

**NORTH OGDEN CITY COUNCIL  
MEETING MINUTES**

October 22, 2019

The North Ogden City Council convened in an open meeting on October 22, 2019 at 6:00 p.m. at the North Ogden City Office at 505 East 2600 North. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on October 17, 2019. Notice of the annual meeting schedule was published in the Standard-Examiner on December 28, 2018.

PRESENT:	M. Brent Chugg	Mayor	
	Ryan Barker	Council Member	excused
	Blake Cevering	Council Member	
	Cheryl Stoker	Council Member	
	Phillip Swanson	Council Member	
	Carl Turner	Council Member	

STAFF PRESENT:	Jon Call	City Manager/Attorney
	Annette Spendlove	City Recorder/HR Director
	Brandon Bell	Associate Planner
	Dirk Quinney	Police Chief
	Tracy Preece	Police Officer

VISITORS:	Christine Stoffel	Troy Nichols	Carey Nichols
	Katelyn Nichols	Hayden Nichols	Jeff Newman
	Mason Pocus	Alex Thomas	Stephanie Casey
	Kevin Burns	Beth Holbrook	Randy Winn
	Kolton Schenck	Pat Dagley	Keith Dagley
	Dylan Anglesey	Chad Roylance	Neal Berube
	Brenda Ashdown	Julie Anderson	Dale Anderson
	Scott Mangels	Susan Clements	Stacey Giatras
	Jonathon Giatras	Bob Buswell	Lynn Satterthwaite

Mayor Chugg called the meeting to order. Council Member Cevering offered the invocation and led the audience in the Pledge of Allegiance.

**CONSENT AGENDA**

**1 & 2. DISCUSSION AND/OR ACTION TO CONSIDER SEPTEMBER 3, 2019 CITY COUNCIL MEETING MINUTES AND SEPTEMBER 24, 2019 CITY COUNCIL MEETING MINUTES**

**Council Member Cevering motioned to approve September 3, 2019 City Council Meeting Minutes and September 24, 2019 City Council Meeting Minutes. Council Member Turner seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**ACTIVE AGENDA**

**3. PUBLIC COMMENTS**

Alan Kerbs stated he is a Physical Therapist and he is opening a new clinic in North Ogden, which he is excited about. He has been working with Associate Planner Bell with his project and Mr. Bell has been very helpful; however, he wished to voice a few concerns or frustrations and he was advised to address the City Council. He stated that his clinic will occupy the old TitleMax building, which has been occupied by several different businesses in the past. His initial idea was to beautify the building and make it different than in the past because he does not want to fail. He stated that in doing this and in working with staff, he has perceived some miscommunication due to the fact that there is not a standard application for this type of project, and it appears there may be some bias for some applicants over others. In developing the landscaping plan for the project, he was told he needed a berm; the Code provides no minimum height, but a three-foot maximum height for the berm, so he spent \$2,000 more and added four inches more dirt to create a berm. He desires to comply with the City Code, but he asked Mr. Bell why other businesses, such as Maverik, were not required to build a berm in front of their store. He stated he knows that was not Mr. Bell's project and he understands that mistakes often occur; however, he is now working on the sign for his project and he has

tried to make it conform with the building and with the property's surroundings. He has been told he has a few options for his sign, one of which being to bury the sign so that it is compliant with the City's sign ordinance; the ordinance provides a maximum sign height of 10-feet. He stated that his sign is a monument sign, not a pole sign, and Smith's has two monument signs – both taller than 10-feet. One is 11 feet, seven inches and the other is 11 feet. He stated his sign is nine feet, six inches and it is electrical in nature so it has cost some money. His architect recommended a roof with a pitch adequate to protect the sign from weather, so the roof at its apex is now 11 feet, seven inches. He has now been told he needs to tear off a portion of his roof to reduce it by about a foot. He stated he has put much time and money into this project and he advertised his opening to occur in July and now he is asking for some consideration of possibly an exception from the City to allow him to proceed with his project. He stated that as he drove down Washington Boulevard today, it was his observation that his project is no different from others along the road. There is not one sign that matches another and he wondered if other businesses have been given different allowances because they have more money or they are a 'different player'. He stated he does not think that anyone cares about a sign that is a bit taller than others or if a business has a berm in front of it; he is starting to take the matter a bit personal. He reiterated he planned to be open in July and he has spent \$4,000 advertising his business in the Besst Yet magazine. He has had people in North Ogden calling to schedule an appointment with him and he has been able to assist them because he is being held back by the signage matter. He had a final occupancy inspection on Monday of next week, but Mr. Bell cancelled that because of the sign. He stated he understands that Mr. Bell is dedicated and he is good at his job; he understands he must enforce the Code, but he is unsure anyone else cares if a sign is a bit taller than others. He pleaded with the Council to allow him to open his location and start seeing patients while he addressed the issues with the sign. He stated he would also like to pursue an exception to the City Code instead of cutting off a portion of the sign or burying it into the ground.

Council Member Turner addressed staff and asked if it is correct that the final occupancy inspection has been cancelled. Associate Planner Bell answered yes. Council Member Turner stated that it has been his experience in the construction industry that it is common for a final occupancy inspection to occur and for conditions to be placed upon that approval giving the applicant time to address any outstanding issues, but to proceed with opening their business. He asked if that could happen for Mr. Kerbs. City Manager/Attorney Call stated that if that is what the Council desires, the staff can provide temporary occupancy that will expire after 90 days while the outstanding issues are addressed. Council Member Turner stated that he would like to pursue that course of action. The Council discussed the history of the sign ordinance in response to Mr. Kerbs' claim that all signs along Washington Boulevard do not conform with the same standard that is being imposed upon him; Mr. Call stated the ordinance has been adjusted routinely

to address issues that have arisen over the years. He noted that if staff so directs, the matter of granting temporary occupancy will be handled administratively.

Hayden Nichols, 1363 E. 3090 N., stated he is doing a presentation on deforestation for one of his school classes; forests are vital to oxygen supply and oxygen must be clean to ensure the health of the earth and its environment. Thirty-one percent of the earth is covered in forests, but the amount of forest space is reducing rapidly because of clearing and burning forests. Loss of trees and other vegetation are contributing to climate change, which is a big part of society. If this is not addressed, oxygen supply and quality will dwindle, and the climate and species will go extinct. Farmers and miners are contributing to the problem and this could be addressed by stopping clear cutting or planting a tree elsewhere whenever a tree is cut down.

Christine Stoffel, 668 E. 3525 N., stated she would like to bring awareness to North Ogden about radon; radon is a radioactive gas found in homes and buildings. She presented a report from the Utah Department of Environmental Quality (DEQ) about the harmful side effects of breathing in radon. Radon can cause lung cancer and is the second leading cause of lung cancer after tobacco smoke. One-third of homes have radon levels that are higher than deemed safe by the Environmental Protection Agency (EPA). The EPA recommends that all homes be tested. Currently, the average home in Utah measures at 5.3 particulate, though the acceptable range is between two and four particulates. You cannot see, taste, or smell radon, therefore a test kit is required. She stated her own home was rated at 11 particulates. She decided to have it tested about a year ago after reading a report about radon. She has an unfinished crawl space in her basement, and she believes that is where the radon was coming from. Homeowners can protect themselves by purchasing a radon mitigation fan that will move the air from the inside of the home to the outside. There is a lot of information available about radon and she is hopeful it will be possible to get the word out about the presence of radon and the harmful effects. She suggested the City buy radon testing kits in bulk at a reduced cost and sell them to residents so they can perform radon testing.

Pat Dagley, 888 E. 2850 N., stated she has a concern about the intersection near her home; two weeks ago she heard a large noise outside her door and it was an accident in the intersection. This has happened several times before, but this time when she opened her door, there was a car sitting 10-feet from her front door on her lawn. The driver had not seen the stop sign and he was broadsided by students driving home from Weber High School. No one was hurt, but in talking with the Police Officer they shared their knowledge of the danger of the intersection and the several accidents that have occurred there. She asked for a four-way stop or blinking lights on the stop signs. It is lucky that no one was hurt this time, but she does not want anyone to get hurt in the future. With all

the traffic from Weber High, she is concerned about a fatal accident or potential property damage to her home resulting from future accidents.

Kolton Schenck, 2747 N. 1325 E., stated he is present to talk about pollution; pollution is bad for the earth because it harms people, plants, and animals. If plants are harmed, they are unable to create oxygen. If humans breathe pollution for six to seven hours, they can easily get respiratory diseases or asthma. Pollution is worsened by smoke, which gets into the air, waterways, and soil. Recycling and reducing vehicle emissions is vital to reducing pollution. Pollution is the worst in India, Bangladesh, Egypt, and Nepal; in the United States, Utah has the fifth worst pollution levels. Pollution is killing people; 800,000 people are losing at least 17 years of their life from air pollution. Air pollution causes more damage than all car accidents in a year and 11 percent of deaths in the world are caused by air pollution.

Dylan Angelsey, 861 E. 3350 N., also talked about climate change, which is the change in global regional climate patterns produced by fossil fuels. This is bad for Utah because heat waves are becoming more common and snow is melting earlier in the spring. This will increase the flow of water in Utah's rivers and increase occurrences of wildfires while decreasing the productivity of crops and farms. The snowpack will also be reduced and the amount of water content in the snow will be lower. Soils are likely to be drier in this State, so farms will need more water, but it is not available because of evaporation. Dams capture water for use in the growing season in each year, but because of climate change, the dam levels are lower and lower each year. This will also impact aquatic wildlife for fish. Reduced water also makes it difficult for trees to fight off pests, such as bark beetles, which are very harmful to trees. Temperature usually controls the life cycle of pests, but higher winter temperatures allow some pests to live year-round and keep destroying trees. Increasing droughts and higher temperatures are also likely to interfere with farm and dairy production. This will also result in increased methane in the atmosphere. Wildfires will also increase, which increases pollution that is harmful to humans and other species. Hot summers can be dangerous for young and old people; high temperatures can cause heat stroke and dehydration. He thinks the problem can be addressed by investing in renewable energy, such as solar, wind, water, and thermal energy; reducing water and food waste; eating less beef and more chicken; unplugging fully charged devices so they are not using electricity; lowering devices to the lowest power setting; and riding a bike or carpooling rather than driving a vehicle. He asked if the City is doing anything to help with this cause. Council Member Swanson stated the City converted street lights to LED, which reduced power usage by 80 percent.

Mason Pocus, 3098 N. 100 E., also discussed climate change, which is the process of the earth heating up because of carbon dioxide in the air as a result of burning fossil fuels.



This process contributes to global warming and he is wondering what the City of North Ogden is doing to help address climate change.

Alex Thomas, 1194 E. 1925 N., also discussed deforestation, which is taking place all over the world as farm land is replaced by development and trees are chopped down. This destroys animal habitats and can sometimes cause fatal damage. This can be stopped by creating preserved areas just for planting congruent trees to keep oxygen supplies up. Or, a program can be created that would require a new tree to be planted each time a tree is cut down. Lumber taxes could also be enacted for when large numbers of trees are cut down. She has personally felt the effects of deforestation as she has noticed deer coming into her yard to eat.

Dale Anderson, 940 E. 2600 N., stated one of the youth who spoke tonight mentioned India; he spent some time in Delhi, India this year and the air pollution is horrific. He then noted the reason he came tonight is to hear the discussion for agenda item six, the potential creation of a committee to consider riparian repair and restoration of Coldwater Creek. He stated that is an issue that is very near and dear to him; he spent much time in Coldwater Canyon. About a year ago he met Spencer Alexander, who is very passionate about the restoration of Coldwater Creek near the Village at Prominence Point project; he took him on a horseback ride up Coldwater Canyon to see the source of the Creek water, the watershed, and the rock formations. During the winter he participated in the cleanup of the Creek west of Washington Boulevard and a few weeks ago they met with Paul Burnett of Trout Unlimited and he spent some time looking at the unique features of Coldwater Creek. He stated that he wants to be involved in approaching this issue very carefully and he does not want the City or developer to do anything that will cause more damage than good to the Creek. It is obvious to him that this is a project for people with a very special skill set and education to work on. This can be part of the City's legacy and he hopes the Council will approach it very carefully and thoughtfully.

Stacey Giatras, 873 E. 1700 N., stated she is present to address agenda item five, the proposed ordinance amending short term rental regulations. She and her husband started to add onto their home about a year ago; they worked with City staff to get approval of their project and they desired to use the additional space as an Airbnb property for short term rentals. She was told the property was in the correct zone and they had sufficient land for an accessory dwelling unit (ADU), but it had to be detached and located in the rear of their property. She and her husband did not want a detached unit so they are advised to pursue a zone change that would allow an attached unit. The zoning was changed, and she and her husband moved forward with financing and hiring an architect for their project. As they were waiting for their building permit, they were informed there was an ordinance amendment that prohibited nightly rentals. She was not aware of that

regulation when she pursued the zone change; her intent is to use the ADU primarily for her family and so she asked how she could proceed with the project so that the financing would not be jeopardized and her home would not be under construction during the winter. She stated that Associate Planner Bell suggested that she draw a red line through the kitchenette on the plans in order to secure her building permit, so she did that and the project was allowed to proceed. It is about halfway finished now, but she and her husband have asked for a code amendment that would allow them to proceed with the project as originally planned. The matter was heard by the Planning Commission in their last meeting and they voted to support the code amendment; however, that vote was not unanimous and some of the concerns expressed related to the potential for multiple situations such as her popping up or for a large number of duplexes being developed. She stated that she does not think these concerns will come to fruition and any ADUs constructed will not look like duplexes because the entry into the ADU cannot be in the front yard unless it is located on the side of the home below ground level. She feels that amending the ordinance as recommended by the Planning Commission will not cause problems in the short term during which the City will pursue a comprehensive ordinance dealing with short term rental land use. There are only two other properties in the City that have attempted an Airbnb unit, so she does not believe this ordinance amendment will open the door for an overwhelming number of units to be opened. The fact that the primary residence associated with a short-term rental ADU must be owner occupied will provide great opportunity for self-regulation. She noted that Vice-Commissioner Mason indicated he did not feel it was appropriate to hold short term rentals to a different standard than other dwellings. She is hopeful the Council will vote favorably to amend the ordinance and allow her project to proceed.

#### 4. **PRESENTATION BY UTA**

Utah Transit Authority (UTA) Trustee Beth Holbrook approached and stated she is present as the UTA Trustee representing Davis, Weber, and Box Elder Counties. The UTA Board is appointed by the Governor to represent UTA and she is here this evening to ensure there is an appropriate level of connection between herself and the communities she represents. She then used the aid of a PowerPoint presentation to discuss the standard bus related services specific to North Ogden City residents. This was presented in the form of a chart and map illustrating the bus routes and hours of operation. Some improvements have been done throughout the community recently, but there are opportunities for further enhancing service in the area. Additionally, there are improvements occurring in neighboring communities that could benefit North Ogden, such as the bus rapid transit (BRT) project planned for Ogden City to connect downtown to Weber State University (WSU). This project was supported by the Wasatch Front

Regional Council (WFRC) on the basis that the project will include connectivity between existing transit lines in surrounding communities that are represented by the WFRC. She added UTA is also pursuing a pilot program called Micro-Transit, which is designed to utilize technology similar to that used by ride-share companies Lyft and Uber. Users will have access to an application that can connect them to transit options that are Americans with Disabilities Act (ADA) compliant. This type of program would be good for communities like North Ogden, which have lower ridership levels. She then discussed UTA service choices; this community engagement and service planning process is:

1. **Asking** the public to prioritize how bus service resources should be distributed.
2. **Gathering** the public's feedback through surveys, public events, and community leader workshops to form a clear view on the public's priorities for bus service.
3. **Developing** a bus network plan which incorporates the public's priorities from the engagement process.

The timeline for this project calls for implementation in the fall of 2021, after an extensive community outreach process. Ms. Holbrook then stated that the many different goals of transit service can be sorted into two major categories: ridership and coverage. Ridership means attracting as many riders as possible while coverage means being available in as many places as possible, even if not many people ride. The current UTA model is 60 percent coverage and 40 percent ridership and talks are underway to determine if that is the best model for northern Utah. She then concluded by thanking the Council for their attention and encouraged them to reach out to her if they have any questions about any service provided by UTA.

## **5. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING SHORT TERM RENTALS**

A staff memo from Planning Director Scott explained when the City is considering a legislative matter, the Planning Commission is acting as a recommending body to the City Council. The City has wide discretion in taking legislative action. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically, the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

The Planning Commission discussed this amendment on September 18, 2019 and requested that a public hearing be set.

The Planning Commission conducted a public hearing on October 2, 2019. Mr. and Mrs. Giatras spoke in favor of the amendment.



In creating the Accessory Dwelling Unit ordinance, the City combined two ordinances together, from the RE-20 and RCC zones, and incorporated all the essential language from each section of the ordinances. In so doing, language was carried over, which prohibits the use of ADUs as short-term rentals. We have one family who has concerns with this prohibition because of a desire to have some flexible space in their home and utilize an ADU for an Airbnb or VRBO type rental.

The genesis of the RCC ADU amendment came as a result of the Planning Commission and City Council wanting an alternative for RCC zoned properties which were downzoned to eliminate duplexes. The ADU amendment was structured to specifically address allowing for an alternative for these downzoned properties.

#### Amendment Summary

The only amendment is the elimination of the prohibition on short term rental properties.

#### **Analysis**

Planning staff does not support this amendment. The purpose and intent section outlines that accessory dwelling units are to provide for additional affordable housing options while minimizing the impacts to neighborhoods. Accessory dwelling units are designed to be a separate living space; while short term rentals are generally incorporated into the existing living space separate from the principal dwelling unit.

#### 11-10-34 Accessory Dwelling Units.

B. Purpose and Intent: The purpose and intent of this section is to recognize the residential character of North Ogden City and to provide for supplementary living accommodations in the community. These provisions are intended to provide for affordable housing with reasonable limitations to minimize the impact on neighboring properties and neighborhoods, and to promote the health, safety, and welfare of the property owners and residents of accessory dwelling units.

Staff believes this type of ordinance amendment should be considered as part of a separate short-term rental provision.

### **CONFORMANCE WITH THE GENERAL PLAN**

#### **Housing Goals**

##### Goal #1 – Increase Housing Quality and Variety

- Encourage adequate housing types which accommodate lifecycle transitions and changing population norms.

- Establish and adhere to high quality building and design standards for all housing types so that development enhances the community character.
- The General Plan housing goals and strategies are supportive of providing appropriate design standards and increasing housing types, e.g., adding accessory dwelling units.

**Strategies**

- Proactively evaluate current ordinances and policies to determine whether there are obstacles that can be removed or modified to achieve the community’s housing goals.
- Create design standards to improve the overall quality of North Ogden’s housing.
- Work with homeowners, landlords, and renters to maintain and improve existing properties.

**The memo offered the following summary of potential Land Use Authority considerations:**

- Should ADUs be allowed to be rented on a short-term basis?
- Is the amendment consistent with the General Plan?

The memo concluded the Planning Commission recommends approval of this amendment with the understanding that a new Airbnb amendment be written, while allowing the Giatras family the flexibility to proceed with their project.

Associate Planner Bell reviewed Mr. Scott’s staff memo in his absence. He simplified the ordinance amendment, noting that the new language will allow for a short-term rental in both an ADU and primary dwelling unit.

Council Member Turner asked if a provision could be included in the ordinance to indicate that this ordinance will no longer be enforced once a comprehensive ordinance governing short term rentals or AIRBNBs is enacted. City Manager/Attorney Call stated that type of directive could be included in a motion to adopt the ordinance.

Council Member Swanson referenced the Planning Commission minutes for this matter; the three different votes that were taken led him to believe there were more Commissioners in favor of this amendment until more comprehensive legislation can be considered in the future.

Council Member Cevering stated there was a lot of information to digest in association with this agenda item and he asked that Mr. Bell summarize the implications of the amendment. Mr. Bell stated that most of the properties in the City’s single-family zones just have one home on each lot. A few months ago, the City adopted an ADU ordinance

that allows for a second unit, though it must be separate and smaller than the primary residence or attached, but only a certain percentage of the size of the primary residence. That will not change in this amendment; the question is whether the smaller ADUs should be used for short term rentals. Council Member Cevering asked how many inquiries the City has received for that use, to which Mr. Bell answered just one, the Giatras's.

Council Member Stoker stated that when this issue was discussed by the Council a few months ago before it was referred to the Planning Commission, she felt that it is appropriate to address the short-term rental land use as soon as possible as there are strong market trends supporting that land use. She wants the City to be ready when there is a demand for vacation rentals here. Council Member Swanson agreed and stated he and his wife have stayed in vacation rentals several times as they have travelled. It has been his experience that the vacation rentals he has stayed in do not have a negative impact on the neighborhood in which they are located, and he believes the same will be true for vacation rentals in North Ogden. He supports this amendment as well as a directive that City staff and the Planning Commission work to develop a comprehensive ordinance regulating short term rentals.

**Council Member Swanson motioned to approve Ordinance 2019-22 amending short term rentals as discussed and requesting that City staff and the Planning Commission work to develop a comprehensive ordinance regulating short term rentals. Council Member Cevering seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**6. DISCUSSION AND/OR ACTION TO CONSIDER A RIPARIAN REPAIR AND RESTORATION COMMITTEE FOR COLDWATER CREEK.**

Council Member Swanson stated that after hearing Dale Anderson's comments earlier in the public comment period, he feels the City is not prepared to create this Committee at this time. This is a very complex thing and he wants the City to take time to do it right the

first time. He would like to take the time to invite vital individuals to participate on the Committee; the scope of the project has grown dramatically, and he would like to proceed with caution at this time.

**Council Member Swanson motioned to table a Riparian Repair and Restoration Committee for Coldwater Creek. Council Member Stoker seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**7. DISCUSSION AND/OR ACTION TO ACCEPT A PETITION FOR ANNEXATION INTO NORTH OGDEN CITY BOUNDARIES FOR PROPERTY LOCATED AT APPROXIMATELY 1825 FRUITLAND DRIVE CONTAINING 1.02 ACRES**

A staff memo from City Recorder Spendlove explained Debra Walker submitted an application petitioning for annexation of approx. 1.02 acres located at approximately 1825 N Fruitland Drive in North Ogden, Utah. As required by Utah State Code the Weber County Surveyor has reviewed the annexation plat map and finds it to be a correct plat. The property being proposed for annexation is within North Ogden City's Annexation Declaration Policy Map. The Petitioner is requesting a R-1-8 zoning, which the Planning Commission will review and make a recommendation to the City Council at a later date. The petitioner meets all the requirements to start the annexation process and it is recommended that the City Council accepts the petition to start the annexation process. A typical annexation takes (3) – (4) months due mainly to the certification of the petition, 3 week noticing requirements and a 30-day protest period and Public Hearing.

**Council Member Turner motioned to accept a petition for annexation into North Ogden City boundaries for property located at approximately 1825 Fruitland Drive containing 1.02 acres. Council Member Swanson seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously**

**8. DISCUSSION AND/OR ACTION TO CONSIDER ACCEPTING A RESOLUTION RE-CERTIFYING THE NORTH OGDEN JUSTICE COURT**

A staff memo from City Manager/Attorney Call reported that after having reviewed the operation of the North Ogden City Justice Court ("the Justice Court"), and having considered the state laws and regulations governing the operation of justice courts, it is his opinion that the Justice Court complies in all respects with applicable state statutes as well as all regulations relating to the operation of justice courts adopted and published by the Utah Judicial Council; the Justice Court, therefore, meets the requirements for recertification.

Mr. Call has determined that the Justice Court meets each of the following requirements imposed by State law:

1. All official court business must be conducted in a courtroom or an office located in a public facility which is conducive and appropriate for the administration of justice.
2. Each court shall be open and judicial business shall be transacted every business day as provided by law, although the judge is not required to be present during all hours that the court is open.
3. The hours that the court will be open shall be posted conspicuously at the court and in local public buildings.
4. The judge and court clerk shall attend the court at regularly scheduled times.
5. The City shall provide and compensate judge and clerical personnel to conduct the business of the court.
6. The City shall assume the expenses of travel, meals, and lodging for the judge of the court to attend required judicial education and training.
7. The City shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council.
8. The City shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution.



9. The City shall provide adequate funding for attorneys where persons are indigent as provided by law.
10. The City shall provide sufficient law enforcement officers to attend court when required and provide security for the court.
11. Witness and jury fees as required by law shall be paid by the City.
12. Any fine, surcharge, or assessment which are payable to the State shall be forwarded to the State as required by law.
13. The City shall pay the judge a fixed compensation within the range provided by law.
14. Court shall be held within the jurisdiction of the court, except as provided by law.
15. The City shall provide and keep current for the court a copy of the Motor Vehicle Laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, Utah Court Rules Annotated, local ordinances; and other necessary legal reference materials.
16. All required reports and audits shall be filed as required by law or by rule of the Judicial Council.
17. The Court shall use a common case management system and disposition reporting system as specified by the Judicial Council.

Effective July 1, 2012, the Court shall record all proceedings with a digital audio recording device and maintain the audio recordings for one year.

In addition to those requirements which are directly imposed by statute, the Judicial Council has been directed to promulgate minimum requirements for the creation and certification of Justice Courts. I have determined that the Justice Court is in full compliance with each of the following requirements:

1. That the court be opened for at least one hour each day that the court is required to be open as provided by law.
2. That the judge be available to attend court and conduct court business as needed.
3. The minimum furnishings for a courtroom include: a desk and chair for the judge, (on a six-inch riser), a desk and chair for the court clerk, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public.
4. The court must have the following: a judicial robe, a gavel, current bail

schedules, a copy of the Code of Judicial Administration, and necessary forms and supplies.

5. The City must provide office space for the judge and clerk which includes: a desk for the judge and a desk for the clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct court business, a cash register or secured cash box, a typewriter or word processor, and access to a copy machine.
6. A clerk must be present during the time the court is open each day and during court sessions, as required by the judge.
7. The City must have at least one peace officer.
8. A court security plan must be submitted.
9. The court must have at least one computer with access to the internet, and appropriate software and security/encryption technology to allow for electronic reporting and access to Driver License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety. Monthly reports must also be electronically submitted to the Administrative Office of the Courts monthly.
10. The Court shall report required case disposition information to DLD, BCI, and the Administrative Office of the Courts electronically as described in number 9 above.

Having made the determination that the North Ogden City Justice Court is in full compliance with all applicable state statutes and judicial regulations necessary for it to receive recertification, it is my recommendation to you that the North Ogden City Council adopt a resolution requesting that the Utah Judicial Council recertify the North Ogden City Justice Court.

Mr. Call reviewed his staff memo.

Council Member Swanson inquired as to the percentage of the revenue generated by court fines and fees that stays in North Ogden. Mr. Call stated that the City's share varies significantly depending on the legal matter considered by the court, but a large portion of traffic fines go to the State of Utah rather than North Ogden. Council Member Swanson asked if the fines are set by the State of Utah. Mr. Call answered yes.

**Council Member Cevering motioned to adopt Resolution 07-2019 re-certifying the North Ogden Justice Court. Council Member Turner seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**9. DISCUSSION AND/OR ACTION TO CONSIDER AN AMENDED RESOLUTION APPROVING AN AMENDED INTERLOCAL AGREEMENT WITH WEBER-BOX ELDER CONSERVATION DISTRICT TO EXCLUDE ALL REFERENCES TO THE FACILITY AS A FISHERY AS WELL AS OTHER CHANGES FOR THE 2550 DETENTION BASIN PROJECT**

A staff memo from City Manager/Attorney Call explained that as the design process for the new detention/irrigation pond has been moving forward the Water Conservancy District (Pineview) realized that they no longer had a need to dig the facility to a depth of 12 feet to get the irrigation storage they needed. In discussions with them we realized the original depth requirement of 12 feet was to satisfy the state requirements as a fishery. Because of that, the Board has requested that we amend the agreement to reflect the change in depth and storage capacity for irrigation as well as remove the fishery language and clarify liability issues further.

Below is a detailed analysis of each change being made.

Section 2.01

- The depth is changed from 12 to 9 feet and the irrigation storage changed from 25 to 20 at the Districts request.
- A note “the detention portion of the reservoir will be 100% reimbursable from the NRCS grant” was removed because it was a prior comment during the drafting phase of the document.
- Language referencing a fishery is removed.

Section 2.07

- Entire section is removed as it related to the use of the facility for fishery purposes.

#### Section 2.11

- Clarified the obligation to install fencing around District facilities is required prior to water being stored in the facility, not by a specific date.
- Removed editorial comment “Do not think will be pertinent”.

#### Section 4.06

- District requested the addition of the phrase “The City will defend and hold the District harmless from all damages occurring because of the public use of the irrigation facility.”
  - From a legal standpoint this clarifies who is responsible for the public use of the facility. Under the governmental immunity act, both the District and City are treated the same for liability purposes, so this shouldn’t change the ultimate position of the City or the District. Additionally, the purpose of the language that the “City will include the District as an additionally insured entity” already provides an avenue for the insurance company selected by the City to cover any loss by either party if there is any liability.
  - I don’t believe this language adds any more financial risk to the City than already agreed upon, but is intended to provide some additional comfort to the Board that there won’t be a financial risk in the future.

Missed reference to fishery.

In the document signed by the District and delivered to the City there is a missed reference to “fishery facilities” in Section 1.07. This is not a substantive reference to the fishery which would require the facility to be used as a fishery or designed for such and staff recommendation would be to leave the reference in and sign the agreement. The Council could request the deletion of this language and send back another revision, which would likely be accepted by the Board, but the reference says the City will provide a list of materials for the park and fishery, but does not obligate us to construct anything specific. Staff recommends approval of this Amended Agreement.

Mr. Call reviewed his memo and noted that the Council approved this agreement at their last meeting, but amendments to the agreement were not included in the resolution that the Council adopted at that time. Due to the requirements of the Interlocal Cooperation Act, he is bringing this resolution back to the Council for consideration of adoption of the amended language.

**Council Member Cevering motioned to approve Amended Resolution 06-2019 approving Amended Interlocal Agreement A19-2019 with Weber-Box Elder Conservation District to exclude all references to the facility as a fishery as well as other changes for the 2550 Detention Basin Project. Council Member Turner seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**10. MAJOR PROJECT: DISCUSSION AND/OR ACTION TO CONSIDER NORTH OGDEN CITY PROPERTY AT APPROXIMATELY 2550 NORTH AND 200 EAST.**

A staff memo from City Manager/Attorney Call explained that Administration has developed a draft Request for Proposals on the sale of the 2550 Detention Basin. The goal is to determine what information the Council would like to see in the response from parties interested in purchasing the existing basin. The document focuses on a few required items as well as an optional item or two. Staff's goal is to try and make sure the Council has enough information available so you can make an informed decision before entering into any sort of contract with any particular group. There will be other opportunities to obtain more information after proposals are received and reviewed, so this is intended to be a gateway to more discussion and negotiations about the terms of any contract for the sale of the property.

A point system was established to evaluate proposals as they come in. These point values should be evaluated by the Council so that the proposals can be weighed by the Council when they are received to identify the top responding entities. Currently price per square foot has the highest point value, but the Council may determine that another area of information, or experience should be a more important consideration and adjust the point value appropriately.



One important item included in this RFP is the language which gives the City the option to not accept any proposal if there isn't anything which meets the goals of the Council.

Mr. Call reviewed his memo and facilitated discussion among the Council regarding the contents of the RFP. He asked for Council feedback regarding the document or for any suggested changes.

Council Member Swanson stated he would like for the document to communicate that the City needs to know the potential buyer's desired zoning designation for the property. Mr. Call stated he will add that to the document.

Council Member Turner stated that he feels the document captures the Council's desires that were expressed at the last City Council meeting.

Discussion centered briefly on the amount of time the RFP should be open; Mr. Call stated that it may take an interested party 30 to 60 days to complete a comprehensive proposal that meets the requirements of the RFP. A sign advertising the property for sale will be placed on the property at the beginning of November. Council Member Cevering suggested that the proposal submission deadline be set at February 15, 2020. Mr. Call stated he feels that is appropriate.

**Council Member Swanson motioned to approve the draft RFP for the potential sale of North Ogden City property at approximately 2550 North and 200 East, adding the requirement for the respondent to provide their desired zoning for the property and with an RFP closing date of February 15, 2020. Council Member Turner seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

11. **PUBLIC COMMENTS**

Brenda Ashdown, 193 E. Pleasant View Drive, stated that she thought the detention basin property on 2550 North was already zoned for commercial development. She attended a political debate recently where someone asked whether a developer sets the zoning for their property and it seems that is what the Council is allowing through the approval of the draft RFP for the sale of the property. She asked if she is mistaken in her understanding that the property is already zoned for commercial development.

Mr. Call stated the property is currently zoned RE-20, which is the City's residential/agricultural zoning designation. Ms. Ashdown stated she thought the purpose of selling the property was to facilitate commercial development and that is the reason for the relocation of the detention basin. She is concerned that developers will be allowed to set the zoning for the property. At the debate, candidates indicated that developers do not get to set the zoning for their property, but by including language in the RFP asking respondents to communicate their desired zoning, that is exactly what the City is doing. Mr. Call stated that requiring a respondent to include their desired zoning for the property will allow the Council to determine if they want to sell the property to that party; if the Council is not supportive of the zoning requested by the respondent, they are not required to sell the zone. Council Member Swanson added that developers have always been able to ask for any zoning designation when they are seeking to develop property in the City, but the Council is not required to grant that zoning. Under no circumstances, does the developer get to set the zone. Ms. Ashdown stated that she owns property in the City, and she wondered if she would be able to ask for a zone that is different than what has been assigned to her property for years. Council Member Swanson stated Ms. Ashdown could ask for a different zoning designation, but she would not be guaranteed approval of that change. Mr. Call added that a property owner can develop their property in compliance with the regulations of the existing zoning designation, but if they desire a use that is not allowed under the current zoning designation, they must apply for a zone change.

Ms. Ashdown stated that the General Plan designates the 2550 North detention basin property for commercial use and she asked why the zoning of the property has not been changed to reflect that directive. Mr. Call stated it is common for General Plans to forecast the future use of property in the City. The General Plan Steering Committee is considering zoning of undeveloped property City-wide, and they may recommend a zone change for the 2550 North property, but that would require Council approval. Ms. Ashdown inquired as to the zoning of the property upon which the O'Reilly Auto Parts Store is being built. Mr. Call stated that property is zoned C-1, which is one of the City's commercial zoning designations.

Council Member Stoker stated that many parcels of property in the downtown area of the City have for-sale signs on them and many of them indicate the zoning is commercial. Mr. Call stated that many brokers advertise the future General Plan designation for a property rather than the current zoning. Council Member Stoker stated that she feels that the sign placed on the 2550 North property should advertise that the property's General Plan designation is commercial use. Mr. Call stated he can add that. Ms. Ashdown stated that her only desire is for matters such as this to be clear and easily understandable for residents; if the proper zoning of the land is not clearly communicated, developers may be confused about what they are allowed to build on an undeveloped property.

Randy Winn, 2412 Barker Parkway, addressed the agenda item relating to short term rental properties. He has spoken with someone who lives next to a property that is used as a short-term rental and their only complaint related to on-street parking of those staying at the unit.

Stacey Giatras, 873 E. 1700 N., responded to Mr. Winn's comment and noted that the ADU ordinance requires all parking associated with the ADU to be on-site rather than on-street.

Susan Clements, 668 E. 3125 N., addressed the comments made earlier in the meeting about the dangerous nature of the intersection of 900 E. 2850 N.; she agreed that efforts should be taken to make the intersection safer and draw motorists' attention to the stop signs. She also addressed the short-term rental matter and asked that the City Code include a requirement for a property owner to install signage in the rental unit to communicate to a guest the rules they are required to abide by. She stated hotels or motels include rules in each room and she suggested the same be done for short term rental units.

## **12. COUNCIL/MAYOR/STAFF COMMENTS.**

Council Member Swanson stated he likes the format of City Council packets on the City's new website, but he offered a suggestion to include a static hyperlink in the packet to allow the user to quickly navigate back to the first page of the document. He then stated that in some surrounding cities, when there is an application for rezone of a property, the city places a bright yellow sign on the property advertising the zoning being requested and the date of the public hearing regarding the matter. He stated that this will improve transparency for the public.

Council Member Stoker asked Chief Quinney if he will look into the safety at the intersection of 900 E. 2850 N. Chief Quinney answered yes and noted he will report back to the Council. Council Member Stoker then thanked the Public Works Department for their response to a complaint about a missing grate on a large drain pipe. She then thanked all City staff for the service they provide to the community.

Mr. Call reported that the City's irrigation systems will be winterized in the coming weeks; staff will be blowing water out of the lines, which may give the appearance that a sprinkler system is on. He assured the Council this is not the case.

Ms. Spendlove briefly reviewed the calendar of Council meetings for the remainder of 2019; some meetings will be cancelled in observance of Election Day and the Thanksgiving and Christmas holidays. The Council agreed to hold a meeting on November 26 in order to adopt the moderate-income housing plan so that it can be submitted in advance of the deadline set by the State of Utah.

Mayor Chugg reported City Administration has been in the process of selecting a firm to conduct a feasibility study for the Police Station project; \$30,000 was budgeted for that project, but the most qualified bidder submitted a bid of \$9.500. The contract will be awarded to them and they will proceed with the project. A Committee will be assembled to evaluate the study once it is complete. Mr. Call briefly reviewed the scope of the feasibility study project. He also noted that the Committee's meetings will be public in nature and minutes and audio recordings will be kept.

13. **ADJOURNMENT.**

**Council Member Turner motioned to adjourn the meeting. Council Member Stoker seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

The meeting adjourned at 7:59 p.m.

  
M. Brent Chugg, Mayor

  
S. Annette Spendlove, MMC  
City Recorder

12 Nov. 2019  
Date Approved