



Ogden City

City Council

January 24, 2017

City Council Chambers

Municipal Building – Third Floor

2549 Washington Boulevard, Ogden, Utah 84401

4:00 p.m. Work Session

City Council Work Room

The purpose of the work session includes presentations and discussions regarding:

- Agenda review for the City Council meeting;
- Wildlife Rehabilitation Center;
- Emergency Operations Plan (EOP) Update;
- Rezone of property at 350 7th Street from R-1-6 and C-2 to R-3;
- Non-conforming commercial style buildings ordinance amendment
- Council member comments; and
- Council business.

Any items not fully addressed prior to the City Council meeting, which begins at 6:00 p.m., may be addressed immediately following that meeting.

6:00 p.m. City Council Meeting

City Council Chambers

1. Roll Call.
2. Pledge of Allegiance.
3. Moment of Silence.
4. Recognition:
 - a. **Idle-Free Week.** Proposed Joint Proclamation declaring February 5 – 11, 2017 as “Idle-Free Week” in Ogden City. (*Approve joint proclamation – voice vote*)
 - b. **Chief Mike Ashment.** Recognition of Chief Mike Ashment for his service to the Ogden Community with the Ogden Police Department.
 - c. **Assistant Chief Wayne Tarwater.** Recognition of Assistant Chief Wayne Tarwater for his service to the Ogden community with the Ogden Police Department.
5. Reports from the Administration:
 - a. **Public Safety Employee Appeal Board.** Proposed Ordinance 2017-1 to dissolve the Civil Service Commission and create a new Public Safety Employee Appeal Board. (*Adopt/not adopt ordinance – roll call vote*)
 - b. **Public Safety Employee Appeal Board Appointments.** Consideration of the appointment of Joe Ritchie, Chris Zimmerman, and Dennis Gay to the Public Safety Employee Appeal Board. (*Approve/not approve appointments – voice vote*)
6. Public Comments. This is an opportunity to address the Council regarding concerns or ideas on any topic. To be considerate of everyone at this meeting, public comments will be limited to three minutes per person. Participants are to state their name and address for the record. Comments which cannot be made within these limits should be submitted in writing to the City Council Office (citycouncil@ogdencity.com).

The Council encourages civil discourse for everyone who participates in our meetings. Comments pertaining to an agenda item that includes a public hearing or public input should be given during the meeting as that item is discussed.

7. Comments:
 - a. Mayor.
 - b. Council members.
8. Adjournment.

Continuation of Joint Work Session if Necessary

Public meetings may be held electronically in accordance with Utah Code Annotated 52-4-207 to allow Council members to participate via teleconference. The anchor location for the meeting shall be on the 3rd Floor of the Ogden Municipal Building, 2549 Washington Blvd., Ogden Utah.

In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the Management Services Department at 629-8701 (TDD # 629-8949) or by email: ADACompliance@ci.ogden.ut.us at least 48 hours in advance of the meeting.

CERTIFICATE OF POSTING

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and/or agenda was posted in accordance with Utah State Code Annotated 52-4-202(3) on this 20th day of January, 2017 in the following places: 2nd floor foyer of the Ogden City Municipal Building; the Utah State Public Notice website, the Ogden City website, and provided to the Standard-Examiner.

TRACY HANSEN, MMC
OGDEN CITY RECORDER

Visit the City Council Meetings page at: councilmeetings.ogdencity.com
Ogden City Council Agenda Information Line – 801-629-8159



WILDLIFE REHABILITATION CENTER YEARLY CONTRACTUAL AGREEMENT REPORT

Action: **To receive report**

Background

The City Council has requested to receive information from local foundations and nonprofit organizations that have a contractual agreement with Ogden City. These presentations help the Council to become more familiar with the objectives and efforts of the organizations.

The foundation will describe their organizational mission and goals, successes and challenges over the past year and any future plans for your organization.

Attached is a report provided by Wildlife Rehabilitation Center. Buz Marthaler, Chairman of the Board of Directors for the Wildlife Rehabilitation Center will be present to give a report.

Council Staff Contact: Mavis Hawley, (801)629-8166



Winter 2016/17

Dear Friends:

Pacific Loon Patient, A Rare Find!

Pacific Loons typically breed in Alaska and Northern Canada and may stop in Utah during their migrations between



these breeding grounds and the Pacific coastline. This young Loon quickly became a star as word got out to excited Utah birders of his location. Sadly, this visitor became entangled in fishing line, unable to free himself.



When rescuers approached, the loon would dive out of reach. They tried a net with no luck, but finally a fisherman cast his line out over the bird and was able to carefully snag the line that bound the bird's

head and body and the loon was reeled in. The tangled line had cut all the way to the bone of the lower jaw requiring sutures. X-rays were taken to determine if the bird had swallowed anything harmful (lead sinkers, hooks, etc.). The radiographs showed a swallowed hook that required "exploratory surgery" to locate and remove.

The Pacific Loon is currently doing well and being administered daily doses of antibiotics and pain meds as it heals.

Newest Education Ambassador: After 4-1/2 years, our Golden Eagle Phoenix becomes our ninth raptor Education Ambassador. In 2012, Phoenix rose from the ashes on Independence Day. At only 86 days old he was rescued from certain death after his nest was consumed by a human-caused wildfire. Phoenix fought hard over the course of many months to regain his health. Early in 2015, WRCNU determined Phoenix "non-releasable" due to a beak deformity



Anthony Woerner and Phoenix;
PT session, Sept 2016

caused by the intense heat of the fire, so in March 2015 WRCNU applied for their first *Live Eagle Exhibition Permit*—an excruciatingly long process. September 2015, while waiting on approval of his permit, we found Phoenix fighting again for his life; found face down in the dirt on 9/11 (Patriot Day). A mosquito carrying the West Nile Virus had bitten Phoenix transmitting a deadly infection which strikes the nervous system—now one year later our federal and state permits are approved and Phoenix's health continues to improve. He can fly, but continues physical therapy (PT) for partial paralysis of his left leg. WRCNU gives a "Big Shout Out" to Anthony Woerner (Human Rehab Specialist) for donating his time and expertise every week for the past year to help Phoenix through the PT process—we've seen marked

improvement in Phoenix's health and abilities thanks to Anthony! Phoenix still goes through light PT twice each day as well as a more vigorous session weekly and he continues to show slow but consistent progress—he's the same fighter we've all come to admire and love; he never gives up. Phoenix the Miracle Eagle!

Upcoming Calendar Events

January 2017: prior year (2016) donation tax receipts are mailed out each January. This saves us precious time and money over mailing individual receipts throughout the year. If you have tax receipt questions please email us at info@wrcnu.org.

April 28, 29, 30 (Fri/Sat/Sun) 2017: Mark your calendars for our 7th Annual Wildlife Baby Shower and Open House; each year it gets bigger and better, so don't miss out. Fun for the entire family: kids craft tables, adult silent auction items & baskets, WRCNU's Animal Ambassadors on display and much more...

Another Busy and Successful Year for Wildlife and WRCNU!

WRCNU has treated over 16,000 wildlife patients in our short 7-1/2 years. As of this printing, we have seen 2,400 wild animals this year and it's still not over.



American White Pelican Released onto the Bear River Migratory Bird Refuge

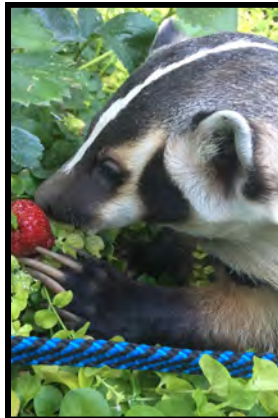
Pictured are some of the success stories that keep us energized to continue our work; more than 90% are reminders of the human impact wildlife is confronted with each and every day as we continue to encroach on or take away valuable habitat.



Bald Eagle "Aquila" (#30) released after mending a broken wing from a vehicle collision.



Orphaned Long-tailed Weasel kit in its new forever home at Oregon's Wildlife Images Rehabilitation and Education Center (WIREC)



Orphaned Badger "cub" during a walk-about at its new forever home also at Oregon's WIREC



Storm Victim, this Long-billed Dowitcher is released just days later



Orphaned and emaciated baby Beaver kit is healthy and projected for release once she is 2 yrs old



Left: a Great Blue Heron lands after a short but successful release flight



Juvenile Dark Morph Ferruginous Hawk released after a severe storm brought it down

Our final success story starts with a fence and an owl, a tragedy we see repeated every year. Here a young fledgling Short-eared Owl is learning to fly and hunt with its parents when ... *along comes a barbed wire fence*. Fence and electrical/phone lines cause great pain and suffering, from broken legs and wings, to permanent feather follicle damage, to torn tendons. These injuries often lead to death from exposure and damage, but the lucky ones are returned to the wild after rehabilitation or, as in this case, they may become amazing education ambassadors. This fortunate young lady was spotted by two wildlife photographers and saved from certain death. After several months with WRCNU it was determined that she should not be released, but she is expected to be staying in the local area with SLC's HawkWatch International; she'll no doubt be a big hit for their education program.



Above: Young Short-eared Owl entangled in barbed wire fence. Photo taken by rescuer and wildlife photographer Ron Dudley



Left: the inset photo shows the same juvenile after a couple months of rehab—you might notice the left wing does not sit quite right due to tendon damage from the fence.

Please "Open Your Hearts"

There is no state or federal funding for our program, we depend on donations from supporters like you. Wildlife rehabilitation is not cheap but we feel the need for our services, to both the community (you) and the injured animals, is HUGE and therefore they must remain—please open your hearts and give a gift that will keep you warm all winter long knowing you are benefitting thousands of animals by giving them the second chance they deserve.

JOIN US! We can do what we do, only because people like you do what you can. Be part of a group who has treated over 16,000 animals and help ensure we are here for another seven years to treat another 16,000 as well as reaching tens of thousands of individuals with our educational outreach programs.

...you are the strength and hope.

Your Lost Pennies (something to ponder)



Most of us spend money on things that mean less than giving a gift from the heart. Do you know where your pennies go? Would you like to know and in return receive that amazing "warm fuzzy" knowing you are part of something bigger than yourself? Look below at what your small daily expenses (your lost pennies) can do for sick, injured and orphaned wildlife ... for far less than a donut, soda, or latte a day.



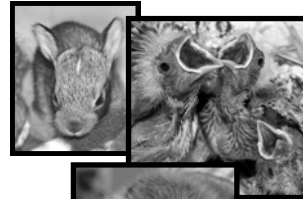
\$5 a month (17¢/day) will feed a hummingbird a life-sustaining nutritional diet for 3 months ... they don't survive long on "sugar water".



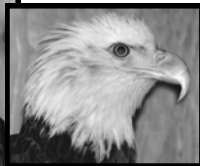
\$50 a month (\$1.64/day) will provide a lifesaving surgery and follow-up care for 1 large raptor (Eagle, Hawk, Falcon or Owl).



\$15 a month (49¢/day) will purchase 8-9 boxes of fish to feed an adult pelican for 2 months.



\$100 a month (\$3.29/day) will provide essential food or medical care for many different animals who deserve a 2nd chance.



\$25 a month (82¢/day) will feed an eagle for 2 months while in our care.

Become a WRCNU Sustainer and join the growing number of supporters who truly make a difference—go to www.wrcnu.org and click on our "Donate" page for more details. Our 1st newsletter of each year showcases our Sustainers and Partnerships from the prior year; Spring of 2017 will be the first use of our new "Donor Category" logos designed by one of our very gifted Cofounders, Amber Hansen—Thank you Amber for continuing to share your amazing talents with WRCNU!



Golden Eagles
\$5,000 and Up



Ospreys
\$100/Mo
or \$1,200—\$4,999/Yr



Great Horned Owls
\$50/Mo
or \$600—\$1,199/Yr



North American Beavers
\$35/Month
or \$420—\$599/Yr



Ravens
\$20/Month
or \$240—\$419/Yr



Flying Squirrels
\$15/Month
or \$180—\$239/Yr



Chickadees
\$5/Month
or \$100—\$179/Yr
& Undisclosed CFC
donors / Others

Contact Information

Mailing Address: 3127 N Pelican Dr., Farr West, UT 84404

Physical Address: 1490 Park Blvd, Ogden, UT 84401

Website: WWW.WRCNU.ORG

Email Questions: INFO@WRCNU.ORG

Volunteer Info: VOLUNTEER@WRCNU.ORG

Phone: (801) 814-7888



@ Wildlife Rehabilitation Center of Northern Utah



Wildlife Rehabilitation Center of Northern Utah

Board of Directors

(A Volunteer, “Hands-on Board”)

- Buz Marthaler, Chair/Finances (Founder)
- Stacie Peck, Vice Chair (Founder)
- DaLyn Marthaler, Ex. Dir./Wildlife Specialist (Founder)
- Erin Adams, Director & Vol. Coordinator (Founder)
- Dave Hestand, Director, Info. Data Specialist
- Shellie Palau, Director, Fundraiser Coordinator
- Elizabeth La Madeleine, Director & Events

WRCNU



Overview

- WRCNU: Mission
 - Who We are & history
 - Services
 - WRCNU Partnerships
- Goals
- 2016 Successes and Challenges
 - Volunteers and Patient Numbers
 - Museum  Utah Division of **Arts & Museums**
 - Wildlife -- Successes and Challenges
 - Miscellaneous Achievements

Our Mission

Through wildlife rehabilitation and education we will empower the community to engage in conservation and responsible stewardship of wildlife and habitat.

WRCNU

- A 501(c)(3) Public Charity
- State And Federally Licensed
- Supported solely by donations from
 - General Public
 - Businesses
 - No State or Federal funding
- Staffed by 3 Employees
- Supported by Volunteers
 - Junior Volunteer program (ages 13 – 17)
 - Adults of all ages (currently 18 – and UP)



Our History

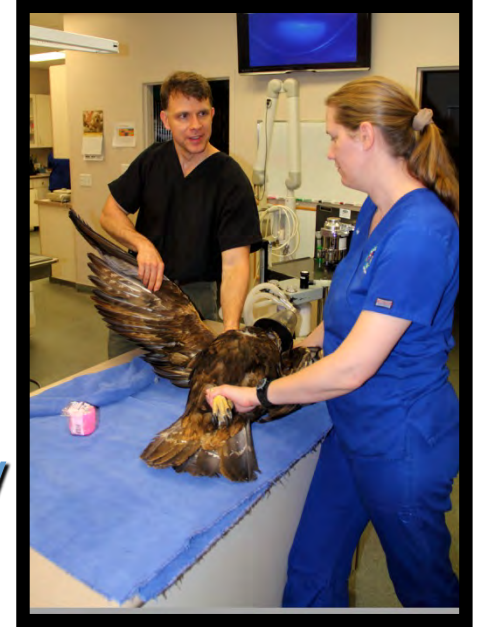


- Established as a 501(c)3 Public Charity on Feb 19, 2009.
- Eight (8) years later
 - Located at the mouth of Ogden canyon
 - Largest Wildlife Rehabilitation Center in Utah
 - Average over 2,400 sick, injured and orphaned wild animals annually.
 - More than 16,000 Wild animals treated

Services



We Provide
our service area
with experienced,
trained, certified
rehabilitation that
is state & federally
licensed.

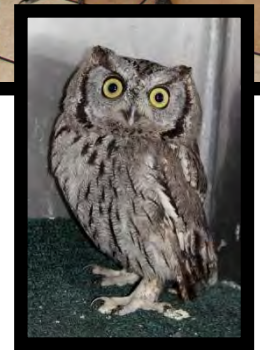


Services

- Almost 95% of all animals we receive, are from human causes (direct & indirect).
 - Car and window hits, electrocutions, being shot, poisonings, traps, pruning vegetation, domestic animal attacks, uncapped chimneys and vents, wildfires, petroleum spills, human caused disease and more.
- We are able to release 65 - 68% of these animals back into the wild.



Services



Bronx Zoo, NY
Carolina Raptor Center, NC
Center for Birds of Prey, SC
HawkWatch Int'l, UT
Lehigh Valley Zoo, PA
Raptor Education Foundation, CO
River Trail Nature Center, IL
Squam Lakes Natural Science Center, NH
Tampa's Lowry Park Zoo, FL
Tracy Aviary, UT

Striving to Build Strong Partnerships

- Ogden City
 - Harvest Moon Festival
 - Ogden Arts Festival
 - Historical 25th Street
 - G. S. Eccles Dinosaur Park
- Other Partners
 - Tracy Aviary
 - Utah State University
 - Weber State University (Purple Pride)
 - University of Utah



Striving to Build Strong Partnerships

- Others (cont.)
 - Bear River Migratory Bird Refuge
 - HawkWatch International (SLC)
 - Utah Birders
 - Davis Youth Center (Corrections)
 - Boy & Girl Scouts of America
 - Western Wildlife Conservancy



Striving to Build Strong Partnerships

- Others (cont.)
 - Thanksgiving Point
 - Wild Utah Project
 - GSL Audubon
 - Wild About Birds
 - Great Salt Lake Bird Festival
 - Many National Conservation Groups/Projects
 - and Still GROWING ...



WRCNU Goals

- Build Long-term Fiscal Sustainment/Growth
- Grow Community Support for WRCNU Mission
- Provide Positive Influence and Motivation for Utah's Conservation efforts
- Grow Education Programs: on-site & outreach

WRCNU Goals (cont.)

- **2017 focus:**
 - Upgrade Natural History Museum Displays for self-guided tours and formal programs
 - New carpet (Ed Room, Offices x2)
 - LVT (luxury vinyl Tile) flooring (Main Lobby and Breakroom)
 - Resurface Parking lot (Ogden City Project)
 - Continue Building/expanding Volunteer recruitment and Training courses

WRCNU Goals (cont.)

- **2018/19:** Continue Upgrade of Facility Interior
 - Replace flooring (East/West Lobby) with LVT
 - Curtains replaced (Ed Room)
 - Replace ceiling tiles (still under consideration)
- **Long-term:** Planning, Development & Fundraising for 10 – 12 outdoor bird display enclosures for public viewing



Volunteers in 2016

409

individuals

Providing More Than

15,464

Volunteer/Comm. Service hours

WRCNU Hours

(Broken Down)

Total Hours: 26,654

- Employee/Vol Staff hours: **11,190**

- Volunteer Hours: **11,973**
- Community Service Hours: **3,491**
 - Court Ordered Service: **2,720**
 - School Service: **600**
 - WSU Group Projects: **136**
 - Other: **35**

Patients in 2016

2,486

Patients since occupying facility (6 yrs)

> 13,160

Overall Program Directly Impacted
an estimated

16,120 people (2016 alone)

Certification



Utah Division of
Arts & Museums



Utah Division of
Arts & Museums



Emmett Parker Collection



**“Baby Bird Room”
One-way Public Viewing**



Utah Division of
Arts & Museums



Egg and Nest Displays





Utah Division of
Arts & Museums



**New Display Cases
(Bird Wings, Beaks, Human Impact Displays)**



Utah Division of
Arts & Museums



Education Room



Utah Division of
Arts & Museums



Education Classroom

(Universities, Scout, GSL Bird Festival, Public, etc.)

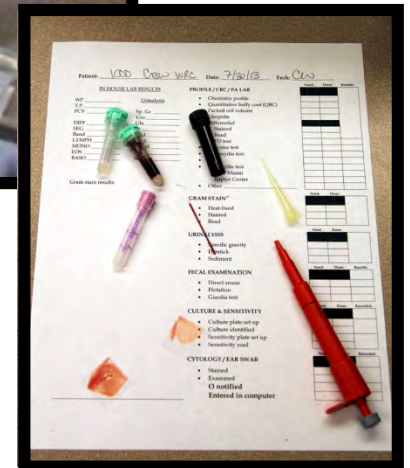
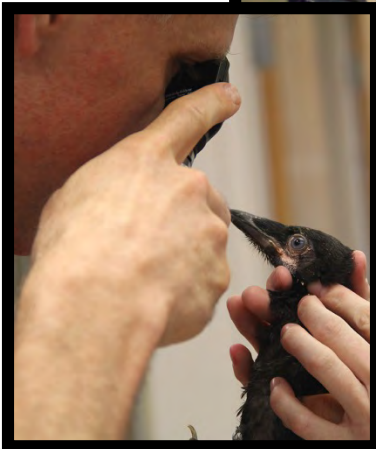
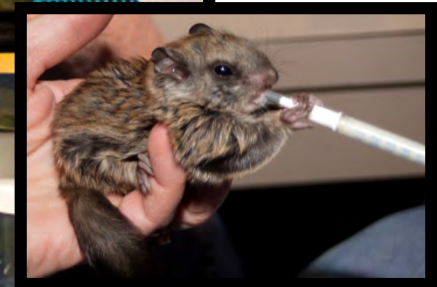


2016

Wildlife

Successes & Challenges

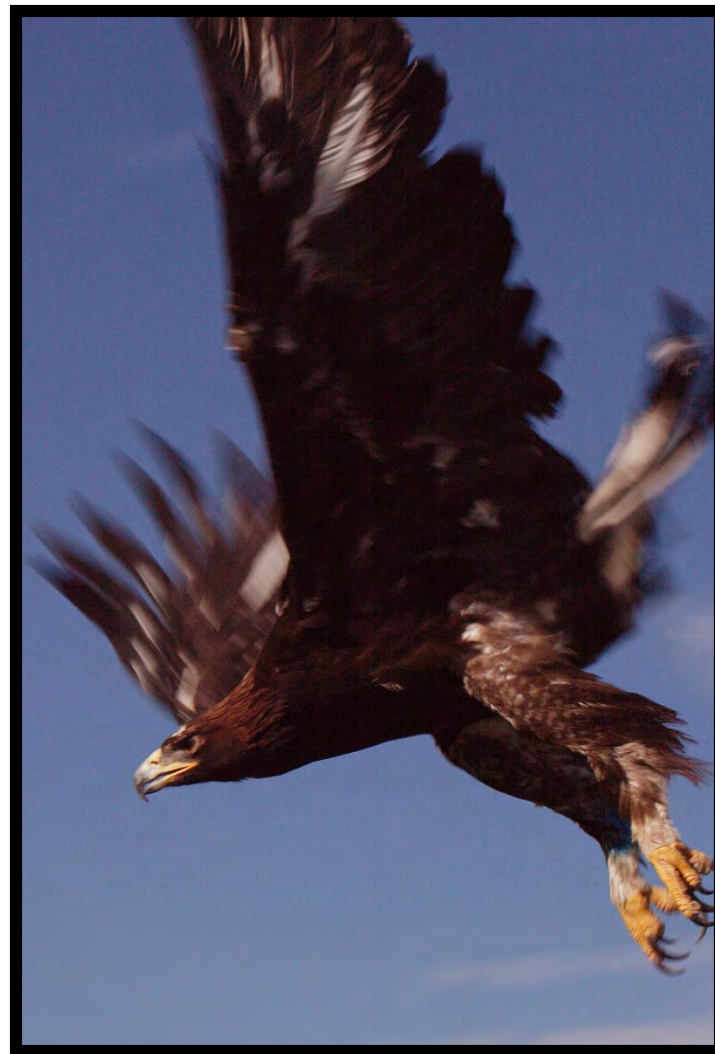
"Baby Season!"



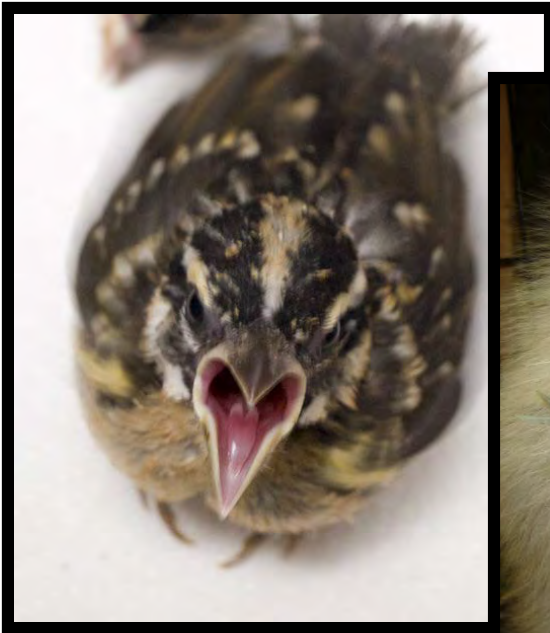
Treating Hummingbirds...



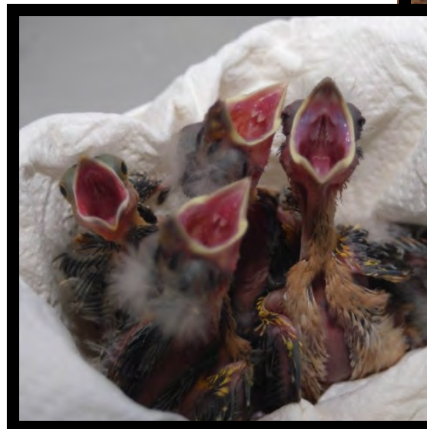
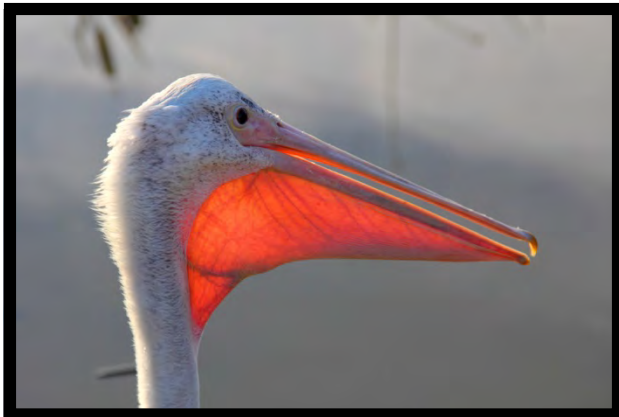
... to Eagles ...



Successes & Challenges



... and most everything in between!



- **WRCNU received 2,486 animals in 2016.**
 - Raptors: Eagles, Hawks, Owls & Falcons: 296 patients
 - American Robins: 231 patients
 - Various Finches, Swallows, Warblers: 431 patients
 - Various Hummingbirds: 44 patients
 - Mammals (21 different species): 129 patients
 - Other various birds: 1,355





Scheduled for
Released Spring 2017

Typical Beaver Release





Orphans: Beavers, Badgers,
Weasels, OH MY!



**Various
Baby Room
Patients**





2016

Miscellaneous Achievements

Boy & Girl Scout Projects™



**Projects Completed
(5)
Projects In Work
(4)**

Girl Scout Silver Project



Eagle Project

Successes & Challenges



**Weber State's
"Purple Pride Partner"**



**Volunteers:
Our Life's
Blood
(409 in 2016)**



UTE Ornithology Class Presentation



Patagonia SLC

Meet Phoenix



**WRCNU's
Latest Education Ambassador**



Successful Rehabilitation Of Bald Eagle #030



WRCNU Receives Huge Community Support For Bald Eagle #030!

**Caring for injured bald eagle is no easy task,
northern Utah rehabilitators say**

TUESDAY, JANUARY 26, 2016 - 1:22 PM



Image by: BENJAMIN ZACK/Standard-Examiner
Erin Adams holds an injured bald eagle as its hood is removed for feeding at the Wildlife Rehabilitation Center of Northern Utah on Monday, Jan. 25, 2016. The eagle is more active and aggressive than it was when it was brought in the week before. Dal-yn Erickson-Marthlaer, the center's executive director, expects to care for the bird for another 4-6 weeks before it is ready to be released.



Education Rehabilitation Release



@ Wildlife Rehabilitation Center of Northern Utah

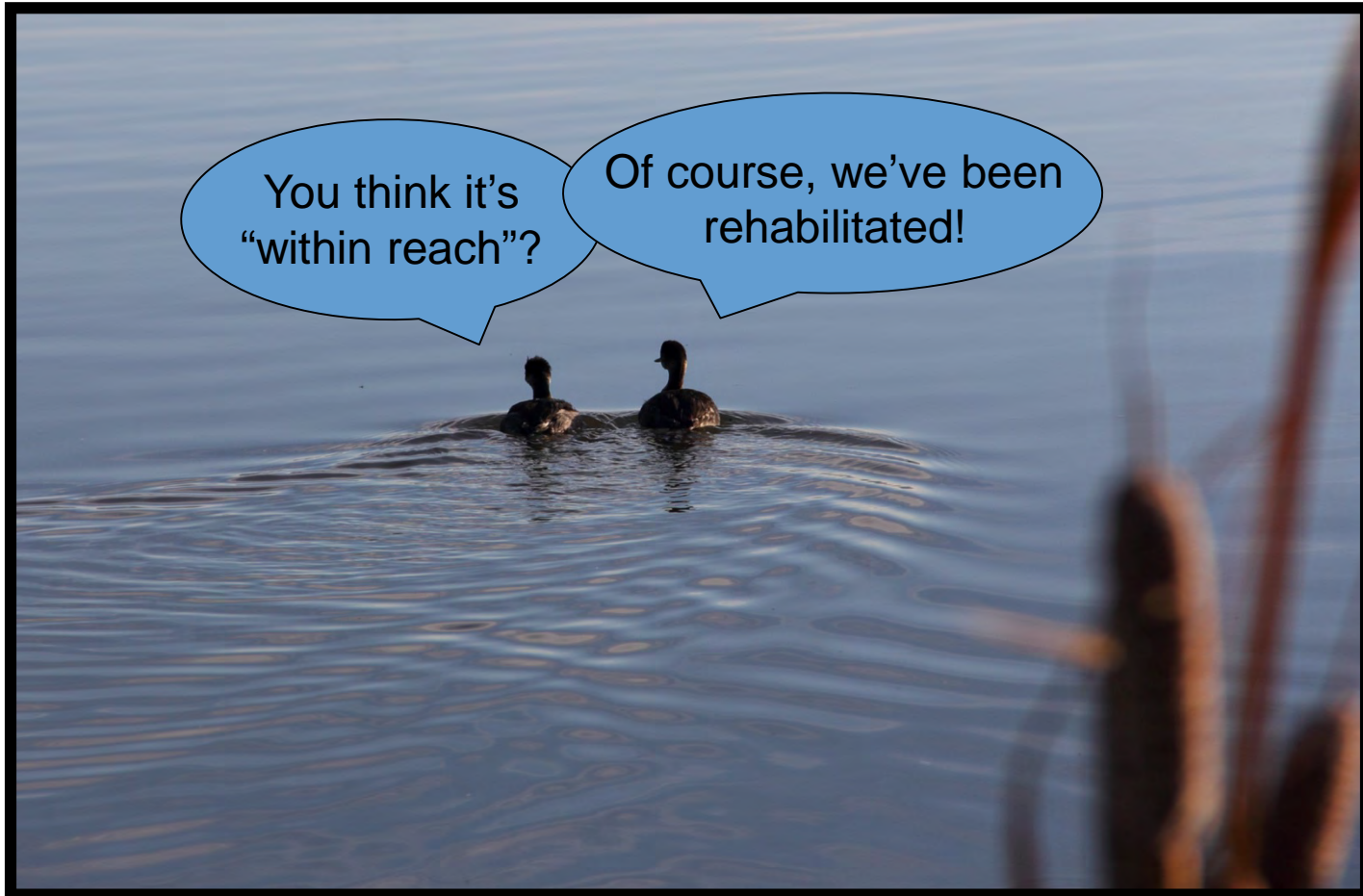


5,992 "Likes" and Growing



5,780 "Follows" and Growing

“it’s all within reach”





EMERGENCY OPERATIONS PLAN (EOP) BRIEF

Purpose of Discussion

To receive a presentation on the Emergency Operations Plan and recent amendments to the plan.

Executive Summary

The Administration recently updated the Emergency Operations Plan (EOP) and various Emergency Support Function (ESF) annexes were incorporated into the plan. Each annex defines the role of a city division in the event of a disaster. Numerous training sessions are being provided to city employees as part of this change.

Background

Ogden City Municipal Code requires the Emergency Manager to brief the City Council when any changes are made to the EOP.

Ogden City Ordinance § 12-15-7: Emergency Operations Plan

The emergency program manager shall, under the direction of the mayor, and with the assistance of all city officers, departments and divisions, prepare and maintain an emergency operations plan for the city and recommend to the mayor and city council mutual aid plans and interlocal agreements which are deemed essential for the plan.

The emergency program manager shall make or recommend continuing studies of the need for revisions and improvements in such plans. The emergency program manager shall provide a copy of the plan, and any amendments thereto, to the city council, and, by October 31 of each year, brief the city council on the plan and any revisions or improvements made thereto.

The Ogden City EOP establishes the emergency management organization of Ogden City and collaborates with the National Incident Management System (NIMS). The Plan outlines the roles and responsibilities of government before, during and after a disaster. The Plan also addresses hazards the community may face through the five mission areas of standardized emergency management.



Five Mission Areas of Standardized Emergency Management

1. **Mitigation** – reducing or eliminating the effects of these hazards on the community
2. **Prevention** – actions to avoid an incident or to intervene to stop an incident from occurring
3. **Preparedness** – actions taken to prepare the community for these hazards
4. **Response** – the community's response to the effects of these hazards
5. **Recovery** – returning the community to a healthy, viable, and economically sustainable environment after a disaster

The Plan is consistent with the Utah Division of Homeland Security Plan and the National Response Plan that are incorporated in NIMS. This plan describes how municipal and county resources, mutual aid, and state and federal agencies will be coordinated in response to an emergency.

During the past year, the city experienced two activations of the Emergency Operations Coordination (EOC) team. Each of these were level two activations, meaning these were partial activations for moderate events that impacted multiple sites and had several agencies involved. The first activation occurred on May 1, 2016, because of a wind event, and the second on Sept. 23, 2016, for the recovery of a tornado.

The EOC is focused on continually learning from its experiences to better prepare for, respond to and recover from emergency related situations.

Council Involvement in Emergency Management

The Council approves all interlocal agreements for the Emergency Operations Plan, and each Council Member completes Federal Emergency Management Agency (FEMA) training.

The Council Norms describe its role in the event of an emergency. The duties and the powers of the City Council are unchanged during an emergency, including its responsibility to set policy, manage the City budget and conduct oversight. The Council Norms also include a succession plan in an instance when a Council Member can no longer perform his/her duties. During an emergency declaration, the City Council may convene in regular or special meetings as deemed appropriate.



Attachments

1. Administrative Transmittal
2. Updated Emergency Operations Plan and Annexes
3. Council Norms – *excerpt of Council Emergency Preparedness, Appendix D-7*

Questions for Administration

1. Please summarize changes that have been made to the Emergency Operations Plan. How do the newly incorporated annexes work in conjunction with the Plan?
2. What happens when an activation occurs and how is information distributed to the public?

Administrative Memo Prepared by:

Administrative Contact:

Ryan Perkins, 801-629-8073

Council Staff Contact: Amy Sue Mabey, (801)629-8629

OCT 25 2016

OGDEN CITY
COUNCIL OFFICE

Ogden City Council Transmittal

Date: October 3, 2016
To: Ogden City Council
From: Ryan Perkins, Emergency Manager
RE: EOP Updates
Staff Contact: Ryan Perkins

Executive Summary According to City Code Title 12 Chapter 15-7 the Emergency Manager shall brief the City Council on the Emergency Operations Plan (EOP) and any revisions or improvements made to the plan.

Background We were able to finish writing all Emergency Support Function (ESF) annexes this year. In conjunction with the Basic Plan, these annexes define the roles of each division in a disaster. There are 15 standard annexes, and in addition we include Finance, Legal, and Volunteer and Donation Management annexes. The Basic Plan and annexes can be found on the City website under Emergency Management.

The Emergency Operations Policy Group has met twice this year, and the Emergency Operations Coordination Group will also meet eight times this year to receive training in emergency operations and to improve the City’s preparedness and response to an event. The Coordination Group worked together with other County agencies on a virtual table top exercise on Animal Sheltering in disasters. The group had just completed ESF #11 that pertains to animals in disasters, and this was a great exercise to challenge that particular annex.

In addition, there were two, level two activations of the EOC. The first occurred on May 1st for the wind event and the second on September 23rd for the recovery of the tornado. These activations were beneficial to see what worked well and what needs to be developed further.

Conclusion The Emergency Operations Coordination Group and Policy Group are continually learning to better prepare for, respond to, and recover from an emergency.

For further information, contact Emergency Manager Ryan Perkins at (801)629-8073.

COUNCIL NORMS - 2017

which are not directly related to Ogden City objectives or programs.

- **Exception for Political Parties, per State Code UCA 20A-8-404 -** Political Parties may request the use of Council Chambers and Conference Room 310 at least 30 calendar days before the day on which the use by the political party will take place. Billing is based on Ogden City Facilities after-hours rate of \$35 per hour. Meeting room usage policy described in the Reservation Guidelines apply.
- Food and drinks within the Council Chambers is discouraged but allowed in conference rooms.

Expression of Sympathy/Concern

- There are occasions when the Council may wish to express sympathy or concern to others given deaths, illness, etc., which affect others within the Ogden City community. On such occasions the Council will discuss what level of expression is appropriate.
- In January of every year, the Council members and Staff donate \$20 to a “sunshine fund” which is used to cover expenses of cards, flowers, and other items to be sent from the Council Office.

Gifts

- From time to time, the Council will purchase City mementos (e.g.,

pins, keys) to give to guests, dignitaries, etc. These may be used by any Council member or Council Staff.

- It is assumed Administration will do the same and, therefore, such mementos will not be available for distribution to either the Mayor or Administrative staff.

7. Council Emergency Preparedness

- This section describes the responsibilities and activities of the Ogden City Council in the event of a public disaster.
- Each city officer must provide an emergency interim successor to establish a clear line of authority and succession assuming the unavailability, temporarily or permanently, of that elected official in order to ensure a lawful continuity of government and a prompt response to an emergency situation.

Definitions

- Emergency Interim Succession is the temporary replacement or filling of offices within Ogden City government by a designated successor to meet the demands of emergency response as a result of a natural phenomenon or disaster.
- The period of succession shall extend beyond that required to formally provide for the filing of a vacancy by current statutory and

COUNCIL NORMS - 2017

constitutional provisions, or until the officer or emergency interim successor earlier in the order of succession is available and which shall not exceed thirty (30) days.

- Emergency Interim Successor is a person designated under Section 12-15-10 of the Ogden Municipal Code to exercise the powers and discharge the duties of a City Office when the person legally exercising the powers and duties of such is unavailable.

Succession in Elected and Appointed Offices

- It is by City ordinance and the requirements of State law that all elective offices and executive offices of City government provide for interim succession in the event the office holder or official is unavailable as defined by this policy.
- Each elected and appointed officer within City government is instructed to provide a list of at least three (3) emergency interim successors for each position in the order of succession to the Emergency Management Coordinator within thirty (30) days after enactment of this policy and by July 1st of each year if there are changes.
- An emergency interim successor should be familiar with the duties of the office and the requirement of that office. All successors if not already sworn in are required to

take an oath of office at their succession. The City Recorder is directed to effectuate this procedure.

- Emergency interim successors shall exercise the powers and duties of the office until the vacancy is filled in accordance with the Constitution or statutes – or the City officer, deputy or emergency interim successor that is earlier in the order succession becomes available to exercise the powers and duties of the office.

Positions that Require Emergency Interim Successors

- There are seven (7) elected positions within the Ogden City Council; Municipal Ward 1, Municipal Ward 2, Municipal Ward 3, Municipal Ward 4, At Large Seat A, At Large Seat B, At Large Seat C. All of these positions require Emergency Interim Successors.
- The City Council Executive Director also requires Emergency Interim Successors that are designated as the incumbent employers in the position of Policy Analyst.

Filling a Vacancy in the Event of an Emergency

- It is the policy of the Ogden City Council that whenever a vacancy occurs on the Council, either through death or resignation, a new Council member will be appointed by the Council within thirty (30) days to hold the position until the next municipal

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election, as stipulated by Utah State Law.

- In the event of a disaster the Emergency Interim Successor fills the position until an appointment is made as described above – a maximum of 30 days.

Unavailability of Council Chair

- The Vice Chair, during the absence of the Chair, shall have and perform all the duties and functions of the Chair.
- In the event of the absence of or disability of both the Chair and the Vice Chair, the immediate past Chair, if still serving on the Council shall temporarily serve as Chair until the Chair or Vice Chair so absent or disabled shall return or the disability shall be removed, as the case may be.

In the event the immediate Past Chair is absent or disabled, or is no longer serving on the Council. The City Council shall elect a temporary Chair to serve until the Chair or Vice Chair so absent or disabled shall return or the disability shall be removed, as the case may be. In such event, Past Chair or the temporary Chair shall have all the powers and perform the functions and duties assigned to the Chair.

Duties, Powers and Responsibilities of the City Council during an Emergency

The duties and powers of the City Council do not change during an emergency. The Council's ongoing duties and powers are as follows:

- Set Policy
 - Adopt policies and ordinances.
 - Adopt general plans.
 - Approve zoning and rezoning of property.
 - Approve annexations and vacations.
 - Approve interlocal agreements.
- Control Budget and General Operations
 - Recognize and appropriate funds (i.e., adopt the budget, approve amendments, etc.)
 - By ordinance establish general rules as to how the executive branch performs its duties.
- Conduct Oversight
 - Review actions of City Administration.
 - Conduct investigations, if necessary.

During the period of an emergency declaration, public notice requirements of the Open and Public Meetings Act are suspended for actions of the City Council. The City Council may convene in regular or special meetings as deemed appropriate.

Other Responsibilities Relating to Emergency Management

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- The Council approves all interlocal agreements that are deemed essential to the Emergency Operations Plan.
- The Council reviews the City's Emergency Operations Plan annually (the plan is due to the Council by October 31st of each year).
- Ogden City utilizes the Incident Command System (ICS) as set forth by the Federal Emergency Management Agency (FEMA) under the National Incident Management System (NIMS) guidelines. In order to gain a clear understanding of ICS and the Council's role during an emergency, Council members shall complete the on-line, independent study course title "Introduction to Incident Command System" offered by FEMA.

8. Filling a vacancy

- It is the policy of the Ogden City Council that whenever a vacancy occurs on the Council, either through death or resignation, a new Council member will be appointed by the Council within thirty (30) days to hold the position until the next municipal election, as stipulated by Utah State Law. (First adopted by resolution 95-49, October 10, 1995).
- Filling a vacancy will be considered an interim appointment to fill a two-year term if two years of the

vacated term will remain after the first Monday of January following the next Municipal Election (UCA 20A-1-510(2)(a)).

Procedures

- Within one week of the vacancy, a request for resumes and/or letters of interest and qualifications from residents of the affected municipal ward, or in the case of an at-large position from the entire City, will be published in the Standard-Examiner through an official press release. The deadline for receipt of resumes and/or letters of interest and qualification will be within two weeks following the vacancy.
- On the day following the application deadline, copies of the information received from interested parties, along with all letters of recommendation received to that date, will be distributed to the Council members.
- A Special Council meeting is then scheduled that includes a presentation by each applicant. The following guidelines will be followed:
 - Information packets regarding the Council are made available to all applicants prior to the presentation.
 - A copy of a list of questions is provided to each applicant as



PROPOSED REZONE OF PROPERTY AT 350 7TH STREET FROM R-1-6 AND C-2 TO R-3

Purpose of Work Session: **To review the proposed rezone**

Planning Commission Recommendation **Approval the rezone (8-0)**

Executive Summary A petition has been submitted by Scott Larsen to rezone approximately 1.29 acres of property generally located at 350 7th Street from the current R-1-6 (Residential Single-family) and C-2 (Community Commercial) zones to the R-3 (Residential Multi-family) zone. The eastern portion of the petitioner's property is zoned C-2 with the western portion zoned R-1-6. In addition to the petitioner's property, the Planning Commission has forwarded a recommendation to rezone three additional properties fronting onto 7th Street adjacent to the petitioner's property from R-1-6 and C-2 to R-3. In total, the Planning Commission has forwarded a recommendation of approval of 1.79 acres of property to be rezoned from the C-2 and R-1-6 zones to the R-3 zone.

Background Mr. Scott Larsen has submitted a petition to rezone 1.29 acres of property at approximately 350 7th Street from R-1-6 and C-2 to R-3. Mr. Larsen has expressed interest in developing the property and wishes to rezone the property to an R-3 zone to both gain additional development yield on the property as well as to make the zoning for the property consistent. Currently, the western portion of the property is zoned R-1-6 with the eastern portion zoned C-2. The R-1-6 zoning on the western portion is the same as the residential neighborhood to the west of the subject property while the C-2 zoning is the same as the commercial uses to the east of the property fronting onto Washington Boulevard.

In addition to the petitioner's property, the Planning Commission has recommended the rezone of three properties adjacent to the petitioner's property. The three properties are located to the south of the petitioner's property and have frontage on 7th Street. Two of the properties are zoned R-1-6 and the third is bisected by the R-1-6 and the C-2 zone in the same manner as the petitioner's property.



The proposed rezone from the R-1-6 and the C-2 zones to the R-3 zone would be consistent with zoning in the area as there is an existing multi-family building zoned R-3 between two of the additional properties proposed for rezone directly south of the petitioner's property. In addition, the property north of the petitioner's property is zoned R-3/CO. As the Planning Commission report notes, the R-3 zone can act as a buffer zone between the C-2 zone to the east and the R-1-6 zone to the west. There are single-family homes on the petitioner's property and on each of the three additional properties proposed for rezone. The rezone to R-3 would not create any non-conforming uses or non-complying structures.

In discussing options for the petitioner's property, the Planning Commission discussed the challenges of developing the property as single-family homes under the R-1-6 zone and the potential advantages of developing under the R-3 zoning. The petitioner's property is what is known as a flag lot. A flag lot typically consists of a larger interior parcel with only a narrow access to the public right-of-way. In this case, the total parcel size is 1.29 acres but the access to 7th Street is a narrow strip about 48 feet wide and about 145 feet long. In order to develop under either the R-1-6 or the R-3 zoning, the existing home would need to be removed and an access road built in its place to access the property. Under a traditional R-1-6 development scenario, the 48-foot access may not be wide enough for the dedicated public right-of-way needed to accommodate a subdivision. The R-3 zoning would allow development under the group dwelling option and would allow some additional flexibility in access road widths. Under any scenario, all proper public safety reviews would happen to ensure proper emergency access and turnaround space.

In reviewing the proposed rezone's consistency with the Lynn Community Plan, the Planning Commission found that the proposal was consistent with several elements of that plan. There were a number of concerns expressed that were included in the Lynn Community Plan that have been addressed relative to the proposal as well as at least one policy in the plan that is relevant to the proposal. These are discussed in more detail in the Planning Commission's report. Although the Lynn Community Plan was adopted in 1986, there are a number of General Plan Land Use Policies that can be used to determine if the proposed



rezone is consistent with the goals of the City. These, too, are discussed in more detail in the Planning Commission Report.

Current Proposal

The current proposal is to rezone a total of 1.79 acres of property from the R-1-6 and C-2 zone to the R-3 zone. The proposal consists of the petitioner's 1.29 acres of property and three additional properties recommended for rezone by the Planning Commission.

Planning Commission

The Planning Commission reviewed the petition at the January 4, 2017 meeting and forwarded a recommendation of approval with a vote of 8-0. The Commission made its recommendation with the finding that the petition, including the three additional properties, is consistent with the Lynn Community Plan and with other policies outlined in the General Plan.

Public Comments

No comments were received at the Commission's January 4th meeting. It is noted in the transmittal that notices were sent to the owners of the three additional properties and that no response has been received by the Planning Department.

Issues for the Council

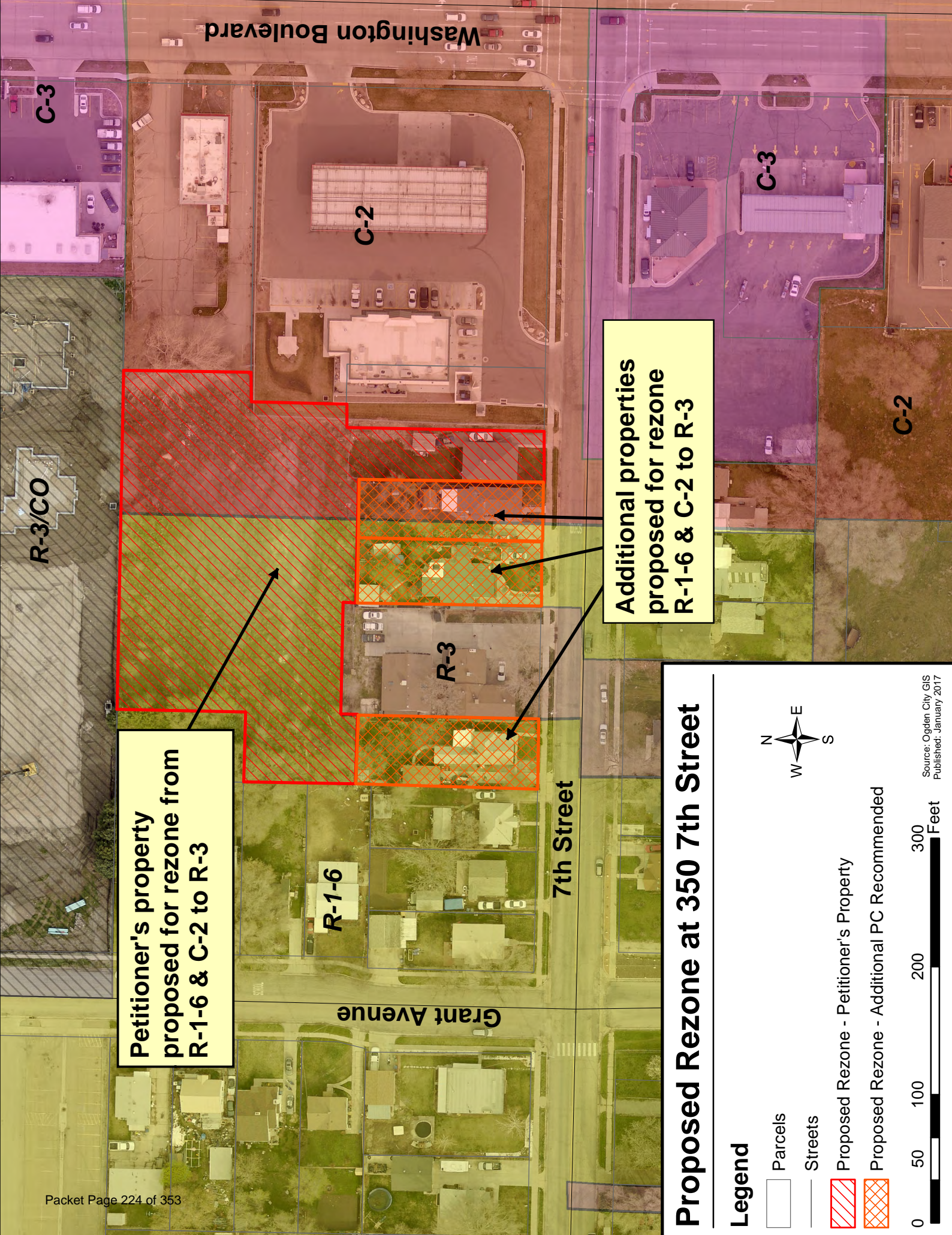
When a rezone is proposed it is easy to want to hear what a petitioner would like to do once the rezone is approved; however, because the decision to rezone property is a policy-level decision and not an approval of a specific development, caution should be taken to review the policies in place that are meant to guide the decision. The Lynn Community Plan is the oldest community plan to have not yet been updated. While the plan is among the older plans and may not be the most reflective of that community's desires for the City, other policies can be used to analyze a rezone. The City's General Plan has Land Use policies that can be used as a supplement to any community plan. The Council should review the analysis of these policies included in the Planning Commission's report relative to the proposed rezone to determine if the rezone is consistent with the goals and policies of the City.



Attachments

1. Vicinity map
2. Transmittal
3. Ordinance
4. Planning Commission Report
5. Petition 2016-11

Council Staff Contact: Glenn Symes, AICP (801) 629-8164



**Petitioner's property
proposed for rezoning from
R-1-6 & C-2 to R-3**

**Additional properties
proposed for rezoning
R-1-6 & C-2 to R-3**

Proposed Rezoning at 350 7th Street

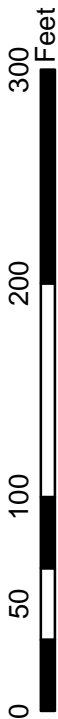
Legend

Parcels

Streets

Proposed Rezoning - Petitioner's Property

Proposed Rezoning - Additional PC Recommended



Source: Ogden City GIS
Published: January 2017

OGDEN CITY COUNCIL TRANSMITTAL

DATE: January 11, 2017
TO: Ogden City Council
THRU: Mark Johnson, CAO
FROM: Tom Christopulos, CED Director
RE: Petition #2016-11 to amend the zoning map for property located at 350 7th Street from the R-1-6 and C-2 zones to the R-3 zone (1.79 acres).



STAFF CONTACT: Greg Montgomery, Planning Manager

REQUESTED TIMELINE: February 28, 2017

RECOMMENDATION: Approval of proposed zoning map ordinance amendment

DOCUMENTS: Ordinance, Planning Staff Report

DISCUSSION:

The applicant for the rezone, Scott Larsen, requested that a piece of property he has under contract be rezoned from the R-1-6 and C-2 zones to the R-3 zone. The applicant's property is 1.29 acres and has one (1) single family home on it. The applicant's representative, Bill Davies, was there to describe what the property would be used for. He mentioned that the applicant would like to develop multi-family housing and that other properties may be considered as well, but that this was the first step in the process. The applicant's property is a flag lot, with the narrow portion of the parcel fronting onto 7th Street, but most of the property is located in the back yards of the surrounding properties. The parcel also has split zoning on it, meaning that part of it is zoned R-1-6 (residential), and another part of the parcel is in the C-2 (commercial) zone. Under current zoning requirements for the R-1-6 zone the applicant's parcel would be difficult to develop because of its shape. To develop the property as single family homes, it would need to be subdivided into lots with at least 6,000 square feet and would also include dedicating public streets in the subdivision. It is estimated that if developed as single family homes the property would possibly support three (3) to four (4) single family lots. If developed under the R-3 zone the property could be more effectively designed as a group dwelling.

Staff reviewed the proposal and explained that the request is consistent with the Lynn Community plan, and the General Plan. Planning staff recommended that three (3) additional properties be included in the rezone request to provide a more consistent and uniform zoning pattern. The other three (3) properties that staff felt would be appropriate to include in the rezone request are owned by the Carlin family (Wayne & Ronda) and are adjacent to the applicant's property along 7th Street. A letter regarding the rezone was sent to them, as well as the post card for the Planning Commission meeting, but they have not responded to staff as of

yet. The three (3) Carlin properties total 0.5 acres and each parcel has a single family home on it. The three (3) parcels are separated by a four-plex that is currently zoned R-3 and it is situated between the Carlin properties. One of the Carlin lots is also partially zoned residentially and commercially (split zoned). Only one of the Carlin lots would qualify to have more than one unit on it. The other two (2) lots do not have enough square footage to support more than a single family home.

In all, there are four (4) single family homes, and 1.79 acres being considered to be rezoned to the R-3 zone. The proposed rezone would not create any new nonconforming circumstances. The R-3 zone has the same setback requirements as the R-1-6 zone does. The R-3 does allow for additional conditional uses on the property. The additional uses are: bed and breakfasts, daycare centers, nursing homes, assisted living facilities, retirement homes, and group dwellings (lots which have more than one building on them). Parcels with split zoning on them would also be corrected and would be located in only one zone (R-3) with the current petition.

PLANNING COMMISSION ACTION:

The petition was heard by the Planning Commission on January 4, 2017. A motion was made to approve the request including the three (3) Carlin properties based on the findings that the proposed rezoning is consistent with the Lynn Community Plan, and with the policies outlined in the general plan.

PLANNING COMMISSION VOTE:	<u>YES</u>	<u>NO</u>
Herman.....	X	
Patterson.....	X	
Schade.....	X	
Holman.....	X	
Wright.....	X	
Blaisdell.....	X	
Southwick.....	X	
Graff.....	X	

CONCERNS OF CITIZENS:

No citizens provided opposition or support for this rezone in written or verbal terms. There were no speakers during the public comment portion of the meeting for this item.

There was one other neighbor in attendance for the item which didn't speak at the public hearing, but wanted to know about the proposal and possibly selling, or developing his property across the street.

The Carlin's were not there.

ORDINANCE NO.

AN ORDINANCE OF OGDEN CITY, UTAH, AMENDING THE ZONING MAP OF OGDEN CITY, AS ADOPTED BY SECTION 15-3-3 OF THE OGDEN MUNICIPAL CODE, TO RECLASSIFY AS MULTIPLE FAMILY RESIDENTIAL ZONE (R-3) PROPERTY HERETOFORE CLASSIFIED AS COMMUNITY COMMERCIAL ZONE (C-2) AND SINGLE FAMILY RESIDENTIAL ZONE (R-1-6), GENERALLY LOCATED AT 350 7th STREET, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

WHEREAS, the Ogden City Planning Commission, after notice and public hearing as required by law, reviewed a proposal to rezone from Single Family Residential Zone (R-1-6) and Community Commercial Zone (C-2) to Multiple Family Residential Zone (R-3) property generally located at 350 7th Street in implementation of the Lynn Community Plan, and has recommended to the City Council that such property be rezoned as proposed.

WHEREAS, the Ogden City Council has determined that the proposed rezoning is necessary for the implementation of the Lynn Community Plan and will be in the best interests of the City to rezone such property.

The Council of Ogden City hereby ordains:

SECTION 1. Zoning Map amended. The Zoning Map of Ogden City, as adopted by Section 15-3-3 of the Ogden Municipal Code, is hereby amended to reclassify as Multiple Family Residential Zone (R-3) property heretofore classified as Community Commercial Zone (C-2) and Single Family Residential Zone (R-1-6), generally located at 350 7th Street, and more particularly described as follows:

A parcel of land, that is part of the southeast $\frac{1}{4}$ of section 17, Township 6 North, Range 1 West, Salt Lake Base & Meridian; more particularly described;

Beginning at a point on the northerly right of way line of 7th Street in Ogden City, Weber County, Utah, said point lies North 00°50'15" East along the center line of Washington Boulevard a distance of 578.40 feet and North 89°09'45" West a distance of 328.98 feet from the Ogden City Survey monument at the intersection of 8th Street and Washington Boulevard; thence North 89°09'45" West 144.91 feet along said right of way, thence North 00°43'52" East 155.59 feet, thence North 89°15'30" West 87.11 feet, thence South 00°43'52" West 155.45 feet to said right of way line, thence North 89°09'45" West 50.39 feet

along said right of way line, thence North 00°43'52" East 230.08 feet, thence South 89°21'05" East 50.39 feet, thence North 00°55'34" East 97.35 feet, thence South 88°57'45" East 269.67 feet, thence South 00°43'52" West 95.71 feet, thence North 89°04'00" West 34.46 feet, thence South 01°59'00" West 153.59 feet, thence South 00°50'58" West 77.44 feet to the Point of Beginning.

SECTION 2. Effective date. This Ordinance shall become effective immediately upon posting after final passage.

PASSED, ADOPTED AND ORDERED POSTED by the Council of Ogden

City, Utah this ____ day of _____, 2017.

CHAIR

ATTEST:

Tracy Hansen, City Recorder

TRANSMITTED TO THE MAYOR ON: _____

MAYOR'S ACTION: ____APPROVED ____VETOED

Michael P. Caldwell, Mayor

ATTEST:

Tracy Hansen, City Recorder

POSTING DATE: _____

EFFECTIVE DATE: _____

APPROVED AS TO FORM: MHS _____ 1/12/17
LEGAL DATE



Report by: Clinton A. Spencer, AICP

**Agenda Name: PUBLIC HEARING TO REZONE THE PROPERTY
LOCATED GENERALLY AT 350 7TH STREET FROM R-1-6
AND C-2 TO R-3.**

**Petitioner/ Developer: Scott Larsen w/ Larsen Electric
304 S. Main
Centerville, UT 84014**

Requested action: Approval to rezone the properties located generally at 350 7th Street from R-1-6 and C-2 zones to the R-3 zone.

Planning Staff's Recommended Action

Approval to rezone the properties from R-1-6 and C-2 zones to R-3 zone.

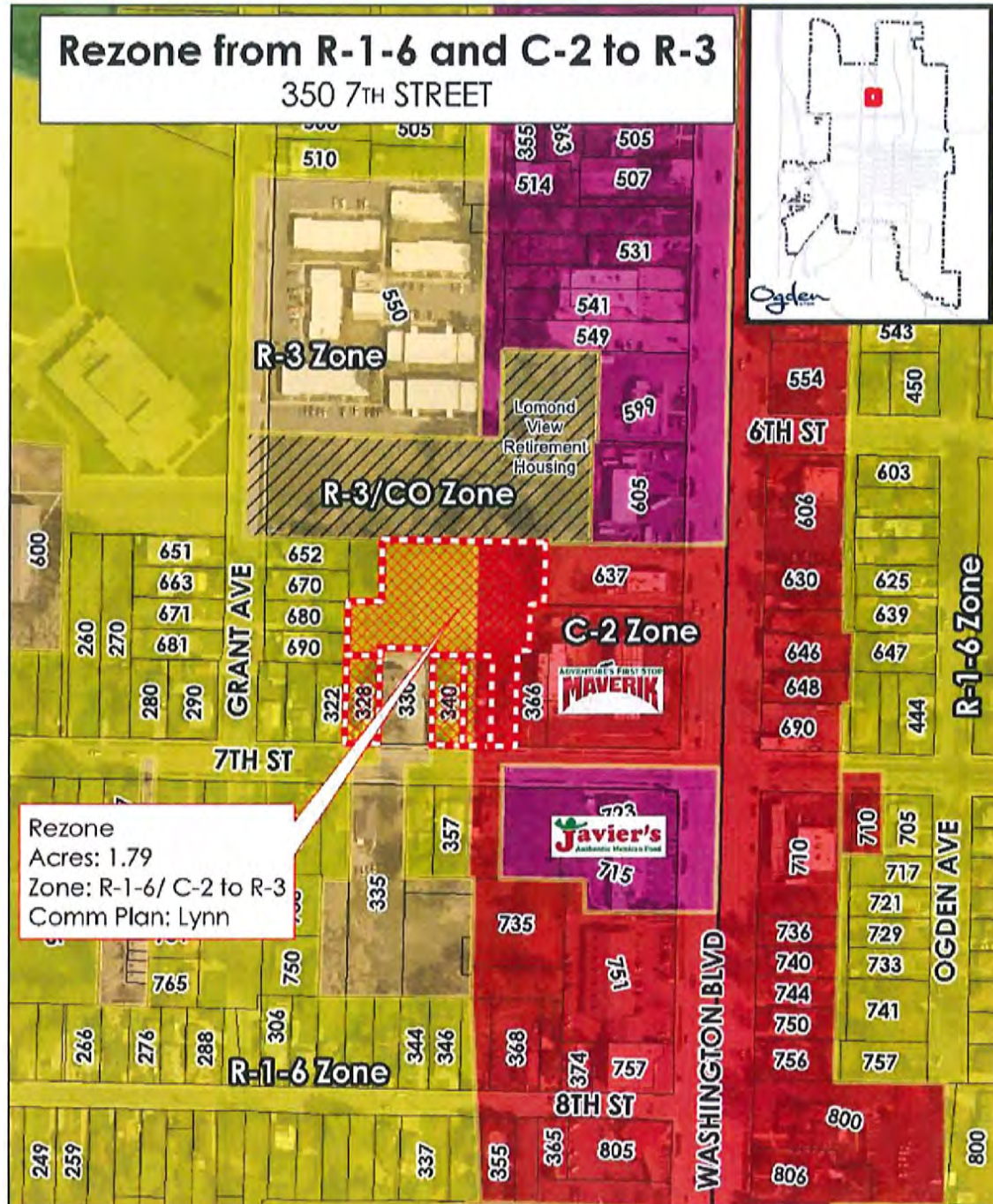
Planning Commission's determination for action

1. The rezoning is / *is not* consistent with the Lynn Community Plan.
2. The rezoning is / *is not* consistent with the policies outlined in the general plan.

Past History

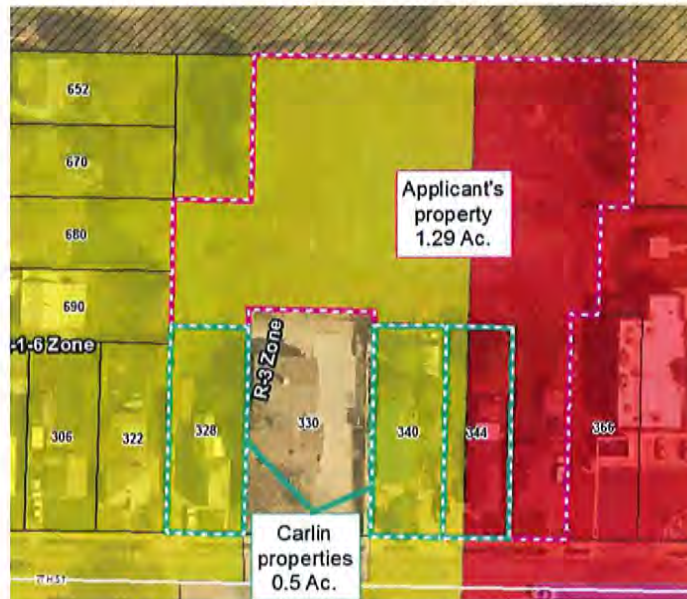
- **1951** – Property zoned R-3 and C-2
- **1964** – Property zoned R-2 & C-2
- **1986** – Adoption of the Lynn Community Plan; Amended in 1990, 2001, 2002, 2005, 2006, 2007, and 2012.
- **2001** – Property zoned R-1-6

Vicinity Map



Description of request

The applicant, Scott Larsen, is proposing to rezone this area from R-1-6 (single-family) and C-2 (commercial) to the R-3 (multi-family) zone to develop multi-family housing on the property. The total area proposed for rezoning consists of approximately 1.79 acres. The land uses for the area included in this rezone petition consists of 35% as existing single-family residential (four (4) existing single family homes), and the remaining 65% is vacant. Three (3) of the single family lots being included in this request are owned by Wayne and Ronda Carlin. Although not part of the original request, these properties are being included to provide more regularity in zoning and to create a more uniform zoning boundary to separate the commercial uses along Washington Blvd from the single family uses to the west. Notices have been mailed to the property owners regarding this action.



As currently zoned, the property allows single family homes with a density of one (1) single family home per 6,000 square feet of property. However, in developing single family homes the applicant's existing property would need to be rezoned to remove the C-2 zoning and then subdivided into 6,000 square foot lots to increase the number of single family homes that could be located on the existing lot. The shape of the applicant's lot would make it difficult to develop with single family homes because of the narrow part of the property that provides access to public streets. A maximum of nine (9) single family homes could be developed under the R-1-6 zone on the applicant's property based solely on square footage requirements. Under the proposed rezone to the R-3 zone the applicant's property could have an overall average density



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of one unit per 2,161 square feet of property (7,500 square feet for two (2) units, 2,000 square feet for each additional unit), or approximately twenty-six (26) units for the applicant's property alone, not including the other existing single family homes proposed as part of the rezone. Of the three (3) additional properties owned by the Carlin family, only one lot (1) could increase density to two (2) units, while the other two lots (2) do not have enough square footage for multi-family and would continue to remain as single family homes. The R-3 zone also allows more conditional uses than the R-1-6 zone including bed and breakfasts, daycare centers, nursing homes, assisted living facilities, retirement homes, and group dwellings (lots which have more than one building on them).

What Planning Commission reviews

The Commission is required to review any change to the zoning map and hold a public hearing when a change to the map is proposed. The Commission will need to determine whether or not the rezone is consistent with the policies of the general plan. The key component to this consideration is how the rezoning of these properties relates to the Lynn Community Plan and current land use patterns.

Once the Commission takes an action regarding the proposed rezoning, the Commission's recommendation is then forwarded to the City Council for their determination of the final action the city should take regarding the rezoning.

Factors for consideration of action

The Planning Commission will need to consider the general plan goals, objectives and strategies that are identified in the general and community plan that pertain to this zone change.

1. Consistency with the Lynn Community Plan

14.H. Lynn Concerns. Zoning.

- 4. **The placement of multiple unit complexes mid-block on a street in such a way they divide groupings of homes, e.g., pressure to zone vacant lots to multi-density on Harrisville Road.**

The proposed rezone to R-3 will connect the retirement home development that was recently rezoned to R-3/CO to property currently zoned R-3 on the north side of 7th Street. Seven (7) homes on the same block as the proposed rezone will remain as R-1-6 zoning and have the same possibility of being rezoned to the R-3 zone in the



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future, as supported by the Lynn community plan. Including the properties currently zoned R-1-6 to the south of the applicant's property (Carlin properties) adjacent to 7th Street will reduce the pressure to rezone additional properties as it will provide a more uniform zoning pattern. If the lots along 7th Street are not rezoned, then pressure to rezone these properties would occur in the future.

5. The lack of height restrictions in the R-3 and R-4 zones where new apartments are being built in the center of blocks (i.e., infilling) among single family developments.

The proposed rezone will connect commercial zoning to the east (C-2) to single family property west of Washington Blvd, and will act as a buffer between the commercial uses and single family homes. There is no height restriction in the R-3 zone, however there are greater setback requirements for buildings that exceed thirty-five (35) feet, which help protect the existing single family homes that are adjacent to the R-3 zoning. In communications with the applicant they are likely considering two (2) story units.

8. The previous practice of allowing intrusion of commercial and multi-density developments onto single lots of existing subdivisions which creates problems for the neighborhood.

Currently, the R-1-6 zone abuts directly up to the C-2 zone which puts single family homes and businesses side by side. The proposed multi-family zone will allow future development to separate the commercial and single family uses by allowing multi-family uses as a buffer, and reduces the negative effects commercial uses can have when adjacent to single family homes. The proposed rezone does not act as an intrusion, but as a layer of protection for the single family homes from the commercial development on Washington Boulevard. Including the single family homes with frontage on the north side of 7th Street in the proposal provides for a more regular and uniform zoning pattern.

14.H. 3. Planning guidelines for the future

a. 2. For higher density residential (R-3) between Washington Boulevard and Wall Avenue.

Although the community plan is not conclusive in allowing specific zoning requests, it does allow the provision to consider property between Washington and Wall being zoned to the R-3 zone. Property to the north of the proposed rezone was rezoned to

R-3 in 2012 and provided for the retirement development. The attached map (below) from the Lynn community plan showing recommended zoning changes also supports this request. This request meets the guideline of the community plan.



2. Land Use Policies

8.E.1 Create a definite edge to a development and buffering between different uses.

The proposed rezone will further extend the R-3 from the retirement community to the north to the multi-family building on 7th Street to the south, and creates a larger buffer between single family homes and commercial uses. It also establishes a more definitive edge between multi-family and single family zoning.

8.E.2 The zoning should reflect the prevailing character of the overall area.

As mentioned, the property north of the proposed rezone is R-3 and is developed as retirement housing. The continuation of the R-3 zone to the south will provide adjacent uses that complement the existing multi-family housing on 7th Street.

8.E.4 Zoning should not cut across property lines or developments.

Currently the applicant's lot is in both the R-1-6 zone and the C-3 zone. Because of how businesses on Washington Blvd have developed, the commercial zoning on their property is not feasible to develop commercially. The proposed rezoning will not cross over individual lots or development, but does remove the condition where an existing parcel has split zoning. Current property lines will act as the boundary for the rezone.

8.E.6. To draw edges on types of uses (e.g., commercial), the City may choose to use multiple family or professional office zoning as a buffer to the commercial, transitioning the neighborhood from commercial to apartments to single family developments.

Extending the R-3 zone in this area increases the buffered area between commercial and residential single family zones and limits further encroachment of commercial uses towards single family areas.

8.E.8 Avoid isolating neighborhoods.

This action will not isolate any neighborhoods. Much of the area is already zoned as R-3 and has multi-family types of development on them. This proposal will combine and connect R-3 areas to create a more uniform zone boundary and does not separate any single family home from being included in a neighborhood.

8.E.9. Utilize vacant inner block parcels and corner lots for higher densities, avoiding disruption of lots on a street having primarily single family homes. New inner block developments should be compatible (e.g., heights) with the surrounding single family homes.

The applicant's lot is within an existing block and is a "flag" shaped lot. Other adjacent lots are a mix of R-1-6, C-2 and R-3, and zoning the other adjacent properties to R-3 will reduce zoning disruption within the block. The R-3 zone has additional setback requirements for buildings higher than thirty-five (35) feet which will help protect other adjacent single family homes from intrusive buildings.



8.E.10. Multiple density developments should be phased, i.e., let vacant land develop first and consider rezoning single family areas only as demand increases and multiple family developments creep closer to single family homes

The proposed rezone can be seen as a continuation of the rezone to the north from R-1-6 and C-3 to R-3/CO. As the city continues to approach build out, areas for redevelopment should be considered for higher densities to provide incentives to develop underdeveloped, and vacant pieces of property situated adjacent to other similarly zoned property when provided for by the general and community plans.

8.E.11. Discourage small lot developments of multiple density uses.

The lot to be rezoned is 1.29 acres and combined with other lots in this consideration it totals 1.79 acres, which provides a more suitable are for multi-family development.

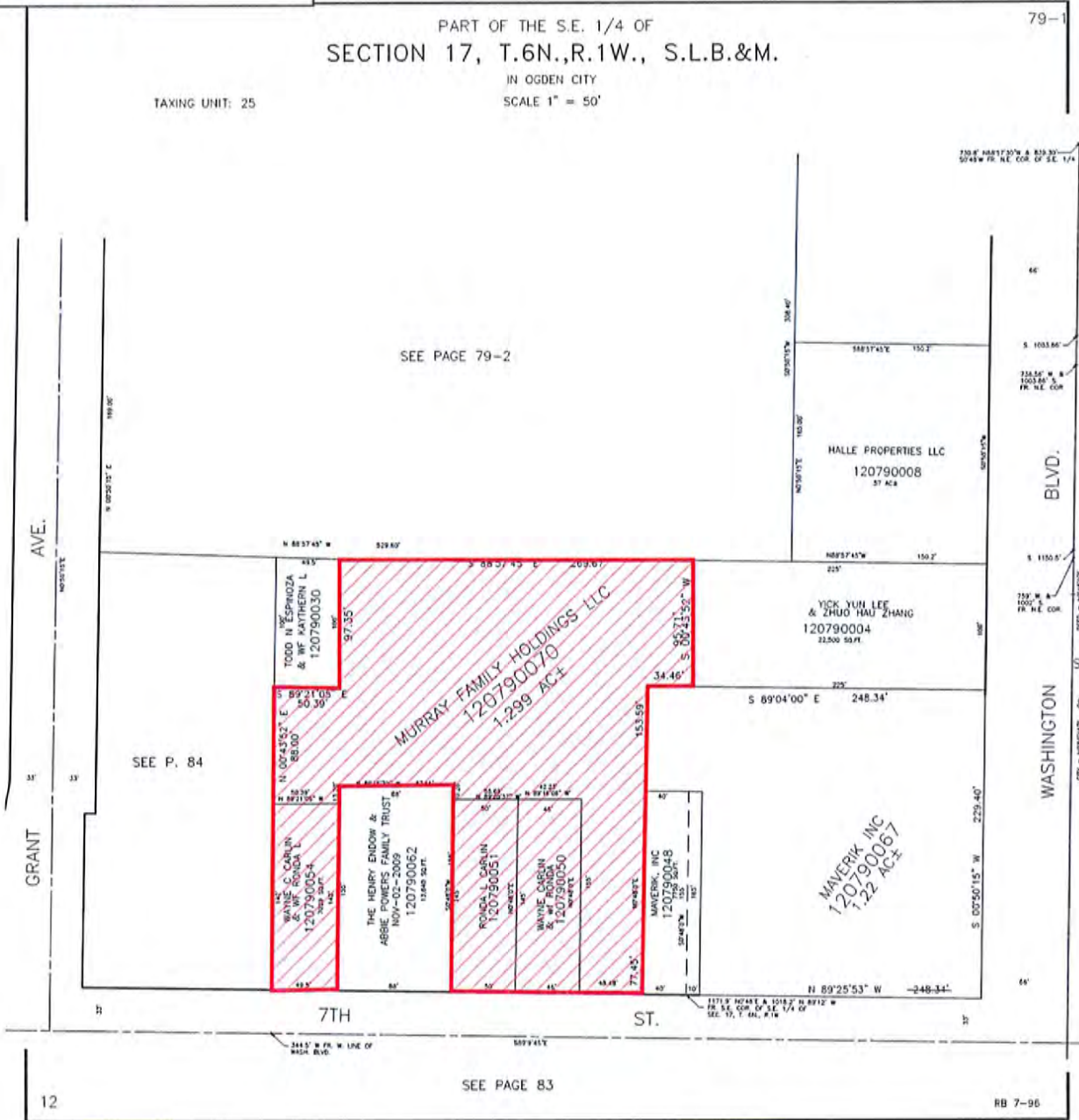
Nonconformities

No nonconformities will be created by the rezoning of the properties to R-3. The single family uses will be able to continue as they presently are as the R-3 and R-1-6 zones have similar setback requirements, and single family homes are a permitted use in the R-3 zone.

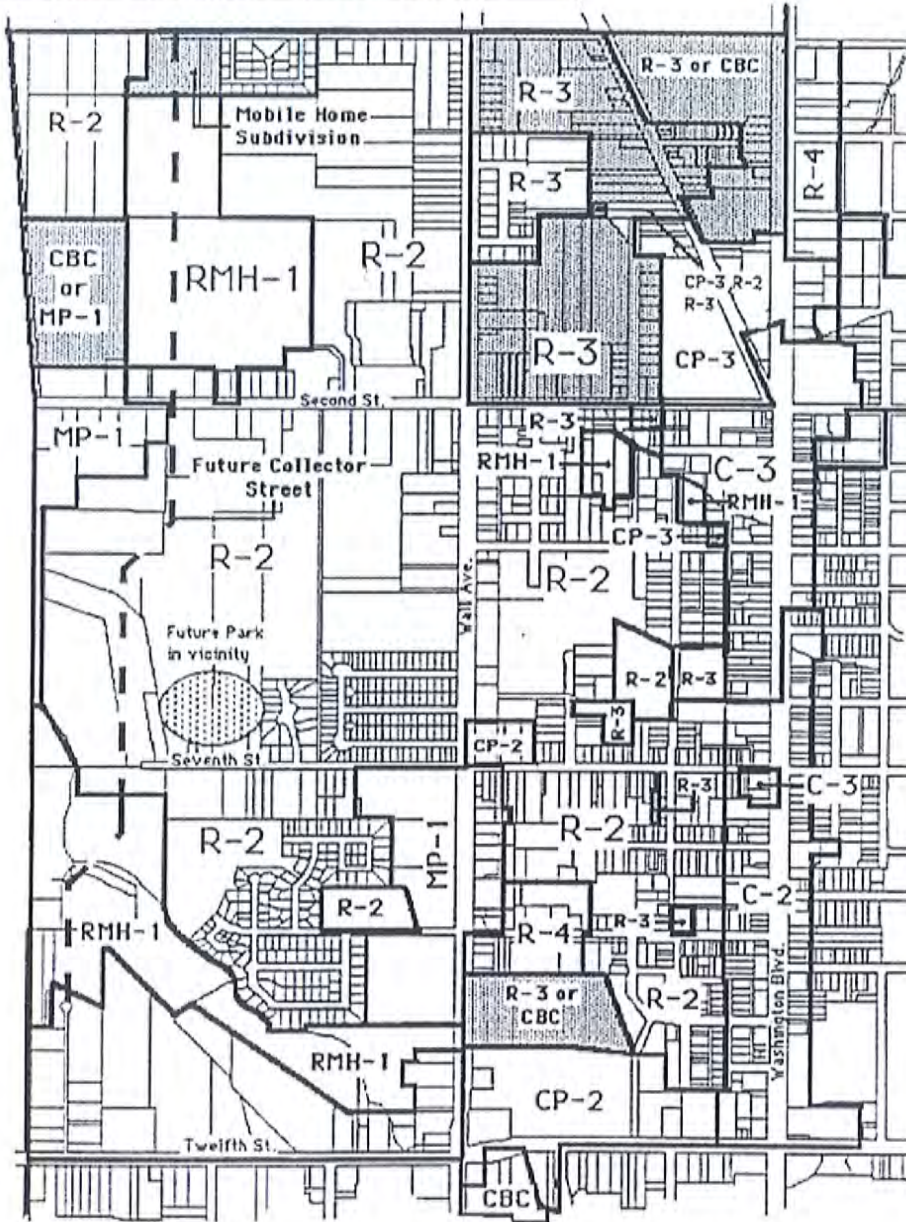
Attachments

1. Plat map
2. Community plan land use map
3. Public notice

1. Plat Map



2. Lynn Community Land Use Map



3. Public Notice

PLANNING COMMISSION PUBLIC NOTICE 

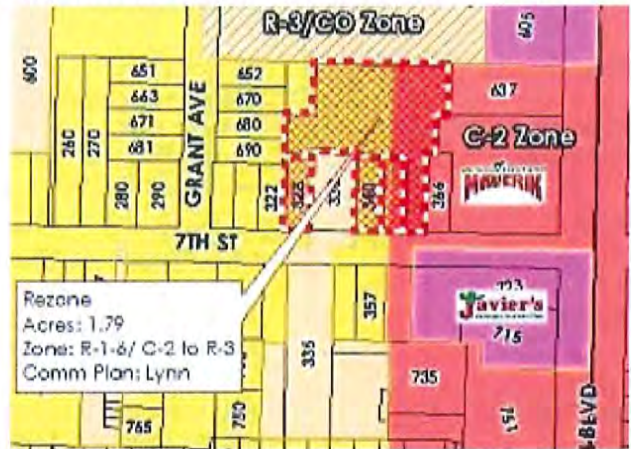
YOU ARE INVITED TO ATTEND AND SHARE YOUR THOUGHTS REGARDING A REQUEST THAT HAS BEEN MADE BY

SCOTT LARSEN WITH LARSEN ELECTRIC TO REZONE PROPERTY LOCATED AT :

350 7TH STREET

FROM THE R-1-6 ZONE AND C-2 ZONES TO THE R-3 ZONE.

THE MEETING WILL BE HELD ON WEDNESDAY, JANUARY 4, 2017 AT 5PM CITY COUNCIL CHAMBERS, 2549 WASHINGTON BLVD. 3RD FLOOR



This item is scheduled to be heard at 5:30 pm.

If you have comments or questions before the meeting, please contact the planner, Clinton Spencer at 801-629-8932 or planning@ogdencity.com

A copy of the Staff Report will be available at ogdencity.com on 12/31/16 or at our offices on 1/3/17

Start times are approximate



OGDEN CITY PLANNING COMMISSION

January 4, 2017 AGENDA ITEM - D

12-089-0060
REISS SHANA
6000 VIA COLONIA CT
ATASCADERO CA 93422

12-079-0070
MURRAY FAMILY HOLDINGS LLC
1907 N 400 W
CENTERVILLE UT 84014

12-089-0060
Occupant
738 GRANT AVE
OGDEN UT 84404

12-079-0069
LOMOND VIEW RETIREMENT
APARTMENTS
1100 GRANT AVE
OGDEN UT 84404

12-079-0069
Occupant
550 GRANT AVE APT A-F
OGDEN UT 84404

12-079-0067
MAVERIK INC STATE OF UTAH
880 W CENTER ST
NORTH SALT LAKE CITY UT 84054

12-079-0067
Occupant
689 WASHINGTON BLVD
OGDEN UT 84404

12-079-0062
HENRY ENDOW & ABBIE POWERS
FAMILY TRUST
PO BOX 9664
OGDEN UT 84409

12-079-0062
Occupant
330 7TH ST
OGDEN UT 84404

12-084-0051
BOARD OF EDUCATION OF THE
OGDEN CITY
1950 MONROE BLVD
OGDEN UT 84401

12-079-0054
CARLIN WAYNE C & WF
RONDA L CARLIN
340 7TH ST
OGDEN UT 84404

12-079-0054
Occupant
328 7TH ST
OGDEN UT 84404

12-084-0003
CHAPMAN DONALD E
PO BOX 13604
OGDEN UT 84412

12-079-0008
HALLE PROPERTIES LLC
20225 N SCOTTSDALE RD
SCOTTSDALE AZ 85255

12-084-0003
Occupant
651 GRANT AVE
OGDEN UT 84404

12-079-0050
Occupant
344 7TH ST
OGDEN UT 84404

12-079-0048
MAVERIK INC
185 S STATE ST STE 800
SALT LAKE CITY UT 84111

12-079-0048
Occupant
366 7TH ST
OGDEN UT 84404

12-088-0029
JESSEN GAYLAND O & WF
VICKIE JESSEN
335 MILLCREEK LN
KAYSVILLE UT 84037

12-088-0029
Occupant
715 WASHINGTON BLVD
OGDEN UT 84404

12-089-0027
PARADIS ALYN 1/2 ETAL
1348 WASHINGTON BLVD
OGDEN UT 84404

12-089-0026
LOGAN JEFF A ETAL
317 E 7TH ST
OGDEN UT 84404

12-084-0002
Occupant
663 GRANT AVE
OGDEN UT 84404

12-089-0024
GARCIA-FARIAS FLORENTINO
309 7TH ST
OGDEN UT 84404

12-079-0008
Occupant
605 WASHINGTON BLVD
OGDEN UT 84404

12-079-0004
LEE YICK YUN &
ZHUO HAU ZHANG
2241 WOODLAND DR
OGDEN UT 84403

12-088-0022
GARNER JOE
359 7TH ST
OGDEN UT 84404

12-084-0001
RICHARDS ALEXANDER
302 7TH ST
OGDEN UT 84404

12-079-0030
ESPINOZA TODD N & WF
KAYTHERN L ESPINOZA
652 S GRANT AVE
OGDEN UT 84404

12-088-0021
EUGENE A GARNER FAMILY TRUST
357 7TH ST
OGDEN UT 84404

12-079-0004
Occupant
637 WASHINGTON BLVD
OGDEN UT 84404

12-088-0020
Occupant
723 WASHINGTON BLVD
OGDEN UT 84404

12-088-0019
PS REAL ESTATE INVESTMENTS LLC
1348 WASHINGTON BLVD
OGDEN UT 84404



OGDEN CITY PLANNING COMMISSION

January 4, 2017 AGENDA ITEM - D

12-088-0019
Occupant
735 WASHINGTON BLVD
OGDEN UT 84404

12-088-0014
Occupant
341 7TH ST
OGDEN UT 84404

12-088-0013
Occupant
335 7TH ST
OGDEN UT 84404

12-084-0005
MILLER ROBERT W
429 5TH ST
OGDEN UT 84404

12-084-0011
DEICHMANN MICHAEL
290 7TH ST
OGDEN UT 84404

12-088-0003
Occupant
751 WASHINGTON BLVD
OGDEN UT 84404

12-084-0008
Occupant
322 7TH ST
OGDEN UT 84404

12-084-0006
WILBOURNE JR KENNETH MORRIS &
KEVIN MAURICE WILBOURNE
680 GRANT AVE
OGDEN UT 84404

12-084-0005
Occupant
670 GRANT AVE
OGDEN UT 84404

12-084-0004
ESPINOZA TODD N & WF
KAYTHERN L ESPINOZA
652 S GRANT AVE
OGDEN UT 84404

12-084-0013
BLACK JON & WF
LEXIS BLACK
681 GRANT AVE
OGDEN UT 84404

12-084-0007
Occupant
690 GRANT AVE
OGDEN UT 84404

12-084-0008
DAVISON JUDY
322 7TH ST
OGDEN UT 84404

12-079-0013
Occupant
599 WASHINGTON BLVD
OGDEN UT 84404

12-088-0014
WARREN RICKY M
610 LINCOLN AVE APT 22
OGDEN UT 84404

12-084-0017
DEITER JAMES H
280 7TH ST
OGDEN UT 84404

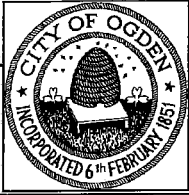
12-084-0014
SOLIS CARLOS &
HERLINDA SANCHEZ
671 S GRANT AVE
OGDEN UT 84404

12-084-0002
ROBERTS JIMMY M & WF
KATHY J ROBERTS
PO BOX 12126
OGDEN UT 84412

12-084-0009
WEST GARY A
306 7TH ST
OGDEN UT 84404

12-079-0013
BURRUP BRENDA
3175 N 1000 E
NORTH OGDEN UT 84414

12-084-0007
HAMBLIN THOMAS V & WF
BRANDEE LYNNE HAMBLIN
690 GRANT AVE
OGDEN UT 84404



Petition to Amend Ogden City Zoning Map

Ogden City Development Services
2549 Washington Blvd. Suite 240
(801) 629-8930

Please print legibly and complete all areas:

The following checklist will help you prepare your petition for a rezone request. To help you understand the possibility of rezoning, review the Community Plan to determine whether your request is consistent with options given in the Community Plan for the property involved.

Petition Checklist

- Review request with a Planner. Planner is to accompany petitioner when filing with City Recorder's office.
- Submit a plat from Weber County Recorder's office highlighting the property for which the rezone is being requested
- Provide a copy of the legal description of the property involved
- Pay the appropriate fee at the City Recorder's office, as outlined below (please check one):
 - \$550 - Standard fee
 - \$800 - If a development agreement is required
 - \$1175 - If a plan amendment is required to consider the rezoning

Petitioner Contact Information

Name: Scott R. Larsen
 Address: 304 S. Main
 City: Centerville State: UT Zip: 84014
 Phone: 801 450-0489 E-mail Address: scottl.@larsenelectric.com

Petition to Rezone

I (we) the undersigned property owner(s) do respectfully request that the Ogden City Zoning Map be amended by rezoning the property located at _____ (address)

Parcel #: 12-079-0070; _____; _____

From R-1-6 to R-3 Submittal date: 12/

Proposed use of rezoned property, if granted: _____

Petitioner's name Scott R. Larsen (please print)

Petitioner's signature [Signature]

Petition number: 2016-11
 Filed in the office of the City Recorder
 By Bill Davies
 Date 12-16-14
 Fee \$550.00 Check # 3219

Joe Simpson



PROPOSED AMENDMENT TO THE USES AND STANDARDS FOR NON-CONFORMING COMMERCIAL STYLE BUILDINGS IN RESIDENTIAL ZONES

Purpose of

Work Session: **To review the proposed zone text amendment**

Planning Commission

Recommendation **Approval the amendment (8-0)**

Executive Summary

The Administration is proposing a number of changes to the City's ordinance regarding non-conforming commercial style buildings in residential zones. Currently, the City's ordinance allows these buildings to be reused for specific uses and is generally deemed a last resort option if all other attempts to reuse the building have been shown to not be viable. The proposed amendment would change the approval process from a conditional use approval to a staff level approval if no changes are proposed to the site or the building. In addition, the amendments eliminate some of the potential uses and consolidate others and add vacation rentals as an allowable use for these specific buildings. Further, the amendments would change the focus of the reuse of these buildings from a last resort option or a viable first option if all conditions are met.

Background

Throughout Ogden's development history, there have been commercial style buildings built within residential areas. Many of these buildings were originally small neighborhood shops or local service providers and a number of them were built attached to a home for a live-work style of building. As zoning regulations have evolved over the years and land uses have been separated more and more, many of these buildings have become non-conforming buildings. While most cities, Ogden included, have many non-conforming uses and non-complying structures in all kinds of zones, a commercial style building in a residential zone poses more unique challenges as it relates to non-conforming use regulations. A building specifically built as a commercial building which is set in a residential zone has few other uses for which the building may be used that are compatible with the surrounding residential neighborhood. Typically, if a non-conforming use is abandoned for more than a year, the



property loses its non-conforming status and may then only be used for something that is in compliance with the underlying zone. However, if the building itself is a commercial style building and the underlying zone is a residential zone, there are very few options available for reuse.

In order to deal with Ogden's non-conforming commercial style buildings in the residential zones, in 1984 the City adopted an ordinance allowing some additional uses to help with the reuse of these commercial style buildings. The ordinance was aimed generally at giving a property owner a few other options if all other attempts to reuse the building in a manner that was consistent with the residential zoning had been explored and were deemed not viable. The ordinance specifically mentioned that the options therein were a last resort and that the approval of any such use under the provisions of that section must be approved through the conditional use process. This ordinance has generally been successful and has had only a few minor tweaks over the years.

While the ordinance allowing some adaptive reuse of these commercial style buildings has been effective, the proposed amendments are an attempt to update the ordinance. The ordinance includes a number of proposed amendments that would change the focus and intent of the ordinance and would make some changes to the allowable uses for these buildings. Currently, there are a total of 45 of these buildings in residential zones in Ogden. There are 21 of these structures in single-family zones and 24 in multi-family zones with a total of five of these structures that are either attached to a single-family home or are on the same lot as a single-family home. The ordinance changes would essentially apply to these 45 structures scattered throughout the City's residential zones.

In addition to the general changes to the ordinance, one issue that is of interest to the Council will also be address with this proposal. In December 2016, the City Council, after much research and discussion by the Planning Department, the Planning Commission, and the City Council, adopted an ordinance regulating short-term residential vacation rentals. The ordinance that was adopted by the Council allowed both non-owner occupied rentals and owner-occupied rentals in multi-family zones and allowed only owner-occupied rentals in single-family zones. The Council, upon passage of the vacation rental ordinance, directed



that the City explore options to address a vacation rental in one of these non-conforming commercial style buildings located in a single-family zone. The property has a small, independent coffee shop located in the commercial building portion of the structure which is attached to a single-family home that has been used as a vacation rental. While the coffee shop remains a legal non-conforming use and was not specifically impacted by the vacation rental ordinance adoption, the vacation rental ordinance prohibits the use of the attached home as a non-owner occupied vacation rental due to its single-family residential zoning.

The proposed inclusion of and the specific regulations regarding residential vacation rentals as an allowable use was discussed heavily among the Planning Commission members during its review of the proposal on January 4, 2017. After much discussion, and several failed motions, the ordinance that was given a recommendation of approval by the Commission included the option to allow both owner-occupied and non-owner occupied rentals to operate in these non-conforming commercial style buildings. The proposed ordinance excludes the linear block restriction for non-owner occupied rentals in these buildings if the building is located in a single-family zone. The proposal would still limit non-owner occupied rentals in multi-family zones to one per linear block even if the vacation rental is a reuse of one of these buildings. In addition, under the proposed ordinance the vacation rental would not be subject to the restricted hours of operation because of the more residential nature of the rental use.

Current Proposal

The current proposal is to amend Section 15-6-3.H, Non-conforming Uses, of the City's zoning ordinance. The proposed amendments primarily impact three areas: the conditional use process amendment, the approval process, and the consolidation and clarification of allowable uses with the addition of residential vacation rentals to the list of allowable uses.

Conditional Use Process Amendment and Approval Process

The proposed amendments include a rewording of the introductory paragraph for the section indicating that the option to reuse a building under the provisions is no longer a "last resort" and that the approval process is no longer a conditional use process. The proposed amendments strike the conditional use process and introduce common



requirements for all reuses. The proposal effectively changes the reuse option in this ordinance from a conditional use permit process to a staff level approval of a use that must meet preset conditions. The exception to that approval is when a property owner wishes to alter the site or the exterior of the building. In this case, these changes would need to be approved by the Planning Commission; however, the approval is not a conditional use approval. The Commission's review is limited to landscaping, parking, and building exterior. The standards that the Commission must use are outlined in the proposed amended ordinance.

Allowable Uses and Vacation Rentals

Under the existing ordinance and in the proposed amendment ordinance, there are specific uses that are permitted under the options for the reuse of one of these types of buildings. There are several reasons for this. First, there are relatively few non-residential uses that could or should be allowed in residential areas. While Ogden and many other cities around the country are working to integrate and mix land uses, there is still an appropriate limit to the mixing of uses. Uses that have excessively early or late hours of operation as well as uses that may be visually or audibly impactful are not necessarily a good fit for a residential neighborhood. In addition to the potential impact on the neighborhood, there are also relatively few uses that can actually use the kind of space available in one of these commercial style buildings. With that in mind, the proposal removes some vague and no longer relevant uses and consolidates some others. The proposal is careful, however, to not lump commercial and retail uses together in such a way that an inappropriate use, such as a smoke shop, can relocate to one of these buildings.

The proposal also adds vacation rentals as an allowable use for these buildings and would allow both owner-occupied and non-owner occupied rentals in any residential zone. If the vacation rental permitted under this provision is non-owner occupied and is in a single-family zone, the vacation rental is not subject to the linear block restriction that exists for non-owner occupied rentals in multi-family zones. If the vacation rental takes place in a multi-family zone, the linear block restriction for non-owner occupied rentals still applies. Under the proposed ordinance, vacation rentals are excluded from the hours of operation standards associated with the other uses. Likewise, window coverings that may be associated with a more residential style use, such as curtains, drapes, or blinds, are excluded from the window signage restrictions.



Planning Commission

The Planning Commission reviewed the proposal at the January 4, 2017 meeting and forwarded a recommendation of approval with a vote of 8-0. The Commission made its recommendation with the finding that the proposed amendments are consistent with the state law provisions regarding conditional use permits, amending the language to include vacation rentals and single-family residential is consistent with compatible uses for these types of buildings in neighborhoods and the proposed amendments define standards for reuse that are consistent with the general plan.

Public Comments

No comments were received at the Commission's January 4th meeting. The transmittal documents indicate that inquiry phone calls have been received but that no concerns have been expressed.

Questions for Administrative Staff

1. Please provide additional detail on the Planning Commission's discussions regarding the addition of vacation rentals to the options for reuse.
2. Please discuss the Commission's recommendation to exclude non-owner occupied rentals in single-family zones from the linear block restriction while still restricting non-owner occupied rentals in multi-family zones to one per linear block.
3. Please provide background on how often this reuse provision has been used and how a change from the conditional use process will affect the review process.

Attachments

1. Transmittal
2. Ordinance
3. Planning Commission Report
4. List of existing non-conforming commercial style buildings

Council Staff Contact: Glenn Symes, AICP (801) 629-8164

OGDEN CITY COUNCIL TRANSMITTAL

DATE: January 6, 2017
TO: Ogden City Council
THRU: Mark Johnson, CAO
FROM: Tom Christopulos, CED Director
RE: Amendment to 15-6-3.H. to revise approval process for commercial style buildings in residential zones and add vacation rentals as a land use.
STAFF CONTACT: Greg Montgomery, Planning Manager
REQUESTED TIMELINE: January 24, 2017
RECOMMENDATION: Approval of the ordinance amendments and adding single family residential and allowing more than one nonowner occupied per lineal block in the R-1 zones
DOCUMENTS: Ordinance, Planning Staff report

RECEIVED
JAN 17 2017
OGDEN CITY
COUNCIL OFFICE

DISCUSSION:

The Planning Staff explained that in 1984 the City developed an ordinance to allow reuse of buildings that had been commercially designed and constructed either prior to zoning or were legal at one point and then the zoning changed. These buildings were designed for commercial use even if the nonconformity was lost and needed reuse options. Uses and process that existed in 1984 were part of the provisions but the conditional use process has changed and some uses are not desirable in neighborhoods. The proposed revision is seeking to address three areas of concern. The first is the conditional use process which does not mean what it did when the ordinance was developed. The second was adding vacation rentals as a new use and revising or removing some of the existing uses and the third was setting general standards since the use would no longer be reviewed as a conditional use.

The Commission discussed the idea that single family uses should be a use allowed for these buildings. Their design may attract home buyers who are looking for an open loft mercantile design. Staff explained when the ordinance was developed the single family idea was not added since they could have been made a dwelling at that time. Other changes over time now prohibit that conversion so adding single family as a use makes sense. There was some discussion how hours of operation would work for a vacation rental. It was mentioned they are excluded from the business hours of the other uses. Window coverings for residential uses was also discussed as they need privacy that commercial uses do not. The general language proposed allows for that residential privacy to occur.

There was discussion among the Commission about the vacation rental concept and that amending a regulation for an entire group of buildings to accommodate one illegal use is missing the general policies of what zoning is about. The other changes are appropriate but the vacation

rental is a concern. Some felt that the provisions of the vacation rental should apply to this use and no exception should be given to the one per block requirement for non owner occupied. Others felt that the more additional options could be given the better it would be as this provision applies to only 45 buildings in the city. Staff explained that in their recommendation because there are instances where there may be two of these types of buildings in a block and there also may be a vacation rental in a home that the goal of reuse of these buildings was more important than the home conversion concern that the vacation rental regulation was addressing in neighborhoods.

PLANNING COMMISSION ACTION

The Planning Commission reviewed this item on January 4, 2017. Prior to the motion made which is forwarding a recommendation to the Council four separate motions were made to approve with adding single family as a use and as staff had recommended or approve the residential use and staff's recommendation but limiting the non-owner occupied to the one per block limitation. Each motion failed on a 4 to 4 vote.

A motion was then made based on the findings the proposed amendments are consistent with state law provisions regarding conditional use permits, amending the language to include vacation rentals and single family residential is consistent with compatible uses for these types of buildings in neighborhoods and this provides define standards for reuse that is consistent with the general plan to recommend approval of the proposed changes suggested by staff and adding single family as a permitted reuse and limiting non- owner occupied in R-2 and greater zones to the one per lineal block provision found in the vacation rental ordinance.

PLANNING COMMISSIONERS VOTE	<u>Yes</u>	<u>No</u>
Blaisdel.....	X	
Graff.....	X	
Holman.....	X	
Herman.....	X	
Patterson.....	X	
Schade.....	X	
Southwick.....	X	
Wright.....	X	

CONCERNS OF CITIZENS:

Four phones calls had been received by various owners of these types of buildings and once the proposed revisions were explained to them they had no concerns about the amendments.

ORDINANCE NO. _____

AN ORDINANCE OF OGDEN CITY, UTAH, AMENDING THE OGDEN MUNICIPAL CODE BY AMENDING SUBSECTION 15-6-3.H TO MODIFY THE USES TO WHICH EXISTING COMMERCIAL BUILDINGS IN RESIDENTIAL AREAS MAY BE PUT; AND BY PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

The Council of Ogden City hereby ordains:

SECTION 1. Subsection amended. Subsection 15-6-3.H of the Ogden Municipal Code is hereby amended to read and provide as follows:

H. [Reuse Of Nonresidential Structures:]

1. Reuse Of Commercial Style Building In A Residential Zone: Structures that were originally designed as commercial buildings, including a dwelling on the same lot as the commercial building and traditionally associated with the commercial use, may take advantage of this provision in order to establish a reuse of the buildings. This ~~[conditional use]~~ provision ~~[allowed in]~~ applies to all residential zones and is intended to be used as a ["last resort"] method of providing uses in buildings which were originally designed to house commercial uses or that have a commercial building as part of the parcel or lot. [Conditional uses will be granted only in exceptional cases where the owner can show the building cannot be converted to uses allowed in the existing zone. If the building has any nonconforming use rights at the time of application, any such rights will cease to exist upon issuance of the conditional use permit.]

a. ~~[Conditional]~~ Allowed Uses: If the use is not specifically listed below it is not permitted as a reuse option of the property and buildings.

(1) Services:

Altering, pressing and repairing of wearing apparel.

Business and professional offices.

Dance rehearsal or instructional halls for the performing arts.

Daycare centers or adult daycare facility, provided:

(A) The facility shall conform to the occupancy requirements of the current building code, as adopted by title 16, chapter 2 of this code, or its successor provisions, whenever more than six (6) persons are cared for; and

(B) Child daycare centers shall include outdoor play areas with a minimum of seventy five (75) square feet of area for each child using the area at one time, and shall be completely enclosed.

(i) Screening, planting or solid fencing around portions of playground areas adjoining residential dwelling uses is required if the planning commission determines it is necessary to minimize visual and noise impacts; and

(ii) The planning commission may require that playground equipment be placed in a location which will minimize visual and noise impacts and prevent trespassing on adjacent properties.

~~{Dry cleaning pick up station.}~~

Hairdressers, barbershops, manicurists, tanning salons.

Laundromat.

~~{Limited banking facility.}~~

Photo studio.

Residential vacation rental, provided that a vacation rental under this provision:

(A) May be either owner-occupied or non owner-occupied; and

(B) For a building in a single family residential zone, is not subject to any provision restricting non owner-occupied rentals to one per linear block.

Tailor.

Travel agency.

(2) Sales:

Antique, import or souvenir shop.

Art and artist supply store.

Automobile service station, provided it is in a structure originally built for service stations.

~~{Bakery manufacture limited to goods retailed on premises.}~~

Bookstore, retail.

Camera store.

~~[Candy store, confectionery.]~~

Clothing and accessory store.

~~[Convenience store.]~~

~~[Dairy products store.]~~

~~[Delicatessen.]~~

Fabric and textile store.

~~[Film exchange place.]~~

Florist shop.

Garden supplies and plant material sales within the confines of the building.

Gift store.

Grocery store, including stores which may specialize in certain types of food products such as dairy, bakery or health foods.

~~[Health food store.]~~

Ice cream parlor.

Needlework, embroidery and knitting store.

~~[Novelty store.]~~

Pharmacy.

~~[Photographic supplies.]~~

~~[Popcorn and nut shop.]~~

Restaurant.

Shoe store.

Toy store, retail.

(3) Residential:

Single Family Dwelling

b. Common requirements for all reuses

- (1) No Expansion Of Building Or Use Onto Adjacent Lots: Because of the location of the commercial style building in the heart of the neighborhood, no expansion of the building [~~or use (e.g., parking) will be~~] is allowed on the lot nor is building expansion or parking allowed on [~~entire~~] adjacent lots.
- (2) No use is allowed to install a drive up window or pick up window. All transactions of exchange of merchandise must take place inside the building.
- (3) Exterior wall materials may not be replaced with new materials that do not match the existing or original materials. No exterior alterations are permitted which alter the original character of the building.
- (4) Before the new use can occupy the structure the building must meet all property maintenance and building codes applicable to the use. Existing areas of landscaping must be maintained whether on the property or in the public right of way.
- (5) Any exterior service areas such as dumpster locations, delivery areas other than the front door, and garbage pick-up areas shall be located out of the public view and in a location that is protected from visibility and smell by adjacent neighbors. No trash compacting devices may be located outside of the original building.
- (6) Eighty percent (80%) of the area of ground level windows shall remain clear of posters, banners, or other materials or objects which block views through the window. Ordinary window coverings of the type of use permitted, such as curtains, drapes or blinds are excluded from this requirement.
- (7) For all uses except restaurants and vacation rentals the hours of operation are limited to 8.a.m. to 7 p.m. Restaurant hours of operation are limited to 6.a.m. to 10 p.m.
- (8) With the exception of outdoor dining, all uses and storage must be contained inside the building.

c. Application: Application for the [~~conditional~~] use permit may be filed by the owner of the property for which the [~~conditional~~] use is sought or an authorized representative. If the reuse proposes no changes to the site, the building exterior other than normal maintenance, or the use of outdoor areas, the request shall be submitted to the development services counter for normal site plan review and approval. If changes are proposed to the site, or to the building exterior in seeking to restore the exterior to the original design, the approval request will be submitted for review by the planning commission.

d. Basis For ~~[Issuance Of Conditional Use Permit]~~ Planning Commission approval: The planning commission may approve the application for site or exterior revisions [conditional use] based on ~~[the provisions of chapter 7 of this title and]~~ the following provisions:

~~[(1) Owner Justification: The owner must submit a written justification describing:~~

~~(A) What efforts have been made to meet existing zoning permitted or conditional uses;~~

~~(B) How the building is substantially different from buildings in the neighborhood which comply with the existing ordinance and what special considerations warrant a conditional use;~~

~~(C) What ways this use would enhance the neighborhood and meet the objectives of the general plan.~~

~~(2)] (1) Landscaping: The planning commission may require whatever landscaping [it feels] is necessary to integrate the building into the neighborhood, or to provide visual buffers for parking or outdoor uses on the site. Parkway strips shall be landscaped unless used for existing parking. In such instances, the planning commission shall determine the amount of parkway which needs to be landscaped.~~

~~[(3)] (2) Parking: The property will be considered as having nonconforming parking rights and any of the listed permitted uses will be allowed without requiring additional parking. Any proposed new parking [use] must meet the requirements for parking as listed in chapter 12 of this title. However, the planning commission may approve a lesser amount if it finds that:~~

~~(A) A building occupies the entire site or the existing site limitations would restrict additional parking; and~~

~~(B) The reduction of such parking is not detrimental to the neighborhood.~~

~~(3) Building Exterior: When building exterior changes are proposed the planning commission shall determine if the changes alter the original or existing character of the building. If the changes bring the building back to its original design based on pictorial or physical evidence the revisions may be approved.~~

e. ~~[(4)]~~ Signs:

~~(1) [(A) New Sign Structures And Signs: There shall be] Except as provided in subsection (3), signage shall be attached to the front face of the building and is limited to a maximum of forty (40) square feet. [for all signage]~~

(2) Signs shall not be internally or externally lighted unless the proposed use is located on Harrison or Washington Boulevard [an arterial street] and the planning commission determines such lighting will be compatible with the surrounding neighborhood. [and shall not be higher than six feet (6') and not closer than ten feet (10') to a property line if parallel to the street or twenty feet (20') if perpendicular to the street.]

(3) The use may reuse existing sign structures that are:

(A) Sixty (60) square feet or less in size;

(B) No taller than the height of the building on the lot where the sign is located; and

(C) Not internally or externally lighted unless the sign is on Harrison or Washington Blvd.

(4) Existing free standing signage that does not meet the requirements of subsection (3) shall be removed and has no nonconforming rights.

(5) Electronic message display signage is not allowed.

~~{(B) Existing Sign Structures: The planning commission may consider reuse of an existing sign structure, provided the structure and new signs:~~

~~(i) Do not block the view from any driveway of oncoming street traffic;~~

~~(ii) Are not internally or externally lighted unless the proposed use is located on an arterial street and the planning commission determines such lighting will be compatible with the surrounding neighborhood;~~

~~(iii) Do not exceed sixty (60) square feet;~~

~~(iv) Are not expanded from the size of the structure existing prior to the new use; and~~

~~(v) The sign is not out of character with the surrounding neighborhood as determined by the planning commission. In determining if the sign and structure are out of character, the planning commission shall consider:~~

~~(a) Whether the height of the sign structure is taller than the height of the building and surrounding neighborhood buildings;~~

~~(b) The distance along the street that the sign is visible;~~

~~(c) The type of street (e.g., local, collector, arterial) from which the sign is visible; and~~

~~(d) The surrounding uses within one block and how this sign visually blends into the area.~~

~~(5) Hours Of Operation: Because many of these uses are set in residential areas and because the operational hours of such business may be inappropriate in residential areas, the planning commission may set reasonable hours of operation to assure compatibility with the surrounding neighborhood.]~~

SECTION 2. Effective date. This ordinance shall be effective immediately upon posting after final passage.

PASSED, ADOPTED AND ORDERED POSTED by the Council of Ogden City, Utah this ____ day of _____, 2017.

CHAIR

ATTEST:

CITY RECORDER

TRANSMITTED TO THE MAYOR ON: _____

MAYOR'S ACTION: Approved Vetoed

MAYOR

ATTEST:

CITY RECORDER

POSTING DATE: _____

EFFECTIVE DATE: _____

APPROVED AS TO FORM: MHS 1/11/17
Legal Date

* The headings, catchlines or catchwords suggested for use in the Ogden Municipal Code and which are bracketed at the beginning of sections or subsections, shall not be considered to be a part of the ordinance adopted herein.



Report by Greg Montgomery

Agenda Name: Public Hearing- To amend 15-6-3.H. to revise approval process for Commercial style buildings in residential zones and add vacation rentals as a land use.

Petitioner/ Developer: Ogden City Planning Division
2549 Washington Blvd
Ogden, Utah 84401

Petitioner/ Developer’s requested action: Approval of proposed revisions to 15-6-3.H. as proposed.

Planning Staff’s Recommended Action

Approval of proposed revisions to 15-6-3.H. as proposed.

Planning Commission’s determination for action

1. Revising the format of approval process is / *is not* consistent with state law provisions regarding conditional uses.
2. Amending the language to include vacation rentals is / *is not* consistent with uses that could be compatible to residential areas given the changes the city has made regarding vacation rentals.
3. Providing options for reuse of commercial style buildings and establishing defined standards is / *is not* consistent with the general and community plans.

Past History

- Oct. 11, 1984- Provisions established to allow reuse of commercial style buildings in residential zones.
- Jan 3, 1990- Revisions made to nonconforming chapter to add “box like structure” ordinance.
- July 25, 1991- List use expanded for commercial style buildings.

Description of request

The City Council recently adopted the vacation rental ordinance. One of the directives was to look for options to allow the Café Mercantile at 1221 26th which is in a single family zone, to continue to have its vacation rental even though the adopted vacation rental ordinance would not allow it. The major concern with the specific request is that land use regulations need to be directed at achieving specific goals and not focused on one property. Focusing on one property is contrary to equal protection under the law.

The City does have a provision that was adopted in the early 1980's to address a concern of the older areas of the city where development of small neighborhood commercial buildings exists in residentially zoned areas. Reusing these buildings and maintaining a neighborhood fabric was a key objective of this provision when it was developed and over the years variations have been made to what are compatible uses for these structures. There are presently 21 commercial structures in the single family zones and 24 in the multiple family zones. Five of these buildings exist with homes attached to them or on the same lot and are solely a commercial style building.



Looking at adding a new land use option is only a part of the consideration that is being proposed. There are major pushes to reduce conditional uses by the State. Changes made in State law several years ago took away the concept under which this reuse provision was first developed. It is important to update the approval process while looking at a revision. What is proposed is to:

1. Update the land use types that are allowable.
2. Revise the approval process.
3. Set general standards that make the uses acceptable in neighborhoods.

4. Provide review options for a simple use of the building versus changes to the building or lot.

What Planning Commission reviews

Zoning text amendments are required to be reviewed by the Planning Commission in a public hearing. The Commission reviews the purpose of the regulation, the general plan, and the reason for a proposed change and determines whether or not the request is consistent with those factors. The Commission then makes a recommendation they feel is in the best interest of the city to address the issue. The recommendation of the Planning Commission is then forwarded to the City Council for final action.

Factors for consideration of action

1. Are vacation rentals an acceptable reuse option?

The uses presently allowed are commercial in nature and generally have customers coming to the site during the day and early evening. A vacation rental is a commercial venture but keeps the same occupancy hours as most of the surrounding homes and does not have the delivery impacts of the other allowed uses. Whether there is a home attached or reuse of the commercial building to create a unique living space, staff feels this is the better location for these types of uses and may provide a reason to reuse some of the vacant buildings.

2. Are the standards sufficient to protect the neighborhood character?

Changing from conditional use to permitted uses in the neighborhood needs to have standards that can be expected for all uses. Setting hours of operation, restricting sign types and lighting so the neighborhood is not impacted, not allowing exterior modifications that are out of character to the area and not permitting drive up windows which create noise and air quality concerns are key standards that are being proposed. There may be other general standards which staff has missed but these are felt to be the key common concerns.

3. Are the two approval processes appropriate?

The proposed amendment removes the conditional use approval process since it no longer means what it did when the ordinance was developed. The process is replaced to a normal site plan review for a land use that is utilizing the building and making no expansions of parking or other outdoor uses on the property from what presently exists. If exterior changes are proposed, whether to the site or the building, then the Planning Commission reviews the

proposal to determine compatibility of the changes to the neighborhood to make sure the changes do not adversely impact the adjacent properties. This review process is looking to mitigate impacts but does not deny the use.

4. Are the uses that are revised consistent with traditional uses compatible to a neighborhood?

There are some changes proposed that combine several food type uses and place them under one heading in this revision. There are some uses which are also eliminated such as dry cleaning pick up, limited banking, novelty, film exchange and photographic supplies. Some uses no longer exist and others require drive-up windows which are removed as a permitted design concept under this provision. Some of the general retail uses could also be combined but the types of retail can change so rapidly or there can be some retail activities such as smoke shops, retail with adult sections, gaming stores or skate board shops to name a few that would fall in the general retail category that may not be desirable uses in a neighborhood. They belong more in general retail zoned areas. For this reason, the retail uses have not been combined into a general retail category.

Attachments

1. Proposed ordinance
 2. Location of existing commercial style buildings in residential zones.
 3. Notice
-

R-1 zoned properties

Address	use	parcel number
2002 Jackson	vacant and house	20410002
2047 Harrison	retail	131220021
2140 Monroe	vacant and house	10640026
2162 Monroe	barber shop	10640019
1012 22nd	upholstry shop	140080065
1156 22nd	vacant	140090041
2279 Jackson	church	20380001
868 23rd	vacant	10630010
939 25th	office	20220041
2667 Jackson	salon	20210019
1152 27th	vacant	20190012
2776 Monroe	dance studio	10480009
809 28th	convenience store	20110038
511 31st	grocery store	40240063
903 36th	grocery store	50730001
1501 25th	salon	131230024
1221 26th	house/ cafe	20180062
251 17th	grocery store	30300025
664W 24th	auto repair	140180007
2655 G Ave	office	140430035
3489 Grant	vaant	51190038

R-2 and greater zoned properties

address	use	parcel number
601 29th	auto repair	40320019
2780 Adams	Credit Union	10020027
2784 Jefferson	office	10010009
2783 Madison	office	10010001
740 27th	office	10500010
625 25th	office	10130024
2506 Madison	office	10570024
2507 Madison	office	10130032
745 24th	laundremat	10580028
707 24th	office	10580022
727 24th	office	10580024
620 24th	office	10250012
743 23rd	vacant / house	10610041
1053 23rd	daycare	20310064
1167 24th	office	20270005
1069 24th	office	20280034
1001 24th	office	20280044
905 24th	office	20290005
850 24th	church	10600057
630 21st	grocery store	10460021
1180 28th	office	20150015
872 26th	vacant/house	10560003
810 Canyon Rd	office	20590020
2421 Harrison	day care	20270012



JOINT PROCLAMATION DECLARING FEBRUARY 5-11, 2017 AS “IDLE-FREE WEEK” IN OGDEN CITY

Action: **Adopt joint proclamation**

Summary This joint proclamation declares February 5-11, 2017 as “Idle-free Week” in Ogden City. This is intended to help our community understand the benefits that come from reducing vehicle idling, unnecessary driving and other actions that contribute to air pollution.

Council staff is working with Weber-Morgan Health Department, City Administration, Weber State University and residents to encourage participation in this effort.

This joint proclamation has been framed and presented in the past, and a framed copy will not be presented again this year.

Council Staff Contact: Brittany Griffin, (801)629-8103

**DECLARING FEBRUARY 5-11, 2017
“IDLE-FREE WEEK”
IN OGDEN CITY**

WHEREAS, The Ogden City Council and Mayor Caldwell recognize the importance of maintaining clean air because this contributes to our quality of life and promotes the health, safety and well-being of our community; and

WHEREAS, Vehicle emissions are a significant contributor to air pollution and release harmful pollutants into the air, which cause asthma and other respiratory diseases. One easy way to help mitigate poor air quality is to reduce unnecessary idling and driving; and

WHEREAS, There are many simple ways to reduce unnecessary idling. Some of these include choosing not to idle to warm up the car in the morning and turning off a vehicle when going through a drive-thru window, picking-up and dropping-off children at school, and sitting for prolonged periods at train crossings and car washes; and

WHEREAS, Vehicle emissions can also be reduced by planning travel ahead of time and using other transportation options. Taking the bus or train, walking, bicycling, and carpooling can all help to improve our air quality; and

WHEREAS, Those who reduce unnecessary idling and driving are able to save on fuel costs, conserve energy, and provide a positive contribution to the overall health of our community.

NOW, THEREFORE, the Ogden City Council and Mayor Michael P. Caldwell hereby proclaim February 5-11, 2017 as:

“IDLE-FREE WEEK”

in Ogden City. We challenge residents, schools, businesses and community groups to join in this effort to reduce unnecessary idling and driving throughout this week and the entire year.

PASSED AND ADOPTED this 24th day of January 2017.

Marcia L. White, Council Chair

Michael P. Caldwell, Mayor

ATTEST:

Tracy Hansen, City Recorder



RECOGNIZING CHIEF MIKE ASHMENT

Action: **None**

Summary This is a request to recognize Chief Mike Ashment for his service to the Ogden community with the Ogden Police Department.

Chief Ashment will be present to accept the recognition. It is anticipated that other family, friends and colleagues will also be in attendance.

Council Staff Contact: Brittany Griffin, (801)629-8103



The Ogden City Council and Mayor

proudly recognize

Mike Ashment

for providing invaluable contributions to the Ogden community.

Chief Mike Ashment began his career with the Ogden City Police Department as a reserve police officer in 1985. He started working full-time for the department at the age of 22 after earning a Bachelor of Science degree in Criminal Justice from Weber State University and graduating class valedictorian of session 138 of the Utah Police Academy. Chief Ashment also holds a Masters of Arts in Organizational Management and is a graduate of the FBI National Academy and the DEA Narcotics Commander Leadership Academy.

Prior to his appointment as Chief of Police in 2012, Chief Ashment had served in nearly every bureau of the department, including several years in investigations and drug enforcement. He is a former commander of the Weber Morgan Narcotics Strike Force and the Investigations Bureau, and he managed a special Crime Reduction Unit and developed, implemented, and managed a multi-jurisdictional homicide investigation task force in the Weber/Morgan County area.

Chief Ashment has participated with the Police Executive Research Forum in Washington DC on offender re-entry and crime mapping, and has served as past president and on the board of directors for the Ogden Police Benefit Association and the Ogden Lions Club. Among his many other achievements, he has received the Ogden Police Department Medal of Merit, Distinguished Service Certificate, and Distinguished Unit Citation.

We are grateful for Chief Ashment's remarkable service to our community and wish him our best in all future endeavors.

Presented this 24th day of January 2017.

Marcia L. White, Council Chair

Michael P. Caldwell, Mayor



RECOGNIZING ASSISTANT CHIEF WAYNE TARWATER

Action: **None**

Summary This is a request to recognize Assistant Chief Wayne Tarwater for his service to the Ogden community with the Ogden Police Department.

Assistant Chief Tarwater will be present to accept the recognition. It is anticipated that other family, friends and colleagues will also be in attendance.

Council Staff Contact: Brittany Griffin, (801)629-8103



The Ogden City Council and Mayor

proudly recognize

Wayne Tarwater

for providing invaluable contributions to the Ogden community.

Assistant Chief Wayne Tarwater began his long career with the Ogden City Police Department on June 27, 1977 after serving in the United States Marine Corps. Throughout his tenure with the department, he served in all of the major bureaus and provided invaluable leadership and mentorship in the department and throughout the community.

Assistant Chief Tarwater was promoted to Sergeant in 1994, Lieutenant in 1997, and Assistant Chief on January 5, 2002. His leadership as Acting Chief was pivotal in guiding the department through some of its most difficult days when Officer Jared Francom was killed and five other police officers were shot in 2012. Assistant Chief Tarwater has been recognized with a Medal of Merit, Distinguished Service Award, letters of commendation, and excellent work awards.

In addition to his accomplishments with the department, Assistant Chief Tarwater has served as President of the Board of Trustee's for Your Community Connection and earned a Master's degree from the University of Phoenix. He is an avid golfer, and has been a strong supporter of Ogden City's golf courses.

We are grateful for Assistant Chief Tarwater's remarkable service to our community and wish him our best in all future endeavors.

Presented this 24th day of January 2017.

Marcia L. White, Council Chair

Michael P. Caldwell, Mayor



PUBLIC SAFETY EMPLOYEE APPEAL BOARD

Action:

Adopt/Not Adopt Ordinance

Executive Summary

The Ogden City Administration is proposing to dissolve the Civil Service Commission and replace this with a Public Safety Employee Appeal Board. The new Board is intended to have the same basic structure and functionality of the Civil Service Commission with the exception of hiring responsibilities.

Background

January 10, 2017

A Council Work Session was held to discuss some additional changes to the ordinance. Representatives from the Ogden Police Benefit Association (OPBA) and the Professional Fire Fighters of Ogden (IAFF) attended this meeting to provide feedback. OPBA expressed its full support for the proposal. IAFF hadn't finalized its position but expressed remaining individual concerns with removing third-party involvement in the hiring process.

November 1, 2016

A Council Work Session was held to receive an initial overview of the Administration's proposal to replace the Civil Service Commission with a Public Safety Employee Appeal Board. The Council received a letter of support from OPBA, and at this time IAFF was still in the process of forming its response.

The meeting provided an overview of the newly proposed appeals and hiring processes. There was discussion that the existing eligible candidate lists would continue to be utilized and maintained through Human Resources. The Administration described that the proposal to separate the hiring and appeals processes is anticipated to shorten the timeframe to hire new Fire Fighters and Police Officers by about a month.

Following this meeting, IAFF worked with the Administration to address some concerns. This resulted in the addition of a few clarifying changes to the proposed ordinance, including:



- Additional clarification that appointments to sworn public safety and merit service positions must be based on the ability to perform essential job duties and responsibilities, and a provision that all applicants are subject to competitive examinations;
- A provision that the Mayor may only remove a member of the Public Safety Employee Appeal Board for cause and after a public hearing, if requested; and
- Clarifying that only an employee may request the Mayor’s review and consideration to modify a final action of the Board, as opposed to also having the option for review at the Mayor’s discretion.

December 19, 1991

Ogden City established its Civil Service Commission. This occurred as part of Ogden’s transition to the Council-Mayor form of government and to meet a requirement in State Law for all cities of the first and second class to establish a Civil Service Commission.

First Class City	Second Class City
Population – 100,000+	Population – between 65,000-100,000

February/March 2006

The Utah State Legislature considered removing the Civil Service Commission requirement to allow cities to have the option whether to use a Civil Service Commission. The Ogden City Council adopted Resolution 2006-5 to oppose this action. The Council expressed a desire to maintain a level playing field for all second class cities and stated that the Council had no intention of dissolving Ogden’s Civil Service Commission. Ultimately, the proposed change to state law was adopted and cities were provided the choice to use a Civil Service Commission.

Utah Code Annotated § 10-3-1003
a. A city of the first or second class may establish a civil service commission under this part.
b. A city that establishes a civil service commission under this part may dissolve the civil service commission.



The Civil Service Commission, in accordance with Utah Code Ann. § 10-3-10, serves as the appeal authority for all employees in the Police and Fire departments. The Commission also maintains and approves a list of eligible candidates for hire in the two departments.

The existing requirement for the Civil Service Commission to approve candidate eligibility lists requires that a meeting must be held for this to occur. This lengthens the hiring process and has created some challenges for the city to compete with other hiring agencies for qualified candidates.

Other Communities

Most Utah cities with Ogden’s form of government use the Civil Service Commission structure established and defined by Utah Law. However, many 1st and 2nd Class cities have decided to no longer use the state’s Civil Service Commission model.

City	Class	Use of Civil Service Commission (as outlined by Utah Law)
Salt Lake City	1 st Class	Yes
West Valley City	1 st Class	No – Dissolved in 2014 and replaced with hearing officer for all city employee appeals
Provo City	1 st Class	Yes
West Jordan	2 nd Class	No – Applications for Police and Fire processed by HR and hiring occurs at department level
Sandy	2 nd Class	No – Applications for Police and Fire processed by HR and hiring occurs at department level
Orem	2 nd Class	No – Applications for Police and Fire processed by HR and hiring occurs at department level. However, there is use of a City Appeals Board
Ogden	2nd Class	Yes
St. George	2 nd Class	No – Applications for Police and Fire processed by HR and hiring occurs at department level
Logan	3 rd Class	Yes
Murray	3 rd Class	Yes

Current Proposal

The Administration is proposing an ordinance to replace the Civil Service Commission with a Public Safety Employee Appeal Board. The Board would become the appeal authority for sworn Police and Fire officials, without having responsibilities related to the hiring process.



Ogden City Council Meeting

Council Staff Review

Hiring would instead be addressed by Administrative Policy and Human Resources in coordination with the departments.

This structural change allows both sworn and non-sworn employees to appeal demotions, terminations and suspensions of two or more days. In contrast, the Civil Service Commission currently doesn't hear appeals for demotions and requires three or more days of suspension for an appeal. Non-sworn public safety employees would also become merit employees, extending protections and providing these employees with the ability to exercise due process in an event of employment suspension, discharge or demotion.

The Civil Service Commission currently has its own established rules and regulations, and changes to these guidelines are approved publically during its meetings. The proposal would have rules for the Public Safety Employee Appeal Board addressed in Administrative Policy, which would allow all city personnel policies to be accessed from one location and readily available to the public.

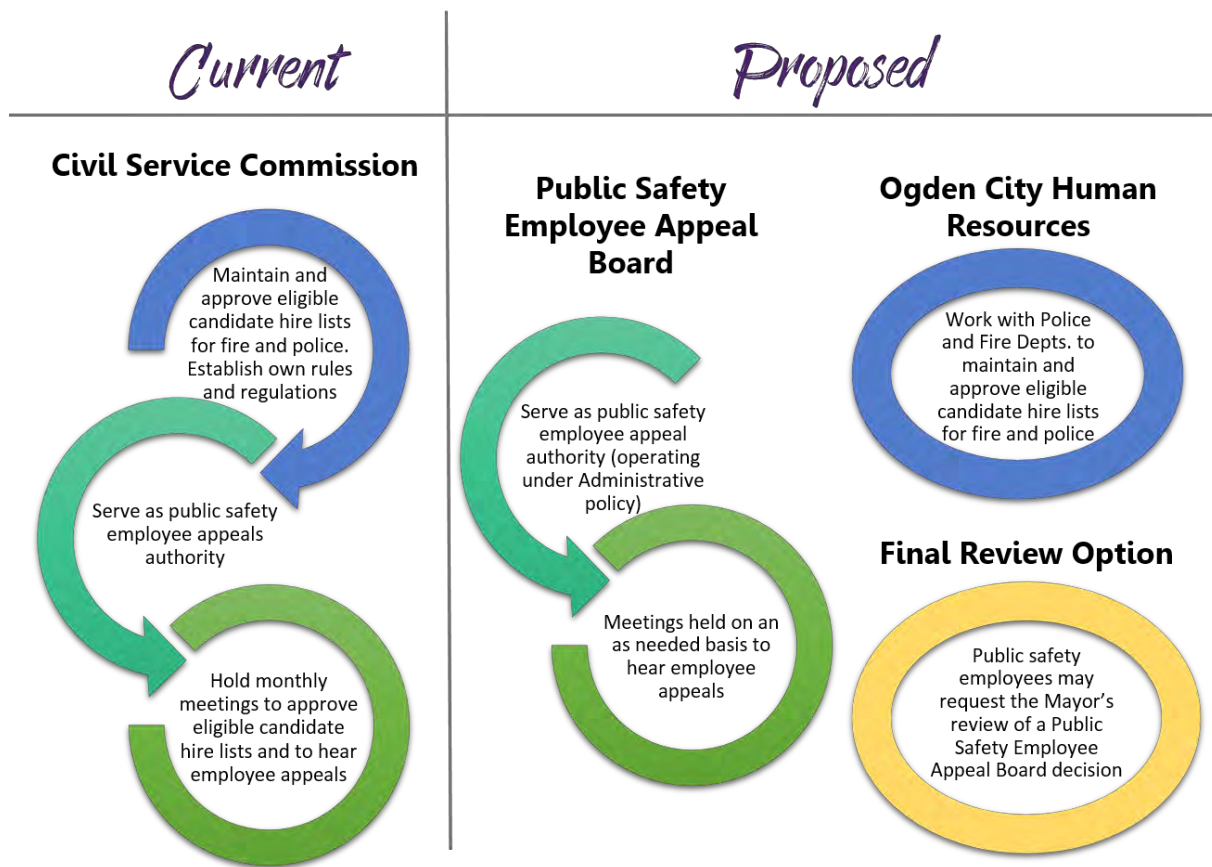
The composition of the Public Safety Employee Appeal Board is similar to what has been used with the Civil Service Commission, as defined by state law, with three individuals appointed by the Mayor with the advice and consent of City Council and no more than two members being of the same political party to reduce partisan influence. The term for Board members is proposed to be three years rather than the current six-year term. The Board would continue to meet in a public meeting but would only meet when there is an appeal rather than on a monthly basis. This change would enable all current Civil Service Commission representatives to qualify to serve on the newly proposed Board.

The proposed change also identifies and outlines the appeals process for merit employees. Once all administrative appeal remedies have been exhausted, a merit employee may appeal to the Chief Administrative Officer (CAO) or his/her designee as the hearing officer for employee discharge, suspension or demotion. However, this does not apply to an employee discharged or transferred to a position with less pay if the discharge or transfer



is the result of a layoff, reorganization or other non-disciplinary action.

Merit employees who are dissatisfied with an appeals decision made by the CAO have the option to request the Mayor's review of the decision. Public safety employees also have the option of requesting the Mayor's review of a Public Safety Employee Appeal Board decision. This final review option is parallel to the ability of a merit employee to request the Mayor's review of a CAO decision.



Outreach

Each employee group was invited to provide feedback on this proposal. The Ogden Police Benefit Association (OPBA) and Professional Fire Fighters of Ogden (IAFF) have provided responses that are included in the attachments. No response has been received from the Utah Alliance of Government Employees (UAGE).



Ogden City Council Meeting

Council Staff Review

Attachments

1. Administrative Transmittal – *Adoption of Public Safety Employee Appeal Board*
2. Draft Ordinance (with newly included changes)
3. Letter from OPBA
4. Letter from IAFF
5. Draft Administrative Personnel Policy Amendments
6. Civil Service Commission Rules and Regulations

Administrative Memo Prepared by:

Administrative Contact:

Mara Brown, 801-629-8104

Council Staff Contact: Amy Sue Mabey, (801)629-8629

SEP 13 2016**OGDEN CITY
COUNCIL OFFICE****Ogden City Council Transmittal**

Date: September 13, 2016
To: Ogden City Council
From: Mark Johnson, CAO
RE: Adoption of Public Safety Employee Appeals Board

Staff Contact: Mike Ashment, Police Chief
Mike Mathieu, Fire Chief
Mara Brown, Deputy City Attorney
Shawn Choate, Human Resources/Risk Manager

Requested Timeline: As soon as possible
Recommendation: Adoption of Ordinance
Documents: Proposed Ordinance

Background

Ogden City has a civil service commission whose jurisdiction is authorized by Utah Code Ann. section 10-3-1001 et seq. Ogden Municipal Code section 3-6-1 established the civil service commission and gave it the responsibilities and jurisdiction authorized under Utah law. The two primary responsibilities of the civil service commission are: 1. to serve as the appeal authority for all employees in the police and fire departments; and 2. to approve the lists of eligible candidates for hire in the police and fire departments.

Ogden City's requirement that the civil service commission approve eligibility lists for candidates for hire in the police and fire departments has become an increasing impediment to hiring qualified candidates, exacerbated by competition in the market for the most qualified police and fire employees.

Proposal

It is proposed that the civil service commission be dissolved and a public safety employee appeal board be adopted in its place. The public safety employee appeal board will become the appeal authority for sworn officers in the police and fire departments but will not have authority to approve eligibility lists.

The changes bring additional benefits to the overall Ogden City employee structure. For example, non-sworn employees in the police and fire departments will become merit employees. The appeal authority for merit employees will be a hearing officer, designated as the CAO of the city, which has been the process in place for merit employee appeals for many years.

Both sworn and non-sworn employees in the police and fire departments will gain protections as a result of the proposed changes. Both sworn and non-sworn employees will be able to appeal suspensions of more than two days, demotion, or termination. For sworn fire personnel, suspensions of more than 16 hours for a 40-hour work week employee or more than 24 hours for a 56-hour work week employee are eligible for appeal. By contrast, the civil service commission did not have jurisdiction over demotion, and only heard appeals of suspensions of more than three days. As part of the proposed changes, sworn and non-sworn employees of the police and fire departments will be integrated into the personnel policies that already apply to all other city employees.

The public safety employee appeal board will not have jurisdiction over the testing and hiring process; this process will be determined by policy adopted by the Chiefs, with continued oversight by the human resources office.

The composition of the public safety employee appeal board will be identical to the composition of the civil service commission, with three individuals appointed by the Mayor with advice and consent of City Council. As with the civil service commission, no more than two members can be of the same political party. The term of a board member is proposed to be three years rather than the current six year term for a civil service commissioner. The public safety employee appeal board will only meet when there is an appeal, rather than monthly.

Fiscal Impact

No fiscal impact is anticipated by dissolving the civil service commission and adopting a public safety employee appeal board.

ORDINANCE NO. _____

AN ORDINANCE OF OGDEN CITY, UTAH, AMENDING THE OGDEN MUNICIPAL CODE BY REPEALING AND RESERVING CHAPTER 6 OF TITLE 3; BY AMENDING CHAPTERS 6 AND 7 OF TITLE 3 TO REVISE PROVISIONS RELATIVE TO EMPLOYEE APPEALS; AND BY PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

The Council of Ogden City hereby ordains:

SECTION 1. Chapter Amended. Chapter 6 of Title 2 of the Ogden Municipal

Code is hereby amended to read and provide as follows:

[2-6-4: ~~[CLASSIFIED CIVIL]~~ SWORN PUBLIC SAFETY AND MERIT SERVICES; APPOINTMENT:]

Appointments to any position within the ~~[classified civil service]~~ sworn public safety and the merit service shall be based on the relative merit, fitness and ability of the persons examined to discharge the essential duties and responsibilities of the job classification to which they seek appointment. All applicants for employment in the sworn public safety service shall be subject to competitive examination. Examinations shall be held at such times and places as the administration shall from time to time determine, and shall be for the purpose of determining the qualifications of applicants for positions. Examinations shall be practical and shall fairly test the fitness in every respect of the persons examined to discharge the duties of the positions to which they seek to be appointed.

SECTION 2. Chapter Repealed. Chapter 6 of Title 3 of the Ogden Municipal

Code is hereby repealed and reserved as follows:

Repealed and Reserved

Chapter 6

[CIVIL SERVICE COMMISSION]

[3-6-1: ~~[DEFINED:]~~]

~~The Classified Civil Service shall consist of all employees of the Police Department and Fire Department, excluding temporary employees as defined in Utah Code Annotated section 10-3-1011, or any successor provisions, and the Chief of Police and the Fire Chief. If the following positions are ever created, deputy chiefs of the Police and Fire Departments and assistant chiefs of the Police Department, they shall be excluded from the classified service.~~

3-6-2: [ESTABLISHED, APPOINTMENT AND TERMS:]

~~There is hereby established a Civil Service Commission, consisting of three (3) members, to be appointed by the Mayor, with the advice and consent of the City Council. Their term of office shall be for six (6) years; provided however, that of the first appointments, one shall serve until June 30, 1994, and another to serve to June 30, 1996, and another member to serve until June 30, 1998. In the month of June 1994, and every second year thereafter, one member shall in like manner be appointed for the term of six (6) years to take the place of the member whose term shall next expire. If a vacancy occurs, it shall be filled by appointment by the Mayor, with the advice and consent of the City Council, for the unexpired portion of the term.~~

3-6-3: [ORGANIZATION:]

- A. ~~[Qualifications:] No member of the Civil Service Commission shall, during the member's tenure in office, hold any other public office, nor shall such member be a candidate for any other public office. Not more than two (2) members of the Civil Service Commission shall at any one time be of the same political party.~~
- B. ~~[Selection Of Chair:] The Civil Service Commission shall organize by selecting one of its members to be chair.~~
- C. ~~[Duties Of City Recorder:] The City Recorder shall act as secretary to the Civil Service Commission and shall keep a record of all meetings and of the work of the Commission, shall have custody of the books and records of the Commission, and shall perform such other services as the Commission may require.~~
- D. ~~[Establish Rules And Regulations:] The Civil Service Commission shall make all necessary rules and regulations to carry out their duties, and for examinations, appointments and promotions. All rules and regulations shall be printed by the Commission for distribution.~~
- E. ~~[Compensation:] Each member shall receive twenty five dollars (\$25.00) per diem for each meeting of the Commission attended; provided however, that no member shall receive more than one hundred dollars (\$100.00) in any one month.~~

3-6-4: [DUTIES AND RESPONSIBILITIES:]

~~The Civil Service Commission shall have the responsibility for all examinations and establishing the classified civil service list, from which appointment and promotions shall be made for positions in the classified civil service. The Civil Service Commission shall hear and decide appeals of members of the classified civil service who have been suspended or discharged in accordance with the provisions of Utah Code Annotated section 10-3-1012, or any successor section. The Civil Service Commission jurisdiction shall be limited to those matters provided by State law.~~

3-6-5: [REMOVAL:]

~~Any member of the Civil Service Commission may be removed from office by the Mayor for cause, including misconduct, inability or wilful neglect of duty. Such member shall have an opportunity to be heard in a hearing meeting, the minimum standards of due process of law, if desired by the member.]~~

SECTION 3. Chapter Amended. Chapter 7 of Title 3 of the Ogden Municipal Code is hereby amended to read and provide as follows:

Chapter 7

[EMPLOYEE APPEALS [BOARD]]

ARTICLE A: [MERIT EMPLOYEES:]

3-7A-1: [RIGHT OF APPEAL:]

- A. [Entitlement:] Except employees described in Utah Code Ann. § 10-3-1105(2), and members of the sworn public safety service, an employee who is discharged, suspended for more than two days without pay, or involuntarily transferred from one position to another with less remuneration for any disciplinary reason, may appeal to the hearing officer the final decision to discharge, suspend without pay, or involuntarily transfer.
- B. [Hearing Officer:] The hearing officer is established as the Chief Executive Officer of the City or his or her designee.
- C. [Exhaustion of Remedies:] The employee shall exhaust all administrative remedies before appealing to the hearing officer.
- D. [Exclusion:] This article does not apply to an employee discharged or transferred to a position with less remuneration if the discharge or transfer is the result of a layoff, reorganization, or other non-disciplinary reason.
- E. The administration shall adopt policies implementing the appeal process authorized by this article.

**ARTICLE B: [SWORN PUBLIC SAFETY EMPLOYEES; PUBLIC SAFETY
EMPLOYEE APPEAL BOARD:]**

3-7B-1: [RIGHT OF APPEAL:]

**3-7B-2[1]: [ESTABLISHED; [MEMBERSHIP]: APPOINTMENT AND TERMS;
REMOVAL:]**

3-7B -3[2]: [[APPOINTMENT OF MEMBERS:] ORGANIZATION:]

**3-7B -4[3]: [[TERMS, VACANCIES AND COMPENSATION]: DUTIES AND
RESPONSIBILITIES:]**

[3-7B -4: RIGHT OF APPEAL:]

3-7B-5: [RULES AND REGULATIONS:]

3-7B-6: [ADMINISTRATIVE SUPPORT:]

3-7B-1: [RIGHT OF APPEAL:]

- A. [Entitlement:] A sworn employee in the police or fire department, other than chiefs, assistant chiefs and introductory employees, who is discharged, suspended for more than two days without pay (16 hours for a 40-hour work week, or 24 hours for a 56-hour work week employee) or involuntarily transferred from one position to another with less remuneration for any disciplinary reason, may appeal to the public safety employee appeal board the final decision to discharge, suspend without pay, or involuntarily transfer.
- B. [Exhaustion of Remedies:] The employee shall exhaust all administrative remedies before appealing to the public safety employee appeal board.
- C. [Exclusion:] This article does not apply to an employee discharged or transferred to a position with less remuneration if the discharge or transfer is the result of a layoff, reorganization, or other non-disciplinary reason.

**3-7B-2[1]: [ESTABLISHED; MEMBERSHIP APPOINTMENT AND TERMS;
REMOVAL:]**

- A. [Dissolution of Civil Service Commission:] Pursuant to Utah Code Annotated section 10-3-1003(1)(a), Ogden City hereby dissolves the previously-established civil service commission, together with all rules and regulations promulgated by the civil service commission.
- B. [Establishment of Public Safety Employee Appeal Board:] A[n] public safety employee appeal board is hereby established, which shall consist of three (3)

members appointed by the Mayor, with the advice and consent of the City Council. Their term of office shall be for three (3) years; provided however, that of the first appointments, one shall serve until June 30, 2019, and another to serve to June 30, 2020, and another member to serve until June 30, 2021. In the month of June 2019, and every year thereafter, one member shall in like manner be appointed for the term of three (3) years to take the place of the member whose term shall next expire. If a vacancy occurs, it shall be filled by appointment by the Mayor, with the advice and consent of the City Council, for the unexpired portion of the term. The Mayor may remove any member of the of the public safety employee appeal board for cause, after public hearing upon written charges, if a public hearing is requested. Any member may serve more than one term if re-appointed. [from the following panel of eligible city officers: the chief administrative officer, department directors and division managers. Each panel shall be appointed by the mayor or the chief administrative officer, if so designated by the mayor.]

3-7B-3[2]: [APPOINTMENT OF MEMBERS:] [ORGANIZATION:]

- A. [Qualifications:] No member of the public safety employee appeal board shall, during the member's tenure in office, hold any other public office, nor shall such member be a candidate for any other public office. Not more than two (2) members of the public safety employee appeal board shall at any one time be of the same political party.
- B. [Selection Of Chair:] The public safety employee appeal board shall organize by selecting one of its members to be chair.
- C. [Establish Rules And Regulations:] The administration shall adopt policies implementing the appeal process authorized by this Article.
- D. [Compensation:] Each member shall receive twenty five dollars (\$25.00) per diem for each meeting of the board attended; provided however, that no member shall receive more than one hundred dollars (\$100.00) in any one month.

~~[For each employee appeal brought before the employee appeal board, the mayor or the chief administrative officer, if so designated by the mayor, shall appoint and assemble three (3) appeal board members from the panel of eligible officers. If the chief administrative officer is authorized by the mayor to make such appointments, the chief administrative officer may appoint himself or herself as one of the three (3) members. Appointment of members should be made so as to minimize conflicts of interest. No director may serve on an appeal board hearing an appeal arising from that director's department. The chief administrative officer will act as chair of any appeal board on which he or she serves, otherwise the chair will be designated as part of the appointment process.]~~

3-7B-4[3]: [TERMS, VACANCIES AND COMPENSATION DUTIES AND RESPONSIBILITIES:]

The public safety employee appeal board shall hear and decide appeals of sworn employees in the police and fire departments, other than chiefs, assistant chiefs or deputy chiefs, and introductory employees, with respect to discharge, suspension for more than two days without pay, involuntarily transfer from one position to another with less remuneration for any disciplinary reason. Demotions do not include removal of assignment in the police and fire departments. For sworn fire personnel, suspensions of more than 16 hours for a 40-hour work week employee or more than 24 hours for a 56-hour work week employee are eligible for appeal.

- ~~A. Each member appointed to serve on an appeal board panel shall serve until completion of the appeal, unless membership is otherwise terminated by death, disability, or termination of employment. Vacancies in an employee appeal board may be filled by appointment of the mayor, or the chief administrative officer, if so designated by the mayor.~~
- ~~B. No member of the employee appeal board shall receive additional compensation for serving as a member of the board. Hearings of the employee appeal board and administrative matters related thereto may be conducted during normal working hours.]~~

[3-7-4: [RIGHT OF APPEAL:]

- ~~A. Entitlement: All employees of the city having appeal rights, as determined by subsection B of this section, or as otherwise required by law, shall be entitled to appeal to the employee appeal board any action resulting in a discharge or a transfer to a position with less remuneration because of the employee's politics or religious belief, or incident to, or through changes, either in the office of the mayor, members of the city council or heads of departments. No other grounds shall be the basis of an appeal to the employee appeal board.~~
- ~~B. Exceptions: All employees of the city shall have appeal rights under this chapter except for the following:~~
- ~~1. Department directors, deputy directors and the chief administrative officer;~~
 - ~~2. All statutory officers appointed by the mayor, with the advice and consent of the city council, including the city attorney, the city recorder, the city engineer, the city treasurer, and the finance officer (whether or not appointed as department directors or division managers);~~
 - ~~3. Division managers or other superintendents of the city;~~
 - ~~4. "Part time employees", as defined under section 2-6-3 of this code;~~

5. ~~Probationary employees and introductory employees, as defined under section 2-6-3 of this code;~~
6. ~~Temporary employees and casual or seasonal employees, as defined under section 2-6-3 of this code;~~
7. ~~Members of the police department and fire department, including the fire chief, the police chief, and assistant or deputy chiefs;~~
8. ~~Personnel assigned to the mayor's office;~~
9. ~~City council staff;~~
10. ~~Other officers or employees appointed by the mayor or chief administrative officer.]~~

3-7B-5: [RULES AND REGULATIONS:]

The following rules shall apply to appeals before the public safety employee appeal board:

- A. **[Written Notice; Hearing:]** An employee appealing, when permitted by these ordinances, shall file a written notice of appeal with the city recorder within ~~ten (10)~~ fourteen (14) calendar days after the subject action. The notice of appeal shall be upon a form approved by the chief administrative officer and available in the city recorder's office. Upon the filing of the appeal, the city recorder shall forthwith refer a copy of the same to the public safety employee appeal board ~~[mayor or chief administrative officer, if designated by the mayor with appointment authority. Upon receipt of the referral from the city recorder, the members who will serve on the appeal board shall be appointed.]~~ The appeal board shall~~[-except as provided below,]~~ set a date for a hearing, take and receive evidence and fully hear and determine the matter which is the subject of the appeal.
- ~~B. **[Informal Discussion Prior To Hearing:]** The appeal board shall not conduct a hearing on an appeal until the officer or employee has had an informal discussion with his or her department director attempting therein to resolve the matters at issue. Said discussion may take place before or after the filing of a notice of appeal. Unless the officer or employee and the department director mutually otherwise agree, only those two (2) parties shall be present during the informal discussion, and no formal record or tape recording of the discussion will be kept. The appeal board shall proceed with a hearing if it finds that a department director has failed or refused to conduct the informal discussion required by this subsection within ten (10) working days after the officer or employee has requested such a discussion.]~~
- ~~B~~C. **[Personal Appearance; Representation:]** The officer or employee shall be entitled to appear in person and to be represented by counsel (who may be, but is not required to be, an attorney at law), to have a public hearing, to confront the

witness whose testimony is to be considered and to examine the evidence to be considered by the appeal board.

C. **[Review by Mayor]** An employee may request the final action of the public safety employee appeal board to be modified or vacated by the mayor within fifteen (15) days of its issuance. After such period, the final action of the board shall not be subject to further appeal or proceeding within the jurisdiction of Ogden City. This provision does not affect the date of issuance of final action or order of the board for purposes of appeal to the court of appeals.

D. **[Appeals To The Court Of Appeals:]** A final action or order of the public safety employee appeal board may be appealed to the court of appeals by filing with that court a notice of appeal within thirty (30) days after issuance of the final action or order.

E. **[Decision ~~[By Secret Ballot:]~~** The decision of the appeal board [~~shall be by secret ballot, and~~] shall be certified to the city recorder within fifteen (15) calendar days from the date the matter is referred to it, except that for good cause, the appeal board may extend the fifteen (15) day period to a maximum of sixty (60) days, if the employee and city both consent. Each decision of the appeal board shall require a majority of two (2) votes in favor of the decision to take effect. If the appeal board finds in favor of an employee, the decision shall provide that the employee shall receive his or her salary, or any deficiency in salary, for any period of time during which he or she was wrongfully deprived of the same.

~~D~~[F]. **[Certification Of Decision:]** In the event that the appeal board does not uphold the action which is the subject of the appeal, the city recorder shall certify the decision to the officer or employee affected, and also to the director of the department from whose order the appeal was taken. The officer or employee shall be paid his or her salary, commencing with the next working day following the certification by the city recorder of the appeal board's decision; provided, that the employee or officer concerned, reports for his or her assigned duties during the next working day. The appeal board may award only the relief described in this section.

~~E~~[H]. **[Standard Of Review:]** The standard of review before the public safety appeal board shall be whether the employment action complained of constitutes an abuse of discretion.

3-7B-6: [ADMINISTRATIVE SUPPORT:]

All administrative support, including, but not limited to, record keeping, secretarial, facilities, minutes and notice shall be provided by the city recorder's office.

SECTION 4. Effective date. This ordinance shall be effective immediately upon posting after final passage.

PASSED, ADOPTED AND ORDERED POSTED by the Council of Ogden City,

Utah this _____ day of _____, 2017.

CHAIR

ATTEST:

CITY RECORDER

TRANSMITTED TO THE MAYOR ON: _____

MAYOR'S ACTION: Approved Vetoed

MAYOR

ATTEST:

CITY RECORDER

POSTING DATE: _____

EFFECTIVE DATE: _____

APPROVED AS TO FORM: _____
Legal Date

* The headings, catchlines or catchwords suggested for use in the Ogden Municipal Code and which are bracketed at the beginning of sections or subsections, shall not be considered to be a part of the ordinance adopted herein.



Ogden City Police Benefit Association



**OPBA BOARD
MEMBERS**

Ogden City Council Members,

October 25th 2016

**PRESIDENT
Travis Kearl
801-721-2027**

The Ogden Police Benefit Association has been involved throughout the process of revising the current status of Civil Service. We were pleased to be invited into the meetings and that our input in those meetings was heard and taken into consideration. The OPBA supports the Police Administration as well as the City Administration in this process. We were able to voice concerns and have supported the positive outcome we feel will be the result of this change. We also acknowledge and appreciate the long hours and hard work that has gone into this process and will continue to support it through finalization.

**FIRST VICE
Zachary Nold
605-214-0538**

**SECOND VICE
John Pickett
801-706-2801**

Sincerely,

**SECRETARY
Brayton Doxstader
801-389-3813**

**TREASURER
Kyle Powell
801-860-2817**

Detective Travis Kearl
OPBA President

**TRUSTEE
AT LARGE**

**TRUSTEE
Travis Gerfen**

Mabey, Amy

From: Miller, Kenneth
Sent: Friday, January 6, 2017 10:17 AM
To: Mabey, Amy
Cc: Atkinson, Scott
Subject: Re: Proposal for Public Safety Employee Appeals Board

Amy,

I would like to thank the council for the invitation to the work session on January 10th to discuss the proposed Public Safety Employees Appeal Board. I have sent off the new proposal to our membership looking for input and concerns for or against this issue. We have monthly meeting with the membership to discuss such topics that are held at the first of every month. The most recent meeting scheduled on January 5th was not held due to lack of attendance. We require 10 members to hold an official meeting. We discuss this issue with those members in attendance and I also asked them to go back to the stations and talk with others on this issue. As I have mentioned before, I did send this out to all members to look over and asked for a response back stating their thoughts on this issue. What I have received back from some of the members are a few concerns with the new proposal. One of them is the possible lack of third party approval for all hiring and promotional lists. This is worrisome to us and could lead to possible favoritism with hiring and promotions. Another area of concern is certain sections of the Policy and Procedural manual. In order to change to this proposed appeals board this policy needs to be changes also. As we have read through it, there are a few sections that we feel contradict each other and would like them changed either in this policy or clarified and discussed internally within our department. We have brought up this issue with Chief Mathieu and are looking at what we can do to remedy this issue. Currently we still do not have anything that is final but we are still working towards it. I hope to have more information on this issue from more of the members by Tuesday for the meeting.

Kenny Miller
President L552
Professional Firefighter of Ogden

From: Mabey, Amy
Sent: Tuesday, December 20, 2016 9:27 AM
To: Miller, Kenneth
Subject: RE: Proposal for Public Safety Employee Appeals Board

Hi Kenny,

You are absolutely invited to attend the meeting and provide comment for your group. We will also invite the representative from the Police Employee Group to comment as well. The meeting will begin at 3:30 pm on January 10, and I'm not certain the order of the items that will be discussed in the meeting so the discussion on the Public Safety Appeals Board may not be right at 3:30 pm.

Thanks again for your thoughtful consideration and for being willing to provide feedback. Wishing you and yours a very Merry Christmas!

Amy Sue Mabey, MPA
Policy Analyst

ADMINISTRATIVE ORDER NO.

ADMINISTRATIVE ORDER AMENDING THE OGDEN CITY PERSONNEL POLICIES AND PROCEDURES MANUAL.

WHEREAS, the Ogden City personnel policy manual requires amendments to various sections pertaining to sworn public safety employees.

NOW, THEREFORE, I, Michael P. Caldwell, Mayor of Ogden, as Chief Executive Officer and pursuant to the authority granted me by Section 2-6-1 of the Ogden Municipal Code, and pursuant to the procedures outlined in Ogden City Administrative Policy No. 1702, hereby order that the Ogden City Personnel Policies and Procedures Manual be amended as follows:

SECTION 1. Section amended. Section 1-12 of the Ogden City Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

1-12: [HIRING AUTHORITY AND PLACEMENT:]

- A. **[Policy Statement:]** It is the policy of the city to fill vacancies with qualified individuals who are able to perform job functions properly, appropriately and adequately. This policy extends to all aspects and phases of the employment life cycle, from job announcement, recruitment, hiring, performance evaluation, discipline and separation. While the city generally recruits and hires from within existing employment ranks, the city reserves the right to accept applications from noncity employees.
- B. **[[Classified] Sworn Public Safety Employees:]** All full-time sworn employees within the police and fire departments, except the heads of the departments, deputy chiefs of the fire department and deputy chiefs of the police department, are ~~[classified]~~ sworn public safety employees and shall be recruited, selected and appointed pursuant to rules and regulations adopted by the mayor and by the chiefs of the police and fire department consistent with administrative policy ~~[the Ogden City civil service commission rules and regulations]~~.
- C. **[Merit and Sworn Public Safety Positions:]** The following guidelines are those the city will generally use and consider when taking action to fill a job vacancy in a merit and sworn public safety position:

1. Former employees with reinstatement rights will be considered pursuant to the reinstatement rights policy in this manual.
2. Vacant positions will be posted for a minimum of five (5) working days in the human resources office and may be advertised in appropriate newspapers, professional journals, ~~[and] publications,~~ and electronic bulletin boards. Announcements will also be distributed ~~[to the various city departments for posting at appropriate work sites]~~ via email and may be distributed to the general public. Applications will then be accepted from current employees, as well as nonemployees, when applicable, ~~[in]~~ on-line through the human resources office until twelve o'clock (12:00) midnight on the closing date contained in the vacancy announcement.
3. Testing procedures applicable to job position qualifications, which serve to apply knowledge, skill and ability to demonstrate successful completion of essential job functions, and as outlined in these rules and procedures shall be conducted by the human resources office, or under their direction and guidance.
4. An eligibility list shall be compiled and the top five (5) eligible candidates shall be certified by the human resources office to the appointing authority for selection to the vacant position. The appointing authority may select any person on the certified eligible list for appointment. In the event the appointing authority has less than five (5) available persons from which to make a selection and no additional names can then be certified, he/she may choose from the certified names available, may elect to postpone filling the vacancy until the names of at least five (5) available persons can be certified (including that the vacancy be opened up to noncity employees), or may fill the position by a temporary appointment. For entry level sworn police and fire vacant positions, the names of ten (10) eligible candidates shall be certified, with one (1) additional name for each vacant position. The appointing authority may select from among any of the certified candidates to fill a vacancy in an entry level position.
5. Division managers of the city may make recommendation for selection to the department director. Subject to the terms and conditions of this hiring procedure and guideline, the department director shall otherwise have final authority in the hiring process. Only those applicants properly certified by ~~[the civil service commission or]~~ the human resources office will be considered for appointment.
6. Anyone who believes these procedures were not followed or who wishes to make an inquiry or raise a concern or issue about the proper and appropriate application of these procedures, may contact the human resources office and file a written inquiry or protest. Any inquiry or protest

by an applicant shall be filed within five (5) days from the date a hiring decision has been made, or shall not be considered.

7. After a period of not more than fourteen (14) calendar days from the date of receipt of a written inquiry or protest, the human resources office shall make a written reply to the petitioner, and a copy of that reply shall be filed with the chief administrative officer and the department director.
8. The city reserves the right to investigate any hiring procedure or process, evaluate and analyze data and information received, and otherwise modify, amend or set aside any hiring decision which violates any policy or the best interests of the city. Such investigations shall be performed as directed by the chief administrative officer.
9. Prior to placement in a position and commencement of work activity for any newly hired employee, a drug and alcohol test shall be performed and completed to determine and verify fitness for duty. (See medical information and examination policy in this manual.)

SECTION 2. Section amended. Section 2-1 of the Ogden City Personnel

Policies and Procedures Manual is hereby amended to read and provide as follows:

2-1: [EMPLOYMENT CATEGORIES:]

The employees of the city are classified into various employee categories that relate to employment status, hiring procedures, grievance procedures, compensation, benefit eligibility and the applicability of certain federal and state laws. These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and the city. Such categories or classifications are subject to change depending upon the requirements of state or federal law or the requirements of city ordinance.

- A. **[Fair Labor Standards Act (FLSA) Classification:]** Each employee is designated as either nonexempt or exempt from federal and state wage and hour laws. Nonexempt employees are entitled to overtime pay under the specific provisions of federal and state laws. Exempt employees are excluded from specific provisions of federal and state wage and hour laws. An employee's exempt or nonexempt classification may be changed only upon written notification by the city management.
- B. **[City Employment Categories:]** The city also places employees in one of three (3) employment categories, which reflect certain job conditions and/or

protections the employee has, or does not have. These three (3) categories are:

1. ~~[Classified Service]~~ Sworn Public Safety Service: This category includes ~~[these]~~ full-time sworn employees of the police and fire departments, except their respective department directors and deputy chiefs ~~[, as required by state law. The classified service can be comprised of full time, qualified part time, part time, casual/seasonal, introductory or temporary employees].~~
2. Merit Service: The merit service includes the employees of the city who are not members of the ~~[classified service]~~ sworn public safety service and are not classified as members of the nonmerit service. The merit service is comprised of ~~[either]~~ full time employees ~~[or as such terms are defined below.]~~
3. Nonmerit Service: Members of the nonmerit service are comprised of:
 - a. The mayor and members of the city council.
 - b. The chief administrative officer, department directors, including the fire chief and the police chief, deputy department directors, division managers, deputy division managers, city treasurer, city recorder, ~~[finance officer]~~ finance manager/comptroller, city engineer, city attorney, court administrator, deputy or assistant city attorneys and prosecutors, and deputy chiefs within the police and fire departments.
 - c. Anyone serving on the mayor's personal staff, including any assistants, or other support staff.
 - d. The executive director, policy analysts serving on the city council staff, or any assistants or other support staff of the city council.
 - e. Assistants or staff to the chief administrative officer.
 - f. Casual or seasonal employees, as defined herein~~[, who are not part of the classified service].~~
 - g. Part time employees, as defined herein~~[, who are not part of the classified service].~~
 - h. Introductory employees, as defined herein~~[, who are not part of the classified service].~~

- i. Temporary employees, as defined herein~~[, who are not part of the classified service]~~.
- j. Student interns, as defined herein~~[, who are not part of the classified service]~~.
- k. Special temporary employees, as defined herein~~[, who are not part of the classified service]~~.

C. **[Additional Categories:]** In addition to the above three (3) categories, employees of the city will also belong to one of the following categories:

1. Nonmerit, Special Employees: Nonmerit, special employees are those members of the nonmerit service who are identified under subsections B3a through B3e of this section, and who have been approved under the city budget, as adopted by the Ogden City council.
2. Full Time Employees: Full time employees are those employees regularly scheduled to work the city's full time schedule. Full time positions are identified and approved under the city budget, as adopted by the Ogden City council.
3. Part Time Employees: Part time employees are those who are regularly scheduled to work twenty-~~none~~ nine (29) hours or less per week. An employee shall be presumed to be "regularly scheduled" as a part time employee, if the employee has not worked more than twenty-nine (29) hours per week, or not worked on a regular basis.
4. Seasonal Employees: Seasonal employees are those who have established an employment relationship with the city but who are assigned to work on an intermittent and/or unpredictable basis. Employees in this category may work for indefinite periods of time; however, such employment must comply with the hour restrictions set forth under the affordable care act (ACA). Please see the human resources division for specific details.
5. Introductory Employees: Introductory employees are those whose performance is being evaluated to determine whether further employment in a specific position with the city is appropriate. Employees who satisfactorily complete the introductory period will enter the other applicable employment category.
6. Temporary Employees:
 - a. Temporary employees are those who are hired as interim replacements to temporarily supplement the work force or to assist

in the completion of a specific project, and whose employment is of limited duration. Temporary employment assignments shall not exceed six (6) months. An additional six (6) months' extension may be granted with the specific approval by the chief administrative officer. (Any decision to approve such extension will take into consideration the requirements for overtime pay and state retirement benefits which may accrue by reason of such extension.) Unless an extension is granted, no person may be appointed as a temporary employee, if it would result in more than six (6) months of service in that position within any calendar year.

- b. Employment as a temporary employee beyond the above periods, or beyond any initially stated period, does not in any way imply a change in employment status. Temporary employees retain that status unless and until notified of a change. Temporary employees may be scheduled to work differing hours each week. Schedules for temporary employees may vary and can even be up to forty (40) or more hours each week.
7. Student Interns: Student intern employees are temporary employees who are hired by the city to provide professional or technical service related to their undergraduate or graduate level education. Student internships are intended to provide cost effective service to the city while providing professional experience for a student. Interns serve on a temporary basis, may not serve more than twenty four (24) consecutive months, and must be registered as students at a college or university at least two (2) quarters or one semester of every academic year. They may serve as employees for no more than twenty nine (29) hours per week during the time in which they are actively registered as a student, and no more than forty (40) hours per week during times of the year in which they are not enrolled in classes. However, they must comply with the hour restrictions as set forth under the affordable care act (ACA). Please see the human resources division for specific details. They may not serve as student intern employees for more than one year after completing coursework for their degree. Interns receive only those employee benefits required by state or federal law.
8. Special Temporary Employees: Special temporary employees are temporary employees who are appointed by the mayor upon terms set forth in a written contract signed by the employee and the mayor or chief administrative officer, and who are employed to carry out special projects exceeding six (6) months in duration whose position is subject to a specific and dedicated funding source, other than the general fund, which is time limited and expected to expire. A special temporary employee shall not fill a grant funded position if by the terms of the grant the position must continue after expiration of grant funding. Except as expressly provided

otherwise in a written employee contract, a special temporary employee is a nonmerit, at will employee, without rights to employee benefits. Furthermore, the providing for employee benefits or other terms of employment in an employee contract shall not convert a special temporary employee's employment status into any other employee category.

SECTION 3. Section amended. Section 2-6 of the Ogden City Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

2-6: INTRODUCTORY PERIOD:

- A. **[Intent:]** The introductory period is intended to give new merit and sworn public safety employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The city uses this period to evaluate employee capabilities, work habits and overall performance. Either the employee or the city may end the employment relationship at will at any time during the introductory period, with or without cause or advance notice.
- B. **[Days Specified:]** All new and rehired employees work on an introductory basis for the first one hundred eighty (180) calendar days after their date of hire, except in the case of police officers whose one hundred eighty (180) day introductory period will begin the date of Peace Officer Standards and Training (POST) certification. Employees who are promoted or transferred within the city must complete a secondary introductory period of the same length with each reassignment to a new position. Any continuous absence in excess of ten (10) working days will automatically extend an introductory period by the length of the absence. If the city determines that the designated introductory period does not allow sufficient time to thoroughly evaluate the employee's performance, the introductory period may be extended for a specified period not to exceed six months.
- C. **[Promotions; Transfers:]** In cases of promotions or transfers within the city, an employee who, in the sole judgment of the department director, is not successful in the new position can be removed from that position at any time during the secondary introductory period. If this occurs, the employee will be allowed to return to his or her former job or to a comparable job for which the employee is qualified, depending on the availability of such positions and the city's needs.
- D. **[Satisfactory Completion:]** Upon satisfactory completion of the initial introductory period, employees enter the designated employment category.

- E. **[Benefits During Introductory Period:]** During the initial introductory period, new employees are eligible for those benefits that are required by law, such as workers' compensation and social security. After completing the introductory status, employees may also be eligible for other city provided benefits, subject to the terms and conditions of each benefits program. Employees should read the information for each specific benefits program for the details on eligibility requirements.
- F. **[Benefits During Secondary Period:]** Benefits eligibility and employment status are not affected during the secondary introductory period that results from a promotion or transfer within the city.

SECTION 4. Section amended. Section 2-7 of the Ogden City Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

2-7: LAYOFF AND REDUCTION IN FORCE PROCEDURES:

- A. **[Intent:]** In this policy the city has established specific procedures by which layoffs or reductions in force shall occur. It is the intent of the city that these procedures serve as guidelines to follow whenever a department, division or citywide reduction in the employment work force may occur. The city desires to follow these guidelines in an effort to set forth some systematic methodology to follow, while still retaining those employees with the necessary skills and abilities in those key or essential jobs to otherwise provide the best possible service and benefit to the public and in the public interest.
- B. **[Modification Of Procedures:]** The city retains the right to modify these guidelines and procedures, as well as to establish others, in order to retain the right to direct and control the work force for the purpose of providing the best, possible service to the public and protect the safety and property of the public in the public interest.
- C. **[Policy Scope:]**
 - 1. Only full time merit and sworn public safety ~~[classified]~~ employees are eligible for protection under this layoff policy. Employees who have been subject to disciplinary suspension or probation during the twenty four (24) months preceding a reduction in force are not protected under this policy.
 - 2. For the purposes of interpreting and enforcing this policy, time in service shall be determined as beginning with the employee's appointment to a full time position, and includes only such actual service time in the employee's

present job family. Service time includes all service time in the most recent appointment including periods of approved leave.

D. [Procedures For Layoff:]

1. Job performance, punctuality, reliability, licenses, certifications, disciplinary status and history, and other job related criteria will be considered by the department director as factors in determining specific layoffs of positions and individuals. Additional factors include special skills, training, knowledge or education possessed by an individual and/or reasonably required to perform the duties of a retained position. If everything else is considered equal between positions and individuals, the person(s) with the least time in service in a job category within a job family will be the first affected by the layoff.
2. Affected employees in the higher classification within a job family will displace employees within the same division in a lower classification in the same job family, or the employees in the higher job classifications will be subject to layoff. Displacement of employees as described herein may only take place within the city division that the layoff occurs; other divisions shall not be affected. When an employee whose position is being eliminated through a reduction in force is offered a position at a lower range in the same job family within the city as an alternative to being laid off, that employee's current salary level may be frozen in the new position until such time as the salary range of the lower position includes the frozen salary, except that after six (6) months the employee's salary level shall be unfrozen and moved to the nearest point within the range of the new position. This may result in a reduction in salary.
3. Laid off employees will receive written notice from the human resources office before the effective date of the layoff and will be provided a predetermination hearing opportunity prior to any layoff. See grievance procedures~~[-civil service rules and regulations]~~, predetermination hearings and other applicable policies.

SECTION 5. Section amended. Section 2-8 of the Ogden City Personnel

Policies and Procedures Manual is hereby amended to read and provide as follows:

2-8: [REINSTATEMENT RIGHTS:]

Subject to position availability, and the terms and conditions of this policy, the city allows certain former, eligible employees to return to their same or lesser class, position or rank within two (2) years from the date of last separation and with

certain credit for former service with the city. Reinstatement rights must be approved by the human resources officer.

- A. **[Eligibility:]** Eligible employees are merit and sworn public safety ~~[classified]~~ employees.
- B. **[Qualifying Circumstances:]** Reinstatement rights shall ~~[be limited to]~~ include:
 - 1. ~~[these are]~~ Former employees who were transferred or promoted from their former position and such transfer or promotion was either set aside or the transferred or promoted employee did not successfully complete the introductory period for appointment to the new position.
 - 2. When it is deemed to be in the best interest of the city, the police chief, fire chief, or a department director may reinstate a former employee provided there is a vacancy and the former employee is qualified for the position and was not terminated for cause.
- C. **[Effect Of Reinstatement:]** Employees who are properly reinstated to their former jobs and departments shall receive full credit for prior employment with the city for the purpose of determining their compensation within a range, grade and class, and for the purpose of determining their rate of accrual of vacation and sick leave benefits. Employees reinstated to their former jobs shall have their appointment service date amended to be the same date as that of their former job, and shall be compensated based upon the applicable job classification and compensation structure of that former job.
- D. **[Laid Off Employees:]** Employees who have been involuntarily separated due to the city's layoff policy and subsequently apply and are rehired by the city within two (2) years of the layoff, shall qualify for the same rights upon rehire; provided, that they shall have no preference in the hiring decision.
- E. **[Different Work Or Position:]** Employees who are rehired by the city in a department, a field of work or a position that is different from their former employment with the city, shall not be entitled to any consideration or benefits under this reinstatement policy.

SECTION 6. Section amended. Section 2-10 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

2-10: [PERFORMANCE EVALUATIONS:]

It is the policy of the city that performance evaluations shall be based on a clear description of the duties to be performed and on fair and nondiscriminatory performance standards. Accordingly, department directors shall maintain current position descriptions and performance requirements for all positions under their control. The city encourages departments to make meaningful distinctions based on relative performance of employees, and strives to ensure fairness in evaluations across city departments. Department directors are responsible for performance evaluations of employees within their departments. The authority for day to day supervision of employees, including completion of formal, written performance evaluations, may be delegated to division managers and supervisors as appropriate. Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day to day basis. Formal evaluations are conducted as follows:

- A. **[Introductory Period:]** Formal performance evaluations may be conducted at the end of an employee's initial period in any new position. This period, known as the introductory period, allows the supervisor and the employee to discuss the job responsibilities, standards and performance requirements of the new position.
- B. **[Scheduling:]** Performance evaluations, other than for sworn public safety officers, are to be scheduled approximately every twelve (12) months, coinciding with the end of the fiscal year. While emergencies or compelling circumstance may effect the completion of a performance evaluation, it is the policy of the city that these be completed by the supervisor within four (4) weeks prior to the end of the fiscal year. Performance evaluations for sworn public safety employees shall be completed prior to the employee's anniversary date.
- C. **[Nonmerit Employees:]** It is the policy of the city to also conduct performance evaluations for nonmerit employees on at least an annual basis, and more frequently as may be appropriate and necessary. Since nonmerit employees generally serve within a closer, day to day relationship with their managers or supervisors, their evaluations may take a less formal tone or form. Informal, and even verbal reviews and discussions may be sufficient to adequately track and maintain supervisory oversights and controls.
- D. **[Other Evaluations:]** Department directors may, upon their own decision and action, conduct other formal, written or informal performance evaluations with their employees outside the requirements of an initial or annual evaluation process. It is the policy of the city to encourage department directors to communicate with their employees on an ongoing and as needed basis, to recognize achievement and accomplishment, and to acknowledge performance in writing from time to time where warranted and appropriate.

- E. **[Additional Evaluations:]** Additional performance evaluations are conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths and discuss positive, purposeful approaches for meeting goals. Supervisors are strongly encouraged to resolve negative performance issues well in advance of the annual performance evaluation to avoid an evaluation that falls below the level necessary to qualify an employee for a performance pay increase.
- F. **[Annual Evaluation Required:]** Performance evaluations shall be conducted at least annually with all employees, including merit, ~~classified~~ sworn public safety and nonmerit employees. Department directors shall review all performance evaluations. The department director may change one or more evaluations upon discussion with the responsible supervisor. The evaluation form shall be signed by the employee, their immediate supervisor and the department director. The evaluation form, including signatures, may be completed electronically, if so directed by the human resources office.
- G. **[Wage Adjustments:]** As discussed elsewhere in this manual, performance evaluations are linked to wage reviews and adjustments. While formal evaluations are performed annually, it is the policy of the city that wage adjustments, when made, are based on the employee's actual work performance, and not based on the mere passage of time (i.e., 1 year). Employees, whose work performance is unsatisfactory, or whose behaviors and interactions with respect to job performance standards are unacceptable, shall not have merited a wage adjustment. (See pay for performance policy found elsewhere in this manual.)
- H. **[Request For Review:]** Employees wishing to request a review of a performance evaluation shall be required to file such request for review directly with their department director and with a copy to the human resources office within five (5) days of the effective date of the evaluation, or they shall forfeit any and all rights of grievance, appeal or review under this or any other policy provision of the city contained in this manual. If the employee cannot resolve the matter with the department director, the employee may file a written request for an administrative hearing within fourteen (14) calendar days from the final decision of the department director. Such request shall be filed with the city recorder on a form available through the city recorder's office. The procedure for administrative hearings is discussed elsewhere in this manual

SECTION 7. Section amended. Section 2-11 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

2-11: [TRANSFERRED EMPLOYEES:]

- A. **[Benefits:]** Transferred employees, who have moved from one department to another, retain the benefits commensurate with both their seniority with the city and their work status in the new transfer. These employees will begin a new introductory period for the new position for work performance only. If a transferred employee is not successful in the position, he/she may be placed back to the old position held immediately prior to the transfer, or to another position, subject to availability and the employee's qualifications.
- B. **[Pay:]** Pay for a transferred employee will be determined by the range established for the position and based upon the employee's longevity and other considerations at time of transfer.
- C. **[Conditions For Occurrence:]** Transfers shall occur with the recommendation(s) of the department director(s) involved and the approval of the human resources officer.
- D. **[Disciplinary Investigation:]** It is the policy of the city to prohibit the transfer of any employee, who is the subject of any current, ongoing or open disciplinary investigation, review or action, or who has been the subject of any disciplinary action within ninety (90) days preceding any consideration for any transfer. The only exception to this policy may be made in the sole discretion of the chief administrative officer when he/she determines that a transfer is in the best interests of the city or a department.
- E. **[City Error:]** If a transfer decision and placement is set aside due to an error on the part of the city, the involved employee shall be allowed to return to their former job without any prejudice to the employee, or to their compensation or benefits, so long as their former position, or one similar to it, is available. If such employee in the full time merit or full time classified service cannot be returned to their former or similar position because a transfer has been set aside, they shall be placed on the reinstatement list and shall be subject to all reinstatement rights and privileges as discussed elsewhere in this manual. (See reinstatement rights.)
- F. **[Complaints; Review Of Decision:]** An employee wishing to file a complaint or request a review of a decision involving the transfer of an employee shall file such a complaint or request directly to their department director and with a copy to the human resources office within fourteen (14) calendar days of the effective date of the transfer. Failure to file within said fourteen (14) days will result in forfeiture of any and all rights of grievance, appeal or review under this or any other policy provision of the city contained in this manual.

SECTION 8. Section amended. Section 2-12 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

2-12: [PROMOTED EMPLOYEES:]

- A. **[Introductory Period; Benefits:]** Promoted employees are those employees receiving a promotion into a new position. These employees will begin a new introductory period for the new position for work performance only. The promotion will have no effect on their benefit status. If a promoted employee is not successful in the new position within the introductory period, he/she may be placed back to the position held immediately prior to the promotion, or to another position, subject to availability and the employee's qualifications.
- B. **[Pay Increase:]** Promoted employees begin receiving any commensurate pay increase established for the position commencing with the effective date of the promotion, and within the applicable range and placement within the range based upon any longevity and other considerations.
- C. **[Conditions For Occurrence:]** Promotions shall be made by the department director(s), subject to approval of the process of selection by the human resources officer.
- D. **[Disciplinary Investigation:]** It is the policy of the city to prohibit the promotion of any employee, who is the subject of any current, ongoing or open disciplinary investigation, review or action, or who has been the subject of any disciplinary action within ninety (90) days preceding any consideration for any promotion.
- E. **[Policy For Promotion:]** It is the policy of Ogden City to promote from within the ranks by filling vacancies with qualified city employees unless determined by the police chief, fire chief, or a department director to be in the best interests of the city. Candidates from all other sources possessing the minimum qualifications will be considered if there is not a sufficient number of suitable candidates to compile an eligible list. Specific procedures exist within city policy to fill vacancies in the sworn public safety [classified] and merit service. (See hiring authority and placement policy in this manual.)
- F. **[City Error:]** If a promotion decision and placement is set aside during the introductory period due to an error on the part of the city, the involved employee shall be allowed to return to their former job without any prejudice to the employee, or to their compensation or benefits, or to another position, subject to availability and the employee's qualifications.

- G. **[Reinstatement:]** If the employee in the full time, merit or full time, sworn public safety [~~classified~~] service cannot be returned to their former or similar position, they shall be placed on the reinstatement list and shall be subject to all reinstatement rights and privileges as discussed elsewhere in this manual. (See reinstatement rights.)
- H. **[Complaint; Review Of Action:]** An employee wishing to file a complaint or request a review of a decision involving the promotion of another employee shall be required to file such a complaint or request for review directly to their department director and with a copy to the human resources office within five (5) business days of the effective date of the promotion, or they shall forfeit any and all rights of grievance, appeal or review under this or any other policy provision of the city contained in this manual.

SECTION 9. Section amended. Section 5-4 of the Ogden City Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

5-4: [LONGEVITY PAY:]

- A. **[Eligibility:]** Subject to the terms and conditions of this policy, all full time merit [~~and full time classified (except sworn police or fire)~~] employees, who complete at least ten (10) consecutive (or cumulative, except for breaks of service of not less than 6 months) years of employment for the city, shall be compensated with an additional amount paid biweekly.
- B. **[Compensation:]** Beginning on the tenth anniversary date of employment, an eligible employee will be compensated at a rate of ten dollars (\$10.00) per month in longevity pay. Beginning on the eighteenth anniversary date of employment, an eligible employee will be compensated an additional ten dollars (\$10.00) per month in longevity pay. Therefore, beginning on the eighteenth anniversary date, the employee shall be compensated at a total rate of twenty dollars (\$20.00) per month in longevity pay.

SECTION 10. Section amended. Section 5-6 of the Ogden City Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

5-6: [ACTING POSITIONS; QUALIFICATIONS:]

Subject to the terms and conditions of this policy, it is the intent of the city to

provide a framework and guideline within which eligible employees may be appointed to acting positions.

- A. **[Applicability:]** This policy applies only to merit service and ~~classified~~ sworn public safety service employees who are being appointed to acting positions. This does not include temporary change of assignment in the police or fire departments even where there is a change of remuneration. ~~[When the acting position is within the classified service, the appointment shall follow the rules and procedures of the civil service commission in filling acting positions.]~~
- B. **[Placement Decision:]** The decision to place an employee in an acting position of another person or position shall be made by the department director, except where the acting position is subject to appointment by the chief administrative officer or the mayor. An employee is appointed temporarily (due to a vacancy or the temporary absence of an incumbent) to an acting position of higher compensation and authority, only when he/she assumes all the functions and authority of the higher position. Appointments shall be reflected by approval of a personnel action form.
- C. **[Compensation:]** Subject to the terms and conditions of this policy, an employee performing work and service within the scope and role of an acting position, as provided herein, shall enjoy the benefit of additional compensation for such work and service. When additional compensation is allowed for such service, an employee shall be compensated at the point in the pay range for the acting position that results in a five percent (5%) increase in the employee's base compensation that was in effect immediately prior to the temporary appointment. Except for certain employees working shift work within the ~~[classified service]~~ sworn public safety service as provided below, an employee shall be compensated only for service in an acting position if the time in service equals or exceeds thirty (30) consecutive days. Employees who meet the thirty (30) day requirement in an acting position will be eligible for acting pay starting on day thirty one (31). Acting pay will not be retroactive to the first day in the acting position.
1. Sworn police personnel performing service in an acting position which is assigned to a ten (10) hour work shift, shall be compensated only for service in an acting position if the time in service equals at least four (4) consecutive full ten (10) hour shifts. Once this criteria is met, the additional compensation begins from the first hour of the acting assignment and will subsequently be paid for any consecutive work hours.
 2. Sworn fire personnel performing service in an acting position which is assigned to a twenty four (24) hour work shift, shall be compensated only for service in an acting position if the time in service equals at least one full twenty four (24) hour shift. Once this criteria is met, the additional

compensation begins from the first hour of the acting assignment and will subsequently be paid for any consecutive work hours.

- D. **[Prohibited Employees:]** It is the policy of the city to prohibit any employee from serving in any acting role, position or capacity, who is the subject of any current, ongoing or open disciplinary investigation, review or action, or who has been the subject of any disciplinary action within ninety (90) days preceding any consideration for any acting role, position or capacity.
- E. **[Maximum Time:]** The maximum length of time any employee shall be allowed to perform work and service in an acting position or capacity is twelve (12) consecutive months. Should the position still be open at the end of twelve (12) consecutive months, the department director, the chief administrative officer or the mayor, as applicable, shall act to either fill the position or it shall cease to exist as applicable.

SECTION 11. Section amended. Section 5-8 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

5-8: [CALLBACK DUTY PAY:]

Sworn public safety [Classified] and merit employees shall receive a two (2) hour minimum amount of paid work time for any call back to duty during an otherwise scheduled off duty workday, except that police officers providing scheduled telephone testimony shall receive a one hour minimum amount of paid work time. If such callback time places the employee in an overtime situation, then overtime is otherwise payable. Telephone calls from work to an off duty employee are not considered callback duty, however, calls of fifteen (15) minutes or longer may be eligible for compensation as paid work time. (See also compensatory time off policy, work schedules and compensation plan policies in this manual.)

SECTION 12. Section amended. Section 5-10 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

5-10: [COMPENSATORY TIME:]

- A. **[Development Of Policy:]** This compensatory time policy has been developed through management-employee discussions and review. This

policy reflects the final "understanding" of management and employees regarding the city's existing compensatory time policy.

- B. **[Defined:]** "Compensatory time" is defined as the accrued time credits an employee may use as paid time off work, subject to department and city policy, at the employee's normal, regular base pay rate. Like the cash equivalent under the city's overtime policy, employees earn one and one-half (1^{1/2}) hours of compensatory time for every hour worked after minimum overtime requirements have been met.
- C. **[Merit Employees And Nonsworn, Classified Employees:]** Department directors may choose by division to compensate merit employees [~~and nonsworn, classified employees~~] for overtime worked with cash or compensatory time. Eligible employees accrue compensatory time in one-fourth (1/4) increments at one and one-half (1^{1/2}) times their regular base pay rate for hours worked over forty (40) in a workweek. Compensatory time for merit employees [~~and nonsworn, classified employees~~] is allowed to accumulate up to a maximum of sixty (60) hours. Accumulated compensatory time will be paid out annually. Any accumulated compensatory time that has not been used as of the final day of the pay period which includes March 15, or December 15, depending on which date is designated by the department director, will be paid out to the employee at his/her regular base pay rate on the [~~second~~] payday following the pay period which includes March 15 or December 15. Department directors shall designate in writing which payout period is in effect for each division eligible to receive compensatory time in lieu of overtime.
- D. **[~~Classified~~ Sworn Police Officers and Merit Employees in the Police Department:]** [~~Classified~~] [~~s~~] Sworn police officers accrue compensatory time in one-fourth (1/4) hour increments at their regular base pay rate for time worked between forty (40) and forty three (43) hours in a seven (7) day work period. Those who work in excess of forty three (43) hours in a seven (7) day work period will accrue compensatory time for this additional time at time and one-half (1^{1/2}). Merit employees in the police department accrue compensatory time in one-fourth (1/4) hour increments at time and one-half (1^{1/2}) of their regular base pay rate for hours worked over forty (40) in a work week. Compensatory time for [~~classified~~] sworn police officers is allowed to accumulate up to a maximum of one hundred [~~fifty six (156)] (100) hours. Compensatory time for merit employees in the police department is allowed to accumulate up to a maximum of sixty (60) hours. [Any accumulated compensatory time credited to a classified, sworn police officer which has not been used as of the final day of the pay period which includes September 30 of each year will be paid out to the officer at his/her regular base pay rate on the second payday following the pay period which includes September 30.] Any accumulated compensatory time credited to a sworn police officer or merit employee in the police department may be carried over to a new~~

calendar year or fiscal budget cycle, but cannot exceed the stated maximum. Accumulated compensatory time may be used at any time pursuant to department leave usage requirements.

E. [Seasonal, And Full Time Golf Course [~~And Dinosaur Park~~] Employees:]

These employees accrue compensatory time in one-fourth ($\frac{1}{4}$) hour increments at straight time pay based on the employee's regular base pay rate for hours worked over forty (40) in a workweek. Compensatory time for seasonal, and full time golf [~~and Dinosaur park~~] employees is allowed to accumulate up to a maximum of two hundred (200) hours. When this maximum has been reached, all additional overtime hours worked must be paid at straight time, regular base pay rates to the employee in the payroll period in which it was earned. Any accumulated compensatory time credited to a seasonal and full time golf [~~and Dinosaur park~~] employee which has not been used as of the final day of the pay period which includes March 15, or December 15, depending on which date is designated by the department director, will be paid out to the employee at his/her regular base pay rate on the [~~second~~] payday following the pay period which includes March 15 or December 15.

F. [Employees In Maintenance And Technical Positions In Public Ways And Parks Division:]

Compensatory time off is only accrued in one-fourth ($\frac{1}{4}$) hour increments at a rate of one and one-half ($1\frac{1}{2}$) times the employee's base rate for hours worked over forty (40) in a workweek. Compensatory time off is allowed to accumulate up to a maximum of two hundred (200) hours. All additional overtime hours worked whenever this maximum has been reached will be paid to the employee at a rate of one and one-half ($1\frac{1}{2}$) times the employee's normal regular base pay rate in the payroll period in which it was earned. Any accumulated, compensatory time remaining unused as of the final day of the pay period which includes March 15, or December 15, depending on which date is designated by the department director, will be paid out to the employee at his/her regular base pay rate on the [~~second~~] payday following the pay period which includes March 15 or December 15.

G. [Time Off Plans:]

1. As allowed under the fair labor standards act (FLSA), Ogden City's policy allows the supervisor of a nonexempt employee to schedule the employee to work a differing number of hours during a pay period. This generally means the employee works more hours during one portion of a pay period, and less hours during another portion of the same pay period. Time off plans are designed to control or limit the accumulation, accrual or payment of earned compensatory time or overtime pay by one or more employees. Employees benefit with reduced work periods while still earning their full time compensation.

2. Department directors can implement time off plans for one or more of their respective employees as a tool to better manage the time, staff, money and other resources available to their department.

3. The following is an example of a time off plan:

If the employee works fifty (50) hours in the first week of the pay period, the first forty (40) hours are at straight time pay and the remaining ten (10) hours must be credited at time and one-half (1^{1/2}), or fifteen (15) hours equivalent to straight time pay. In the second week of the pay period, the employee is scheduled to work twenty five (25) hours only, and is off the rest of the week. The employee earns full compensation, since fifteen (15) hours of equivalent straight time pay is carried into the second week from the first week.

SECTION 13. Section amended. Section 9-6 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

9-6: [EMPLOYEE CONDUCT AND WORK RULES:]

To ensure orderly operations and provide the best possible work environment, the city expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization. Violations of the city's rules of conduct may result in disciplinary action, up to and including termination of employment.

A. **[Violations Of Rules Of Conduct:]** Many of these rules of conduct are outlined in other sections of this manual. The following are examples of violations of rules of conduct contained in this manual:

1. Any behavior, event or condition which violates the conditions of employment with the city as described in any policy in this manual.
2. Any behavior or event which is a conflict of interest, or divulges confidential information for which a policy exists prohibiting such release or publication. (See the city's conflicts of interest and nondisclosure policy in this manual.)
3. Unauthorized or unacceptable use of city equipment or property as described in the city's personal use of vehicles, use of equipment and vehicles and use of electronic communications and mail system policies.
4. A violation of the city's safety standards as discussed in the safety policy.

5. A violation of the city's overtime policy rules and standards.
6. A violation of the work schedules policy in this manual when a change in a work schedule or work activity is unauthorized and unapproved, irrespective of whether the employee benefits from such violation.
7. A violation of the city's sexual harassment or other unlawful harassment policies or any state or federal law prohibiting discrimination against individuals in protected groups or classes.
8. Any behavior or event which subjects an employee to disciplinary review as part of the city's fitness for duty policies.
9. Working under the influence of alcohol or illegal drugs or while abusing legal drugs.
10. Possession, distribution, sale, transfer or use of alcohol or illegal drugs in the workplace, while on duty, or while operating city-owned vehicles and equipment.
11. Unexcused or excessive absenteeism or any absence without notice; excessive or unexcused tardiness.
12. Violations of the city's fitness for duty policy.

B. **[Behavior Resulting In Disciplinary Action:]** In addition to the policies outlined in this manual, the following behavior or conduct may result in disciplinary action, up to and including termination of employment:

1. Actions which violate city ordinances or other local, state or federal laws; including statements or comments which serve as proof or an admission of proof that the employee violated such laws, whether or not a conviction occurred with respect to such violation.
2. Actions which violate administrative or executive orders of the mayor.
3. Violations of applicable departmental rules and procedures.
4. Violations of personnel policies.
5. Theft or inappropriate removal or possession of property.
6. Falsification of any city records, including personnel records, timekeeping records, employee expense reimbursement requests, etc.
7. Behavior or activity which reflects an intent to be dishonest or untruthful.

8. Insubordination or disrespectful conduct or language toward members of the public, superiors or other employees.
 9. Actions which serve to discredit the name, reputation or public mission or interest of the city.
 10. Negligence or improper conduct leading to bodily injury or damage of city-owned property or the property of third parties.
 11. Boisterous or disruptive activity in the workplace; behavior or activity which serves to create disharmony or a disorderly environment without regard for the interest of the city in conducting its business in an efficient, effective and orderly manner.
 12. Fighting or threatening violence in the workplace.
 13. Smoking in prohibited areas.
 14. Possession of dangerous weapons or materials, such as firearms or explosives, except as required or authorized within the employee's scope of employment.
 15. Violation of safety or health rules establish by the city or its departments or divisions, or other safety or health rules or regulations as governed by applicable code or competent authority.
 16. Unauthorized use of telephones, electronic communications or mail systems, city-owned computers and software, or other city-owned equipment or property.
 17. Unsatisfactory performance or conduct.
 18. Unauthorized absence from work station during the workday.
- C. **[Employee Treatment Policy:]** It is the policy of the city to seek reasonable and consistent treatment of all employees and to encourage positive and cooperative relationships among full-time and part-time employees and between employees and supervisors. Nonetheless, the city recognizes that from time to time disputes may arise over actions or discipline as the result of enforcement or interpretation of the policies and procedures of the city and in its manual. Severe or serious disciplinary action may result in suspension, demotion or termination of employees within the scope of the city's policies and procedures.
- D. **[Existence Of Problem Or Grievance:]** When an employee believes a problem or grievance exists which impairs his/her effectiveness in work

accomplishment, he/she should seek to solve any problem or dispute first by discussion with their immediate supervisor. It is the intent of the city to foster relations between employees that are conducive to effective work results by discussing and resolving issues at the lowest possible level.

- E. **[Specific And More Serious Matters:]** In cases where actions and events involve other, specific or more serious matters including but not limited to: sexual or other unlawful harassment, drug/alcohol policy violations, illegal discrimination allegations, and severe discipline which includes suspension, demotion or discharge, the city has set forth other policy to address those issues, as found elsewhere in this manual. (See the predetermination review and appeals procedures policies in this manual.) Employees are encouraged to contact their department director or the personnel office for information related to filing a grievance or an appeal.
- F. **[Mutual Consent Employment:]** Employment with the city is at the mutual consent of the city and the employee, and either party may terminate that relationship at any time. Those employees who are not full-time or qualified, part-time, employees and who do not otherwise enjoy certain job protections within a service classification may be discharged with or without cause at any time. Full-time and qualified, part-time employees in classified and merit service employment categories enjoy rights to appeal certain disciplinary actions taken with respect to their jobs, however, the "at will" employment relationship is not altered thereby. (See predetermination hearings and appeals hearings policies found in this manual.)

SECTION 14. Section amended. Section 9-7 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

9-7: [CONFLICT RESOLUTION:]

- A. **[Intent:]** It is the intent of the city to develop and encourage consistent and clear policies that reflect the standards of work and expected conduct applicable to each employee's position and job requirements. Issues and conflicts can arise in the process of applying and enforcing city policies and procedures. It is the policy of the city that, where and to the extent practicable, issues and conflicts within the work setting and environment be resolved at the lowest possible level in an informal manner that appropriately reflects respect and good faith between individuals.
- B. **[Supervisor:]** When employees are concerned about issues or events pertaining to their work conditions, work environment or their own jobs, they are expected and encouraged to openly and frankly discuss their concerns

directly with their immediate supervisor. If an employee believes it would not be appropriate to discuss a concern with his/her immediate supervisor, then the employee is encouraged to discuss the concern with the next level of supervision in his/her department. In cases where the employee believes it would not be appropriate to discuss his/her concern with any supervisor, then the department director should be contacted and a meeting requested so that the department director can provide specific time to address the employee's concern.

- C. **[[Personnel] Human Resources Officer:]** In cases involving the drug and alcohol use and fitness for duty policy, the sexual (or other) harassment policy, or the city's equal employment opportunity policy, the employee can report his/her concerns directly to the [personnel] HR officer, if he/she believes it would be inappropriate to discuss a concern with their department director.
- D. **[Communication:]** Work review and evaluation of an employee's job performance are among many important factors in determining an employee's success in any job and the employee's accomplishments. Supervisors and department directors are expected to communicate work performance standards and provide feedback to employees on a regular and ongoing basis throughout their tenure within their respective jobs and departments. Likewise, employees are expected to communicate directly and openly with supervisors and department directors on an ongoing and regular basis to determine that they are meeting work goals, job requirements and achieving the results expected of them by their supervisor and department director.
- E. **[Appeal Rights:]** It is the experience of the city that when communications are open and direct, the work environment and atmosphere can be pleasant and productive. Eligible merit employees and those who are in the classified service have certain appeal rights available to them to ensure reasonable and consistent standards are applied. These other measures are covered by applicable city policy. (See also predetermination hearing and appeals procedures policies in this chapter.)

SECTION 15. Section amended. Section 9-9 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

9-9: [APPEALS PROCEDURES:]

- A. **[Intent:]** Subject to the terms and conditions described in this policy, it is the intent of the city to provide a review to employees in eligible employment classifications, who are the subject of serious disciplinary actions involving

suspensions, demotions and discharge. Additionally, eligible employees may request a review, who have a grievance with respect to appointments and/or promotion which directly affect them; or who have a grievance with respect to actions taken toward them based on their own religious or political beliefs.

- B. **[Types Of Review:]** Certain eligible employment classifications are given different appeals review procedures and scope. The city has two (2) [~~three (3)~~] types of appeals reviews. They are [~~the civil service commission,~~] the public safety employee appeal[s] board and the administrative hearing procedure. Eligibility and scope of each of these types of reviews are described below.
- C. **[Written Request Required:]** Eligible employees are required to file a written request for the applicable appeal review proceeding within fourteen (14) calendar days [~~specific time limits~~] from the date of final action by their department director. [~~For police and fire department employees this time limit is within five (5) calendar days. For all other covered employees, this time limit is within fourteen (14) calendar days.~~]
- D. **[Procedural Instructions:]** Specific procedural instructions and proper forms for filing a written request for an appeal review before [~~the civil service commission,~~] the public safety employee appeal[s] board or the administrative hearing procedure are available through the city recorder's office.
- E. **[[~~Civil Service Commission~~] Public Safety Employee Appeal Board:]** The [~~civil service commission's~~] public safety employee appeal board jurisdiction shall be limited to hearing and deciding appeals of employees involving certain disciplinary and employment related issues in eligible employment classifications.
1. Eligible employment classifications include full-time sworn police and fire employees [~~all employees covered by section 10-3-1105, Utah Code Annotated, as amended,~~] except police and fire chiefs and their deputy or assistant chiefs [~~and temporary employees (those working 30 days or less).~~]
 2. Those issues over which the [~~civil service commission~~] public safety employee appeals board has jurisdiction include:
 - a. Appointment, demotion and promotion in the [~~classified civil service~~] sworn public safety service. Demotion does not include removal of assignment in the police or fire departments even where there is a change in remuneration.
 - b. Suspension of more than sixteen (16) hours for a 40-hour per week employee or more than twenty-four (24) hours for a 56-hour per

week employee and discharge of an employee of the [~~classified civil service~~] sworn public safety service.

- c. Removal of any employee of the [~~classified civil service~~] sworn public safety service for cause, including, as example, misconduct, inability or wilful neglect of duty.
3. [~~It is the intent of the city that the jurisdiction of the civil service commission be limited to those matters provided by Utah state law.~~] The composition of the [~~civil service commission~~] public safety employee appeal board, as well as those particulars with respect to participation and service on the [~~commission~~] board, shall be governed by Ogden municipal code, applicable state and federal law, and otherwise subject to the control of the administration of the city.

[F. ~~Employee Appeals Board:~~]

1. ~~The employee appeals board shall have jurisdiction, pursuant to Utah Code Annotated section 10-3-1105 and section 10-3-1106, over employees in eligible employment classifications involving any action with respect to an eligible employee's job specifically with respect to a demotion, a transfer to a position with less remuneration, or discharge from service, and which action was based on an eligible employee's political or religious belief, or incident to or through changes in the office of the mayor, the city council or the director of a department. (See also Ogden City ordinance establishing the employee appeals board.)~~
2. ~~No other grounds other than those described and limited in local and state law shall be, or serve as, the basis of an appeal to the appeals board.~~
3. ~~The composition of members of the employee appeals board and its jurisdiction shall be consistent with section 10-3-1106, Utah Code Annotated, as amended. It is the intent of the city to comply with all legally mandated provisions and limitations with respect to the makeup and jurisdiction of the employee appeals board.]~~

G. [Administrative Hearing Procedure:] All grievances and appeals, not specifically assigned to the ~~civil service commission or the public safety~~ employee appeal[s] board, will be handled under the following provisions:

1. The chief administrative officer (CAO) shall have jurisdiction, pursuant to Utah Code Annotated section 10-3-1105 and section 10-3-1106, over employees in eligible employment classifications involving any action with respect to an eligible employee's job specifically with respect to a demotion, a transfer to a position with less remuneration, or discharge from service, and which action was based on an eligible employee's political or religious belief,

or incident to or through changes in the office of the mayor, the city council or the director of a department. The employee shall exhaust all administrative remedies before appealing to the CAO. This section does not apply to an employee discharged or transferred to a position with less remuneration if the discharge or transfer is the result of a layoff, reorganization, or other non-disciplinary reason.

[4] 2. Under the authority of the mayor and CAO, department directors make employment decisions with respect to the recruitment, screening, employment, training, promotion, discipline, suspension and discharge of employees under their direction. An employee may request an administrative hearing if he/she believes that a condition of his/her employment with Ogden City has been adversely affected by an unjustified action by his/her department director, and that action is not under the jurisdiction of the [~~civil service commission or the employee appeals board~~] public safety employee appeal board.

[2] 3. The administrative hearing is intended to provide city employees with a timely, effective and inexpensive means to dispute adverse employment actions. In order to have an administrative hearing, the affected employee must submit a written appeal to the city recorder within fourteen (14) calendar days of the department director's notice of decision.

[3] 4. Administrative hearings will be scheduled as soon as reasonably possible. It is the goal of the city to hold administrative hearings within ninety (90) days of the submission of the written appeal to the city recorder. This hearing will give the interested parties the opportunity to present evidence, information, witness(es), records and/or reasons as to why the action taken by the city or the employee was or was not appropriate. Reasonable notice stating time, place and subject matter shall be given to all interested parties. Both parties, the city and the employee, shall be considered interested parties to the hearing. Either party may be represented by an attorney, or other person, if desired, at its own cost.

[4] 5. The hearing officer shall appoint [~~a secretary~~] the city recorder or the recorder's designee to keep an official record of the hearing. An audiovisual recording of the hearing can only be made under the direction and with the consent of the hearing officer. After conducting the administrative hearing, the hearing officer shall have thirty (30) calendar days to issue written findings of fact, conclusions based on those findings, and a written decision or order based on those conclusions. The written decision shall be filed with the city recorder and sent to the appropriate department director and mayor, and mailed to the employee by certified mail, return receipt requested, or acknowledged personal delivery.

[5] 6. An administrative hearing decision can be modified or vacated by the mayor within fifteen (15) days of its issuance. After such period, the hearing officer's written decision or order will be considered final and shall not be subject to further appeal or proceeding within the jurisdiction of Ogden City.

SECTION 16. Section amended. Section 10-1 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

10-1: [EMPLOYMENT TERMINATION:]

- A. **[Types Of Termination:]** Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. There are two (2) general types of termination: voluntary and involuntary.
1. Voluntary: Termination initiated by the employee. Some examples of voluntary terminations include resignation, medical termination and retirement.
 2. Involuntary: Termination initiated by the city. Some examples of involuntary termination include layoff or reduction in force, medical termination, loss of certification or qualifications and performance-related or disciplinary termination.
- B. **[Exit Interview:]** The city generally desires to schedule exit interviews at the time of employment termination. The exit interview will afford an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to the city or return of the city-owned property. Suggestions, complaints and concerns can also be voiced. Exit interviews are scheduled and conducted by the ~~[personnel]~~ HR office. Supervisors and department directors should notify the ~~[personnel]~~ HR office of any impending separation so that exit interviews can be coordinated.
- C. **[Predetermination Hearing:]** Employees in the merit or ~~[classified]~~ sworn public safety service also have specific rights to a predetermination hearing to hear and answer charges and reasons brought against them by management with respect to covered actions that result in discharge. [~~See predetermination hearing policy.~~]
- D. **[At Will Termination:]** All other employees, except by specific written agreement signed by the mayor or the chief administrative officer for the

mayor, can be terminated at will, with or without notice. Likewise, employees have the right to terminate employment with the city at any time, with or without notice.

- E. **[Benefits:]** Employee benefits are affected by employment termination in the following manner. All accrued, vested benefits that are due and payable at termination will be paid under the policies of this manual and any applicable city ordinance, state or federal law. Some benefits may be continued at the employee's expense if the employee so chooses. The employee, spouse and any dependents will be notified in writing of the benefits that may be continued and of the terms, conditions and limitations of such continuance. (See also benefits continuation policy (COBRA) elsewhere in this manual.)
- F. **[Notification Of Qualifying Events:]** This policy and its provisions are not intended to interfere with, nor shall they be construed or interpreted to any extent to interfere with, the proper adherence to the procedures and protocols established in appeals and grievance policies found in this manual. It is the employee's responsibility to notify the ~~[personnel]~~ HR office of a qualifying event, such as when the employee divorces, or upon the birth or death of a family member, or when a covered dependent ~~[marries or]~~ attains their twenty ~~[fifth]~~ sixth (2[5]6) birthday.

SECTION 17. Section amended. Section 10-3 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

10-3: [MEDICAL TERMINATION:]

- A. **[Question Of Ability:]** A question may arise about the medical ability of a merit or ~~[classified service]~~ sworn public safety employee to continue to fulfill and carry out the duties and essential functions of the employee's job. Such a question can arise whenever evidence, information or observation exists which serves to form a reasonable suspicion about whether or not the employee is capable or able to perform his/her job duties to meet the expected performance standards and/or qualifications of his/her position and with respect to the requirements of the job.
- B. **[Examination:]** Whenever a question arises about a merit or ~~[classified service]~~ sworn public safety employee's medical ability to meet the expected performance standards and/or qualifications required in his/her job, the city reserves the right to request a medical health examination be conducted by a licensed medical practitioner of the city's choosing and at the city's expense. This medical health examination may be called for and initiated at the request of a department director or division manager and upon showing sufficient

cause and evidence to support a conclusion that a reasonable suspicion exists to question the medical ability of the employee to perform the functions and tasks required to meet the standards or qualifications of the job.

- C. **[Notification To Employee:]** The employee shall be notified in writing of any question about the employee's medical health and the need for a medical examination. Medical examinations shall be scheduled within a reasonable period of time. The city selected medical practitioner shall certify the results of the examination in writing and shall file a written copy of those results with the ~~personnel~~ HR officer, who shall be responsible for distributing copies of same to the employee and the employee's respective director.
- D. **[Leave Of Absence:]** If the results of the examination affirm and support a conclusion that the medical health of the employee is not sufficient to meet the requirements and qualifications of the job, the employee may be placed on a leave of absence. The terms and conditions of any leave shall be subject to the family and medical leave policy of the city, as described in this manual.
- E. **[Notice Of Medical Termination:]** If an employee is unable to perform the full duties and essential functions of the job due to the employee's health condition or disability, the city will send a written notice to the employee. The notice shall inform the employee that should the employee not return to full duty in the job with acceptable medical verification within thirty (30) calendar days from the date of the notice, medical termination from employment in the position shall occur. The thirty (30) day notice may be given at any time that the city believes the employee is not medically fit, and may run concurrent with the final thirty (30) days of family and medical leave, as described in this manual.
- F. **[Applying For Available Job:]** If the employee cannot return to full job duty, the employee may apply for any available job for which they are qualified and medically able (by written medical evidence), subject to the established hiring procedures and applicable policies of the city.
- G. **[Appeal:]** If the employee is dissatisfied with the medical determination obtained from the above procedures, the employee may file an appeal of the medical determination and the employee's termination of employment through the applicable established appeals procedures of the city. The cost of any medical evaluations obtained by the employee shall be paid by the employee. (See appeals procedures policy in this manual.)

DATED this _____ day of _____, 2016.

Michael P. Caldwell, Mayor

ATTEST:

City Recorder

APPROVED AS TO FORM: _____
Legal Date

DRAFT

OGDEN CITY
CIVIL SERVICE COMMISSION
RULES AND REGULATIONS

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Effective Date: May 13, 2015

INTRODUCTION

Utah State Law directs that all appointments and promotions in the classified service of the city shall be made subject to the rules and regulations of the Civil Service Commission. Classified service consists of all places of employment in the police and fire departments.

It is also intended by these rules to provide a working policy of personnel administration within which both the employees in the classified service and administrators can cooperate on a friendly basis with complete assurance that all personnel problems will be settled upon their merits and that all interested parties, including the public, will have just and equitable treatment.

These rules are authorized by Section 10-3-1006, Utah Code Annotated.

CHAPTER 1

DEFINITIONS

1-1 Application of Definitions

For the purpose of these Civil Service Rules, the words and phrases defined in this chapter shall have the meanings in this chapter ascribed to them, unless it is apparent from the content that a different meaning is intended.

1-2 Appointing Authority

The term “appointing authority” as used in these rules refers to the police chief and the fire chief or such chief’s appointee who has been authorized by the Mayor to appoint and to remove subordinates in such department.

1-3 Appointment

The term “appointment” means the designation of a person, by due authority, to become an employee in a position as provided for in these rules.

1-4 Certification

The term “certification” means the official notification to the appointing authority of those qualified candidates who may be appointed to a vacant position in the classified service.

1-5 Class or Class of Positions

The term “class or class of positions” means a group of positions established sufficiently similar in respect to duties and responsibilities that the same descriptive class title may be used to designate each position allocated to the class, that the same entrance qualifications may be required of incumbents in the class, that the same tests of fitness may be used to choose qualified employees, and that the same range of pay may be made to apply with equity under the same, or substantially the same, employment conditions.

1-6 Class Specification

The term “class specification” means a written statement describing the duties, responsibilities, and entrance qualification standards of a class of positions.

1-7 Class Title

The term “class title” means the designation given under these rules to a class and to each position allocated to the class.

1-8 Classification Plan

The term “classification plan” means the plan of classification and grading of all positions in the classified service.

1-9 Classified Service

The term “classified service” shall consist of all places of employment now existing or hereafter created in or under the police department and the fire department except the head of said departments, deputy chiefs of said departments and assistant chiefs of the police department.

1-10 Commission

The term “commission” shall mean the Ogden City Civil Service Commission.

1-11 Demotion

The term “demotion” means a change in employment status from one class to another having a lower range of pay.

1-12 Director

The term “director” shall mean the Management Services Department Director, or his or her designee.

1-13 Disciplinary Probation

The term “disciplinary probation” shall mean a condition in which a classified employee with permanent or regular status is placed on probation for disciplinary reasons.

1-14 Eligible

The term “eligible” means a person whose name is on an appropriate eligible list and who is not ineligible for appointment for other reasons.

1-15 Eligible List

The term “eligible list” means a list of the names of persons who are qualified under the law and these regulations for appointment to a position in the classified service, as listed in the order of their estimated merit and fitness for each position.

1-16 Employee

The term “employee” shall mean a person who is legally an incumbent to a position or who is on authorized leave of absence and whose position is held pending his or her return, and means an officer, or person in the classified service.

1-17 Examination

The term “examination” means an oral and/or written test or tests, and the evaluation of the results thereof, or an unassembled evaluation of experience and training used to determine the eligibility and the relative merit and fitness of candidates for appointment to a position in the classified service.

1-18 Merit

“Merit” is the basis by which individuals are evaluated for entry in the classified civil service as an Ogden City employee and subsequently are evaluated for salary advancement, promotion, retention or dismissal from the merit service. It represents an individual’s objectively demonstrated worth to the city, the value of the employee’s attributes and capacities, not his or her personal characteristics, political affiliation, gender or any other non-service related factor.

1-19 Position

The term “position” means a group of current duties and responsibilities assigned by competent authority, requiring full-time or part-time employment of one person.

1-20 Position Description

The term “position description” means a written statement describing the duties, responsibilities and entrance qualification standards of a class of positions. This term is used interchangeably with “class specification”.

1-21 Introductory Period

The term “introductory period” shall mean a working test period during which an officer or employee is required to demonstrate fitness for the class to which appointed by actual performance of the duties of the position, before the employee’s appointment shall be deemed to be permanent or regular.

1-22 Introductory Status

The term “introductory status” shall mean the status of any employee who has been regularly appointed on promotion, transfer or from an eligible list, but who has not completed the introductory period provided in these rules.

1-23 Promotion

The term “promotion” shall mean a change in employment status from one class to another class with a higher range of pay.

1-24 Provisional Employees

The term “provisional employees” shall mean an employee who has provisional status.

1-25 Provisional Status

The term “provisional status” shall mean the status of an employee who has been appointed to fill a position for which no eligible list exists and which status exists for a term limited as provided by these rules.

1-26 Reclassification

The term “reclassification” means a change in allocation of an individual position, not necessarily the employee assigned to the position, by raising it to a higher class, reducing it to a lower class or moving it to another class at the same level on the basis of a substantial change in the kind, difficulty or responsibility of duties assigned to such position. Reclassification shall not be construed as a promotion or demotion.

1-27 Regular Employees

The term “regular employee” means an employee successfully completing the original probationary period and having regular status under these rules.

1-28 Regular Status

The term “regular status” means the status under these rules of an employee in a position in the classified service to which he or she has been appointed as provided in these rules, for which he or she has successfully completed the introductory period and has been accepted as a permanent employee in such position.

1-29 Rules

The term “rules” refers to the Civil Service Rules of Ogden City.

1-30 Suspension

The term “suspension” shall mean the temporary separation from the service without pay of an employee.

1-31 Test

The term “test” shall mean and include:

- a. Assembled test: A written, oral, performance or physical test at a specified time and place at which applicants are required to appear for competitive testing under supervision, and/or
- b. Unassembled test: An evaluation or an appraisal of training, experience, work history, or any other means for evaluating other relative qualifications of applicants without the necessity for their appearing at a specified place.

1-32 Transfer

The term “transfer” shall mean a change of an employee from one city department to another.

CHAPTER 2

GENERAL PROVISIONS AND PROHIBITIONS

2-1 Objective

It is the objective of these rules to establish, in compliance with applicable general law, a system of administrative policies and procedures by which appointment to, promotion, discipline and continued employment within the classified service of Ogden City shall depend on honest, efficient, loyal, energetic and generally meritorious service to the city and its inhabitants in accordance with the highest standards of public ethics, morality and workmanship. To that end, it is intended to protect the honest and efficient public servant from adverse discriminatory action, whether from political or any other improper motive, and thus to secure for the people of Ogden City the services of honest, efficient and experienced public servants. At the same time, it is intended that the administrative officers shall have ample authority to correct where possible, and to remove when necessary, dishonest or inefficient employees without placing upon the administrators an impractical or unfair burden in discharging such unpleasant public duties. The objective and intent, in its essence, is to establish such personnel policies and procedures as will insure to the people of Ogden the maximum in honest and efficient public service by attracting to and retaining in the city's classified service the most meritorious employees available.

2-2 Application of Rules

These rules shall apply to every employee in the classified service as defined by state law.

2-3 Obligations

All officers and all employees in the classified service shall render honest, efficient and economical service in the performance of their duties subject to the penalties invoked by these rules.

2-4 Cooperation

Every officer and employee in the municipal service shall cooperate with the Civil Service Commission and the director in order to fulfill completely the objectives and purposes of state law and these rules.

2-5 Conditions of Employment

No one shall be required as a condition of employment, appointment, transfer, promotion or retention in the services to join any organization or association of employees.

2-6 Basis for Appointment, Promotion, Transfer, Retention, Dismissal

Appointment, promotion, transfer, retention in or termination of services with the classified service will be made on the basis of merit and efficiency.

2-7 Administrative Rules to be Equitable

All administrative rules and regulations with respect to hours of work, vacation, attendance regulation and leaves of absence for any cause for employees in the classified service and the order and manner in which layoffs shall be effected, and similar matters of personnel administration shall be fair and equitable and shall have general application as to all employees within a given class insofar as such equal application is practical, having due regard to the primary objectives of these rules and the efficiency of the service.

2-8 Discrimination Forbidden

No person in the classified service of the city or seeking employment in the classified service of the city shall be appointed, promoted, reduced, removed or in any way favored or discriminated against because of race, political or religious opinion or affiliations, color, sex, national origin or physical handicap.

2-9 Grievance Between labor and Management

Disputes arising out of the interpretation or application of these rules, or other regulations governing standards, classifications, hours of work, employment conditions and the like shall, before taking an appeal as allowed in these rules, be handled by the employee through established supervisory channels prescribed by these rules and any administrative rules issued by the Mayor or the department head.

2-10 Records

The director shall maintain a service record for each employee in the service of the city showing the name, title of position held, the department to which assigned, salary, changes in employment status and such other information as the Mayor or the Commission may require.

2-11 Destruction of Records

Public records shall be maintained or destroyed in accordance with applicable state law.

2-12 Notification of Address

All employees, including those on leave of absence, are required to keep the director informed as to their current home address at all times.

2-13 Violation of Rules, Dismissal Disqualifies

Violation of any of these or other administrative rules or orders or any other conduct prejudicial to the good order, discipline or efficiency of the service shall be grounds for dismissal or other less severe disciplinary action. Any person dismissed for cause may be ineligible for appointment to a position in the classified service for a term of five years. A lesser penalty of suspension or disciplinary probation may be imposed as provided in these rules.

2-14 Service

Whenever in these rules service of any document is required, said service may be made as provided for service of summons by the Utah Rules of Civil Procedure. Service may also be made by the employee's supervisor, the director or the director's representative provided the employee served provides written acknowledgment of being served. Service may also be made by depositing a copy of the document to be served, addressed to the officer or employee, at the employee's last known address as disclosed by the city's records with first class postage pre-paid thereon and registered or certified by the postal authorities.

2-15 Time

Time shall commence to run for reviews or appeals from the date the order appealed from is served on the employee and in the event service is made by mail, at the expiration of three (3) calendar days from the date of deposit in the city post office. Time within which to act, as provided in these rules, shall be computed by excluding the first day and including the last, unless the last day is a holiday, Saturday or Sunday, in which case such days are also excluded and the expiration date shall be the end of the next day which is not a Saturday, Sunday or legal holiday.

2-16 Separability of Provisions

If any rules, subdivision, sentence, clause or phrase of these rules is for any reason held to be invalid, such decision shall not affect the remaining rules, subdivisions, sentences, clauses or phrases.

2-17 Disputed Matters

In disputed matters before the Commission where the city attorney represents the city administration position, the city attorney should not act as legal advisor to the Commission regarding issues pertaining to the disputed matter.

CHAPTER 3

COMMISSION

3-1 Organization – Quorum

The Civil Service Commission shall consist of three members appointed according to state law. The commission shall select a chairman and two members shall constitute a quorum.

3-2 Secretary to the Commission

An officer or employee of the city shall be appointed by the commission to serve as secretary to the commission. It shall be the duty of the secretary to keep a minute book containing minutes of all meetings of the commission and, as soon as practical after each meeting of the commission, to file a copy thereof with the city recorder, provided the minutes shall be approved by the commission before filing. The minutes, after approval, and the copy thereof shall be public records.

3-3 Powers and Duties

The commission shall only have the authority and power conferred upon it according to state law.

3-4 Electronic Meetings

Pursuant to Utah Code Ann. section 52-4-207, commissioners may appear telephonically or electronically according to the following provisions.

- A. If one or more commissioners will participate electronically or telephonically, public notice of the meeting shall so indicate. In addition the notice shall specify the anchor location where any commissioners not participating electronically or telephonically will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.
- B. Notice of the meeting shall be posted at the anchor location and as further required under Utah Code Ann. section 52-4-202.
- C. Notice of the possibility of an electronic meeting shall be given to the commissioners at least 24 hours before the meeting. In addition, the notice shall describe how a commissioner may participate in the meeting electronically or telephonically.
- D. When notice is given of the possibility of a commissioner appearing electronically or telephonically, any commissioner may do so and shall be

counted as present for the purposes of a quorum and may fully participate and vote on any matter coming before the commission. At the commencement of the meeting, or at such a time as any commissioner initially appears electronically or telephonically, the Chair shall identify for the record all those who are appearing telephonically or electronically. Votes by commissioners who are not at the physical location of the meeting shall be confirmed by the Chair.

- E. The anchor location, unless otherwise designated in the notice, shall be the City Council Chambers, 2549 Washington Boulevard, Ogden, UT 84401. The anchor location is the physical location from which the electronic meeting originates or from where the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

CHAPTER 4

RECRUITMENT OF PERSONNEL TO THE CLASSIFIED SERVICE

4-1 Recruitment – Publicized Position Announcements

The director shall publicize each announcement of position openings in the classified civil service to the end that the best available persons will be attracted to the service of the city. Each announcement shall be publicized for a minimum of five (5) working days unless the commission shall direct otherwise.

4-2 Content of Examination Announcements

Each position announcement shall specify the class title, the nature of the work to be performed, the pay rate or range for the class, the minimum or desirable qualifications, the closing date for the filing of applications and the place and manner of filing applications. The director may, in addition, add such other information as deemed advisable.

4-3 Application Forms

Application forms for employment shall be provided by the personnel office. The application form shall solicit such information as conforms with state and federal law; however, enough information must be presented so as to determine the eligibility of the applicant. Any knowingly false statements made on the application form or on resumes shall be grounds for rejection of the applicant and may be grounds for discharge after employment.

4-4 Notice of Accepted Applicants

Each applicant accepted for examination shall be notified in writing by mail, electronic mail, fax, in person, or by telephone of the exact place, date and hour of the examination if an assembled examination is to be used.

4-5 Disqualification of Applicants

A. The director may refuse to examine an applicant or, after examination, may disqualify such applicant, remove his or her name from an eligible list or refuse to certify any eligible on an eligible list if the applicant:

1. Is not a citizen of the United States where the job or position involves security;
2. Does not possess the minimum qualifications required for the class;
3. Is physically unfit for the performance of the duties of the specific class;

4. Has been convicted of a felony or a misdemeanor involving moral turpitude within a period of five years;
 5. Has willfully made any false statements of any material facts in the application or has practiced or attempted to practice any deception or fraud in the examination or in securing eligibility for appointment;
 6. Has used or attempted to use political pressure or bribery to secure an advantage in establishing eligibility for an examination or appointment;
 7. Has within the last five years been dismissed from Ogden City employment for cause;
 8. Has directly or indirectly obtained information regarding examinations to which, as an applicant, he or she was not entitled;
 9. Has failed to submit the application correctly or within the prescribed time limits;
 10. Has otherwise violated provisions of these regulations.
- B. Whenever an applicant is disqualified, notice of such action with a statement of the reason shall be mailed to the applicant. Any regular employee in the classified service who is disqualified shall have the right to appeal under Section 8-3 of these rules. Non-civil service applicants have no appeal rights.

CHAPTER 5

SELECTION OF PERSONNEL

5-1 Objective

The procedures for selection for appointment to the service shall be impartial, of a practical nature and shall be related to those matters which fairly test the relative merit, fitness and ability of the persons examined to discharge the duties and responsibilities of the class to which they seek appointment. In any examination in which the director deems it desirable to do so, there may be included a qualifying test and a minimum qualifying standard. No question in any examination shall relate to political or religious opinion or affiliations or to any other subject matter deemed to be inappropriate or illegal by federal or state law.

5-2 Examinations – Director Ex-officio Chief Examiner

In order to effectuate the provisions of the rules so adopted, the director or the director's appointee shall also serve as chief examiner in examination procedures provided for in these rules.

5-3 Subjects and Types of Tests

As the director may determine, examinations may consist of written, oral, performance or physical tests, any combination thereof, or any other method which will test fairly the qualifications of applicants, including the review of an applicant's work experience and training.

5-4 Written Tests

A written test or tests may be used to measure the knowledge, ability, judgment, personality, emotional stability, aptitude and/or alertness of candidates insofar as such traits are related to ability to perform the work in a class or series of related classes.

5-5 Oral Tests

An oral test may be used to evaluate the personal fitness, experience and training, knowledge, capacity and judgment of candidates. In considering personal fitness, it shall be appropriate to evaluate pertinent personality traits but the evaluation shall be done on a basis which is as objective as possible.

5-6 Performance Tests

Performance tests may be given to obtain from candidates samples of the work of the kind involved in the class of service to which appointment is sought, to rate the work results, speed and accuracy of performance.

5-7 Physical Test

A physical test may be given and may consist of competitive exercises or events designed to measure agility, strength, coordination or fitness as they specifically relate to the physical attributes reasonably necessary to perform the duties and responsibilities of the position applied for. It is in addition to the medical examination made by physicians.

5-8 Experience and Training

Competitive evaluation may be made of the relevance, level, recency, progression and quality of experience and education offered by candidates. This may be done in an oral or an unassembled manner. Reports of superiors, former employers and educational institutions may be considered in this process.

5-9 Medical Examination

An examination by a competent examining physician shall be required of any candidate as a condition of hire. The director, with the advice and consent of the appointing authority, may establish different physical or medical standards for differing types of work. Failure of a candidate to achieve the minimum prescribed standard will result in disqualification for appointment to the specific class. The medical examination shall include a drug and/or alcohol screen consistent with the city's Fitness for Duty Policy.

5-10 Conduct of Tests, Examiners and Compensation

The director, with the approval of the chief administrative officer, may contract with any responsible organization or individual for preparation and scoring of tests. In the absence of such a contract, the director shall be responsible for the performance of such duties. The director shall arrange for the use of public buildings and equipment for the conducting of tests and shall render or secure such assistance as shall be required in connection with the tests including the selection, appointment and use of boards of special examiners when deemed desirable by the director in any phase of the testing process. City officers and employees, acting on such boards, shall serve without additional compensation. Otherwise, such special examiners may be paid their reasonable expenses and/or a daily fee at a rate to be approved by the Mayor.

5-11 Disqualifying Offenses

At the discretion of the director, candidates may be disqualified and rejected for any of the following reasons:

- A. Possession in the examination room of any paper, book or memorandum or anything else which might be of use or assistance in the examination other than as permitted by the director. Such articles shall be surrendered to the examiner in charge before the beginning of the examination.
- B. Willfully copying, looking over the work of another candidate or attempting to do so or permitting any candidate to copy or look over any examination sheet or material in possession of a candidate.
- C. Willfully attempting to indicate identity on an examination paper except as instructed to do so by the examiner in charge.
- D. Tardiness in reporting for the examination or failure to appear at a scheduled examination.

5-12 Qualifying Grades and Weighing of Parts of Examination

The director may, at their discretion, determine a minimum grade for any part or parts of an examination. Any candidate who fails to attain at least this minimum grade shall be considered to have failed the examination and shall not be examined on any further parts if they are planned.

Each part of test of the total examination shall be graded independently. This grade shall be multiplied by the weight assigned to such test; the resulting products shall be added; the total of the products shall be divided by the total weight of all subjects in the examination and the resulting quotient shall be the general average used in determining the order in which the names of candidates shall appear on the eligible list. All tests shall use a composite scale of 100 points for final weighted averages.

5-13 Notification of Results

Each candidate taking a written examination shall be given written notice either by mail, electronic mail or fax to the address as shown on the application, or by personal delivery of the results, the final rating and, if successful, of the applicant's relative position on the eligible list. Any candidate shall have the right to inspect his or her own test paper within fourteen (14) calendar days after notification of results and thereafter only upon order of the commission after consideration of a candidate's written request to the commission with a general statement of the reasons for such request. In no case shall any candidate have the opportunity to inspect his or her test paper more than six (6) months after the

testing process. An error in grading or rating, if called to the attention of the director within fourteen (14) calendar days after the mailing of notices of results of examination, shall be corrected. Correction shall not, however affect certification or appointment previously made. Inspection may not be used to gather information for future tests for the candidate or other persons. Accordingly, a candidate may take limited written notes; however, electronic recordings, scans, photographs or copies shall not be permitted.

5-14 Promotional Tests

As the needs of the service require, promotional tests may be conducted from time to time and may include, in addition to the types of tests listed in these rules, evaluations of performance for the city and accomplishments in special training courses. Candidates from within the classified service shall be given first consideration for promotion or appointment to a position of higher rank if they possess the minimum employment qualifications as set forth in the position description. Candidates from all other sources possessing the minimum qualifications will be considered if there is not a sufficient number of suitable candidates to compile a list of certified eligible as provided in Chapter 6 of these rules. Continuous service with Ogden City in present grade or position may be a factor in promotional examinations and the weight to be given shall be established for each examination by the director but shall not exceed one tenth of the total weight of all subjects. Seniority points will be awarded based on a maximum of 20 years as a full-time Ogden City sworn police officer or a full-time fire department employee, prorated for days of service. All eligible seniority points will be calculated up to and including the final date applications for the promotional are due. Time in grade, educational standards, certification requirements and any other qualification or testing standards shall be clearly stated in all job promotional opportunities.

5-15 Appeals

Any regular employee in the classified service who is adversely affected by an action in connection with the announcement, holding or scoring or examinations, the preparation or cancellation of eligible lists, disqualification of application, removal from eligible list and the making of appointments from such lists may appeal as provided in Section 8-3 of these rules.

5-16 Eligible Lists – Description

As soon as possible after the conclusion of an examination, the director shall prepare an eligible list consisting of the names of persons successfully passing the examination and ranking high enough to be included on the eligible list. The names shall be arranged in order of final ratings received from the highest score down to the lowest qualifying score. The final rating shall be determined by the total of scores received by each candidate for each part of the examination

based upon the relative value assigned to each part of the examination before it was given. Whenever identical final ratings are received, names shall be arranged in the order of the scores on the part or parts of the examination which were assigned the greatest weight.

5-17 Life of Eligible List

Eligible lists shall become effective upon certification by the commission that the list was legally prepared and represents the relative ratings of the names appearing thereon. Eligible lists shall remain in effect one year unless sooner cancelled by the commission and may be extended by the commission for additional six month periods. No list shall remain in effect for more than two years. At any time during the effective term of an eligible list, the director may add thereto names of new eligible qualified by the giving of another examination. These new names shall be added and merged with the existing list in order of final ratings of those added and those already on the list.

5-18 Disqualification and Removal from List

Names of eligible may be removed from an eligible list by the director for any of the following reasons:

- A. Inability of postal authorities to deliver first class mail to the eligible within a reasonable time.
- B. Inability of the director to notify the eligible within a reasonable time due to the applicant's failure to provide accurate contact information.
- C. Conviction of a felony or a misdemeanor involving moral turpitude or general misconduct.
- D. Proof to the satisfaction of the director of fraud or false statements in the application or of fraudulent or improper conduct in connection with an examination.
- E. Probationary appointment to a position in the class in which the eligible list was established or for which the list is deemed suitable by the director.
- F. Certification for appointment to a vacancy three times without appointment.
- G. The request or death of the eligible.
- H. Failure to appear or to arrange for an interview with the appointing authority within a reasonable designated time after notification of certification.
- I. Refusing an appointment without a reason satisfactory to the director.

5-19 Restoration of Names to Eligible List

Names which have been removed from eligible lists may be restored by the director for the duration of the list for either of the following reasons:

- A. Acceptance of a satisfactory excuse for a previous disqualification or removal from an eligible list.
- B. Acceptance of a satisfactory excuse for non-appearance for interview with the appointing authority after certification.

CHAPTER 6

APPOINTMENT TO THE CLASSIFIED SERVICE

6-1 Manner of Filling Vacancies

Except as herein otherwise provided all vacancies in the classified service shall be filled by reinstatement, transfer, demotion, or appointment of eligible persons certified by the director from an appropriate eligible list, if available. In the absence of persons eligible for appointment in these ways provisional appointments may be permitted in accordance with these rules.

6-2 Certification of Eligible List for Appointment

A vacancy may be filled by reinstatement, transfer, demotion, or the following process:

- A. The appointing authority shall make a written request on the proper form for certification of the names of the persons eligible for appointment to the class for which the vacancy exists.
- B. If the commission finds that the required procedures were followed, the commission shall promptly certify the eligible list and request that the director provide the appointing authority with the names of the first ten persons on the eligible list, if the position to be filled is entry level, or the first five persons on the eligible list, if the position to be filled is other than entry level. A lesser number may be forwarded when the required number of names is not available.
- C. If more than one position is available in the same class, the director shall forward one additional name for each additional position to be filled.
- D. In the event the appointing authority has fewer than ten qualified persons from which to make a selection, if the position to be filled is entry level, or fewer than five qualified persons, if the position to be filled is other than entry level, the director shall provide the next available name (or names) in order of eligibility up to the number of names originally provided.
- E. If no additional names can then be provided, the appointing authority may (1) appoint from the list; (2) elect to postpone filling the vacancy until a new eligible list can be certified; or (3) fill the position by a temporary or provisional appointment.
- F. The city shall provide a minimum of five (5) days written notice to the participants in a promotional opportunity of the date, time and place of the

Civil Service Commission hearing where the results of the testing will be submitted for certification.

6-3 Appointment

After interview and any investigation determined necessary the appointing authority may make appointments only from among those certified and shall immediately notify the commission of the person or persons appointed. The appointing authority may reinstate a former employee consistent with Section 6-6 of these rules, or may select any person in the top five on the certified eligible list for appointment if the position is other than entry level, or in the top ten if the position is entry level. If an eligible fails to appear for interview or duty at the time and place directed the eligible shall be deemed to have declined the appointment.

6-4 Temporary Appointments

A temporary appointment to a temporary position for a term of not more than twelve months may be made of a person meeting the employment standards for the class. Employees appointed to temporary positions are exempt from regular appointment as provided in Section 7-4 of these rules.

6-5 Emergency Appointments

To meet the immediate requirements of any emergency condition which threatens public life or property, such as extraordinary fire, flood, earthquake or enemy attack the appointing authority or his or her authorized representative may employ such persons as may be needed for the duration of the emergency without regard to these rules affecting appointments. As soon as emergency conditions permit, such appointments shall be reported to the commission.

6.6 Reinstatement

When it is deemed to be for the good of the service the appointing authority may, upon approval of the Civil Service Commission, reinstate a former employee to the same or lesser class, position or rank within two years from the date of termination provided there is a vacancy and that former employee is qualified for the position and was not terminated for cause. If a former employee is reinstated to a lesser class, position or rank the appointing authority may thereafter, upon the approval of the Civil Service Commission, reinstate the employee to the same class, position or rank held at the time of termination within two years from the date of termination and provided there is a vacancy. The appointing authority may consider any individual approved for reinstatement in addition to the names provided by the director from an active eligibility list for a position for which there is a vacancy.

CHAPTER 7

INTRODUCTORY PERIOD

7-1 Objective

The introductory or working test period shall be regarded as an integral part of the examination process and shall be utilized or closely observing the employee's work, for securing the most effective adjustment of a new employee to his or her position and for rejecting any employee whose performance does not meet the required work standards.

7-2 Introductory Period for Original Appointments

All original appointments and reinstatements shall be tentative and subject to an introductory period of six months from the date of hire, except in the case of police officers whose six-month introductory period will begin the date of Peace Officer Standards and Training (POST) certification.

The appointing authority may grant one extension to this original introductory period. Such extension shall not exceed an additional six months. The department head in charge of each introductory employee shall file with the director progress reports at specified regular intervals throughout the introductory period but at least after the first two months and again after the first five months of the introductory period.

If at any time during the introductory period the services of the probationer are unsatisfactory to the appointing authority, the director shall be notified immediately and the appointing authority shall forward a statement in writing to the introductory employee notifying him or her of the date of termination.

If an unsatisfactory report by the appointing authority is not filed by the end of the introductory period, the employee will be deemed to be satisfactory and his or her employment continued.

The appointing authority shall notify the commission of any extension to the original introductory period at the next scheduled meeting of the commission after such extension.

7-3 Release of Introductory Employee

During the introductory period an employee may be released at any time by the appointing authority if, in the opinion of the appointing authority, the introductory employee's work performance indicates that he or she is unable or unwilling to perform the duties of the position satisfactorily or that the introductory employee's habits and dependability do not merit continuation in the service. Written notice

of release shall be given the introductory employee and a copy filed with the director.

7-4 Regular Appointment Following Introductory Period

Original employees successfully completing the initial introductory period and subsequently receiving regular appointment shall at the time be termed classified employees and receive regular status as provided in these rules.

7-5 Introductory Period on Promotion or Transfer

All promotional and transfer appointments shall be tentative and subject to an introductory period of six months or such longer time not to exceed an additional six months as extended by the appointing authority. Any employee in the classified service appointed for promotion who does not satisfactorily complete the introductory period shall revert back to his or her pre-promotional status and shall be immediately reinstated in his or her former position provided a vacancy exists. Any employee in the classified service transferred to another department who does not satisfactorily complete the introductory period shall immediately revert to his or her previous position provided a vacancy exists. If no vacancy exists in the pre-promotional or pre-transfer position the employee who does not successfully complete the introductory period on promotion or transfer may apply for reinstatement under these rules. Promoted or transferred employees in an introductory period, or who have not successfully completed the introductory period, shall be considered regular employees for purposes of appeal rights under these Rules.

CHAPTER 8

SUSPENSION, HEARING & APPEALS

8-1 Suspension Pending Investigation

An employee may be suspended by the police chief or fire chief, as appropriate, pending the investigation or hearing of any charges against such employee. The suspension shall be with pay unless substantial grounds for suspension without pay are justified.

8-2 Pre-Determination Hearing

- A. Entitlement: Regular classified employees are entitled to a hearing before the chief of the department prior to dismissal, suspension of more than three days (or twenty-four working hours for fire personnel), or demotion.
- B. Recommendation from Supervisor: Upon recommendation from the supervisor of an employee to the chief of the department for disciplinary action, the chief shall establish an informal hearing at which time the employee may appear, with or without representation, and respond either in writing or orally concerning the proposed action.
- C. Hearing Established: Upon recommendation from the supervisor of an employee to the chief of the department for disciplinary action, the chief shall establish an informal hearing at which time the employee may appear with or without representation and respond either in writing or orally concerning the proposed action.
- D. Notice of Hearing: The employee shall be given notice either by certified mail or by personal delivery at least five (5) working days prior to the hearing of the date, time and place of the hearing. Said notice shall also contain a statement of the most severe disciplinary action being considered and a statement setting forth the facts or circumstances leading to the proposed adverse action.
- E. Decision of the Chief of the Department: The chief of the department shall reach a decision within fourteen (14) calendar days from the final date of the hearing.
- F. Notice of Decision and Appeal Time: The employee shall be given notice by certified mail or personal delivery of the decision. If the decision is adverse the employee has five (5) working days from the date he or she receives the decision to submit a notice of appeal to the Civil Service Commission in accordance with these rules.

- G. Continuance and Investigation: If the chief of the department determines additional evidence is needed the chief may continue the hearing and may further investigate or appoint an individual to further investigate. The hearing shall not be continued for more than five (5) working days unless agreed upon by both parties.
- H. Type of Hearing: The hearing shall be informal and shall be conducted in such a manner as to reasonably determine the facts and circumstances relating to the proposed disciplinary action. Either the city or the employee may call witnesses and may record the hearing.

8-3 Appeal Rights

Any regular employee in the classified service who is removed from office or employment for misconduct, incompetency, failure to perform his duties or failure to observe properly the rules of the department or who is adversely affected by the administration of these rules or other city policies and rules may, within fourteen (14) calendar days after notice of such action, file a written request for review of the adverse action with the next higher level of supervision in the city administrative structure, up to the chief of the department. Responses shall be made to an employee's request for review within fourteen (14) calendar days. If a response is not received by the employee within that time period the employee may request a review at the next higher level up to the chief of the department. Pursuant to Utah Code Ann. § 10-3-1012 (2), and successor provisions, the commission has jurisdiction to hear appeals in the case of discharge or suspension of more than three days (or twenty-four working hours for fire personnel). Appeals to the Civil Service Commission shall be within five (5) working days of such action implemented by the chief of the department. Further appeal of matters outside the jurisdiction of the commission alleged by regular classified employees shall be referred to the city to be processed pursuant to its specified grievance procedure.

CHAPTER 9

REVIEW BY FIRE CHIEF OR POLICE CHIEF

9-1 Time for Review

Any regular employee in the classified civil service who is adversely affected by the administration of these rules or other administrative actions made pursuant to these rules may, within fourteen (14) calendar days after notice of such action, file with the appropriate fire or police chief a written request for review provided the affected individual has previously exhausted all applicable appeals as provided in these rules.

9-2 Investigation

Upon filing the request for review if it shall appear therefrom that it was filed within the time prescribed by these rules, the appropriate fire or police chief shall personally, by the director or by other authorized agent, investigate any allegations of fact set forth by the aggrieved person or persons.

9-3 Hearing

The investigation may include the holding of a hearing after reasonable notice by the appropriate fire or police chief or his or her designated impartial representative of all persons concerned as designated.

9-4 Type of Hearing

Said investigation and hearing shall be informal and shall be conducted in such a manner as to reasonably determine the facts and circumstances relating to the action under review. The appropriate fire or police chief or his or her designated impartial representative shall control and direct the conduct thereof.

9-5 Chief of Department Findings and Order

Within thirty (30) calendar days of the date of filing the request for review the chief of the department shall make findings of fact and issue such order as he or she shall deem proper. The findings and order shall be filed with the director and a copy served on the employee or employees. The failure of the chief to file his or her findings and order within the thirty day period shall be tantamount to a sustaining action from which the request for review was taken and permit appeal as provided for in Section 8-3 of these rules.

CHAPTER 10

APPEALS TO THE CIVIL SERVICE COMMISSION

10-1 Employee Appeals – When Authorized

Any regular classified employee may appeal to the commission from any order of the appointing authority by which the employee is discharged or suspended for a period of more than three days (or twenty-four working hours for fire personnel).

10-2 How Taken – Time

Appeals as provided in the next preceding section shall be taken by filing with the secretary of the commission as notice of appeal on the designated form for such appeal. Such notice of appeal must be served and filed within five (5) working days after service upon the appellant of the order appealed from and if not served and filed within the time specified the appeal shall be dismissed.

10-3 Notice of Appeal

The notice of appeal must be in writing and on the form provided for, such addressed to the Civil Service Commission. A copy of the appointing authority's findings and order may be attached thereto. The notice shall show wherein it is contended the order adversely affects the appellant and wherein it is contended the findings and order are erroneous. It must be signed by the appellant.

10-4 Powers of Commission

Subject to state law and for good cause shown upon written petition duly filed and served on the adverse party or on its own motion the commission may make such orders as it deems necessary, extending the time limited by these rules within which any party shall be required to act, except the time to appeal and may require or permit the setting of a hearing, the taking of depositions, the preservation of evidence and the subpoenaing of witnesses and such other matters or things as it deems necessary or desirable for the best interest of the parties, the public and for the full hearing and determination of the matter. It may hold a pre-hearing conference to frame the issues to be tried and to explore the possibility of obtaining admissions of fact from either party and if such conference is held it shall enter an order stating the issues and any admissions or stipulations of fact. In framing the issues it shall not be bound by the issues considered by the appointing authority in his or her findings and order but may, in the interest of justice and when it deems such action to be for the good for the service, consider any relevant issues. The order may be amended from time to time on such terms as may be just. All matters before the commission shall be decided by the preponderance of the evidence.

10-5 Hearing – Procedure

The hearing of said matter shall be at a time, place and day fixed by the commission before at least a quorum of the commission. The parties may appear in person and may be represented by counsel. The appellant is entitled to a public hearing.

The procedure at the hearing shall require that the appellant first establish the grounds on which he or she relies to disprove the action taken by the appointing authority which he or she considers creates the adverse effects. Following the appellant's case the city may enter its rebuttal evidence.

The commission shall provide for a fair hearing and have sufficient reliable evidence upon which to justify any decision.

The right of a classified employee to appeal adverse administrative action subject to the jurisdiction of the Civil Service Commission is undisputed and the city shall not attempt to block a procedurally correct appeal.

10-6 Reporting of or Recording of Proceedings

Every hearing shall be recorded either by certified shorthand reporter or by a mechanical or electronic recording device as the commission may determine. The recording of the transcript shall be preserved for five (5) years and shall not be opened for inspection except by order of the commission or of a court of competent jurisdiction.

10-7 Evidence

At all hearings the commission shall determine the admissibility of evidence and shall use as near as it deems practicable the rules of evidence following in the courts of Utah provided, however hearsay evidence is admissible and its weight and sufficiency shall be determined by the commission.

10-8 Swearing of Witnesses

Every witness at a hearing before the commission shall first be sworn to testify truthfully as provided in Title 78, Chapter 24, Sections 16 to 19 inclusive of the Utah Code Annotated, 1953. The oath may be administered by a member of the commission or by the secretary of the commission.

10-9 Decision – Scope of Order of Review

The commission shall fully hear and determine matters appealed to it, shall determine the factual questions involved, and shall affirm or reverse the decision of the appointing authority, as consistent with law. The findings and decision of

the Civil Service Commission upon such hearing shall be to the chief of the department and shall be final and shall forthwith be enforced and followed by the chief of the department.

Any decision taken under advisement shall be later announced at a duly noticed meeting of the commission. Any decisions of the commission assigned to be drafted by counsel for the prevailing party should be represented to all parties of record for review prior to signing by the commission.

10-10 Grievances Outside Jurisdiction of Commission

Any grievances outside the jurisdiction of the commission alleged by classified employees shall be referred to the city to be processed pursuant to its specified grievance procedure.

CHAPTER 11

ADOPTION AND AMENDMENT OF RULES

11-1 Procedure

Amendments to these rules may be recommended by the Mayor, the CAO, the director, any regular classified employee, personnel office, legal department or by any member of the commission. Any recommendation to amend these rules shall be filed with the office of the secretary of the commission. All recommendations to amend these rules shall be placed on the agenda of the next regular commission meeting allowing at least fifteen (15) days prior public notice.

11-2 Public Hearing and Notice

Prior to adopting any amendments to these rules, the commission shall hold a public hearing thereon. Notice of the proposed amendments shall be provided by posting such notice on an employee bulletin board in the fire and police departments and making available to any regular classified employees a copy of the proposed amendment(s). Additional reasonable methods of notice calculated to provide reasonable notice to classified employees may also be used.

11-3 Adoption

After a public hearing hereon the commission, by majority vote, may approve or reject recommendations on these rules in whole or in part or may modify and approve them as so modified. Amendments shall become effective when approved by the commission. Adopting of the original set of rules shall follow the notice and hearing requirements therein.



APPOINTMENTS FOR THE PUBLIC SAFETY EMPLOYEE APPEAL BOARD

Action: **Approve/Not Approve Public Safety Employee Appeal Board Appointments**

Summary Consideration of this action is contingent on the Council's approval of the proposed ordinance to dissolve the Civil Service Commission and replace this with a Public Safety Employee Appeal Board.

Proposed Board appointments meet all requirements included in the ordinance that is under Council consideration, and each recommended appointment is currently serving on the Civil Service Commission.

Attachment 1. Administrative Transmittal – *Board Appointments*

Administrative Memo Prepared by:

Administrative Contact: Lee Ann Peterson, 801-629-8155

Council Staff Contact: Amy Sue Mabey, (801)629-8629

RECEIVED

NOV 15 2016

**OGDEN CITY
COUNCIL OFFICE**

Ogden City Council Transmittal

Date: November 4, 2016
To: Ogden City Council
Through: Mark L. Johnson, Chief Administrative Officer
From: Lee Ann Peterson, City Recorder's Office
Re: Public Safety Employee Appeal Board
Requested Timeline: As soon as can be scheduled

Background

A new Public Safety Employee Appeal Board has been established to take the place of the Civil Service Commission. The Commission's purpose was to oversee all examinations and establish classified civil service lists from which appointments and promotions were made for positions in the Ogden City Fire and Police Departments. The Commission also heard appeals of classified civil service members who had been disciplined under certain provisions.

The new Board will be an appeal board for sworn Public Safety personnel who have been discharged, suspended for more than two days without pay or involuntarily transferred from one position to another with less remuneration for any disciplinary reason. Non-sworn personnel in the Fire and Police Departments will still have appeal rights; however, they will be handled through the City's Employee Appeal process. The examination and classified civil service lists from which appointments and promotions were made will now be handled by the Human Resources Division and will save time in the appointment process.

A request has been made for the approval of appointments to the Board. The recommended individuals meet all of the requirements and qualifications, as they are the previous Commission's members.

Recommendation

Approval of the requested appointments to the Board.

Documents

Attached is the appointment letter from Mayor Caldwell.



Mayor's Office
2549 Washington Blvd.
Suite 910
Ogden, Utah 84401
www.ogdencity.com

November 4, 2016

Chair Marcia L. White and
Members of the Ogden City Council
2549 Washington Boulevard
Ogden, UT 84401

Re: Advice and Consent Consideration of Appointments to the newly established Public Safety Employee Appeal Board

Chair White and City Council Members:

I respectfully recommend the following individuals be appointed to the Public Safety Employee Appeal Board:

APPOINTMENT

Joe Ritchie – 5969 South 3850 West, Roy, Utah – Mr. Ritchie would be appointed to the new Board with his term to expire June 30, 2019.

Chris Zimmerman – 1815 Mountain Pines Lane, Ogden, Utah – Mr. Zimmerman would be appointed to the new Board with his term to expire June 30, 2020.

Dennis Gay – 3078 North 2575 West, Farr West, Utah – Mr. Gay would be appointed to the new Board with his term to expire June 30, 2021.

Your favorable consideration is appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Caldwell", written in a cursive style.

Mike Caldwell
Mayor of Ogden