

**MINUTES OF THE
SOUTH OGDEN CITY COUNCIL MEETING
Tuesday, August 5, 2014 – 6:00 p.m.
Council Chambers, City Hall**

COUNCIL MEMBERS PRESENT

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

COUNCIL MEMBERS EXCUSED

Council Member Russ Porter

STAFF MEMBERS PRESENT

City Manager Matthew Dixon, Parks and Public Works Director Jon Andersen, Chief of Police Darin Parke, Fire Chief Cameron West, Good Landlord Program Coordinator Andrew Hyder and Recorder Leesa Kapetanov

CITIZENS PRESENT

Jim Pearce, Gary Boyer, Austin Miller, Jayden Hales, Shawn Hales, Jerry Cottrell, Marlen A. Parrish, Val Parrish, Nancy Gibson-Fagg

I. OPENING CEREMONY

A. Call to Order

Mayor James F. Minster called the meeting to order at 6:00 pm and asked for a motion to convene.

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

B. Prayer/Moment of Silence

The mayor led those present in a moment of silence.

C. Pledge of Allegiance

Council Member Orr directed everyone in the Pledge of Allegiance.

Mayor Minster excused City Attorney Ken Bradshaw from the meeting and said that Council Member Benard was on his way but would be a few minutes late. The mayor then 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

Gerald Cottrell, 5765 S 1075 E – (Note: As Mr. Cottrell began his comments at 6:02 pm, Council Member Benard entered the meeting). Mr. Cottrell thanked Council Members Benard and Strate for the time and effort they had given in researching and communicating with members of his neighborhood. Mr. Cottrell said he had been reading through the city code; in his opinion it was a mess. It was unclear in the code who the land use authority was. If people couldn't agree on who the land use authority was, how could they have confidence in decisions, the appeal process, etc. He said there was as much verbiage in the non-codified section of the code as in the codified. Mr. Cottrell wondered if the city had standards for getting new ordinances codified. If not, he asked that the city develop such standards and periodic review to make sure the code is kept up to date, especially the section having to do with the Fair Housing Act. He suggested the mayor put a stay on all conditional use applications, including the one filed by Mr. Jorgensen, until such time that the code can be cleaned up. It was his belief the Mayor had the authority, and felt staff should research the matter to see if it was a viable option. Mr. Cottrell ended his comments by stating that Mr. Jorgensen felt the city needed his services, but there were many substance abuse facilities in and around South Ogden that were under capacity. (Mr. Cottrell gave a written version of his comments to City Recorder Kapetanov; see Attachment A)

There were no other public comments.

III. RECOGNITION OF SCOUTS/STUDENTS PRESENT

Mayor Minster then invited any scouts or students to come forward. Austin Miller introduced himself; he was a new member of the youth city council. Jaden Hales also came forward. He was there to earn his Citizenship in the Community merit badge.

IV. CONSENT AGENDA

- A. Approval of July 15, 2014 Council Minutes
- B. Approval of July Warrants Register
- C. Approval of Bid Award to Leon Poulson Construction for 40th Street Storm Drain Project

The mayor read through the items on the consent agenda and asked if there were any comments. Council Member Strate asked for some more information on the 40th Street Storm Drain Project. Jon Andersen, Parks and Public Works Director came forward. He explained this was the pipe portion of a larger project that would include a detention basin. The mayor then called for a motion to approve the consent agenda.

Council Member Smith moved to approve the consent agenda as presented. The motion was seconded by Council Member Benard. The vote was unanimous to approve the consent agenda.

V. DISCUSSION / ACTION ITEMS

- A. South Ogden Days Feedback
Special Events Coordinator Jill McCullough had not arrived at the meeting, so this item was postponed to later in the meeting.

B. Recommendations and Discussion on Good Landlord Program

City Recorder Leesa Kapetanov said staff recommendation was to eliminate the policy requiring exempt properties to still license with a no fee license. She reminded the council they had discussed the matter somewhat at their last meeting.

Council Member Smith asked Chief Parke if his officers were utilizing the Good Landlord Program. The Chief indicated his officers were using the program, especially with the larger complexes. Council Member Orr felt it would be fine to not require exempt properties to license, as long as they were contacted every two years to see if the exempt status had changed. Council Member Strate said he had visited with staff, and although there were other changes that could be made to the program, they felt it would be better to wait until after the next legislative session in case there were changes made to the Good Landlord Program state statute. He agreed that at present the city could eliminate the no-fee license requirement. Council Member Benard also agreed.

City Manager Dixon clarified that this was only a policy decision, not an adopted part of the Good Landlord Program and therefore did not need to be adopted by resolution. Staff just needed direction that in the future, the license would not be required of exempt properties. The consensus of the council was to not require exempt properties to license.

C. Discussion on Updating City Zoning Ordinance To Comply With Fair Housing Act

Council Member Strate had discussed this matter with staff, and staff was in agreement, that action should be taken to make sure the city's ordinance did comply with the Fair Housing Act. It was on that evening's agenda to make a clear record that the council had directed staff to move forward with the process. City Manager Dixon explained the process would start with a review and recommendation by the planning commission, and then come to the council to be adopted by ordinance. Council Member Strate re-iterated he wanted this item on the record to show the city had good faith in moving forward with seeing that the ordinance be changed to become compliant with the Fair Housing Act. He had provided staff with a template from Salt Lake County who had recently updated their code to comply with the Fair Housing Act.

The time was then given to Jill McCullough, who had arrived and was ready to facilitate a discussion on agenda item V.A. concerning South Ogden Days.

Ms. McCullough gave the council a handout (see Attachment B). She informed the council staff had met shortly after the conclusion of South Ogden Days to discuss what had worked well and what needed to be changed. There were some items brought up in discussion that needed to come before the council; they were under the "recommendations" section of the staff report.

The first item for the council to make a decision on was the overtime budget. Ms. McCullough said staff had worked to try and decrease the overtime, but the police and fire departments felt they were spread too thin as to staffing. Fourteen thousand had been budgeted for overtime, and they had used just under \$11,000. Council Member Orr said she had attended the South Ogden Days debriefing meeting and the police and fire departments felt that cutting back on overtime was putting the city in a bad position if something major happened at South Ogden Days. She felt the city should not cut any money from the overtime budget, and may need to even add more. Council Member Smith suggested that the fire and police departments make a written proposal of what their plan was to cover South Ogden Days; it would help to justify more money if it were needed. There was some discussion on the necessity of having officers at entrance gates. Council Member Benard agreed that an analysis should be made of what had been done, what was proposed to be done, and what the costs would be. They should also look at whether the best solution would be overtime for city staff, or whether they should look to outsource part-time security.

The next item for discussion was “South Ogden’s Got Talent”. It had been very successful, but Ms. McCullough wondered if there were suggestions to make it go smoother, such as starting it earlier in the evening. The council discussed several suggestions, including separating the fun run and the “South Ogden’s Got Talent” to different nights, as they both seemed to be strong events. It was suggested that the “South Ogden’s Got Talent” be moved to Friendship Park on Friday night as the main entertainment; the current amphitheater location may not be big enough.

Ms. McCullough then asked the council how they felt about charging \$1 for adults at the gate. Based on this year’s attendance and figuring one third of those coming were adults, approximately \$8,000 would have been collected. The money could be used to help fund South Ogden Days. She also suggested that vendors could donate prizes to give away during South Ogden Days; it may help people stick around if they might be able to win a prize. The council discussed the matter, determining that a fee should not be charged.

The next item to discuss was the park rules. Some vendors mentioned that allowing coolers into the park took away business from them. The council talked about the advantages and disadvantages of allowing food in the park, including safety issues. Council Member Orr pointed out the rules should be printed in the information booklet sent out before South Ogden Days every year. The consensus of the council was to keep the rules the same, i.e. no dogs, allow coolers, no smoking, etc.

The last item for discussion was concerning a noise permit for South Ogden Days. It was brought up at the meeting that the city may be violating its own noise ordinance. The council directed staff to look into the matter and determine what needed to be done. Council Member Benard then asked if SOFI awards had been planned as part of South Ogden Days; they had talked about it at an earlier meeting.

The council then thanked Ms. McCullough for the great job she did for a successful South Ogden Days.

VI. DEPARTMENT DIRECTOR REPORTS

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

Mr. Andersen reported on several projects in the city:

Chambers Road Project – the concrete portion of the project was almost complete and they had begun roto-milling the surface. The project had to be completed within 60 days from the start; Mr. Andersen estimated it was 50% complete.

1075 East Road Project – the city was waiting for a bond to be issued for the construction company, at which point a pre-construction meeting would be held. He estimated construction would begin within the next two weeks.

Willow Wood Lane Street Project – the current waterline project was near completion, after which a re-build of the street would begin.

Street Overlays – The bidding for street overlays would be due August 13th. The roads slated to be done were 850 East, Burch Creek Drive, Glasmann Way and 5700 South.

Crack Seal – this project was currently out to bid. Fourteen roads had been completed in the spring and another fifteen were scheduled to be done in the fall.

Friendship Park Tennis Courts – the resurfacing had been started, but the weather had not cooperated. It should be completed within the next week.

Mr. Andersen then reported on the storm that day which had dumped an excessive amount of water in a very short time; unfortunately, it had caused some road damage in the city and a section 42nd Street between Adams and Porter had to be closed.

City Manager Dixon then informed the council a colored map with all the planned road projects would be posted to the website. Council Member Benard suggested a section of the newsletter be dedicated to road projects and what would be happening.

VII. REPORTS

- A. **Mayor** – reminded the council of WACOG Raptors night on August 22nd. He needed those interested to let him know.

He then shared with everyone a certificate from Weber State University Center for Community Engagement thanking the city for their participation in creating a better community.

The mayor reminded everyone that the Weber County Fair would begin the following day; those wanting tickets should let him know.

He concluded by reminding the council of the barbecue at the senior center on August 8th. Those wishing to help would be welcomed.

- B. **City Council Members**

Council Member Strate – nothing to report.

Council Member Smith – would be out of town next week, Monday thru Friday. Mr. Smith then reported that Washington Terrace City would begin work on Adams Avenue the following week; the city should probably contact them before they begin to make sure the portion of work in our city would meet our standards.

Council Member Smith also said he had heard there was state money available for bike paths. He thought staff should look into it.

He concluded his remarks by asking Chief Parke about 4030 Madison. Chief Parke said he would look into the matter.

Council Member Orr – said she was also interested in getting money for bike paths in the city. She also commented that with the recent rains, everyone should make sure things got dumped out, so there was no standing water to attract mosquitos.

She also reported the Bonneville Communities That Care would be holding a community picnic in conjunction with the beginning of school. She would give more details as they became available.

She concluded by asking if an item concerning the land use authority could be put on the agenda for future discussion.

Council Member Benard – commented there had been two major accidents at the intersection of Sunset and Highway 89. He wondered if the city could do anything about it even though it was a state road. Chief Parke commented the main cause of the accidents was driver error. Council Member Orr said UDOT may be more willing to do something at the intersection because it is a school crossing; the city should approach them. Mr. Benard then said he would be gone the next week as well.

Council Member Orr then took the opportunity to remind everyone of the SOBA meeting scheduled for the next day. It would take place at Coffee Links on Washington Boulevard.

- C. **City Manager** – Reported he and the mayor had met with UTA concerning the 40th Street Project. They had discussed several scenarios for transportation on 40th Street, including bus rapid transit. UDOT was working on ways to add the transportation as well as keep the street beautiful. Horrocks Engineering was also looking at the impacts

of widening the street to accommodate the added transportation. Wasatch Front Regional Council was also interested in the project.

Mr. Dixon reported Weber County was increasing the tipping fees for garbage, but were also providing a rebate to cities that bring their recycling to the landfill; with the rebate, the city ended up paying just a little more for the tipping fees. The increase was not enough to worry about increasing rates for residents. The rebate agreement would be on the council's next agenda.

In conclusion, Mr. Dixon reported that Kristen Hansen had quit to take a position elsewhere. Staff was in the process of interviews to fill the position. Mr. Dixon said he had sent an email to the council informing them of some re-structuring taking place in conjunction with the position; if the council had concerns about it, they should contact him.

D. City Attorney Ken Bradshaw – not present.

Parks and Public Works Director Jon Andersen took the opportunity to report that tackle football was underway. It would be the first year that a midget team would be fielded. He also reported that the jerseys for the year would be embroidered with the initials "TM" on the sleeve to honor Taylor Mitchell, who had been killed in an auto accident. This would have been his last year in the city's football program.

Mayor Minster then indicated it was time to adjourn city council meeting and convene into a work session. He entertained a motion to do so.

VIII. ADJOURN CITY COUNCIL MEETING AND CONVENE INTO WORK SESSION

A. Community Committees – Purpose and Scope

Council Member Orr moved to adjourn city council meeting and convene into a work session, with a second from Council Member Strate. All present voted aye.

The council took a short break and convened the work session at 7:40 pm.

The mayor began the work session by reminding the council they were to look at the strategic plan and see where the committees would fall within the scope of the plan.

Council Member Orr said she felt the committees fell into 4.1 of the strategic plan, under "engage the community". She said that since a committee to form a community garden had been suggested, she would like to see it put in the newsletter to see how much interest there really was for a garden. If there was not enough interest, they could let it go. Council Member Smith commented he had done some research, and generally community gardens were based around properties that didn't have land to grow gardens, like apartments. It was important to accommodate the need within the area where the need was. The first step was to find out if there was interest.

Council Member Benard said a community garden was not a high priority on the list of things that needed to be done. The strategic plan had already been done and showed what the council felt were the most important things for the city.

Council Member Strate said he felt the previously discussed sidewalks committee fell within the strategic plan. Council Member Benard agreed it fell under 5.3 of the strategic plan. They then discussed a parks committee, determining that there should only be one park committee. Council Member Strate said he felt there should only be two committees: a sidewalks committee and a parks committee. Mayor Minster

pointed out that nothing had been put in the budget to pay for projects the committees may come up with, including putting in a pond with fish stocked by the DWR.

City Manager Dixon asked if the intent of the committees was to create community involvement, to move projects forward, or both; if it was to move projects forward, then the council could direct staff to do more in order to meet the council's expectations.

Council Member Smith said the committees would only represent a minority of people in the community, i.e. a community garden would only appeal to a certain group of people. It was his job as a council member to represent everyone in South Ogden City.

Council Member Benard said there was more in the strategic plan than what staff could get done. His view was that the committees were meant to help staff move projects forward.

City Manager Dixon asked if goal 4.1.1 of the strategic plan, which was to do a community survey, would help in determining what the interest of residents was in things like a community garden, a fish pond at the Nature Park, etc. Should it be a high priority?

Council Member Orr felt the council already knew what needed to be done in the city and gave some examples. She felt spending money on a survey to find out what they already knew, was wasteful.

Council Member Smith disagreed; he thought a survey would get a more accurate idea of what the city as a whole wanted.

Council Member Benard felt a parks committee could be assigned to work with the DWR to see how much a fish pond would cost the city, and take the burden away from staff having to do it.

The council continued to discuss the matter, heading in the direction to appoint committees for different issues.

Council Member Benard asked what committees would be most helpful to staff in achieving the strategic plan goals. City Manager Dixon said a committee to look at safe routes to schools would achieve goal 5.3, "Increase walking and biking paths within designated safe routes to schools". Mr. Benard added painting the bike lanes could be added to this committee's scope as well. Mr. Dixon asked if rebranding was something the council wanted residents to help staff with. The council agreed. They then discussed the role of the committees, determining the committees should have clear instruction from staff or council as to their roles, and then the committees should put together recommendations to bring back to the council for consideration.

Council Member Orr asked Parks and Public Works Director Jon Andersen if a committee would help in giving ideas for projects in parks. Mr. Andersen felt it would be better to address current issues with existing facilities than build new ones that would need to be taken care of. He gave the example of the outdated playground equipment at 40th Street Park. He said it was better to upgrade what we currently had before expanding.

Council Member Benard suggested a parks committee could be used to help get funds to update facilities, maybe through sponsorships or other means.

City Manager Dixon explained he had made some changes to the strategic plan based on the council's discussion. He went over the changes, including creating committees for parks, sidewalks and community branding. There was also some discussion on getting the bike lanes painted and incorporated into the road projects as they were completed. The council then determined a committee should be created for a community garden.

City Manager Dixon then requested that a goal on the strategic plan be removed. It was goal 2.1 "reviewing the costs associated with business development as compared to other cities". Mr. Dixon said there were too many variables from city to city and it was difficult to make good comparisons. Council Member Smith said he would like the goal

changed to look at impact fees the city charged and how they compared with other cities. Council Member Benard asked staff to also look at water shares the city purchased. He had heard that the costs for water shares would be drastically increasing in the coming years and the city needed to see what impacts it would have. There was no more discussion. Mayor Minster called for a motion to adjourn.

IX. ADJOURN WORK SESSION

Council Member Smith moved to adjourn, followed by a second from Council Member Benard. The vote to adjourn was unanimous.

The meeting ended at 8:52 pm.

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Council Meeting held Tuesday, August 5, 2014.


Leesa Kapetanov, City Recorder

Date Approved by the City Council _____ September 2, 2014 _____

Attachment A

Written Comments From Resident Jerry Cottrell

Before I begin my prepared remarks, I would like to publicly thank Council Member Benard and Council Member Strate for their communications with my neighbors and me to help us to understand their views. Though I may not agree with their conclusions, I believe both of these gentlemen are acting ethically and honorably and are conscientiously trying to reach the right conclusions through careful application of logic and the law. I want to publicly commend Mr. Benard and Mr. Strate for their efforts and I encourage others to emulate them.

For the record, I am not an attorney and I claim no special knowledge or insights as to the City Code. But I have spent several hours trying to understand the code. I am not sure what the polite and legally correct term would be so I will just say it the way I feel it... our City Code is a mess.

I say this because:

1. The thing that first got me looking at this issue was the recent passage of 13-11 which purported to be for the purpose of replacing the Board of Adjustment with a single hearing officer. Now comes the confusion. 13-11 either did or did not change the land use authority in South Ogden. You don't have to be an attorney to conclude that when two intelligent and experienced City Council members can read the same code and reach different conclusions, that something is wrong. We can't even agree on who is the Land Use Authority in the City!
2. If we don't agree on the Land Use Authority, how can we have confidence in decisions that are made on Land Use? And to whom would we appeal if we don't agree?
3. Quantitatively speaking, it appears to me that the part of the code that has not been codified is greater than the part that has been codified. Why is that? Is this intentional or perhaps a case of neglect? Does the City have any standards for getting new ordinances codified? If not, I would like to ask the City to develop such standards and to develop a systematic process of periodic review to make sure the code is kept up-to-date.
4. Our current code was written to the ADA requirements rather than the later and more restrictive FHA requirements. We urgently need to get our code in line with applicable federal and state statutes.
5. Why would I say this is an urgent need? Because there has been an application for a conditional use permit based on the FHA. This application (and any others) will either be approved, rejected, or approved with limits. But whatever the decision, there has to be a legal basis for the decision. But if the decision is based on out-of-date code, it seems to me that this will unnecessarily expose the City to risk during appeal or litigation.
6. Because of the condition of the city code, I would like to suggest that the Mayor consider placing a stay on all CUPs (including the one filed by Mr. Jorgensen) until such time as the code can be cleaned up. It is my belief that

the Mayor has this authority but I would encourage him to ask the City Attorney to research the statutes to see if this is a viable option.

In closing I would just like to make one additional comment and this one is specifically on the Conditional Use Permit application made by Mr. Jorgensen. I won't bother to go through a repetitive recitation of the many arguments against such a facility as I believe my views and the views of my neighbors are already well understood by the Planning Commission and may be understood by the City Council members as well. But rather, I would like to focus on public need. Mr. Jorgensen would like us to think that we need his services and we should welcome him with open arms. But there are several existing substance abuse facilities in and around South Ogden and all report operating well under their capacity. So I would like to suggest that the facts simply do not support the idea that South Ogden needs yet another substance abuse service provider. I am hopeful that whoever the decision makers are over land use will consider public need, or lack thereof, in addition to the other factors of this CUP.

Thank you.

Attachment B

Handout from Events Coordinator Jill McCullough

SOUTH OGDEN CITY CORPORATION
 REVENUES WITH COMPARISON TO BUDGET
 FOR THE 12 MONTHS ENDING JUNE 30, 2014

SOUTH OGDEN DAYS FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
<u>REVENUE</u>					
12-30-200 SPONSOR DONATIONS	1,250.00	23,650.00	38,500.00	14,850.00	61.4
12-30-225 VENDOR BOOTH RENTALS	.00	7,975.00	10,000.00	2,025.00	79.8
12-30-250 CARNIVAL TICKET SALES	6,966.00	9,252.00	7,000.00	(2,252.00)	132.2
12-30-260 3 ON 3 REGISTRATION FEES	.00	510.00	650.00	140.00	78.5
12-30-270 AMAZING ADVENTURE RACE FEES	.00	.00	2,000.00	2,000.00	.0
12-30-275 CAR SHOW ENTRANCE FEES	.00	25.00	550.00	525.00	4.6
12-30-300 FUN RUN ENTRANCE FEES	.00	1,485.00	4,500.00	3,015.00	33.0
12-30-320 IN-KIND DONATIONS	.00	.00	40,000.00	40,000.00	.0
12-30-325 MISCELLANEOUS SALES & FEES	.00	26.00	.00	(26.00)	.0
12-30-330 MUD VOLLEYBALL FEES	.00	1,155.00	1,500.00	345.00	77.0
12-30-350 GOLF TOURNEY ENTRANCE FEES	.00	8,093.00	2,760.00	(5,333.00)	293.2
12-30-400 TRANSFER IN FROM GENERAL FUND	.00	36,000.00	68,000.00	32,000.00	52.9
TOTAL REVENUE	8,216.00	88,171.00	175,460.00	87,289.00	50.3
TOTAL FUND REVENUE	8,216.00	88,171.00	175,460.00	87,289.00	50.3

SOUTH OGDEN CITY CORPORATION
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 12 MONTHS ENDING JUNE 30, 2014

SOUTH OGDEN DAYS FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>EXPENDITURES</u>					
12-40-112 S/O DAYS OVERTIME	8,293.26	10,269.87	14,000.00	3,730.13	73.4
12-40-300 ENTERTAINMENT	1,343.36	27,174.18	25,800.00	(1,374.18)	105.3
12-40-325 FIREWORKS	.00	10,000.00	10,000.00	.00	100.0
12-40-350 PRINTING & BANNERS	81.00	4,661.50	4,500.00	(161.50)	103.6
12-40-375 EQUIPMENT RENTALS	5,937.05	28,780.60	23,700.00	(5,080.60)	121.4
12-40-380 CARNIVAL PAY-OUT	5,375.91	5,375.91	5,205.00	(170.91)	103.3
12-40-390 TELEPHONE EXPENSE	35.28	465.30	650.00	184.70	71.6
12-40-400 T-SHIRT PRINTING	.00	3,685.14	3,500.00	(185.14)	105.3
12-40-410 AWARDS	650.16	3,735.10	3,500.00	(235.10)	106.7
12-40-425 GOLF TOURNEY FEES	.00	166.41	2,760.00	2,593.59	6.0
12-40-450 IN-KIND AWARDS	.00	.00	40,000.00	40,000.00	.0
12-40-475 MISCELLANEOUS EXPENSES	2,815.61	10,518.10	9,845.00	(673.10)	106.8
12-40-800 TRANSFER TO RETAINED EARNINGS	.00	.00	32,000.00	32,000.00	.0
TOTAL EXPENDITURES	24,531.63	104,832.11	175,460.00	70,627.89	59.8
TOTAL FUND EXPENDITURES	24,531.63	104,832.11	175,460.00	70,627.89	59.8
NET REVENUE OVER EXPENDITURES	(16,315.63)	(16,661.11)	.00	16,661.11	.0