

## NORTH OGDEN CITY COUNCIL WORK SESSION MINUTES

February 2, 2016

The North Ogden City Council convened in an open meeting on February 2, 2016 at 6:00 p.m. at the North Ogden City Office 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 January 28, 2015. Notice of the annual meeting schedule was published in the Standard-Examiner on January 2, 2016.

PRESENT:	Brent Taylor	Mayor
	Lynn Satterthwaite	Council Member
	Cheryl Stoker	Council Member
	Phillip Swanson	Council Member
	Carl Turner	Council Member
	James Urry	Council Member
STAFF PRESENT:	Bryan Steele	City Administrator/Finance Director
	Annette Spendlove	City Recorder/HR Director
	Jon Call	City Attorney
	Rob Scott	City Planning Director
	Kevin Warren	Chief of Police
	Dave Espinoza	Public Works Director
VISITORS:	Mark Palmer	Tammy Palmer
	Susan Clements	

Mayor Taylor welcomed those in attendance. Council Member Stoker offered an invocation and led the audience in the Pledge of Allegiance.

### **CONSENT AGENDA**

#### **1. DISCUSSION AND/OR ACTION TO CONSIDER JANUARY 12, 2016 CITY COUNCIL MINUTES**

**Council Member Swanson motioned to approve the January 12, 2016 City Council minutes. Council Member Stoker seconded the motion.**

**Voting on the motion:**

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

**The motion passed unanimously.**

**ACTIVE AGENDA**

**2.     PUBLIC COMMENTS**

Lyle Fields, 1216 E. 2600 N., provided the Mayor and Council with a handout, after which he discussed noise ordinance violations that he has witnessed over the past 12 years as he has lived next to a church; the noise ordinance violations have gotten even worse over the past two years. He stated there is a noise ordinance in effect in North Ogden’s residential areas that prohibits excessive noise between the hours of 10:00 p.m. and 6:00 a.m. and there is good reason for this noise ordinance. The problem he has been having is associated with a plow company that plows the adjacent church parking lot at 3:00 a.m., which wakes him and his neighbors and upsets his dog. He stated his wife would have loved to be here to talk about this issue, but she had to work this evening; her father is battling cancer and her mother is dying of cancer. She also works two jobs and a good night’s sleep would be greatly appreciated by her. He added he is concerned about offering exceptions to the noise ordinance for these types of instances, because that may set a precedent for other future cases. He stated there are many different types of companies, such as construction or landscaping companies, or farming operations that would like to begin work earlier than 6:00 a.m., but they are required to follow the noise ordinance. He stated he would ask that the same rules be applied to the plow company that is plowing the church parking lot. He referenced dates and times that he has noticed the plow company violating the noise ordinance and summarized the action the responding Police Officers have taken in each case. He stated there have been times that the company has plowed the parking lot in the middle of the night, but then the snow has continued throughout the day, even though church activities were taking place all day; the plows never returned in the evening to plow the parking lots and they only return during the early morning hours. He thanked the City Council for their time and stated he is hopeful they will uphold the law enacting a noise ordinance.

**3.     DISCUSSION ON THE NOISE ORDINANCE**

A staff memo from the City Attorney explained the City has received some complaints regarding the use of snowplows to clear parking lots in residential areas during the night time hours. Upon reviewing City code, it is not 100% clear whether the code prohibits the activity or allows for it because of some ambiguity in what the terms “commercial equipment”, “pneumatic devices”, and other similar terms mean. Mr. Call has written two versions of an ordinance which either clearly allow snowplowing, or specifically prohibit it (with an exception for municipal

equipment). As this is a legislative decision the Council may select any option which it would like to. There is no obligation to either allow snow plows, or to prohibit them. This is entirely a policy decision.

The two options both modify the language in 5-3-3 as outlined below with the language added highlighted in red.

#### Permitting Snow Plows

##### 5-3-3: MOTOR VEHICLE OPERATION

- A. No person shall operate or cause to be operated any motor vehicle unless the exhaust system of the vehicle is:
  - 1. Free from defects that affect sound reduction;
  - 2. Equipped with a muffler or other noise dissipative device; or
  - 3. Not equipped with any cutout, bypass or similar device
- B. **The operation of Motor Vehicles, during any hour of the day, for snow removal purposes does not constitute a nuisance or violate noise restriction regulations.**

#### Prohibiting Snow Plows

##### 5-3-3: MOTOR VEHICLE OPERATION

- A. No person shall operate or cause to be operated any motor vehicle unless the exhaust system of the vehicle is:
  - 1. Free from defects that affect sound reduction;
  - 2. Equipped with a muffler or other noise dissipative device; or
  - 3. Not equipped with any cutout, bypass or similar device
- B. **Except as outlined below, the operation of Motor Vehicles, for snow removal purposes within 200 feet of residential property, is prohibited between the hours of 10:00 p.m. and 7:00 a.m.**
  - 1. **This provision shall not apply to municipal snow removing equipment which is removing snow in the public right-of-way.**

City Attorney Call reviewed his staff memo, after which Police Chief Warren noted that he has been employed by the City for 35 years and this ordinance has been in place during that time, though it may have been adjusted slightly. He stated he cannot think of another time where someone has complained about snow plowing at a school, church, or commercial parking lot. He stated this is an unusual situation; he will always err on the side of safety and he is supportive of allowing snow to be cleared from certain areas, especially walkways where children may walk to and from school, before 7:00 a.m. He stated there are many people that work rotating shifts and they sleep during the day; they may be disturbed by snow plows or other equipment operating during the day and the City cannot keep that from happening to protect their peace and quiet. He stated he would be interested in understanding how other agencies handle this situation. Mr. Call stated he has reviewed noise ordinances in other cities and most of them are fairly non-specific; he has not found an ordinance in another city that disallows snow plows from 10:00 p.m. to 6:00 a.m.

Council Member Satterthwaite stated he has visited with the facilities person that is responsible for the church building in North Ogden as well as church buildings in seven other communities; this person told him that he has never had a complaint like this in any other community. He talked to facilities managers in Roy and Brigham City and they provided the same response. He stated that leaves him to assume that the laws in those two cities are fairly similar to North Ogden's or the people responsible for removing snow are allowed to work around their ordinances.

Mr. Call pointed out that one issue is that newer snow plow trucks have back-up alarms on them to improve the safety of the equipment and that could be one reason that complaints have arisen now when they have not in the past. Council Member Satterthwaite agreed, but added that it may be necessary to plow during the early morning hours, especially on a Sunday, because people may start arriving at the church building by 6:00 a.m. and once there are a few cars in a parking lot it can be very difficult for a snow plow operator to remove the snow.

Council Member Turner stated he spoke to his wife about the issue, who indicated she feels that snow plowing should be allowed in schools earlier than 6:00 a.m., but for churches, the early snow plowing may only be needed on Sundays. He stated that he lives on a dead end street and he has been awakened in the morning by snow plows or garbage trucks that are turning around near his house. He added that snow plowing is not a nightly thing and snow plows may only be needed a handful of times per year. He stated it may be a good idea to grant a special exception to snow plows similar to exceptions that have been granted for farmers in the past. Council Member Urry agreed it is necessary to allow snow plows in schools earlier than 7:00 a.m.; most snow plow drivers are responsible for multiple locations and they must start earlier than 7:00 a.m. to visit all locations.

Council Member Swanson reviewed a letter provided by the LDS Church, which indicates their plow drivers are only tasked with removing snow prior to 6:00 a.m. on Sundays. All other days of the week, the contractors are asked not to remove snow until cessation of snow or by 4:00 p.m. Council Member Satterthwaite stated there is one difference with the church building referenced by Mr. Fields; the church building on 2600 North accepts FedEx deliveries for other buildings in the area and they must have a driveway and some parking spaces cleared for the delivery driver. The Council engaged in a high level discussion about snow plowing operations at church buildings throughout the City, ultimately concluding to approach the facilities manager to see if they can start plowing the church on 2600 North later in the morning, possibly around 5:00 a.m., and only take care of the drive lane, parking stalls, and the sidewalks. This means that the driver would only be at the building for less than an hour and he may cause less of a disturbance for the neighbors. Mr. Call stated he would like to adjust the City Code accordingly to give police officers some direction when responding to noise ordinance complaints. He added that another option is to issue a special exception permit for certain buildings or parking lots throughout the City. Chief Warren stated he feels the special exception permit would be more reasonable and if such permits are provided to him, his officers will be able to enforce them and respond to residents with complaints accordingly.

Council Member Satterthwaite stated he would prefer to gather additional information about this issue, including having a more detailed conversation with the facilities manager for the church buildings, and come back to a future work session meeting for a final decision. Mayor Taylor indicated he has asked the church facilities manager to plow the parking lot at the building on 2600 North last so that the disturbance is not occurring in the middle of the night. Chief Warren stated his officers can enforce such direction for the remainder of the winter season.

Mr. Fields stated his situation is somewhat unique; the width of his side yard between his home and the church parking lot is roughly 30 to 40 feet and the bedroom windows for all bedrooms in his home are located on that side of his home. He stated he has been concerned because he is so close to the parking lot. He then referenced discussion about clearing school parking lots and noted that he feels somewhat different about that situation because schools are public while churches are private. He thanked the Mayor and Council for considering this issue.

#### **4. DISCUSSION ON UTILITY BILLING FOR RENTALS**

A memo from City Attorney Call explained that after the Council's discussion earlier this month he has worked to make the types of changes the Council had suggested to the City Code.

Following are the changes staff has considered based on Council recommendations:

1. A deposit is required for all tenant occupied single family dwelling properties.
2. An additional fee is required when a new name is added to the utility account, or a name removed
3. Only the City Council is authorized to reinstate utility services without payment of the deposit or modify charges for tenant occupied dwellings.

The memo asked that the Council review these changes as shown below in red to determine if staff has captured all of the suggested changes. If the changes are accepted, it will also be necessary to open the consolidated fee schedule ordinance to include the amended fees.

#### **9-1-2: APPLICATION FOR SERVICE**

- A. Required: No water, sewer, garbage and solid waste disposal, or storm water control services ("the city services") shall be furnished to any house, tenement, apartment, multifamily unit, duplex, fourplex, building, place, premises or lot ("premises"), unless an application for city services shall be made in writing, signed by the owner or the owner's duly authorized agent. An applicant may apply for less than all of the city services provided by the city; provided, that the applicant must apply for all city services if the failure to receive the city services from the city will result in the creation, maintenance or perpetuation of a nuisance. In the application, the owner shall agree to pay for all city services furnished to such premises according to the ordinances, regulations and rules enacted or adopted by the city. A new owner must provide proof of purchase in the form of settlement papers or closing papers from a lender or a deed from the previous owner and picture identification. In

the event an authorized agent applies for city services on behalf of an owner, the agent shall also provide written proof of the agency.

- B. Owner Application for Multi-Family Premises: Applications for city services to multifamily premises shall be made only by the owner or the owner's authorized agent. Applications from tenants shall not be accepted.
- C. Tenants of Single-Family Dwellings: In the event that a single-family dwelling is to be occupied by tenants, the owner shall apply for city services. The application shall be in writing and shall be signed by the owner or the owner's duly authorized agent. In the application, the owner or his authorized agent shall agree that the owner shall pay for all city services furnished to the premises according to the ordinances, regulations and rules enacted or adopted by the city. If the owner requests that the bill be sent directly to the tenant, the tenant shall sign the application as a condition of granting the owner's request and the tenant shall become secondarily liable for the charges for city services. Regardless of whether the bill is sent to the tenant or whether the tenant has signed the application, however, the owner shall agree to pay for all city services furnished to the tenant or other occupant of the premises in case the tenant or occupant fails to pay for city services according to the ordinances, regulations and rules enacted or adopted by the city.
  - i. A utility deposit as set forth in the consolidated fee scheduled shall be required for all utility accounts which are in the tenant's name. Such fee shall be refunded when utility account associated with the property is placed in the property owners name and address. This deposit may be credited against utility bills on the property, however, once shut off, city services shall not be reinstated until a new deposit is made with the City.
  - ii. An additional fee, as set forth in the consolidated fee schedule, shall also be charged to change, add, or remove the name on the utility account for tenant occupied dwelling units.
  - iii. Only the City Council is authorized to modify deposits and reinstatement requirements for any tenant occupied dwelling unit.
- D. Penalty: Any violation of this section shall be deemed a class B misdemeanor and shall be subject to penalty as provided in section 1-4-1 of this code.

Mr. Call reviewed his staff memo. The Council engaged in a discussion about the Code amendments suggested by Mr. Call; they asked various questions to gain clarification of payment issues, with a specific focus on the relationship between landlords and their tenants relative to the payment of utility account deposits. Council Member Turner suggested the City should not get involved in how a landlord chooses to sign up for a utility account with the City; however, the property owner is ultimately responsible for the utility account at any given property. Council Member Satterthwaite stated it makes sense for the City to only enter into agreements with a property owner for utility services, but he has heard from several rental property owners who would prefer that their tenant be allowed to sign up for utility service because it makes them more responsible for costs associated with utility accounts. He added other landlords are not

concerned about keeping the utility accounts in their names and collecting a defined amount of money per month from their tenant. He suggested that the ordinance be crafted in a way that a property owner or landlord can choose the manner in which they want to handle their utility accounts, whether it is placing their name or their tenant's name on the account. The Council and staff then engaged in a discussion about utility billing practices for multi-family developments or condominiums, after which they continued discussion about how to address the issue of utility billing for all rental properties. They concluded to send a letter to all landlords or property owners indicating that by a certain date, the utility billing account will need to be in their name, but give them an option to pay an additional cost for duplicate billing whereby the City will send a bill to a tenant for them to pay monthly costs. Discussion then centered on enforcement of the ordinance requiring landlords to sign up for utility accounts in their name, with Mr. Call noting that the authority to provide an exception to any part of the ordinance lies with the City Council. Council Member Urry indicated he feels that authority can be delegated to a City employee or the Mayor. Mayor Taylor stated he would be willing to assume that responsibility in emergencies, but it is nice for utility billing staff to have the ability to refer angry customers to the City Council.

Mr. Call concluded that he will consider the feedback he has received tonight and amend the ordinance accordingly for Council consideration at a future meeting.

Mayor Taylor then asked staff for an update on long-term delinquent utility accounts in the City; he asked what can be done to collect past due amounts, some of which are over \$1,000. He stated most of these instances are homes with culinary water wells, but they are using City sewer and garbage and not paying a monthly utility bill. He stated the City does not have much recourse because it is not possible to turn off water at the properties. The Council engaged in a discussion about such issues, after which Mr. Call noted the City can file a small claims court case against the offenders since collection efforts have not worked. Council Member Urry stated he would prefer that the City do that because he does not want the offenders to get away with not paying for their utility charges. Mayor Taylor stated the City will send the offenders a letter before filing small claim charges.

## **5. DISCUSSION ON BEER LICENSE RENEWALS**

A staff memo from Business Licensing Technician Richey explained that currently yearly renewals for North Ogden City beer licenses are required to be completed by the end of January each year. One of the businesses holding a beer license has asked staff to review the renewal process hoping to have it modified. Currently to renew a beer license, a business owner and his manager are required to have a background check which includes sending their fingerprints to BCI. The City's ordinance is silent on renewal requirements for beer licenses but there has been an unwritten administrative order requiring the background check each year. There are also other requirements that basically have each business reapply for their beer license each year. Each year these renewals go before the Council for their approval. Other businesses in the City are only required to pay the rental fee and a new license is issued. Staff has conducted a brief survey of other cities in the state to determine how they handle beer license renewals; eleven cities

responded and only one other city requires yearly background checks of licensees. Staff is recommending a change in the City's beer license renewal process; if a business has been complaint free during the year they have been selling beer, that business will be able to renew their beer license yearly for a three year span without required background checks and City Council approval. On the fourth year, the business will again have to submit a new application with background checks for the owner and manager. Ms. Richey's memo concluded she feels this will relieve some of the regulatory burden on local businesses and generate better relationships between the City and some of its more profitable businesses.

Ms. Richey reviewed her staff memo, after which she noted there are currently five beer license holders in North Ogden. Police Chief Warren stated that there is a State agency that will handle monitoring and enforcement of beer and alcohol licensing regulations and he feels it would be appropriate to amend the ordinance as recommended in Ms. Richey's memo.

Council Member Swanson stated one good thing about annual renewal of beer licenses is that the business owner and manager must undergo a background check each year; if the license period is extended to three years, management of an establishment could change and the City would not have the opportunity to conduct a background check on new management for up to three years. Chief Warren stated he is more concerned about clerks selling the beer than the manager and he will stay on top of checking clerks on a regular basis. Mayor Taylor suggested that businesses only be required to renew their license yearly if management of their business changes, or they could simply be required to notify the City of a change in management.

Discussion then centered on fees charged for business license and beer license renewal, with Mayor Taylor noting that if the license term is extended to three years the fees should still only be based upon what it costs the City to process a beer license. Ms. Richey clarified that she feels the licensees should be renewed each year, but she is recommending that businesses not be required to complete a full application and submit to a background check yearly.

After continue discussion, the Council agreed to amend the City's policy to extend a beer license term to three years, with annual renewals similar to typical businesses, but include language requiring businesses to notify the City of a change in management during that time. Mr. Call stated he will draft an ordinance for Council to consider according to the feedback that has been provided this evening.

## **6. DISCUSSION ON HOW LONG TO KEEP RECORDINGS OF REGULAR MEETINGS**

Mayor Taylor reported the City is currently keeping recordings of City Council meetings indefinitely, though State Law does not require such; minutes of meetings become the official record of a meeting once they are approved, but after a certain number of years the City can destroy audio recordings according to State Law. He stated City Recorder Spendlove has been conducting an inventory of City records and she has discovered several old cassettes of meeting audio recordings and she would like feedback regarding how to handle these items. City



Attorney Call added the State Records Committee sets a records retention schedule for cities; the City has the option to vary from that schedule, but typically cities follow the retention schedule as it is set out. The retention schedule calls for audio recordings of City Council meetings to be kept for three years after the written minutes of a meeting have been approved, unless there is litigation associated with an item discussed during a meeting. The Council engaged in a brief discussion about the issue, ultimately concluding to follow the State Law and destroy audio recordings according to State Law. Mr. Call stated he would like direction from the Council to follow the State retention schedule for all City records.

## **7. DISCUSSION ON ELECTRONIC DEVICE POLICY**

A memo from City Attorney Call explained he has been spending some time trying to research the types of personal electronics policies that other companies and government entities have used when individuals use their own equipment for governmental purposes. He has drafted a policy that he believes will be fair to the officials and employees while still protecting the City when personal devices are used for governmental purposes. This policy has been drafted to provide a starting point for the Council's discussion. Please consider all the language and make any changes you feel are necessary for the development of this new policy.

Mayor Taylor reviewed Mr. Call's staff memo and facilitated a discussion with the Council regarding a reasonable policy that could be implemented to control electronic devices issued by the City for City employees or officials. Mr. Call reviewed the contents of the draft policy to respond to comments or questions made by the Council. There was a focus on the types of devices and data plans provided to City employees and elected officials. Mr. Call explained employees and elected officials have the option of using their own personal devices rather than the City purchasing them a device; if this is the option they choose, they can be reimbursed a specified amount for their device. He emphasized that any City business done on a personal device makes the device susceptible to open records laws in the City and State.

Mayor Taylor refocused the discussion and asked if the Council is comfortable with the section of the policy that indicates an employee or elected official will be allowed to use a personal device rather than a City issued device and what amount the Council is comfortable providing for the reimbursement for such personal use. The Council continued their review of the policy with Mr. Call in order to answer the questions asked by Mayor Taylor. Mayor Taylor asked if the Council is comfortable allowing people in certain positions to use their personal devices for City business, to which the Council answered yes. He then inquired as to the amount the Council is comfortable contributing towards a personal device. The Council had a brief discussion comparing dollar amounts to percentages, ultimately concluding to contribute 50 percent of the cost for a personal device purchased by a Department Head or elected official. Mayor Taylor then stated question three deals with the amount of money the City will pay for data plans for employees, which is listed as \$50 per month whether the individual is using a personal device or City issued device. The Council indicated they are comfortable with that amount. Mayor Taylor then discussed the useful life span of devices and noted the policy calls for that amount of time to be set when a device is purchased, but he would like for it to be fairly standard regardless of the

user or type of device. The Council agreed the useful life should be standard and it should be possible to get information from providers or manufacturers regarding realistic useful life.

Finance Director Steele then reviewed the section of the policy governing an employee's use of a City issued electronic device. There was no Council feedback regarding this section of the policy and Mayor Taylor asked Mr. Call and Mr. Steele to consider Council feedback regarding the other sections of the policy and bring back an amended version to a future meeting for final consideration.

## **8. PUBLIC COMMENTS**

There were no public comments.

## **9. COUNCIL/MAYOR/STAFF COMMENTS**

The Council reviewed their calendar to determine a date for the first budget retreat. They concluded to schedule the meeting for March 1 and 2 from 4:00 p.m. to 9:00 p.m. both days.

Public Works Director Espinoza provided the Council with an update on the well drilling project currently underway in the City. He stated the outcome thus far is much better than originally anticipated. Mayor Taylor stated that it may be possible to forego additional well drilling projects based on the water supply projections for this first well.

Council Member Urry stated there are a few items he would like to see placed on upcoming Council agendas, including discussion of the hours of operation for the Public Works Department as well as the legislation that is being considered by the State Legislature regarding the percentage of traffic citation revenues that are dedicated to the State of Utah. He then referenced a project currently underway in Ogden to widen a portion of Harrison Boulevard and he stated he wants to take note of how that project progresses in order to avoid the same mistakes made on the project when it comes time to widen 2600 North or Washington Boulevard. He then thanked the Public Works Staff for the manner in which they have performed snow removal in the City this winter.

Councilmember Satterthwaite stated he is noticing more overreach by the State of Utah throughout the legislative session that is underway.

Mayor Taylor reported the City has held meetings with key individuals regarding the situation surrounding the Weber County North Branch Library project; City Attorney Call has also performed some analysis regarding the legal implications of some of the decisions that have been made by the Library Board and he will send the Council an email with an update regarding those issues. Council Member Satterthwaite stated he would like to hold a large public meeting about the issue to get the City's residents involved. Mayor Taylor agreed and stated he would like to schedule the meeting for the last week of February. He noted the current issues holding up a

decision on the project deal with the lack of adequate parking at the current library site. He stated North Ogden is not asking for parking accommodations that are any different than what has been provided in other cities or what has been required of other businesses or entities in the City; the City Code requires 165 stalls for the building and there are currently 24 stalls and plans to add 12 new stalls upon removal of existing landscaping at the site. He stated he hopes the County will be willing to work with the City to address these issues.

Mayor Taylor then stated there have been some changes in the status of redeveloping the old Smith's building; he stated much of the information is still confidential and he will provide additional information to the Council when he is able.

Council Member Urry then reported he has been working with leadership at the Senior Center to rewrite the bylaws for the Senior Center Committee.

**10. AJOURNMENT**

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

**Voting on the motion:**

<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 Turner</b>	<b>aye</b>
<b>Council Member Urry</b>	<b>aye</b>

**The motion passed unanimously.**

**The meeting adjourned at 9:37 p.m.**

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Brent R. Taylor, Mayor

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S. Annette Spendlove, MMC  
City Recorder

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Date Approved