

**NORTH OGDEN CITY COUNCIL
MEETING MINUTES**

June 23, 2020

The North Ogden City Council convened in a virtual meeting on June 23, 2020 at 6:03 p.m. at <https://us02web.zoom.us/j/86465872063> or by 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 June 18, 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	Excused
	Charlotte Ekstrom	Council Member	
	Cheryl Stoker	Council Member	
	Phillip Swanson	Council Member	
STAFF PRESENT:	Jon Call	City Manager/Attorney	
	Joyce Pierson	Deputy City Recorder	
	Brandon Bell	Associate Planner	
	Evan Nelson	Finance Director	
	Tiffany Staheli	Parks & Recreation Director	
VISITORS:	John Arrington	Jennifer Hunsaker	Stefanie Casey
	Jay Dalpiaz	Hyrum Siebers	John Hansen
	Ryan Forsythe	Jack Barrett	

Mayor Berube called the meeting to order. Hyrum Siebers offered the thought and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. DISCUSSION AND/OR ACTION TO CONSIDER MAY 5, 2020 CITY COUNCIL MEETING MINUTES

Council Member Ekstrom motioned to approve the May 5, 2020 City Council Meeting Minutes. Council Member Swanson seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

ACTIVE AGENDA

2. PUBLIC COMMENTS

John Arrington, 1054 E. 2900 N., offered comments regarding the Pheasant Landing subdivision project. It is his understanding the developer of the project is requesting that the City participate in utility infrastructure costs. He stated he lives in the vicinity of the subject property and he has followed the entire discussion of this project and it is his opinion the utility costs should be the developers. He is generally in favor of a developer covering all costs of a project.

Jennifer Hunsaker, 3162 N. 700 E., stated she is the owner of the BeUtahFul Productions, LLC. She expressed her support for a rental agreement for the Barker Park Amphitheater; with the impact that the COVID-19 pandemic is having on the event planning realm, she feels that having an additional outdoor venue for special events will be an asset for the community. The State of Utah has produced guidelines allowing businesses to account for contact tracing, social distancing, and contactless services and when these guidelines are followed it is possible to coordinate a safe outdoor event. The pageant events that her business conducts are being displaced as they are not permitted at school district properties until Utah enters the 'green phase' of recovery from the pandemic and she feels that the amphitheater would be an ideal venue for her business and the types of events it produced. She feels the same would be true for other businesses and events.

Stephanie Casey, 2444 Barker Parkway, used the Zoom chat feature to ask why the City did not form a committee to discuss and build the amphitheater agreement. Mayor Berube stated the City Council is operating as the committee for that function. Ms. Casey asked if the City Council developed the agreement that is being considered tonight. Mayor Berube stated it was created by City Manager/Attorney Call and the City's Parks and Recreation Director, and reviewed by him. He stated it is being brought before the Council to see if they have concerns or suggested adjustments. Ms. Casey stated that the public was told the Arts and Amphitheater Committee would build the rental agreement, but that committee was disbanded and no citizen input has been accepted since. Mr. Call stated that the Arts and Amphitheater Committee allows for the creation of an Arts Guild; however, that has not happened yet and he feels that may be the matter that Ms. Casey is referencing. Mayor Berube added that he welcomes public input and a willingness of the public to participate in different advisory committees in the City.

3. DISCUSSION ON A RENTAL AGREEMENT FOR THE AMPHITHEATER

Parks and Recreation Director Staheli referenced the draft rental agreement for the Barker Park Amphitheater, which was included in the Council's meeting packet. She discussed the highlights of the agreement, such as rental rates, which are much lower – by almost half than comparable facilities; the application form that she has drafted; amphitheater regulations included in the City Code; and allowed event sizes and associated insurance requirements. She noted that the restroom facility at the amphitheater is not fully built out, so the City would require temporary restroom facilities for events exceeding a certain number of attendees. She then provided an example rate calculations for three different types of events, after which she concluded staff is looking for direction from the Council regarding appropriate rental guidelines and if/when the Council would like to offer the facility available for rent.

Council discussion centered on the manner in which staff will monitor the number of event attendees as a means of enforcing the terms of a rental agreement. Discussion for the timing of making the facility available for rent centered on the number of days in advance of an event that a person or group renting the facility must enter into an agreement and pay a security deposit.

Council Member Barker noted there is only enough parking to accommodate approximately 500 attendees and he asked how the City will rent the facility for events with attendance estimated above 500. Ms. Staheli stated that when tickets are sold for an event, ticket sales are limited to 500. Mayor Berube asked for information about the differences in attendance restrictions for events where tickets are sold versus non-ticketed events. Ms. Staheli stated the limitation on numbers for ticketed events are based upon ordinances that have been put in place by the Council which limit parking to four tickets per parking stalls. Non-ticketed events are not limited based upon that same ordinance. Mayor Berube then referenced curfew regulations in the ordinance; non-City events must conclude by 10:00 p.m., but the City's own Cherry Days fireworks show lasts until after 10:00 p.m. He wondered why the City would impose regulations upon residents or private entities that are not being imposed on City events. City Manager/Attorney Call stated that is a policy decision for the Council and this led to high level philosophical discussion and debate among the Council regarding existing policies that apply to the amphitheater. Council Member Swanson stated he is comfortable imposing the 10:00 p.m. curfew on City events, and there were no objections voiced from other Council Members.

Mayor Berube then noted he has discussed the current sound ordinance with City staff; and the current ordinance is outdated and it is necessary for staff to work on comprehensive updates to those regulations. He indicated that Mr. Call has been dialoguing with a citizen, Sean Casey, who has expertise in that area and once they have drafted updated language, it will be presented to the Council for consideration.

Mayor Berube then facilitated discussion among the Council regarding other appropriate adjustments to the ordinances regarding insurance requirements; Ms. Staheli noted that other cities require insurance coverage for any event that will be open to the public, but if an event will be private, the organizer is not required to secure liability insurance coverage. Council Member Ekstrom suggested that event organizers be given the ability to indemnify the City against any liability claim. Mr. Call stated that those types of waivers are not always legal and binding if legal recourse is pursued following an accident on City property. Mayor Berube asked that the sponsor of each event held on City property be well defined and publicized so there is a clear path to who has liability when it comes to insurance coverage.

Mayor Berube then referenced past discussions about making City facilities available for any type of event to ensure inclusiveness and fairness; the City has allowed a live nativity scene at a City facility in the past and residents have indicated this means the City should require events that recognize other faiths or belief systems. Mr. Call noted that when a facility is made available for the purpose of artistic expression, it must be made available for all types of artistic expression. While event organizers cannot violate State public decency laws, the City cannot regulate matters such as language, art/music genres, and other forms of expression. Any group/event seeking to use the facility would have the same protection of the first amendment of the constitution. Holiday displays must welcome to different faiths and religions. There was brief discussion regarding situations that have occurred in other jurisdictions that have led to discrimination claims; Mr. Call noted that he would recommend defaulting to a 'wide-open' viewpoint to avoid a challenge or claim that the City has discriminated against a certain group or individual. Mayor Berube stated the inclusion is very important to him; he wants to make City facilities open and accessible while adhering to decency standards enacted by the State of Utah. The Council agreed and supported Mayor Berube's statement regarding open City facilities to all types of groups and individuals so long as each event complies with basic rules regarding noise, curfew, and maintenance of the facility.

Mayor Berube advised staff to proceed with securing final occupancy approval, drafting language for an updated noise ordinance, and adjusting the amphitheater rental agreement according to the feedback provided by staff tonight. Council Member Swanson stated that he is comfortable approving the rental agreement tonight with a few minor adjustments relative to insurance requirements and a curfew for events. He wants to proceed with making the facility available for rent as soon as possible.

Council Member Swanson motioned to approve the rental agreement for the amphitheater with adjustments relating to insurance for any event that is open to the public and to impose a curfew according to existing City ordinances. Council Member Ekstrom seconded the motion.

Council Member Barker asked that the Council have an opportunity to evaluate the effectiveness of the rental agreement this fall after the facility has been rented for several events. Mayor Berube stated that he will add this to an agenda this fall.

Voting on the motion:

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

The motion passed unanimously.

4. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION AMENDING THE CONSOLIDATED FEE SCHEDULE

Finance Director Nelson explained staff has performed an annual review of the Consolidated Fee Schedule and is proposing several amendments, including:

- Administration:
 - Added “GRAMA” to the fee description for records requests.
 - Moved the Annexation fee from Planning to Administration and proposed an increase.
 - Eliminated the fee for audio tapes, since recordings are available for free online.
- Planning:
 - The Planning Department performed a thorough review of the staff time and costs associated with various planning, zoning, and subdivision applications. An effort has been made to more appropriately allocate the costs of development to applicants.
- Parks:
 - A schedule of fees for use of the Amphitheater has been added to the schedule.
- Sewer:
 - Central Weber Sewer District has increased their impact fee. The City collects this fee and forwards it on to the District.
- Solid Waste
 - The fee for additional blue cans has been eliminated.

City Manager/Attorney Call added that in the near future he will bring an additional ordinance to the City Council to update civil penalties/citations responsive to updated regulations that the Council approved last week regarding the timing of issuing citations.

Council Member Barker motioned to approve Resolution 11-2020 amending the Consolidated Fee Schedule. Council Member Stoker seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

5. DISCUSSION AND/OR ACTION TO CONSIDER UTILITIES FOR PHEASANT LANDING

City Manager/Attorney Call explained that the City has been approached about entering into a development agreement for the Pheasant Landing subdivision. The agreement would center around the City participating in the relocation of utilities which are currently along the western edge of the property and putting them into the road which will be constructed as part of the subdivision. The total estimated cost for these improvements are \$111,489. The developer has asked the City to cover 30 percent of the costs which would total \$33,446.70. There are some benefits to having the utilities in the roadway, but the current storm and sewer lines are also operating well and in good repair so there is not an immediate need to move them, or replace them; therefore, City staff is not currently recommending the Council enter into this agreement, because it is not a vital infrastructure need. However, there are sufficient funds available to cover these additional costs and in the long run it would make line maintenance and replacement easier on the City. This is a policy consideration and the Council has absolute discretion on whether or not to participate. He presented the plat map for the Pheasant Landing subdivision to orient the Council to the location of the current utility infrastructure as well as the area of the proposed relocation of the utilities.

Mayor Berube inquired as to the recommendation of the City Engineer. City Engineer Gardner stated that the number of manholes along the west boundary of the subject property is very low; one will be located at the trailhead access point, which means the City will have access to it for ongoing maintenance of the infrastructure. The existing lines along the west property line are in good condition and it is not necessary to relocate the lines to the roadway. He would recommend approval of the development project with the present location of the utility lines. Mayor Berube noted that the developer has indicated that the utility lines are located outside the City's easement and he inquired as to legal ramifications of that situation. Mr. Call stated that on the south end of the project, the storm drain line is located outside the easement; while this is not an ideal situation, it is acceptable and it is not necessary to relocate the lines based on that fact. Discussion centered on how the current location of the infrastructure lines impact drainage of the area and the value of certain lots included in the project area.

Mayor Berube invited input from the developer.

John Hansen, 1165 W. 4000 N., Pleasant View, stated that he appreciates the Council's consideration of his application and the proposal to share in the costs associated with relocating the utility lines. The current location essentially bisects a few lots in the project area and will impact the building envelope capacity for those lots. The retention basin for the project has been relocated to handle drainage from the lines in their current location, but he would rather locate it at the lowest part of the property to allow for gravity fed drainage, but relocation of the lines are necessary. He noted that some people believe that developers only propose things that benefit them, but that is not the case in this situation; the proposal he has made will not result in financial savings for him and even with the cost sharing with the City, he will be spending more than he would if he accepted the location of the current infrastructure. He then noted the sewer lines were installed in 1979; staff has indicated it is in good shape, but they are old and he can see that they may need to be accessed in the future for repair or replacement. He stated it would not be ideal for the lines to be located in backyards of residential properties for this reason. He added the City has adopted an ordinance indicating that utilities should not be located in rear yards; rather, they must be located in roadways. Leaving the utilities in the rear yards in this project would render that area unusable because residents cannot build accessory buildings or make permanent improvements on property under which the utility lines are located. He concluded that the amount that he has proposed the City cover is minimal when considering utility construction costs at present. He also noted he feels that it is not good planning on the part of the City to allow the utility lines to remain in their present location.

Mayor Berube then facilitated discussion among the Council regarding their sentiments about the proposal. There was a focus on the funding source for the City's contribution to the project. Mr. Call stated that the funding source identified is the fund balance in the City's storm and sewer funds. Mr. Nelson noted the sewer fund has a \$1.3 million cash balance and the storm water fund has a \$683,000 cash balance.

Council Member Barker asked if the City's Public Works Director shares the same opinion as City Engineer Gardner. Mr. Gardner stated that he has discussed this matter with Public Works Director Espinoza and he has indicated he is comfortable leaving the lines in their present location; the City has maintained the lines over the years and they are in good working order.

Council Member Swanson asked if the fact that the lines are located outside the City's existing easement creates any liability for the City. Mr. Call answered no; the City has essentially acquired the line due to boundary by acquiescence laws and any person buying the properties will do so with the knowledge that City utility lines are located in their rear yard. Mr. Gardner stated that a new easement will be recorded along with the plat for this project to inform property owners of the areas of their property that are

impacted. Mayor Berube agreed with the developer that the presence of the utility lines in the rear yard will reduce the value of the lots. Council Member Swanson asked if the City would be responsible to repair damage to a private property if the sewer line in a rear yard were to break. Mr. Call answered yes. Council Member Swanson stated that for that reason he is in favor of entering into a cost sharing agreement with the developer as he believes the City would pay as much – if not more – than the proposed cost if the sewer line is left in its present location and breaks in the future, causing damage to private property. Council Member Ekstrom agreed; she is supportive of moving the lines to where they should be located in the roadway. She is not opposed to negotiating the cost sharing arrangement with the developer. Council Member Stoker agreed and proposed negotiating away from the proposed 70/30 split of costs.

Council Member Swanson motioned to approve an 85/15 split for utilities for Pheasant Landing. Council Member Ekstrom seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

Mayor Berube stated that Administration will present Council’s authorization of an 85/15 split of costs to relocate utility lines to the roadway to Mr. Hansen for his consideration.

6. DISCUSSION AND/OR ACTION TO CONSIDER THE PROPOSED BUILDING ELEVATION FOR A 7-ELEVEN IN THE VILLAGE AT PROMINENCE POINT PROJECT LOCATED AT THE NORTHWEST CORNER OF 1700 NORTH AND WASHINGTON BLVD

Associate Planner Bell presented and reviewed his staff memo.

BACKGROUND. An application was received to consider approval of a 7-Eleven convenience store at the northwest corner of 1700 North and Washington Boulevard, with several elevations being viewed by the Planning Commission at the January 8th, April 1st and May 20th Planning Commission meetings. In the process of meeting with the Planning Commission, the applicant made adjustments to the proposed elevation and added a proposed monument sign. The currently proposed elevation is based on discussion with the Planning Commission.

The land use authority for commercial site plans in the MPC-VPP zone is the City Council with a recommendation from the Planning Commission. An amendment to the development agreement states as follows:

“The City Council shall approve all setbacks, lot coverages, building orientations, and all other site development standards for commercial site plans after a review and recommendation by the Planning Commission. Variations from the MPC standard zoning are to be limited, and designed to enhance the goals of the MPC zone.”

A companion subdivision application has yet to be received. Additionally, it should be noted that this is not a full site plan review due to the lack of a landscape plan, etc. An amendment to the Village at Prominence Point added gas stations as an allowed use. Per the development agreement (and as a legislative item), however, the City Council has full discretion regarding approval or denial of building elevations; this applies regardless of whether an approved use is proposed.

Given, however, this potential use of a gas station and convenience store, it also needs to be mentioned that the number of apartments agreed to in the development agreement was based on the uses along Washington Boulevard sharing parking with the apartments to meet the parking requirements for those apartments. Given that a car wash has been built along Washington Boulevard, and a convenience store is being proposed, if approved, it is very unlikely that these uses would share parking with the apartments.

If this gas station and convenience store is approved, Staff anticipates that the number of apartment units would need to be reduced to reflect that parking stalls from this use are not being shared to meet the parking requirements of the apartments. There has already been a reduction in apartments proposed to accommodate the increased number of townhomes on the site, so staff is hoping this ends up not being an issue, but wants to make sure everybody involved is aware of this (see Exhibit H; a signed statement from the property owner regarding parking).

The relevant portion of the development agreement states that the building in this area of the development needs to be a prominent ‘gateway building’ (see Exhibit B for the development agreement, and Exhibit C for the drawing illustrating an illustration of a potential ‘gateway’ building from the development agreement).

The applicant has submitted an elevation design with a clock tower on the southeast portion of the building with a ‘garden wall’ extending from the building, and running along Washington Boulevard (see Exhibit D for a site plan drawing, and Exhibit E for the building elevation). The applicant has also added a monument sign to the proposal (see Exhibit F).

The primary question before the Council is whether this building meets the conditions of the development agreement, particularly whether this building qualifies as a gateway

building or not. If the Council determines that the building does qualify as a gateway building the details later in this report, are relevant. If the Council decides the building does not qualify as a gateway building, then the later details are moot.

Associate Planner Bell continued to summarize his staff memo, including a review of issues in the Development Agreement.

The memo concluded the City Council should determine whether or not this proposal is a gateway building. If it is determined by the Council that this building qualifies as a gateway building, the Council should consider the Planning Commission recommendations regarding design.

The City Council should evaluate the issues in regard to compatibility with the development agreement and the General Plan to determine if the building design is acceptable. The City Council has the options of denying the application, approving it, approving the application with conditions, or to approve the application, while delegating the remaining details of, or adjustments to, the site plan to be reviewed and considered by the Planning Commission.

Mr. Bell reviewed his memo and facilitated discussion among the Council regarding historical amendments to the development agreement for the Village at Prominence Point Project and allowed land uses in the project area. There was a focus on site plans that have been presented in the past that have included a gas station on the site and whether that type of use can meet the definition of a 'gateway building'. Council Member Swanson stated that while the elevations that have been designed for this proposed project are very nice, he does not feel it can be defined as a 'gateway building', which was a requirement included in the development agreement that was agreed upon by the original developer, Jack Barrett, and the City Council. Deviation from the terms of that agreement should not be considered as those are the terms that the Council relied upon in order to grant approval for the Master Planned Community (MPC) project in this area of the City. He stated he feels the proposal does not align with the historical negotiations of the development agreement. Council Member Stoker agreed; a significant amount of time and effort was spent negotiating the agreement, but it seems as if Mr. Barrett has sought to secure amendments to that agreement at every opportunity. The project has dramatically changed and that is frustrating. She agrees that the current design does not conform with the idea of a 'gateway building' that was discussed at the time the development agreement was discussed.

Mayor Berube agreed that the terms 'gateway building' and 'gas station' are not one in the same; it would be difficult for a developer to build a true gateway building, but operate it as a gas station and turn a profit. Council Member Ekstrom agreed.

Mayor Berube then facilitated discussion among the Council regarding opportunities for securing a 'gateway building' type of development on the site. He referenced the car

wash use located north of the subject property and indicated that was not envisioned in the original development agreement, but was likely approved because the types of uses that were envisioned never came to fruition. He wondered if there will be a market for a use that would typically occupy a 'gateway building'. He noted that the applicant for the 7-Eleven business has been working with the City for seven to eight months on this project and that fact can send the message to the development community that it is difficult to develop in North Ogden. Council Member Swanson stated that the terms of the agreement were negotiated in good faith and it should not be the City's problem to ensure that the developer can build something on the site that meets the terms of the agreement while turning a profit; that should have been a matter that was discussed or negotiated by the developer at the time he was seeking to secure this agreement. The developer understood what the City envisioned when placing the term 'gateway building' in the agreement.

Council Member Barker stated he understands the frustration that Council Members Swanson and Stoker share relative to deviations from the originally development agreement that they were party to negotiating; however, he was a member of the Council last year when the applicant for the 7-Eleven project came to the body and asked if they would consider this proposed use. The Council and Planning Commission, in a joint meeting, told him that if he adjusted the design of the building, they may consider it as meeting the definition of a gateway building. He stated that the applicant has done what he was told and now, a year later, the Council is telling him that they no longer want it. This is the reason that developers have a concern about the difficulty in pursuing development projects in North Ogden. Council Member Swanson disagreed; the Council offered suggestions for the types of design elements that may make the building a 'gateway building'; however, they in no way said that if the applicant did certain things, he would get approval of the project as a 'gateway building'. The Council simply consented to considering an application, but he does not believe the current proposal can be defined as a 'gateway building'. Council Member Stoker added that she was not in favor of the idea of a 7-Eleven on the corner property at the time it was initially presented. Mayor Berube stated that this discussion is helpful, but the Planning Commission has defined the current application as a 'gateway building' and that can create frustration for applicants. Council Member Swanson stated that he has watched the Planning Commission's deliberations regarding this project and it is his opinion that the Planning Commission was trying to get this building as close to a 'gateway building' as it could be; however, they had the understanding that the applicant would likely not be willing to spend the money it would take to make this project a 'gateway building'. Several comments were made that the building is a really nice convenience store, but they never said it was definitely a 'gateway building'. Mayor Berube agreed, but noted that the Planning Commission has provided a unanimous recommendation of approval of the 7-Eleven project in the Village at Prominence Point project, based upon certain conditions.

Mayor Berube then invited input from the applicant.

Ryan Forsythe stated that he appreciates the discussion, but he is taken off guard by its direction. He has spent a great deal of money on design of this project responsive to the feedback he received from the Council and Planning Commission last year. He stated that the renderings included in the development agreement are hand drawn and are not realistic given the constrictions of the site, such as preservation of the sight triangle, setbacks, and allowing for walkability. He emphasized that the renderings are not representative of the type of project that could even be constructed on the site while complying with City development ordinances. A 'gateway building' that the Council is envisioned would not even be allowed; however, he has spent a great deal of time and effort trying to develop a proposal that will work on the site while meeting the definition of 'gateway building'. His site plan is tailored to the actual conditions on the property; the agreement negotiated by the original developer are not realistic regardless of the expectations of the City Council at the time of its negotiation. He understood that pursuing this project would be difficult, but he has done his best to be responsive to feedback from staff and the Planning Commission while meeting requirements imposed by North Ogden City and even the Utah Department of Transportation (UDOT) given the properties frontage onto a State road. He stated that the development climate changes all the time and it may not be realistic for the City to rely upon certain terms that were negotiated nearly a decade ago. He stated that the original developer, Jack Barrett, is also present and he hoped the Council would accept input from him.

Mr. Barrett discussed the history of negotiations of the Village at Prominence Point project; he feels a huge responsibility to develop the site appropriately and he would love to see a 'gateway building' on the site. However, that concept is no longer realistic given the current commercial development market. The City wanted big retail on the site, but the retail market is not the same as it was when this agreement was developed or even as it was just six-months ago. He is sensitive to the Council's desire for this area of the community, but it is not realistic or possible in the current market and climate. He believes the Council needs to listen to what the development community is telling them; Mr. Forsythe is an experienced and knowledgeable developer and he has done an amazing job at securing a high-quality design for the proposed 7-Eleven convenience store. He feels that the Council is being resistant to the current design simply because it does not entirely conform with the Council's original ideas for a 'gateway building'.

Mayor Berube stated that he and Mr. Call have met with Mr. Barrett at this site. He understands the concerns of the community that a certain project was sold to them, but something entirely different is being developed. This is a problem the City is facing, but he understands the Council's desire to preserve certain requirements of the development agreement.

Council Member Swanson stated that when any party enters into a contract, they do so without an understanding of what the future will hold; things change and that is a risk, but the Council has already approved numerous changes to the project as a result. He stated that retail and other commercial users may not be actively moving right now, but

that will not be the case forever as there are currently many unknown factors associated with the COVID-19 pandemic.

Council Member Swanson motioned to deny proposed building elevation for a 7-Eleven in the Village at Prominence Point project located at the northwest corner of 1700 North and Washington Blvd. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Barker	nay
Council Member Ekstrom	aye
Council Member Stoker	aye
Council Member Swanson	aye

The motion passed 3-1.

Mayor Berube thanked Mr. Forsythe for all he has done in an effort to respond to the directives of the City's Planning Commission and Council. He hopes this discussion will open the door for the possibility of considering adjustments to development requirements to make the type of project the Council has envisioned a possibility on the subject property.

7. **DISCUSSION ON AMENDMENTS TO FISCAL YEAR 2020 BUDGET AMENDMENTS**

Finance Director Nelson stated staff has proposed several amendments to the City Budget for Fiscal Year 2020 as follows:

- **Employee Education Assistance** – Expenses in this account exceeded budget due to the timing of approved tuition reimbursement requests. Sales tax revenue is proposed to cover the \$4,600 increase.
- **Cherry Days** – Expenditure and revenue budgets are proposed to be eliminated due to the cancellation of the Cherry Days celebration. A corresponding decrease in sales tax revenue is also proposed.
- **CARES Grant** – The City has received a first disbursement of CARES grant funding. It is anticipated that the City will expend a small portion of this funding in the current fiscal year. The remaining amount, along with possible future disbursements, will be budgeted next fiscal year.
- **Amphitheater Curtains** – The purchase of amphitheater curtains was delayed, due to COVID. It is proposed that the remaining Amphitheater budget be eliminated in the current fiscal year and be rolled into the next fiscal year.
- **400/450 East Rentals** – Management and maintenance expenses related to the rental homes on 400/450 East were higher than anticipated. This amendment increases the budget to cover those expenses using excess rental revenue.

- **New Solid Waste Employees** – Two new positions were added to the Solid Waste Department effective June 1, 2020 in preparation for moving garbage collection services in-house.
 - **Three New Garbage Trucks** – As discussed, the City has purchased three garbage trucks to be able to begin garbage collection in July.
- a. **Public Hearing to receive comments on an Ordinance amending Fiscal Year 2020 Budget Amendments.**

Mayor Berube opened the public hearing at 9:00 p.m. There were no persons appearing to be heard.

Council Member Stoker motioned to close the public hearing. Council Member Swanson seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

The public hearing was closed at 9:03 p.m.

- b. **Discussion and/or action to consider an Ordinance amending Fiscal Year 2020 Budget.**

Council Member Ekstrom motioned to approve Ordinance 2020-14 amending Fiscal Year 2020 Budget. Council Member Stoker seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

8. DISCUSSION AND/OR ACTION ON THE FRAUD RISK ASSESSMENT

Finance Director Nelson explained the State Auditor's Office has implemented a new Fraud Risk Assessment Program. Local governments are now required to perform an assessment each fiscal year utilizing a scoring matrix created by the Auditor's Office. This assessment is a requirement in addition to the review performed during the annual audit. In order to meet the requirements for Fiscal Year 2020, City staff have performed the audit and identified areas for improvement. With some minor procedural adjustments recently implemented, the City received a score of 280, which translates to the "Moderate" risk category. Staff will work during the coming year to review policies and procedures and make recommendations for improvement to the City Council. Some areas for improvement include:

- Review and update policies as outlined in the assessment.
- Create a code of ethics and establish a requirement for employees and elected officials to annually commit to living by the code.
- Ensure that all Council members receive the training provided by the State Auditor's Office.
- Create and promote a fraud hotline.
- Establish a formal audit committee.
- Consider creating a formal internal audit function.
- Evaluate internal controls and separation of duties to better align with guidelines and reduce reliance on mitigating controls.

Mayor Berube stated he is supportive of the recommendations of staff as summarized by Mr. Nelson and he asked Council Member Swanson to select a few Council Members to work with Mr. Nelson on evaluating the options for implementing the recommendations.

9. DISCUSSION ON THE EMPLOYEE SURVEY RESULTS

Mayor Berube stated he feels it is important for he and the Council, as well as City Administration, to know the state of the team of employees in North Ogden City. He conducted a survey shortly after being sworn in as Mayor to find out how employees feel about various things. He and City Manager/Attorney Call presented the survey questions that were asked and noted employees were given the ability to respond and give their sentiments about the City. Overall, the City has a very good 'net promoter' score, but there was a large variance between different Departments in the City. Some Departments have high scores, but some have lower scores and it is necessary for those Departments to evaluate the reason for the low scores and determine the best way to respond. Mayor Berube stated that employees were given the ability to provide anonymous comments about their employment experience with the City, but he has not shared that with Mr. Call or other Department Heads; he feels the leadership of the City has done a great job, but there are some opportunities for improvement. The survey results will give

Administration a good starting point for addressing certain weaknesses in the City and he will conduct similar surveys in the future to determine what progress is being made.

Council Member Ekstrom stated she was sad to see that such a high number of City employees do not feel their work is appreciated and she would be happy to work on measures that will help employees to feel differently or to be recognized for their work. Mayor Berube stated he feels City leaders are working to recognize employees, but other types of recognition measures may be more impactful. He will continue to support City Department Heads and other leaders to explore other ways to recognize employees and the service they provide to the community.

10. DISCUSSION AND/OR ACTION TO CONSIDER AN AGREEMENT FOR A MEETING MINUTE SPECIALIST WITH D&Z

City Manager/Attorney Call reported D&Z was selected as the transcriber for the City Council Minutes. D&Z has been the City's minute transcriber for several years and the selection committee felt that their experience with us was valuable; this is the first time in 7 years that their pricing has increased and it is minimal. D&Z has been transcribing all of our meeting minutes, but in this new agreement they will only be doing City Council. The proposed agreement is for (1) one-year term and may be renewed for up to (4) additional annual (1) one-year terms.

Council Member Ekstrom motioned to approve Agreement A11-2020 for a meeting minute specialist with D&Z. Council Member Barker seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

11. DISCUSSION AND/OR ACTION TO CONSIDER AN AGREEMENT FOR A MEETING MINUTE SPECIALIST WITH CHRISTINA JONES MCBRIDE

City Manager/Attorney Call reported Christina Jones McBride was the other person selected to transcribe the Planning Commission, General Steering Plan Committee, Economic Development Committee, and Public Safety Building Committee meeting minutes. Ms. McBride used to work for North Ogden City in the administration department and does have some experience with minutes. Her pricing was reasonable and

the committee felt it appropriate to be conscientious of the cost. The proposed agreement is for (1) one-year term and may be renewed for up to (4) additional annual (1) one-year terms. He noted the pricing for this service is different than for the contractor considered under the previous agenda item; Ms. McBride has proposed to charge an hourly rate for her services, whereas D&Z proposed a flat fee regardless of the length of a meeting.

Council Member Ekstrom motioned to approve Agreement A12-2020 for a meeting minute specialist with Christina Jones McBride. Council Member Barker seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

12. DISCUSSION AND/OR ACTION ON COMBINING C.A.R.E.S. ACT FUNDING WITH THE WEBER COUNTY MONEY TO STREAMLINE PROCESS FOR GRANT APPROVALS AND FUNDING

City Manager/Attorney Call provided an overview of the restrictions that have been placed on the use of C.A.R.E.S. Act funding in local municipalities; the City will have \$54,000 to use in responding to COVID internally as a City and the remainder of the funding will be used for supporting businesses that have been directly impacted by the pandemic. Applicants can submit for grant funding in July, with funding to be allocated at the end of the month. Receiving this federal grant will require the City to undergo a single audit. All funding awards will be based upon the terms of an interlocal agreement with Weber County that is still in the negotiation phase.

Finance Director Nelson stated that if it is possible to assign management of the funding to Weber County, the City may not be required to perform a single audit, which can be costly for the City. He will have more information regarding that matter as negotiation of the interlocal agreement with Weber County proceeds.

Council Member Swanson stated he is reluctant to assign the authority to oversee the grants directly to Weber County because he is concerned that businesses located in North Ogden City may not be given fair consideration for C.A.R.E.S. funding. Mayor Berube agreed; it is his understanding that if the City does not use the funding allocated to North Ogden, it will be returned to the State of Utah, rather than the County. He would like to know that funding decisions made by the County will have a direct correlation to city sizes throughout the County. He noted North Ogden is the third largest City in the County

and should receive funding representative of that. Mr. Call stated that the City has 680 businesses on the Weber County business listing and if the allocation given to the City is divided between that number of businesses, each business would be getting more money than the average amount that is being distributed by Weber County. Mayor Berube stated there are several other factors for the City to consider in regard to management of C.A.R.E.. Act funding, but combining with Weber County will provide for streamlining the grant process. He suggested that Council Members Swanson serve as representation of the City relative to the grant program. He asked if other Council Members are interested in working in that role. Council Members Barker and Ekstrom both expressed their willingness to serve in that role.

Council Member Swanson motioned to approve combining C.A.R.E.S. Act Funding with the Weber County money to streamline process for grant approvals and funding, with retention of the 10% of the funding for City needs, as discussed. Council Member Ekstrom seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

13. PUBLIC COMMENTS

Jay Dalpias, 734 E. 2700 N., commented on the employee survey; he is concerned that City employees do not recognize the value of the benefits they receive. At least 50 percent of the employees who responded to the survey were either neutral or a detractor as far as being satisfied with their benefit package. He stated employee health care is reasonably priced and employees have access to 401(k) contributions. He stated employees do not truly understand how great they have it.

John Arrington, 1054 E. 2900 N., referenced item five and stated it was a good decision to reduce the contribution to the project when compared to the applicant's proposal. He was surprised there was no recommendation from the Planning Commission; he listened to the meeting where they discussed the project and they recommended support for option two, which eliminated the concern of the old utility lines. He stated he feels the Council has gone along with what the Planning Commission recommended.

14. COUNCIL/MAYOR/STAFF COMMENTS

Council Members briefly discussed their desire for future agenda items. Individual members also commented on things that have occurred in the City recently that have been brought to their attention by public or City staff. They voiced their support for City employees – specifically those in the public safety realm. Mayor Berube stated that he feels all Department Heads and their employees are very dedicated and want to do what is right for the City and the residents. Council Member Swanson added he is grateful to serve with his fellow Council Members and the Mayor; each of them have the best interest of the City in mind and he is grateful for the leadership that the City currently enjoys. Council Member Ekstrom echoed Council Member Swanson’s comments. She also responded to Mr. Dalpiaz’s comments and agreed that the employees do have a great benefit package; namely the defined contribution fund managed by the State of Utah is a rare benefit that many private sector employees do not enjoy.

Mayor Berube then reported the City will be enforcing ordinances that regulate construction activities in the City; this is responsive to the recent public feedback the City has received regarding several construction project issues. He added the City has also received several requests for centralized recycling in the City and Administration is working with Public Works Director Espinoza to explore opportunities for providing that service.

Mr. Call reported it is necessary to advertise a meeting location for the upcoming Truth in Taxation hearing; options include City Hall, the Senior Center, or a City Park. It may be hard to observe social distancing guidelines in City Hall and he asked the Council to determine where the meeting should be held. The Council briefly discussed the matter and supported holding the meeting at the Senior Center if it is possible to ensure social distancing opportunities and access to electronic tools needed to conduct and record the meeting.

15. ADJOURNMENT

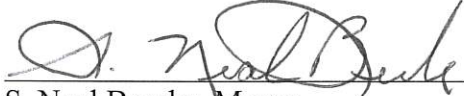
Council Member Stoker motioned to adjourn the meeting. Council Member Ekstrom seconded the motion.

Voting on the motion:

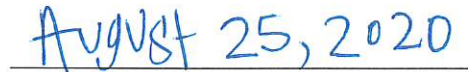
Council Member Barker	aye
Council Member Ekstrom	aye
Council Member Stoker	aye
Council Member Swanson	aye

The motion passed unanimously.

The meeting adjourned at 10:24 p.m.


S. Neal Berube, Mayor


S. Annette Spendlove, MMC
City Recorder


Date Approved