city will draw more predators into our city, and we don't want lions or coyotes coming down into our city more often.
3. Hunting or relocation both will cost money and are not guaranteed to solve the problem. Both hunting and relocation are understandably opposed by many people, and they are not perfect solutions. Even if the city implemented one of these, we would still have some urban deer. It is a very fair question to wonder if the money is worth the outcome?
4. Few options from DWR and only during the winter, when many migrating deer are present—not just urban deer. Solutions would be better during the Summer—when only the urban deer are present in the city (i.e., those who live year-round in the city).

Mayor Taylor ultimately concluded City Administration is asking the Council to discuss the matter and render a general decision for moving forward. If the Council wants to pursue one of the options with DWR, we will work with them to create an agreement and to bring that back at a future Council meeting for additional discussion and approval.

Council discussion of the matter then ensued; there was high level philosophical discussion and debate regarding whether it would be the proper role of City government to implement a program to control the deer population. The Council ultimately concluded they feel there is not sufficient data available to warrant a program, but they directed Administration to work on a proposal to be considered at a future meeting that would entail the expenditure of up to \$3,000 to further study the issue and gather data upon which a final decision can be based.

A member of the audience asked for permission to address the Council.

Council Member Swanson moved to set aside the rules to allow the individual to speak. Council Member Turner seconded the motion; all voted in favor.

Jordan Wayment, 1126 E. 3050 N., addressed the discussion points raised by the Council and indicated there are several different methods for collecting data regarding the deer population in and around the City. He added there are several resources available through local educational institutions and he expressed his willingness to aid the City in collecting data. He then noted that he feels it may be possible to address the damage created by deer on a case-by-case basis upon the establishment of criteria that would need to be met in order for a case to rise to the level of requiring relocation of lethal action.

Council Member Swanson motioned to direct City Administration to develop a proposal to further study the matter in the coming summer that would entail the expenditure of up to \$3,000 and the potential to use services offered by Jordan Wayment. Council Member Satterthwaite seconded the motion.

Discussion regarding the motion centered on the option of also creating a committee of residents interested in the issue that could work over the next several months to provide a recommendation to the City Council. The Council ultimately concluded not to consider the creation of a committee at this time.

Voting on the motion:

Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye
Council Member Urry	aye

The motion passed unanimously.

The meeting recessed at 8:46 p.m. and reconvened at 8:52 p.m.

2. **DISCUSSION AND/OR ACTION TO CONSIDER ENTERING INTO AN INTERLOCAL AGREEMENT WITH PLEASANT VIEW CITY FOR STAFF ENGINEER**

City Administrator/City Attorney Call reported on ongoing discussions between North Ogden and Pleasant View Cities relative to sharing the costs for in-house engineering services. He reported the proposed agreement is modeled after the agreement the City considered for staffing services at the Senior Center. He then facilitated review of and discussion regarding the agreement and identified the responsibilities of both parties to the agreement. The individual subject to the agreement would be a North Ogden employee assigned to the Public Works Department; he or she would be housed at the Public Works Facility and would use North Ogden City equipment. The City will be responsible for the majority of overhead costs. Costs paid by Pleasant View City will cover 50 percent of salary, benefits, and cell phone costs; all software required by Pleasant View and not utilized by North Ogden City; and general liability and professional insurance for the Engineer for all Pleasant View City projects.

Council discussion of the matter centered on the potential for either City to eventually need the employee on a full time basis rather than part time. There was also a focus on tracking of the employee's duties to ensure that costs are allocated to the appropriate entity. Mayor Taylor stated he believes this is a 'pilot program' that will allow each City to evaluate the potential need for a future full-time in-house engineer. Mr. Call then noted that throughout the discussions with Pleasant View City, there has been a heavy focus on tracking duties to ensure that both cities are paying their fair share of the costs. The employee will be made aware of the importance of tracking his time in a detailed manner.

Council Member Urry noted he does not believe the City should solely be responsible for vehicle costs and other overhead costs associated with the position. He then inquired as to the amount of money the City will be spending on the position and indicated that if it is higher than the \$37,000 per year the City has been spending on an outside professional service provider, the City will not be saving any money with this venture. Mr. Call stated that the position should actually save between \$60,000 and \$80,000 for the City and the same is true for Pleasant View City as well. Council Member Urry stated it was his understanding that the City was only paying the outside engineering firm \$37,000 per year. Mr. Call stated that was just for plan review services; in total for all services provided by the outside engineering firm, the City has been spending over \$200,000 per year. The City anticipates spending \$60,000 per year for the in-house Engineer, but some services will still be outsourced to the outside engineering firm. Council Member Urry stated he feels the Council needs to receive detailed accounting records for total engineering costs in order to evaluate whether an in-house engineering position is truly best for the City. Mr. Call stated that he is happy to provide that information.

Continued high level discussion centered on the termination clause of the agreement, potential total costs for the position including vehicle costs, and the shared responsibility between the two cities for selecting the person to be hired as the in-house engineer.

Council Member Urry expressed his disappointment that the Council has not heard of the proposal to share the position with Pleasant View City until tonight. Mayor Taylor stated that he recalls discussing the matter several months ago as the City initially advertised for a part-time engineer position and had no luck in attracting quality applicants to the position; at that time, discussions about sharing a full-time position with another entity began.

Council Member Swanson motioned to approve an Interlocal Agreement A32-2017 with Pleasant View for Staff Engineer with grammatical changes and amending the agreement to provide for a 50/50 split of vehicle expenses under Article Five. Council Member Satterthwaite seconded the motion.

Voting on the motion:

Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye
Council Member Urry	aye

The motion passed unanimously.

Mayor Taylor indicated that he will present the amended agreement to Pleasant View City for their consideration and he will provide regular reports to the Council relative to the costs associated with the position and the state of the relationship between North Ogden and Pleasant View.

4. DISCUSSION AND/OR ACTION TO CONSIDER THE CONSTRUCTION BUDGET FOR BARKER PARK AMPHITHEATER

A memo from Mayor Taylor serving to follow up on his recent report on Amphitheater funding, indicated it is time for the City to make a decision on the initial scope of construction for the Amphitheater. We are set to begin construction next week, and need to decide what will be included in Phase I construction, which will begin next week and end sometime Spring 2018. Phase II construction would begin seamlessly after Phase I if additional funding is secured via grants or donations, or could be delayed some number of years while additional funds are secured. The project is designed to be flexible in scope, in order that as much can be done each phase as funding allows. Our intention is also to stop each phase of construction at a natural and deliberate point, as the purposes of the phases are to ensure a fiscally conservative approach to construction (i.e., only what we can afford at a time) and not a haphazard construction plan.

Council Decision: What scope for the project will you approve for Phase I of construction?

Two Options:

There are two recommended options for the scope of Phase I construction:

Option 1: Complete concrete and site work for stage and seating area and also complete the amphitheater building exterior.

Total Estimated Cost: \$1,848,981

Already Approved: \$908,000

FY 2018-2019 cost to be Approved: \$940,981

End State: we end with a fully usable amphitheater stage with the building shell (interior finishes of building to be done in the future). The amphitheater is capable of hosting great events—there is just not yet interior finishes inside the building, or separated offices, cast areas, storage areas, etc. The stage is completely covered and protected against the elements.

Option 2: Complete stage area and seating area concrete and site work. No amphitheater building work is begun.

Total Estimated Cost: \$1,207,981

Already Approved: \$908,000

FY 2018-2019 cost to be Approved: \$299,981

End State: We end with a stage for performances, but nothing yet of the building itself. We also have concrete for the seating area, but no seats yet (people can bring their own lawn chairs). This is an improvement over the current facility, but would not constitute nearly as much progress as Option 1. The stage is also left uncovered in this scenario, which is not catastrophic, but is not ideal.

Note: In either Option above, all other items are pushed into future Phase(s) of the project, including: seat installation, restroom/concession building, additional sitework, plaza areas, additional parking lot(s), etc. There will be additional phases in either case, in order to build this in a fiscally responsible manner and without any debt.

Recommendation

Given the very healthy status of the City's finances and the various and diverse funding sources for this project (see Amphitheater Update IV), I recommend Option 1. Park Impact Fees will pay for approximately half of the cost of Option 1, as building is currently strong in the City and not showing any sign of slowing down. We have a very good chance of receiving a second RAMP grant as well, and these two should comfortably pay for approximately 80% of the \$940,981 needed to complete Option 1. Other funding sources such as a small amount from each of the General Fund and Capital Projects Fund could complete the necessary outlay in this scenario.

We had intended to wait and bring this back early next year, after we got some better indications on RAMP funding or other donations before deciding what exactly to build in this Phase. However, this introduces significant inefficiencies into the process, as our contractor really needs to know now if the building will be part of this Phase or not. The masonry is a 4-month lead time item, for example, and we need to order now in order to install early next year. The longer we delay finishing the first Phase, the more in monthly contractor supervision and general conditions fees we pay. To make most efficient use of tax dollars, we really need to decide what we will include in Phase I.

Getting the building at least up (but not finished in the interior) is a more logical “stopping point” in my mind, if we then need to pause for year(s) and save more money for the project. Having the building up, as in Option 1, makes a lot more sense than not. Further, with rising construction costs not likely to abate as Utah’s market is hot, getting the building up now will save us money in the long-run. And as we have the funds to go to this point and stop, I recommend we do so. We will make either Option work, but I recommend we make a choice now, so we can launch our building schedule and move forward. Ground will be broken for the construction next Wednesday, and we are seeking approval from the Council for the scope of this first Phase. Additional funding will be required for either phase, and that will be taken care of during the budget process early next year.

Mayor Taylor read his memo for the record of the meeting; he also reviewed optional preliminary cost estimates for the project; the total cost for option one/phase one of the project, which includes sitework, construction of the amphitheater building, and all concrete work at the site is \$1,848,981.37. In order to fund the project at this cost, an additional \$940,000 is needed in addition to what has been included in the approved City budget. The option two cost estimate does not include building construction and only contemplates completion of the state area, seating area concrete, and site work. The cost is \$1,207,981 and an additional \$299,981 would be needed over the \$908,000 that has been approved in the current budget. If option two is selected, the deferred work would be pushed to future phases of the project. He stated it would be his recommendation to pursue option one to ensure that construction of the building is completed at today’s costs rather than inflated costs in the future. He then reviewed a conceptual plan for the work to be completed in option one, after which he discussed funding sources for the increased amount of funding needed for option one. He believes that the City will be able to secure an additional RAMP grant for the project and there is also impact fee money available to be allocated to the project.

Council Member Swanson stated he would like to hear from Council Members Satterthwaite and Stoker regarding their feelings about the project and cost estimates given that they have participated on the committee that was charged with developing the plan for the project. Council Member Stoker stated that she feels the Committee has been very thorough in their review of the project scope and they have developed a plan that includes necessities only. She feels that it is important to construct the amphitheater

building in phase one to make future phases of the project more attractive as the City is seeking additional funding. She stated she believes the amphitheater will be used so much more than other Council Members may believe.

Council Member Satterthwaite noted that as he participated on the Committee and heard from the other members who are experts in their field, he came to understand the value of the design of the facility. It is important that phase one include a building that can actually be used. He agreed with Council Member Stoker's assessment that building the building now will make future phases of the project more attractive for grant applications and private funding.

Council Member Urry stated he feels the City needs to gather factual information from developers in the City relative to their plans for the number of additional homes they plan to construct in the City. He stated that information is needed in order to understand how much money the City will have in impact fees. He then stated that he has done a lot of 'homework' about the performance of other amphitheaters in the State; it is his understanding that the facilities do not 'break even' and he is concerned that the City's amphitheater will not be able to draw large acts that generate enough revenue to cover the costs of operating. He concluded that there are many needs in the City and then there are many 'feel good' things and he asked the Council to pay careful attention to the necessities that should actually be funded by City government. He added he would also like to be realistic about what it will actually take to operate and maintain the facility.

Mayor Taylor stated there are many facilities all over the State and the nation, such as national parks, that do not 'pay for themselves', but these are the places where Americans spend most of their recreation time. There are many facilities that are government-subsidized by the taxpayers and these are the types of things that improve the quality of life. High level philosophical discussion and debate centered on the role of government in funding services that are not considered 'necessities', after which Mayor Taylor indicated he is confident the City's amphitheater will be able to attract larger shows because the capacity of the proposed project is greater than other amphitheaters in the area. Council Member Urry stated he is not as optimistic as Mayor Taylor that will actually be the case.

Discussion refocused on the ability of the City to fund the project and ongoing operations and maintenance of the facility, after which Council Members Turner, Satterthwaite, Stoker, and Swanson indicated they are supportive of option one at this time. Council Member Urry stated that he is also supportive of the project, but he is hopeful the Council and City Administration are realistic about the costs and operations of the facility into the future.

Council Member Turner motioned to approve option #1 for Barker Park Amphitheater scope and work and budget. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye
Council Member Urry	aye

The motion passed unanimously.

5. DISCUSSION AND/OR ACTION TO CONSIDER A CONSTRUCTION AGREEMENT WITH WADMAN CORPORATION FOR BARKER PARK AMPHITHEATER

Mayor Taylor reported Wadman Construction was selected as the contractor for preconstruction and general contractor services for the project, but at the time the Council granted that approval, only the preconstruction agreement was ready for Council review and approval. Since that time, the other contracts have been developed and can now be considered by the Council.

City Administrator/City Attorney Call facilitated a brief review and discussion of the construction agreement among the Council. He noted the agreement reflects the cost for option one for the phase one of the project that was approved by the Council under the previous agenda item. There was a focus on the terms for the split of the contingency associated with the contract price, the requirement for the contractor to pay subcontractors, and to verify that work can be completed during winter conditions.

Council Member Swanson motioned to approve a construction Agreement #A33-2017 with Wadman Corporation for Barker Park Amphitheater, with the following changes: change mediation to arbitration; include a contingency split; include a term requiring the contractor to pay subcontractors; and a term to require the contractor use e-verify; and a term to specify the contractor can complete work during winter conditions. Council Member Turner seconded the motion.

Voting on the motion:

Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye
Council Member Urry	aye

The motion passed unanimously.

Mayor Taylor reported the ground-breaking event for the project will take place tomorrow at 4:30 p.m.

6. **DISCUSSION ON CITY CODE CHANGES TO IMPLEMENT DEPRECIATION CONSIDERATIONS DURING BUDGET DISCUSSION**

Council Member Satterthwaite stated that after several months of working with City Administration and several Department Heads regarding depreciation of City assets, he would like to recommend actual City Code revisions that would mandate asset tracking. He asked Finance Director Nelson to provide an explanation of the five provisions that he would like the proposed code amendments to include.

Mr. Nelson stated that he has reviewed guidelines and best practices recommendations provided by the Government Finance Officers Association (GFOA) and it is his opinion, based on that review, that Solid financial policies will commit the organization to taking a long-term approach to financial health while aligning long term service objectives with financial capacity. Policies that cover the life cycle of capital assets, including capital improvement planning and asset maintenance, are vital to the fiscal health of the City. He then noted he and Council Member Satterthwaite have developed a list including five provisions that could be mandated by a depreciation/asset tracking section of the City Code:

1. Department Heads keep a list of current assets with main information.
2. Finance Department reviews asset lists annually and reports to the City Council.
3. Finance Department calculates depreciation amounts and presents to the City Council.
4. Funds identified for repair, replacement, and maintenance must be used for this purpose.
5. Finance Department presents prior year, current year, and next year fund balances to City Council.

Mr. Nelson then stated that the proposed City Code Section 3-4 would be entitled Revenue and Finance and would read as follows:

3-4 ASSET BUDGETING INFORMATION

A. Department Heads; Asset records: Each department head shall establish and maintain a list of current assets and as a minimum the following information about each asset; installation or original service date, life expectancy, and cost to repair or replace. The list of assets shall be kept in a database or spreadsheet.

B. Finance Department; Asset information review: Each department asset list will be reviewed annually for completeness and accuracy by the finance department. The finance department shall present the results of this review to the city council during the budget session each year. The finance department will also present to

the city council the reason why this information is important for budget considerations.

Depreciation calculations: The finance department will calculate the amount of depreciation for the current fiscal year plus the amounts for the next three years. This information will be presented to the city council during the annual budget planning meetings. **Depreciation funds:** Funds identified by the city council to repair, replace and maintain city assets shall be set aside and only used for this purpose.

Fund balance information: The finance department will provide to the city council during the budgeting process; prior year fund balances, current year fund balances and expected next fiscal year fund balances based on anticipated budget approvals. This information shall be presented at a city council meeting prior to the required public hearing required before budget approval.

Note that this section of code does not replace but is in addition to 3-1-10:
RECORD OF FIXED ASSETS

Council Member Satterthwaite stated that without a solid depreciation/asset tracking system, the City will continue to face difficulties in developing an appropriate budget and managing the assets and infrastructure of the City.

Mayor Taylor then facilitated a discussion among the Council in order to solicit their feedback regarding the proposed code section. The Council ultimately communicated they are comfortable with the ordinance language that has been drafted and they understand the need to include the policy within the City Code for tracking purposes.

General philosophical discussion centered on the costs associated with depreciation and the need to research new technologies that would improve the life span of various assets and infrastructure improvements.

7. **PUBLIC COMMENTS**

Bob Buswell, 962 E. 3025 N., stated that some time ago he expressed his concerns regarding the safety of the intersection of 900 East and 2800 North. He was referred to the Police Chief, who ultimately referred him to Public Works Director Espinoza and he is now happy to report that after communicating his concerns to Mr. Espinoza, the two yield signs that were formerly at the intersection have been replaced with stop signs.

8. **COUNCIL/MAYOR/STAFF COMMENTS**

Council Member Urry stated that he was approached by a resident who plays pickleball at the Pleasant View courts; he took a recent poll of those playing at the courts recently and found that none of the players were from Pleasant View and, instead, all of them were North Ogden residents. He stated that this resident has volunteered to serve on a committee that would focus on fundraising for a pickleball court at Barker Park. He stated that he has talked with Parks and Recreation Director Staheli and she has indicated the courts would cost approximately \$90,000 and he thinks that would be a great project.

City Recorder Spendlove reported on the upcoming City Christmas Party at Timbermine on December 20.

Mayor Taylor stated he will be providing the Council with updates on a few issues via email; he then asked that the Council consider convening in a closed session to discuss a real estate matter and potential litigation.

Council Member Swanson motioned to recess the regular meeting and convene in a closed meeting regarding the purchase, exchange, or lease of real property and pending or reasonably imminent litigation. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye
Council Member Urry	aye

The motion passed.

Meeting recessed at 10:28 p.m.

Meeting reconvened at 10:53 p.m.

9. **ADJOURNMENT**

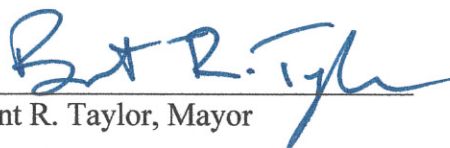
Council Member Swanson motioned to adjourn the meeting. Council Member Satterthwaite seconded the motion.

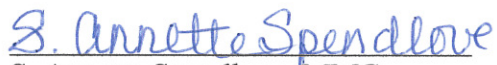
Voting on the motion:

Council Member Satterthwaite aye
Council Member Stoker aye
Council Member Swanson aye
Council Member Turner aye
Council Member Urry aye

The motion passed.

The meeting adjourned at 10:54 p.m.


Brent R. Taylor, Mayor


S. Annette Spendlove, MMC
City Recorder

19 Dec 2017
Date Approved