

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, September 3, 2015.

The following actions were made during the meeting:

Councilman Jacobsen motioned to approve Ordinance 15-06; An Ordinance Regulating Telecommunication Facilities in Nibley City with the typographical corrections noted by Ms. Phippen. Councilman Bernhardt seconded the motion.

Councilman Jacobsen made a motion to amend to strike section 10-22-4 and to amend 10-22-A. or Ordinance 15-06 to read "Telecommunications Master Plan & Site Justification Study Required. For all new telecommunication facilities or structures, the applicant shall submit a Telecommunications Master Plan along with a completed application, and a Site Justification Study for each proposed telecommunications facility or structure. A Site Justification Study and Telecommunications Master Plan shall be submitted to the Planning Department, which will provide a review of the proposed project to ensure that the provisions of the Nibley City Code are being met. The Planning Commission shall perform the required Conditional Use Permit review for all telecommunications facility applications. Any conflicts shall be submitted to the Commission. Said Planning Commission shall review, take public comment and render a decision by 1) approving the application, 2) approving the application with conditions, or 3) denying the application. The applicant shall request in written form what, if any, information submitted with application is to be kept confidential from public review." Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hansen, Councilwoman Beus, Councilman Hellstern, and Councilman Bernhardt all in favor.

Councilman Hellstern made a motion to amend to add "such as live green screens" to page 7, section 3.-g. and page 9, section B. of ordinance 15-06. Councilman Hansen seconded the motion. The motion failed unanimously 5-0; with Councilman Hellstern, Councilman Hansen, Councilman Jacobsen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Jacobsen made a motion to amend Ordinance 15-06 page 10 to strike "4) Any telecommunication facility within the Logan Cache Airport traffic zone shall demonstrate compliance with FAA requirements and received approval fro the Loan Cache Airport Authority for installation of said facility." Councilman Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Bernhardt, Councilman Hansen, Councilwoman Beus, and Councilman Hellstern all in favor.

Councilman Jacobsen made a motion to amend Ordinance 15-06 page 7, 3.-b. striking “, or “ and replacing it with a period. Councilman Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Bernhardt, Councilman Hansen, Councilwoman Beus, and Councilman Hellstern all in favor.

Councilman Jacobsen made a motion to amend to add “Except for the requirements of section 10-22-5 A., non-commercial telecommunication facilities and structures owned and managed by a licensed AMATEUR RADIO OPERATOR are exempted from this chapter.” to 10-22-3 A. of Ordinance 15-06. Councilman Hellstern seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hellstern, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Jacobsen made a motion to amend section 10-22-4, paragraph A. of Ordinance 15-06 to read, “Non-commercial telecommunication facilities and structures owned and managed by a licensed amateur radio operator are not exempt from the requirements of this section, 10-22-4 A.” Councilman Hellstern seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hellstern, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Bernhardt proposed an alternative motion to amend to add section 10-22-5 G.-4. to Ordinance 15-06 to read “The applicant shall, as part of the conditional use permit approval process, submit a detailed maintenance plan demonstrating how the landscaped area shall be kept in good condition.” Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Bernhardt, Councilman Hansen, Councilman Jacobsen, Councilwoman Beus, and Councilman Hellstern all in favor.

Councilman Jacobsen made a motion to amend to strike the remainder of the paragraph of page 10, C.-2. of Ordinance 15-06. 10-22-4, C.-2. would read “Monopoles and Guyed Towers shall be setback a minimum of 1 ½ feet (one and one-half feet) for every foot of pole height from the nearest property line.” Councilman Hellstern seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hellstern, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Jacobsen made a motion to amend section 10-22-5 B.-2. of Ordinance 15-06; changing the word “permitted” to read “allowed”. Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hansen, Councilwoman Beus, Councilman Hellstern, and Councilman Bernhardt all in favor.

The amended motion passed unanimously 5-0. Councilman Jacobsen was in favor, Councilman Hellstern was in favor, Councilman Bernhardt was in favor, Councilman Hansen was in favor, and Councilwoman Beus was in favor.

Councilman Hansen made an alternate motion to approve Ordinance 15-08-An Ordinance Establishing Procedures for the Sale of Real Property by Nibley City and waive the second reading. Councilman Jacobsen seconded the motion. The motion passed unanimously 5-0. Councilman Bernhardt was in favor. Councilman Hellstern was in favor. Councilman Jacobsen was in favor. Councilman Hansen was in favor, and Councilwoman Beus was in favor.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Deputy City Recorder Cheryl Bodily

Councilman Jacobsen made a motion to select Councilwoman Kathryn Beus as Mayor Pro Tempore to conduct the evening's meeting. Councilman Hansen seconded the motion. The motion passed unanimously 4-1; with Councilman Jacobsen, Councilman Hansen, Councilman Hellstern, and Councilman Bernhardt all in favor. Councilwoman Beus was opposed.

Mayor Pro Tem Beus opened the meeting by leading the City Council in the Pledge of Allegiance.

Call to Order

Mayor Pro Tempore Kathryn Beus called the Thursday, September 3, 2015, Nibley City Council meeting to order at 6:34 p.m. Those in attendance included Councilwoman Kathryn Beus, Councilman Bryan Hansen, Councilman Larry Jacobsen, Councilman Ron Hellstern, and Councilman Thomas Bernhardt. Mr. David Zook, the City Manager, Ms. Shari Phippen, the City Planner, and Justin Maughn, Nibley City Public Works Director, was also in attendance.

Approval of agenda; and approval of the August 20, 2015 meeting minutes

Councilman Jacobsen made a motion to approve the previous meeting minutes and the evening's agenda. Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hellstern, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Public Hearing—A public hearing to receive comment regarding Ordinance 15-06, An Ordinance Regulating Telecommunication Facilities in Nibley City

Ms. Phippen discussed the discussion and timeline of the creation of Ordinance 15-06. She said the ordinance had used the Hyde Park model as a template. Ms. Phippen noted a change to the section on landscaping on page 11 that had been suggested by Mayor Dustin. Ms. Phippen said Mayor Dustin would like to add a section #4

which would read “Permanent automatic irrigation appropriate to agronomic use and compliant with City standards shall be installed in conjunction with the landscaping”. Ms. Phippen said she like this ideas so that the landscaping is attractive and maintained.

Ms. Phippen discussed the notes she had received from the City Attorney regarding section 10-22-5 Development standards, General Requirements, paragraph 4 and the deletion of a reference to an airport. The City Attorney had suggested Nibley would be fine in deleting this reference because Nibley was not directly impacted by the Logan Cache airport traffic zone said this was his only suggested addition or deletion. Ms. Phippen noted the minor grammatical changes she had made to the ordinance and said she felt it was wise to have this type of ordinance in place. She discussed a cell tower that was constructed in a town in Idaho where there were no telecommunication facility regulations in place.

Councilman Jacobsen asked for clarification on the setback requirements called out on page 10, C.-2. of Ordinance 15-06.

Mayor Pro Tem Beus opened the public hearing at 6:45.

Angelica Gardner asked where the tower was going to be built. Ms. Phippen said there was no tower proposed at that time.

Seeing no further comment, Mayor Pro Tem Beus closed the public hearing at 6:46.

Discussion and Consideration of Ordinance 15-06-An Ordinance Regulating Telecommunication Facilities in Nibley City (Second Reading)

Councilman Jacobsen made a motion to approve Ordinance 15-06; An Ordinance Regulating Telecommunication Facilities in Nibley City with the typographical corrections noted by Ms. Phippen. Councilman Bernhardt seconded the motion.

Councilman Jacobsen discussed sections 10-22-3 and 10-22-4. He said 10-22-4 was if cell phone towers were a permitted use. He said that cell phone towers were not a permitted use; they were a conditional use. Councilman Jacobsen said “stealth” was in the eye of the beholder and the stealth design review should be back in a conditional use permit.

Councilman Jacobsen made a motion to amend to strike section 10-22-4 and to amend 10-22-A. or Ordinance 15-06 to read “Telecommunications Master Plan & Site Justification Study Required. For all new telecommunication facilities or structures, the applicant shall submit a Telecommunications Master Plan along with a completed application, and a Site Justification Study for each proposed telecommunications facility or structure. A Site Justification Study and Telecommunications Master Plan shall be submitted to the Planning Department, which will provide a review of the proposed project to ensure that the provisions of the Nibley City Code are being met. The Planning Commission shall perform the

required Conditional Use Permit review for all telecommunications facility applications. Any conflicts shall be submitted to the Commission. Said Planning Commission shall review, take public comment and render a decision by 1) approving the application, 2) approving the application with conditions, or 3) denying the application. The applicant shall request in written form what, if any, information submitted with application is to be kept confidential from public review.” Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hansen, Councilwoman Beus, Councilman Hellstern, and Councilman Bernhardt all in favor.

Councilman Hellstern noted page 7 of the ordinance and suggested the City Council find the appropriate wording to suggest live green screening. Councilman Hellstern said they had the same situation on page 9 of the ordinance.

Councilman Hellstern made a motion to amend to add “such as live green screens” to page 7, section 3.-g. and page 9, section B. of ordinance 15-06. Councilman Hansen seconded the motion.

Councilman Jacobsen noted that when they got to the landscaping they needed to trust the conditional use permit process and give the Planning and Zoning Commission the appropriate latitude without too much prescription. He felt what the ordinance had was specific enough. Councilman Bernhardt said he agreed.

The motion failed unanimously 5-0; with Councilman Hellstern, Councilman Hansen, Councilman Jacobsen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Hellstern asked for the definition of security fencing included on page 11 “Fencing”, section F.-2. He asked if there was a specification of what the fencing would be; chain link, visual barrier, etc. Mayor Pro Tem Beus said she felt this could be addressed with the conditional use permit at the Planning and Zoning Commission.

Councilman Hellstern directed the discussion to page 11, G.-2. and suggested the City Council could strike the wording “may” to “should”.

“2) The remainder of the property not covered by the evergreen screen shall be kept and maintained in good condition. The applicant shall, as part of the conditional use process, present a plan demonstrating how the property will be landscaped, maintained and screened from adjoining uses. Landscaping may include: a mix of grass, trees and bushes, xeriscaping or active farming.”

Ms. Phippen said she didn’t think they wanted to be that prescriptive and design exactly how tower landscaping looked. She said they should give the requirements that they had to landscape and give them latitude within the requirements. She didn’t feel they should get down to that level of detail.

Councilman Jacobsen made a motion to amend Ordinance 15-06 page 10 to strike “4) Any telecommunication facility within the Logan Cache Airport traffic zone shall demonstrate compliance with FAA requirements and received approval from the Loan Cache Airport Authority for installation of said facility.” Councilman Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Bernhardt, Councilman Hansen, Councilwoman Beus, and Councilman Hellstern all in favor.

Councilman Jacobsen made a motion to amend Ordinance 15-06 page 7, 3.-b. striking “, or “ and replacing it with a period. Councilman Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Bernhardt, Councilman Hansen, Councilwoman Beus, and Councilman Hellstern all in favor.

Councilman Jacobsen said there was a sticking point for him regarding Ham radio operators and if they should regulate Ham radio operators or just focus on the commercial aspect of towers. He said he had come to the side of Ham radio operators and was not sure the inclusion of “commercial” to page 4, J. was enough to exclude Ham radio operators from compliance with Ordinance 15-06.

Councilman Jacobsen made a motion to amend to add “Except for the requirements of section 10-22-5 A., non-commercial telecommunication facilities and structures owned and managed by a licensed AMATEUR RADIO OPERATOR are exempted from this chapter.” to 10-22-3 A. of Ordinance 15-06. Councilman Hellstern seconded the motion.

The City Council discussed the number of Ham radio operators in Nibley City. Mr. Zook said he had a list and recalled that there were a couple dozen operators.

The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hellstern, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Jacobsen said he didn’t feel they should relieve Ham radio operators of the safety code and building codes of 10-22-4, “Development Standards”

Councilman Jacobsen made a motion to amend section 10-22-4, paragraph A. of Ordinance 15-06 to read, “Non-commercial telecommunication facilities and structures owned and managed by a licensed amateur radio operator are not exempt from the requirements of this section, 10-22-4 A.” Councilman Hellstern seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hellstern, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Bernhardt made a motion to amend Ordinance 15-06, section 10-22-5 G.-4. to incorporate the comments made by Mayor Shaun Dustin. Councilman Hellstern seconded the motion.

Councilman Jacobsen felt they may be getting to prescriptive and was not sure he was in favor of permanent automatic irrigation systems because they weren't necessarily a good use of water. He thought the landscaping plan and the maintenance of the landscaping needed to be established by the conditional use permit. Mayor Pro Tem Beus noted that when she had gone through this process on the Planning and Zoning Commission she liked when they had latitude in their decision and weren't too prescriptive in ordinance. Ms. Phippen suggested they add the wording that made irrigation or watering a part of their landscaping plan submittal.

Councilman Bernhardt proposed an alternative motion to amend to add section 10-22-5 G.-4. to Ordinance 15-06 to read "The applicant shall, as part, of the conditional use permit approval process, submit a detailed maintenance plan demonstrating how the landscaped area shall be kept in good condition." Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Bernhardt, Councilman Hansen, Councilman Jacobsen, Councilwoman Beus, and Councilman Hellstern all in favor.

Councilman Jacobsen referred to page 10, C.-2. and said they hadn't designated a design review committee.

Councilman Jacobsen made a motion to amend to strike the remainder of the paragraph of page 10, C.-2. of Ordinance 15-06. 10-22-4, C.-2. would read "Monopoles and Guyed Towers shall be setback a minimum of 1 ½ feet (one and one-half feet) for every foot of pole height from the nearest property line." Councilman Hellstern seconded the motion.

Councilman Hellstern discussed and clarified the options that Councilman Jacobsen's motion may eliminate.

The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hellstern, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Jacobsen made a motion to amend section 10-22-5 B.-2. of Ordinance 15-06; changing the word "permitted" to read "allowed". Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hansen, Councilwoman Beus, Councilman Hellstern, and Councilman Bernhardt all in favor.

The amended motion passed unanimously 5-0. Councilman Jacobsen was in favor, Councilman Hellstern was in favor, Councilman Bernhardt was in favor, Councilman Hansen was in favor, and Councilwoman Beus was in favor.

Discussion and Consideration of Ordinance 15-08-An Ordinance Establishing Procedures for the Sale of Real Property by Nibley City (First Reading)

Mr. Zook described city owned lots in Nibley City that the City had decided to sell to obtain fund for the tennis courts at Nibley's Heritage Park. Mr. Zook said he had looked at the State law for the requirement of city's to sell surplus properties. Mr. Zook said they had an ordinance for disposing of surplus property but it did not address disposing real property.

Mr. Zook read 1-11-6 Disposal of Real Property.

Mr. Zook said State code stated that they needed to provide reasonable notice (14 days) to allow public comment on the proposed disposition and they needed to decide what constituted a significant parcel. Mr. Zook said the proposed ordinance addressed these requirements. Mr. Zook discussed parcel size and what Nibley constituted as significant in the ordinance.

Mr. Zook noted changes to the ordinance that had been suggested by Mayor Dustin.

Councilman Hansen made a motion to approve Ordinance 15-08-An Ordinance Establishing Procedures for the Sale of Real Property by Nibley City for a first reading. Councilman Bernhardt seconded the motion.

Councilman Jacobsen asked if waiting for a second reading on the Ordinance hampered city staff. Mr. Zook said they had an interested party for one of the city's parcels and they would need to hold the public hearing, which would require 14 days notice.

Councilman Hansen made an alternate motion to approve Ordinance 15-08-An Ordinance Establishing Procedures for the Sale of Real Property by Nibley City and waive the second reading. Councilman Jacobsen seconded the motion.

Councilman Hellstern noted a typographical error in the ordinance.

Councilman Bernhardt discussed a scenario in which a property owner would be interested in a small sliver of property and said there would be no need for a public hearing on such a small piece of property. Mr. Zook that regardless of the size the approval would need to be come before the City Council for final approval.

The motion passed unanimously 5-0. Councilman Bernhardt was in favor. Councilman Hellstern was in favor. Councilman Jacobsen was in favor. Councilman Hansen was in favor, and Councilwoman Beus was in favor.

City Council & Staff Reports

Councilman Hansen discussed that Mayor Dustin had asked him to help with the 3200 crosswalk. He said he would be contacting the property owners at the location to inform them of the changes. Councilman Hansen described the signage that would be included at the crosswalk at intersection 3200 South and SR 165. Mr. Zook described how the crosswalk lights and signage would operate and said there would be no change to the speed limit.

Councilman Bernhardt said he had a concern with Clear Creek Park and the number of cars parking along 800 West. He felt it was unsafe. He wanted to encourage gapping in the soccer game schedule so that there would be more access to parking. Councilman Bernhardt said he would contact Allan Haycock about scheduling the games. Councilman Hellstern suggested fencing. The Council discussed the process of changing the speed limit on the remainder of the road. Mr. Zook said he would discuss the speed with the County.

Councilman Bernhardt shared a question that was posed to him by his neighbors asking if there was a street sweeping schedule. Mr. Maughn said there wasn't and said there were "hot spots" that public works swept more often. Mr. Maughn said it would help if they were informed of spots that needed attention.

Councilman Hellstern reported on Heritage East and entomologists from BYU that were taking a look at the wetland area because of the fireflies and discussing the amount of borderland that would need to be maintained to maintain the firefly population. He said there were also wildlife biologists visiting the property that had identified 26 different bird species. Councilman Hellstern said the wetland and wildlife experts had been studying developing the area for passive to moderate to active use. They had all agreed to decide what land needed to be maintained for the firefly population.

Mayor Pro Tem Beus discussed RAPZ funds that had been awarded to the airport for approximately \$80,000 and didn't feel that were an appropriate use for those funds. She suggested sending a Resolution from the City Council to express their feelings that they didn't feel this was an appropriate use of those funds. Mr. Zook said he would research the award and find what its proposed use was.

Mayor Pro Tem Beus updated the City Council on her suggested outreach to the Hispanic community and suggested the city include an outreach during Heritage Days. Councilman Bernhardt suggested including Spanish translations of Nibley's public outreach information on the city website, Facebook, and the Nibley newsletter.

Councilman Hellstern reported on a flower, plant, bulb, and seed exchange being held on Saturday, October 10 at City Hall from 10:00 a.m. to 1:00 p.m. He told the Council that you could bring your excess seeds and plant starts to give, trade, or take.

Councilman Hansen suggested there be public outreach on the city Facebook page, website, and newsletter giving information about the crosswalk at 3200 South.

Mr. Zook shared information regarding the League of Cities and Towns conference.

Mr. Zook said the next City Council would be moved to Thursday, September 24 because of the conflict with the regularly scheduled Council meeting with the League of Cities and Towns conference.

Mr. Zook updated the City Council on the city's CMAQ grant proposal.

Mr. Zook discussed COG funds, which are sales tax funds that are distributed Countywide every year. He said the city had intended to ask for consideration for the realignment of 3200 South but didn't have a plan in place for the alignment so they had missed the window of opportunity. Mr. Zook said he felt this would put them in a good position for next year.

Mr. Zook informed the City Council of scheduled emergency preparedness training on November 6, 2015 for all city staff. He said it would be an all-day training and invited the City Council to participate. Councilman Hellstern suggested the City Council invite local church emergency preparedness specialists.

Mr. Zook reported on the general plan update committee.

Mr. Zook reported on the city's 80th birthday.

Mr. Zook said Nibley had been contacted by Utah State University's Landscape Architecture department about doing land use studies including environmental impacts and planning issues. Mr. Zook said he anticipated they would be doing approximately a year's worth of study.

Mr. Zook reported on Nibley City's outreach to Nibley's schools and discussing traffic issues. He said Nibley would be using part of its sidewalk budget to install sidewalk at Heritage Elementary School.

The City Council and Mayor Pro Tem Beus determined the duration of her service as Mayor Pro Tempore.

There was general consent to adjourn the meeting at 8:28 p.m.