

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, January 11, 2024.

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OFFICIAL MINUTES OF THE MEETING  
City Recorder Cheryl Bodily took minutes

**Opening Ceremonies**

Councilmember Mann discussed purchasing rotisserie chickens at Costco and the amount the company reports that it loses on rotisserie chicken purchases each year. Councilmember Mann said the city had budget coming up and not every section of their budget made money, but this was okay because 1-they provided great value to their constituents, and 2-they had surplus in another part of their budget.

Councilmember Mann led the meeting in the Pledge of Allegiance.

**Call to Order and Roll Call**

Mayor Larry Jacobsen called the Thursday, January 11, 2024, Nibley City Council meeting to order at 6:31 p.m. Those in attendance included Mayor Larry Jacobsen, Councilmember Norman Larsen, Councilmember Nathan Laursen, Councilmember Kay Sweeten, Councilmember Erin Mann, and Councilmember-Elect Garrett Mansell. Justin Maughan, Nibley City Manager, Levi Roberts, Nibley City Planner, Cheryl Bodily, City Recorder, Tom Dickinson, Nibley City Engineer, and Chad Wright, Nibley City Recreation Director was also present.

Mayor Jacobsen also recognized Planning Commissioner Claire Schenk who was present in the audience. Nibley City resident Nick Kenczka was also in the audience.

**Approval of the Previous Meeting Minutes and Current Agenda**

Mayor Jacobsen suggested the City Council postpone approval of the previous meeting minutes until the next City Council meeting. He'd found there were some changes that needed to take place in the summary section of the previous meeting minutes.

Councilmember Sweeten moved to approve the evening's agenda and postpone the approval of the previous meeting minutes until they could review the minute summary. Councilmember Laursen seconded the motion. The motion passed unanimously 4-0; with Councilmember Sweeten, Councilmember Laursen, Councilmember Larsen, and Councilmember Mann.

**Public Comment Period**

Mayor Jacobsen gave direction to the public present and opened the Public Comment Period at 6:38 p.m.

Seeing no public comments, Mayor Jacobsen closed the Public Comment Period at 6:38 p.m.

**Swearing in Ceremony**

Nibley City Recorder Cheryl Bodily administered the Oath of Office for Councilmember Laursen, Councilmember Mann, Councilmember-Elect Mansell, and Councilmember Sweeten who were elected to office at the November 21, 2023, Nibley City municipal election.

Councilmember Laursen, Councilmember Mann, Councilmember-Elect Mansell, and Councilmember Sweeten each repeated the following Oath of Office.

*I, (name of elected official), having been elected on November 21, 2023,  
to the  
Nibley City Council  
Do solemnly swear (or affirm) that I will support, obey and defend  
The Constitution of the United States and  
The Constitution of the State of Utah,  
and That I will discharge the duties of my office with fidelity.*

Chad Wright left the meeting after the swearing in ceremonies.

**Public Hearing: Ordinance 23-39 – Amending NCC 1.10.040 Meeting; Procedure and Conduct**

Mr. Maughan introduced the proposed ordinance amendment, saying that current City code was prescriptive on which Thursday nights the City Council held meetings. State code had broad discretion on when these meeting were held, other than stating they needed to be held at least once per month. Mr. Maughan said the amendment would change to reference the once-a-month code and gave the Council more discretion on when they held their meetings. The amendment was the same verbiage that was in code for the Nibley City Planning Commission. Mr. Maughan said the change was a very simple code change.

Seeing no objection, Mayor Jacobsen opened the public hearing at 6:45 p.m.

Seeing no public comment, Mayor Jacobsen closed the public hearing at 6:45 p.m.

**Discussion and Consideration: Ordinance 23-39 – Amending NCC 1.10.040 Meeting; Procedure and Conduct (Second Reading)**

*Councilmember Larsen moved to approve Ordinance 23-39 – Amending NCC 1.10.040 Meeting; Procedure and Conduct. Councilmember Mansell seconded the motion.*

Councilmember Laursen noted that there was an error in the title of the ordinance coversheet. Consent was given to make the clerical adjustment to the title of the ordinance.

*Voting on the motion to approve Ordinance 23-39 was as follows:*

*Councilmember Larsen voted in favor.*

*Councilmember Laursen voted in favor.*

*Councilmember Mann voted in favor.*

*Councilmember Mansell voted in favor.*

*Councilmember Sweeten voted in favor.*

*The motion passed unanimously 5-0; with Councilmember Larsen, Councilmember Mansell, Councilmember Laursen, Councilmember Sweeten, and Councilmember Mann all in favor.*

**Resolution 24-01: Appointments to the Nibley City Planning Commission (First Reading)**

Mayor Jacobsen reminded the City Council that it was his job to make appointments to the Planning Commission and it was the City Council's job to consent to those appointments. Mayor Jacobsen showed his table of proposed appointments. They had a five-member Commission who were on 5-year rotating terms with one alternate Commissioner. Mayor Jacobsen reviewed his proposed Planning Commission appointments.

Councilmember Sweeten thanked Mayor Jacobsen for the time he'd taken to talk with each current Planning Commission member and appreciated the work that had been done behind the scenes to bring the appointments. Mayor Jacobsen discussed the importance of the Planning Commission with Councilmember Sweeten agreed and said they couldn't do what they did as Councilmembers without the Planning Commission doing what they did.

*Councilmember Laursen moved to approve Resolution 24-01: Appointments to the Nibley City Planning Commission and waived the second reading. Councilmember Larsen seconded the motion.*

Councilmember Laursen agreed that Mayor Jacobsen had found a great group of people.

Consent was given to adjust a few clerical issues on the Resolution coversheet.

*Voting on the motion to approve Resolution 24-01 was as follows:*

*Councilmember Larsen voted in favor.*

*Councilmember Laursen voted yes.*

*Councilmember Mann voted in favor.*

*Councilmember Mansell voted in favor.  
Councilmember Sweeten voted in favor.*

*The motion passed unanimously 5-0; with Councilmember Laursen, Councilmember Larsen, Councilmember Sweeten, Councilmember Mann and Councilmember Mansell all in favor.*

Nick Kenczka thanked the City Council for their consideration and said he was excited to participate and contribute to Nibley City.

**Discussion and Consideration: Ordinance 23-37: Amending NCC 21.06.080 FINAL PLAT APPROVAL and Adopting NCC 17.10.010 FINISHED FLOOR ELEVATION; Establishing Regulations for Basement and Finish Floor Elevations As They Relate to Groundwater (Second Reading)**

Nibley City Engineer, Tom Dickinson was present for a presentation given to the City Council. He used an electronic presentation entitled Basement, Finish Floor Groundwater Regulations (a printed copy of this presentation is included in the official printed meeting minutes). The topics included in his presentation included the following: Ordinance 23-37, Background, information regarding sump pumps, impacts to City roads, stormwater, and sewer infrastructure, current city code as it relates to final plat, instances of inadequacy in current and past city code, National Resources Conservation Services (NRCS), City wide GIS groundwater information, GIS Groundwater-Maple Valley-Meadow View, GIS Groundwater-Mount Vista, GIS estimated groundwater elevations was audited, NCC 21.06.080 Final Plat Approval, NCC 17.10.010 FINISH FLOOR ELEVATION, and Planning Commission Recommendation

*"The Planning Commission recommended Approval of Ordinance 23-37: Amending NCC 21.06.080 FINAL PLAT APPROVAL and Adopting NCC 17.10.010 FINISHED FLOOR ELEVATION; Establishing Regulations for Basement and Finish Floor Elevations As They Relate to Groundwater"*

Mayor Jacobsen described research he had with professional engineers and a licensed geologist with the consensus being that nobody read groundwater reports, they were all wrong, and no one cared until there was a failure. Even if there was a failure, the license of the engineer or geologist was not at risk. He was convinced that it would be very difficult to "go after" an engineer or geologist when they made a mistake and the City was stuck with the problem. Mayor Jacobsen discussed the accuracy of the measurements and that they didn't know the accuracy of the GIS groundwater map. Despite the limitations on the map, Mayor Jacobsen said he was in favor of the map because most often a landowner or developer didn't have the opportunity to go shopping for an engineer that would provide the answer they wanted. Engineers felt they should be left out of it and they should rely on the map. Mayor Jacobsen said if he were voting on the ordinance, he would be in favor of using the map instead of relying on a stamped report.

Councilmember Mansell asked if there were changes or modifications made to the ordinance since the first reading and since the Planning Commission had seen the ordinance. Mr. Roberts verified that there hadn't been any changes.

Councilmember Mansell said he had reached out to builders and developers in Nibley City worked with about their feedback on the ordinance. Each of them was in favor of the ordinance because it protected them, the City, and the homeowner better.

Councilmember Mansell said they'd gone to Texas and was measuring lots in Texas and every single subdivision had no basements. They had smaller lot and every home was solid brick. He was leaning to the point of having no basements without exception to the rule; to protect everybody. Mayor Jacobsen said he felt the ideal ordinance included some sort of appeal process. Councilmember Sweeten said she wanted the property owners to make the decision and understand the risk and take all the accountability but hadn't been able to come up with ordinance ideas that were so restrictive that the owner took this on, and did so effectively and efficiently.

Mayor Jacobsen discussed the process of notification. They wrote things on a plat and then no one looked at the plat. They had another process for notification and that was at the building permit stage. He questioned how they improved the notification process and challenged the Council and staff to figure out how they improved the notification process.

*Councilmember Laursen moved to approve Ordinance 23-37: Amending NCC 21.06.080 FINAL PLAT APPROVAL and Adopting NCC 17.10.010 FINISHED FLOOR ELEVATION; Establishing Regulations for Basement and Finish Floor Elevations As They Relate to Groundwater. Councilmember Sweeten seconded the motion.*

Councilmember Laursen expressed his appreciation of the hard work that had gone in to figuring out how to write the ordinance. Councilmember Laursen said the notification could have a page on the Nibley website of what to know before moving or building in Nibley. He'd also ruminated whether they should just take away basements. If you looked at the map and the annexation of Nibley, there were not many areas that were not already built out that would allow a basement. This was why he had come to terms with the ordinance as it was proposed and why he was not proposing an amendment to the ordinance to get rid of basements. Councilmember Laursen and Mr. Dickinson discussed Councilmember Laursen's concern with "6 inches above curb or center line of the street" and accuracy in certain circumstances. Councilmember Laursen said his other concern was with sump pump language being approved by the City Engineer and that water would not be pumped into the sewer. He questioned if there was enough language to mention the sewer and language that the water would not leave the site? He didn't know if this was feasible or enforceable. He referenced proposed code 17.10.010 B.3. Mr. Roberts discussed Nibley's nuisance ordinance that said a property owner could not send their properties water to the neighbor's property.

*Voting on the motion to approve Ordinance 23-37 was as follows:*

*Councilmember Larsen voted in favor.*

*Councilmember Laursen voted in favor.*

*Councilmember Mann voted in favor.*

*Councilmember Mansell voted in favor.*

*Councilmember Sweeten voted in favor.*

*The motion passed unanimously 5-0; with Councilmember Laursen, Councilmember Sweeten, Councilmember Larsen, Councilmember Mann, and Councilmember Mansell all in favor.*

**Resolution 24-03: Adopting Annual Amendments to the Nibley City Consolidated Fee Schedule (First Reading)**

Mr. Maughan described that Nibley staff had decided to go through the review of Nibley's Consolidated Fee Schedule every year to ensure Nibley City was covering its expenses and putting the burden of the issues on the people who were causing the burden and not on the taxpayer. There not too many changes to the fee schedule and most of that the City Council saw was a consorted effort by staff to make sure accounting practices were in their proper order, that revenue was going to the proper account and a description of each fee so everyone knew what the fee was for, and what the fee was attempting to cover and listed a staff member who was responsible to ensure the fee was being charged and at the appropriate time. Mr. Maughan felt this was a great improvement with the accounting, description, and responsible party. Mr. Maughan summarized the fees that were being proposed or changed.

Councilmember Sweeten questioned why the fee for recreation was being charged per period instead of for the entire season. She asked if this meant per rental or. This question was clarified by viewing the notes of the proposed fee schedule.

*Councilmember Sweeten moved to approve Resolution 24-03: Adopting Annual Amendments to the Nibley City Consolidated Fee Schedule and waived the second reading. Councilmember Larsen seconded the motion.*

Councilmember Sweeten said she had heard from quite a few residents that enjoyed using the community space at City Hall because it was a really good dollar value. However, if there was more wear and tear than what was being balanced out, it was still a very good value. Mayor Jacobsen said he'd gotten feedback that the animal at large fee of \$150 was too much. Councilmember Mann asked about procedure on Misc. Infractions. Mr. Maughan said this could be handled internally with staff or could be handled by the Cache County Sheriff's department, with Nibley's recent change in code. Councilmember Mann asked about the fees regarding recycling bins. Mr. Maughan said these fees may need to be tweaked to align with current code but still felt the fee was appropriate because of Nibley's involvement in Waste Management's fee schedule.

Mr. Roberts suggested the City Council not delete the Land Use Appeal Request Application from the fee schedule. There was a cost for a land use appeal, and it was a similar process from a Variance Request, which was still on the fee schedule. Mr. Roberts described the difference between the Variance Request and Land Use Appeal. Mr. Roberts gave the City Council more description and context on Nuisance Penalties. Mr. Maughan updated the Council that money had been budgeted to hire a part-time Code Enforcement officer and this should start moving forward soon. He gave the City Council a “heads up” that nuisance would be a work in progress over the next year.

*Voting on the motion to approve Resolution 24-03 was as follows:*

*Councilmember Larsen voted in favor.*

*Councilmember Laursen voted in favor.*

*Councilmember Mann voted in favor.*

*Councilmember Mansell voted in favor.*

*Councilmember Sweeten voted in favor.*

*The motion passed unanimously 5-0; with Councilmember Sweeten, Councilmember Larsen, Councilmember Laursen, Councilmember Mann and Councilmember Mansell all in favor.*

#### **Council and Staff Report**

Councilmember Larsen asked about the streetlight that had been knocked over at the roundabout at 3200 South. Mr. Dickinson said the part was still being built. He also reported on another car accident at the roundabout that had put the flashing pedestrian lights out of commission for a time. This was also being addressed.

Councilmember Laursen asked for a report on partial roads and pending streetlights.

Councilmember Sweeten and the City Council discussed if the Council should be involved in the adoption of bylaws for various Nibley City auxiliary organizations.

Councilmember Sweeten said there would be a meeting coming up with Al Bingham to keep things moving in a positive direction. Councilmember Sweeten and Councilmember Larsen said they would be participating in this meeting.

Councilmember Mann said she had been in Firefly Park a lot recently. She had seen a lot of evidence of dogs in the park by either seeing the dogs in the park or evidence of dogs in the park. She did not recognize the people bringing dogs into the park so assumed they were dogs from the Strata apartments. She questioned how they could increase enforcement of dogs in the parks and discussion was held of how the “No Dogs” ordinance could be enforced.

Councilmember Mansell said he would miss the Planning Commission and said Claire Schenk and Nick Kenczka would be awesome. Councilmember Mansell thanked Chad for his recreation options. He was grateful to live in such a great place.

Mayor Jacobsen reported that Local Officials Day was January 17<sup>th</sup> at the State Legislature.

Mayor Jacobsen thanked the members of the Planning Commission that were present at the meeting, and he invited them to participate in the City Council's discussion as an advisory body, if they chose to come to Council meetings. He recognized the now official attendance of Commissioner Nick Kenczka at the meeting.

Mr. Roberts reported that the Planning Commission had recently looked at changes to the Accessory dwelling Unit ordinance as a follow up from the moderate-income housing plan.

Mr. Roberts reported that Nibley City had recently started handing out parking ticket violations. They were coordinating with the sheriff's office and had recently handed out approximately 33 citations.

Mr. Roberts reported that the City Council may need to address the Transfer of Development Rights ordinance. There was some interest from a developer. The City had left out a process regarding when the City had a sending area and how the City sold their development rights.

Mr. Dickinson reported that the 1200 West construction was underway for phases three and four. The contractor had extended their date of completion. It would be done in the current season but was extended into October. Regarding the construction schedule, Mayor Jacobsen said it would be wonderful to show the COG during their next application phase, what a fantastic road this was.

Mr. Dickinson reported that the park at Ridgeline Park, phase 1 was out for construction and the pre-bid meeting was held last week. Mr. Dickinson reported he had used the State of Utah procurement system and had received a good response. Mr. Dickinson said phase 2 of the park was in the design phase. They were hoping to capitalize on the upcoming grant season and he hoped to get enough money to build the park and match from phase one to apply to the next phase.

Mr. Dickinson reported on a Safe route to school grant for \$111,000 to construct the sidewalk on the south side of 3200 south. They'd entered into a contract with CRS for a categorical exclusion process. He hoped to bid the project and have it done by fall before school started.



Mr. Dickinson reported on 1300 West and working in conjunction with BioWest who was doing a wetland delineation. It was likely not a jurisdictional wetland so they could destroy the wetland and put the road in.

Mr. Dickinson said there was a Request for Proposals (RFP) for an engineering service to design a 2-million-gallon water tank and to develop a new well for Nibley. They were deficient in storage and source water and had to mitigate. They needed to get ahead of this before they were in violation. The RFP had been sent to approximately a dozen firms.

Mr. Dickinson said he'd been working with staff to develop transportation standards to govern street and for new development and connectivity. He was looking for volunteers from the Council to help incorporate connectivity into a standard. Councilmember Mann and Councilmember Sweeten volunteered to participate in the connectivity review.

Mr. Dickinson said the City had funded a contract with Sunrise Engineering for the Stormwater Master plan. The hope was to have this master plan to the City Council in June.

Mr. Dickinson reported that at 2900 South, one of the conditions of approval was to develop the road with 20 foot of asphalt all the way to the highway. UDOT would not allow a left-hand turn onto SR 165 and wanted a curb barrier. He was not sure they would be able to achieve what the Council's intent was. He requested this item be on the next City Council meeting for discussion.

Mr. Dickinson reported they had finished a sewer study on the southwest portion of Nibley. They'd like to figure how to get development and sewer to that portion of Nibley. He requested this be included on the next City Council agenda.

Mr. Dickinson reported on a meeting regarding the middle school at 3200 South.

Mr. Dickinson updated the City Council about 1300 West and all the streetlights in Nibley Farm were installed on Tuesday afternoon. Mr. Dickinson said the streetlights were installed at Firefly Park.

Mr. Maughan reported that there would be a photographer at the next City Council meeting for Council pictures.

Mr. Maughan said the Utah League of Cities and Towns Legislative Policy Committee was meeting and there were a few items of interest on the horizon.

Mr. Maughan described the meeting of the Wastewater Treatment Rate Committee and reported there was a possibility of doing a rate study in the next six months.

Mr. Maughan reported on two new hires in the front office administration: Maddy Shinn and Talon Bigelow.

Mr. Maughan reported on an RFPs for a Recreation Feasibility Study. There seemed to be a lot of buzz in the air about indoor recreation space.

Mr. Maughan reported that he would be out of town January 16-26.

Mr. Roberts said the Active Transportation Plan had met as a selection committee and had selected a firm. The selection committee was excited about where the plan was headed and said the contract would be back to the City Council for approval in the next month or so.

Seeing no objection, Mayor Jacobsen adjourned the meeting at 9:13 p.m.

Attest: *Cheryl Bodily*  
City Recorder