

56
57 Steve Soulier asked about the surfacing of the road at the cemetery. The council confirmed it
58 had been completed.

59

60 **New Business**

61 Open Public Input Forum (Citizens are invited to schedule one of two five-minute times through
62 the City Recorder).

63 No citizens were scheduled to speak at this meeting.

64

65 Update to the City Council regarding the regional Storm Water Impacts Study in progress by JUB
66 Engineers.

67 Jeff Jorgensen gave an update on the progress of the study, and said that the city is about a third
68 of the way through the initial project they asked JUB to perform, in looking at a regional
69 stormwater management plan. He briefly explained the study and that the first issue was to
70 determine where and what the problems were, and said the results of that inquiry is essentially
71 what is in the report given to the City Council. He said the next phase is to sit down with
72 everyone involved and try to map out a course of action; and determine how to manage the
73 stormwater and how it relates to the canals, as well. He further described some of the issues
74 they will be reviewing. He said one of the important criteria to assess is how much water is
75 actually in the canals and how much that changes during a rainstorm, etc. He said they are
76 looking into the installation of monitoring stations along the canal, at a cost of approximately
77 \$13,000 apiece; which will measure water volume, as well as have the ability to perform
78 qualitative samplings. He said a type of weather station that is provided with these monitoring
79 stations will provide information for the various entities which require it. He further discussed
80 other associated items.

81 Al Moser asked Jeff to clarify who was involved with this, as it is not just North Logan. Jeff
82 explained the study included North Logan, Logan City, Hyde Park, Smithfield, the canal
83 companies and others. Jeff also mentioned that the report from JUB would be on the city's
84 internet website under stormwater impact study from JUB; and that people could also obtain a
85 hard copy at the city offices.

86

87 **6:15 Public Hearing** to receive public input on a proposed ordinance eliminating the city's
88 requirement for a 15-foot set-back along canals. Following the public hearing the council may
89 consider adopting either a previously considered ordinance modifying the requirement for set-
90 back along canals, a second version of that ordinance, or adopting this newly drafted ordinance
91 eliminating the set-back.^{#1}

92 Jeff Jorgensen briefly explained the history of the ordinance, and explained the difference
93 between the three versions of the ordinance. He said current city ordinance now in force
94 establishes a set-back on both the east and west sides of the canals; and is designed to do that
95 for new subdivisions as well as existing properties. He explained that the proposed ordinance in
96 version "A" is being proposed such that this would only apply to new subdivisions. He said
97 version "B" is a modification of version "A" in that it only applies only to the west side of the
98 canals. He said version "C" is the version that this evening's public hearing is being held for; and
99 that this version removes the required set-back all together; but does *not* remove the
100 maintenance easement that the canal companies already have; which in most cases is a nine-
101 foot maintenance easement.

102

103 *Mayor Watkins Opened the public hearing at 6:20pm*

104

105 Resident Kay Gilgen expressed his comments and concerns as a landowner who has the canal
106 running through his property. He said in March 2003 there was an issue regarding a subdivision
107 of his property where the city wanted to require trail on the east side of the canal. He said at that
108 time, he met with the Private Property Ombudsman representative, who wrote a letter to the city,
109 received by Jeff Jorgensen and City Attorney, Scott Wyatt, stating that the city was not allowed to
110 have that trail easement, as it would have been a "taking" of his property. Mr. Gilgen said he also

111 was at the public hearing as the president of the board of the canal company, and reiterated that
112 they do in fact have a nine-foot set-back for maintenance and care of the west side of the canal.
113 He said that has been in place for a very long time, and is used weekly during the canal periods.
114 He said if the city wanted to put a 15-foot space, for instance, along the west side of the canal, for
115 them to be able to work, where residents could not put place anything such as a garage, or fence,
116 etc., it would be very beneficial to the canal companies. He said it would be up to the city
117 however, if they wanted to require that. He said there are some places along the west side of the
118 canal where the canal bank is washing away and that nine-foot width is getting narrower and
119 narrower; therefore to have that extra width along the canal bank would be very helpful. He said
120 there are some property owners who have put up fences, and particularly sprinkler systems right
121 along that nine-foot line; and that when then canal company has brought their equipment through
122 there, they have unintentionally broken many of those sprinkler lines.

123
124 Steve Soulier asked Mr. Gilgen about the origin of the nine-foot easement and discussed with Mr.
125 Gilgen the issues of the land still being usable by the landowner; as well as the ability of getting
126 large equipment into the areas where that maintenance easement space is particularly narrow.

127
128 Resident Don Younker said that the canal runs right through his property as well, and explained
129 the history of how the nine-foot maintenance agreement came about and said he was surprised
130 that at the time, someone did not fight to have that space wider. He asked about the status of a
131 proposed trail. He said he and all other owners are very concerned about whatever the City
132 Council does; because the canal company has an easement, but that it is the *landowner* who
133 owns the land.

134
135 Resident Keith Mickel (sic?) said he represents the upper canal company, and his father
136 represents the lower canal company. He said the easement is actually nine feet at *minimum*, and
137 is actually as wide as fourteen feet in many places, legally. He said in terms of the "taking of
138 property" that some of property owners are concerned about, it is his understanding that the
139 North Logan City ordinance states that owners are not allowed within a five foot set-back from the
140 property line; which is not a "taking", that it is just common sense. He said if people are building
141 right up to the canal line, he does not see why the city cannot demand that there is an additional
142 five feet included with the easement to make it fourteen feet. He said some houses are built so
143 close to the canal it is ridiculous, and is very bad planning and unsafe.

144
145 Resident Lydia Embry said she appreciated all of the information given at the meeting by Jeff
146 Jorgensen as well as by the citizens. She said she is unclear how the city arrived at version "C".
147 She said she wondered if any input had been given by canal companies other than the ones
148 represented at that evening's meeting. She asked how many subdivisions had been approved
149 along canals since the original February 2005 canal set-back ordinance had been put in place.
150 She asked if they should then be modified, and how the city was going to clean up the public
151 record on plats that have already been filed. She referred to the Canyon Gates subdivision, and
152 queried as to whether or not they would agree to a wider set-back along either side of the canal.
153 She further discussed the various versions of the ordinance and that she is "baffled" as to how
154 the city has returned to this issue after all of these years. She asked what the city would gain or
155 lose with this change.

156
157 Resident John Wells said he was there representing the Logan, Smithfield, Hyde Park Canal
158 Company. He said in reading the ordinance, that he disagrees with Kay Gilgen in this being
159 considered a "taking" of land, as it appears in reading the ordinance, that it is not written that way;
160 and that the city is just requiring owners to not build, or put trees, fences, etc. in that area. He
161 said the owners will still own the property; and that it is simply like a set-back in a rear or front
162 yard. He said Option "C" eliminates it from the city's ordinance and thereby makes the canal
163 company the "police" for the set-back of the nine-foot easement. He said he believes that that
164 easement is from the actual bank of the canal; and that sometimes as Mr. Gilgen said, the canal
165 washes away, typically on the west side of the canal; and said if the canal bank moves, then the
166 easement does as well, and should remain a nine-foot easement. He said he would hope that

167 the city would look at adopting option "B", which would make this set-back on the west side of the
168 canal. He said fifteen feet would be great; but could also be scaled back to the original nine feet
169 that the canal company has had all these years. He said eliminating it out of the ordinance is
170 going to cause difficulties for both of the canal companies. He said many land owners do not
171 read their titles and property descriptions when they purchase a home; and will put fences, gates,
172 plant trees, etc. which inhibit the canal company from maintaining those waterways. He said the
173 cities also may have some responsibilities in helping to maintain stormwater, which the canals
174 collect; and he would therefore encourage the city to not eliminate it from their ordinance, but
175 consider adopting Option "B".

176
177 Jim Huppi said he is a member of the board for the Logan, Smithfield, Hyde Park Canal
178 Company. He said he views the canal company like a utility, just like the phone company or gas
179 company, etc.; and just like North Logan City provides water, sewer and storm drainage. He said
180 forty years ago, the easements they were requiring for the development of properties were much
181 smaller, because equipment was smaller and things were different. He said things have
182 changed, and he does not see why the easement for the canal cannot be changed, as well. He
183 said he does not feel this is a taking, because easements have been changed before; and that if
184 people know up front when they purchase property with new development that the easement is a
185 certain width, and they cannot build within a certain distance from the canal; then he said he does
186 not feel it is a disadvantage to them in any way whatsoever.

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188 *As there were no further public comments, Mayor Watkins closed the public hearing at 6:38pm.*

189
190 Mayor Watkins explained that a vote will take place at a meeting in the future, but the City Council
191 can discuss it tonight.

192 Steve Soulier asked City Attorney, Bruce Jorgensen to give an overview of the situation.

193 Bruce Jorgensen, explained that many of the canals are not within "deeded" easements, and
194 were originally done where people wanted and needed the water, which was typically as close a
195 house as possible; and that they were very happy to have it done. Therefore, he said, there are a
196 lot of properties that do not have deeded easements. He said the canal water was so essential to
197 life in the valley, especially at that time. He said what the court recognized long ago was that
198 through the years, there has been the use of the ground next to the canal to a point that there is a
199 prescriptive easement; which he said means it has been openly used for at least twenty years or
200 more; and is now recognized as a right. He said they do not gain the ownership or title to the
201 property; but do gain the right to use it as if they owned it. He said property owners need to
202 keep those areas open to allow the canal companies to come in to work. He said the legal case
203 came about because property owners wanted to shut off their land from anyone traveling on it by
204 foot or equipment, which made it impossible for the canal companies to maintain the canals.
205 Bruce said he agrees with Steve that the city cannot take something without compensation,
206 unless there is an essential governmental service or something that is being provided that is
207 related to the use of the property. He further discussed various issues and the friction between
208 property owners and canal companies. He also said he agrees this is similar to a utility; and
209 mentioned that the canal companies have the right to condemn property if they need to. He gave
210 the example that homes built in the city are precluded from building right up to their property line,
211 as it would cause many issues if the homes were that close to the street or to other homes; and is
212 also done to allow utility companies to get in and out. He said having the easements on *both*
213 sides of the canal might be a bit much; but that on the west side where the easement is currently,
214 he sees no problem requiring that the set-back be fifteen feet; because it is allowing for the use of
215 the easement in a practical way. He also agreed that roads *are* wider than they used to be, and
216 equipment is too, and that space is essential to getting the job done. He said he sees nothing
217 wrong with the city taking the view that the city *needs* irrigation water and works with the canal
218 companies; and would go "broke" in its water bank without being able to supplement the culinary
219 water. He said the city's interests go right along with the canal companies' interests, and cannot
220 be separated; and that it is essential for the city to help protect that waterway and the right to
221 keep the canals clean.

222 Steve Soulier asked Bruce about the concept of a “taking”. Steve asked if his understanding is
223 correct that the concept is not limited strictly to the actual deeding of land; that that is one form of
224 taking; but in fact, limiting the use of land that is owned by an individual; and what they can do on
225 that land is also under the concept of “taking”. Bruce said that was correct. Steve said if the
226 council decides that they want six more feet for the easement, then the issue of compensation
227 needs to be determined and the question then becomes who would be responsible for potentially
228 compensating those landowners for that additional six feet. Steve also discussed the confusion
229 about whether or not this should be considered a “set-back” or an “easement”.

230 Bruce explained that a “set-back” typically means that a property owner owns the property and
231 still has the right to use it with some restrictions; but that the owner is required to keep things a
232 certain distance away from the property line. He then explained how utility easements work,
233 which he said is a very similar usage. He said just like with a utility easement, if the owner puts
234 something in that space, such as a tree or a fence; the owner will be required to pay for it if and
235 when the utility company has to remove those kinds of items. He further described various
236 easement situations. He said easements and set-backs often “overlap” because the effect is the
237 same.

238 Jeff Jorgensen gave Steve an example of a similar easement situation and explained what he felt
239 the difference is. He explained that typically, in an easement, a utility has the right to do
240 something on the property and within the easement, such as installing a water line or electrical
241 line, and maintain it after it is installed. A set-back on the other hand just restricts the property
242 owner from building in that set-back area, but does not allow the utility company to install things
243 there.

244 The City Council discussed this further. Steve read aloud some definitions for set-backs and
245 easements and said in his opinion, the moment the city begins limiting what property owners
246 could do on their land, the city shifted from simply a “set-back” into an easement. He further
247 expressed his concerns.

248 Bruce explained that this is a legal kind of “exaction” because it is not illegal, nor disproportionate;
249 and is permitted and provided, particularly in cases like this where the city is not going to “own”
250 the property, but is going to restrict the owner’s use to further the interests of a vital utility in our
251 city, i.e., the irrigation canals.

252 Bruce, Jeff and the City Council continued to discuss this at length.

253 Jeff Jorgensen said the agenda was written in a way that allowed the City Council to take action
254 tonight if they wanted to. Mayor Watkins said that was correct, but suggested they wait, for one
255 reason being that Councilman Lloyd Berentzen was not in attendance, and wanted to be included
256 in the discussion of this.

257

258 Consider the concept plan for a two-lot subdivision of 1.7 acres, to include a flag lot, at
259 approximately 1984 N 800 E. #4

260 Jeff Jorgensen said this was reviewed at a public hearing at the last meeting as a concept plan,
261 and briefly discussed the situation, and said further small details will be worked out in the
262 development plan.

263 Val Heusser, developer, said Cordell Batt said that there is a twenty foot strip that still needs to be
264 deeded to the back property; but that everything else has been taken care of.

265

266 *Steve Soulier made a motion to approve the concept plan with that modification regarding the*
267 *twenty foot strip still needing to be deeded back to the property. Al Moser seconded the motion.*
268

269 Elaine Nelson asked Jeff if the twenty-foot road base would have to be paved with certain
270 materials to accommodate for emergency access vehicles. Jeff said it has to be paved and Mr.
271 Heusser explained that he knew the paving needed to be done.

272

273 *A vote was called and the motion passed unanimously with Kevin Dustin, Al Moser, Elaine*
274 *Nelson and Steve Soulier voting in favor.*
275

276 Consider request from Shane Traveller regarding the open space next to him. #1
277 Jeff Jorgensen briefly explained the site via a map using the overhead projector. He said that this
278 property was developed under the old open space overlay ordinance and briefly described the
279 situation.

280 Shane Traveller explained his request, which essentially he described in a letter he previously
281 sent to the city, which includes the fact that the "open space" under discussion is not maintained
282 and is an eyesore; and they would like therefore to 'clean it up' and make it more presentable to
283 the owners as well as the community in general.

284 Steve Soulier commented that there are many situations like this all over the city, and discussed
285 the ongoing problems with them. He said there is a way to place these lands in the hands of the
286 owners and discussed the possibility of doing a conservation easement.

287 Elaine Nelson brought up an issue regarding the Rocking "R" subdivision, and Mr. Traveller and
288 Mayor Watkins explained how this situation is different.

289 Steve Soulier said there has to be some restrictions on the use of the land, because the open
290 space ordinance was intended to keep space "open". He reiterated that and said a conservation
291 easement could be done.

292 After further discussion about the process that would need to take place in order to make this
293 change happen; Jeff explained that he was simply trying to determine whether this is something
294 the city was interested in pursuing. He said he would like to know the council's interest before the
295 property owners and the city staff take the time and effort to determine what needs to be done.
296 He said since there was obviously interest in pursuing this, he would determine what the process
297 would need to be to make this happen, and that the council would be seeing this issue again in a
298 future meeting.

299

300 Discuss options for a proposal to the County Council regarding the funding and construction of
301 200 East from 1800 to 2500 North. #3

302 Mayor Watkins briefly updated the council on the situation. He said when he made the
303 presentation to the County Council, they chose to not accept the proposal that he gave, and
304 further explained their reasoning. He described plans for various upcoming meetings in order to
305 proceed with further recommendations and to determine funding possibilities.

306 Jeff Jorgensen displayed a picture of the site for the proposed road, and discussed various
307 options with the City Council. He said the next issue to be determined is regarding the cross-
308 section, and he discussed the various options for them and the associated costs. He said
309 another issue to consider is the inclusion of a roundabout on 1800 North. He explained that if a
310 roundabout is not built, the intersection would be controlled with a traffic light, which would cost
311 almost as much. The pros and cons of roundabouts were discussed.

312 Steve Soulier asked about how the proposed funding of the road with County sales tax relates to
313 the future funds coming from the CDA. Jeff Jorgensen and the Mayor explained that the intent
314 was to have the County tax pay for the middle three lanes of the road and then the developers,
315 with possible help from CDA funds, would be responsible for finishing the rest of the road - the
316 outside two lanes and the curb, gutter and sidewalk.

317 Elaine Nelson asked about other cities receiving some of these County sales tax funds and how
318 much they are contributing; in particular River Heights, Nibley, and Logan. Jeff said the other
319 cities are contributing quite a bit more than North Logan was proposing and that was a major
320 issue with the County Council as well. He gave the example of Nibley spending \$876 thousand
321 on a \$5 million project.

322 Kevin Dustin asked if Jeff or the Mayor had an idea about what amount of participation the
323 County was looking for from North Logan. Jeff Jorgensen said he thought the County was not
324 looking for a specific percentage but they did expect some participation. After further discussion,
325 the Council agreed that the city's position should be to support the three lane option with a raised
326 median and a separate bike/pedestrian lane as well as a roundabout on 1800 North. They also
327 agreed that the Mayor and Jeff could basically commit to North Logan's participation in the project
328 in the amount of about \$90,000 (Capital Improvement Funds) plus the CDA funds that were
329 adopted in the City Center Plan for the CDA. The Mayor and Jeff Jorgensen would be meeting

330 again with Lynn Lemon and George Daines from the County to discuss North Logan's
331 participation in funding the road and would then make a proposal to the County following the
332 guidelines that had been agreed upon by the City Council.

333

334 Discuss and consider options for filling a vacancy in the city for the Engineer Technician/GIS
335 Specialist position.^{#3}

336 Mayor Watkins briefly discussed the process he went through with Jeff regarding filling this
337 position. He said they are going to look at getting an intern part time; but an intern that would
338 have more of an engineering tech. background. The city would then potentially work with this
339 person with an employment contract that would lead to full employment at graduation, as a goal.
340 Mayor Watkins said with this, there could be some potential participation in some tuition
341 assistance. He said this will result in a significant savings for the city. As requested by the
342 Mayor, Jeff had created a task list for this position, which he presented to the City Council. Jeff
343 explained that this will be a combination Engineering Tech/GIS person; and the skill combination
344 needed will have to be developed in an employee. Jeff said he has found that this kind of skill
345 mix really doesn't exist yet in the academic field. He said he did not feel that a Civil Engineer with
346 a four-year degree will be necessary; that an Engineer Tech with CAD experience will work. Jeff
347 said he would like the authority to meet with some potential candidates and work out something
348 within the general guidelines he had discussed and make the hire as soon as possible.

349 The City Council continued to discuss further issues, including the various training the person will
350 need; as well as the duties the city will require of the position. Jeff also explained the money the
351 city has already invested in various items and programs (such as the CAD computer software).
352 The council agreed that Jeff could proceed with hiring such an individual if doing so met the
353 general outline discussed.

354

355 Consider resolution adopting the fee to be charged seniors for the senior's luncheon.^{#1}

356 *Kevin Dustin made a motion to approve the resolution as presented. Al Moser seconded the*
357 *motion.*

358

359 The City Council briefly discussed this.

360

361 *A vote was called and the motion passed unanimously with Kevin Dustin, Al Moser, Steve Soulier*
362 *and Elaine Nelson voting in favor.*

363

364 **Reports from city officers, boards, and committees**

365 Jeff mentioned that there is a public hearing being held that same evening in Hyde Park
366 regarding a set of subdivisions going in just west of the new Catholic Church on 800 East. He
367 referred to a map of the site that he gave to the City Council, and said that missing from it is 2900
368 North; and that it does not include a whole, viable road through this area; and further described
369 where the length of that road is located and where it ends. He said Cordell Batt was attending
370 the public hearing to try to make the case for extending the road. Jeff asked the City Council if
371 they agreed that it would be beneficial for a letter to be written urging Hyde Park to support
372 having the road go through, to be signed by Mayor Watkins on behalf of the council. The City
373 Council agreed that it would. Mayor Watkins said he spoke to Hyde Park Mayor, Dave Kooyman,
374 who agreed a letter should be done.

375

376 Jeff Jorgensen also discussed \$42K that was in the budget to put up a shed for salt and sand for
377 snow removal operations. He said the height and design that was intended for that location made
378 it too unsightly for the area. He said they are taking down the Quonset hut that is on the east end
379 of the shop property, and are intending to build the salt and sand storage building on that location
380 instead, on the current foundation pad, which will save the city money. He said the structure will
381 still have the capability of being removed from that location when the city moves its offices.

382 Steve Soulier asked if salt will have a negative impact on the environment. Jeff said this is
383 probably a better place for it to be stored than any place they've reviewed, and will better protect
384 the salt and sand mixture from the rain.

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Elaine Nelson said that the Shady Lane subdivision still does not have a sign. Jeff explained that that will take place when final plat approval is done, which has not occurred yet.

Elaine Nelson said the State of Utah gave North Logan City \$100 for the Healthy Community Award. She said she would like to encourage our new Parks Director to continue this program.

Steve Soulier said he wanted to give his sincere thanks to Jeff Jorgensen and Mayor Watkins for keeping the council better informed on a variety of issues.

Executive session (Closed) to consider the transfer of real property.

Steve Soulier made a motion to close the meeting and go into executive session for the purpose of considering the transfer of real property. Kevin Dustin seconded the motion. A vote was called and the motion passed unanimously with Kevin Dustin, Al Moser, Steve Soulier and Elaine Nelson voting in favor. This occurred at 7:58pm.

Minutes for this written under separate cover.

Steve Soulier made a motion to close the Executive Session and move back into the regular City Council meeting. Elaine Nelson seconded the motion. A vote was called and the motion passed unanimously with Kevin Dustin, Al Moser, Elaine Nelson and Steve Soulier voting in favor. This occurred at 8:19pm.

Steve Soulier made a motion to adjourn the meeting. Elaine Nelson seconded the motion. A vote was called and the motion passed unanimously with Kevin Dustin, Al Moser, Elaine Nelson and Steve Soulier voting in favor.

The meeting adjourned at: 8:20pm

Approved by City Council: December 3, 2008

Transcribed by Marie Wilhelm

Recorded by _____
Scott Bennett/City Recorder

** Due to the fact that there is other documentation related to this agenda item that may not be included in the official minutes of this meeting, the following repositories, cross referenced to applicable agenda items within these minutes, shall indicate where additional documentation can be found for future reference for that agenda item:*

1. Annual City Council meeting binders in the Office of the City Recorder
2. Budget folders in the Office of the City Recorder
3. Special Project folders in the Office of the City Administrator
4. Subdivision Folders in the Office in the City Engineer