

## NORTH OGDEN CITY COUNCIL MEETING MINUTES

October 24, 2017

The North Ogden City Council convened in an open meeting on October 24, 2017 at 6 p.m. at the North Ogden City Office at 505 East 2600 North. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on October 20, 2017. Notice of the annual meeting schedule was published in the Standard-Examiner on January 1, 2017.

PRESENT:	Brent Taylor	Mayor
	Lynn Satterthwaite	Council Member
	Cheryl Stoker	Council Member
	Phillip Swanson	Council Member
	Carl Turner	Council Member
	James Urry	Council Member

STAFF PRESENT:	Jon Call	City Attorney / City Administrator
	Susan Nance	Deputy City Recorder

VISITORS:	Susan Clements	Bob Buswell	Craig Winder
	Dan Webb		

Mayor Pro Temp excused Mayor Taylor from the meeting and called the meeting to order. Council Member Urry offered the invocation and led the audience in the Pledge of Allegiance.

### **ACTIVE AGENDA**

#### **1. PUBLIC COMMENTS**

There were no public comments.

#### **2. DISCUSSION AND/OR ACTION TO CONSIDER LEGISLATIVE APPLICATION TO ENTER INTO AN INTERLOCAL AGREEMENT WITH WEBER COUNTY DESIGNATING NORTH OGDEN CITY AS THE LAND USE AUTHORITY FOR PROPERTY LOCATED AT APPROXIMATELY 744 EAST 1700 NORTH**

A staff memo from City Planner Scott explained the applicant owns one parcel at 744 East 1700 North that is requested to be annexed in order to demolish and build a new residence. The parcel is .885 acres / 38,533 square feet and is located in an

unincorporated county island within the North Ogden City limits. The applicant is requesting that their property be annexed and zoned R-1-8. The North Ogden City Council accepted the annexation petition on October 17, 2017.

The property is in the City's Annexation Boundary Declaration. In order to proceed with the project review while the annexation is being processed; Staff has drafted an Interlocal Agreement with Weber County that designates North Ogden City as the land use authority.

The memo concluded staff recommends the Council approve the attached Interlocal Agreement with Weber County designating North Ogden City as the land use authority for the property located at 744 East 1700 North subject to Weber County's approval.

City Administrator/City Attorney Call reviewed the staff memo and used the aid of an aerial map to identify the location of the subject property.

Mayor Pro Temp Satterthwaite inquired as to why the applicant does not simply follow Weber County ordinances that govern their property until the annexation of their property has been approved by the Council. Mr. Call stated that is an option, but County ordinances differ from City ordinances slightly and given that the owner is petitioning to be included in North Ogden City limits, it is more sensible for them to follow North Ogden City ordinances.

Council Member Urry asked if the annexation petition for this property was initiated by the City or the property owner, to which Mr. Call answered the property owner. He noted that he believes the County is also promoting the annexation as they prefer not to issue building permits for unincorporated properties that should be located within a City's boundaries.

**Council Member Swanson motioned to enter into an Interlocal Agreement A30-2017 with Weber County designating North Ogden City as the land use authority for property located at approximately 744 East 1700 North. Council Member Turner seconded the motion.**

**Voting on the motion:**

<b>Mayor Pro Temp Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

3. **DISCUSSION AND/OR ACTION TO CONSIDER ACCEPTING DANIEL AND ALLISON WEBB'S PETITION FOR PROCESSING TOWARDS ANNEXATION, LOCATED AT APPROXIMATELY 2521 NORTH MOUNTAIN ROAD**

A staff memo from City Recorder Spendlove explained Ryan Webb, Lorelee Webb, Daniel Webb, and Allison Webb submitted an application petitioning for annexation of 2.258 acres located at approximately 2521 North Mountain Road, North Ogden, Utah. As required by Utah State Code the Weber County Surveyor has reviewed the annexation plat map and finds it to be a correct plat. The property being proposed for annexation is within North Ogden City's Annexation Declaration Policy Map. The Petitioner is requesting an RE-20 Zone, which the Planning Commission will review and make recommendation to the City Council at a later date. The petitioner meets all the requirements to start the annexation process and it is recommended that the City Council accepts the petition to start the annexation process. A typical annexation takes (3) – (4) months due mainly to the certification of the petition, 3 week noticing requirements for the City to receive written protests, and Public Hearing. The petitioner will hook up to all City utilities.

City Administrator/City Attorney Call reviewed the staff memo and used the aid of an aerial map to identify the location of the subject property. He noted that a portion of the Webb property is already included in the City's boundaries, but the portion of their property that they now desire to build a home upon is not located in the City.

Council Member Urry asked if the property is located adjacent to the Dunkley property. Mr. Call identified the location of the Dunkley home in relation to the subject property.

**Council Member Urry motioned to accept Daniel and Allison Webb's petition for processing towards annexation located at approximately 2521 North Mountain Road. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Mayor Pro Temp Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

4. **DISCUSSION AND/OR ACTION TO CONSIDER LEGISLATIVE APPLICATION TO ENTER INTO AN INTERLOCAL AGREEMENT WITH WEBER COUNTY DESIGNATING NORTH OGDEN CITY AS THE LAND USE**



**AUTHORITY FOR PROPERTY LOCATED AT APPROXIMATELY 2521  
NORTH MOUNTAIN ROAD**

A staff memo from City Planner Scott explained the applicant owns two parcels at approximately 2521 North Mountain Road. One of the parcels is within the North Ogden City limits; the second is not. The applicant is requesting this parcel be annexed in order to build a new residence. The parcel is 2.258 acres / 98,354 square feet and is located in unincorporated Weber County. The applicant is requesting that their property be annexed and zoned RE-20.

The property is in the City's Annexation Boundary Declaration. In order to proceed with the project review while the annexation is being processed; Staff has drafted an Interlocal Agreement with Weber County that designates North Ogden City as the land use authority.

The memo concluded staff recommends the Council accept the Webb petition for processing towards annexation and approve the attached Interlocal Agreement with Weber County designating North Ogden City as the land use authority for the property located at 2521 North Mountain Road subject to Weber County's approval.

City Administrator/City Attorney Call reviewed the staff memo and used the aid of an aerial map to identify the location of the subject property.

Council Member Urry asked if the property owner could legally shoot a deer on their property. Mr. Call explained that given the property is not yet located in the City, the property owner is not subject to the City's criminal ordinances, but they are subject to the State laws relative to discharging a firearm within a certain distance of nearby structures.

**Council Member Turner motioned to enter into an Interlocal Agreement A31-2017 with Weber County designating North Ogden City as the land use authority for property located at approximately 2521 North Mountain Road. Council Member Urry seconded the motion.**

Mayor Pro Temp allowed public input from a member of the audience.

Dan Webb, 2938 W. 4900 S. Roy, Utah, stated that he is hoping to proceed with work on the property as soon as possible as he would like to dig under the canal to make necessary utility connections while there is no water in the canal. Mr. Call stated that upon execution of the contract the City will have the ability to grant necessary approvals to dig under the canal, though Mr. Webb will need to obtain permission from the appropriate utility entities to proceed with that work.

**Voting on the motion:**

**Mayor Pro Temp Satterthwaite     aye**

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City Council Meeting Minutes

October 24, 2017

Page 4

<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**5. DISCUSSION AND/OR ACTION TO AMEND VAPP DEVELOPMENT AGREEMENT**

A staff memo from City Administrator/City Attorney Call explained the City Council approved the Village at Prominence Point development agreement at its meeting on October 10, 2017. After approval there were some items which had not been properly clarified or numbers which did not correspond with the final agreed unit numbers and similar items. These items have been identified and City Administration needs Council approval of the corrections and clarifications to make sure there isn't any confusion for the developer of the project.

Mr. Call reviewed his staff memo and offered a comparison of the agreement approved by the Council with the proposed amended agreement in order to identify the proposed adjustments and clarifications. There were adjustments relating to sidewalk/pedestrian walkway connectivity between 1700 North and 1900 North (including public access easement at the cul-de-sac connection on 1900 North), maximum building heights of 45-feet for the townhomes and 35-feet for the cottages, setbacks, the parking ratios (1,204 residential and 148 commercial parking spaces), design of the trash receptacles and enclosures, clarification that an Homeowners Association (HOA) will manage the project on behalf of the ownership, dust control measures during construction of the project, and default provisions for any aspect of the project that is not specifically addressed within the agreement. VAPP Representative, Craig Winder, General Counsel for Ironwood Development/Visionary Homes, responded to questions from the Council throughout discussion of the agreement amendments, after which Council Member Turner stated he is comfortable adjusting the agreement to provide the developer with parameters for the development with the knowledge that the detailed site plans for the project will be reviewed by the City again before it is built.

Mr. Winder then discussed building materials to be used on the project; the development agreement disallows the use of hard board on the buildings, but he believes that was meant to prohibit a product called Hardy Board, which is a type of siding made of cement. He stated that the developer would like to use hard board in the form of a product called Smart Side. This product has been tested against Hardy Board for water resistance and the product will not absorb moisture. Warranty offerings are much greater and the product is much more durable; it is also more expensive and will not need to be repainted as often as wood. It also does not chip as easily as cement board. Council Member Turner stated that the material is allowed on residential developments in the City and he has no



objection to the product. Council Member Stoker agreed and noted that she has used the Smart Side material on her own home. Discussion centered on longevity of the different types of hard board or siding material that could potentially be used on the project, with continued focus on requiring the use of high quality products to ensure a quality, attractive project.

Mr. Call then used a concept plan for the project and identified an area of the project that the developer has indicated they may like to fence off and market as a gated community. Mr. Winder stated that this action would be market driven based upon interest from the 55 and older potential purchasers in the project. He stated that the developer would like for the development agreement to provide some flexibility in converting a portion of the project to a gated community if that is desired by residents. The Council discussed this concept and the types of gate and fence mechanisms that would be used to restrict access to the area and ultimately concluded they were comfortable amending the agreement to provide such flexibility contingent upon Fire Marshall approval of any gate/fencing plans.

Mr. Call stated he will work with Mr. Winder to formalize all changes to the agreement that have been discussed and approved tonight and create additional exhibits to be attached to the agreement as needed.

**Council Member Swanson motioned to amend Agreement #A29-2017 Village at Prominence Point as discussed. Council Member Turner seconded the motion.**

Council Member Turner stated that while he does not think it is necessary to include any regulation in the agreement regarding the use of units in the development as vacation rental properties, he is aware of the potential for that type of activity to become very popular and he would like to discuss a City-wide policy regarding vacation rental properties in a future work session meeting. Mayor Taylor agreed that is an important topic for the Council to address.

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**6. PUBLIC HEARING TO RECEIVE COMMENTS ON A PROPOSED ANNEXATION LOCATED AT APPROXIMATELY 1851 NORTH WASHINGTON BOULEVARD**

A staff memo from City Recorder Spendlove explained Meritage Companies LLC., and Mountain Vista Trails, LLC submitted an application on August 29, 2017 petitioning for annexation 14.501 acres located at approximately 1851 North Washington Blvd. in North Ogden, Utah. The annexation process requires the City Council to accept the petition for annexation so that we can start the process, which was done on September 5, 2017. Weber County Surveyor has reviewed the annexation plat map and found it to be a correct plat map. This property is within North Ogden City Annexation Declaration Policy. The petitioner is requesting an MPC-VPP Zone, which the Planning Commission has recommended. The law requires that the City give notice of an annexation for (3) consecutive weeks no later than 10 days after the Council receives certification. Notice of Certification was certified by the City Recorder on September 18, 2017. Notice was published in the Standard Examiner, September 22, 29, and October 6, 2017. Written protests to this annexation were to be filed by October 22, 2017. No written protests were received by the time this agenda was prepared. The public hearing for this annexation is scheduled for October 24, 2017 and the City Council may adopt an Ordinance annexing this property into the corporate limits of North Ogden City.

City Administrator/City Attorney Call reviewed the memo and stated that the annexation process has been followed by the City and no comments have been received regarding the proposed annexation. He used the aid of an aerial photograph to identify the property area subject to the petition and noted that staff recommends the Council adopt an ordinance approving the annexation and assign zoning to the property.

Mayor Taylor opened the public hearing at 7:17 p.m. There were no persons appearing to be heard.

**Council Member Swanson motioned to close the Public Hearing. Council Member Satterthwaite seconded the motion**

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed.**

The public hearing was closed at 7:18 p.m.



7. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE ON A PROPOSED ANNEXATION LOCATED AT APPROXIMATELY 1851 NORTH WASHINGTON BOULEVARD**

Council Member Urry asked if any impact fees collected to date were related to this property proposed for annexation. Mayor Taylor answered no; the City has only collected impact fees for the property that is intended to be used for the assisted living facility. As building permits are issued for other components of the project, impact fees will be collected. There was a plan in place that the City's Commercial Development Area (CDA) would pay a portion of the project's impact fees as a contribution to the construction of the 1700 North extension; this will be in the form of credits and not actual cash. Council Member Urry stated he would like to see a schedule of the funding that has been dedicated from the CDA to various projects in the City to determine how much the CDA is 'in the hole' given that no revenues have been collected by the entity to date. Mayor Taylor stated he will be happy to provide such a report.

**Council Member Satterthwaite motioned to approve Ordinance 2017-23 on a proposed Annexation located at approximately 1851 North Washington Boulevard and designate the zone as MPC-VPP. Council Member Swanson seconded the motion.**

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

8. **DISCUSSION AND/OR ACTION TO CONSIDER MODERATE INCOME HOUSING REPORT**

A staff memo from City Administrator/City Attorney Call explained every two years the City Council is supposed to review the moderate income housing plan adopted by the City in the General Plan process and make any needed changes as well as review the progress on promoting moderate income housing.

City Administrator has reviewed the historical building permit numbers and values associated with those permits, as well as looked at data available on the Weber County website, state websites, and federal census websites to prepare the attached report. The City Council needs to accept this report so we can provide the report to the Department of Workforce Services.



Moderate income housing is defined as housing which can be afforded by individuals who make 80% of the Weber County Area Mean Income (AMI) which is currently \$61,300. Generally to qualify for moderate income housing the price of the home is less than \$200,000. With increasing home values the City will need to work over the next two years to identify strategies to make the existing and new housing units more affordable.

The memo referenced a few highlights from the short report; first, the City by approving the Village at Prominence Point project has now met the projected need for the coming five years of 100 moderate income housing units each year (500 total); second, the City is on the cusp of having a significant shift in the affordability of the existing single family homes when they hit the real estate market. This has an impact on the moderate income housing available for the future new residents, but does not affect the affordability of the homes for existing residents. At the next review in 2019, the Council will likely need to identify ways to keep the existing stock of moderate income housing from increasing in price too dramatically, which will make our homes less available to moderate income households.

The memo concluded staff recommends the Council review the report and determine if they can support it as the official moderate income housing report of North Ogden City to be filed with the Department of Workforce Services.

Mr. Call reviewed his staff memo and facilitated additional review of the City's biennial moderate income housing element report to be submitted to the State of Utah. The purpose of State laws requiring the availability of moderate housing options in a community is to ensure that an individual could essentially live and work in the same community; there is a connection between average income in a community and the cost of a moderate home in that same community. Discussion then briefly centered on the penalties associated with a city's failure to comply with State laws regarding moderate income housing requirements and whether the State of Utah is required to provide a report to the federal government regarding the availability of moderate housing options throughout the entire State. Philosophical debate regarding perceived flaws in the formulas used to determine whether homes of certain values meet the definition of moderate income housing ensued, with Mr. Call noting that the City can only rely upon market data to determine whether compliance with State law is possible.

Mayor Taylor then noted that the City must submit this biennial report and then every five years, the City must perform a more in-depth analysis to determine the actual moderate housing need in the City. This analysis is done with the aid of the City's financial advisor and they use actual statistics regarding average income in the City and the market values of homes and market rates of rental units in the City. He stated that currently the City is reporting on efforts to achieve the benchmarks identified in the last detailed analysis and he believes the State of Utah will feel the City has made a good faith effort to achieve the goals relating to the number of moderate housing units needed in the City.

**Council Member Satterthwaite motioned to approve the City's Moderate Income Housing Report. Council Member Swanson seconded the motion.**

Council Member Urry stated he feels the State guidelines for providing moderate income housing are so flawed that it is difficult for him to vote in favor of the report. However, he will vote in favor because the City's report simply follows the State's guidelines.

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

Mayor Taylor stated that many share Council Member Urry's sentiments relative to the State's requirements for moderate income housing and he believes the State Legislature will be revisiting those laws in the next few years as there are many cities in the State that are not making good faith efforts to meet the legislative intent of the laws.

**9. DISCUSSION AND/OR ACTION TO CONSIDER CANCELLING CITY COUNCIL MEETING ON NOVEMBER 7, 2017 FOR THE GENERAL ELECTIONS**

**Council Member Swanson motioned to cancel the City Council Meeting scheduled for November 7, 2017 in observance of the Municipal General Election. Council Member Urry seconded the motion.**

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**



10. **PUBLIC COMMENTS**

There were no public comments.

11. **COUNCIL/MAYOR/STAFF COMMENTS**

Council Member Turner stated he is curious to hear of the final fundraising totals for the 2017 Chalk It Up North chalk art festival. Mr. Call stated that he will gather that information and provide it to the Council.

Mayor Taylor asked that the Council convene in a Closed Session to discuss a real estate matter and a potential litigation matter.

**Council Member Swanson then motioned to enter into a closed meeting, §52-4-205(1) (c) for the purpose of holding a strategy session regarding pending or reasonably imminent litigation and §52-4-205(1) (f) to discuss the sale of real property. Council Member Urry seconded the motion.**

**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**The meeting recessed at 8:02 p.m.**

**The meeting reconvened at 9:15 p.m.**

Council Member Urry referenced the Barker Park Amphitheater project; he contacted Layton City to try to get copies of the financial statements for the amphitheater located in that City and they were unavailable; additionally, it is not possible to discern how much Layton City contributes to the amphitheater. Their facility is managed by the Davis County Arts Council and there is no information on their financials as well. He stated it is difficult to determine if the facility is making or losing money. He stated that he found a similar situation in Sandy City; their amphitheater is also managed by their arts council, but there was data indicating that their council earns salaries totaling \$200,000. He stated that if that is any indication of what it will take to make the North Ogden Amphitheater project a success, he is very concerned. He noted that last week Salt Lake County or City

cancelled their Twilight Concert Series, which has been held at their amphitheater, because the production costs them so much to subsidize; they subsidized it up to \$200,000 last year. He stated that he would like for City Administration to gain a clear understanding of what it will take to fund management of the Barker Park Amphitheater after it is built. Mayor Taylor acknowledged that information is very important.

12. **ADJOURNMENT**

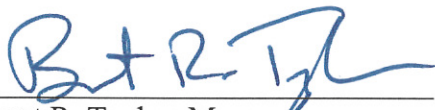
**Council Member Swanson motioned to adjourn the meeting. Council Member Satterthwaite seconded the motion.**

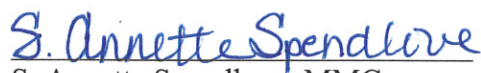
**Voting on the motion:**

<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed.**

**The meeting adjourned at 9:19 p.m.**

  
\_\_\_\_\_  
Brent R. Taylor, Mayor

  
\_\_\_\_\_  
S. Annette Spendlove, MMC  
City Recorder

  
\_\_\_\_\_  
Date Approved