

NORTH OGDEN CITY COUNCIL MEETING MINUTES

November 28, 2023

The North Ogden City Council convened in a Council meeting at 6:00 p.m. on November 28, 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 November 27, 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 6:07 pm
	Blake Cevering	Council Member	Excused
	Jay D Dalpiaz	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	
	Dave Espinoza	Public Works Director/Assistant City Manager	
	Dirk Quinney	Chief of Police	
	Laura Barker	Court Clerk	
	Michael Junk	Justice Court Judge	
VISITORS:	Sandy Cochran	Brenda Ashdown	Sloane Peterson
	Yaca Attwood	Chris Pulver	Steve Flinders
	Shauna Flinders	Sariah Howell	Susan Kilborn
	Genevieve Payne	Mason Payne	Jim Urry
	Stefanie Casey	Becca Clements	Mark Clements
	Glenda Gantt	Christina Watson	Larry Hill
	Brett Hamblin	Korilyn	Treva Sisco
	Chad Zaugg	Shelly Zaugg	Jeremiah Jones
	Terry Millgate	Brenda Millgate	

Mayor Berube called the meeting to order. Council Member Ekstrom 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.

ACTIVE AGENDA

2. PUBLIC COMMENTS

Sandy Cochran, a North Ogden resident, stated that there is a group of residents here from the Village at Prominence Point development; they recently participated in a meeting with the developer and there were surprising and concerning statements made by the developer that the residents would like to bring to the City's attention. The developer has indicated he plans to build just one pool in the project, even though the residents have been promised two. The developer indicated the Development Agreement does not mention two pools, but many residents have heard the commitment of two pools several times. It is not the job of the residents to ensure those commitments are included in the Development Agreement; that is the job of the staff. The developer also said they are unsure they will build pickleball courts because they believe some residents do not want them; however, many homeowners purchased their property knowing that the amenities would be included, and it is unfair that they will not be provided now. Three lots were turned into a small park; sod was laid, but the water was turned off the next day and the sod has died, and she is concerned that the developer will not replace it or will charge the homeowner's association (HOA) to improve it. The developer also is refusing to turn the HOA over to the residents until the entire development is complete, but that is not fair because at this time the residents have no say in what happens at the site. Ms. Cochran said she has stayed in touch with the Mayor and Council over the past few years and many of the commitments made for the project are not being fulfilled; the residents cannot rely upon the developer to do what they said they would do. Also, the carwash on Washington Boulevard has never paid into the HOA, though she was told they would be charged. When she told the developer about the problem, she was scolded. She and other residents are asking for the City to provide any help they can.

Sloan Peterson, North Ogden resident, stated he also lives in Village at Prominence Point, and he echoed Ms. Cochran's concerns; there is a lack of oversight for the project that dates back to 2017. The commitments that have been made to the residents are not being fulfilled. The former developer declared bankruptcy, but his wife was still a member of the HOA for the project, and she installed fiber internet, and each resident is required to use that service instead of choosing their own. This seems to be bypassing fairness laws for residents. The residents have no voting power or shareholder rights, and the amenities continue to be delayed. He emphasized that developers continue to lie to the public and misrepresent their intentions. He asked why the City continues to approve plans that cannot be enforced.

Yaka Attwood, a North Ogden resident, stated that she also lives in the Village at Prominence Point project, and she bought into the community because of the amenities that were promised; she echoed the concerns expressed by the previous speakers.

Jim Urry, a North Ogden resident, reported a traffic hazard on 1510 North. People are parking on the side of the road and when vehicles crest the hill, they cannot see oncoming traffic when trying to make a left-hand turn onto 2700 North. He suggested on-street parking be prohibited in that area.

Chris Pulver, a North Ogden resident, referenced the agenda item relating to the Interlocal Agreement with Weber County for delivering curbside waste to the transfer station; he asked if the City will be locked into the agreement in the event it is possible to pursue traditional curbside recycling in the future.

Trutha Siscoe, a North Ogden resident, stated she also lives at Village at Prominence Point; she attended the meeting where the new developer showed the Council his plans for the area and the Council voted to approve those plans. She asked if the Council is concerned that what they approved has since changed and she asked if the developer came to the Council to request a vote on their changes.

Steve and Shauna Flinders, North Ogden residents, stated they submitted a proposal to build townhomes in the City and it is their understanding that the City was waiting for approval of a use map before taking action on their proposal. Ms. Flinders stated the City Council has tabled the matter, but they are wanting to start construction on their project as soon as possible. Mr. Flinders noted the property is located at 2679 N. 450 E. and it shares a property line with the ten-plex near the skate park.

Sariah Howell, a North Ogden resident, stated her family also lives at Village at Prominence Point and she also expressed concerns that the commitments that were made by the developer, which was a selling point for her family, will not come to fruition. She feels deceived and the changes to the plans for the project have actually decreased her property value.

Susan Kilborn, a North Ogden resident, stated she sympathizes with the residents at the Village at Prominence Point because she also lives in a development managed by an HOA, and it can be frustrating at times. She then stated she was pleased with the civility in the recent Municipal Elections and thanked everyone who stepped forward to be of service. Those that did not get elected, she is hopeful they will stay involved. She also thanked everyone for voting.

Mr. Urry reapproached and thanked Council Member Swanson for his many years of service.

3. DISCUSSION AND/OR ACTION TO APPROVE RESOLUTION 07-2023 FOR NORTH OGDEN POLICE DEPARTMENT EVIDENCE DESTRUCTION

Police Chief Quinney reviewed the list of properties that is included in the evidence destruction proposal. Any items that can be reused or have any value can be donated and items with little to no value will be destroyed.

Council Member Ekstrom asked where firearms are donated. Chief Quinney stated they are donated or transferred to licensed dealers.

Council Member Barker motioned to approve Resolution 07-2023 for North Ogden Police Department Evidence Destruction. Council Member Ekstrom seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

4. DISCUSSION AND/OR ACTION TO APPROVE RESOLUTION 08-2023 FOR THE RECERTIFICATION OF THE NORTH OGDEN JUSTICE COURT

City Manager/Attorney Call reviewed a letter he included in the Council meeting packet regarding the proposal to recertify the North Ogden Justice Court. He also introduced the City's Justice Court Judge Junk and Court Administrator Barker, who provided detailed information regarding the status of the Court, day-to-day operations, increasing caseloads, and the fiscal stability of the Court. They asked for the Council's support of their request for recertification of the Justice Court for an additional four-year period. Ms. Barker clarified that the City has met the standards for achieving recertification of the Court.

There was a brief discussion among the Mayor, Council, and Judge Junk regarding the growth opportunities for the Justice Court due to the construction of a larger courtroom in the City's new Public Safety Facility.

Council Member Ekstrom motioned to approve Resolution 08-2023 for the Recertification of the North Ogden Justice Court. Council Member Dalpiaz seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	excused
Council Member Delpias	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

5. DISCUSSION AND REVIEW OF NORTH OGDEN CITY CODE CHAPTER 4

City Manager/Attorney Call explained that there are parts of the North Ogden Code Titles that need to be reviewed as part of the comprehensive update of the City Code. He further explained that the plan is to have a discussion on the proposed changes and talk about specifics as necessary so the Council can have a cleaner document for final approval in early 2024. The purpose is to get guidance on any additional needed changes to the North Ogden City Code. No vote will be taken on an official ordinance at this time. Significant proposed amendments include:

- 4-1-4 State Code covers the necessary bonds for the businesses we had identified. Those bonds are filed with the state now and take a burden off the city.
- 4-2-1 definition changes to align with state code.
- 4-4-4 recommended treating all individuals going door to door equally to avoid an argument that we are playing favorite for one religious group or another.

Mayor Berube asked Mr. Call to review the State Code regarding the definition of liquor; some grocery stores sell kombucha that may exceed the percentage of alcohol allowed due to fermentation. Mr. Call stated he would make a note of that issue and research it. He then facilitated a review of the specific text amendments that have been suggested and asked for direction from the Council regarding how they would like to proceed; no action is to be taken tonight, but staff is seeking feedback about additional changes they would like to see before an action item is scheduled. The Council referenced certain sections of the documents that they would like clarification on, including door-to-door solicitation regulations and sexually oriented businesses. Mr. Call concluded he will address those issues before the proposal is brought back to the Council for further consideration and action.

6. DISCUSSION REGARDING SEWER BACKUP ON 750 EAST

City Manager/Attorney Call explained in the spring of 2023 there was a sewer backup on 750 East which flooded the basement of one of the homes. The backup was caused by cement and

asphalt that had made their way into the sewer pipe. The resident has filed claims with various insurance companies but had all of them rejected. They would like a chance to discuss the situation with the Council to ask for relief from this issue and any assistance the City is willing to provide. The City's insurance company has also denied the claim because this pipe was cleaned and inspected recently with no issues noted. He noted the Council may make any decision they feel is appropriate, noting that legally the City is not required to participate because government immunity indicates the City has done nothing wrong.

Council Member Swanson asked when the line in question was inspected. Mr. Call stated that happened prior to any manhole work being completed in the area. Council Member Swanson stated he had heard a claim that the manhole work was done without a permit, and he asked if a separate permit was required for that work. Mr. Call stated that it is included in the development permit, but inspection is required.

Council Member Dalpiaz asked for information about the City's 'no fault' funding mechanism. Mr. Call stated that the Council created a policy and fund in the past to offer up to \$5,000 to assist residents who have been harmed by this type of thing, but no fault was found on the part of the City, and insurance claims have been denied.

Mayor Berube asked for confirmation that all pertinent inspections and maintenance of the line that caused the damage were performed. Mr. Call stated that is his understanding based upon records and the recollection of City employees.

Mayor Berube invited input from the residents. Genevieve and Mason Payne approached. Ms. Payne stated that this is their first home that they bought after several years of saving; they have lived there since 2021 and in the spring of 2023 the entire basement was flooded with sewage. This is half of the living space of their home, and they are asking that the City finance the mitigation and restoration of their home and pursue reimbursement through legal action if the City sees fit. She stated she knows the City cannot sue the developer on behalf of a resident, but can sue to recover expenses they cover. She noted the mitigation and restoration of the home has been quoted at \$54,762, which makes it clear how extensive the damage to the home was. She then reviewed a timeline of events to convey that the damages were caused by no fault of the Paynes, and it is related directly to the new development directly across the street from their home. She left a copy of the timeline with the Mayor, City Council Members, and Mr. Call. She noted she feels it is the role of City Government to protect residents from improper construction practices that led to this problem occurring and she and her husband are pleading for help in restoring their home; this situation has been emotionally draining for their family and would be financially devastating if they cannot get help. She asked the City to make the ethical choice to help them restore their home to what it was.

Mr. Call indicated this is a policy decision for the Council; if the decision is made to offer financial support to the Paynes, it will be necessary to amend the City's sewer budget.

Mayor Berube asked Ms. Payne if she received any money from her insurance company. Ms. Payne stated that they have been given \$10,000 by their homeowners insurance company, which means the outstanding amount is \$44,762.

Mayor Berube asked Mr. Call for his legal advice relating to how the City would recoup any money offered to the Paynes. Mr. Call stated that the matter is likely to be litigated and it is up to the City to decide whether to finance the restoration of the Payne's home and then file a suit to recover the amount spent on those efforts. He referenced case law and indicated cities that have done something like this have lost their lawsuit because they voluntarily stepped into the role requested by a resident. Essentially, cities cannot sue to recover something they have agreed to. He added that a precedent may be set if the City agrees to help the Paynes; in the future there may be a similar event, but it could impact many more homes and the City would not have sufficient funding to restore multiple homes.

Council Member Delpias asked if the City could aid the Paynes in litigating the matter. Mr. Call stated that this could be problematic and could lead to the dismissal of the case due to procedural concerns.

Mayor Berube asked if the insurance company could be required to pay additional damages for denying a valid claim. Mr. Call answered yes, if the court decides in favor of the homeowner, the insurance company could be required to pay punitive damages.

The Mayor and Council engaged in high-level discussion with staff and the Paynes regarding communication that has taken place thus far with insurance companies and the contractors that have been performing work in the vicinity of their home. Mayor Berube suggested that the City offer the no-fault funding of \$5,000 and that funding be used to hire an attorney to reach out to the Paynes' insurance company asking for reconsideration of the matter. He noted he sympathizes with the Paynes, but suggested that other efforts be pursued. Mr. Call stated that he could write a letter on behalf of the City, and he agreed that a letter from a private attorney would also be helpful. The Council discussed the suggestion from Mayor Berube; Council Member Swanson stated he is concerned about taking an action that would indicate the City is assuming liability or is at fault, but he is in favor of providing the no-fault funding to the Paynes. Council Member Ekstrom agreed but indicated she feels an investigation is warranted to determine what caused the sewer backup. Council Member Delpias stated he is concerned about setting a precedent; he also feels horribly for the Paynes, but he believes they will be successful in litigating the issue because of the extensive amount of evidence and documentation of the event. Council Member Barker stated that hearing that it is not possible to prove who was at fault, he feels the City should take responsibility. He noted that he supports helping them write a letter to their insurance company but giving the Paynes \$44,000 would be much less expensive than going to court.

Council Member Swanson motioned to authorize the no-fault \$5,000 be given to the Paynes to use how they see fit. Council Member Delpias seconded the motion.

Council Member Swanson stated that the overarching concern he has is that when a Council Member takes office, they swear to uphold the Constitution of the United States and the State of Utah; this includes due process and the sentiment that everyone is innocent until proven guilty. Whoever is responsible for this event is entitled to due process and for the facts to be adjudicated in a court of law. This is the appropriate way to determine who is responsible and who should pay the expenses to restore the Paynes home. He added that different tests can be performed to determine where the material that blocked the sewer line came from.

Council Member Ekstrom stated that she feels it will be possible for the Paynes to use the money to hire an attorney and to seek arbitration with the insurance company.

Voting on the motion:

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

The motion passed unanimously.

7. DISCUSSION AND/OR ACTION TO APPROVE RESOLUTION 09-2023 TO AMEND THE CONSOLIDATED FEE SCHEDULE

Assistant City Manager/Public Works Director Espinoza summarized proposed Consolidated Fee Schedule amendments:

- **Administration Department:**
 - Adding to Fee Schedule: Military Banner for Hero's Boulevard at market rate.
- **Building Department:**
 - Increase the water meter fee for new connections as prices have increased.
 - Will include the cost when available before the council meeting
- **Police Department:**
 - New fee: Utah Criminal History report (background check) \$25.00
- **Water Fund:**
 - Increase water pumping energy costs
 - Zone 7 increased \$0.54
 - Zone 8-10 increased \$0.56
- **Impact Fee Summary:**
 - Add Impact Fee amounts for Additional Dwelling Units (ADU) as outlined

There was brief discussion about the items listed in the proposal; Council Member Swanson noted that the City has received commitment of donations to cover the costs of the Military Banners, but it is still necessary to include that cost in the fee schedule.

Mayor Berube added he has asked staff to conduct a study into all fees charged at the North Shore Aquatic Center and there will be a future proposed amendment to the Fee Schedule regarding those fees.

Council Member Ekstrom motioned to approve Resolution 09-2023 to amend the Consolidated Fee Schedule. Council Member Swanson seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

8. DISCUSSION AND/OR ACTION ON ENTERING INTO AN INTERLOCAL AGREEMENT FOR THE PURPOSE OF DELIVERING CURBSIDE WASTE TO WEBER COUNTY TRANSFER STATION

Mayor Berube briefly discussed the termination clause for the proposed Interlocal Agreement; he noted he and City Manager/Attorney Call have reviewed the contract and are seeking approval.

Council Member Swanson motioned to enter into Interlocal Agreement A19-2023 for the purpose of delivering curbside waste to Weber County Transfer Station. Council Member Dalpias seconded the motion.

Council Member Dalpias stated he attended the Weber Area Council of Governments (WACOG) meeting where this matter was discussed, and the indication was that the County needs the support of all cities in the County in order to make this arrangement successful. If a private company decides to compete with the transfer station, it would be problematic for the County to continue to provide that service. Mayor Berube agreed.

Voting on the motion:

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

The motion passed unanimously.

9. **COUNCIL DEPARTMENT REPORTS:**

a. COUNCIL MEMBER DALPIAS – BUILDING AND PLANNING

Council Member Dalpiaz noted a survey is being conducted regarding the South Town Center and he encouraged everyone to respond as soon as possible; the survey will close December 11, 2023, and there are currently over 300 surveys completed. He added there will be an open seat on the Planning Commission in February and he encouraged interested residents to apply.

b. COUNCIL MEMBER SWANSON – FINANCE

Council Member Swanson provided a report of the City's financial condition for the period ending October 31, 2023, or 34 percent of the current fiscal year (FY). Mayor Berube indicated he read the financial summary from Finance Director Jones, and she expects the City will hit its projected sales tax revenue in the FY budget. Council Member Swanson stated that is correct. Mayor Berube briefly discussed the formula for sales tax revenue distribution in the State of Utah.

c. CITY MANAGER/ATTORNEY JON CALL – CAPITAL PROJECTS

Mr. Call discussed the status, schedule, and scope of the following capital projects:

- 2550 Detention Basin;
- Lomond View Courts and Playground;
- Public Safety Building;
- Reservoir/two-million-gallon water tank project;
- Water works park near old Public Works facility.

Mr. Call then reminded the Council of a meeting scheduled for December 5, 2023, to discuss the projects in the City for which they would like to use Redevelopment Agency (RDA) funding.

10. **PUBLIC COMMENTS**

Prior to accepting public comments, Mayor Berube asked staff to respond to questions raised during the public comment period at the beginning of the meeting; he asked Chief Quinney to respond to Mr. Urry's comments about on-street parking. Chief Quinney stated semi-trucks have been parking on the street on 300 East, south of 2600 North adjacent to the O'Reilly's auto store. Patrol officers have checked on the vehicles and found that they are legally parked according to State statutes and City ordinances. However, winter parking regulations went into effect on November 15 and vehicles should not be parked on the street overnight. Mayor Berube asked if the City could prohibit on-street parking legally. Chief Quinney stated the City can prohibit parking on any City street, but not on a State road. Mayor Berube stated 300 East is a City street and he suggested the Council may want to consider the matter in a future meeting. He has visited the area and agrees with Mr. Urry that the current practices are creating a safety issue.

Mayor Berube then referenced the comments made by Village at Prominence Point residents and stated he believes the Council cannot unilaterally change the Development Agreement that was entered into in 2017. City Manager/Attorney Call agreed both parties would need to agree to modifications. Mayor Berube stated he has reviewed the agreement, and it is vague in regard to the number of pools and amenities to be included in the project. He added that there is a limit on unit heights and design. He added the City has learned some lessons from the Village at Prominence Point project and will apply that knowledge to future projects.

Council Member Delpias stated that some of the concerns expressed by residents of the Village at Prominence Point project are due to misrepresentation by other parties, such as real estate agents, and the City does not have the ability to govern that matter. However, he feels badly for those residents. He then addressed the comments made by the Flinders and indicated he would follow up with the Community and Economic Development (CED) Department to determine the status of that proposal. Mayor Berube stated that he believes that the project was put on hold due to plans to update the General Plan. CED Director Hess added that the General Plan shows a variety of uses allowed on the Flinders' property; he reviewed the minutes of the meeting from August of 2021 when the Flinders' proposal was discussed, and the Council made a motion to table that item pending the adoption of the updated land use map. In that time frame, he emailed Ms. Flinders about the options available to them, but he had not received communication from her until tonight. Mayor Berube asked if the General Plan allows the use of the Flinders desire. Mr. Hess answered yes; the General Plan identifies R-4 zoning as an allowed zone for the property, which would allow townhomes. He will discuss the process with the Flinders and help them proceed with their application.

Council Member Swanson again referenced the comments regarding the Village at Prominence Point project and asked if the commercial uses along Washington Boulevard are part of the HOA for that project. Mr. Call stated he is unsure, and he has not received the conditions, covenants, and restrictions (CCRs) for the HOA; it was his understanding that the commercial development was supposed to be part of the HOA, but that may have not been taken care of by the developer. Mayor Berube added that is a private matter and the City does not have any authority relative to the agreements and CCRs for the HOA.

Glenda Grant, a North Ogden resident, stated she is the mother of Genevieve Payne; she asked what position Dave Espinoza held in May of 2023. Mr. Call answered he was the Public Works Director and Assistant City Manager. Ms. Grant stated that she personally heard Mr. Espinoza, on two different occasions, assure her daughter that the damage to their home was not caused by them and that it was a City sewer line failure and for her not to worry because the City of North Ogden would take care of it. She stated her daughter was so relieved; she, herself, was also relieved because her daughter's family of four was living in their tiny apartment and they did not have enough space. She stated that what she heard tonight was a lot of platitudes from the City Council and an expression of how sorry they are for her daughter's situation. However, what is truly hard is sitting in the upstairs level of her daughter's home and listening to and smelling sewage rushing into the basement. She stated that the Paynes had nothing to do with this failure. It may be true that the cement that caused the blockage can be tested to see where it came from, and that someone can go after the developer that is building in the area, but at the end of the day, it was a City sewer line that caused the damage to her daughter's home. She stated their home is an older home that they have been working hard to improve and she is so disappointed in the discussion of the Council tonight and the basis for the decision that was made. She came tonight hopeful after listening to her daughter being comforted by Mr. Espinoza, but the Council has now told her daughter that she is on her own. She knows the Mayor and Council must look out for the entire City, but a city is made up of citizens and it could have been anyone that was personally harmed by the failure of City infrastructure. She is offended by the discussion and action that was taken tonight; her daughter's family is overwhelmed and has been sent off on their own without the means to fix the problems that were caused by the City. The City of North Ogden is responsible for what happened to their family, and she will be sure to tell everyone she knows how her family was treated by North Ogden. She asked the Mayor and Council to think about how they would feel if this situation had happened to one of their own children.

Chad Zaugg, a North Ogden resident, also discussed the situation at the Paynes' home; she feels the City must do everything in its power to investigate the matter and determine what caused the sewer backup. He understands that the City cannot be sued, but individual employees can and that will also cost the City money in the long run. He advised the Council to do what they can to take action immediately to save money on a lawsuit and to set a precedent so that developers and insurance companies do not do something like this in the future. He is sure that it is known who is at fault and that needs to be addressed immediately.

Becca Clements, a North Ogden resident, stated she lives in the new development near the Paynes' home, and she does not think the City has done right by them. She agreed with Ms. Grant and stated she was offended by how the Council treated Ms. Payne. They deserve much more than what was given to them tonight. They have been through so much and have been given the runaround, and the City has the responsibility to help them if it is not possible to prove that the City was not at fault. She is disappointed in the City Council.

Mark Clements, a North Ogden resident, stated the City has not shown that the sewer system was not at fault in the situation at the Paynes' home. He stated there was debris in the system, regardless of where it came from, and the onus is on the City to determine the cause of the debris.

If the City can investigate the matter and show that the debris came from a developer, that evidence can be used by the Paynes to litigate the matter. The City has the responsibility to take the first step to see what happened.

Jim Urry, a North Ogden resident, also addressed the Paynes' situation and asked if the City has an inspection report for the sewer line. He served on the Council for 12 years and can name a half dozen times when inspections were not performed correctly and that resulted in sewer damage in other homes in the City. When the City went after developers in those situations, the developer declared bankruptcy and the City had to cover the damages. He suggested that the City bring the developers in this situation before the Council to discuss the matter and hold them accountable for failure to do work as required. He asked if Ms. Payne's bid is for materials and labor or just materials; he suggested it may be possible to get residents of the community to volunteer to perform the labor if the materials can be bought. He concluded that he appreciates the service of the Mayor and Council and advised them to review the inspection reports for the sewer line that caused the damage.

Christina Watson, a North Ogden resident, echoed the comments about the event at the Paynes home; if the City is aware of the potential for a lawsuit, they should investigate the matter and she suggested that be started immediately. She also asked if the City Council could consider ordinances that would provide greater protection for the City in these types of situations in the future. She stated she appreciated Council Member Swanson's comments about due process, and Council Member Barker standing up for what he thinks is the right thing; that is a core value that City Council Members should possess. She also appreciates that the Mayor and Council were respectful of Council Member Barker's opinion, even if they did not agree with it. She suggested that the letter written by an attorney to the insurance company and developer have a deadline for a response within one week and if that response is not received, the matter should be discussed again with the Paynes in a City Council meeting. She hopes that this was not the last discussion the City will have about this situation.

Mayor Berube stated that he does not believe the Council was 'shutting the door' on the situation with the Paynes; however, the City does have governmental immunity according to State statute. The City would not be preparing for a lawsuit if it cannot be sued. He communicated the Council wants to do all they can to help the Paynes resolve the situation. The Council agreed.

Sandy Cochran, a North Ogden resident, addressed the Village at Prominence Point project; she understands the City cannot step into private property matters, but there are so many loopholes in the Development Agreement for the project and a partner of the former developer, Jack Berrett, is still involved in the project. The process needs to be reviewed to determine how the City can 'pin the developer down' and enforce the Development Agreement specific to the pools and other amenities to be built in the project. The developer does not want to work with the residents, but the priorities and needs of residents should be much more important than the priorities and needs of developers.

Mayor Berube reiterated that the Development Agreement for the Village at Prominence Point project was the first major Development Agreement for the City of North Ogden, and he acknowledged it was flawed; the City has been working to strike a balance between what the developer has the legal right to do and the desires of residents. He noted the developer will be coming back to the Council for continued discussion of the project and the Council can use this feedback to continue to converse with them.

Brenda Ashdown, a North Ogden resident, stated that she has experienced a sewer backup in her home as well and did not receive any support from her insurance company or the City; the damage was not as extensive as the Paynes have experienced and her heart breaks for them. She then stated that at the last City Council meeting she asked about the City's sign ordinance and flag signs specifically; she asked if the Council has investigated that matter. She stated that some businesses have tall flag signs, and they are ugly and fall into disrepair very easily. She would like for the City's sign ordinance to be reviewed to determine if those types of signs should be more heavily regulated than typical signs.

Council Member Swanson stated that flag signs are listed as permitted signs in the sign ordinance. Council Member Delpias stated that he will work with the CED Department to look into the sign regulations and report back to the Council.

Genevieve Payne, North Ogden resident, stated that she is not sure how she is supposed to prove that the City is at fault in order to get more consideration from the City or its insurance company. She also clarified that \$15,000 of the cost to restore her home is for clean-up; her basement was filled with human excrement, toilet paper, tampons, and other items that a professional remediation company has removed. She owes that payment right now and the \$5,000 provided by the City will cover just a portion of that cost. She stated that City employees witnessed unauthorized work being done by the developer on January 6 and she asked if they inspected the sewer line after they witnessed that. If an inspection was not done, it should have been.

Sloane Peterson, a North Ogden resident, also addressed the Village at Prominence Point project, which has been going on since 2017. It is unfortunate that the City will not follow up with the developer regarding the residents' concerns about matters that will impact their quality of life and property values. These are things that the City should not have approved initially; he understands that efforts have been made to improve the City's process regarding Development Agreement, but even last year when the new developer came to the City for the project, enough was not done to correct the outstanding problems and offer assistance to residents.

Mayor Berube stated that he owns a unit at Village at Prominence Point, and he is not trying to avoid the problems at the project; however, the City cannot unilaterally change the agreement that was approved in 2017. Whoever owns the majority of the units in the project will have control of the HOA and the City cannot interfere with the HOA and private property owners. The developer will be coming back to the Council for continued review of the Development Agreement and the City has not washed its hands of this matter.

Mason Payne, North Ogden resident, asked if his acceptance of the \$5,000 from the City will rid the City of any liability or future responsibility for the sewer damage to his home. He would also like a timeframe for when the City sends a letter regarding the matter and for when the item will be discussed by the Council again.

Mayor Berube stated the City is not sending a letter, but supports the sending of a letter. Mr. Payne asked how soon the matter can be included on a Council agenda after a letter is sent. Mayor Berube expects that the matter will enter into arbitration with the insurance company; he cannot commit to the timing of an agenda item until updated information is available.

11. COUNCIL/MAYOR/STAFF COMMENTS

Mayor Berube thanked everyone for providing their input tonight; he understands that people are upset, but assured them that they have been heard and their input will be digested by the Council.

Council Member Delpias stated that he is committed to reviewing the situation at the Paynes home in greater detail to be sure he is as informed as possible. This has been a very difficult meeting and he does not take the situation lightly.

Council Member Ekstrom stated that she did not mean for her comments and extension of sympathy to be offensive; if she could write the Paynes a check for \$55,000, she would. She offered to help clean the Paynes home and is also committed to helping however she can. She stated the Paynes are part of North Ogden, and they are in her prayers and heart. She stated she feels the matter will be resolved, though it may take longer than some would like.

12. ADJOURNMENT

Council Member Ekstrom motioned to adjourn the meeting.

The meeting adjourned at 8:57 p.m.


S. Neal Berube (Feb 7, 2024 16:04 MST)

S. Neal Berube, Mayor


Rian Santoro (Feb 7, 2024 16:35 MST)

Rian Santoro
City Recorder



02/06/2024

Date Approved