

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, February 18, 2016.

The following actions were made during the meeting:

**Councilmember Jacobsen motioned to approve the first reading of Ordinance 16-0: An Ordinance Amending the Nibley City Planning Commission, and to move the ordinance to a second reading. Councilmember Ramirez seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Ramirez, Councilmember Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.**

**Councilmember Jacobsen motioned to give consent to the appointment of Jim Johnson to the Nibley City Planning and Zoning Commission. Councilman Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilman Bernhardt, Councilmember Hansen, Councilwoman Beus, and Councilmember Ramirez all in favor.**

**Councilmember Jacobsen motioned to approve the second reading of Resolution 15-12: A Resolution Amending the Nibley City Parks Master Plan to Include A Conceptual, Non-Construction Design for a 20-acre Expansion of Virgil Gibbons Heritage Park as amended during the first reading. Councilman Bernhardt seconded the motion.**

**Councilmember Jacobsen made a motion to amend to strike “alternative 3” from Resolution 15-12. Councilwoman Beus seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilwoman Beus, Councilmember Hansen, Councilman Bernhardt, and Councilmember Ramirez all in favor.**

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

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#### OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Deputy City Recorder Cheryl Bodily

#### **Opening Ceremonies**

Offered by Councilmember Jacobsen.

#### **Call to Order**

Mayor Shaun Dustin called the Thursday, February 18, 2016, Nibley City Council meeting to order at 6:32 p.m. Those in attendance included Mayor Shaun Dustin, Councilman Bryan Hansen, Councilman Larry Jacobsen, Councilwoman Kathryn

Beus, Councilman Thomas Bernhardt, and Councilman Tim Ramirez. Mr. David Zook, Nibley City Manager, Shari Phippen, Nibley City Planner, Stephen Nelson, Nibley City Treasurer, Trevor Cook, Nibley City Justice Court Judge, and Nancee Jabbs, Nibley City Court Clerk were also in attendance.

**Approval of agenda and approval of the February 4, 2015 meeting minutes**

Councilmember Jacobsen made a motion to approve the last meeting minutes as presented and the evening’s agenda as presented. Councilman Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilman Bernhardt, Councilmember Hansen, Councilwoman Beus, and Councilmember Ramirez all in favor.

**Public Comment Period**

Mayor Dustin read the rules of the public comment period.

Ron Hellstern had an object lesson regarding the intersection at SR 165 and 3200 South. Mr. Hellstern asked how recently the City Council had talked to UDOT’s current policy makers about pursuing a three-way stop light at that intersection. He felt UDOT’s priorities had shifted to safe transportation and that they may be more open to this possibility. Mr. Hellstern reported on a joint meeting of the Cache Valley Wildlife Association and the Tree Board on April 30 that would be used for planting restoration trees along the Blacksmith Fork River. Mr. Hellstern discussed the possibility of combining the CVWA and Tree Board meetings.

Corlyss Drinkard of 3896 South 640 West in Nibley, referred to a drawing that had been presented in regards to the Firefly Park. Ms. Drinkard “dittoed” the comments made by Mr. Hellstern about revisiting the intersection issue with UDOT. Ms. Drinkard expressed her doubt that the City Council would be able to find enough volunteers to act as alternate Planning and Zoning Commission members but said she was glad that the city would be providing training in what the Planning and Zoning Commission was all about.

Mayor Dustin asked for general consent to suspend the agenda so that Ms. Phippen could give her staff report. General consent was given by the City Council.

Ms. Phippen updated the City Council of the progress made on the Nibley General Plan update. She reported that the plan was delayed. She felt the consultants would have the draft General Plan available by the end of the month and described the proposed process moving forward.

**Discussion and Consideration of Ordinance 16-01—An Ordinance Amending the Nibley City Planning Commission**

Ms. Phippen discussed why the Planning and Zoning Commission would benefit from having alternate Commissioners. Ms. Phippen discussed the other changes that were proposed in the Planning and Zoning Commission ordinance; the first being a change of language that City Council members may not serve on the Planning and

Zoning Commission. The second change referred to reporting the votes of actions of the Planning and Zoning Commission to the City Council. She said the practice in the past was that the minutes would constitute this report but the ordinance would now require city staff to make this report. Ms. Phippen reported the compensation of a Planning and Zoning Commissioner and said that some additional funding may be needed to compensate alternate Planning and Zoning Commission members. Mr. Zook said the ordinance was written to encourage the alternate Planning and Zoning Commissioners to participate as often as they could and he said he agreed with this.

Councilman Bernhardt asked for an idea of how many Planning and Zoning Commission meetings had to be cancelled because there was no quorum. Ms. Phippen recalled that she had to cancel 1-2 meetings per year. Mr. Zook asked to know the City Council preferences regarding reports of the Planning and Zoning Commission meeting. Mayor Dustin said he intended to have a verbal summary during City Council meetings. Mayor Dustin said he was also interested in pursuing alternate Planning and Zoning Commission members so that they could have a “farm team” and have people available to step up and fill a Planning and Zoning Commission role. Councilmember Jacobsen said he was interested in the Planning and Zoning Commission’s opinion on the proposed changes. Ms. Phippen said she’d had discussions with the Planning and Zoning Commission about appointing alternates and that they were supportive of alternates. He said he would like this to be an agenda at the Planning and Zoning Commission before the City Council adopted the ordinance at a second reading. He wanted to give the Planning and Zoning Commission a chance to get on record.

Councilmember Jacobsen made a motion to approve the first reading of Ordinance 16-0: An Ordinance Amending the Nibley City Planning Commission, and to move the ordinance to a second reading. Councilmember Ramirez seconded the motion.

Councilmember Bernhardt asked if this would require a budget amendment. Ms. Phippen said it wouldn’t effect the budget; especially in this fiscal year. There was enough money budgeted in Planning and Zoning Commission salaries and there were only a few meeting left in the fiscal year.

Councilwoman Beus questioned whether the alternates would remain engaged. Mayor Dustin said he felt it would be on his and city staff’s responsibility to keep the alternates informed and up to speed. Ms. Phippen said that each year a member of the Planning and Zoning Commission’s term expired and that they may be able to get into a pattern of replacing any Commissioners that wanted to discontinue with an alternate. Councilmember Jacobsen said he would look forward to the discussion of what the difference was between a Planning and Zoning Commissioner and an alternate. He said it seemed that they created a 7 member Planning and Zoning Commission if they adopted the ordinance. He would like to discuss having alternate members vote at the second reading. Councilmember Jacobsen said he felt they should only allow alternate members of the Planning and Zoning Commission to vote if a regular member of the Planning and Zoning Commission was missing. Ms.

Phippen said that was her intent and said she would change the language to reflect it. Councilmember Ramirez said he felt it was a great idea to keep the alternates involved and to create a pool of candidates.

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

**Discussion and Consideration of the Appointment of Jim Johnson to the Planning and Zoning Commission as a regular commissioner and Aaron Bliesner as an Alternate Commissioner**

Discussion of appointing Aaron Bliesner as an alternate commissioner was put off to the next City Council meeting. This appointment could only be made if Ordinance 16-01 is adopted.

Mayor Dustin gave background information on Jim Johnson. He said with the loss of Wayne Anderson and Aaron Bliesner they no longer had a Planning and Zoning Commissioner that had a professional background in land-use issues and that Mr. Johnson was a civil engineer with a PHD in public administration and brought a nice diversity of experience and had a strong vision of Nibley's future.

Councilmember Jacobsen made a motion to give consent to the appointment of Jim Johnson to the Nibley City Planning and Zoning Commission. Councilman Bernhardt seconded the motion.

Councilmember Jacobsen and Ms. Phippen discussed land-use training opportunities for Planning and Zoning Commissioners.

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

**Discussion and consideration of Resolution 15-12—A Resolution Amending the Nibley City Parks Master Plan to Include A Conceptual, Non-Construction Design for a 20-acre Expansion of Virgil Gibbons Heritage Park. (Second Reading)**

Mr. Zook summarized the full background and discussion of this consideration. He said the key and additional information that had been requested by the Council had been included on the concept map that was approved at the December 12, 2015 meeting; these were the only changes. Mr. Zook said the changes to Resolution 15-12 that had been requested by the City Council at the December 12, 2015 had also been added to the version to be approved. Mr. Zook said if the City Council approved the Resolution then the plan would be incorporated into Nibley City's Parks Master Plan and would give staff some guidelines and directions for future parks projects. He said the city was anxious to start work on the park and that there were funds available to do some work at this park. Mr. Zook described the features of the

concept design. He discussed potential residential development on the west side of the conceptual park. Councilmember Ramirez expressed his concern with road traffic affecting the wildlife at the park. Mayor Dustin said they couldn't know what impact the road would have at this time. Mr. Zook suggested they consider a buffer between the park and road and Ms. Phippen described the road and the land adjacent to the conceptual park.

Councilmember Jacobsen made a motion to approve the second reading of Resolution 15-12: A Resolution Amending the Nibley City Parks Master Plan to Include A Conceptual, Non-Construction Design for a 20-acre Expansion of Virgil Gibbons Heritage Park as amended during the first reading. Councilman Bernhardt seconded the motion.

Councilman Bernhardt expressed his concerns with confusion in the naming of each concept. Mr. Zook said the plan that was presented to the City Council during the evening's discussion was the concept referred to as option 3 in the previous discussion. Mayor Dustin also clarified that this didn't constitute a motion to name this park "Firefly" Park. He said this was a conceptual name that had simply followed through.

Councilmember Jacobsen made a motion to amend to strike "alternative 3" from Resolution 15-12. Councilwoman Beus seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilwoman Beus, Councilmember Hansen, Councilman Bernhardt, and Councilmember Ramirez all in favor.

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

### **Open and Public Meetings Act Training**

Nibley City Treasurer, Stephen Nelson, presented this training.

Mr. Zook said the Open and Public Meetings Act, found in Utah Code, Title 52, Chapter 4, which was adopted by the State Legislature in 2006, sets forth laws about public meetings and how they are to be conducted. The Act also required that members of public body annually participate in training related to the requirements of the act. Mr. Zook said the Utah League of Cities provided this training annually at conferences and other training events, however Mayor Dustin wanted the training to be provided in a City Council meeting to ensure all members were able to participate.

Ms. Phippen left the meeting at 7:48 p.m.

Mr. Nelson had a PowerPoint presentation to accompany his discussion. He discussed what the OPMA did, who was required to follow the OPMA, the definition

of a meeting, if a meeting can be held without people in the same room, when a meeting can be closed to the public, how a meeting is closed, what is forbidden during a closed meeting, public notification, exceptions to giving notice, if minutes are required in open and closed meetings, if minutes are public record, how the open meetings law is often broken, and who enforces the law.

Councilmember Jacobsen said he felt they should be required to take a test to prove that they had received the training.

### **Discussion Regarding the Nibley Justice Court**

Mr. Zook recognized Nancee Jabbs and Nibley's Justice Court Judge, Trevor Cook.

Mr. Zook summarized the Justice Courts in Cache County, what a justice court handles, members of Nibley's court, when and where the justice court is held, fines, revenues and expenditures, justice court pros & cons, indigent defense, and organizational options and the timelines associated with the options.

Mr. Zook said that the Hyrum Justice Court was interested in Nibley entering into an inter-local agreement to partner with Hyrum City for court services and to work towards establishing a south-end regional court.

Judge Cook said he didn't think Nibley's court had ever gone in the hole with the court budget. He also said justice courts weren't designed to make money; they are a service to the community. He described how justice courts should treat citizens with respect and could be helpful in educating the citizenry about the judicial process. Judge Cook described his history with transport cases. Judge Cook said he wasn't opposed to having a major court but said that all judges should have a bar license. Mr. Zook agreed that Judge Cook had never gone over budget and explained what the budget numbers reflected. Councilmember Ramirez agreed that a judge should have a bar license. He agreed that the court was not there to make money and posed the questions that they would still have most of the pros if they partnered with Hyrum. Judge Cook said yes and no; it depended on the judge.

Mayor Dustin felt the fundamental question for the City Council was if they wanted city staff to continue discussions with Hyrum on partnering for court services. Councilmember Jacobsen asked if Hyrum was specifically interested in Nibley sending their cases to them or if they were intending to send their services to Nibley. Mr. Zook said Hyrum was interested in forming a regional court. He described Hyrum's new court facilities and their intentions moving forward with their old city hall.

Councilmember Jacobsen asked Judge Cook and Councilmember Ramirez about security and risk analysis. Councilmember Ramirez said he was amazed that they hadn't had something happen already. He said that Nibley's building was a security nightmare and described the risks. Councilmember Jacobsen asked Mrs. Jabbs and Judge Cook if they felt safe in Nibley's facilities. They both agreed that they had

never felt unsafe. Mayor Dustin said they needed to question if they anticipated feeling safe six years from now and said he couldn't quantify that risk. He said if they were going to move towards a regional court anyway then now was the time to do it. Councilwoman Beus asked what would happen with the court staff. Mr. Zook said some of the staff time could be adsorbed but he had already discussed staff working with the regional court in Hyrum. Councilmember Hansen said he felt they should have a little control to help identify the city. He felt they should keep the court as part of their city staff.

Mayor Dustin said he would like to get specific proposals from Hyrum and Providence. Councilwoman Beus and Councilman Bernhardt were nodding their heads to agree. Councilwoman Beus asked for a staff recommendation. Mr. Zook said his opinion was that a bigger court was better; that they would have more resources to provide a higher level of security. He felt they weren't doing everything that could be done. He felt a regional court was a good idea and that was the way the entire county should go. Mr. Zook said he had the utmost respect for Judge Cook and thought he should be the judge for the regional court. He discussed the potential option of having an inter-local agreement with Judge Cook and having him work at Hyrum's court.

Councilman Bernhardt agreed with Mayor Dustin that Nibley should look at all the options because now was the time they needed to make the decisions. The general consensus was that they needed to look at all options. Councilmember Ramirez felt another issue was the tax payer; everyone getting "a little piece of the pie" was not tax effective. Councilmember Ramirez described how he felt some of the pros given were actually cons and said he definitely felt they should look into this further. Councilmember Jacobsen didn't want this to overwhelm Mr. Zook's other responsibilities. Mayor Dustin discussed doing an inter-local agreement in the short term with the intent to move to a regional court in the long term.

### **Council and Staff Report**

Mayor Dustin reported on two city owned parcels by Heritage Park. He said a realtor had approached him about purchasing those lots and he reported that he had responded that the city was not ready to talk about selling those lots yet. Mayor Dustin said he had spoken to Former Mayor Knight about the city's intent for those lots. Mayor Knight had recalled that the intent was to sell the south lot and that the northernmost lot, bought with water shares, was a potential gateway to the Heritage Park area. Mayor Knight recalled that they had discussed more park area or a Veteran's Memorial. The City Council discussed the position of the trustees of those land parcels.

Mayor Dustin excused himself at 9:10 p.m.

Councilmember Jacobsen made a motion to appoint Councilmember Hansen as Mayor Pro Tempore. Councilmember Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilman Bernhardt,

Councilmember Hansen, Councilwoman Beus, and Councilmember Ramirez all in favor.

Mr. Zook told the City Council that they had closed on the property at the end of 3200 South. Councilmember Jacobsen asked when Mayor Dustin and Mr. Zook had intended to meet this UDOT about the intersection at 3200 South. Mr. Zook said they had a meeting with UDOT on the upcoming Thursday. Councilmember Ramirez asked for more information on grants to update 800 West. Mr. Zook said he had asked Ms. Phippen to look into a school safety grant and would follow up with her.

Mr. Zook told the City Council about a League of Cities Essay contest for 3<sup>rd</sup> or 4<sup>th</sup> graders. He asked the City Council to spread the word to any 3<sup>rd</sup> or 4<sup>th</sup> graders they felt would be interested.

Mr. Zook reminded the City Council of Nibley's Ski Night at Cherry Peak on February 22.

Mr. Zook reported on construction progress on the new city well.

Councilman Bernhardt asked for an update on the 2600 intersection. Mr. Zook said the intersection would be signalized by the end of this summer. There was an agreement with the school district that they were not allowed access across the bridge until the signal is active. Mr. Zook said sidewalk would be on all four sides of that intersection and there would be a signalized crosswalk. Mr. Zook described progress on construction of the bridge at 2600 South.

Councilwoman Beus asked if they could review the city's policy on water leaks. She was concerned with water leaking during the winter that hadn't been metered which could result in a large water bill. Councilwoman Beus asked if they could review that policy for the winter months. Mr. Nelson described Nibley policy on water bills that include a water leak. Mr. Nelson said they could work in read periods. He also said it was becoming more plausible to do meter reads in the winter. Councilwoman Beus asked Mr. Nelson to look into a read period.

Mayor Pro Tempore Hansen adjourned the meeting at 9:31 p.m.

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