

**NORTH OGDEN CITY COUNCIL
MEETING MINUTES**

November 9, 2021

The North Ogden City Council convened in a Council meeting with limited attendance on November 9, 2021, at 6 p.m. at the North Ogden City Office at 505 East 2600 North. And electronically on Zoom, recording can be found on YouTube: <https://www.youtube.com/channel/UCriqbePBxTucXEzRr6fclhQ/videos>. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on October 21, 2021. Notice of the annual meeting schedule was published in the Standard-Examiner on December 13, 2020.

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| PRESENT: | S. Neal Berube | Mayor | |
| | Ryan Barker | Council Member | |
| | Blake Covering | Council Member | (excused) |
| | Charlotte Ekstrom | Council Member | |
| | Cheryl Stoker | Council Member | |
| | Phillip Swanson | Council Member | |

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| STAFF PRESENT: | Jon Call | City Manager/Attorney |
| | Susan Nance | City Recorder |
| | Dirk Quinn | Chief of Police |
| | Scott Hess | Planning Director |
| | Brandon Bell | Associate Planner |

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| VISITORS: | Stefanie Casey | Susan Kilborn | Terri McCulloch |
| | Barker | Korilyn Hietala | Kent Bell |
| | Karen Bell | Candace Romani | James Romani |
| | Matt Obray | Brenda Ashdown | Randy Edmunds |
| | Ryan Udell | Rick Scadden | Spencer Alexander |
| | Brandon Mason (Planning Commission Member) | | |

Mayor Berube called the meeting to order. City Manager/Attorney Jon Call offered a thought and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. CALL FOR CONFLICT OF INTEREST DISCLOSURE

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

2. **DISCUSSION AND/OR ACTION TO CONSIDER THE SEPTEMBER 14, 2021
CITY COUNCIL MEETING MINUTES**

Council Member Ekstrom motioned to approve the September 14, 2021, City Council Meeting minutes. Council Member Stoker seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

ACTIVE AGENDA

3. **PUBLIC COMMENTS**

Brenda Ashdown, North Ogden resident, stated that during the last Meet the Candidates Night, there was a discussion about improving water wells in the City and she asked if those projects would interfere with the stump well near Lee's Marketplace.

Mayor Berube stated the City has no plans or intentions to impact that well, it is fed by the same aquifer that feeds the other City wells. He stated the City is of the understanding that there is sufficient water for all well projects and for the stump well to continue producing water.

Kent Bell, North Ogden resident, addressed the agenda item dealing with the ordinance to amend accessory building standards in the City. He provided a handout to the Mayor and Council summarizing his concerns. He is seeking an exemption to the ordinance to allow for the use of metal as a building product for a building on his property in which he has applied for a permit. The City has restricted the use of metal based upon a metal building that was built in the community that drew a great deal of negative feedback from other property owners. He stated he does not feel that one building should set a precedent for all future buildings. Any permit application should be assessed based upon its own merits and unique conditions. The building he has chosen would be constructed by a proven company using 29-gauge metal that is powder coated to match his existing home, which is gray with white accents. The building would be located within the required setbacks for his property and the neighboring property has a metal barn it at this time. The building plan and company was specifically chosen to improve the value of his property and create an asset for the neighborhood, but most importantly it is maintenance free. He applied for the permit in August and has complied with all requirements and would greatly appreciate the exception he is seeking.

Korilyn Hietala, North Ogden resident, also provided a handout to the Mayor and Council, which she read from as follows:

“We are expressing our distress and concerns regarding the "path easement" that was created along Coldwater Creek. We planned our homes and retirement around the enticements and incentives assured by the developer and builder. We know you are well aware of the laundry list of blunders and falsehoods which have been proffered by the developer to the homebuyers, residents and North Ogden City. We purposefully had our home built at the west end of the development, in a "55 and older neighborhood" in order to enjoy quiet, relaxed living. Our endeavors have been frustrated by the developer's lack of capable planning in land acquisition and follow through; however, others have been affected as well. Residents of Roylance HOA and Country Boy Estates subdivision are faced with losing large portions of their properties and as you are aware, legal proceedings have begun. Citizens and friends of Coldwater Creek have several concerns about the disruption of wildlife, encroachment of the environment and effects on Water Rights downstream. Furthermore, we contend the addition of the proposed path would disrupt the homeowners' privacy, disrupt the peace and provide a haven for illicit activities. Homeowners would lose use of property we have purchased and pay taxes on. A path connecting the subdivision already exists on the south side of the development. There will be no access behind the homes on the west side of the development. The reasoning that school children would access the path to get to 1900 North does not make sense. Why would people backtrack northeast, adding mileage to their trip? If the trail is amended, it would solve several issues. Landowners would no longer need legal action to save their property, Coldwater Creek would not need to be moved and it would allow Barrett the ability to build on the three west lots. Our concerns would have been made earlier; however, we had been deceived by agents of the developer and builder. Furthermore, it is not right to punish residents because the developer failed to act in a proper manner. Please reconsider this matter and refer to the below signatories, thank you for your attention to this matter.”

Ms. Hietala stated her letter has been signed by the majority of those property owners who stand to be impacted by the path in the area.

Heather Bailey, North Ogden resident, addressed item six on the agenda, the amendment to the accessory building standards in the “R” zones of the City; the ordinance amendment would require a minimum of 60-feet from any dwelling on an adjacent lot. She believes the Planning Commission is in favor of eliminating this requirement and she offered her support for that amendment; the standard would be difficult to meet for most residential properties as accessory buildings are typically an extension of the primary driveway, which must only be setback 10 feet from adjacent properties. She stated she feels the recommended amendments made by the Planning Commission are sufficient to address concerns about large and imposing accessory structures on residential lots.

Ryan Udell, North Ogden resident, also spoke about the agenda items dealing with accessory buildings in the City; in his case, he can meet the required setbacks and maximum building heights, but he wants to build a building that is larger than the maximum square footage allowed. He stated that there are zones in the City that allow for larger building lots, and on those lots a larger building should be acceptable. Also, the 60-foot setback from neighboring properties is excessive and not necessary considering the other regulations that have been included in the Planning Commission's recommendations. He then added that if metal buildings are eliminated in all "R" zones, many people will be negatively impacted. There are many people who either want to build a metal structure or a wood structure that is clad in metal; these types of materials have been improved dramatically and should be considered an acceptable building material in residential zones of the City.

Rod Carney, North Ogden resident, also spoke to the agenda items dealing with accessory building standards. He has been trying to build an accessory building on his property for the past 2.5 years and he is not allowed to build the building he desires because it exceeds the maximum building size by 188 feet. His property is located in the RE-20 zone, and he has a large building lot, but he is dealing with some of the same restrictions that are intended to control building size on small residential lots. He stated that he feels that the Planning Commission's recommendation is appropriate, and he asked that the Council approve the amendments to make it possible for people to build accessory structures that meet their needs. He stated that his accessory structure will match his home closely and will be very high quality, but the size restriction is unreasonable. He asked for the Council's assistance or an exception to the current ordinance.

Stef Casey, North Ogden resident, stated at the end of 2019 and early in 2020 she sat in many Planning Commission meetings where they discussed accessory building standards; they were dealing with negative feedback from many residents who were impacted by a very large building in a residential zone. The Commission put a lot of thought and effort behind their recommendations, and she wondered if it is appropriate for the Council to consider an amendment at this time based upon one permit application and subsequent request. She asked if an ordinance amendment could be considered each time someone applies for a permit for which they do not qualify.

4. DISCUSSION AND/OR ACTION ON BOND PRESENTATION

Mark Anderson, Zion's Bank, discussed the current bonding environment and the City's anticipation of issuing a sales tax bond to pay for the Public Safety Building project. He presented two optional bond scenarios: one is a \$7.165 sales tax revenue bond handled with market underwriting and private placement. The other is an \$8 million direct purchase bond. The interest rates of both bond scenarios are slightly different, and both have a 20-year term. He offered a comparison of other components of each of the bond types, and ultimately concluded that is his recommendation, as the City's Financial

Advisor, is to proceed with the direct placement bond type as it provides the City with greater flexibility.

Council Member Swanson stated the option that makes the most sense is the direct private placement bond; the most attractive aspect of the bond is the ability to refund it or prepay it without penalty. Traditional sales tax revenue bonds have a minimum term of 10 years, but the direct placement does not have that and it may be that the City finds itself in a positive financial position that makes it possible to pay off the debt earlier than 10 years. Mayor Berube agreed. The remainder of the Council Members also voiced their support for the option favored by Mr. Anderson and Council Member Swanson.

Council Member Swanson motioned to pursue the option for a Private Placement Bond based on Bond Presentation from Zion's Finance. Council Member Ekstrom seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

Mr. Anderson stated he needs the City to communicate to him the maximum amount of the bond and when they want to lock in the interest rate. Mayor Berube stated he will be in touch with Mr. Anderson later this week.

5. DISCUSSION ON GENERAL FUND BALANCE

City Manager/Attorney Call stated that Administration needs direction from the Council regarding the minimum amount of money they want to preserve in the City's general fund balance. Once this number is established, Administration wants to create a policy that regulates the matter and determines instances when it may be appropriate to consider reducing the general fund balance below the defined level. He noted that this type of policy decision will make it possible to have a clear understanding of the amount of money that may be available for major projects, like the Public Safety Building project.

Mayor Berube stated that in previous discussions the Council has determined to set the minimum amount of the general fund balance at 15 percent each year. He facilitated discussion among the Council to determine if they are still comfortable with that number and to define instances when they may be comfortable dipping into the 'rainy day fund' for certain necessities. The Council concluded to maintain the 15 percent number for the

general fund balance and to direct staff to proceed with developing a policy that provides guidance for considering when to take the fund balance below 15 percent.

6. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE TO AMEND ACCESSORY BUILDING STANDARDS IN THE R ZONES.**

Associate Planner Bell referred to the Council's discussion of this matter a month ago; staff is of the opinion that the proposed ordinance adjustments keep the ordinance within a reasonable range of balancing differing interests of property owners desiring an accessory building and those of neighbors on nearby properties. Subsequently, staff recommends that the City Council consider the proposed ordinance, and whether it conforms to the General Plan and maintains the rights and interests of property owners desiring to build Accessory Dwelling Units, and surrounding neighbors. He suggested that the Council consider the ordinance listed under agenda items seven and eight before taking action on this issue.

Mayor Berube asked how the City distinguishes when and how to consider ordinance amendments that are requested by individual applicants or property owners. Mr. Bell stated that the best approach is to determine if a requested amendment is a valid interest in the community and if the amendments will have an impact on neighboring property owners. Mayor Berube stated that neighboring property owners could have concerns about building heights and materials. Mr. Bell agreed.

Mayor Berube invited input from Planning Commission Vice Chair Brandon Mason. Mr. Mason stated that this issue has been debated several times by the Planning Commission. Accessory dwelling standards are a general topic of discussion throughout the City on a regular basis, but he feels the City has done a good job at striking a balance in consideration of the individual building the building and neighboring property owners. However, the Planning Commission feels that their recommendation to adjust certain standards, namely the maximum size of an accessory building, will help to address concerns of property owners throughout the City. The Planning Commission was hesitant to allowing metal as a building material for accessory buildings and they feel that requiring an accessory building to match the home on a property is appropriate. Additionally, the Commission believes that allowing buildings with a larger footprint than allowed in the current ordinance would actually add to the diversity of housing and structures in the City. If there are strict limitations on building in the City, regardless of lot sizes and zoning, the City will become 'cookie cutter' in nature. He stated that the Planning Commission reviewed accessory building structure standards for all residential zones in the City and their recommendation is based upon that detailed review and consideration of potential consequences

Council Member Barker moved to defer action on this item until after there has been discussion on agenda items seven and eight. Council Member Swanson seconded the motion; all voted in favor.

7. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE TO AMEND ACCESSORY BUILDING STANDARDS IN THE FOLLOWING SINGLE-FAMILY ZONES: RE-20, R-1-5, RCC, HP-1, HP-2, AND HP-3**

Planning Director Hess first addressed the question about how a legislative amendment like this one is initiated; he noted that a resident applied for a building permit and upon that permit being denied, they asked him what options they had for appealing or seeking recourse. Mr. Hess noted he informed the resident they could seek a legislative amendment to allow the type of building he was trying to build and that is how this matter was first initiated. He then discussed the Planning Commission's recommendation about this matter; they discussed the issue of building size, height, and setback at length. The discussion focused on the information presented in the "R-1 Zones", ZTA 2021-06. The setback recommendation remains the same as the City Council has heard with buildings being allowed up to 25 feet tall at 20 feet from the property line. The discussion on building size was lengthy and thorough. Ultimately the Planning Commission decided that there should not be a cap on the overall size of accessory buildings, but rather to allow the setbacks and lot coverage standards be the limiting factors. Also, the Planning Commission based this decision on keeping the provision that dis-allows metal buildings in the RCC, R-1-8, R-1-10, R-12.5, and HP Zones. Metal buildings used for agricultural purposes are permitted in the RE-20 Zone currently. The Planning Commission felt that the same standards should apply for accessory buildings within all single-family residential zones, not including the R-1-5. The Planning Commission recommends that the City Council amend the Accessory Building Standards in the RE-20, RCC, HP-1, HP-2, and HP-3 Zones to be consistent in setback and height within the R-1-8, R-1-10, and R-1-12.5 Zones, and to eliminate overall size provisions.

Mayor Berube stated that he feels the approach the Commission has taken in terms of building heights and setbacks is appropriate as it is one that seems fair and equitable, but he still disagrees with prohibiting metal buildings, and feels the issue should be addressed at this time. Mr. Scott stated metal buildings are addressed in another section of the City Code, which is why it was considered independently of the height and setback requirements.

Mayor Berube then directed staff to move to agenda item eight.

8. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE TO AMEND ACCESSORY BUILDING STANDARDS CITY-WIDE**

Planning Director Hess referred to his memo in the Council's meeting packet, which provided a background on this issue. The resident who asked for this legislative change is interested in building a metal-sided building with the Cleary Building Company in the R-1 zone. The applicant is simply asking that metal be an approved building material for accessory structures. The Planning Commission discussed and considered the request at

length and ultimately recommended that the City Council keep the accessory building standards in 11-10-31 as they are currently written, and to make no changes that would allow metal buildings over 200 square feet to be constructed in North Ogden. This recommendation is based upon their desire to reduce negative impacts for neighbors. Mr. Hess then engaged in discussion with the City Council about the reasoning behind the Planning Commission's recommendation; there was a focus on an existing building that was built on 1700 North that is large and constructed of metal. Neighboring property owners have complained about the impact the building has had on their quality of life and property values. Mayor Berube stated his concern is that the Planning Commission has recommended to allow larger and taller buildings with reduced setbacks, all of which have been reasons for complaints from residents in the past, but they are not recommending an amendment that allows metal as a building material and basing that decision on complaints from residents. He stated he feels the recommendation is inconsistent.

High level philosophical discussion and debate among the Council and staff centered on whether metal should be an allowed building material for accessory buildings. There was a focus on the need to be consistent and to not impose standards that are arbitrary, or opinion based. There was a focus on past adjustments to the City's accessory building standards as well as the evolution of accessory building construction/trends which should be relied upon to consider additional adjustments that give private property owners a greater ability to use their property as they wish. The Council ultimately concluded to amend the ordinance to allow metal as an accessory building material.

Mayor Berube then called for a motion on ordinance 2021-37, the item advertised under agenda item eight, regarding accessory building standards City-wide.

Council Member Barker motioned to approve Ordinance 2021-37 to amend accessory building standards city-wide and to allow metal as an accessory building material. Council Member Swanson seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

Mayor Berube then called for a motion on ordinance 2021-38, the item advertised under agenda item seven, regarding accessory building standards in the RE-20, R-1-5, RCC, HP-1, HP-2, and HP-3 zones.

Council Member Swanson motioned to approve Ordinance 2021-38 to amend accessory building standards in the following single-family zones: RE-20, R-1-5, RCC, HP-1, HP-2, and HP-3 and removing Section 3a in the land use table, which may be in conflict with the intent of the Ordinance. Council Member Stoker seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

Mayor Berube then called for a motion on ordinance 2021-39, the item advertised under agenda item six, regarding accessory building standards in the R zones.

Council Member Ekstrom motioned to approve Ordinance 2021-39 to amend accessory building standards in the R zones and striking Sections 11-10-31 A, 1 & 2. Council Member Barker seconded the motion.

Voting on the motion:

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| Council Member Barker | 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 MULTI PARCEL DRAINAGE AGREEMENT WITH THE UTAH DEPARTMENT OF TRANSPORTATION (UDOT) FOR LAND LOCATED AT APPROXIMATELY 1500 NORTH WASHINGTON BOULEVARD**

City Manager/Attorney Call reported the Utah Department of Transportation (UDOT) is asking the City to sign a maintenance agreement for the connection to their storm water basins in Washington Boulevard adjacent to the Cooperstowne development. The majority of the storm water will stay in the City system, but a small portion will be in the UDOT system. There are some obligations for cleaning and maintenance which could impose some liability on the City. From a staff perspective the liability is no greater than the City generally has for all storm water and, therefore, there is not a significant reason

to modify the agreement. Staff recommends the Council review the agreement and determine whether to proceed with its execution.

Council Member Swanson motioned to approve Agreement #A11-2021 for a Multi-Parcel Drainage Agreement with the Utah Department of Transportation (UDOT) for land located at approximately 1500 North Washington Boulevard. Council Member Stoker seconded the motion.

Voting on the motion:

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

The motion passed unanimously.

10. COUNCIL DEPARTMENT REPORTS

a. COUNCIL MEMBER BARKER – BUILDING AND PLANNING

Council Member Barker reported on the recent activities in the Building and Planning Department of the City. The Planning Department are working closely with the General Plan Steering Committee and Planning Commission to submit their final recommendations to the Council regarding General Plan updates. He then reported that there have been some technical difficulties with the City's new electronic application system for contractors, but staff is working throughout those.

b. COUNCIL MEMBER CEVERING – PUBLIC WORKS

In Council Member Cevering's absence, City Manager/Attorney Call provided the Public Works report. He reported on the status of a few projects in the City:

- The stop light at Alberta Drive and 400 East, which should be functioning in the next two to four weeks.
- Because of the wet weather, it has not been possible to pick up leaves throughout the City, but as conditions improve, the leaf truck will be driving throughout the City to continue that project. In the meantime, residents can use the City's Green Waste Facility free of charge for leaf drop off.

11. PUBLIC COMMENTS

Ryan Udell, North Ogden resident, stated he is seeking clarification of the actions taken by the Council regarding accessory building standards. He asked if he will be permitted to construct a metal building, to which Mayor Berube answered yes.

Korilyn Hietala, North Ogden resident, asked if the Mayor or Council have any direction on the item she raised during the earlier public comment portion of the meeting. Mayor Berube deferred to City Manager/Attorney Call. Mr. Call stated that the Council can direct staff to research the matter and bring an item back to the Council for continued discussion about trail plans in the area. The Council indicated they support that way forward. Mr. Call stated he will try to get work done in time to include an agenda item on the December 14 agenda.

Spencer Alexander, North Ogden resident, stated he lives on the bank of Coldwater Creek. He referenced the matter raised by Ms. Hietala; he feels for those living near the area and feels that the current situation has been created by some incompetence in terms of planning the area, but he does feel that it is in the City's best interest to keep the trail planned for the area. This is because he is opposed to moving the creek, as has been discussed in the past, and the trail will give people access to the creek. He was asked to sign the petition opposing the trail and he felt it would be very inconsiderate of him to sign the petition, but continue to invite people to support the improvement of Coldwater Creek. He hopes the creek will be a source of beauty and recreation to citizens and visitors of the City. Often, public recreation is lost to private property and for that reason, in this instance he wants to see the trail constructed. He spoke to the concerns about crime that could be committed by those using the trail and stated he feels those issues are minimal.

Matt Obray, North Ogden resident, commended the Council for addressing the difficult issue of accessory building standards. He asked if it would be appropriate to include a mechanism in the ordinance to determine the method for measuring the height of an accessory building. Mr. Hess stated that there is a formula in the ordinance and in the building code relied upon by the City that dictates how building heights should be measured. He explained the formula to the Council and to Mr. Obray.

Kent Bell, North Ogden resident, also thanked the Council for their consideration of the accessory building standards; he feels the action take are fair and equitable for all citizens of the City.

Mayor Berube commended the Planning Division for their work on the issues that were discussed tonight. He also thanked the Planning Commission for their service; he noted that even though the City Council voted contrary to the Commission's recommendation on building materials, it is apparent the Commission spent a great deal of time and effort on the matter.

Mr. Udell inquired as to when the adopted ordinances will be in effect. Mayor Berube stated they are effective immediately. Mr. Hess indicated Mr. Udell can submit a permit application and it will be reviewed in five to 14 days.

12. COUNCIL/MAYOR/STAFF COMMENTS

Council Member Barker stated he visited the Village at Prominence Point project about a month ago to examine the conditions along the creek and the concerns residents have about installing fencing in their rear yards. He spoke to the Planning Director about the issue as well and was told that as long as there is no trail in the area, any fencing would be at the owner's expense. But, if a trail is built, the entity building the trail will be required to erect a fence between the trail and the abutting property. He then reported that he received an email from a resident asking permission to use the Barker Park Amphitheater for a suicide prevention event. He feels the City should allow a free community event as requested. Mayor Berube stated he has discussed that request with Mr. Call, and it is his suggestion that the Council be made aware of community events, or City-sponsored events at the amphitheater, and possibly even have approval authority for those events. He acknowledged a precedent has been set to allow the facility to be used for community events and he is supportive of letting the resident use the facility so long as she is accepting of all rules for the facility. Mr. Call stated that staff will work with the Arts Guild in the City to develop a list of events that are commonly held at the amphitheater and categorize them according to the level of City involvement in the event.

Council Member Barker then reported on COVID-19 related deaths for first responders; the national number increased compared to last year. Mayor Berube noted that COVID-19 is now the number one killer of first responders. Council Member Barker agreed and encouraged people to get vaccinated.

Council Member Swanson expressed his appreciation to residents for their patience and understanding that the City Council is not perfect and often makes decisions that ultimately need to be changed further down the road. He is grateful to live in a community where residents understand their elected officials are human and sometimes it is correct to change their mind. Mayor Berube agreed; he noted that everyone makes mistakes.

City Recorder Nance reminded the Council of the need to hold a special meeting on November 16 to canvass the results of the 2021 Municipal Election.

Mr. Call then reported on the change to the City's webpage and Facebook account to call it "One North Ogden"; the logo of the City is not changing, but there is value in connecting the City's website and Facebook page in order to increase opportunities to get information out to as many residents as possible.

13. ADJOURNMENT

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

Voting on the motion:

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

The motion passed unanimously.


The meeting adjourned at 8:26 p.m.



S. Neal Berube, Mayor



Susan L. Nance, CMC
City Recorder



Date Approved