

NORTH OGDEN CITY COUNCIL MEETING MINUTES

September 14, 2021

The North Ogden City Council convened a Council meeting with limited attendance on September 14, 2021, at 6 p.m. at the North Ogden City Office at 505 East 2600 North. And also available electronically at <https://us02web.zoom.us/j/82485812137> or by Telephone: US: +1 669 900 9128 or +1 253 215 8782 or +1 253 215 8782 or +1 312 626 6799 or YouTube: <https://www.youtube.com/channel/UCriqbePBxTucXEzRr6fclhQ/videos>. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on September 9, 2021. Notice of the annual meeting schedule was published in the Standard-Examiner on December 13, 2020.

PRESENT:	S. Neal Berube	Mayor	
	Ryan Barker	Council Member	joined via zoom at 6:26 pm
	Blake Cevering	Council Member	
	Charlotte Ekstrom	Council Member	
	Cheryl Stoker	Council Member	
	Phillip Swanson	Council Member	

STAFF PRESENT:	Jon Call	City Manager/Attorney
	Susan Nance	City Recorder
	Dirk Quinney	Police Chief
	Tiffany Staheli	Parks and Recreation Director

VISITORS:	Susan Clements	Korilyn Hietala	Spencer D. Stephens
	Merrill Sunderland	Ryan Spelts	Robert Bolar
	Jay D Dalpiaz	Stefanie Casey	Sandy Cochran
	Bob Buswell	Dallin Barker	

Mayor Berube called the meeting to order. Council Member Swanson offered a thought and led the audience in the Pledge of Allegiance.

PRESENTATION

1. SWEARING IN OF NEW POLICE OFFICER, RICHARD LOPEZ

City Recorder Nance administered the Oath of Office to new Police Officer Richard Lopez. Police Chief Quinney provided the Council with information regarding Officer Lopez's professional and personal background and noted he is happy to welcome Officer Lopez to the Police Department.

2. **RECOGNITION OF WEBER HIGH SCHOOL'S DRAMA TEACHER, MARK DANIELS, WHO WAS NAMED UTAH TEACHER OF THE YEAR**

Mayor Berube read a proclamation recognizing Weber High School's drama teacher, Mark Daniels, for being named Utah Teacher of the Year. He congratulated Mr. Daniels and thanked him for the service he has provided to the community throughout his career.

CONSENT AGENDA

3. **CALL FOR CONFLICT OF INTEREST DISCLOSURE**

Mayor Berube asked if any Councilmember had any conflict of interest to disclose. No disclosures were made.

ACTIVE AGENDA

4. **PUBLIC COMMENTS**

Dallin Barker stated he is attending tonight's meeting to find out who is responsible for emptying the dog waste bins along the canal trail; they are overflowing and need to be taken care of. He stated that if the City is not going to empty the bins regular enough, they should remove them; however, this will result in people leaving their waste bags along the trail.

Mayor Berube asked Council Member Ekstrom to follow up with the Parks and Recreation Department regarding Mr. Barker's questions.

Mayor Berube then read an email from Scott Russell:

"If the information and our common sense of attendance numbers of the Amphitheater are correct, it is my opinion to ask for a review of the Recreation, Arts, Museum, and Parks (RAMP) monies being spent for the entertainment at the facility. Using common business sense, these events do not appear to be cost effective to the City. Why? What the City is spending for the number of people who are attending is not cost effective. Again, common sense should tell us that this is not right. I recommend that these monies be used for other recreational needs in the City, such as youth recreation or the aquatic center. Let's use common business sense and look at the cost versus the low turnout and overhead expense we are incurring for these events."

Mayor Berube indicated that Mr. Russell went on to inquire as to why the City has an event coordinator as the present staffing of the Parks and Recreation Department could arrange events without a specific events coordinator being hired. "Certainly this role could be assumed by the Manager or other staff in the Recreation Department. This and other such reductions in staffing could save the City money. Thanks to the Mayor and Council for all they do for the City."

5. **APPOINTMENT OF YOUTH CITY COUNCIL ADVISOR**

Mayor Berube noted that Council Member Cevering is the liaison to the Youth City Council and he asked for his recommendation regarding the appointment of a new Advisor.

Council Member Cevering stated that he recommends the appointment of Jeana Berube as the Youth City Council Advisory.

Council Member Swanson move to appoint Jeana Berube as a Youth City Council Advisor. Council Member Ekstrom seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

6. **DISCUSSION AND/OR ACTION TO CONSIDER THE DECLARATION OF SURPLUS PROPERTY LOCATED AT APPROXIMATELY 457 EAST 2600 NORTH**

A staff memo from City Manager/Attorney Call noted the question before the Council is whether to declare the property at 457 East 2600 North as surplus and move forward with consideration of the offers to purchase the property.

With the 2600 road widening project winding down the City has about 1 to 2 acres of excess property which could be sold to recoup some City and WACOG funds. The City has been working on a subdivision of the property so that it can be designated and sold as one parcel instead of the 3 it currently contains. The City has also received some interest from groups who would like to purchase the property for commercial development.

The Council needs to hold a public hearing to receive feedback on declaring the property as surplus. Staff anticipates that the best use of this property would be commercial, which it is currently zoned (CP-2).

If the Council would like to declare the property as surplus, then we would need to discuss the best way to market the property and how the Council would like to approach it. The city currently has one offer on the property waiting for a response, which is why the council is having this discussion about declaring the property as surplus.

The memo concluded staff recommends declaring this property as surplus and developing a strategy to market the property or entering into a contract for the sale of the property with one of the parties who have already shown interest.

Council Member Cevering asked if the City is required to sell the property based upon the agreement with WACOG, to which Mr. Call answered no. Council Member Cevering wondered if it would be more appropriate to retain the property for the development of a future City facility if necessary. Mr. Call stated that even if the Council declares the property as surplus, the City would not be required to sell it, but the Council could entertain offers and decide how they want to proceed.

a. Public Hearing

Mayor Berube opened the public hearing at 6:26 p.m.

Jay D. Dalpiaz, North Ogden resident, stated he supports declaring the property as surplus and selling it and he recommended that any proceeds from the sale be directed to the Public Safety Building project.

Council Member Barker joined the meeting via Zoom at 6:26 p.m.

There were no additional persons appearing to be heard.

Council Member Ekstrom moved to close the public hearing. Council Member Cevering 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 public hearing was closed at 6:27 p.m.

b. **DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION
DECLARING SURPLUS PROPERTY LOCATED AT APPROXIMATELY 457
EAST 2600 NORTH**

Council Member Swanson asked if the Council has the ability to discuss this matter in a closed session scheduled for later this evening, to which Mr. Call answered yes. Council Member Swanson stated that he would like to hold off on declaring the property as surplus until discussing the matter during the closed session. Council Member Barker stated he is comfortable adopting the resolution at this time based upon Mr. Call's earlier guidance that the City will not be required to sell the property simply because it has been declared as surplus.

Council Member Barker motioned to approve Resolution 13-2021 declaring Surplus Property located at approximately 457 East 2600 North. 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.

7. **DISCUSSION TO CONSIDER A SHARED AGREEMENT WITH COLDWATER
ANIMAL HOSPITAL FOR PARKING LOT ACCESS AT THE CITY'S OLD
PUBLIC WORKS FACILITY, LOCATED AT APPROXIMATELY 346 EAST
PLEASANT VIEW DRIVE**

Mr. Call noted the question before the Council tonight is whether to enter into an agreement to install shared parking or sell this property to the neighbor so they can install their own private parking on the property. He identified the location of the subject property at 346 East Pleasant View Drive and briefly referenced the history of the Council's discussions of this issue with the owners of the Coldwater Animal Hospital. The other party has indicated their first preference is that they have a cross access easement on the property, which they would improve and maintain, but not actually own. This would be beneficial to the City because we would get a fully landscaped and improved parking area, but would also tie up the property from any potential future development. There are a lot of moving pieces on this discussion and so the landowner

and staff need some direction so that an agreement, if there is one, can be written up for the Council's approval. One item of concern with a cross access easement is that we have been approached by other members of the public wishing to park or rent parking spaces on other public property to accommodate trailers and other items which are too big for their community (HOA) and directly adjacent to City property. The Council should consider whether this might cause some inconsistencies in working with neighbors to solve problems.

Mr. Call facilitated high level discussion among the Council regarding the issue at hand; the Mayor and Council indicated they are not opposed to selling the property, but they do have concerns about the sharing agreement as this could cause inconsistencies if the City is approached for similar consideration on other properties in the future. The Council concluded to continue their discussion of the future use of the subject property during the closed session later this evening.

8. **DISCUSSION AND/OR ACTION TO CONSIDER AN AGREEMENT FOR THE NORTH OGDEN CITY CONNECTION MAGAZINE**

Mr. Call noted that following the Council's discussion of the extension of the agreement with North Ogden Connection during their September 7 meeting, City Administration has worked with Ryan Spelts to negotiate terms of the extension. He stated the modified term is 12-months rather than 60-months; this will give the Council and the publisher the opportunity to discuss and review the agreement every year. The City would need to give the publisher adequate notice if they do not intend to extend the agreement from year to year. Additionally, the amended agreement provides for indemnification for the publisher. Finally, the City's contribution will be \$.11 per copy printed for each issue, which translates to \$832.92 per month. This language is captured in Addendum A created by Mr. Spelts and City Administration; the price per month is based upon the number of households that receive a magazine.

Mayor Berube invited input from Mr. Spelts.

Mr. Spelts indicated the City does have approval authority of all content in the magazine; if the City finds an article or advertisement harmful, Connection Publishing will remove that content and replace it with something accepted by the City. He is not concerned about liability but noted the indemnification clause is intended to protect Connection Publishing from any negative outcome associated with something that is published that is found harmful to the City. Given that the City has final approval of the magazine, Connection Publishing should be held harmless.

Mayor Berube expressed concern regarding the indemnification clause. Mr. Spelts stated that he simply wants to be a partner of the City and if the City acknowledges that it has review and approval authority of the magazine and will not pursue recourse against Connection Publishing for certain content. This led to high level discussion regarding any

legal liability associated with any situation created by an article or advertisement included in the publication; there was a focus on the City's exposure, Connection Publication's exposure, or an article writer's exposure.

Council Member Swanson motioned to approve Agreement #09-2021 for the North Ogden City Connection magazine with updated language included in addendum A, and an updated disclaimer to indicate that some content is not sponsored by the City, and giving the Mayor the authority to approve the additional disclaimer before signing the agreement. Council Member Cevering 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.

9. DISCUSSION AND/OR ACTION TO CONSIDER A TEMPORARY BUSINESS LICENSE FOR BIRD RIDES INC. ELECTRIC SCOOTER COMPANY

Planning Director Hess explained Bird Rides Inc. contacted North Ogden City's Planning Department regarding a temporary trial of an electric scooter rideshare program. The city does not currently have any operational micro-mobility rideshare programs, so this would be the first of its kind for the City. Bird Rides Inc. does have an existing business license and operating agreement with Ogden City, Bird scooters can be found within the jurisdiction of North Ogden City. Bird Rides Inc. proposed a pilot program for the remainder of the warm weather in 2021. This would consist of approximately 25-50 scooters made available for residents of North Ogden City. Bird provided a draft Memorandum of Understanding along with a draft Pilot Operating Agreement that would establish temporary rules and regulations for shared electric scooters.

Mr. Hess noted he has discussed the proposal at length with Mr. Call, Police Chief Quinney, and Mayor Berube; Chief Quinney has indicated that scooters can be regulated in the same fashion as bicycles and that the City has adequate enforcement capability under the existing bicycle motor laws to be able to regulate electric scooter use. Should the Council decide that a temporary scooter sharing program is beneficial for the City there may be other potential areas of legislation the city could consider including the following: acceptable/designated parking locations for electric scooters, limited speeds on and off sidewalks, whether or not electric scooters should be permitted on sidewalks, limited areas where the scooters would be operational (business districts and transit

accessible areas). Any regulations specifically addressing riding on the sidewalk, or speeds on sidewalks would need to be codified in the future in order to separate regulation between bicycles and electric scooters. According to the Draft Memorandum of Understanding, both the city and Bird Rides Inc. may terminate the agreement at any time without cause upon thirty days prior written notice. This provision provides the city with an exit clause should the temporary electric scooter share program become problematic. He concluded that Staff recommends that the City Council consider the proposed temporary business license, draft Memorandum of Understanding (MOU), and Draft Pilot Operating Agreement and determine whether it is in the best interest of the city to permit an electric scooter sharing program to operate for the remainder of the warm weather season in 2021.

Mr. Hess facilitated high level discussion among the Council. Mayor Berube polled the Council to determine their position on the proposal; they were split on the matter of the temporary business permit allowing the Bird Rides to introduce an electric scooter business into North Ogden for the remainder of 2021.

Council Member Cevering motioned to deny the temporary Business License for Bird Rides Inc. electric scooter company. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Ekstrom	no
Council Member Stoker	aye
Council Member Swanson	aye

The motion passed 4-1.

10. DISCUSSION ON VILLAGE AT PROMINENCE POINT DEVELOPMENT AGREEMENTS AND AMENDMENTS.

City Manager/Attorney Call reviewed a staff report included in the Council packet regarding the history of the Village at Prominence Point project; this included a summary of the original agreement and the many amendments that have been approved since approval of the original agreement. There was a focus on the City-owned parcel in the project area and future plans for that area; amenities that have been communicated to residents in the project; the decreases in the numbers and types of units in the project; bankruptcy actions on the property resulting in change of ownership for several parcels or buildings within the project area; codes, covenants, and restrictions (CCRs) applying to the project and the City's ability to take enforcement action against the developer; and the three lots that are non-buildable due to their relationship with the creek and the path planned for the area in the future.

Mayor Berube concluded that it is important to clarify that the City has no pending applications for building permits for the independent living center, the apartment complexes, or the club house. He is hopeful that the developer will begin working on the club house in conjunction with the apartments, though it's not necessarily required. The developer has told some residents in the project area, the City is holding certain aspects of the development up, but that is not accurate. The City has not been hard to work with but is enforcing the agreement in place and he does not anticipate additional amendments. He asked the Council if they are comfortable with that position, to which all Council Members answered yes.

11. DISCUSSION ON EMPLOYEE SURVEY RESULTS

City Manager/Attorney Call reported Administration has completed the annual employee satisfaction survey; he reviewed the survey questions and the results and offered a comparison of the 2020 results and the 2021 results. The scores seem to be higher this year, but participation in 2021 was lower than in 2020, which could lead the reader to draw the conclusion that the scores would be lower.

Mr. Call engaged in high level discussion with the Mayor and Council about opportunities for implementing changes in the City that could increase employee morale or address some of the concerns expressed via the survey.

12. DISCUSSION ON UTOPIA

City Manager/Attorney Call reported the City has been approached by UTOPIA about partnering with them to complete a fiber project in North Ogden City. A survey has been created by UTOPIA and the question before the Council at this time is whether they want to proceed in engaging the public regarding such a project through this survey.

Mayor Berube stated the first question for the Council to answer is if they want to submit the survey to citizens with the knowledge that the City would be party to a \$17 million bond for the fiber project. He polled the Council to determine how they would like to proceed. The Council acknowledged the need to improve broadband service in the City but indicated that UTOPIA is not the only option and they wanted to explore other options at this time rather than proceeding with submitting the UTOPIA survey to residents. Mayor Berube directed Mr. Call to gather additional information regarding other fiber and broadband options and present those to the Council during a future meeting for more discussion and a possible action.

13. COUNCIL DEPARTMENT REPORT:

a. Council Member Barker – Building and Planning

Council Member Barker reported the General Plan Advisory Committee has finished their work on their recommendation to update the General Plan; they will be completing their final report for submittal to the Council in the next 60 days and after that they may disband. He then reported on his assignment with Mosquito Abatement District; there has been one West Nile death in Weber County in the past month. They advise residents not to have standing water on their property as this allows for mosquitos.

b. Council Member Swanson - Finance

Council Member Swanson reported on the status of the current audit, which is on schedule at this point in the year. He reported that 17 percent of the year has lapsed, and expenses are under that at 13 percent. Revenues are tracking nicely as well. He then reported he would like to make his report at the last meeting of each month so that he has more current sales tax revenue data.

14. PUBLIC COMMENTS

Dallin Barker, North Ogden resident, commented on the Village at Prominence Point project. It was concerning to hear that the senior center has been developed, but the cottage units will no longer be developed around it and there are no plans for landscaping. He stated that there are many unkept areas in the project, and he asked that the Council visit the area to get a clear understanding of the situation; he would like for the City to push the developer to create grassy areas for kids to play.

Mayor Berube asked Mr. Call if it is correct that the cottages will not be built. Mr. Call stated that he will follow up with the new developer; they are unsure they want to build cottages, but those units will be replaced with something else. He indicated he will follow up with Planning Director Hess.

Korilyn Hietala, North Ogden resident, asked if the cottages were the patio homes that were supposed to surround the senior living facility. Mr. Call stated that there were patio homes planned for the area around The Lodge building. Ms. Hietala then asked where the trail is supposed to be constructed. Mr. Call stated that it was supposed to be built on the east side of the cottages, between the cottages and the creek. Ms. Hietala stated that she does not believe there is room for that. Mr. Call stated that many people have complained that the area is too narrow for a trail and that users of the trail would essentially be in the backyard of residences along the path. Ms. Hietala stated that her property line goes into the middle of the creek; she asked where the trail exits the development, to which Mr. Call answered 1900 North. Ms. Hietala stated that she is unwilling to give up a portion of her property for the trail. Mayor Berube asked Ms. Hietala to meet with City

Administration to provide her perspective and to get more information about future plans for the project.

Susan Clements, North Ogden resident, stated that she was interested in the conversation about UTOPIA. She is currently a Century Link customer and was not pleased. She is now a customer of T-Mobile, and she has had a better experience. She advised that the City not proceed with a great amount of hard wiring before getting more information about the future of wireless internet. It would be bad for the City to make a commitment and investment into something that may be obsolete in a few years.

Candace Yamane, North Ogden resident, asked if anyone has asked questions about the relationship between wireless technologies and human health.

15. COUNCIL/MAYOR/STAFF COMMENTS

Council Member Swanson stated there are three things he feels the Council must discuss in the near future: land use of infill properties; canal trail maintenance; and sidewalk tripping hazards and the City's associated liability.

Council Member Cevering referenced an email he received this morning about weeds near the sound wall by Lee's Marketplace.

Council Member Ekstrom voiced support for Council Member Swanson's request to discuss sidewalk maintenance and tripping hazards.

Mayor Berube reported the City's Justice Court Judge recently retired and as a result he has been asked to appoint two members to the Judicial Search Committee to find a new Judge. He has appointed Brent West, who was a senior District Court Judge for a long period of time, and Susan Kilborn, a resident with a legal degree. They will be part of a five-member committee who will recommend three individuals from which he can select an appointee. He will then seek the advice and consent of the City Council on his recommended appointee.

Police Chief Quinney stated he wished to provide a report in response to a recent question from Council Member Cevering about the trail crossing at 2750 North and 1350 East. He stated that the crossing will soon be marked with paint and appropriate signage.

16. **DISCUSSION AND OR ACTION TO ENTER A CLOSED MEETING FOR REASONS RELATED TO UTAH STATE CODE §52-4-205(1)(e) REGARDING STRATEGY SESSIONS TO DEISCUSS THE SALE OF REAL PROPERTY**

Council Member Ekstrom motioned to adjourn into a closed session pursuant to the provisions of Section 52-4-205(1) of the Open and Public Meetings Act. Council Member Swanson 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 recessed at 8:40 p.m.

The meeting reconvened at 9:31 p.m.

17. **ADJOURNMENT**

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


Voting on the motion:

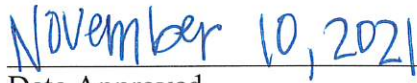
Council Member Barker	aye
Council Member Cevering	aye
Council Member Ekstrom	aye
Council Member Stoker	aye
Council Member Swanson	aye

The motion passed unanimously.

The meeting adjourned at 9:31 p.m.


S. Neal Berube, Mayor


Susan L. Nance, CMC
City Recorder


Date Approved