

NORTH OGDEN CITY COUNCIL MEETING MINUTES

March 14, 2023

The North Ogden City Council convened in a Council meeting at 6 p.m. on March 14, 2023, at the North Ogden City Office at 505 East 2600 North. The meeting was also 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 March 9, 2023. Notice of the annual meeting schedule was published in the Standard-Examiner on December 16, 2022.

PRESENT:	S. Neal Berube	Mayor	
	Ryan Barker	Council Member	
	Blake Cevering	Council Member	
	Jay D Dalpiaz	Council Member	
	Charlotte Ekstrom	Council Member	
	Phillip Swanson	Council Member	
STAFF PRESENT:	Jon Call	City Manager/Attorney	
	Susan Nance	City Recorder	
	Scott Hess	Community and Economic Development Director	
	Trent Wilkins	Sanitary Sewer Superintendent	
	Dave Espinoza	Assistant City Manager/Public Works Director	
	Dirk Quinney	Chief of Police	
	Nate Davis	Building Inspector	
	Jami Jones	Finance Director	
VISITORS:	Brenda Ashdown	Wendy	Susan Clements
	Kevin Burns	Stefanie Casey	Sandy Cochran
	Ben Olas	Chris Pulver	Hilary Willis
	Clint Willis	Chad Jensen	

Mayor Berube called the meeting to order. Chris Pulver, North Ogden Resident offered both a thought and invocation then led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. CALL FOR CONFLICT OF INTEREST DISCLOSURE

Mayor Berube asked if any member of the Council had a conflict of interest to declare. No declarations were made.

2. **ACCEPTANCE OF THE MUNICIPAL WASTEWATER PLANNING PROGRAM (MWPP) ANNUAL REPORT FOR 2022**

Trent Wilkins, Sanitary Sewer Superintendent, briefly summarized the purpose of the Municipal Wastewater Planning Program and indicated that the City's annual report for 2022 has been completed and staff needs an action from the Council indicating that they have accepted the report so it can be submitted to the State of Utah.

Council Member Ekstrom motioned to accept the Municipal Wastewater Planning Program (MWPP) Annual Report for 2022. Council Member Cevering seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Delpias	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

ACTIVE AGENDA

3. **PUBLIC COMMENTS**

Ben Olas, North Ogden resident, stated that a Flock Security License Plate Reader (LPR) system has recently been implemented in North Ogden and this system collects data on all comings and goings in North Ogden City by vehicle type, color, license plate, and unique vehicle alterations. He reached out to the City Manager to inquire as to the purpose of the City's use of the system and he was informed that it is mostly being used for amber alerts and that there are just two people that have access to the data collected by the system, but he still has some questions about the system. He asked if there was any formal approval process involving the City Council prior to the system being installed in the City. Mayor Berube answered yes. Mr. Olas asked if any ordinances have been enacted to regulate data collection and retention; he noted that the data is being held in a cloud-based system and Flock Security has access to it and he is curious to know if other cities have access to the information through Flock Security. He asked what rules have been enacted by the Council to safeguard residents of North Ogden. Mayor Berube stated that the City does not collect the name of the vehicle owner; rather, only information on the vehicle itself is collected and can be used in the event a vehicle is stolen, involved in a crime, or party to a child abduction. He asked Police Chief Quinney for additional input. Chief Quinney stated that the system performs two functions: it cross checks National Crime Information Center (NCIC) entries relating to stolen vehicles, fugitive situations, amber alerts, and endangered persons. He stated that if the entry includes information that a vehicle was seen in North Ogden, the City can pull the data on that vehicle. The system also collects an image of any car entering the City and

stores that image for 30 days on the cloud-based system. The City does not/cannot access that information unless there is a legitimate investigation and a case number created by the Police Department. He briefly provided examples of the types of cases in which the system has been used. Mr. Olas asked if the City is able to retrieve data by entering a license plate number. Chief Quinney stated that if he has a license plate number, there is no need to retrieve data from the system because it will be possible to identify the vehicle through other means. Mayor Berube noted that proper controls have been put in place to protect the data gathered by the system; he advised Mr. Olas to sit down with Chief Quinney if he has more questions about the operation of the system.

Council Member Ekstrom asked if Flock Safety owns the data once they collect it and she asked if the City has safeguards in place to control what Flock Safety does with the data. Chief Quinney stated that the City is working with Flock Safety on a trial basis right now, but there will be a follow-up meeting with the Council regarding the terms of service and protection of data; he noted that the City owns the data, but it is stored by Flock Safety, and they purge all data after 30 days. He reiterated that the data is not utilized unless it is needed as part of an active investigation or case.

4. DISCUSSION ON TITLE 8 PUBLIC WAYS AND PROPERTIES AND NEIGHBORING PROPERTY OWNERS

Planning Director Hess facilitated discussion among the Council regarding their appetite for considering an ordinance amendment that addresses private landscaping on public property and the requirement to obtain a permit for making improvements on public property; such permit would not allow installation of permanent structures, fences, underground sprinkler systems, retaining walls, compacted gravel, concrete, or asphalt and the property may not be regraded. Certain landscaping improvements would be allowed if a permit is secured. The Mayor polled the Council to determine if they would like to allow the use of City property in this manner and if they would like to consider an ordinance amendment to that end. All Council Members indicated they are willing to engage in discussion of the proposed ordinance amendments and possibly allowing private property owners to lease a property that they would like to improve. Mr. Hess indicated that he and City Manager/Attorney Call will work to draft an ordinance for continued discussion and potential consideration by the Council. There was a brief discussion among the Mayor, Council, and staff regarding administration and enforcement of this type of ordinance.

5. DISCUSSION ABOUT NORTH OGDEN CITY PROPERTIES AND SHORT-TERM LEASES

City Manager/Attorney Call explained the intent of this agenda item is to receive feedback from the Council about whether to allow for some flexibility in North Ogden City property and have the Mayor approve the lease and maintenance of property without Council approval. This discussion directly ties to the discussion of letting neighboring property owners beautify City property if they

agree to maintain it. He noted that if the Council is comfortable with the change, an ordinance amendment would be appropriate to communicate that property which is leased for less than a two-year term is not considered a significant parcel of real property and would not be subject to the property disposal process. He stated he feels this change would simplify current processes relating to the lease and maintenance of properties owned by the City. Mr. Call facilitated discussion among the Mayor and Council regarding this matter; there was a brief focus on any liability associated with designating maintenance responsibilities to a party different than the City and which individuals the Council would like to cede authority to for the approval of a use agreement for City property.

Council Member Ekstrom inquired as to the number of properties in the City that would be subject to this type of use agreement. Planning Director Hess stated he can research that issue and provide information regarding the number of properties at a future meeting. Mr. Call stated that staff will work on a recommendation for the Council to consider in that same meeting.

6. DISCUSSION AND/OR ACTION TO CONSIDER A PROPERTY LOCATED AT APPROXIMATELY 234 EAST 3900 NORTH FOR SURPLUS

Council Member Cevering stated that he and Council Member Barker asked for this issue to be brought back before the Council again; during the last discussion of this matter, Council Member Barker made a motion regarding Mr. Willis's request, but there was no second for the motion and it died. He stated that he has been involved in discussions about this property for the past several months, but he was not in attendance during the December 13 meeting and could not second the motion and vote; he felt it appropriate to continue to discuss the issue and clarify both sides of the story. He has conducted his own research about the Willis property and Council Member Barker did the same; he referenced a letter sent to the City by Mr. Willis in September of 2022 in which he indicated that he met with former Planning Director Rob Scott, who communicated that he was 'ok with the use' of the property as long as Mr. Willis obtained permission from the Public Works Department. He added that Mr. Willis then met with Public Works Director Espinoza and City Engineer Gardner, who both indicated they were 'ok with the proposal' as long as there is space for the City to enter the basin. Council Member Cevering stated that based on his research, three different individuals told Mr. Willis that as long as he ensured the City would have access to the detention basin, it would be fine for him to use the property as desired. He asked Mr. Call to provide copies of a text message exchange with Mr. Espinoza. Mayor Berube stated that Mr. Espinoza has represented that his response to Mr. Willis was that he would need to talk to the Mayor about the request. Council Member Cevering stated that the reader's interpretation of those text messages is important; in his reading of the exchange, Mr. Willis could have understood that he had received preliminary approval of their improvements and that Mr. Espinoza's message that he was seeking a response from the Mayor would constitute a formal approval. However, nowhere in the communication is there any message from any City official that Mr. Willis needed to stop the work that he was performing on the property. It is his opinion that Mr. Willis performed his due diligence by applying for a land use permit to install a fence and there was plenty of time for the City to provide clarity as to whether his request would or would not be approved. He presented photographs provided by Mr. Willis of the landscaping that he has installed; in the spirit of the earlier discussion regarding the

City's intent to allow residents to lease ground and install certain improvements, he feels the Willis's have done a great job. However, it does not seem to him that the City has done a very good job in this situation. Mayor Berube stated that the ordinance that was discussed by the Council earlier tonight would prohibit the installation of fencing. He added that in February of 2020, Mr. Willis indicated that he was going to proceed with his plans, but he did not apply for the land use permit until May of 2022. Mr. Willis installed the fence without a land use permit. He added Mr. Willis is a developer and is well aware that land use permits are required for a project such as installing a fence. Council Member Cevering stated that the copy of the permit he has obtained is dated May of 2020. Council Member Dalpiaz stated that is the date the work was completed, not the date the permit was applied for; it was essentially backdated to reflect the date the work was done. Council Member Cevering stated that his position is that the Council is interested in offering use agreements or leases to residents who are interested in beautifying City property that they live next to and in his opinion the request made by Mr. Willis is a win-win situation for both the City and Mr. Willis. The Public Works Department will have one less property to maintain and the residents that live near the property will benefit by living next to a piece of ground that is beautified and well maintained. The City will also still preserve its access to the basin. Mayor Berube asked Council Member Cevering if he would like to make a motion. Council Member Cevering answered yes, but first stated that there is an opposite side to the story, and he does not believe Mr. Willis was a 'thief' in this scenario, though that information has been shared publicly.

Council Member Cevering motioned to declare property located at approximately 234 East 3900 North for surplus. Council Member Barker seconded the motion.

Council Member Barker asked if approval of the motion would result in this property being subject to the process discussed earlier regarding changing the surplus property process to allow the City to simply negotiate use agreements or leases rather than selling the property. Mr. Call answered yes; he anticipates that the language discussed earlier in the meeting would, if approved, allow for this property to be leased by Mr. Willis in the future.

Council Member Swanson stated he appreciates the work Council Members Cevering and Barker have done on this issue; however, there is no information that has been presented tonight that also was not available during the December 13 meeting. His biggest concern continues to be that it is clear that approval from someone higher than the Public Works Director was required because the applicant was asking if that approval was given. The fact that a month, or two months, or 10 months went by without that approval being given does not justify assuming that the approval was granted. That type of operation is not appropriate for any property. One of the reasons he has asked for the ordinance regarding private improvements of public property is that he wants to accommodate this type of situation, but he cannot support fencing public property for private use.

Council Member Dalpiaz stated that he agrees with Council Member Swanson based on his own personal property ownership experiences; no response from the City should not have been interpreted as approval of Mr. Willis's request.

Council Member Ekstrom stated she supports private residents being invested in the beauty of the community, but she is concerned by an individual taking public property and essentially making it their own. If someone wants to beautify public property, she loves that idea, but the property still needs to be accessible by the public and she will support a new ordinance that clearly states that. She does not support allowing Mr. Willis to fence the property and she is still of the same mind as when she voted on the issue on December 13.

Mayor Berube called for a vote on the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Delpias	nay
Council Member Ekstrom	nay
Council Member Swanson	nay

The motion failed with a vote 2-3.

7. DISCUSSION AND/OR ACTION TO CONSIDER LIGHT AND SOUND IMPROVEMENTS ON THE AMPHITHEATER

Council Member Swanson stated that last year the City received a Recreation, Arts, Museum, and Parks (RAMP) grant award from Weber County for sound and lighting at the Amphitheater. The award was \$147,500 and the City budgeted \$75,000 in matching funds, with the intent of fundraising from the community to cover those matching funds. According to the contract with Weber County, the City is obligated to complete the contract on or before June 30, 2023, or ask for an extension, or return the funds to the County, including interest. He stated that City Manager/Attorney Call has been working on a business plan for the Amphitheater and he read some of the goals included in that draft document. He asked that the Council consider funding the \$75,000 needed to complete the work and authorize Administration to apply for the extension in order to get the project done. It is hard to implement a business plan for the Amphitheater since it is incomplete, and he feels that this project is critical to making it usable and successful. He indicated he is willing to take on the role of overseeing fundraising in the community, but he wants to ensure that the City does not lose the grant funding that is available to the City at this time. He added he has received communication from Sean Casey who has volunteered his expertise regarding sound work to be completed at the facility and his information can be used to solicit proposals and bids for the project.

Mr. Call stated that the total project cost is included in the current budget and if the Council authorizes Administration to proceed, he can begin working with Mr. Casey to formulate a request for proposals (RFP) document that can be published. Mayor Berube stated he supports that way forward and he is pleased the City was able to secure RAMP funding for the project. He is concerned it will be difficult to raise funds in the community to help support the project due to

the fact that the funding has already been included in the budget. He stated he has commonly referred to the Amphitheater as a community gathering place but this investment will elevate the facility and make it attractive to professional users who can help to generate revenue in the community. Council Member Swanson agreed, but noted that he feels there are some in the community who will make a donation to the facility once they believe the Council and Mayor support the facility and will endeavor to make it usable. Mayor Berube stated he would like to speak to those individuals to stress to them his support for the project.

High level philosophical discussion among the Council centered on other projects in the community that are desired by residents that have been delayed because the City has asked the requestors to try to raise the funding for the project privately. Council Member Ekstrom stated she believes the City has the means to fund the completion of the project and she believes this project will create momentum for support from private businesses and residents in the community.

Council Member Dalpiaz stated that funding the project will get the Amphitheater to a more viable stage and make it usable; he agreed that this will help to encourage fiscal support from the community.

Council Member Swanson motioned to commit funds to light and sound improvements on the Amphitheater. Council Member Ekstrom seconded the motion.

Voting on the motion:

Council Member Barker	nay
Council Member Cevering	aye
Council Member Dalpiaz	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed 4-1.

8. DISCUSSION AND/OR ACTION TO CONSIDER AN INTERLOCAL AGREEMENT WITH PLEASANT VIEW CITY RELATING TO THE NORTHVIEW SENIOR CITIZEN CENTER

City Manager/Attorney Call explained Pleasant View (PV) and North Ogden cities have for a long time discussed the maintenance of the senior center and the use of the facility by the various communities. The current request to PV was for a contribution of \$12,000 which is roughly 19% of the annual cost of operating the facility. The County also contributes a person to the operation of the senior programs, with North Ogden City covering ½ of the salary. With all the city costs, the estimated expenses this year are \$64,000. The Agreement contains some language about the purpose of the building and includes some language around the priority of its use. The Council

should review the language and make any recommended changes. At this point the Agreement has not been approved by PV Council yet, though in concept it has been agreed upon by several members of their group. He concluded staff recommends approval of the extension of the agreement for another year.

Council Member Swanson thanked the members of City Administration who worked on this issue, which has been discussed for several years.

Council Member Barker motioned to approve Interlocal Agreement #A03-2023 with Pleasant View City relating to the Northview Senior Citizen Center. Council Member Swanson seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Dalpiaz	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

9. DISCUSSION AND/OR ACTION TO CONSIDER AN INTERLOCAL AGREEMENT WITH WEBER COUNTY CLERK'S OFFICE, ELECTIONS DIVISION

City Recorder Nance stated that the City's current interlocal agreement with Weber County has expired and she recommended that a new agreement be executed for the 2023 and 2025 elections. She provided a brief overview of the costs for service per municipal election and noted she will include funding in her budget request for the 2023 election.

Council Member Swanson stated he is surprised at the potential cost to the City if it is necessary to hold both a primary and general election in 2023.

Council Member Barker questioned the accuracy of the number of registered voters in the City. Ms. Nance stated that information is based upon the current voter rolls maintained by the County.

Council Member Swanson motioned to approve Interlocal Agreement #A04-2023 with Weber County Clerk's office, Elections Division. Council Member Dalpiaz seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Dalpiaz	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

10. COUNCIL DEPARTMENT REPORTS:
a. COUNCIL MEMBER CEVERING - POLICE

Council Member Cevering relayed a message from the Police Department regarding recreational vehicle parking throughout the City; during the upcoming spring months, many will take their RVs out of storage and residents are encouraged to follow the City's ordinances regarding the locations where RV parking is permitted. He added that the Department is hosting a 'drug take back' event on April 22 from 10:00 a.m. to 2:00 p.m. at Smiths and they will ensure that drugs are properly disposed of. He noted winter parking season comes to an end tomorrow and the Department thanks residents for their efforts to keep roads clear during a snow storm; they also recognized the efforts of the City's snow plow drivers' response to the many snow storms.

b. COUNCIL MEMBER EKSTROM – PUBLIC WORKS

Council Member Ekstrom stated the Public Works Department is beginning to transition from winter activities to spring activities; they are monitoring storm drains and preparing for snow run-off. They are optimistic that there will be plenty of water this coming summer season.

11. PUBLIC COMMENTS

Sandy Cochran, North Ogden resident, stated that at the budget review subcommittee meeting a few weeks ago, she raised the subject of the Amphitheater and asked who was handling fundraising and Mr. Call stated that he was. She asked him how it was going, and he told her that he knew where almost all of the money was coming from. She was shocked to hear tonight that the City does not know where the funding contributions will come from. She also remembers when the Council agreed to budget \$75,000 and raise the other \$75,000 for the project and that is what the citizens of the City are expecting to happen. She recalled the Truth in Taxation meeting and the input the Council received from the citizens about closing the Amphitheater and not dedicating another dollar to it until the City has more money. She is shocked by the vote the Council took tonight; they could have waited and discussed the matter further. They could have given the citizens the chance to tell them how they feel, but they did not.

Chris Pulver, North Ogden resident, referenced the report from Council Member Ekstrom regarding the Public Works Department; he noted he is aware there is an online mechanism for submitting a work order for issues on City streets and other infrastructure, but he asked if the City proactively monitors the condition of roads without receiving a workorder. He added that residents who submit a work order should receive a response in a timely manner and he asked if the City has a policy about that. Mr. Call stated that most work orders are addressed within three or four days, but sometimes work is weather dependent.

Chad Jensen, North Ogden resident, asked for an update on the creek on 1700 North; the road along the creek is eroding and will eventually impact his property. Mayor Berube stated that he met with Mr. Call and Mr. Espinoza; he asked Mr. Call to respond. Mr. Call stated that the creek is on City property and there is a project in the City's master plan to eventually pipe it. It is a naturally flowing creek and also handles storm water and discharge from Bona Vista; the City is in charge of keeping the road stable and will continue to do so, but in terms of private improvements, each landowner should protect their property from the creek. That is the case in this situation since it is a natural creek. The City will visit the property and monitor the condition of the creek, but a project to pipe the creek would be upwards of \$400,000. Mayor Berube stated that the City can offer sandbags to help keep the water out of the private property in the meantime.

12. MAYOR/COUNCIL/STAFF COMMENTS

Mr. Call referenced a recent letter to the editor in a local newspaper; it related to a response from the Police Department and asserted that the response was inappropriate, but he has spoken with the Police Department and has found the response to be reasonable and in no way similar to a recent event in Farmington City.

Council Member Dalpiaz stated the rain barrel program is now active and residents can apply for rain barrels.

Council Member Cevering stated that the Youth Council has been invited to attend the Council meeting on March 28 to sit with the Council Members on the dais and experience a live Council meeting for themselves.

Mayor Berube reported on the need to set a public hearing for March 28 to address a budget amendment to recognize new funding for road improvement projects.

13. ADJOURNMENT


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

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Dalpiaz	aye
Council Member Ekstrom	aye
Council Member Swanson	aye

The motion passed unanimously.

The meeting adjourned at 7:41 p.m.



S. Neal Berube, Mayor



Susan L. Nance, MMC
City Recorder



Date Approved