

CITY OF OGDEN

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Ogden, Kansas 66517-0843

Council Meeting

July 6, 2011

The Regular Meeting of the Governing Body for the City of Ogden was scheduled for Wednesday, July 6, 2011 at 7:00 p.m. in City Hall.

The meeting was called to order at 7:03 p.m.

The following members were present; Kenneth Carroll, David Ward, Ward Nations, Ed Burch, Brian Still and Mayor Pence. Attorney Irvine was present.

Mayor Pence invited the public to present comments to the Governing Body.

Mayor Pence requested that the Agenda topic of bills of the month be addressed after approval of the minutes. Burch requested an Executive Session for Attorney/Client privilege before James Wood addressing the Council.

Ward moved to address the bills of the month after approval of the minutes, include an Executive Session for Attorney/Client privilege before James Wood addressing the Council and approve the amended Agenda. Seconded by Nations. Motion carried.

Burch moved to approve the minutes of the June 15, 2011 Council Meeting and the June 29, 2011 Special Council Meeting. Seconded by Still. Motion carried.

Ward commented that he reviewed the bills of the month and found them acceptable.

Donald Goff, present, requested an Occupational License for All Cities Enterprises at 522 Riley Avenue. Goff commented that the address would be for an office for the construction business. Goff commented that he would like to place a portable storage container at the site versus a semi-trailer. Goff stated that he has the written permission of adjacent property owners. Goff stated that he would place the portable storage container on a gravel surface and upon its removal restore the site to its original condition.

Mayor Pence commented that Goff would have to contact the Building Inspector/Zoning Administrator for the placement of the portable storage container.

Burch moved to grant Donald Goff an Occupational License for All Cities Enterprises at 522 Riley Avenue. Seconded by Nations. Motion carried.

Allan Guatemala, present, requested an Occupational License for AG Auto Detail at 431 Riley Avenue.

Still recused himself from the discussion of the Agenda topic.

Burch commented that remnants of a sign should be removed from the site.

Guatemala anticipated that a couple of cars per day would be detailed at the site.

Nations moved to grant Allan Guatemala an Occupational License for AG Auto Detail at 431 Riley Avenue. Seconded by Ward. Motion carried.

July 6, 2011

Perry Schremmer, present, requested a Mobile Home Park License for Maplewind Mobile Home Park located at Block 36, Lots 1-38, Block 37, Lots 19-37, Block 44, Lots 5-32, Block 45, Lots 1-38 and Block 47, Lots 1-36 consisting of 140 spaces.

Nations moved to grant Perry Schremmer a Mobile Home Park License for Maplewind Mobile Home Park located at Block 36, Lots 1-38, Block 37, Lots 19-37, Block 44, Lots 5-32, Block 45, Lots 1-38 and Block 47, Lots 1-36 consisting of 140 spaces. Seconded by Burch. Motion carried.

Jon Hutchinson, present, requested permission to park vehicles/boat on the roadway at the east end of the 100 Block of 14th Street.

Mayor Pence commented that the RCPD Officer has stated that the vehicles must be parked with the flow of traffic and not jay parked.

Burch commented that the alley in Block 20, located behind Hutchinson's residence, is obstructed with a neighbor's white truck which is preventing Hutchinson's access to his property resulting in the parking of vehicles on 14th Street. Burch commented that the vehicle obstructing the alley should be ticketed.

Ward commented that if the alley is not obstructed then there is no reason to grant permission to park vehicles on the roadway of 14th Street.

Mayor Pence commented that there shouldn't be a problem of parking the vehicles at the dead end of the street, as long as the center of the roadway is not obstructed. Still commented that he did not want the gate across the Dry Branch Creek Bridge obstructed.

Nations commented that Hutchinson should install a driveway on his property to avoid parking on the street.

Hutchinson agreed that he would park his vehicles and boat on the side of the roadway surface to allow for the City's dump truck access to the property on the east side of Dry Branch Creek.

Ward recused himself from the discussion of the following Agenda topic.

George Dillon was not present.

Burch moved to table George Dillon's request for an adjustment to his sewer charge until he can be present. Seconded by Nations. Motion carried.

Sean Galbraith, present, requested permission to construct a railroad tie retaining wall within the right-of-way at 312 15th Street pursuant to Chapter 4, Article 704.

Galbraith commented that the 300 Block of 16th Street has an asphalt curb and inquired why a curb couldn't be installed in the 300 Block of 15th Street. Galbraith stated that if curbing was installed along 15th Street he would install drain boxes to collect any stormwater flowing across his driveway.

Nations commented that if curbing is installed along the 300 Block of 15th Street the Council could expect property owners along the 400-500 Block of 15th Street to request the same.

Nations suggested obtaining bids for the installation of curbing along the south side of the 300 Block of 15th Street. Burch commented that at the same time the Council could give Galbraith permission to construct the retaining wall should the Council decide not to install the curbing. Burch commented that the Council could decide to waive the Building Permit fee for the retaining wall because Galbraith would be providing the materials for construction.

July 6, 2011

Patrick Cox-BG Consultants, Inc., present, commented that concrete curbing could be substantially cheaper than asphalt.

Ward inquired about the liability of diverting stormwater onto other property by the installation of the curbing. Attorney Irvine commented that there is always the concern when diverting water. Cox commented that containment of stormwater within the curb ultimately ends in the same natural flow channel west of 312 15th Street. Cox opined that there would be no drastic change in the intensity or volume in the natural drainage course in that area.

Burch moved to allow Sean Galbraith to construct a railroad tie retaining wall within the right-of-way of the 300 Block of 15th Street adjacent to 312 15th Street and waive the Building Permit Fee. Seconded by Nations. Motion carried.

Burch moved to solicit bids for the options of installing an asphalt curb and a concrete curb along the south side of the 300 Block of 15th Street. Seconded by Nations.

Attorney Irvine commented that funding of the construction could be done by City-at-large or by creating a Benefit District. Mayor Pence commented that the cost of the construction would have to be determined before deciding whether to proceed with the project and how it would be funded.

Motion carried. Ward voted against.

Patrick Cox-BG Consultants, Inc., present, commented that Richard Frankforter-Maguire Iron, Inc. looked at the water tower and submitted a proposed service contract in the amount of \$2,450 to clean and disinfect the interior tank, inspect the interior and exterior coatings, vents, hatches and screens, and provide a written inspection report, including photos, detailing condition, future servicing recommendations and budget estimates.

Cox commented that the City would have to make arrangements for antenna systems to be de-energized during the course of the project, which is provided for in the contracts with the antenna owners. Attorney Irvine commented that it is the responsibility of the antenna owners to protect their equipment during renovation of the water tower.

Cox recommended upon receipt and review of the inspection report that an investigation into financing the rehabilitation improvements and painting of the water tower be discussed.

Cox stated that it would be the responsibility of the City, with assistance of the contractor, to provide adequate water supply during the project.

Nations moved to accept the Service Agreement as submitted by Maguire Iron, Inc. in the amount of \$2,450. Seconded by Carroll. Motion carried.

Cox commented that prior to rehabilitation of the water tower, he would invite a Maguire Iron, Inc. representative to give a brief presentation to the Council.

Nations moved to recess into Executive Session, until 8:15 p.m., for Attorney/Client privilege. Seconded by Still. Motion carried.

Ward moved to return to the Regular Session. Seconded by Nations. Motion carried.

James Wood, present, commented that he received a letter from the Zoning Administrator notifying him that his appeal of the determination that the warehouse/storage building proposed to be constructed at 123 14th Street was not customarily incidental to his real-estate office at 128 Riley Avenue and consequently was not permitted, was denied.

Wood stated that an appeal of the decision of the Board of Zoning Appeals must be brought before the District Court to determine the reasonableness of the determination.

July 6, 2011

Wood commented that upon review by his Attorney, he was informed that there was a high probability that he would lose his appeal before District Court.

Wood requested the Council to grant a variance to construct his proposed building. Attorney Irvine stated that under the current Zoning Code the Board of Zoning Appeals has the authority to grant variances.

Mayor Pence commented that Wood could request from the Planning Commission a rezoning of the property to C-2 General Commercial Zoning District. Wood commented that he feared the same outcome after going thru with the process again.

Attorney Irvine commented that a Special Use permit would allow the warehouse/storage building in a C-2 General Commercial Zoning District.

Mayor Pence commented that the Zoning Administrator should be able to definitively answer as to what zoning district would allow the type and use of building Wood is proposing to construct.

Wood commented that he has been told that a professional contractor would have to construct the building. Attorney Irvine stated that Wood doesn't have to hire a contractor rather Wood must follow the Building Code. Wood commented that he is being required to provide architectural drawings of the building, which he does not want to do.

Mayor Pence stated that he would contact the Zoning Administrator to attempt to obtain a definitive answer as to how the property is to be zoned for the use Wood has described.

Clerk commented that he reviewed the available data and calculated that a sewer rate of \$3.00 per 1,000 gallons of water consumed, using the three-month winter average basis, would generate the appropriate revenue to cover annual debt retirement and ordinary operating expenses within the Sewer Fund. The annual revenue would offset the annual expenses of the Sewer Fund. The proposed rate would have to be evaluated on an annual basis because consumption could change resulting in a change in revenue.

Attorney Irvine stated that an ordinance would have to be adopted to change the basis upon which the sewer rate charge is calculated.

Mayor Pence stated that customers that use water to wash cars, irrigate lawns and gardens or fill swimming pools are paying a sewer charge based on the water consumed but not entering the sewer system. The proposed sewer rate calculation basis would attempt to compensate for that activity.

Mayor Pence commented that presently no adjustment is given for water leaks because the incentive is to direct the customer to fix the leaks as soon as possible.

Clerk commented that under the proposed sewer rate, an adjustment to the sewer charge could be justified if a water leak occurred during the three months used to calculate the sewer charge.

The consensus of the Council was to direct the City Attorney to prepare an ordinance reflecting the proposed sewer rate change.

Attorney Irvine commented that he has had contact with some of the Howe family members regarding the property located at Block 52, Lots 7-16. Attorney Irvine commented that they are taking steps in the process of removing the mobile homes and are of the understanding that they have abandoned the use of the property as a mobile home park.

Nations inquired whether the names of the mobile home parks listed could reflect their current operating titles. Attorney Irvine stated that it would be possible.

July 6, 2011

Nations moved to adopt Ordinance #666 – Amending Article 7 of Chapter 5 of the Code of the City of Ogden, Kansas, Pertaining to Designation of Certain Parcels as Existing Mobile Home Parks. Seconded by Still. Motion carried.

Attorney Irvine stated that he has prepared a Demolition Agreement for the demolition of 227 Riley Avenue and Greg & Theresa, LLC has signed it.

Attorney Irvine stated that Associated Insulation has requested a letter from the City stating the imminence of the situation to present to KDHE in order to expedite the permitting process. The contractor believes that demolition of 227 Riley Avenue can begin on July 11, 2011. Attorney Irvine commented that contact has been made with Wayne Henson informing him that demolition would commence sometime after July 5, 2011 which effectively suffices for 24-hour notice prior of entering upon the property.

Carroll commented that east-bound drivers on Riley Avenue are turning left at 523 Riley Avenue and being ticketed for crossing a double yellow line.

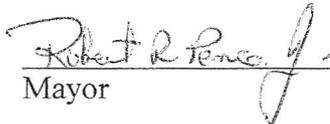
Attorney Irvine commented that it is permissible to legally cross the double yellow line if the driver enters the off-street parking of the business but the maneuver is illegal to stop and park at the curb.

Nations requested that the Community Center Coordinator research the cost of soccer goals.

Burch inquired about filling the City Foreman position. Burch commented that there is a construction trailer located on the south side of the 300 Block of 15th Street that should be removed since it is not presently being utilized. Burch commented that he has prepared a list of potholes that need repaired. Burch commented that he was asked who would be responsible for repairs to sidewalks. Council responded that the property owner is responsible.

Nations moved to adjourn the meeting. Seconded by Ward. Motion carried.
Time: 9:17 p.m.

Vincent L. Kramer II
City Clerk



Mayor