

**NORTH OGDEN CITY COUNCIL  
MEETING MINUTES**

May 12, 2020

The North Ogden City Council convened in an open meeting on May 12, 2020 at 6:02 p.m. at <https://us02web.zoom.us/j/82595057131> or Telephone: US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 646 558 8656 or +1 301 715 8592 or <https://www.youtube.com/channel/UCriqbePBxTucXEzRr6fclhQ/videos> Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on May 8, 2020. Notice of the annual meeting schedule was published in the Standard-Examiner on December 22, 2019.

PRESENT:	S. Neal Berube	Mayor
	Ryan Barker	Council Member
	Blake Cevering	Council Member
	Charlotte Ekstrom	Council Member
	Cheryl Stoker	Council Member
	Phillip Swanson	Council Member

STAFF PRESENT:	Jon Call	City Manager/Attorney
	Annette Spendlove	City Recorder
	Rob Scott	Planning Director
	Evan Nelson	Finance Director
	Tiffany Staheli	Parks & Recreation Director
	Dave Espinoza	Public Works Director

VISITORS:	Adrienne Gerber	Brenda Ashdown	Julie Anderson
	Kami Marriott	Kevin Burns	Ralph Wenz
	RMB	Stefanie Casey	Susan Clements

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

**ACTIVE AGENDA**

**1. PUBLIC COMMENTS**

There were no public comments.

2. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE TO  
CREATE AN HOA BUILDING PERMIT REVIEW PROCESS**

A staff memo from Planning Director Scott explained North Ogden City received a request from a developer requesting that the City require building permit applicants within their HOA projects give a verification to the City that the HOA has approved the building plans. The Planning Commission conducted a public hearing on this amendment on April 15, 2020. No one from the public spoke on this; however, a later communication indicates that the requester referenced below may want to speak to the City Council. North Ogden does not enforce either HOA requirements or CC&Rs, however, there is logic to coordinating with developers regarding their projects. An amendment is proposed that would require that an interested HOA make a request of the City to require a letter of review from an HOA. Secondly, that the City will not enforce the HOA requirements. The Planning Commission was uncomfortable with making it a requirement for the HOA to grant approval but is comfortable with the applicant certifying that the plans have been submitted to the HOA. The original language is in strike out followed by the revised language:

11-1-5 ADMINISTRATION AND ENFORCEMENT B. Administrative Authority

1. and 2. No changes

~~3. Upon a request from an active HOA North Ogden City will require that applications for a building permit must accompany a letter from the HOA that the HOA has reviewed and approved the building plans. Ultimate responsibility for design and approval and inspection of any components required by the HOA ultimately fall upon the HOA. The City will not inspect for items required by the HOA.~~

3. At the building permit application stage the applicants shall sign a statement that they have submitted their plans to any Homeowners Association or architectural committee as required under any Covenants Conditions and Restrictions. Ultimate responsibility for design and approval and inspection of any components required by the HOA ultimately fall upon the HOA. The City will not inspect for items required by the HOA.

**CONFORMANCE WITH THE GENERAL PLAN**

Housing Goals Goal #1 – Increase Housing Quality and Variety

- Establish and adhere to high quality building and design standards for all housing types so that development enhances the community character.

**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 the City establish a process for requiring building permit applicants to sign a statement they have coordinated with the applicable HOA?
- Is the amendment consistent with the General Plan?

The Planning Commission, on a six to zero vote, recommends approval of the revised amendment language for building permit review coordination with HOAs. The Planning Commission found that the amendment is consistent with the General Plan.

Mr. Scott reviewed his staff memo and reviewed the text in red to summarize the implications of the proposed ordinance adjustments.

Council Member Swanson asked what will happen if an applicant has not actually gotten approval from their HOA board, but they submit a statement indicating they have. He asked if the City would have any liability associated with approving a project that does not have HOA approval. Mr. Call stated that the City would provide evidence in any lawsuit between an HOA and property owner, but the City should not have any liability for approving an application. Council Member Swanson asked if the City would reject an application that complies with City Code based on the fact that the applicant has not gotten HOA approval. Mr. Scott stated that the applicant will simply be asked to sign documentation indicating they have received approval from their HOA; the City will not ask for any evidence of such approval. Council Member Swanson stated that his concern relates to the City denying a building application based solely on the applicant's failure to confer with their HOA. He is uncomfortable doing that as he feels that HOAs should remain independent of the City. This led to high level philosophical discussion and debate regarding the appropriateness of the ordinance amendments and whether the City should base any land use decision upon an HOA's position; Council Member Swanson stated he is opposed to the ordinance amendment; he does not want the City to get involved in any enforcement of HOA regulations. Council Member Barker agreed and added that the City only has a certain amount of time to make a decision on a building permit application and causing staff to determine whether an applicant has gotten HOA approval could become cumbersome and place them in a position of policing something they are not responsible for. Council Member Ekstrom also agreed.

**a. Public Comments**

Kami Marriott used the Zoom chat feature to thank the Council for consideration of this matter. She is not asking the City to enforce HOA regulations, but she would like for applicants to communicate whether they have their respective HOA's approval for a building. This is more of a notification to a builder who may be hired to work on a property that is located in an HOA.

**b. Discussion and/or action to consider an Ordinance to create an HOA Building Permit review process.**

Council Member Barker and Council Member Swanson both reiterated their sentiment that the City should not be placed in the role of enforcing HOA regulations.

Council Member Ekstrom stated that she does not want to enact legislation that cannot be enforced or is difficult to enforce. Council Member Cevering agreed and suggested that active HOAs become more involved with property owners in an HOA subdivision rather than trying to rely upon the City to enforce their regulations.

**Council Member Swanson motioned to reject an Ordinance to create an HOA Building Permit review process. Council Member Ekstrom seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>aye</b>
<b>Council Member Cevering</b>	<b>aye</b>
<b>Council Member Ekstrom</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>

**The motion passed unanimously.**

**3. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE FOR A TEMPORARY LAND USE REGULATION**

This item was removed from the agenda at the request of the applicant.

**4. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE APPROVING FISCAL YEAR 2021 TENTATIVE BUDGET**

Finance Director Nelson presented the Council with Administration's proposed Fiscal Year 2021 Tentative Budget; the budget document has been adjusted responsive to the feedback provided by the Council during the May 5, 2020 meeting:

- General Fund
  - Property tax revenue is \$223,000 higher than that which would be generated by the certified tax rate. The City will go through the Truth in Taxation process to consider modifying the property tax rate to be able to meet this revenue projection.
  - Sales Tax revenue is estimated at a 20% decline compared to the Fiscal Year 2020 Budget.
  - Building permit revenue is estimated to have a 26% decline.

- Class C Road revenue is estimated to have a 35% decline.
- The budget includes use of fund balance in the amount of \$360,000. This is what would be considered use of “rainy day” funds.
- Leave cash-outs have been eliminated from the budget.

Council Member Swanson presented a graph that illustrates the manner in which property taxes would increase for seven different properties in the City based upon their value if the Council were to make the decision to maintain or increase the current tax rate rather than accepting the Weber County recommended certified tax rate.

Mr. Nelson then discussed the aquatic center budget; this budget assumes full operations beginning July 1, 2020. Due to the current pandemic, the budget may need to be adjusted during the fiscal year. He then discussed the solid waste fund; as directed, the Public Works Department is bringing garbage collection service inhouse. The budget includes two additional full-time employees, three garbage truck leases, and other adjustments to make the transition. The recycling program has been eliminated as directed and rates for garbage services are programmed to remain the same. The base rate includes a weekly garbage can pick-up plus a bi-weekly extra can pick-up. The biweekly can, previously used for recycling, will now be used as a regular garbage can. Mayor Berube stated it is important to remind citizens that this decision was based upon the fact that the City was going to be charged increased rates by the contracted garbage hauler. He emphasized that the action will make it possible to hold current rates; additionally, no increases in any other utility rates are being proposed for the coming year.

Mr. Nelson then concluded Administration proposes the Council adopt the tentative budget tonight and set a public hearing for June 9 for consideration of adopting an operating budget that will be in place until August when the Council holds a truth in taxation hearing to consider adopting the final budget.

Council Member Ekstrom asked Mr. Nelson to provide an explanation of the process, specifically why the Council adopts a tentative budget, an operating budget, and eventually a final budget. Mr. Nelson stated the process is prescribed by State law and is intended to provide multiple opportunities for public input on the budget. Council Member Ekstrom stated that she is hopeful that waiting until August to adopt the final budget will give the City time to gather additional data regarding COVID’s impact on the economy. Mayor Berube stated that it is likely that the City will have more information, but there will still be many unknown issues that could impact the City’s financial position. He stated he does not believe that the actual budget document will change dramatically and he commended the Council for having the courage to consider a necessary tax rate adjustment during what is a very difficult time for everyone.

**a. Public Comments**

Brenda Ashdown, 193 E. Pleasant View Drive, stated that nobody likes a tax increase, but she sees why the tax adjustment is needed in the City. She anticipates that there will be negative feedback once residents become aware of the possibility of a tax increase, but she would recommend that concerned residents view the recording of last week's meeting to understand why the Council is considering adjustments. She then asked how the City is communicating information to the residents regarding adjustments to the solid waste and recycling program.

City Manager/Attorney Call stated that the City will use a mailing and its website to communicate changes to the residents. He added that it is also helpful for residents to speak to one another to get messages out about changes to City operations. Ms. Ashdown stated she has signed up for an electronic version of the City newsletter, but has been told that it is not functioning. She suggested that this be addressed so that residents can receive City information via email. She also suggested that an article be included in the next publication of the City magazine.

Susan Clements, 668 E. 3125 N., used the aid of the Zoom chat feature to indicate she likes the idea of bringing garbage hauling in-house; however, she was concerned that two trucks may not be sufficient. She also asked if pick-up schedules will remain the same and if holidays will be observed.

Mr. Call stated that Republic Services currently uses two trucks, except in recycling weeks when they use a third truck. He stated that two trucks will be able to service the City based upon data collected.

**b. Discussion and/or action to consider an Ordinance approving Fiscal Year 2021 Tentative Budget.**

Council Member Barker stated that if economic conditions improve and revenues are tracking at higher amounts than projected, he would like to reinstate the leave cash-out benefit for employees. He stated that some employees use that benefit as a type of bonus during the winter holidays and, as a public employee, he understands that is the only type of bonus a government employee is eligible to receive. Mayor Berube stated that Administration has developed triggers that would signal the appropriate time to reinstate certain budget cuts.

**Council Member Cevering motioned to approve Ordinance 2020-08 approving Fiscal Year 2021 Tentative Budget. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>aye</b>
<b>Council Member Cevering</b>	<b>aye</b>
<b>Council Member Ekstrom</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>

**The motion passed unanimously.**

- c. Discussion and/or action to recess the City Council meeting and convene in the RDA.**

**Council Member Swanson motioned to recess the City Council Meeting and convene in the RDA. Council Member Cevering seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>aye</b>
<b>Council Member Cevering</b>	<b>aye</b>
<b>Council Member Ekstrom</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>

**The motion passed unanimously.**

**City Council Meeting recessed at 7:23 p.m.**

**RDA convened at 7:23 p.m.**

**5. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE APPROVING THE RDA FISCAL YEAR 2021 TENTATIVE BUDGET**

Finance Director Nelson reviewed the budgets for the City's Redevelopment Area (RDA) and Community Development Area (CDA). The RDA fund includes funding to explore and pursue possible redevelopment projects; Washington Boulevard flower baskets are included in this budget as is the debt payment on the Aquatic Center bond. Revenue is being collected in the CDA fund to begin paying the debt owed to the RDA Fund.

Mayor Berube asked if the repayment of the debt from the RDA to the CDA will be completed in the amount of time allowed for the money to be spent. Mr. Nelson stated

that is Administration's hope. Mayor Berube asked what will happen if the City does not collect the amount of money budgeted to provide the debt payment. Mr. Call stated that RDA laws require that planning be put in place to identify how the money will be spent within the allowed period of time. Mayor Berube then noted it is important to note that the funding for the RDA and CDA come from businesses who pay tax increment; he hopes that residents understand that the two funds are not supported by private property tax or sales tax. He then noted that he feels that the cost of maintaining the flower baskets for the entire year should be paid by the RDA fund rather than the general fund. Mr. Call stated that he can provide the Council with exact numbers for the maintenance of flower baskets, but he believes it is approximately \$15,000 and that is charged to the Parks and Recreation Fund. The Council discussed this matter and ultimately concluded to move the \$15,000 expenditure from the general fund to the RDA fund. Mr. Nelson recommended that the Council accept the tentative budget as presented tonight, but he will adjust the budget document to reflect the \$15,000 charge to the RDA fund prior to the Council's consideration of the operating budget during the June 9 meeting.

**a. Public Comments.**

There were no public comments.

**b. Discussion and/or action to consider an Ordinance approving the RDA Fiscal Year 2021 Tentative Budget.**

**Committee Member Swanson motioned to approve Ordinance 2020-09 approving the RDA Fiscal Year 2021 Tentative Budget with the understanding that the labor costs for watering the flowers in the amount of roughly \$15,000 will be moved from General Fund into RDA in the final budget with the tracking occurring through the General Fund, but a transfer from the CDA. Committee Member Cevering seconded the motion.**

**Voting on the motion:**

<b>Committee Member Barker</b>	<b>aye</b>
<b>Committee Member Cevering</b>	<b>aye</b>
<b>Committee Member Ekstrom</b>	<b>aye</b>
<b>Committee Member Stoker</b>	<b>aye</b>
<b>Committee Member Swanson</b>	<b>aye</b>

**The motion passed unanimously.**



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

**Committee Member Stoker motioned to adjourn the RDA meeting and convene in the City Council Meeting. Committee Member Barker seconded the motion.**

**Voting on the motion:**

<b>Committee Member Barker</b>	<b>aye</b>
<b>Committee Member Cevering</b>	<b>aye</b>
<b>Committee Member Ekstrom</b>	<b>aye</b>
<b>Committee Member Stoker</b>	<b>aye</b>
<b>Committee Member Swanson</b>	<b>aye</b>

**The motion passed unanimously.**

**The RDA meeting adjourned at 7:38 p.m.**

**City Council Meeting convened at 7:38 p.m.**

6. **DISCUSSION AND/OR ACTION TO CONSIDER AN AGREEMENT FOR THE POOL CONCESSIONS.**

Council Member Ekstrom declared that she is part owner of the company that submitted a proposal for providing concession services at the Aquatic Center. City Manager/Attorney Call stated that Council Member Ekstrom has declared her business interest in the company and potential conflict, but it does not invalidate the City's ability to enter into an agreement with the business. Mayor Berube asked Council Member Ekstrom if she would like to recuse herself from voting on this issue, to which Council Member Ekstrom answered yes.

Mr. Call then summarized the terms of the contract that has been negotiated between the City and Pizza Man; this contractor has provided service to the City for the past eight years and there has been a great deal of success. There have been some questions about whether 15 percent is the appropriate amount of the gross revenue for the City to receive, but he is comfortable recommending approval of the contract.

Council Member Barker asked if this service has been publicly bid every three years. Mr. Call answered no; most contracts provide annual renewal clauses for a total term up to five years.

Mayor Berube asked if the amount of revenue generated has been sufficient to cover the cost of maintenance. Mr. Nelson stated that in FY18, the City received \$6,200 in revenue;

that increased to \$10,700 in FY19. Mayor Berube stated that seems adequate to cover maintenance costs.

Council Member Swanson asked how many vendors responded to the RFP, to which Mr. Call answered just one; the RFP was published for about one month. Mayor Berube added there was some discussion about the City handling concessions in-house. Mr. Call stated that the RFP document did indicate that the City reserved the right to keep the service in-house, but the decision was made to continue to work with a contractor.

Discussion centered briefly on the appropriate renewal language to include in the contract. Mr. Call stated that he would suggest annual renewal periods for up to three additional years. Mayor Berube added that he would recommend the contract include a 'force majeure' contract to provide for the City to place the contract on hold if the aquatic center is not open.

**Council Member Barker motioned to approve Agreement A5-2020 for the Pool Concessions as presented with the 3-year renewal and addition of a force majeure clause. Council Member Barker seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>aye</b>
<b>Council Member Cevering</b>	<b>aye</b>
<b>Council Member Ekstrom</b>	<b>recused</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>

**The motion passed unanimously.**

**7. PUBLIC COMMENTS**

Ralph Wenz, 2891 N. 750 E., thanked the Mayor and Council for their service to the community and being conscientious with their budget. He then noted that he is addressing the Council tonight regarding an existing carport on his property that has been in place since he purchased the home in 2000; his desire is to rebuild the carport as it has fallen into disrepair. He also has a garage behind the carport and he would like to cover the concrete between the carport and the garage, but he has been told he cannot do that because of the requirement to keep a certain percentage of his property open and unpaved. Mr. Call stated he is aware of this property; if a structure burns down and must be rebuilt, the former footprint is allowed. However, if a property owner wants to increase the amount of hard space or covered space on their property, the structure must comply with building ordinances and codes. If the Council would like staff to explore an ordinance amendment that would allow Mr. Wenz to proceed with his project, he can perform that research.

Council Member Stoker stated she would like more information about what Mr. Wentz is trying to do. Mayor Berube asked Mr. Wentz to send an email including photos of his property and information about the improvements to his property he is pursuing.

Julie Anderson, 940 E. 2600 N., addressed public requests for proposals (RFP); she asked when the RFP for swimming pool concessions was published and how long it was open to the public. She stated that during this strange time, many people are not seeing public notices and it may be that the RFP was not published for long enough. Mr. Call stated the RFP was published March 9 and proposals were due April 14.

Stefanie Casey, 2444 Barker Parkway, stated she is confused about the motion that was made in regard the budget mechanism that will be used to pay for the labor associated with watering the flower baskets on Washington Boulevard. Council Member Swanson stated that the intent of his motion was for a transfer to be made from the RDA fund to the City's General Fund to cover those costs. This ensures that tracking of the expenditure is clear.

Mr. Call indicated a resident who did not provide their full name used the Zoom chat feature to ask about animal control; they discussed dogs without leashes running loose in the City and attacking people and other animals. Mr. Call stated that he is aware of the concern and the City's Animal Control Officer has been advised; however, anyone who sees a violation should call and report it to the City.

Ms. Anderson used the Zoom chat feature to indicate that the timing of the swimming pool concessions RFP fell right in the middle of the height of COVID-19. Mr. Call acknowledged that is correct; however, the RFP was published before a state of emergency was declared in Utah.

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

Additional Council discussion centered on modifications to City operations and events in response to the COVID-19 pandemic. Council Member Barker indicated Pleasant View City would like to join with the City to produce a joint fireworks show and he asked if the Council would like to pursue that. Council Member Swanson stated that he does not want to participate in that type of production until Pleasant View City is willing to participate in the cost of operating the senior center. Council discussion centered on the need to provide a sense of normalcy for residents, but acknowledged past issues related to joint support for the senior center. Mayor Berube indicated that more detailed conversations about both issues would be appropriate. Parks and Recreation Director Staheli stated she would like for the two cities to coordinate on joint events going forward, but the two cities have not had a great history of doing so in the past. Council Member Swanson indicated that a fireworks show would result in a large group of people congregating in

one location. The City's public playgrounds and other venues are still closed to the public in order to keep the number of people congregating under the amount allowed according to State orders and he cannot support an event that would be a direct violation of those orders. Council Members Ekstrom and Stoker agreed. Council Member Barker stated he is still in favor of talking about the event, but he understands the concerns expressed by other Council Members. He noted that many other cities and entities are still planning to have fireworks shows this summer.

Mr. Call then reported on efforts to organize an event to commemorate high school graduation for high school seniors in the community. Additionally, the City is organizing a 'senior citizen parade' scheduled for May 22 at 3:00 p.m.

Mayor Berube acknowledged the amount of work that has gone into developing the tentative budget for the City for the next Fiscal Year. He thanked all Department Heads for their great work and dedication to the City.

Mr. Call stated that he has heard from residents who would like for the City to allow them to pay their utility bills through an extended payment plan. He asked the Council how they feel about suspending utility shut offs during this time. Utility billing staff has recommended that the City only suspend a utility shut off if a customer has clearly communicated their circumstances to the City. The Council discussed this issue and stated they support the recommendation of utility billing staff; if a resident does not communicate to the City the reason that their utility bills are past due, the City should still proceed with shutting off their water. Council Member Swanson indicated that some people will use the pandemic as an excuse for not paying their utility bills, though they may have unpaid balances dating several months before the pandemic. He would not be supportive of allowing a payment plan for those types of situations. Mayor Berube agreed; he noted he would be willing to consider payment plans for those that are working with the City to bring their accounts current. Public Works Director Espinoza reported on the work that has been done by his staff to help residents during this difficult time; he is supportive of payment plans and suspending shut offs for households that have been impacted by the pandemic. Mayor Berube suggested consideration of waiving late fees during the pandemic and he asked that residents be aware of what is happening in their neighborhood and help their neighbors who may be struggling. Council Member Swanson suggested the City create an account that allows residents to donate a monthly amount that can be used to help cover unpaid utility bills for those households that are struggling. This led to discussion of this type of program and Mr. Call stated that the City could require a household to apply for assistance and the funding generated by donations could be used to provide that assistance. The Council ultimately concluded they were supportive of this type of program and asked that staff formulate a proposal.

9. ADJOURNMENT

Council Member Barker motioned to adjourn the meeting. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Ekstrom	aye
Council Member Stoker	aye
Council Member Swanson	aye

The motion passed unanimously.

The meeting adjourned at 8:49 p.m.

  
S. Neal Berube, Mayor

  
S. Annette Spendlove, MMC  
City Recorder

  
Date Approved