

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, March 14, 2024.

The following actions were made during the meeting:

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OFFICIAL MINUTES OF THE MEETING  
City Recorder Cheryl Bodily took minutes

**Opening Ceremonies**

Mayor Jacobsen quoted Winston Churchill:

*“Democracy is the worst form of government, except all those other forms that have been tried . . .”*

Mayor Jacobsen discussed democracy and that he felt was one of the main challenges of a representative democracy and the process used to choose the representation, or elections. Elections can be a valuable tool to connect candidates with constituents but can also divide. Mayor Jacobsen discussed the current Federal election and the process of choosing elected representatives and trust versus skepticism in the election process. He concluded that at some point they must get to the point that they accepted election outcomes so they can work together to solve problems, even if it meant working with the other side.

**Call to Order and Roll Call**

Mayor Larry Jacobsen called the Thursday, March 14, 2022, Nibley City Council meeting to order at 6:32 p.m. Those in attendance included Mayor Larry Jacobsen, Councilmember Nathan Laursen, Councilmember Kay Sweeten, Councilmember Erin Mann, and Councilmember Garrett Mansell. Justin Maughan, Nibley City Manager, Levi Roberts, Nibley City Planner, Cheryl Bodily, City Recorder, and Steve Eliason, Nibley City Public Works Director was also present.

Councilmember Norman Larsen was excused from the meeting.

Mr. Maughan also recognized Steve Eliason, Nibley City Public Works Director, Chad Wright, Nibley City Recreation Director, and Clair Schenk, Nibley City Planning Commission Chair who were also present in the audience.

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

Councilmember Sweeten moved to approve the February 22, 2024, meeting minutes and the current evening’s agenda. Councilmember Mansell seconded the motion. The motion passed unanimously 4-0; with Councilmember Sweeten, Councilmember Mansell, Councilmember Laursen, and Councilmember Mann all in favor.

### **Public Comment Period**

Mayor Jacobsen gave direction to the public present and opened the Public Comment Period at 6:36 p.m.

Seeing no public comments, Mayor Jacobsen closed the Public Comment Period at 6:36 p.m.

### **Planning Commission Report**

Mr. Schenk reported that Planning Commission had gone through the Nibley Coach and the assisted living proposal. They'd also considered the Gibb's property rezoning, which was denied with the property owner wanting to go from R-2 to R-2A. The Planning Commission felt R-2A didn't align with Nibley City Council's mission statement with open space. These were the biggest things that had recently gone through the Planning Commission. Mr. Roberts reported that the Nibley Coach application was approved for the preliminary plat. They would have to come back to the Planning Commission for a conditional use permit for the assisted living center and the single-family homes in the development. They would also come back for a site plan review from the Planning Commission and the City Council. There were still several steps in the process, but the preliminary plat was approved.

### **Presentation – CAPSA presentation regarding Child Abuse Prevention/Sexual Assault Awareness**

Ms. Matti Sotto stated she was in the Development and Education and Awareness Department at CAPSA as a Community Engagement Coordinator. Ms. Sotto discussed April being Sexual Assault Awareness month and said CAPSA was highlighting the importance of believing survivors when they open up about having experienced sexual violence and said the message "Start By Believing" was vital. This told survivors when they communicated that they'd been hurt, that they would be believed. Ms. Sotto distributed the CAPSA FY23 Impact Report to the City Council.

### **Discussion & Consideration: Resolution 24-04—Accepting the Nibley City Audit for Fiscal Year 2022-23 (First Reading)**

*Councilmember Laursen moved to accept Resolution 24-04—Accepting the Nibley City Audit for Fiscal Year 2022-23 and waived the second reading. Councilmember Mann seconded the motion.*

*Voting on the motion to approve Resolution 24-04 was as follows:*

*Councilmember Laursen voted yes.*

*Councilmember Mann voted in favor.*

*Councilmember Mansell voted yes.*

*Councilmember Sweeten voted yes.*

*The motion passed unanimously 4-0; with Councilmember Laursen, Councilmember Mann, Councilmember Mansell, and Councilmember Sweeten all in favor.*

Mayor Jacobsen excused Councilmember Norman Larsen from the meeting.

**Discussion & Consideration: Resolution 24-06—Authorizing the Mayor of Nibley City or Designee to Vote on Behalf of Nibley City’s Interests Regarding Canal Company Watershares (First Reading)**

Mr. Maughan described that generally every year the irrigation companies in the city had an annual meeting to take care of business, take votes, and decide on issues. Nibley City wanted it to be clear that the Mayor or his designee had the authority to vote Nibley City’s shares in a canal company.

Mayor Jacobsen reported that this was the first year that Nibley City had voted their shares in the Nibley City Blacksmith Fork Canal Company. The Board had accepted the vote as a legal vote.

*Councilmember Mann moved to approve Resolution 24-06—Authorizing the Mayor of Nibley City or Designee to Vote on Behalf of Nibley City’s Interests Regarding Canal Company Watershares and waived the second reading. Councilmember Mansell seconded the motion.*

Mayor Jacobsen described the debate between himself and the City Manager deciding who should be authorized the vote watershares between himself and the City Manager. Councilmember Sweeten said a resident had expressed concern that they didn’t have something this clear and official “on the books” so she felt the resolution was good and was comfortable with how the resolution was set up. Mayor Jacobsen said it was not the City’s intent to “swing a big hammer” and didn’t think it was in the City’s best interest to do so. There was somewhat of a contentious, multifaceted relationship between the City and the canal companies. The City impacted the canal companies by allowing development and the City relied on the canal company to help with the stormwater system. Councilmember Mansell said it was important to make these things clear. He believed there were a record number of bills at the State legislature regarding water and they needed to ensure they protected Nibley City interests.

*Voting in the motion to approve Resolution 24-06 was as follows:*

*Councilmember Laursen voted in favor.*

*Councilmember Mann voted in favor.*

*Councilmember Mansell voted in favor.*

*Councilmember Sweeten voted in favor.*

*The motion passed unanimously 4-0; with Councilmember Mann, Councilmember Mansell, Councilmember Norman Larsen, and Councilmember Sweeten all in favor.*

**Discussion & Consideration: Ordinance 24-03—Development Agreement with R & W ENTERPRISES INC, Together With PROJECT VALOR to Allow Construction of One (1) Casita on Parcel 03-020-0018, Located at 110 W 2600 S, to House Transitioning and/or Homeless Veterans Within a Legally Non-Conforming Mobile Home Park, Setting Forth Conditions and Standards for Its Construction (Second Reading)**

Mr. Roberts said there had been a couple of concerns come to light regarding the proposal. One was making sure emergency services could identify this unit and any other mobile homes. City staff had observed that there were several units that were missing identifying numbers. Mr. Roberts said the City Council could propose the condition that all units in the mobile home park must be properly identified with numbers which are legible from the private street. Mr. Roberts proposed the following wording:

*All units within the mobile home park, including the proposed casita, must be properly identified with numbers which are legible from the private street.*

Mr. Roberts said there had been a question from Councilmember Laursen about signage. The site plan noted some signage on the property. To clarify this Mr. Roberts proposed the following wording:

*“All signage on the property must adhere to Nibley City sign standards in NCC 19.24.150.”*

*Councilmember Laursen moved to approve Ordinance 24-03—Development Agreement with R & W ENTERPRISES INC, Together With PROJECT VALOR to Allow Construction of One (1) Casita on Parcel 03-020-0018, Located at 110 W 2600 S, to House Transitioning and/or Homeless Veterans Within a Legally Non-Conforming Mobile Home Park, Setting Forth Conditions and Standards for Its Construction, with the amendments provided by staff in the compliance with regulations to Unit identification and Signage. Councilmember Sweeten seconded the motion.*

Councilmember Laursen questioned the Planning Commission recommendation regarding a water improvement plan. He questioned if there was a timeline of when the improvements would be implemented. Mr. Maughan said the applicant had already shown some progress in updating the system and were paying their water bill, so he didn't feel the applicant needed more teeth to continue to improve. Michael Fortune, a representative of Project Valor, updated the City Council that they had reacted to the request immediately and had met with Brian Carver to discuss opportunities. They had met with plumbers and had a plan, and those items were well underway and moving forward. Mr. Fortune felt they had the opportunity for funding through BRAG and from Utah State to develop a plan.

Councilmember Sweeten said she appreciated the program that had been put together and the spectrum of assistance for veterans. She appreciated the water plan that was acting and moving forward and the willingness that had been displayed so far in improving the problem.

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

*Councilmember Laursen voted in favor.*

*Councilmember Mann voted in favor.*

*Councilmember Mansell voted in favor.*

*Councilmember Sweeten voted in favor.*

*The motion to approve Ordinance 24-03 passed unanimously 4-0; with Councilmember Laursen, Councilmember Sweeten, Councilmember Mann, and Councilmember Mansell all in favor.*

The City Council requested Mr. Rounds and Mr. Fortune come back and report on how the program was going. Mr. Fortune reported that since the project had last been on the City Council's agenda there had been two veteran families that had heard that there was a program to help them get back on their feet and had reached out and contact them. They'd expressed that "they just needed a chance to get back on their feet". Mr. Fortune guaranteed that the City Council were doing the right thing.

**Discussion and Consideration: Ordinance 24-02: Rezone Parcel 03-018-0015 & a portion of parcel 03-017-0012. Located at 1150 W 3200 S from Residential (R-2) to Residential (R-2A) (First Reading)**

Mr. Roberts reported on the agenda item. He used an electronic presentation entitled *1150 W 3200 S Rezone* (a printed version of the presentation is included in the written meeting minutes). The topics included in his presentation included the following: background, a Cache County GIS map showing the property to provide context, Current Zoning, Future Land-Use, Site proposal, a plat map showing the proposed development, Summary of applicant statement, General Plan Guidance, Recommended Findings, Staff Recommendation, and Planning Commission Recommendation.

*Planning Commission's Recommendation:*

*Approval of Ordinance 24-02: Rezone Parcel 03-018-0015 & a portion of parcel 03-017-0012. Located at 1150 W 3200 S from Residential (R-2) to Residential (R-2A) adopting Staff's recommended findings with the following conditions:*

- 1. Nibley City and the applicant exchange land between parcels 03-018-0015, parcel 03-017-0012 and the adjacent remaining 1200 West right-of-way to increase the overall park space area of the planned 4.38-acre Nibley Meadows park to the south of the property, with the ratio of the developer to the City for the land exchange being no less than 1:1.*

2. *The property is legally subdivided in accordance with Nibley City Code Chapter 21.*
3. *This Rezone does not constitute approval of*
4. *the proposed concept plan submitted with the Rezone application.*

*Staff's Recommendation:*

*Approval of Ordinance 24-02: Rezone Parcel 03-018-0015 & a portion of parcel 03-017-0012. Located at 1150 W 3200 S from Residential (R-2) to Residential (R-2A) adopting Staff's recommended findings with the following conditions:*

1. *Nibley City and the applicant will exchange land in an agreement to be determined later with the city's intention to increase the size of the planned Nibley Meadows park.*
2. *The property is legally subdivided in accordance with Nibley City Code Chapter 21.*
3. *This Rezone does not constitute approval of the proposed concept plan submitted with the Rezone application.*
4. *The zoning on the property will revert back to Residential (R-2) if the land exchange and subdivision required in Items 1 & 2 are not finalized within 2 years.*

Alex Norr, an owner of the property at 1150 W and 3200 S described that they'd bought the property after approval of the preliminary plat approval and were opposed to proposed open space being barricaded by homes. They also had a difficult time creating the value they needed to out of the land because the size of the open space and they'd come to Mr. Roberts looking for a second access. Mr. Norr said it was brought to their attention that there might be incentive to enlarge the park. They were land developers not home builders and often time the open space subdivision process pushed a lot of cost to the home or homeowner and land developers had to create enough value in the dirt they could sell to someone that was going to build a home. The financial prospective on the land-development side didn't work.

Mr. Roberts address questions that had been proposed by Councilmember Laursen in an email regarding addressing the Park Space Master plan in the area.

Councilmember Mansell said he'd seen the original plan at the Planning Commission, and he liked the proposed plan better and felt it was conceptually better and flowed better. He questioned the restriction of 1 to 1 and questioned if the ratio could be modified down the road. Mr. Roberts said the restriction was in ordinance and somewhat tied the City Council hands. They would bring back an agreement that had at least the 1 to 1 requirement. Mr. Maughan believed staff could work together to achieve the City Council goal of 1 to 1 value. Staff would bring them back an agreement that the City Council was happy with and approve. He asked for flexibility to let staff be

creative and try to come up with a plan that “wouldn’t give away the farm.” Mayor Jacobsen reminded the City Council that staff would bring a proposal to the Council the Council would decide what was a fair trade of land. The City Council debated which parameters achieved a fair trade of land.

Councilmember Laursen and Mr. Roberts clarified the differences between the city staff recommendation the Planning Commission’s recommendations. The City Council discussed the proposed timeline of 2 years as proposed in the fourth staff condition. Mr. Norr expressed his concern when the timeclock started and questioned the public process to exchanged city land with private land. Mr. Roberts shared the information he’d gotten regarding the process from the City Attorney. Council and staff discussed details of the proposed 2-year timeline.

*Councilmember Mansell moved to approve Ordinance 24-02—Rezone Parcel 03-018-0015 & a portion of parcel 03-017-0012. Located at 1150 W 3200 S from Residential (R-2) to Residential (R-2A), adopting staff’s recommendation with the modification of item 4 designating a two-year time limit from adoption of the ordinance and approval of the rezone and waived the second reading.*

*Approval of Ordinance 24-02: Rezone Parcel 03-018-0015 & a portion of parcel 03-017-0012. Located at 1150 W 3200 S from Residential (R-2) to Residential (R-2A) adopting Staff’s recommended findings with the following conditions:*

- 1. Nibley City and the applicant will exchange land in an agreement to be determined later with the city’s intention to increase the size of the planned Nibley Meadows park.*
- 2. The property is legally subdivided in accordance with Nibley City Code Chapter 21.*
- 3. This Rezone does not constitute approval of the proposed concept plan submitted with the Rezone application.*
- 4. The zoning on the property will revert back to Residential (R-2) if the land exchange and subdivision required in Items 1 & 2 are not finalized within 2 years.*

*Councilmember Mann seconded the motion.*

Seeing no objection, the City Council voted on Ordinance 24-02.

*Voting to approve Ordinance 24-02 was as follows:*

*Councilmember Laursen voted in favor.*

*Councilmember Mann voted in favor.*

*Councilmember Mansell voted in favor.*

*Councilmember Sweeten voted in favor.*

*The motion passed unanimously 4-0; with Councilmember Mansell, Councilmember Mann, Councilmember Norman Laursen, and Councilmember Sweeten all in favor. Mr. Norr shared his experience working with Project Valor.*

Seeing no objection, Mayor Jacobsen called for a meeting break at 7:58 p.m.

The meeting resumed at 8:04 p.m.

**Discussion and Consideration: Ordinance 24-04: Rezone Parcel 03-0017-0019 & 03-0017-0020, located at 1405 W 3200 S from Residential (R-2) to Residential (R-2A) (First Reading)**

Mr. Roberts reported on the agenda item. He used an electronic presentation entitled *1405 W 3200 S Rezone* (a printed version of the presentation is included in the written meeting minutes). The topics included in his presentation included the following: Rezone, Site Context, a map showing the area proposed for rezone, General Plan Guidance, Applicable Zoning Provisions, Staff Recommendation and Planning Commission Recommendation.

*Planning Commission recommendation:*

*“Denial of Ordinance 24-04: Rezone Parcel 03-0017-0019 & 03-0017-0020, located at 1405 W 3200 S from Residential (R-2) to Residential (R-2A)”*

*Staff recommendation:*

*“Approval of Ordinance 24-04: Rezone Parcel 03-0017-0019 & 03-0017-0020, located at 1405 W 3200 S from Residential (R-2) to Residential (R-2A) for first reading.”*

Josh Low, representing the developer was present at the meeting. Councilmember Laursen asked Mr. Low why they had not considered the open space subdivision. Mr. Low said like the previous applicant, the subdivision penciled out better and it seemed a reasonable ask. He described the R-2A sized lots on the property and said it seemed that rest of the parcel should be consistent and not held to the same standards of six lots in the corners of the property. Councilmember Mann asked if the Transfer of Development Rights (TDR) was an option? Mr. Low said he was open to a land swap but if there was no pushback on a neighboring parcel getting the R-2A and felt they were getting special treatment on a certain spot, and it didn't seem fair. Councilmember Mann said the residents in the space needed open space and parks. She asked what assurances they had that Mr. Low would enter a negotiation for TDR? Mr. Low said an assurance would be an agreement that the property would be zoned R-2A if the applicant did a TDR. Mr. Roberts said the City Attorney had advised it would be legal to do this but prior to the decision being finalized, that a framework for TDR agreement be established with the



passage of an ordinance. Mayor Jacobsen clarified that the City Council was aware that the property was a TDR receiving area. Councilmember Mansell questioned a proposed trail on the property and questioned the connectivity of the trail. Mayor Jacobsen and Mr. Roberts described the potential for the trail to connect to the Malouf property. Councilmember Mansell discussed access to park property from the proposed development.

Councilmember Laursen described that he had included a Hidden Valley Potential, Excel spreadsheet in the meeting Team (*a printed copy is included in the printed meeting minutes*). He discussed scenarios of the numbers of potential lots with dedicated open space. Councilmember Laursen said a creative open space plan did more for the City than just an R-2A.

*Councilmember Laursen moved to deny Ordinance 24-04—Rezone Parcel 03-0017-0019 & 03-0017-0020, located at 1405 W 3200 S from Residential (R-2) to Residential (R-2A). Councilmember Mansell seconded the motion.*

Councilmember Laursen said it was in the best interest of the City to be more creative in the proposed rezone area. Councilmember Mansell said the rezone wouldn't help them address any of the concerns he held regarding park space and trails. Councilmember Mann said she'd heard from neighbors and residents that liked the idea of having space between homes and felt this could also be achieved by having open space in the same area. They were always debating having space around homes or space in the general area. Councilmember Mann asked for Mayor Jacobsen's thoughts about the ordinance in the case that he would need to break a tying vote. Mayor Jacobsen expressed that he believed they had achieved some very successful conservation subdivisions and believed they had achieved the objectives of conserving what was important to the community and still achieved the densities they could get to with R-2A zoning. It allowed for more flexibility and innovation with planning. He was in favor of the General Plan requiring all residential developments to be Open Space developments to get to the R-2A density.

*Seeing no objection to voting, the City Council voted on the motion. Voting on the motion to deny Ordinance 14-04 was as follows:*

*Councilmember Laursen voted in favor.*

*Councilmember Mann voted in favor.*

*Councilmember Mansell voted in favor.*

*Councilmember Sweeten voted in favor.*

*The motion passed unanimously 4-0; with Councilmember Laursen, Councilmember Mansell, Councilmember Sweeten, and Councilmember Mann all in favor.*

### **Discussion & Consideration: Accepting the Contract to Complete an Indoor Recreation Feasibility Plan**

Chad Wright, Nibley City Recreation Director, presented for this discussion. He used an electronic presentation entitled *Nibley Rec Feasibility Study; Selection Committee Recommendation; March 14, 2024* (a printed version of the presentation is included in the written meeting minutes). The topics included in his presentation included the following: Recommendation Committee: Proposed Next Steps, Project Status, Selection Committee, PROCESS: scored and evaluated, CONSIDERATIONS TO EVALUATION, Recommendation, VCBO Negotiations and Refined Proposal, and Contract Conditions Highlights.

*Councilmember Sweeten moved to Accepting the Contract to Complete an Indoor Recreation Feasibility Plan. Councilmember Mann seconded the motion. The motion passed unanimously 4-0; with Councilmember Sweeten, Councilmember Mann, Councilmember Laursen, and Councilmember Mansell all in favor.*

Mr. Maughan described to the City Council that they would have the City Attorney review the contract and if there were any issues they would bring the contract back to the Council.

**Discussion & Consideration: Resolution 24-07— Approving a Contract (Letter of Engagement) for Legal Services for Nibley City (First Reading)**

Mr. Maughan described that the City Attorney had moved on to another city and Nibley had solicited for new legal counsel. Mr. Maughan said he, Mayor Jacobsen, Mr. Roberts, and Tom Dickinson had met with the three individuals that had submitted for the position. They decided to recommend continuing to work with their existing firm and Eric Johnson. Because the firm was working under a new name, staff decided to bring a new letter of engagement to the City Council.

*Councilmember Sweeten moved to approve Resolution 24-07— Approving a Contract (Letter of Engagement) for Legal Services for Nibley City and waived the second reading. Councilmember Mansell seconded the motion.*

*Voting on the motion to approve Resolution 24-07 was as follows:*

*Councilmember Laursen voted in favor.*

*Councilmember Mann voted in favor.*

*Councilmember Mansell voted in favor.*

*Councilmember Sweeten voted in favor.*

*The motion passed unanimously 4-0; with Councilmember Sweeten, Councilmember Mansell, Councilmember Laursen, and Councilmember Mann all in favor.*

**Council & Staff Reports**

Councilmember Sweeten thanked staff for their good work.

Councilmember Mann said he was grateful to live in a place where everybody worked together so well. It was nice to have people who cared about the community in every asked and worked towards common goals.

Councilmember Laursen offered his condolences to Nibley City's Engineer and his family. He also thanked Rob Patterson for his serviced to the City, although he would still have a hand in Nibley City.

Councilmember Laursen questioned the City Council could consider amending R-2A to start more reflecting open space subdivision concepts when land is of a certain size or made sense. Mr. Roberts said they could consider getting rid of R-2A and just have an incentive through R-2. Another option was to consider an amendment to the Open Spaces subdivision so there was an incentive to do Open Space subdivision if a property were zoned R-2A.

Mayor Jacobsen referred to an email sent regarding law enforcement and buffering along Firefly Park. He said he and Mr. Maughan would follow up on these items.

Mr. Roberts said they'd kicked off their active transportation plan. He felt they had a good steering committee and an engaged consultant. Mayor Jacobsen said he intended to buy a large supply of high visibility vests with his budgeted Mayor's Discretionally Funds. He asked for the City Council held in giving these away. He suggested Mr. Roberts work these vests in the active transportation collection of citizen input.

Mr. Maughan reported on the email sent to the City Council from City Engineer, Tom Dickinson regarding projects he was currently working on.

Mr. Maughan updated the City Council on phone issues brought to the City Council's attention by Tony Gardner.

Mr. Maughan reported that the covers over tree trucks at Mt. Vista had been removed.

Mr. Maughan reported that staff was currently working hard on the 2024-25 budget.

Mr. Maughan reported on the status of dog licensing.

Mr. Maughan reported on installation of additional security measures at City properties.

Mr. Maughan reported on posted Nibley City job openings and asked for the City Council assistance in spreading the word about those positions.

Ms. Bodily reported on registrations for the Utah League of Cities and Towns conference.

Mr. Eliason reported on the Nibley City stormwater audit findings from the State of Utah.

Mr. Eliason summarized the number of potential lead and copper water services in Nibley City. He reported there were 442 unknowns. He described the amount of time it would take Public Works staff to check the unknown connections and described the public outreach he anticipated pushing through. Mr. Eliason described the mandates that had come down from the State regarding an inventory of these types of water services and the obligation Nibley City was under.

The meeting was adjourned at 9:52 p.m.

Attest: \_\_\_\_\_  
City Recorder