NORTH OGDEN CITY COUNCIL
MEETING MINUTES

August 22, 2023

The North Ogden City Council convened in a Council meeting at 6:00 p.m. on August 22, 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 August 7, 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 6:52 pm)
	Blake Cevering	Council Member	
	Jay D Dalpias	Council Member	
	Charlotte Ekstrom	Council Member	
	Phillip Swanson	Council Member	

STAFF PRESENT:	Jon Call	City Manager/Attorney
	Rian Santoro	City Recorder
	Scott Hess	Planning Director (Via Zoom)
	Dave Espinoza	Assistant City Manager/Public Works Director
	Jami Jones	Finance Director
	Crystal Polson	Public Works Inspector
	Dylan Hill	Public Works Inspector
	Eric Casperson	City Engineer
	Dirk Quinney	Chief of Police

VISITORS:

Chris Pulver	Keith Ashdown
Kevin Burns	Bruce Hall
Rob Strand	Karen Hall
Rich Harris	Rick Scadden
Marilyn Harris	Jeanette Sweet (Zoom)
Tim Billings	Sheri Lambert (Zoom)
Stefanie Casey	Christina Watson (Zoom)
Sandy Cochran	Rochelle (Zoom)
Brenda Ashdown	

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Mayor Berube called the meeting to order. Marilyn Harris, North Ogden City Resident, offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. CALL FOR CONFLICT OF INTEREST DISCLOSURE

Mayor Berube asked if any member of the Council had a conflict of interest to declare. No declarations were made.

2. DISCUSSION AND/OR ACTION TO CONSIDER JUNE 13, 2023, CITY COUNCIL MEETING MINUTES

Council Member Cevering motioned to approve the June 13, 2023, City Council meeting minutes. Council Member Eckstrom 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.

3. DISCUSSION AND/OR ACTION TO CONSIDER JUNE 27, 2023, CITY COUNCIL MEETING MINUTES

Council Member Eckstrom motioned to approve the June 27, 2023, City Council meeting minutes. Council Member Dalpias 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.

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4. DISCUSSION AND/OR ACTION ON THE CONDITIONAL ACCEPTANCE OF THE VIEWS AT ROCKWOOD

Dylan Hill, Public Works Inspector, explained he has completed the Conditional Inspection on the Views at Rockwood and found the improvements to comply with City Code and standards; the original sum of the escrow is $219,751.97 for improvement costs, which have been released throughout the improvement process. Escrow releases show a remaining $43,921.92, which will be held by the escrow agent through the one-year period after conditional acceptance by the City Council.

Council Member Cevering motioned to approve Conditional acceptance of The Views at Rockwood. Council Member Swanson 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.

ACTIVE AGENDA

5. PUBLIC COMMENTS

Rob Strand, North Ogden resident, stated he is a hiker who enjoys the Bonneville Shoreline Trail, and he appreciates those who have allowed public access across private property for the enjoyment of trails. He has also been hiking Coldwater Canyon his entire life and would love to take his grandkids there, but has recently found it is closed to public access. The Canyon is one of North Ogden's legacies and he disagrees with the private landowner's decision to close the area. He understands that he has been angered in the past by people trespassing on his property, but he thought that anger would eventually pass, and the area may be reopened. That has not happened, and he now believes it is important to discuss the fact that it is unlawful for the individual to deny public access on an established trail. He asked that the City remind the individual of the law and the constitutional right of the public to access the property.

Keith Ashdown, North Ogden resident, stated there is a trail along Pleasant View Drive that has become covered by puncture weeds. He noted he has sprayed them, but he would like the City to assist in addressing the area.

Bruce Hall, North Ogden resident, stated he is here tonight to express concerns about a disc golf course being built at the south end of the equestrian park. He is not here to try to stop the project but wants to provide input for the safe and successful deployment of the area for public use.

The project went from a conceptual presentation to the Council on July 25, 2023, to verbal approval to proceed on August 8, 2023; in less than 30 days, the project is being implemented with absolutely no documented plan for the project. Over the past week, he has had conversations with City Manager Call and Assistant City Manager Espinoza and during his call with Mr. Call, he emphasized that the land is part of a City park. Mr. Hall pointed out the presence of field grass and the extreme fire hazard on the property; he also discussed the fact that the area can only be accessed through the Equestrian Park and the problems that would cause. He noted that Mr. Call stated that the project sponsor was only authorized to install tee blocks and disc baskets; he also indicated this is a temporary project and expressed concern that the term 'temporary' has not been defined and there is no documentation of how the success of the project will be measured to determine if it should transition from temporary to permanent in nature. He continued to press Mr. Call to document who is responsible for different things on the project, but he was hesitant to do so and stated that Mr. Hall was only trying to stop the project. The conversation left him with the perception that if the project is not documented, Mr. Call and the City cannot be held accountable, and residents will have no recourse to address points of concern. As a City park that is adjacent to residential areas, there must be a plan for a project being completed there. He inquired as to the specific current and future plans, and he referred to a disc golf website that indicates other amenities will eventually be added to the area. residents living directly adjacent to the course would like to know what that means. During the July 25, 2023, Council Meeting presentation, Kyle Hunter, who proposed the disc golf course, indicated that the disc golf club would take care of trash collection. Mr. Hall asked if that meant that they would provide cans. He noted Mr. Call verbally commented to him that City crews will police the area daily for trash recovery and this will be necessary because canyon winds blow every night. He asked if there will be ADA-compliant paths on the course; Mr. Hunter is already promoting the area as 'cart friendly', but he is unsure who will be creating ADA-compliant paths. He stated that at this point, he does not believe the City has completed its due diligence by outlining expectations for both the disc golf club and the City. City officials have not been able to address his concerns because there is no plan. He also would like to know future plans for the area and if Mr. Hunter will be required to abide by City ordinances and other regulations. The disc golf website indicates the course will be dog-friendly, but that term must also be defined. He emphasized that there is an extreme fire hazard on the property, and this must be addressed, and signage must be posted to help prevent fires. He asked that the City pause the project to ensure that clear expectations can be set and that the park area is not misused. He added that Mr. Hunter has already named the course 'Coldwater Canyon Disc Golf Course' on his website.

Chris Pulver, Nort Ogden resident, stated that one of the suggestions he hears frequently is for the City to pave the canal trail and he asked if that is something that has been discussed among the Council. He also cited an increase in solicitors in the area and the concerns that creates for residents; he asked if solicitors are still required to register with the City and obtain a permit, to which the Council answered yes. He then noted that there is an increase in panhandling in the Smith's parking lot and there is one individual who plays a violin using a loudspeaker that can be heard at the nearest elementary school throughout the day. He wondered if this is allowed or if there is a noise ordinance violation the City should look into. He concluded by discussing a discrepancy on a plat for property along Fruitland Drive that has led a property owner on that road to wonder if they are responsible for paving the area.

6. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE ADOPTING THE FINAL BUDGET AND TAX RATE FOR FISCAL YEAR 2023-2024

Finance Director Jones explained no changes have been made to the proposed budget document since the Council accepted it as the tentative budget on June 13, 2023. The Council held a Truth in Taxation hearing on August 15, 2023, and the property tax rate included in the final budget is 0.001198 and this is approximately a three percent increase.

Council Member Ekstrom stated it is important to acknowledge the complexity of creating a balanced budget and she thanked Ms. Jones for her efforts and diligence in ensuring the City is complying with State budgeting laws, being fiscally conservative, and planning for the City's future. Council Member Swanson agreed and added that the Mayor's expertise has also been valuable to the City in the annual budget development process. He also acknowledged the importance of the Citizens Budget Sub-Committee and thanked them and all City Department Heads for their involvement and input.

Mayor Berube also thanked the Council for their involvement in the budget process. The development of the budget took place under the direction of City Manager/Attorney Call and his guidance was very helpful as well.

Council Member Eckstrom motioned to approve Ordinance 2023-17 adopting the final budget and tax rate for Fiscal Year 2023-2024. Council Member Cevering 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.

7. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION TO ADJUST THE COMMON BOUNDARY WITH OGDEN CITY AT THE CITY LIMITS AT APPROXIMATELY 1500 NORTH WASHINGTON BLVD RELATED TO COOPERS TOWNE MPC PROJECT

Planning Director Hess summarized the negotiations between Ogden City, North Ogden City, and the developer of the Coopers Towne MPC project to adjust the boundary between the two cities and to divide tax revenue generated at the project between the two cities proportionate to the area of the project that is in both cities.

Mayor Berube then invited input from the property owner.

Rick Scadden, North Ogden resident, stated he has been working on this project for five years and he appreciates the Mayor's efforts to negotiate a favorable boundary adjustment and agreement with Ogden City. He plans to build a first-class project that will include a new "Welcome to North Ogden" sign. The boundary adjustment is appropriate and will provide for a seamless project.

Council Member Dalpias motioned to approve Resolution 04-2023 to adjust the common boundary with Ogden City at the city limits at approximately 1500 North Washington Blvd related to Coopers Towne MPC Project. Council Member Swanson 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 ON THE OBSTRUCTION OF RIGHT OF WAY PERMIT PROPOSAL

Dave Espinoza, Public Works Director/Assistant City Manager used the aid of a PowerPoint presentation to summarize the proposal regarding obstruction of right-of-way permits. The North Ogden Public Works Inspection Department is proposing the implementation of an Obstruction of Right of Way permit. According to the City Code, "Public Way" means and includes all public rights of way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainageways. It does not, however, include utility easements not within the public ways of the City. Monitoring of this code often falls into the jurisdiction of the Public Works Department. He noted the City is 7.5 square miles with 92 miles of roadways; the smallest road width allowed in the City is 18.5 feet and the rights-of-ways are being obstructed by equipment ranging between eight and 18.5 feet wide. He discussed the difference between excavation permits and right-of-way obstruction permits; an Excavation Permit is for any work done in the right of way that involves disturbing the City right of way through digging, boring, and/or paving. Work requiring this type of permit often requires contractors to follow standards set forth by the City Engineer. An Obstruction of Right of Way Permit would be for any work or use of the right of way that may have an impact on departments within the Public Works office, such as city infrastructure and stormwater requirements, but does not involve disturbing the land within the right of way. Common obstructions include cement and pump trucks, utility company equipment, and private property improvements. The

Obstruction Right-of-Way Permit is needed to address one of the most challenging aspects of the Public Works Inspection Department and noted that the permit will help to address three key issues: accountability, stormwater management, and safety. He reviewed the proposed code language pertaining to the creation of the permit, discussed the application process, and indicated the proposed permit fees are $50 for the first seven days of obstruction, and an additional $50 per day after the expiration of the seven days. Revenue generated by the permit fees will be used to cover man hours associated with monitoring work done while an obstruction is located in the right-of-way.

Mayor Berube addressed dumpsters that are placed on roads during the construction of a new home and indicated that the $50 day fee is unreasonable for that type of obstruction since it could be in place for up to a year. Mr. Espinoza agreed and stated that dumpsters will need to follow Stormwater Pollution Prevention Planning (SWPPP) ordinances in order to be kept on the road during the construction of a home. Mayor Berube added that many construction companies will not obtain an obstruction permit because they will only be on-site for four hours at a time. This led to discussion among the Mayor, Council, and staff regarding the party that will be responsible for obtaining an obstruction permit and the City's ability to enforce the ordinance. Council Member Swanson stated that it may be necessary to adjust the language in the proposed ordinance to ensure that it is clear what types of activities would be considered obstruction of a right-of-way. The purpose of the ordinance should be to keep residents safe, but the City should not be overreaching and infringing on private property rights.

City Manager/Attorney Call stated that the ordinance provides residents greater opportunity to use the City's right-of-way instead of simply citing someone for illegally placing items/materials in the right-of-way. Mayor Berube agreed but noted that the ordinance needs to clearly communicate the types of activities that are allowed, the activities that are included in the building permit process, and the party that is responsible for obtaining a permit.

Continued high-level discussion among the Council centered on how residents will be informed that they are required to obtain this type of permit.

Council Member Swanson moved to postpone the approval of the Obstruction of Right of Way Permit Proposal. Council Member Eckstrom seconded the motion.

Voting on the motion:

Council Member Barker	**aye**	**(Arrived at 6:52 pm)**
Council Member Cevering	**aye**	
Council Member Dalpias	**aye**	
Council Member Ekstrom	**aye**	
Council Member Swanson	**aye**	

The motion passed unanimously.

9. DISCUSSION AND/OR ACTION ON THE LOMOND VIEW PARK PICKLEBALL COURTS.

Mayor Berube stated that the City has submitted an application for Recreation Arts Museum Park (RAMP) funding from the County and he is fairly confident the City will have adequate funding to proceed with the project.

Eric Casperson, City Engineer, presented a plat and conceptual drawings to illustrate the proposed construction of pickleball courts at Lomond View Park. He also summarized the Request for Proposals that he has conducted for the project and indicated that he has received responses from Courts Unlimited and Crowther Construction. Crowther Construction is only interested in doing the concrete work and their bid is $134,027. It would be the City's responsibility to provide the pickleball nets and sleeves for posts, fencing, complete court surfacing, and lighting. The total bid estimate for Crowther Construction is $235,000. The bid from Courts Unlimited is $181,000 and it includes the post-tension slab, fencing, lighting (through Brilliant Lighting), surfacing, net sleeves, and a full court plaza 120 feet by 60 feet; it does not include rough grading of the site and the City would need to grade and prep the site. With the costs for rough grading and lighting, his estimate for using Courts Unlimited is $241,000. The difference between the two bids is minimal and he is looking for feedback and direction from the Council.

Council Member Barker asked Mr. Casperson to discuss the project schedule. Mr. Casperson stated that Crowther Construction can start on the project in three weeks, but Courts Unlimited cannot start until next spring. Completion of the project is dependent upon the timeframe for grading and leveling the land and temperatures that will allow the concrete to cure properly.

Council Member Ekstrom stated she likes the idea of using one contractor for the project and would support using Courts Unlimited, even though they cannot start until next spring.

Council Member Swanson inquired as to the budget for the project, to which City Manager/Attorney Call answered $250,000; it is part of the larger park project, which has a budget of over $550,000. Mayor Berube noted the City will have until July 1, 2024, to use the RAMP funding without having to request an extension. Mr. Call stated that is correct and it would be great to have the pickleball project done by July 1.

High-level discussion among the Council and staff centered on the total project budget and the amount of money the City has received in the form of donations or a pledge of in-kind contributions to the project. The Council concluded they are supportive of the Courts Unlimited bid, so long as Courts Unlimited is willing to include starting and completion dates in their contract before signing it.

Council Member Barker motioned to authorize City Administration to negotiate a project timeline with Courts Unlimited and execute a contract with them for the Lomond View Park Pickleball Courts. Council Member Eckstrom seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

10. DISCUSSION AND/OR ACTION ON DEER FENCING PROVISIONS

Council Member Swanson stated that the City's fencing ordinance currently limits fencing heights at six feet; he would like for the Council to consider an ordinance amendment that would allow fencing on interior gardens to be eight feet tall in order to help keep deer out of residential gardens. The Department of Wildlife Resources (DWR) has indicated that this is the only way to deter deer from entering an area and this may give some relief to residents who are dealing with property damage each year due to the increase in the urban deer population. He stated he does not expect a lengthy discussion tonight, but asked that the Council consider this issue in preparation for future discussion and possible action. The Council acknowledged that it will be necessary to solicit a recommendation from the Planning Commission on this issue since fencing regulations are included in the City's land use code.

Council Member Swanson motioned to postpone the discussion on the Deer Fencing Provisions and submit the issue to the Planning Commission. Council Member Cevering seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

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11. COUNCIL DEPARTMENT REPORTS:

A. COUNCIL MEMBER BARKER – PARKS AND RECREATION

Council Member Barker reported the Wadman Park project is nearly completed and should conclude after the ground dries from recent rainstorms. He then noted that the recreational football season is underway and there are some upcoming service projects in the community aimed at park maintenance and improvements. He concluded he is in contact with the City Administration regarding efforts to repair damage at the parks due to flooding this spring. Public Works Director/Assistant City Manager Espinoza provided an overview of the parks that are used as detention basins repair schedule.

B. COUNCIL MEMBER ECKSTROM – PUBLIC WORKS

Council Member Ekstrom invited Public Works Director/Assistant City Manager Espinoza to provide a report of ongoing projects in the Public Works Department. Mr. Espinoza provided an update on an ongoing reservoir project near Barker Park Lane, the construction of a restroom facility and parking area at a trailhead in the City, and water management efforts in the City.

C. COUNCIL MEMBER CEVERING – POLICE

Council Member Cevering reported Chief Quinney has notified him that the Public Safety Building project is moving forward as planned, with an expected completion date in January 2024. School starts tomorrow and residents are reminded to watch for children walking to and from school. Finally, the Police Department has a program called “keep them safe” for children or adults in a home where there is a concern about them wandering from the home and endangering themselves. He invited residents to contact the Police Department to learn more about the program.

Mayor Berube offered thanks to City Manager/Attorney Call and Chief Quinney for their willingness to meet with residents recently who had concerns about safety in the community.

12. PUBLIC COMMENTS

Chris Pulver, North Ogden resident, referenced the pickleball courts at Lomond View Park and asked that the City coordinate with the citizen's group that is working on park improvement projects as they have a great deal of knowledge about this matter. Mayor Berube noted that City Manager/Attorney Call has stayed in contact with that group.

Jeanette Sweet, North Ogden resident, stated she was a member of the group that met with several City officials last night and she thanked them for making themselves available to discuss safety concerns in the North Lakeview Drive neighborhood.

She shared insights for the Council to consider regarding the topic of a Right-of-Way Obstruction Ordinance; she lives directly across from a cul-de-sac at 3600 North and a few months ago, she watched a side dump truck with an extremely long bed take a wrong turn and enter that cul-de-sac; it was too long to make the circular turn to exit the cul-de-sac. Residents moved personal vehicles that were parked on the road to assist him and helped him navigate the turn, which took over an hour. In July, a dumpster was placed in front of one of the homes in the cul-de-sac and the next day she watched a garbage truck turn into the cul-de-sac, and he could not navigate the street or empty garbage cans because of the presence of the dumpster. The garbage truck also had to back up onto private property in order to make the turn to leave the cul-de-sac, causing damage to the landscape on one of the properties. She asked that the Council consider these issues when they are making decisions about the matter of obstructing a right-of-way by the placement of large equipment or dumpsters on a public street.

13. COUNCIL/MAYOR/STAFF COMMENTS

Mayor Berube invited the Council to address some of the comments that were made during this evening's public comment periods.

Council Member Swanson addressed the comments about paving the canal trail and noted this is an issue that the City has considered for several years; the cost to pave the trail would be very high, but the City does not own it, and would need to obtain permission from the companies that manage the canal. He also addressed the comments about unlicensed solicitors and noted that this is a difficult issue for the City to regulate; if a resident has an unlicensed solicitor come to their door, they can be asked to leave the property, or the resident can call the Police Department's non-emergency phone number and the Police will respond. For panhandling, residents can also call the non-emergency phone number, but there is case law indicating that panhandlers have First Amendment rights, and cities that have tried to prohibit panhandling have lost in court.

Mayor Berube added that the City has many ordinances, and it can be difficult to enforce all of them actively; the City relies upon residents to report violations of City ordinances so that the City can be reactive and address certain issues. He also asked that residents be patient with the City as it can take a significant amount of time for enforcement action to be taken. He then addressed Mr. Hall's comments about the disc golf project; he expects that the rules that are in place in other parks in the City will also apply to this park. There is a temporary turnaround at the end of 1550 East and the City can post 'no parking' signs in that area. He does not believe the fire risk on the property is higher than for any other park in the City. He then noted that Mr. Call is in communication with the person who is pursuing the disc golf project and the City will defer to Mr. Call regarding whether a written agreement is necessary for that project. He concluded the land has been vacant and unused for quite some time and he believes it will be good for it to be used in a manner that does not dramatically disturb the natural environment.

There was a brief discussion among Mayor Berube, the Council, and staff regarding the regulations imposed on City Park properties and the signage that will be erected to communicate the regulations to users of the facility.

Council Member Eckstrom asked Mr. Espinoza to visit the section of the trail referenced by Mr. Ashdown to remove the puncture weeds that are growing there. He also referenced Mr. Strand's comments about the closure of trails in the Coldwater Canyon area, stating it may be helpful to delineate the trails that are open to the public and those that are privately owned so that users do not trespass. Mayor Berube stated that he has discussed this issue with Mr. Call, and he believes Mr. Strand was accurate in his assessment that it is not legal to cut off public access to property that has historically been used as a public trail. The question is whether this is an issue for the City to address or one that must be handled privately. Mr. Call stated that there is a rule known as the 'Public Use Doctrine' and any trail or road that has been used by the public for 10 consecutive years is considered a public trail. Unless parties can agree on access, the issue must be decided upon by a court. The matter could be addressed by the City, the County, or private parties, but it could take some time to litigate the matter. There was a brief discussion about ownership of the road, trail, and properties in the area identified by Mr. Strand.

Council Member Cevering noted that he was contacted by a family in the community who is concerned about high school traffic on 425 East; they asked that the Police Department increase patrol of this area during the first several weeks of school to help deter speeding and other dangerous activities in that area.

14. ADJOURNMENT

Council Member Ekstrom motioned to adjourn the meeting.

The meeting adjourned at 8:02 p.m.

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S. Neal Berube, Mayor

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Rian Santoro
City Recorder

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Date Approved

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