

NORTH OGDEN CITY COUNCIL MEETING MINUTES

May 9, 2023

The North Ogden City Council convened in a Council meeting at 6:00 p.m. on May 9, 2023 at the North Ogden City Office at 505 East 2600 North. The meeting was also on Zoom. Recording can be found on YouTube:

<https://www.youtube.com/channel/UCriqbePBxTucXEzRr6fclhQ/videos>. 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 May 4, 2023. Notice of the annual meeting schedule was published in the Standard-Examiner on December 16, 2022.

PRESENT:	S. Neal Berube	Mayor	
	Ryan Barker	Council Member	arrived at 7:40 pm
	Blake Cevering	Council Member	via Zoom
	Jay D Delpias	Council Member	
	Charlotte Ekstrom	Council Member	
	Phillip Swanson	Council Member	
STAFF PRESENT:	Jon Call	City Manager/Attorney	
	Joyce Pierson	Deputy City Recorder	
	Jami Jones	Finance Director	
	Scott Hess	Planning Director	
	Bryce Nelson	Administrative Services Manager/Treasurer	
	Dirk Quinney	Police Chief	
	Clark Crowther	Police Lieutenant	
VISITORS:	Ricky Hatch	Sandy Cochran	Reed Miller
	Sue Birch	Randy Winn	Kevin Burns
	Brenda Ashdown	Chris Pulver	

Mayor Berube called the meeting to order. Council Member Swanson offered the thought and led the audience in the Pledge of Allegiance.

PRESENTATION

1. WEBER COUNTY ELECTION SECURITY INFORMATION AND UPDATES

Ricky Hatch, Weber County Clerk/Auditor, provided the Mayor and Council with a presentation regarding security updates for the upcoming 2023 Municipal Election and the 2024 Presidential Election. His presentation touched on the importance of records management and keeping updated voter registration records; ballot security; security of election tabulation equipment; and the by-mail election process.

Mayor Berube thanked Mr. Hatch for his presentation and for all that his office does to assist North Ogden with its elections; he also encouraged any resident with any questions about elections to contact Mr. Hatch or his staff and indicated that they are very responsive and helpful.

CONSENT AGENDA

2. CALL FOR CONFLICT OF INTEREST DISCLOSURE

Mayor Berube asked if any member of the Council had a conflict of interest to declare. Council Member Ekstrom stated that during the Redevelopment Agency (RDA) meeting, there will be a discussion about possible uses of RDA funds and one potential project is at the North Ogden Plaza where she owns a business. She will recuse herself from discussion and action on voting on the budget if there is discussion of spending money in that project area.

3. DISCUSSION AND/OR ACTION TO CONSIDER THE MARCH 28, 2023, CITY COUNCIL MEETING MINUTES

Council Member Dalpiaz provided a few grammatical corrections for the minutes.

Council Member Ekstrom motioned to approve March 28, 2023, City Council Meeting minutes as amended. Council Member Swanson seconded the motion.

Voting on the motion:

Council Member Barker	absent
Council Member Cevering	aye
Council Member Dalpiaz	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

ACTIVE AGENDA

4. PUBLIC COMMENTS

Reed Miller, North Ogden resident, stated that when he became an officer in the United States Army, he took an oath to support and defend the Constitution of the United States. He considers that a solemn oath that he wishes to uphold at all times, not only as an officer, but as a citizen as well because the Constitution is the supreme law of the land and all laws at every level of government should be in line with the Constitution. He hopes that the North Ogden City Council always takes care to ensure that its laws are in line with the Constitution in an effort to secure freedom. The role of government is to uphold the people's rights that are found in the Constitution and the Declaration of Independence. He acknowledged two local elementary school students who participated in a Constitution League; they were part of a team of five who competed against 14 other teams from Draper to North Ogden. They studied the Constitution and the Bill of Rights and took second place in the competition, and they received a silver medal and a \$50 award. The City should be proud of them and recognize them: Sam Kimball and Connor Tool. He hopes that next year there will be more involvement in the competition.

Mayor Berube asked Mr. Reed to provide that information to the City Recorder; he would like to include recognition of this achievement in the City's monthly Connection Magazine.

Randy Winn, North Ogden resident, thanked Mr. Hatch and the other employees in his office; a few years ago, he was involved a very close election in North Ogden, and he was comforted by the training and tour of the County Clerk's Office that Mr. Hatch provided in order for him to have confidence in the integrity of the election processes in the community.

5. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE APPROVING FISCAL YEAR 2022-2023 TENTATIVE BUDGET

Mayor Berube stated there are three outstanding issues with the budget: first is that the Council is awaiting final recommendations from the citizen budget sub-committee; second are fluctuations in sales tax revenue and it may be appropriate for the Council to consider an adjustment to the projection included in the tentative budget; third is that the City Recorder has provided her notice of resignation and there is some uncertainty about the filling of that vacancy and any potential for the personnel costs associated with that position to change.

Finance Director Jones then noted she had nothing to add to Mayor Berube's comments; she noted that there have been no changes to the budget document since the Council's last review. Mayor Berube noted one additional item is the Council's desire to participate in continued discussion of funding of needed water capital projects, which could impact water utility rates in the next five years.

Council Member Ekstrom inquired as to the timeline for final budget adoption and if the Council is required to act to accept the tentative budget tonight. Ms. Jones indicated that the tentative

budget must be adopted tonight, and the final budget must be adopted by June 22, unless the Council decides to consider a property tax increase, which would require a truth in taxation process and hearing and final adoption of the budget in August. The proposed certified tax rate has not yet been provided by Weber County. Council Member Ekstrom stated that she has voiced her concerns, but reiterated she feels that the City should consider a property tax increase to adequately fund the City's budget. City Manager/Attorney Call noted that if the Council decides to consider a property tax increase, the tentative budget could be adopted as the operating budget in June, and it would be in effect until the truth in taxation process concludes and a final budget is adopted in August.

Council Member Swanson expounded on changes in sales tax revenues and noted he feels the Council has more work to do before determining the final projection to be included in the budget.

Council Member Dalpiaz stated he is comforted by the fact there have been no major changes to the budget since the Council's last review and he is prepared to adopt it this evening.

Mayor Berube stated he has full confidence the Council will be able to work through any outstanding issues with the budget and he is comfortable standing behind the budget that has been prepared based upon the fact that it is balanced and conservative.

a. Public Comments

There were no public comments.

b. Discussion and/or action to consider an Ordinance approving Fiscal Year 2023-2024 Tentative Budget

Council Member Ekstrom motioned to approve Ordinance 2023-10 for Fiscal Year 2023-2024 Tentative Budget. Council Member Cevering seconded the motion.

Voting on the motion:

Council Member Barker	absent
Council Member Cevering	aye
Council Member Dalpiaz	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

Council Member Swanson noted that the public comment period was not opened, and he asked if there were any public comments on the tentative budget.

Randy Winn, North Ogden resident, stated he has been serving as a member of the citizens budget sub-committee; the sub-committee has generally been impressed by the various Department Heads of the City and the manner in which they have developed their budget proposals. They have done a good job at utilizing the resources available to them and have been conservative.

c. Discussion and/or action to recess the City Council meeting and convene in the Redevelopment Agency (RDA).

Council Member Swanson motioned to recess the City Council Meeting and convene in the Redevelopment Agency (RDA). Council Member Dalpiaz seconded the motion.

Voting on the motion:

Council Member Barker	absent
Council Member Cevering	aye
Council Member Dalpiaz	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

The City Council Meeting recessed at 6:46 p.m. and the RDA meeting convened at 6:46 p.m.

**6. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE
APPROVING THE RDA FISCAL YEAR 2022-2023 TENTATIVE BUDGET**

Finance Director Jones reported the RDA revenues will be held constant when compared to last year's fiscal year budget and no projects are budgeted in either the RDA or CDA fund. There is a \$875,000 transfer from the RDA to the North Shore Aquatic Center to help cover operating costs of that facility. Administration is preparing for a fall retreat meeting to discuss how to program the RDA funds.

Mayor Berube stated he is very concerned about the amount of money being transferred from the RDA to the Aquatic Center; the RDA will eventually expire, and those funds will not be available and if the Aquatic Center is not breaking even at that time, the funding will need to come from the General Fund of the City and there is insufficient revenue in the General Fund for that purpose. He noted that City Manager/Attorney Call has notified him that the \$875,000 is simply a placeholder and not all of that money has been spent in the past, but it is concerning that there may be a similar placeholder in the General Fund in the future.

a. Public Comments

Kevin Burns, North Ogden resident, stated that the City has had the discussion about the expiration of the RDA several times and it feels as if the issue has been ‘kicked down the road’ rather than trying to develop a real plan for funding the Aquatic Center in the future.

Mayor Berube stated that some progress has been made relative to funding the Aquatic Center; the debt associated with the facility has been paid off and the manager of the Aquatic Center is always looking for opportunities to decrease costs and increase revenues to make the facility self-sufficient. However, there are some needed repairs and renovations at the facility and the City needs to have a clear understanding of the potential costs of those projects.

Reed Miller, North Ogden resident, stated that he wanted to emphasize the need to provide for the needs of the community and to adopt a balanced budget; further taxation is a very tender subject for North Ogden residents. He concluded the residents do not want to be taxed to death.

Mayor Berube stated the last three years have been very unique; the nation has endured a pandemic followed by the highest inflation period in the last 40 years and the Council has been very careful to consider these issues when developing an annual budget.

b. Discussion and/or action to consider an Ordinance approving the RDA Fiscal Year 2022-2023 Tentative Budget

Committee Member Swanson motioned to approve Ordinance RDA 2023-11 for RDA Fiscal Year 2022-2023 Tentative Budget. Committee Member Ekstrom seconded the motion.

Voting on the motion:

Committee Member Barker	absent
Committee Member Cevering	unavailable
Committee Member Dalpiaz	aye
Committee Member Ekstrom	aye
Committee Member Swanson	aye

The motion passed with a 3-0 vote.

c. Discussion and/or action to adjourn the RDA meeting and convene in the City Council Meeting

Committee Member Ekstrom motioned to adjourn the RDA meeting and convene in the City Council Meeting. Committee Member Swanson seconded the motion.

Voting on the motion:

Committee Member Barker	absent
Committee Member Cevering	aye

Committee Member Dalpias	aye
Committee Member Ekstrom	aye
Committee Member Swanson	aye

The motion passed unanimously.

The RDA meeting adjourned at 6:55 p.m. and the City Council Meeting re-convened at 6:55 p.m.

7. DISCUSSION AND OR ACTION TO CONSIDER A REZONE OF SEVERAL CITY OWNED PROPERTIES TO THE CIVIC ZONE (C)

Community and Economic Development (CED) Director Hess reported North Ogden City is the applicant for these zone changes; there are several parcels in the City for which a zoning change to the Civic Zone is requested. He reported the proposed zoning adjustment meets the requirements of applicable North Ogden zoning ordinances and conforms to the North Ogden City General Plan. The General Plan map identifies Lomond View Park and Equestrian Center as “Parks” which are essentially a Civic Use. The remaining parcels are indicated as low intensity single-family zoning. He summarized the general guidelines for the City’s zoning and land use policies, concluding the Planning Commission found that this application is consistent with the General Plan, and unanimously recommended approval of the rezone areas from R-1-8AG, R-1-8, R-1-12.5, RE-20 zones to the Civic Zone (C).

Mayor Berube discussed the purpose of the creation of the Civic Zone, and he feels that these zone changes are an attempt to follow the City’s zoning and land use rules related to City owned property.

Council Member Ekstrom referenced the map of the Lomond View Park property and asked if the small portion that is carved out is privately or publicly owned. Mr. Hess stated there are four homes near the access road for the Park and those homeowners own the property that abuts the park. The property is an unincorporated island of property. Council Member Ekstrom asked if there is any talk of annexing the property and possibly making it part of the park. Mr. Hess stated the property is privately owned and they have not considered annexation; that decision would likely be based upon whether the owner can secure approval of any development plans.

Council Member Dalpias also referenced the Lomond View property; he asked if the north end carve-out is used for storm water retention and he asked if it makes sense to change the zoning to Civic Zone for that section. Mr. Hess identified the storm water detention area, the four homes, and the unincorporated property to orient the Council to the relationship between all properties adjacent to the park. Council Member Dalpias stated that his question is not applicable given that explanation.

Council Member Dalpias motioned to approve rezone of several City owned properties to the Civic Zone (C). Council Member Ekstrom seconded the motion.

Voting on the motion:

Council Member Barker	absent
Council Member Cevering	aye
Council Member Dalpias	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

8. DISCUSSION AND/OR ACTION TO CONSIDER AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR COSTS RELATED TO INSTALLATION OF STORM DRAIN IMPROVEMENT IN NORTHWOOD HILLS SUBDIVISION

City Manager/Attorney Call reported the Developer of the Northwood Hills subdivision was approached by the City about rerouting some storm water through their subdivision to assist in spreading the storm water drainage into different channels as it comes down the North Ogden drainages. The requested increase in compensation was for an additional \$13,795.45 but after some discussion with the developer staff is recommending an increase of \$10,345.45 after the elimination of some items that staff felt were more development related and not as much related to the City's request to reroute storm water. Staff recommends the cost adjustment from \$67,822.63 to \$78,168.08.

Mayor Berube stated he believes the developer was able to capture the money needed to cover their costs by increasing the price of their building lots; the City does not have that same ability and he wished for the record to reflect the difference between the City and the developer in terms of responding to inflation. Mr. Call agreed.

Council Member Dalpias stated he does not blame the developer for asking for this consideration, but he does not believe the City should pay for a portion of the necessary storm drain improvements. Council Member Ekstrom agreed; she believes the developer benefited from the inflation as much as they may have been a victim of it.

Council Member Cevering stated he shares the same position as Council Member Dalpias and Ekstrom. Council Member Swanson stated he is grateful to the developer for partnering with the City and working to find creative solutions to directing storm water appropriately; he is also grateful for the system whereby they are able to sell lots and make money.

Mayor Berube called for a motion on the requested amendment to the development agreement.

Mr. Call stated that it is an option for the Council to deny the amendment and that would mean that the only way for the matter to be raised again would be for someone voting on the prevailing side of the motion to ask for reconsideration.

Council Member Swanson motioned to deny the request to amend the Development Agreement A02-2020 for costs related to installation of Storm Drain improvement in Northwood Hills Subdivision. Council Member Ekstrom seconded the motion.

Voting on the motion:

Council Member Barker	absent
Council Member Cevering	aye
Council Member Dalpiaz	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

9. DISCUSSION AND/OR ACTION WHETHER OR NOT TO RESCIND A CRITICAL WATER EMERGENCY DECLARATION RELATED TO THE DROUGHT

City Manager/Attorney Call reported the Mayor and Council approved an emergency water declaration that limited the watering of landscaping and allowed for the use of culinary water, while also limiting the installation of landscaping for new homes. With the water available this year for irrigation there should be a full season of irrigation available so it may be the right time to go back to the normal rules and allow for the newer homes to complete the installation of their landscaping, while also removing the ability for individuals to utilize culinary water on trees, shrubs and gardens. If the Council rescinds the emergency declaration, then the Council should also establish a timeline for individuals to complete the installation of landscaping so that code enforcement has a firm deadline to work with. There are many options on this, however the easiest for code enforcement to manage is to require individuals to install their landscaping by a certain date for all the homes who have already received an occupancy permit. Staff recommends the emergency declaration be rescinded and that homeowners be given a specific amount of time to come into compliance with the ordinances.

Council Member Dalpiaz stated that he would lean towards extending the declaration for an additional year; he does not believe anyone anticipated the drought to be over after just one year and they may have thought they have more time to get their landscaping installed. Mayor Berube stated that the declaration did not suspend the requirement to install landscaping. Mr. Call stated that is correct; it only allowed for using culinary water for landscaping. He will research the Council's action further because it may be that the suspension of the requirement was part of the Council's motion to approve the declaration; he will review the minutes to determine the final action by the Council. Council Member Dalpiaz stated that he recalls that there was a discussion

about specifically suspending the requirement to install landscaping. Mr. Call agreed and stated it may be that there is language in the City Code that triggers the suspension of the requirement when there is a declaration of emergency. Council Member Ekstrom stated that if that is the case, the City needs to notify residents who were impacted by the suspension that they will need to install their landscaping.

Council Member Ekstrom motioned to rescind A Critical Water Emergency Declaration related to the drought. Council Member Swanson seconded the motion.

Voting on the motion:

Council Member Barker	absent
Council Member Cevering	aye
Council Member Dalpiaz	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

Mr. Call stated that he found the code citation; Section 5-7-1 states that when the Mayor declares a critical water emergency, the requirement to install landscaping is delayed by 12 months.

10. DISCUSSION AND/OR ACTION TO CONSIDER A DECLARATION FOR A STATE OF EMERGENCY AND INVOKING EMERGENCY POWERS FOR NORTH OGDEN CITY

City Manager/Attorney Call reported that this declaration is related to recent flooding events throughout the City and the potential for ongoing flooding; the declaration will make it possible for the City to apply for federal funding to help cover the costs of responding to the flooding. He then reviewed the language in the declaration and discussed the implications of adopting the declaration. The declaration will be for 30 days and, if necessary, it can be extended beyond that 30-day period.

Council Member Ekstrom motioned to accept a Declaration for a State of Emergency and invoking emergency powers for North Ogden City. Council Member Dalpiaz seconded the motion.

Voting on the motion:

Council Member Barker	absent
Council Member Cevering	aye
Council Member Dalpiaz	aye

Council Member Ekstrom aye
Council Member Swanson aye

The motion passed unanimously.

11. COUNCIL DEPARTMENT REPORTS:

a. COUNCIL MEMBER CEVERING - POLICE

Council Member Cevering stated that the Police Chief asked that he remind the residents that any dog that is outside the home or a fenced enclosure to be on a leash. He also wished to express appreciation to the community for their support following the recent police involved shooting incident.

Mayor Berube thanked Council Member Cevering for assisting in organizing the candlelight vigil following the tragic event.

b. COUNCIL MEMBER EKSTROM – PUBLIC WORKS

Council Member Ekstrom stated the Public Works Department has announced that spring cleanup is underway at the Green Waste Pit and will run through Saturday. They also reported that all creeks are flowing, but under control at this time.

c. COUNCIL MEMBER BARKER – PARKS & RECREATION

Council Member Barker was absent. Mr. Call briefly noted that the City is looking for seasonal employees in the Parks and Recreation Department and he encouraged residents to review the job announcements and encourage those qualified to apply. He added that the Cherry Days Committee has moved forward with planning the annual celebration; they are actively working to raise funds for the event, and they are doing quite well.

12. PUBLIC COMMENTS

Randy Winn, North Ogden resident, stated that one of the most wonderful services the City offers is its annual spring cleanup; he thanked the City for continuing to provide the service.

Sue Birch, North Ogden resident, asked Council Member Barker how residents can provide public input on the best location of pickleball courts at Lomond View Park. Council Member Barker stated the project is already designed and the installation process has started. Ms. Birch stated that is the reason for her question; she asked why the City is removing an existing landscaped area with established trees and turf, as well as a sprinkler system. There is another location of the park that has been consumed by weeds for 35 years and there was no consideration about putting the pickleball courts there. She added that the current location is

right underneath bedroom windows of nearby homes, and this will create a nuisance for residents. Council Member Barker stated he is willing to pass that feedback and questions on to those working on the project.

13. COUNCIL/MAYOR/STAFF COMMENTS

City Manager/Attorney Call stated that the City has received more questions about a flip the strip program and Administration will include a discussion item on a future agenda for continued discussion. He added that the City's inspection staff is nearing completion on closing out all escrow accounts for development improvements. He provided a report on the arrangement between the Senior Center and the community band; it appears that the friction on the use of the Senior Center has been resolved. He added that when Council Members receive complaints from residents, he would like for them to give staff a chance to correct the issue before recommending that they come to the City Council meeting to voice their complaint.

Council Member Barker provided a brief update on parks; the swimming pool will be opening soon. Youth recreation baseball started yesterday and there are 12 teams in just the 3/4th grade league. There are many kids in the community playing sports. All restroom facilities have been opened at City parks and residents who observe any vandalism of those facilities is asked to report it to the City.

Mayor Berube inquired as to the City's ordinance regarding panhandling. Mr. Call stated that the State Court has applied first amendment protections to panhandling; the only thing the City can do is keep people out of travel lanes so they can only be asked to relocate if they are obstructing the flow of traffic. Mayor Berube then asked who owns the Coldwater Creek flow. Mr. Call stated that the City does not own private water rights in Coldwater Creek, and he will need to research that matter further. Mayor Berube then noted he has been told that the Follow the Flag group has been denied access to the trail to hang their flag in the canyon; he was told that access could not be restricted, and he asked Mr. Call to address that issue. Mr. Call stated that the State law states that if a trail or access has been used for public purposes for more than 10 years, it becomes dedicated to a public use trail. This battle has been fought in many jurisdictions and anyone seeking to litigate that matter has extensive case law to rely upon.

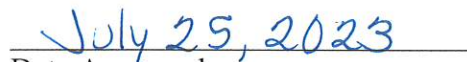
14. ADJOURNMENT

Council Member Ekstrom motioned to adjourn the meeting.

The meeting adjourned at 7:52 p.m.


S. Neal Berube, Mayor


Joyce Pierson
Deputy City Recorder


Date Approved