

# NORTH OGDEN CITY COUNCIL WORK SESSION MEETING MINUTES

September 2, 2014

The North Ogden City Council convened in an open meeting on September 2, 2014 at 6:31 p.m. in the North Ogden City Council Chambers at 505 East 2600 North. Notice of time, place and agenda of the meeting was delivered to each member of the City Council, posted on the bulletin board at the municipal office and posted to the Utah State Website on September 2, 2014. Notice of the annual meeting schedule was published in the Standard-Examiner on January 24, 2014.

PRESENT:	Brent Taylor	Mayor
	Kent Bailey	Council Member
	Lynn Satterthwaite	Council Member
	Cheryl Stoker	Council Member
	Phillip Swanson	Council Member
	James Urry	Council Member
STAFF PRESENT:	Bryan Steele	Finance Director
	S. Annette Spendlove	City Recorder/H.R. Director
	Jon Call	City Attorney
	Gary Kerr	Building Official
	Craig Giles	Public Works Director
VISITORS:	Bill Morris	Justin Mayhew
	Joan Brown	Blake Welling
	Sorin Teles	Phil Burnett
	Masah Jessup	Max Wilcox
	Calvin Pack	Landon O Bray

Mayor Taylor welcomed those in attendance.

Council Member Swanson offered the invocation and led the audience in the Pledge of Allegiance.

## **ACTIVE AGENDA**

### **1. PUBLIC COMMENTS**

There were no public comments.

### **2. PRESENTATION ON CODIFICATION OF THE CITY CODE**

Mayor Taylor introduced Justin Mayhew and Bill Morris of Municipal Code Online, Inc., who were present to provide a presentation regarding options for hosting codification of the City Code in-house versus contracting with a codification company. City Recorder Spendlove stated

she has seen a presentation regarding the program and is very impressed with its offerings; turnaround of codifying adopted City ordinances would be much quicker for approximately the same cost the City is paying.

Mr. Morris stated that he worked as a City Manager for Marriott-Slaterville and saw the need for a program that would allow cities the ability to handle codification in-house. He worked with Mr. Mayhew, a computer programmer, to develop the program and the Utah League of Cities and Towns (ULCT) has endorsed it. He used the aid of a PowerPoint presentation to provide the Mayor and Council with an overview of the offerings of his program. The Council asked general questions throughout the presentation, which were addressed by Mr. Morris and Mr. Mayhew.

Council Member Urry inquired as to the cost of the program. Mr. Mayhew stated the City would pay an annual subscription cost based on population; the City's annual cost would be approximately \$3,500. Ms. Spendlove noted she budgets \$5,000 annually for the current codification contract. There was a brief general discussion focusing on a comparison between the City's current codifier and Municipal Code Online, Inc., after which Mr. Mayhew offered a demo of the search capabilities of the program.

Council Member Satterthwaite asked if it is an option to purchase the software without paying an annual subscription fee for updates. Mr. Mayhew stated that he updates the software nearly on a weekly basis rather than performing only one annual update; as the company continues to grow the updates may become more significant. He added he is working on developing a mobile application for the program that would give residents the ability to search all City documents from a tablet or smart phone. He added that the City would be required to enter into a three to five year contract at the onset because it is very time consuming to convert all of the City's ordinances and other documents to the format used by his program.

Council Member Swanson stated it seems that what Municipal Code Online, Inc. is selling is ease of transparency for residents. Mr. Mayhew agreed and stated the program should also make it much easier for staff to search City documents as well. Ms. Spendlove added that the City's current codifier, Sterling Codification, is approximately six months behind in publishing the City's adopted ordinances. She noted one benefit of Municipal Code Online, Inc. is that staff could update the City Code immediately after an ordinance is adopted, which would provide the public better access.

Council Member Bailey asked if the documents hosted by Municipal Code Online would also include legislative history for the various titles of the City Code. Mr. Mayhew stated his program will provide legislative history to give citizens the ability to understand when a section of the City Code was amended by an ordinance adopted by the Council. Council Member Bailey stated that is very important to him.

Council Member Bailey asked if the program has the ability to include hyperlinks to the Utah State Code in sections of the City Code that refer to the State Code. Mr. Mayhew answered yes and offered an example of how such a hyperlink would work and noted hyperlinks can link to several different documents besides the State Code, such as City Council minutes.

Mayor Taylor inquired as to the termination clause in the City's contract with Sterling Codifiers. Ms. Spendlove noted the City is required to provide 30-days' notice of termination of the contract. Mayor Taylor thanked Mr. Morris and Ms. Mayhew for their time and the information provided regarding their program. He then asked the City Council to review the formal proposal from Municipal Code Online, Inc. and forward any questions they have to Ms. Spendlove; an item will be included on the next City Council business meeting agenda regarding codification.

### **3. DISCUSSION AND/OR ACTION TO SELF-PERFORM CRACK SEALING**

Mayor Taylor reported that at the last City Council meeting the Council asked for information regarding the actual costs associated with purchasing the equipment and using existing employees to perform crack sealing work in-house. He noted he visited with the Pleasant View Mayor since the last meeting and they have purchased a used crack seal machine for in-house work, but there is a company that is listed on the State contract that offers for sale new machinery. He noted Pleasant View's machine was \$35,000 and a new machine would be \$38,000; the life span of a new machine is approximately 10 years.

Public Works Director Giles then provided the Council with a brief presentation comparing the costs of performing crack sealing largely in-house with contracting with an outside vendor for the service. He stated that due to his Department being short-staffed at the moment, it may be necessary to utilize temporary employees or some services of an outside vendor to complete the work in-house. He noted crack seal work is traditionally done through the fall and winter months. He concluded he has determined it would cost \$.25 per square yard to complete crack sealing with an outside contractor and \$.13 per square yard to complete the work in-house; he briefly explained how he arrived at that price.

Council Member Bailey asked if it is appealing to Mr. Giles to have the capability to complete crack sealing in-house. Mr. Giles stated it is appealing to him because he will have more control over the service, but there are many financial implications associated with the concept of completing the work in-house, such as the purchase of materials. He stated that he is concerned about the timing of the proposal as well as the potential of overburdening his staff by adding the work to his existing crew, which will soon include several new employees. He stated many cities complete crack sealing in-house and have been successful. He stated Weber County has offered the City the use of its crack sealing machine for a week as a test period.

The Council and Mr. Giles engaged in a brief discussion regarding the true feasibility of performing crack sealing in-house, after which the Council concluded to proceed with the proposal to investigate the purchase of a crack sealing machine and perform the work in-house.

**Council Member Swanson made a motion to authorize City Administration to proceed with the proposal to purchase used (if available) equipment to self-perform crack sealing work and hire skilled temps to assist with the work. Council Member Urry seconded the motion.**

**Council Member Bailey                      aye**  
**Council Member Satterthwaite        aye**

**Council Member Stoker**                    **aye**  
**Council Member Swanson**                **aye**  
**Council Member Urry**                    **aye**

**The motion passed unanimously.**

**4. DISCUSSION AND/OR ACTION TO SELL AND PURCHASE OF PUBLIC WORKS EQUIPMENT**

Mayor Taylor noted Mr. Giles has previously reviewed with the Council a proposal to sell old Public Works equipment and purchase new pieces of machinery. Mr. Giles stated the proposal was to stop using the Department's grader for snow removal and purchase two new trucks to replace it. He noted he planned to sell the grader at an auction, but the City has since been approached by an equipment company seeking to purchase the grader, front loader, and backhoe due to demand for used equipment on the market; the company has offered \$40,000 for the backhoe, \$75,000 for the front loader, and \$55,000 for the grader for a total of \$170,000. He stated he would like to lease a new backhoe and purchase a new front loader to replace the equipment that will be sold; the \$170,000 will be adequate to cover the purchase cost of the new front loader as well as several years of lease payments for a backhoe. He indicated his proposal will not change the adopted equipment budget for his Department. There was a general discussion regarding the fact that the City will no longer own a grader, with Mr. Giles noting he has used the piece of equipment once in the last six months and if it becomes necessary to utilize a grader for future City projects he will be able to rent the equipment for a very reasonable rate. Mayor Taylor stated that there is no change to the budget associated with this proposal, but he asked for a motion from the Council to formalize approval of what Mr. Giles is recommending.

**Council Member Bailey made a motion to authorize City Administration to proceed with the proposal to sell and lease or purchase Public Works equipment. Council Member Satterthwaite seconded the motion.**

**Council Member Bailey**                    **aye**  
**Council Member Satterthwaite**            **aye**  
**Council Member Stoker**                    **aye**  
**Council Member Swanson**                **aye**  
**Council Member Urry**                    **aye**

**The motion passed unanimously.**

**5. DISCUSSION REGARDING COMMITTEE ASSIGNMENTS**

Mayor Taylor pulled this item from the agenda and stated he will discuss the issue with the Council at a future meeting. He then asked that items six and seven be swapped to allow Officer Heinz to provide the Council with information regarding the proposal to implement a daytime curfew.

**7. DISCUSSION REGARDING DAYTIME CURFEW ORDINANCE**

A memo from Police Chief Warren explained the document submitted with this staff report contains a draft proposal for a Daytime Curfew Ordinance involving minors who are subject to compulsory education. Said ordinance, if adopted, would make it illegal during school hours for a minor to loiter, idle, wander, or be upon public streets, parks, any dwelling not their residence, or any unsupervised place between the hours of 8:30 a.m. and 2:00 p.m. on any day when school is in session. This ordinance also makes it a violation for any parent to knowingly permit, or by insufficient control allow the minor to be in violation of the Daytime Curfew Ordinance. Defenses to prosecution under this ordinance have also been incorporated into the ordinance, and an officer investigating a daytime curfew violation is obligated to determine whether or not the student meets the criteria for an exception.

The purpose of the ordinance has three aims: 1) Keep students in school where they belong, 2) Protect minors from becoming victims of crime, and 3) Protect the public from juvenile offenders. All students up to age 17 are subject to the ordinance. Parents and guardians who violate the ordinance will be warned first, and only cited after repeat offenses.

Utah's current truancy statute, 53A-11-105, allows a peace officer or school administrator to take a minor into temporary custody for truancy. Once in custody, the minor is either returned to the school or released to a parent. The local receiving center in Ogden City is a last resort and will accept a truant minor if they are open, and if space is available. The proposed Daytime Curfew ordinance targets truant minors, and allows Juvenile Court to try and redirect behavior through counseling or a monetary fine. The proposed Daytime Ordinance has received support from North Ogden City Civil Attorney Jon Call, Prosecuting Attorney Brandon Miles, and Juvenile Court Prosecuting Attorney David Gladwell. Principals from local schools also share their support.

Officer Heinz summarized Chief Warren's staff memo. There was a general discussion regarding the proposed ordinance with a focus on the \$50 fine associated with violating the ordinance by breaking the daytime curfew. Officer Heinz stated that the Police Department would also like to reinstate a North Ogden City Youth Court that would handle the violations and fines.

Council Member Urry inquired as to the number of students that are currently truant from school classes during the day. Officer Heinz stated school just started again so the problem isn't too bad right now, but during a shift that he worked last week he encountered seven truant students in one day. He provided the Council with a brief summary of the process an officer follows when picking up a truant student, noting that if the daytime curfew ordinance were adopted the Police Department would have better enforcement tools with stiffer penalties. City Attorney Call agreed and noted violations of the ordinance could ultimately escalate to a class C misdemeanor charge against the parent of the violator. There was a general discussion regarding the locations in the City where truant students are typically found, with Mayor Taylor noting the local school principals support the idea of a daytime curfew. He added that if the City Council is supportive of the proposed ordinance it will be added to a future business agenda for formal action. The Council indicated they were supportive of the ordinance, with Council Member Bailey stated he is comfortable with the fact that the ordinance is modeled after ordinances used in other cities.

## **6. DISCUSSION REGARDING CHANGES TO THE TEMPORARY BUSINESS ORDINANCE**

A staff memo from Planner Scott explained when the City Council is acting in a legislative capacity, it has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, requires compatibility with the general plan and existing codes. The North Ogden City Council held a public hearing on August 26, 2014 and a work session on September 2, 2014. The City Council requested that there be some clarifications to several sections. All three amendments are in 4-1-9, Temporary Businesses:

b. The C-2 zone is added to allow temporary businesses.

c. The phrase, if applicable, is added to the end of the first paragraph. Temporary businesses where food handling is being done requires that the Weber Morgan Health Department review these applications. By adding the 'if applicable' phrase, only those needing the Health Department review will be processed.

d. Site Plan. The standard requiring 70 miles per hour wind force has been deleted and replaced with language adopting the building code standard or giving the building official discretion on an acceptable design. This will give the building official the ability to treat each application appropriately.

The memo stated the City Council must consider whether the draft amendments are acceptable. It also noted the Planning Commission is recommending that the City Council adopt the proposed ordinance. If this language is acceptable, staff will revise the ordinance amendment to reflect these changes and bring a final ordinance for approval to the next City Council meeting.

Mayor Taylor summarized the memo and noted Building Official Kerr is present to answer any questions regarding this issue.

Council Member Urry stated that he heard of a city that was requiring business licenses for a child's lemonade stand and he asked if North Ogden City employs that same practice. Mr. Kerr answered no; he added that businesses that are handling food that will be directly consumed by a patron must have a food handler's permit. There was a brief discussion regarding the process used to determine whether a business must have a food handler's permit.

Council Member Bailey inquired as to the number of temporary businesses in the City. Mr. Kerr stated that in 2013 there were four temporary businesses; in 2014 there have been three temporary businesses: a fireworks stand, a shaved ice stand, and a produce stand. Council Member Swanson asked if the business is required to provide proof of insurance. Mr. Kerr answered no and stated the business is only required to provide proof of permission to locate their temporary business on another property owner's property. He then provided a brief explanation of how certain sections of the ordinance will be enforced, with a focus on the requirement that a temporary business structure be able to withstand forceful winds.

Mayor Taylor then asked if the Council is comfortable with adding the proposed ordinance to a business meeting agenda for consideration. Council Member Bailey stated he was initially

concerned about extending the period of time for temporary businesses to 180 days, but after further thought he cannot think of a reason to reduce that length of time. Mayor Taylor agreed.

Council Member Swanson stated he would like to have future discussions regarding possible limitations upon temporary business requiring them to locate a certain distance from brick and mortar businesses. Mr. Call stated that it may be possible to specify the difference between temporary and permanent business structures and require them to be a certain distance from one another. Council Member Bailey noted there have been discussions regarding possibly creating a City farmer's market and he wondered if such an event would compete with established businesses in the City, such as Sacco's. Council Member Swanson stated that would depend upon where the farmer's market event is held. The Council engaged in a brief discussion regarding free market competition.

## **8. DISCUSSION OF ORGANIZATIONAL CLIMATE**

Mayor Taylor stated the City Manager resigned last week and he would like to appoint Finance Director Steele as the interim Finance Manager until a new City Manager can be selected.

**Council Member Bailey moved to appoint Brian Steele as the interim City Manager. Council Member Satterthwaite seconded the motion.**

### **Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

The Mayor and Council had a brief discussion regarding the process that will be followed to recruit a new City Manager, with a focus on the length of the term of the contract. Council Member Bailey indicated that he would prefer that the entire Council be part of the interview and hiring panel for the new City Manager. Council Member Urry agreed and wondered if there may be value added by asking for participation from some Department Heads. Mayor Taylor stated Department Heads could offer a great perspective. Discussion continued regarding the type of City Manager the Council and Mayor are looking for. Council Member Stoker stated it is important to her to check references and with former employers of applicants. City Recorder Spendlove provided a synopsis of the vetting process that is typically followed when hiring a City Manager and City Department Heads, but noted that the vetting process was not completely carried out when former City Manager Chandler was hired. Council Member Bailey stated he does not want that to reflect poorly on Mr. Chandler. Mayor Taylor agreed and stated that did not factor into Mr. Chandler's resignation whatsoever.

## **9. PUBLIC COMMENTS**

Sorin Teles, 156 E. 2050 N., stated he is a home-schooling parent and he is concerned about the proposal to impose a daytime curfew. He stated he is glad he heard the conversation tonight, but he wanted to make known his concerns; the ordinance has the potential to seriously impact constitutional rights of minors, specifically the 14<sup>th</sup> amendment, which guarantees the freedom of movement of any person on public streets without government restriction. He added the constitution also guarantees due process and the requirement to prove probable; the 5<sup>th</sup> amendment gives any person the right to be free from unreasonable search and seizure. He noted the State of Utah recognizes his parental right to choose the curriculum and the schedule under which his children are to be educated to the best of his ability; in other words he is not restrained to choose the hours or program he will follow to educate his kids and he will not follow the same schedule as public schools. He noted this means his children have the potential to be on public streets or in public parks during the daytime hours and their rights would be violated by an officer interfering with their freedom of movement. He stated the daytime curfew usually addresses two issues, which are already addressed in Utah law. He stated there are studies that have shown that juvenile crime is not decreased by a daytime curfew in individual cities. He added that a daytime curfew also teaches children that all violators of the ordinance are considered criminals even if they have done nothing wrong. He stated he feels his concerns are valid and important. He added there was discussion regarding a daytime curfew being used in other cities and he noted he is aware Salt Lake has a daytime curfew, as does Provo. He referenced cases in those cities where students had the right to be in public places during the daytime hours, but they were still detained. He indicated other States have enacted laws that prevent individual cities from enacting their own daytime curfew ordinances because of their tendency to be abused. He stated he would be happy to provide further information or documentation of the studies he referenced.

Mayor Taylor thanked Mr. Teles for his comments and stated he would be happy to visit with him to get further information. He encouraged Mr. Teles to also visit with Chief Warren in order for the Chief to explain that the daytime curfew ordinance would not target homeschooled children. Mr. Teles agreed to further discussions, but ultimately concluded that his biggest concern is that daytime curfew ordinances have a tendency to be abused.

## **10. CITY COUNCIL, MAYOR, AND STAFF COMMENTS**

The Council had a brief discussion regarding the value of work session meetings as well as future work session agenda items.

Ms. Spendlove briefly reviewed the schedule of Utah League of Cities and Towns (ULCT) Conference that will be held next week, September 10 through 12.

Mayor Taylor provided the Council with information regarding a community Constitution Day event that will be held September 17 at 7:00 a.m. He stated he will provide more detailed information regarding the event to the Council via email once it becomes available. Council Member Urry suggested that in the



future the City host a Constitution Day event at a City facility where citizens could come and hear factual information regarding the constitution.

Mayor Taylor then asked the Council to convene in a closed session for the purpose of discussing pending or reasonably imminent litigation as well as the character and professional competence of an individual.

**Council Member Satterthwaite moved to convene in a closed session for the purpose of discussing pending or reasonably imminent litigation and the character and professional competence of an individual. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

The closed session began at 9:26 p.m.

The regular meeting reconvened at 11:05 p.m.

## **11. ADJOURNMENT**

**Council Member Satterthwaite motioned to adjourn. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Bailey</b>	<b>aye</b>
<b>Council Member Satterthwaite</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**The meeting adjourned at 11:06 p.m.**

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Brent Taylor, Mayor

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S. Annette Spendlove, MMC  
City Recorder

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Date Approved