

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, September 24, 2015.

The following actions were made during the meeting:

Councilman Jacobsen motioned to approve Resolution 15-08: A Resolution of the Nibley City Council Adopting the 2015 Pre-Disaster Mitigation Plan: Bear River Region for first reading and move it to a second reading. 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 motioned to appoint Mayor Shaun Dustin to the Wastewater Treatment Rate Committee. Councilwoman Beus seconded the motion

Councilman Bernhardt made a motion to amend that the City Council revisit the appointment to the Wastewater Treatment Rate Committee after a one-year term. Councilwoman Beus seconded the motion. The amendment passed unanimously 5-0; with Councilman Bernhardt, Councilwoman Beus, Councilman Hansen, Councilman Jacobsen, and Councilman Hellstern all in favor.

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

Councilwoman Beus motioned to approve Resolution 15-09: A Resolution of the Nibley City Council Requesting the Recertification of the Nibley City Justice Court, for a first reading. Councilman Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilwoman Beus, Councilman Bernhardt, Councilman Hansen, Councilman Jacobsen, and Councilman Hellstern all in favor.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Deputy City Recorder Cheryl Bodily

Call to Order

Mayor Shaun Dustin called the Thursday, September 24, 2015, Nibley City Council meeting to order at 6:33 p.m. Those in attendance included Mayor Shaun Dustin, Councilman Bryan Hansen, Councilman Larry Jacobsen, Councilwoman Kathryn Beus, Councilman Ron Hellstern, and Councilman Thomas Bernhardt. Mr. David Zook, the City Manager was also in attendance.

Public present at the meeting: Barbara Wilden, Corlyss Drinkard, Larry Anhder, Brian Barrett. Scout Troop 210; with Boyden Watkins, Hunter Earl, Taylor Earl, Branden Hurst, Ryan Coombs. Troop 210 was attending the meeting to complete their communications merit badge.

Mayor Dustin described how a City Council meeting ran for the benefit of the Scouts present.

Approval of agenda; and approval of the September 3, 2015 meeting minutes

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

Public Hearing: A public hearing to receive comment regarding the sale of two surplus parcels owned by the City, located at the southwest corner of 800 West and 2450 South (Parcel #s 03-170- 0001 & 03-173-0052)

Mayor Dustin gave instructions regarding the public hearing to the public present.

Mayor Dustin opened the public hearing at 6:36. Councilman Jacobsen requested the public be given background information regarding the lots.

Mr. Zook said that during the adoption of the Fiscal Year 15/16 Budget, the City Council approved proposed revenue from the sale of two surplus lots on the southwest corner of 800 West and Nibley Park Avenue to be used for the construction of tennis courts at Virgil Gibbons Heritage Park.

Mr. Zook said previous plans by the city were to develop these lots as park space as a southward extension of Virgil Gibbons Heritage Park and potentially as a veterans memorial. He reminded the City Council that in this year's budget the council approved building a veterans memorial on the property adjacent to City Hall where the recycle center was previously located. He reminded the City Council that a proposed ordinance to set guidelines for the sale of real property by the City was adopted by the Council at their previous meeting on September 3 and that the ordinance defined a significant parcel as one that is developable in the zone where it is located and has financial value to the city. Mr. Zook said the two lots were developable as residential lots and that the ordinance mandated that a public hearing be held prior to disposal of the property.

Mr. Zook described the notice requirements that were required and said all notices had been given. Mr. Zook said a future agenda item would be brought to the Council to approve the sale of the properties. He said there were two interested buyers for one of the properties.

Mr. Anhder asked if the City had received an appraisal for the market value of the lots. Mr. Zook said a real estate broker had conducted an appraisal of the properties. Mr. Anher asked if this had been discussed during the budget approval process. Mayor Dustin said it had been discussed as a funding mechanism for the tennis courts.

Brian Barrett asked if selling the lots was a done deal or if it was up for debate. Mr. Barrett also recollected that Mr. Gibbons had sold the lots with the stipulations that he be able to approve what was put on the two lots. He said Mr. Gibbon lived near the lots and didn't want anything affecting his home value. He said he had the same questions seeing that his home was next to these lots and he wanted to maintain his home value. Mr. Barrett stated he was interested in the park proposal or Veteran's Memorial. Mr. Barrett asked why the city had divided the lots the way they had.

Larry Anhder said he negotiated the purchase of that property for the city. He said that half the value of the lot had been donated to the city and felt it was a bad show of faith to remarket the lots and sell them. Mr. Anhder discussed the lot the City Council was now proposing for a Veteran's memorial said if the area were ever to be developed into a city center then the lots would be great commercial lots. He also noted that the donation of the lots came with a significant donation of water rights; and said the city received tremendous value from the purchase of those lots. He noted the beauty of that area along a beautiful roadway. He said they should be enhancing the area and not selling it off. He said it was highly visible and should be enhanced and not made smaller. Mr. Anhder said the budget was inconsistent on how the tennis courts would be paid for and said with the sale of the lots they would end up with more money than they needed. He said there was a variety of other ways to fund the tennis courts and restated his objections. A) setting a bad president, B) a beautiful location and enhancement to the community, and C) it wasn't really needed.

Seeing no further comment, Mayor Dustin closed the public hearing at 6:49.

Mr. Zook addressed the question of whether this was a done deal. He said it was not and said there would be a subsequent item brought to the city to consider the sale of this land.

Mr. Zook addressed the question regarding the restrictions that had been set by Mr. Gibbons and said the estate had allowed the development of a house on that property. Mr. Gibbons heirs would remove the restriction that the land be developed as park space. The land would be developed according to regular Nibley City ordinance.

Mr. Zook addressed the differences of lot sizes. He said he didn't know why they had been drawn that way and asked Mr. Anhder if he knew why. Mr. Anhder described that the lots were parts of two completely different subdivisions.

Mayor Dustin and Councilwoman Beus discussed why the purchase of this property hadn't been advertised for discussion on the agenda. Councilwoman Beus said she felt that selling the property was a loophole and that she didn't like loopholes. She felt it was "skeevey". Mayor Dustin noted that Nibley City had gone to the estate and trust and asked what the city needed to do with the property to honor the original intent; it was not being sold out from underneath anybody. Councilman Jacobsen discussed the land in North Logan that had been impacted by the new high school. He said the stipulations that were associated with that land had been transferred elsewhere and made an incredible opportunity for Nibley City. Councilman Jacobsen said he felt as long as they followed process honored the directions given by the estate that they were not doing anything underhanded or finding a loophole. Councilman Jacobsen agreed with Mr. Anhder that the property was in a beautiful location and that 800 West was a fantastic road but that Nibley City shouldn't get into the mode of owning all the land that touched their land. He said they had to find the property balance between where they placed the amenities they offered its citizens within the proper boundaries.

Councilman Hellstern asked Mr. Zook to describe any maintenance or specific plans the city had for developing the property. Mr. Zook said the property was mowed occasionally and stood dormant. He was not aware of any specific plans for developing the area.

Councilman Hansen discussed his feelings when the land was originally purchased and said he felt at that time that the area was better suited as a residential area with houses. He said he still that the area was better suited for residential.

Councilman Jacobsen encouraged the City Council to consult the Nibley City Parks and Trails plan to see if there were any plans for these properties. Councilman Jacobsen said he was not interested in wasting city staff plans and felt it would be appropriate to list this item on a future agenda so the City Council could discuss how the City Council wanted to proceed with the property. Councilman Bernhardt discussed the layout of the property and proposed if might be hard to develop the land with a house given the layout and the lack of yard area.

Councilman Jacobsen read from the Nibley City Parks and Trails Master Plan.

Gibbons Property Location: 800 W. & Nibley Park Ave.

Size: .65 acres (2 parcels)

Potential for Recreation: These parcels are across the street from the Heritage Park. They are not of a sufficient size or configuration to be utilized for recreation purposes. There may be a possibility of doing a veteran's memorial or other passive use on the property.

Future Development Plans: Sell the southern parcel. Plans TBD on the northern parcel."

Councilman Jacobsen said the Nibley City Parks and Trails Master plan was adopted in of 2011. Mayor Dustin noted that it was the City Council's intention to revisit the Parks Master plan in the near future. Mayor Dustin said he would direct staff to prepare and present their input at the next City Council meeting.

All public excluding Barbara Wilden and Corlyss Drinkard left the meeting at 7:11 p.m.

Discussion and Consideration of Resolution 15-08: A Resolution of the Nibley City Council Adopting the 2015 Pre-Disaster Mitigation Plan: Bear River Region (First Reading)

Mr. Zook said the Bear River Association of Governments recently prepared and adopted a tri-county Pre-Disaster Mitigation Plan working with all the cities, counties, and jurisdictions in the region. Nibley City staff participated in the development of the plan. This was required by FEMA and qualified Nibley for pre and post disaster mitigation funding. Mr. Zook discussed the threats that were identified for the Nibley area and said hazard mitigation identified potential threats and to identify ways to prevent them from causing as much damage as they potentially could. He said the mitigation reduced, limited, and prevented the vulnerability of people, property, or the environment. Mr. Zook said this was a comprehensive plan and in order for Nibley City to qualify for FEMA disaster funds, the City must first adopt this plan. Mr. Zook said it had been reviewed by FEMA and they were not really in a position to alter it at this point. Councilman Jacobsen said the maps were fantastic and said the plan was really fascinating and was an engineer's dream of a worst case scenario and analysis.

Councilwoman Beus asked if they were held to any of FEMA's standards if they adopted the plan. Mr. Zook said this made them eligible for FEMA funding and said FEMA was impressed by the plan and had offered some funding the communities in the valley to mitigate some of the risks called out in the plan.

Councilman Bernhardt asked if their was a plan of how often the plan would be updated. Mr. Zook recalled that it would be updated every 8-10 years.

Councilman Jacobsen made a motion to approve Resolution 15-08: A Resolution of the Nibley City Council Adopting the 2015 Pre-Disaster Mitigation Plan: Bear River Region for first reading and move it to a second reading. Councilman Hellstern seconded the motion.

Mayor Dustin discussed the City Council's option to waive the second reading of the Resolution.

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

Appointment of Mayor Shaun Dustin to the Wastewater Treatment Rate Committee

Mayor Dustin said at the August 6 City Council meeting, the Council adopted a multi-city agreement pertaining to the treatment of wastewater by Logan City. That agreement established a rate committee that would be composed of members of each of the participating cities and could weigh in on rate. Mayor Dustin said this was proposing he maintain this position, which he had been occupying for the last couple of years.

Councilman Jacobsen made a motion to appoint Mayor Shaun Dustin to the Wastewater Treatment Rate Committee. Councilwoman Beus seconded the motion

Councilman Bernhardt stated his concern with the Mayor's time commitments and asked if there was a time limit set for the appointment. Mayor Dustin said he had no intention to serve on the committee if he was not an elected official. He said he intended to serve for a year and then turn the position to a member of City Council, Mr. Zook, or a member of the community. Councilman Bernhardt suggested the City Council include a time limit in the motion. Mayor Dustin said he felt this appointment would evolve to a staff level

Councilman Bernhardt made a motion to amend that the City Council revisit the appointment to the Wastewater Treatment Rate Committee after a one-year term. Councilwoman Beus seconded the motion. The amendment passed unanimously 5-0; with Councilman Bernhardt, Councilwoman Beus, Councilman Hansen, Councilman Jacobsen, and Councilman Hellstern all in favor.

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

Discussion and Consideration of Resolution 15-09: A Resolution of the Nibley City Council Requesting the Recertification of the Nibley City Justice Court (First Reading)

Mr. Zook said the City is required to have the Justice Court recertified every four years. This resolution requested that the State Justice Courts Standards Committee and the Utah Judicial Council review Nibley's court and consider it for recertification. The Courts Standards Committee and the Utah Judicial Council had asked that the City Council adopt the resolution and that the city get a letter from Nibley attorney giving his opinion of Nibley ability to continue providing justice court services. They also asked for an affidavit from Nibley's judge. When these items were ready they would be submitted to the State and they would begin Nibley's court recertification process. Mr. Zook said Nibley's attorney had already provided his opinion letter, which essentially said he didn't see any reason Nibley shouldn't be able to continue court services.

Councilwoman Beus made a motion to approve Resolution 15-09: A Resolution of the Nibley City Council Requesting the Recertification of the Nibley City Justice Court, for a first reading. Councilman Bernhardt seconded the motion.

Councilman Hellstern asked if it was a requirement that the justice court be held in Nibley City's limits. Mayor Dustin said this was a good question and said there was hesitation that the city would be able to maintain the level of security that was needed for the facility without significant expenditures. Mayor Dustin said this recertified the court but didn't obligate them to continue the court proceedings. Councilman Hellstern asked if moving the court to a different facility this would have an effect on current court staff. Mayor Dustin said if they contracted with an existing court then it would significantly effect the city staff. He said the other possibility would be an inter-local agreement. Then the group would have to hire a judge and was not a guarantee that Nibley's staff would maintain their positions. Councilman Hellstern said he would like to discuss any changes with the City Council so that they could ensure that Nibley maintain it's staff. Councilman Jacobsen and Mayor Dustin discussed how the current resolution preserved Nibley City's options.

Mr. Zook said the State liked consolidation in the courts and said this was happening now; Nibley City served Mendon's court. Mr. Zook discussed safety changes had already been made to the building and his concern about the safety of court and city staff and the public. Mr. Zook said he was concerned with justice and whether they were being fair. He was concerned whether they were providing the highest level of justice that was handed out in justice courts, particularly the level of defense that was provided.

Councilman Hellstern asked about the level of staff that was available to handle court customers. Mr. Zook said they always have one court clerk available at all hours during Nibley City business hours.

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

Council and Staff Reports

Councilman Jacobsen requested hearing a report from Nibley's Cache Mosquito Abatement representative. He specifically wanted to hear about the requirements of a "no spray" zone and the chemicals that were being sprayed. Councilman Jacobsen said he would provide his questions and concern to the representative before the meeting. Mayor Dustin said he would like to wait until the spraying season was put in order so the Mr. Archudis would have time to collect information. He suggested seeing the representative in November.

Councilman Hellstern reported on the certification of Nibley as a Certified Wildlife Habitat by the National Wildlife Federation. He said USU intended to contact Nibley to discuss what they were doing to provide food, water, and shelter for wildlife.

Councilman Hellstern reported on contacting the local LDS Stake President about including local church emergency preparedness specialist at the Nibley City training on November 6. Mr. Zook said he had also reached out to the LDS church.

Councilman Hellstern said he had requested the Sherriff take a closer look at monitoring the speed limit along Hollow Road. He said he was concerned. He said he was going to request certain residents let the police use their driveways. Mr. Zook said that Hollow Road would be added to the flashing speed limit sign rotation.

Councilman Hansen requested a report of the Utah League of Cities and Towns conference be included on the next agenda.

Mayor Dustin discussed the City Council meeting schedule for October. The City Council discussed the issues that may appear on the agenda in October. The City Council decided to hold their next meeting on Thursday, October 15.

Mayor Dustin said Heritage Elementary had expressed their appreciation of the money budgeted and the public works time for the new sidewalk at Heritage Elementary School. He had "Thank You" notes from the students at Heritage Elementary.

Mr. Zook reported on the new sidewalk at Heritage Elementary School.

Mr. Zook reported on "Meet the Candidates Night" being held on October 23 at 6:00 p.m.

Mr. Zook reported on UDOT's response to the use of orange flags at the projected crosswalk along SR165.

Mr. Zook reported that he had discussed parking at Clear Creek Park and the suggestions that had been made by the City Council with Allen Haycock. Mr. Zook said Mr. Haycock said he would be work on the game scheduling.

Mr. Zook reported on efforts to reach out to Nibley's Hispanic community.

Mr. Zook reported on the city's insurance company, the Utah Local Governments Trust. He said the insurance company intended to deny the Nibley City's claim as to the contaminated spring itself. He said the insurance company had paid the city a portion of the city's well contamination claim and reported that the insurance company was intending to pursue payment from the offending party's insurance company. He said because the insurance company was pursuing reimbursement from the claims already paid they were also pursuing the money they were denying on

the claim and if this were to happen then the city would be made whole and wouldn't necessarily need to take any further action. Mr. Zook said he had been told that Nibley had a really good case to pursue reimbursement from Nibley's insurance company to pay the rest of the claim they had asked for.

There was general consent to adjourn the meeting at 8:13 p.m.

Attest: _____
Deputy City Recorder