

**MINUTES OF THE  
SOUTH OGDEN CITY COUNCIL MEETING  
Tuesday, September 16, 2014 – 6:00 p.m.  
Madison Park  
4100 Madison Avenue**

**COUNCIL MEMBERS PRESENT**

Mayor James F. Minster, Council Members Sallee Orr, Wayne Smith, Bryan Benard, Brent Strate and Russ Porter

**STAFF MEMBERS PRESENT**

City Attorney Ken Bradshaw, Parks and Public Works Director Jon Andersen, Chief of Police Darin Parke, Supervisor Jason Brennan, Public Works Maintenance Workers Payden Vine and Dan Thompson, and Recorder Leesa Kapetanov

**CITIZENS PRESENT**

Jerry Cottrell, Walt Bausman, Vickie Mattson, Craig Hanni, Leo Eisbach, Lanette Weeks, Addison Weeks, Victor Dea, Brenton Strate, Conlin Harwood, Austin Miller, Makenna Dillingham, Ami Dillingham, Brevan Benard, Hannah Smith, McKell Carter

**I. OPENING CEREMONY**

**A. Call to Order**

Mayor James F. Minster called the meeting to order at 6:02 pm and asked for a motion to convene.

**Council Member Porter moved to convene as the South Ogden City Council, with a second from Council Member Smith. In a voice vote Council Members Strate, Orr, Benard, Porter and Smith all voted aye.**

The mayor welcomed everyone to Madison Park for that evening's council meeting.

**B. Prayer/Moment of Silence**

The mayor led those present in a moment of silence.

**C. Pledge of Allegiance**

Council Member Benard directed everyone in the Pledge of Allegiance.

The mayor indicated it was time for public comments; no action would be taken on comments and those speaking should limit their comments to three minutes.

**II. PUBLIC COMMENTS**

**Jerry Cottrell, 5765 S 1075 E** – Mr. Cottrell stated he would like to enter a letter from Mr.

Gary Boyer into the record. Mr. Boyer was unable to attend that evening's meeting, but wanted his comments entered into the record (see Attachment A). Mr. Cottrell then made some comments. He pointed out there was nothing on the agenda concerning critical zoning issues. He also noted that a previous statement not allowing people to comment on items on the agenda had been removed; he felt this was a good move as it allowed free speech. He went on to say he had compared South Ogden's council meetings with Riverdale's council meetings. Riverdale's council seemed to be able to interact with its citizens, whereas South Ogden's did not. Residents felt that the city council did not listen or care about them. He suggested an item be added to the agenda called "Responses to Public Comment" or even one called "Old Business" and giving a recap of issues previously raised and what had or would be done to address the issues. (Mr. Cottrell also gave a written copy of his comments for the record. See Attachment B).

**Walt Bausman, 5792 S 1075 E** – said he had reviewed Ordinance 13-11 that replaced the Board of Adjustment with a hearing officer. It did not change the process of the appeal as noted in 10-1-14; there was no authorization for the change. It was not noted in the ordinance nor the regulations. The conditional use application changed the process of the appeal this year; it went from the recommendation of the planning commission to the city council, and now it goes to the hearing officer, taking the council out of the picture as the land use authority. The changes were not authorized; there was no reference in council minutes or planning commission minutes about it. The only place the planning commission was listed as the land use authority was in Mr. Lindberg's written decision on page three item five. Mr. Bausman hoped the council would look at the regulations and make them consistent with one another.

**Craig Hanni, 4181 Liberty** – said he was dismayed about the Good Landlord Program. He had taken the class and thought it was good, however he wondered what the city was doing with the program. He had not noticed any real changes due to the program. He still noticed the same junk piles around the city. He felt the city did not enforce the ordinances already on the books. Many people had been against the program, and yet it had still passed.

**Colleen Kapp, 4410 Orchard Avenue** – Ms. Kapp said she had lived on Orchard Avenue for 59 years and the road had been paved one time. The city had done repairs and put ugly black marks all over the road. It added to the state of decay for the north part of the city. Washington Terrace had recently paved all their roads; why could they do it and South Ogden not? Ms. Kapp also mentioned that other cities had officers that went around and looked for things that needed to be cleaned up. She also would like to see the city make people clean up the weeds growing up between the curb and pavement. She asked the city to make it look like it used to.

### III. RECOGNITION OF SCOUTS/STUDENTS PRESENT

Mayor Minster invited any scouts or students to come forward. Council Member Orr asked the scouts to introduce themselves and tell why they were there. She also presented each scout with a South Ogden City pin. The scouts were from Troop 461, Holy Family Catholic Church, and were in attendance to earn their Citizenship in the Community merit badge. They included Jack Durbano, Nicholas Polzin, Avery Pomerly, Wesley Durbano, Mason Winterton, Levi Eisbach, Jack Urry, and Andrew Williams. Leaders present were Scout Master Jed Durbano and Cub Master Mike Polzin.

### IV. CONSENT AGENDA

- A. Approval of August 19, 2014 Council Minutes and Previously Tabled July 22, 2014 Special Meeting Minutes
- B. Approval of August Warrants Register

- C. **Ratify Bid Award to Advanced Paving and Construction for Willow Wood Road Project**
- D. **Ratify Advice and Consent of the Appointment of Jody K. Burnett As Hearing Officer Pro Tempore**
- E. **Approval of Proclamation Declaring September 17-23, 2014 as Constitution Week in South Ogden City**

The mayor read through the items on the consent agenda. After reading item E, he invited Vickie Mattson to come forward. She gave a history of Constitution Week in the United States and encouraged organizations and individuals to ring a bell at 4 pm on September 17<sup>th</sup> to commemorate the signing of the constitution. She then presented the mayor with a small bell. Mayor Minster read through the proclamation and asked if there were any questions concerning items on the consent agenda.

Council Member Strate said he had listened to the audio tape of the July 22, 2014 special meeting and had only one word to correct in the minutes. The word was "appeal" on line 116; he had meant to say "land use". He would like to replace "appeal" with "land use". Mr. Strate then asked Parks and Public Works Director Jon Andersen about the ratification of the bid award. He did not remember seeing an email asking about the bid award. Mr. Andersen indicated the city manager was supposed to have sent an email, but had not.

Council Member Benard then pointed out a typo on the proclamation; the heading said September 27<sup>th</sup> as the end date, but the body said the 23<sup>rd</sup>. He thought the heading needed to say September 23<sup>rd</sup>. Mr. Benard then questioned the changes proposed by Council Member Strate. It was his understanding the minutes should reflect what was actually said, and the words "appeals" and "land use" were so completely different in meaning, one could not be substituted for the other. Council Member Benard wanted to be clear on if Mr. Strate had said "land use" and the minutes were incorrect and said "appeal", or if he had actually said the word "appeal". Council Member Strate clarified he had said the word "appeal", but it was plainly a miss-speak. He felt it was a judgment he could make and would just as soon make the minutes a transcript, but then said he did not want to do that either. He had read about minutes and what they should be, and they were not meant to be a transcript. Since the rest of the council had given him the time to go over the recording and the minutes, he felt it was reasonable and honorable to make the one change. If they felt the change should not be made, he would not insist on it. Council Member Porter said the minutes should not change to what was meant but not said, but should reflect what was said. Council Member Smith agreed that the minutes should reflect what was said. The record of minutes was kept so that they could be referred to at a later date, and if they did not match the recording, how could they justify the difference.

Council Member Strate said he would withdraw his correction to the minutes, but asked that his comments during his report of the August 19<sup>th</sup> minutes be written in the exact words of the transcript.

Council Member Orr then drew the council's attention to the charges paid for the Siemens's light project. She requested that staff be diligent in keeping track of the money the city was getting back. She also asked what the life expectancy on the Willow Wood Road Project was. Mr. Andersen replied the contract was guaranteed for one year, but the life of the road should be ten to twenty years. If the crack seal, chip seal and slurry seal were done at the right times, the life of the road would be increased. Mayor Minster then called for a motion on the consent agenda.

**Council Member Strate moved to approve the consent agenda, with the provision that his report section of the August 19, 2014 minutes be written as a transcript. Council Member Porter seconded the motion. There was no further discussion on the motion. The mayor made a roll call vote.**

Council Member Strate-	Yes
Council Member Porter-	Yes
Council Member Orr-	Yes
Council Member Benard-	Yes
Council Member Smith-	Yes

The motion passed.

**V. PUBLIC HEARING**

**A. To Receive and Consider Comments on the Proposed Amendments to the FY2015 Budget Concerning Capital Outlay**

Mayor Minster indicated the public hearing needed to be tabled until the next meeting and called for a motion to do so.

**Council Member Porter moved to table the public hearing on the proposed amendments to the FY2015 budget. The motion was seconded by Council Member Orr. The vote was unanimous to table the public hearing.**

**VI. DISCUSSION / ACTION ITEMS**

**A. Consideration of Ordinance 14-11 – Amending the Consolidated Fee Schedule**

City Attorney Ken Bradshaw explained this ordinance made a couple of housekeeping changes to the consolidated fee schedule. Council Member Benard asked about the category called “Appeals”. Mr. Bradshaw said that item was a duplication and so had been eliminated. The item it duplicated appeared on another page that was not included in the packet. Mr. Benard asked what the title of the other item was. Mr. Bradshaw could not recall. There was some discussion and clarification of some of the other items on the consolidated fee schedule. Mayor Minster then called for a motion.

**Council Member Smith moved to adopt the Ordinance 14-11 amending the consolidated fee schedule. Council Member Orr seconded the motion. The mayor asked if there were further discussion. Council Member Benard asked if there was a time crunch for this item. Mr. Bradshaw indicated there was not. Mr. Benard asked if the item could be tabled until they could see the revised page; he did not feel comfortable adopting something he hadn’t seen. Council Member Smith then said he would like to change his motion. He moved to table Ordinance 14-11 until the council could view the missing page. Council Member Orr seconded the revised motion. The mayor then made a roll call vote.**

Council Member Smith-	Yes
Council Member Orr-	Yes
Council Member Porter-	Yes
Council Member Benard-	Yes
Council Member Strate-	Yes

Ordinance 14-11 was tabled.

**B. Consideration of Ordinance 14-12 – Establishing and Adopting a Moratorium on Receiving or Processing Applications for Zoning, Re-Zoning, Issuance of Conditional Use Permits Or Permits For Educational Institutions Or Planned Residential Unit Developments Or Any**

**Other Activity Requiring Approval From The Planning Commission Or City Council For 120 Days**

The mayor asked City Attorney Bradshaw to comment on this item. Mr. Bradshaw reminded the council they had discussed the possibility of amending the moratorium that had been adopted at their last meeting. This ordinance made the changes the council had discussed, including adding educational institutions and PRUDs as well as making changes to section two, indicating that prior Resolution 14-19 would remain in effect as previously adopted. Council Member Orr clarified that the essence of Resolution 14-19 was still in effect. Mr. Bradshaw said it was a moot point now, as the 90 day duration of the moratorium enacted by Resolution 14-19 had expired; he had been instructed to include the wording in this ordinance so he had done so. Council Member Strate said it was his understanding a moratorium could only go 180 days, and said the other moratorium would exceed that. Mr. Bradshaw explained the first moratorium, which only included a small area, had already expired and was no longer in effect. The moratorium amended at this evening's meeting was different in a few ways; it covered the entire city and included elements that were different from the first moratorium, however, there was nothing from prohibiting a city to have several moratoriums in effect at the same time. Council Member Strate was concerned the city would not be able to accomplish what it needed to in the time allotted. Mr. Bradshaw said he had made the duration of the moratorium for 120 days, realizing that by human nature, things would not happen until the very end. By making the moratorium for 120 days, they could extend it 60 days if they ran out of time at the end. Council Member Benard said they had discussed previously the desire to not shut down everything in the city and asked if this moratorium would do that. Mr. Bradshaw explained this moratorium would not prohibit anyone from replacing a furnace or remodeling their home, which did not require planning commission or city council approval. There was some discussion on what would be prohibited, specifically new commercial construction. It was determined that if the moratorium was holding something up, staff would inform the council and appropriate action would be taken. Mayor Minster entertained a motion to adopt Ordinance 14-12.

**Council Member Porter moved to adopt Ordinance 14-12, followed by a second from Council Member Strate. Seeing no further discussion, the mayor made a roll call vote:**

<b>Council Member Porter-</b>	<b>Yes</b>
<b>Council Member Strate-</b>	<b>Yes</b>
<b>Council Member Smith-</b>	<b>Yes</b>
<b>Council Member Benard-</b>	<b>Yes</b>
<b>Council Member Orr-</b>	<b>Yes</b>

**Ordinance 14-12 was adopted.**

**C. Discussion on Regulation Signs at Nature Park**

Mayor Minster reminded the council that Pathways had established and created some signage the city had adopted for the Nature Park, as it was a designated Pathways trail. He then indicated Council Member Smith had asked for this topic to be placed on the agenda and turned the time to Council Member Smith. Mr. Smith said he realized the Pathway signs were there, but they did not address the problems seen in the park. He felt the city should create signs specific to its needs, e.g. dog issues and skateboards. If a simple sign would take care of the problem, it needed to happen and happen now. Council Member Orr agreed. She said there was one sign in the park to say dogs needed to be kept on a leash, but it was very small and easily bypassed. Council Member Smith said

he had taken photos of signs in other cities to use as examples. Council Member Strate suggested a way be found to limit entrance to the park to foot or bike traffic only. Mayor Minster told the council to let Parks and Public Works Director Jon Andersen know what they wanted and he in turn could bring back some proposals. Council Member Smith asked that it be done by the next council meeting.

## VII. DEPARTMENT DIRECTOR REPORTS

### A. Parks and Public Works Director Jon Andersen – Project Updates

Mr. Andersen said there were fewer projects as it was getting to the end of the construction season, but he did have some projects to report on.

**Chambers Road Project** – this project was almost complete; there was only some small concrete, clean-up and landscape work left.

**1075 East Road Project** – the asphalt had been removed. The original work had specified only going down fourteen inches, but a few bad spots had been discovered where they would need to go down twenty three inches. They would also begin doing concrete work soon.

**Overlay Projects** – the preconstruction meeting would be held tomorrow at 1 pm and work would begin soon after.

**Crack Seal** – about one third of the streets in the city needing crack seal were completed.

**Willow Wood Water Line Project** – this project was complete.

**Willow Wood Road Project** – the preconstruction meeting was set for the next Monday. Work would begin shortly after.

## VIII. REPORTS

A. **Mayor** – reminded everyone that Fiesta Fiesta would be on the upcoming Friday night beginning at 5 pm at the Browning Armory. He invited all to attend.

### B. City Council Members

**Council Member Smith** – had been contacted by some residents about “Dog Docking”. Several cities hosted dog docking events where dogs competed in retrieving items from water. The draw for the events was very large. He asked staff to look at it for a South Ogden Days event.

**Council Member Strate** – had received comments about the new digital sign for the new car wash. People thought it was too bright. He asked if the city could do something about the intensity of the lights.

**Council Member Benard** – thanked staff for getting the tennis courts at Friendship Park up and running. He also pointed out it was everyone’s responsibility to let people know when they were not following the law, especially in the parks. He had told someone at the Nature Park that their dog should be on a leash, and had also let them know about the off-leash dog area. Mr. Benard said he was not sure that signs would work at the Nature Park, but it was up to the citizens to let others know when they were breaking the law.

**Council Member Orr** – she had also had a complaint about the digital sign for the carwash; it was a concern. Ms. Orr then stated she had received more complaints on the home at 666 45<sup>th</sup> Street. She asked if Chief Parke could supply her with a list of the calls

made to the home. Chief Parke asked Council Member Orr to stop by the office to visit with him about the issue.

She then concluded her report by letting everyone know she and the mayor would be going to St. George in conjunction with the Communities That Care Program; they would be attending a substance abuse conference.

**Council Member Porter** – thanked everyone in attendance for coming out that evening. He knew there were things in the city that needed to be worked on and they would try to respond to concerns.

C. **City Manager** – was excused from the meeting to attend a conference.

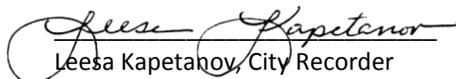
D. **City Attorney Ken Bradshaw** – nothing to report.

**IX. ADJOURN**

Mayor Minster then indicated it was time to adjourn the meeting and called for a motion to do so.

**Council Member Smith moved to adjourn, followed by a second from Council Member Porter. The vote to adjourn was unanimous. The meeting ended at 7:18 pm.**

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Council Meeting held Tuesday, September 16, 2014.

  
Leesa Kapetanov, City Recorder

Date Approved by the City Council \_\_\_\_\_ October 7, 2014 \_\_\_\_\_

**Attachment A**  
Letter from Gary Boyer

Monday, September 15, 2014

Dear City Council,

I am giving my thoughts for the purpose of talking about the Planning Commission decisions. This Board convened this past week. As the meeting moved progressed, it became obvious that very little direction was given regarding subjects being addressed. Based on their responses, they appeared to be totally in the dark.

I would like to take a few moments and point out some of the perceived weak points used in their conversation, and ultimately their decision. There were at least three separate and distinct issues.

- **Incorporation of the Uintah Highlands.** If my understanding is correct, the issue has presented itself on several occasions. I had assumed that we brought them into the fold several years ago. If they want to be part of South Ogden, the recommendation is to look at the cost/benefit analysis which I assume has yet to be done. The next question would be, does their property taxes offset the cost of police and other services? What is the condition of their infrastructure? None of this was discussed by the Planning Board. If there was paperwork given to the Board prior to the meeting, there was no mention made or explanation as to the detriment in making a determination.
- **Request to review Zoning issues for South Ogden City.** The purpose of the moratorium in South Ogden was to revisit current codes and regulations regarding Zoning issues. Many cities throughout the Utah, including Salt Lake City have redone their current zoning regulations. The purpose is to protect the cities from those who have found loop-holes in the law that circumvent the law. A great example of this is the current rage of "Sober Houses". These are homes wherein landlords are buying up homes and then putting drug addicts into the home. They can have as many as 6-15 addicts living in the same home. Usually, it is two occupants to a bedroom. When you start to put these houses throughout the community, suddenly you have a drug dealer's haven, which rips at the very threads of a community. Quoting from a City Council Member in California, "The existence of these unregulated homes has become a living Hell for their city." In most communities or homes, the core of the Community becomes the family which ties and binds everyone. Yet there is no common thread in a Sober Home. All are individuals coming and going at a whim.

Cities are finding ways to protect their community from the "Bending of these current regulations or the subverting of their intended purpose". They are trying to protect the rights of all individuals while acknowledging the Fair Housing laws. Our laws are currently about 17 years old and need to be updated. The Planning Board seemed to have been given no reason, purpose, or guidance for reviewing the current zoning in South Ogden. They were completely oblivious to the issues.

- **Annexation of the Stephen's Farm Property located in South Ogden.** My concern with the negative response from the meeting was again, the Planning Board was not conversant with Development within a city. It was their understanding that the city pays the developmental costs, and therefore did not want to burden the current tax payer. The fact is that the developer(s) are responsible for the infrastructure. The cost is passed on to the homebuyer in the purchase price of the lot, and ultimately the home. This also includes the cost of the building permit. Currently, this building permit costs the contractor about \$15,000 per building

permit. This money is for impact fees associated with building and used by the city. These monies have been a source of revenue for cities for years.

Let's use an example at the magnitude of the proposed annexation. If there are 400 acres that fit within the boundaries of the city and you determine the density is 4 houses to the acre, you would have a combined 1600 homes in the project. At a permit fee of \$15,000, the gross amount of revenue belonging to the City becomes \$24,000,000. That goes directly into the coffers of the city.

Also, with that type of development, commercial properties follow to meet the needs of the increasing population which increases the sales tax revenue. If there is anything that South Ogden needs, it is Sales Tax Revenue! Commercial property vacancy rates decrease along with increased pride in the City.

I ask that you to take a guiding hand in these issues that affect our community. Leadership occurs from the front. We cannot hide in the shadows. As a final note, let's figure out who the Land Use Authority really is. The State Law requires it to be the Elected Officials, which is our City Council. That is who I want making decisions for me!

Thank you.  
Gary Boyer  
5925 S. 1075 E.  
South Ogden, Utah 84405

## **Attachment B**

Written Comments from Jerry Cottrell

Happy Groundhog Day to one and all. I see we have a jam-packed agenda tonight; too bad there just isn't enough time to address any of the many critical zoning issues; but at least we may get a Constitution Week declaration. Some might consider that frivolous, but I happen to think the Constitution is pretty important. In that vein, I want to commend the City for finally recognizing the 1st Amendment is applicable in these meetings. I say that because I note that the agenda no longer shows that the City will attempt to stifle free-speech. I am referring to the previously stated prohibition on public comment regarding topics on the agenda. I hope that this means that we will soon see revisions in the wording in your handouts and agendas for other meetings as well.

My topic for this evening is the City's handling of public comments. I understand that at least some of you are inclined to rethink this "no comment" policy concerning public comments and I want to encourage that kind of thinking.

I wondered how other cities handle this so I attended 4 or 5 Riverdale City Council meetings. I was able to do that in a single morning since audio recordings of their meetings are on the web.

I want to tell you about just two of those Riverdale meetings.

Feb 4, 2014 -- two South Ogden residents, Bethany Michaels and Alexandros Koloveas, both students at Bonneville, talked about promoting entrepreneurship. Two council members asked questions and one even gave them a pointer on expanding their research and their thinking. I would bet those two South Ogden residents went away from that meeting feeling like they'd made a difference... in Riverdale. Isn't it ironic that 40% of the City Council is made up of teachers at Bonneville and yet their students go to Riverdale for a positive City Council experience? Mr. Porter, Mr. Strate, there's a good chance you know these kids. Why do you suppose they didn't come here?

June 3, 2014 -- a citizen rose to praise the City. He said, "They listen to us." As I heard that, I wondered how many South Ogden citizens would say those four words... "They listen to us". Another man suggested a bike rack in a specific location and a council member asked a brief question to clarify the extent of the problem. No commitments were made, but the message that man received is "we hear you" and, maybe more importantly, "we are interested in what you have to say." Now I contrast this with a comment I may have shared before where one of my neighbors asked me as we left a South Ogden City Council meeting, and I quote, "Does it really do any good to talk to those people? We raise issues and they sit there deaf, dumb, and blind." Now in case anyone is confused about who "those people" are, it's you... all of you. Now I know for sure that many of you genuinely do care and I thank you for that... and maybe every one of you care. I certainly hope so. But I think the important thing to remember is that my neighbor didn't leave here saying, "They listen to us".

Now if you don't feel comfortable asking clarifying questions or making suggestions on the fly as Riverdale does, how about a standing agenda item called "Responses to Public

Comment"? That would at least elevate our issues and concerns to the same level of importance as giving an attendance pin to a Boy Scout. But if that is too much, then how about just calling it "Old Business" and then giving a brief recap of issues previously raised and what was or what will be done about them? Or maybe someday an issue raised by a citizen will actually appear as an action item on the agenda. Would that be such a bad thing? If you did some of these things, maybe some day a citizen will leave our City Council Meeting and say, "They listen to us." Thank you.