



## MINUTES OF THE SOUTH OGDEN CITY COUNCIL MEETING

TUESDAY, August 16, 2016 – 6:00 P.M.

COUNCIL CHAMBERS, CITY HALL

### COUNCIL MEMBERS PRESENT

Mayor James Minster, Council Members Brent Strate, Sallee Orr, Bryan Benard, Russell Porter, and Adam Hensley

### STAFF MEMBERS PRESENT

City Manager Matt Dixon, City Attorney Ken Bradshaw, Parks and Public Works Director Jon Andersen, Police Chief Darin Parke, Fire Chief Cameron West, Assistant to the City Manager Doug Gailey, and Recorder Leesa Kapetanov

### CITIZENS PRESENT

Jim Pearce, Monte & Monica Stoffers, Brenda Upright, Jerry Cottrell, Walt Bausman, Joyce Hartman

## I. OPENING CEREMONY

### A. Call To Order

Mayor Minster called the meeting to order at 6:02 pm and entertained a motion to convene.

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

### B. Prayer/Moment Of Silence

The mayor invited those present to participate in a moment of silence.

### C. Pledge Of Allegiance

Council Member Porter led everyone in the Pledge of Allegiance.

The mayor indicated it was time for public comments, asking that those speaking limit their comments to three minutes.

## II. PUBLIC COMMENTS

**Walt Bausman, 5792 S 1075 E** – commented concerning land use issues. He felt the 500 foot proximity notification recommended by the planning commission was adequate, but felt it should also apply to subdivisions. He also felt the wording from UCA 10-9a-205 should be included in South Ogden's ordinance as well as additional wording that said if the provisions were not met, the public meeting or hearing would be null and void.

Mr. Bausman then said implementing the form based code for the rest of the City was a good idea, and was an extension of the general plan update; therefore, the City should have a citizen input committee as they had in other general plan updates. He gave a copy of his written comments for the record (see Attachment A).

**Brenda Upright, Representative for Republic Services** – reminded the Council she was a resource for questions concerning trash pick-up or recycling.

**Stoffers, 5506 S 700 E** – wanted to put artificial grass in their yard, but were told that they could not; it needed to be live plants. They wanted to bring a sample of what they wanted to install and show it to the Council.

### III. RECOGNITION OF SCOUTS/STUDENTS PRESENT

There were no scouts or students in attendance.

### IV. CONSENT AGENDA

#### A. Approval of August 2, 2016 Council Minutes

#### B. Approval of July Warrants Register

#### C. Set Date for Special Meeting, August 30, 2016 at 6 pm, To Recognize and Commend South Ogden City Police Officers and Staff

The mayor read through the items on the consent agenda and asked if there were any comments. Council Member Orr asked that a correction to lines 163 and 164 be made; she had asked about decorations for Washington Boulevard, not City Hall.

Council Member Hensley asked several questions about items on the warrants register. Staff answered many of the questions. There was no more discussion. The mayor called for a motion concerning the consent agenda.

**Council Member Orr moved to approve the consent agenda. Council Member Benard seconded the motion. Council Members Benard, Strate, Orr, and Porter voted aye.**

Council Member Hensley then asked if Chief Parke was comfortable with the event planned on the 30<sup>th</sup>. The Chief indicated he was. **Council Member Hensley then voted aye.**

### V. DISCUSSION/ACTION ITEMS

#### A. Consideration of Resolution 16-25 – Approving an Interlocal Agreement for Paramedic Aboard Services

City Manager Dixon explained the interlocal agreement established the rate the City pays for paramedic services when a paramedic is present for a transport. The City spent approximately \$80,000 per year for the service, and although the City turned around and billed the patient for the cost, the City only recouped about 70%. Fire Chief Cameron West added the interlocal agreement had a 5 year term, but would be reviewed yearly by all the chiefs involved. The Chief and other staff then explained the licensing issues involved with the paramedics and what it would take to get our own license so we could have our own paramedics on transports. Chief

West said the process took 2-3 years, but it would save the City money. City Manager Dixon remarked that going through the process might be something the Council would want to look into. Council Member Benard pointed out there was a 30 day written notice termination clause in the contract, so if South Ogden was able to get a license from the state, we could still withdraw from this agreement. He felt they should go ahead and approve it and then instruct staff to look into getting its own paramedic on board license.

There was no more discussion. Mayor Minster entertained a motion concerning Resolution 16-25.

**Council Member Porter moved to adopt Resolution 16-25, followed by a second from Council Member Orr. The mayor asked if there was further discussion. There were no comments from the Council, so the mayor called the vote:**

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

**Resolution 16-25 was adopted.**

**B. Consideration of Resolution 16-26 – Approving an Agreement with Image Trend for EMS and Fire Department Software**

Chief West addressed this item. He explained the department already used this software, but the company was introducing a new platform that required a new agreement. The software complied with both state and national standards. Weber Area Dispatch actually paid for the service, but the City had to agree to the terms.

Mayor Minster asked if the Council had any questions, and seeing none, he called for a motion.

**Council Member Orr moved to adopt Resolution 16-26. Council Member Hensley seconded the motion. There was no further discussion. The mayor made a roll call vote:**

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

**The motion stood.**

**C. Consideration of Resolution 16-27 – Approving an Agreement With Wasatch Front Regional Council and IBI Group**

City Manager Dixon informed the Council that IBI would help develop a form based code for the remaining commercial zones of the City. The agreement was for \$20,000, but the City would only be responsible for \$5,000 of the total. Wasatch Front Regional Council would pay \$10,000 through grant money, and \$5,000 would be paid by the Weber/Morgan Health Department. The City would also contribute in kind funds in the form of employee time. Mr. Dixon said as soon as the contract was signed, he would schedule a meeting with IBI to get things started.

Council Member Strate asked about the various dates on the document. City Attorney Bradshaw explained they were reference dates for himself and he would remove them.

Council Member Orr noted IBI was contracted for 2 public meetings and she hoped that they could give the public as least 2 months' notice for the meetings. There was no further discussion. The mayor entertained a motion.

**Council Member Benard moved to adopt Resolution 16-27. The motion was seconded by Council Member Porter. Mayor Minster asked if there was further discussion, and seeing none, he called the vote:**

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

**Motion stood. Resolution 16-27 was adopted.**

**VI. DISCUSSION ITEMS**

**A. Discussion on 401K Match**

City Manager Dixon reminded the Council they had asked for feedback from staff as to whether they would rather see the approximately \$30,000 to \$35,000 it would cost to do a 401k match used for correcting salaries or for restoring the 401k match. Mr. Dixon thanked the Council for their willingness to consider the match and said staff had determined they would rather have the match re-instated.

Council Member Benard commented the benefit only helped the employees who could take advantage of it, whether they were a good employee or not. If the City were to decide to re-instate the benefit, he would rather follow West Valley City's method of making a contribution to every employee's 401k; that way it was fair to every employee. Council Member Orr agreed.

Council Member Porter said he looked at the benefit as a recruitment tool as much as anything else. He would like to have it in place. However, he would like to see how much Mr. Benard's suggestion would cost, as well as what the costs for a 1%, 2%, or 3% match would be.

Council Member Hensley said he thought Mr. Benard's suggestion was the absolute wrong direction to go. A 401k was not meant to be an equalizing tool. It was an option the City could provide and it was each individual's responsibility to take advantage of it.

Council Member Benard explained his fear was that by simply doing a match, they could potentially reward the worst performing employees in the City, whereas the best, because of their life circumstances, might not be able to take advantage of the benefit.

Council Member Strate said he felt education was the key. He shared a story of how he learned the importance of contributing to his 401k. He agreed with Mr. Hensley that the City should provide the opportunity and let people choose for themselves.

City Manager Dixon said he would work with staff in coming up with costs for the different scenarios. Council Member Orr suggested the City could match the first \$500 an employee deposited into a 401k; if they could only deposit \$100 a year, then the City would match \$100. There was no further discussion.

#### **B. Discussion on Land Use Public Hearing Proximity Notifications**

City Manager Dixon explained the Planning Commission had been considering what would be appropriate for notifications for public hearings concerning land use issues. The Planning Commission's recommendation was to notify property owners within 500 feet.

Council Member Hensley asked what determined whether a public hearing was called for a conditional use or not. City Recorder Kapetanov said the code stated the Planning Commission could call for a public hearing if they felt it was "in the public interest". There was some discussion on conditional uses and whether the City should have them. Council Member Porter reminded the Council the issue was not if there should be conditional uses, but whether when a public hearing for a conditional use was called, the people within 500 feet should be notified. He felt the more people informed the better. Council Member Hensley agreed, but felt there needed to be better directions as to when public hearings for conditional uses should be called. Council Member Benard agreed they should move forward with the proximity notifications but should discuss conditional uses later. Council Member Strate said he was concerned with the "if" part of a public hearing for a conditional use as well. Council Member Hensley said maybe they should require a public hearing for every conditional use. Council Member Porter pointed out some conditional uses were not that impactful, and having a public hearing for each one would be cumbersome. Council Member Benard said they all seemed to agree with the proximity notifications and should move forward with it. After discussion and clarification, it was determined that staff would put the proximity notifications on the next agenda for consideration. Staff would also provide information as to what the state required for public hearings for conditional uses.

#### **C. Discussion on Removing the City Council From Administrative Decisions**

City Manager Dixon referred the Council to a spreadsheet included in their packets outlining administrative/legislative decisions and to whom they were appealed. He reviewed the spreadsheet, explaining what the various colors meant.

Council Member Porter stated that the Council was a legislative body and should only be involved in legislative decisions except when the state mandated otherwise. The Council should

be removed from administrative decisions; legal experts as well as land use experts had all told them that. Being involved in administrative decisions was not what was best for the City.

City Manager Dixon pointed out that if the Council wanted to reconsider Ordinance 16-12, which continued to remove them from administrative decisions concerning subdivisions, and which they had voted against, the request for reconsideration would have to come from one of the prevailing voters.

Council Member Hensley agreed that the majority of the Council's time should be used for legislative matters, however they also made quasi-judicial decisions, acted as a board of directors, and made administrative decisions. To say that they should only act in a legislative manner limited them and "hand-cuffed" them and took from them the responsibility they should bear. Council Member Porter said he disagreed. He felt that there should be limitations to the Council's power and what they should be involved in.

Council Member Strate made the point that when residents had a concern, they didn't call the Planning Commission, they called the city manager or a council member. He felt they should take a step back and re-evaluate who should make some of the decisions.

Council Member Benard stated they should not be making decisions on individual cases. If someone wanted to have bees, chickens or artificial grass, it should be denied, and then the interested parties should come and lobby the Council to have the ordinance changed. Mr. Benard alluded to the fact that under the current code, the Council decided whether someone could have a permit to place rubbish on the sidewalk, which he felt was totally inappropriate. He also agreed with Council Member Porter; every expert and legal consultant as well as the League of Cities and Towns, had advised city councils not to involve themselves in administrative decisions. South Ogden had actually been lauded for beginning the process of separating the Council from administrative decisions. Council Member Benard said as much as he would like to have a hand in many of the decisions, it was not the right thing to do.

Council Member Hensley stated the City had a representative form of government, but they were introducing a fourth branch, a bureaucratic branch, that didn't answer to anyone, and was becoming stronger.

City Manager Dixon related that he was part of the Legislative Policy Committee and had been briefed on upcoming legislation. Jodi Hoffman, a member of the committee, had made them aware that there would be some upcoming legislation on land use, as the state had realized it needed to help cities better understand differences between legislative and administrative functions. The issue was becoming so problematic, the state felt it needed to step in and create legislation to help cities better understand the differences and the problems they could create for local governments. Mr. Dixon felt it would be helpful if the Council could look at the spreadsheet and indicate what changes staff could begin working on.

Mayor Minster asked the Council to use the chart and write notes about what they wanted to change and get them to Mr. Dixon.

Council Member Strate felt they needed to define more specifically who would make administrative decisions, the process in making the decision, and who the decision would be appealed to. There was more discussion by the Council. City Manager Dixon suggested if they had specific questions or other opinions, council members could contact the League of Cities and Towns and talk to any of their legal counsel.

#### **D. Discussion on Landscape Requirements as Stated In SOC 10-14-19**

City Manager Dixon reminded the Council of the previous request of some residents who wanted to install artificial grass in their yard, but the current code did not allow it. Council Member Hensley had requested that it be put on the agenda for discussion.

Council Member Orr remarked she felt artificial grass would be good for areas that could not get adequate water. She added that there were already some areas that had artificial turf. She felt artificial grass was better than tall weeds or dead grass. Council Member Benard said he felt the live plant ordinance seemed antiquated and there were many good examples of xeriscaping (note: after this comment, Council Member Benard left the meeting).

Council Member Porter pointed out that if one yard put in artificial grass he would be ok with it, but if everyone on the street installed it, he wouldn't be ok with it. He also wondered if the artificial grass was impervious or what was installed underneath it. Council Member Orr remarked that 20 years ago artificial grass was ugly, but it had come a long way and now looked very good. Standards needed to be set to make sure the quality and look of artificial grass was high, but it should be allowed. Mayor Minster commented that with the estimated doubling of the population in the next 20 years, water conservation would become a higher priority and changes would need to be made.

City Manager Dixon said the Council seemed to want to move forward with some type of ordinance to allow artificial grass, but asked if they had more specific direction. Suggestions from the Council included somehow limiting the amount of artificial grass as well as the type and quality allowed. There was no more discussion.

## **VII. COUNCIL REPORTS**

**A. Mayor** – reported Northern Utah Rehabilitation Hospital had held a beach party and sand castle contest. The fire department had participated and it had been a fun event. The mayor also reported that he and City Manager Dixon had participated in some golf tournaments where comradery with other agencies had been built.

### **B. City Council Members**

**Council Member Strate** – reported some residents on Park Vista had put in some nice landscaping.

**Council Member Porter** – reminded those present of the employee picnic which would be held on Thursday.

**Council Member Orr** – reported she had attended training at the (Utah Local Governments) Trust and thought it was very well done. She also reported that “Zero Fatality Night” would be held on August 26 at the Raptor’s game. Children attending the game would receive free bike helmets.

**Council Member Hensley** – asked why there wasn't a discussion on South Ogden Days as he had anticipated. Staff informed him it had been moved because all the invoices had not been received and the final costs could not be calculated. Mr. Hensley requested the Council be notified of changes made to the agenda.



**A. City Manager** – Mr. Dixon reported he and the Mayor had attended several meetings concerning the Weber County Transfer Station and the county potentially buying into a landfill in Utah County; however that purchase was no longer going to happen. There were still problems at the Transfer Station, but area cities and towns were continuing to work with the County to find adequate solutions.

He also referred the Council to the project tracker he had sent them. If they had anything they would like added, they should let him know.

**B. City Attorney** – nothing to report.

### VIII. COUNCIL COMMUNICATION/DIRECTION TO CITY MANAGER

**Mayor** – reported that Dr. Hansen wanted to donate a shade structure for the playground at Nature Park. He also said he had met with the new director for Northern Utah Rehabilitation Hospital. The mayor then reported he and City Manager Dixon had met with County Commissioner Elect Jim Harvey and had had a good discussion with him.

**Council Member Hensley** – asked City Attorney Bradshaw if the City had a permanently assigned public defender. Mr. Bradshaw answered in the affirmative.

He also pointed out that the next town hall meeting was not far away and wondered if plans to distribute fliers were being made.

**Council Member Orr** – did not have direction for the City Manager, but had forgotten to report she had attended the Weber County public hearing concerning raising taxes.

**Council Member Porter** – nothing.

**Council Member Strate** – asked when the June 30 financials would be available. Staff informed him Mr. Liebersbach, Financial Director, had been out of town, and they would know more when he returned.

### IX. ADJOURN

The mayor indicated there were no more items on the agenda and called for a motion to adjourn the meeting.

**Council Member Strate moved to adjourn, followed by a second from Council Member Porter. The voice vote was unanimous in favor of the motion.**

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Council Meeting held Tuesday, August 16, 2016.

  
Leesa Kapetanov, City Recorder

Date Approved by the City Council \_\_\_\_\_ September 6, 2016 \_\_\_\_\_



## Attachment A

### Written Public Comments

South Ogden City Council comments – <sup>8/16/</sup>~~June~~, 2016

My name is Walt Bausman  
I live at 5792 S 1075 E

I have several comments regarding Land Use issues:

First, the recommendation from the Planning Commission specifies the distance for notification of a Public Hearing shall be 500 feet.

However, this excludes Subdivisions, which is currently 300 feet.

I would suggest the 500-foot distance should be the same for all land areas.

I would also suggest using the Utah Code Title 10, Chapter 9a, Section 205 for the city's Notification of Public Hearings and Public Meetings, since it lays out in specific detail the requirements for Public hearings and Public Meetings on the adoption or modification of land use matters, and a statement that if these provisions are not met, the Public Hearing or Public Meeting will be null and void.

This way, there will be no misinterpretation of the required state law.

Next, you are being asked to contract with IBI to continue the Form Based Code plan for the whole city, which many of us think is a good idea.

This is an extension of the General Plan update, which has had no formal input from citizens for the last several years. However, during the 2007-2008 General Plan update. There was a Citizens Advisory Committee, comprised of 14 citizens.

The scope of IBI's work includes "public meetings", but apparently only to gather public input, with no formal inclusion or discussion with or by citizens.

I recommend that a formal Citizens Advisory Committee – similar to that which was done during the 2007-2008 General Plan Update - be formed to participate in the future planning of our city during this process, as well as during the formal General Plan Update revision.

I believe you will have greater acceptance of the revised plans if you are more inclusionary with the citizens whose lives will be effected.

Thank you.