

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, November 14, 2019.

The following actions were made during the meeting:

Councilmember Beus motioned to adopt the Canvas of the November 5, 2019 Nibley City General Election. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Jacobsen, Councilmember Bernhardt, and Councilmember Ramirez all in favor.

Councilmember Bernhardt moved to approve Ordinance 19-17: An Ordinance Adopting an Impact Fee Analysis and Implementing Impact Fees for Transportation, for first reading. Councilmember Jacobsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Jacobsen, Councilmember Beus, Councilmember Ramirez and Councilmember Larsen all in favor.

Councilmember Bernhardt made a substitute motion to advance Resolution 19-13: A Resolution of the Nibley City Council Adopting the Survey Recorded as 2019-0083, Establishing the Right-of-Way on 640 West from 3200 South to 4000 South to second reading. Councilmember Larsen seconded the motion. The substitute motion passed 4-1; Councilmember Bernhardt, Councilmember Larsen, Councilmember Jacobsen, and Councilmember Beus in favor. Councilmember Ramirez opposed.

OFFICIAL MINUTES OF THE MEETING
Deputy City Recorder Cheryl Bodily took minutes

Opening Ceremonies

Mayor Dustin held a moment of silence in honor of the previous Monday's Veterans Day.

Call to Order and Roll Call

Mayor Shaun Dustin called the Thursday, November 14, 2019, Nibley City Council meeting to order at 6:32 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Larry Jacobsen, Councilmember Kathryn Beus, Councilmember Thomas Bernhardt, Councilmember Tim Ramirez and Councilmember Norman Larsen. Mr. David Zook, Nibley City Manager, Stephen Nelson, Nibley City Planner, and Justin Maughan, Nibley City Public Works Director was also in attendance.

Approval of agenda; and approval of the October 15, 2019 and October 24, 2019 meeting minutes

Councilmember Jacobsen moved to approve the October 15, 2019 and October 24, 2019 meeting minutes and the evening's agenda as presented. Councilmember Bernhardt

seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Bernhardt, Councilmember Beus, Councilmember Ramirez, and Councilmember Larsen all in favor.

Public Comment Period

Mayor Dustin opened the Public Comment Period at 6:34 p.m.

Angelica Gardner of 2617 South Main Street thanked the City Council, Mayor and staff for the things they did for the community. She said because of their service they had a better community and she understood that a lot of things that were done didn't get noticed. She hoped people would come out and support current City Council officers and future City Council officers. She thanked Councilmember Larry Jacobsen and Councilmember Tim Ramirez for their years of service.

Brian Anderson of 780 West 3200 South also thanked the City Council, Mayor, and city staff. Mr. Anderson asked about the storage units coming just down 3200 South and questioned a single access to that development. Mr. Anderson asked for an update on mailboxes along 3200 South. Mr. Anderson questioned 92 acres adjacent to 3200 South and asked if the land had been sold yet. Jeff Jackson, with Visionary Homes said he could talk with Mr. Anderson. Mr. Anderson asked if there had been recent discussion of reducing the speed limit on 3200 South. Mr. Zook reported that the post office had indicated they were willing to make the switch at the end of year. He had asked the Post Office to keep the City updated so they could help get the word out citizens. Mr. Zook said he would follow up with the Post Office. Mayor Dustin told Mr. Anderson he could reach out to Mr. Nelson regarding the storage unit.

Seeing no further public comment, Mayor Dustin closed the Public Comment Period at 6:40 p.m.

Presentation by the Utah City Management Association

Mr. Bryce Haderlie, President of the Utah City Management Association was in attendance at the meeting to give this presentation. He was joined by Past-President, Ben Reeves and UCMA Board member Kyle Laws.

Mr. Haderlie said the following:

"Mayor Dustin and Members of the Nibley City Council,

Good evening, my name is Bryce Haderlie, President of the Utah City/County Management Association or UCMA. I am joined this evening by UCMA Past President Ben Reeves and UCMA Board Member Kyle Laws. The UCMA represents City and County Management professionals throughout the State of Utah and is the Utah State Affiliate of the International City/County Management Association or ICMA.

The ICMA's mission is to create excellence in local governance by promoting professional management worldwide and by increasing the proficiency of appointed chief administrative officers, assistant administrators, and other employees who serve local governments.

As board members of UCMA, and representative of ICMA, we are please to attend your council meeting this evening to honor a distinguished member of our association; Mr. David Zook with ICMA's prestigious "Credentialed Manager" designation.

The ICMA Voluntary Credentialing Program recognizes professional local government managers qualified by a combination of education and experience, adherence to high standards of integrity, and an assessed commitment to lifelong learning and professional development. Managers are recognized by the ICMA Executive Board through a peer review credentialing process.

This program assists ICMA members in focusing and reflecting upon their lifelong professional development experience. ICMA Credentialed Managers are viewed with growing distinction by local governing bodies and progressive, civically engaged communities. The skills and experiences learned within this program are invaluable to the credentialed manager and the community they serve. David is one of only seventeen local government professionals in the State of Utah who have earned this prestigious designation.

As member of the UCMA, we are honored to represent the ICMA in bestowing this "Credentialed Manager" designation to David Zook. He is a highly respected member of our association and an example and mentor to his peers throughout the State of Utah.

Please join us in congratulating David Zook who has achieved these tremendous career accomplishments."

Mr. Zook thanked the Mayor Dustin and City Council for helping create an environment that supported personal and professional development and gave them a budget for training and profession development. He appreciated the opportunity staff had to continually improve and felt this was a very important part of local government and part of their stewardship of the dollars and responsibilities given to them for residents and to do the best job they can do for residents.

Adoption of the Canvas of the November 5, 2019 Nibley City General Election

Ms. Bodily gave this presentation. She showed a graphic that demonstrated historical voter registration versus voter turnout during Nibley City's elections 2011 through 2019. Ms. Bodily summarized that one-third of the total votes cast in the current general election had been received during the early voting period. Ms. Bodily directed the City Council to the statistics presented in the 2019 General Election canvas and discussed provisional ballots. Ms. Bodily reported that Kay Sweeten, Nathan Laursen, and Tom

Bernhardt would be members of the Nibley City Council starting in January of 2020 and it was anticipated they would serve for a period of four years until 2024.

Councilmember Beus motioned to adopt the Canvas of the November 5, 2019 Nibley City General Election. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Jacobsen, Councilmember Bernhardt, and Councilmember Ramirez all in favor.

A Public Hearing to receive comment regarding Ordinance 19-17: An Ordinance Adopting an Impact Fee Analysis and Implementing Impact Fees for Transportation

Mr. Nelson gave a presentation regarding the impact fee analysis. Mr. Nelson said the City Council charged impact fees to help compensate the City for impact based on development. Fees are used to mitigate the impact to infrastructure because of development. Impact fees help fund expansion of public facilities to accommodate new growth.

Fred Philpot with Lewis, Young, Robertson and Burningham Inc. was present at the meeting. He used an electronic presentation to review the analysis of an impact fee for transportation. His presentation included the following topics: IFFP and IFA methodology, Proportionate Share, Proportionate Share: Transportation, Proportionate Share: Fee, Comparisons, Next Steps: Adopt, modify or reject proposed impact fee. If adopted there is a 90 day wait period before Nibley City could begin assessing the proposed impact fee.

Mayor Dustin gave direction to the public present and opened the public hearing at 7:06 p.m.

Seeing no public comment, Mayor Dustin closed the public hearing at 7:06 p.m.

Discussion and Consideration of Ordinance 19-17: An Ordinance Adopting an Impact Fee Analysis and Implementing Impact Fees for Transportation (First Reading)

Mr. Nelson said Nibley City currently had impact fees listed in two locations; 15.12 and 17.04 and the vast majority of 17.04 should have been repealed when Nibley City last updated impact fees in 2013. Mr. Nelson said Ordinance 19-17 would repeal most of 17.04 and recodified 15.12 as 17.06 with the addition of the transportation impact fee incorporated into the ordinance. Mr. Nelson said Nibley City's attorney had recommended this update. Mr. Nelson showed a slide that illustrated Nibley City's current Impact Fees For Single Family Homes and proposed impact fees if the proposed transportation impact fee were adopted.

Mr. Zook reminded the City Council of the purpose of impact fees and described a concept using parks as an example. Mr. Zook said the City Council had the discretion to lower the proposed fee but couldn't raise it higher. Mr. Zook said if the analyzed impact

fee were not adopted then City Council could be shifting the cost of the new demand on to existing residents.

Councilmember Jacobsen noted that in addition to collecting impact fees they also had the obligation to spend impact fees within 6 years. He questioned if staff anticipated they would spend the proposed impact fee money on the 1200 West corridor roundabout, 2600 South, 900 West and 1000 West within the specific 6 year time frame? Mr. Nelson said they would spend the impact fees collected as long as they actually came in.

Mayor Dustin noted the specific categories (office, light industrial, warehouse) included in the impact fees. He questioned if the ordinance had some mechanisms in place to allow Mr. Nelson the tools he needed to have the teeth in making distinctions. Mr. Nelson thought the City could do this by recently adopted land use definitions. Mr. Nelson said there could be problems in the future but people were typically charged based on the application of the requested conditional use. Mr. Philpot said most entities would evaluate a change of use and if an impact fee were needed. Mr. Philpot described how entities reviewed for impact fees. Mr. Zook said the City normally had the teeth in the building permit process. Mayor Dustin requested staff think about the issue. Mr. Nelson said Nibley City code 17.060.60E. allowed the City room to adjust fees and the adjustment may result in a higher fee if the City determines the use would create a greater impact to the system. Mr. Nelson said he would look into this section of code.

Councilmember Bernhardt clarified the churches and schools had been consolidated into institutional uses in the fee portion of the proposed impact fee. Mr. Nelson said this was the case.

Councilmember Bernhardt moved to approve Ordinance 19-17: An Ordinance Adopting an Impact Fee Analysis and Implementing Impact Fees for Transportation, for first reading. Councilmember Jacobsen seconded the motion.

Councilmember Bernhardt said it surprised him that the proposed fee was so low because roads were so expensive.

The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Jacobsen, Councilmember Bernhardt, Councilmember Ramirez and Councilmember Larsen all in favor.

Discussions and Consideration of Resolution 19-13: A Resolution of the Nibley City Council Adopting the Survey Recorded as 2019-0083, Establishing the Right-of-Way on 640 West from 3200 South to 4000 South (First Reading)

Mr. Maughan led this discussion and said this was part of an effort to connect missing links of sidewalk within Nibley City. Mr. Maughan gave a brief history of the proposed right-of-way as had been discussed in recent City Council meetings. Mr. Maughan said

staff wanted Resolution 19-13 in place to help future City Council's and any judge that may look at the right-of-way in the future in knowing that by moving the sidewalk the City didn't intent to abandon or admit they didn't need or want the disputed space. Mr. Maughan said the resolution stated the City Council adopted the JUB survey, as what the City believed was the right-of-way line.

Councilmember Jacobsen asked if an employee of JUB Engineering did the survey completed by the City and if Mr. Maughan could talk to the qualifications of the surveyor? Mr. Maughan discussed the surveyor's qualifications that he knew. Councilmember Ramirez said they were being asked to say they believed JUB was the right surveyor without actually hearing directly from JUB. He wasn't prepared to accept the survey didn't know much about the surveyor. Mr. Maughan said staff felt confident of the survey JUB had completed.

Councilmember Jacobsen moved to adopt Resolution 19-13: A Resolution of the Nibley City Council Adopting the Survey Recorded as 2019-0083, Establishing the Right-of-Way on 640 West from 3200 South to 4000 South, as presented. Councilmember Beus seconded the motion.

Councilmember Ramirez made a motion to amend, removing item #1 from c.

"The attached survey be adopted as the City's official position on the right-of-way boundaries on 640 West from 3200 South to 4000 South."

Councilmember Larsen seconded the motion.

Councilmember Larsen said the Resolution didn't make much sense if they removed item 1. Mr. Zook said he believed the important item was #4 that said they weren't giving anything up. Councilmember Jacobsen said he was not qualified to decide which survey was correct. He believed they were making the decision whether they were willing to give up, on behalf of Nibley City citizens as a whole, that property. He was not prepared to do that. Based on staff, they had decided the property belonged to the City. Councilmember Jacobsen thought this was a place to leave it and clear it up for whatever came along later.

The amendment failed 2-3; with Councilmember Ramirez and Councilmember Larsen in favor. Councilmember Jacobsen, Councilmember Beus, and Councilmember Bernhardt were opposed.

Councilmember Jacobsen made a substitute motion to adopt Resolution 19-13: A Resolution of the Nibley City Council Adopting the Survey Recorded as 2019-0083, Establishing the Right-of-Way on 640 West from 3200 South to 4000 South, waiving first reading and adopt as final reading. Councilmember Beus seconded the motion.

Councilmember Larsen thought they had gotten to the sidewalk and the next reason they would expand the road would be to widen the street and another survey would be done. He said they weren't using the land and didn't know if they were giving it up or not. He didn't see the value in the Resolution. Councilmember Bernhardt said they needed to draw a line somewhere, which is what they were trying to do. To put a sidewalk in and not say anything would indicate they were abandoning the property. At some point of time they needed to come to an agreement and felt this was the best way to move forward. Councilmember Jacobsen said the question in the case was what right-of-way predated which right-of-way. Councilmember Jacobsen thought that validating a survey set the City up for a future argument. Councilmember Ramirez said he hadn't made up his mind as to whether the land was Nibley City's or not.

The substitute motion to adopt Resolution 19-13 failed 2-3; with Councilmember Jacobsen and Councilmember Beus in favor. Councilmember Bernhardt, Councilmember Ramirez, and Councilmember Larsen were opposed.

Councilmember Bernhardt moved to reconsider the previous motion. Councilmember Beus seconded the motion. The motion passed 4-1; with Councilmember Bernhardt, Councilmember Beus, Councilmember Jacobsen, and Councilmember Larsen in favor. Councilmember Ramirez was opposed.

Councilmember Bernhardt made a substitute motion to advance Resolution 19-13: A Resolution of the Nibley City Council Adopting the Survey Recorded as 2019-0083, Establishing the Right-of-Way on 640 West from 3200 South to 4000 South to second reading. Councilmember Larsen seconded the motion.

Councilmember Bernhardt felt first reading was good for now. Councilmember Jacobsen said the Council usually identified what work needed to be done between first and second reading. Councilmember Jacobsen wondered if they could give direction to staff, the Mayor, or City Council of what needed to be done before second reading. Councilmember Bernhardt said he wanted item five of Resolution 19-13 to be executed and to make sure the City had done its due diligence before the Resolution were adopted. Mayor Dustin asked the City Council to sit down with staff and get to the point they could understand the process the City had gone through and the historical record of how the survey had gotten to their findings. Mayor Dustin asked the City Council to accept a decision and either accept the JUB survey or the survey that was done by the residents so City staff had some clear direction. Councilmember Jacobsen said if this went to district court it wouldn't be the judges decision to judge the competency of the surveyor. It would be the judge's decision to decide which survey was correct.

The substitute motion passed 4-1; Councilmember Bernhardt, Councilmember Larsen, Councilmember Jacobsen, and Councilmember Beus in favor. Councilmember Ramirez opposed.

Workshop: Discussion with Visionary Homes regarding the development of 95 acres east of City Hall as a Town Center

Mayor Dustin and the City Council debated whether Councilmember-Elect Sweeten and Councilmember-Elect Laursen should participate in the workshop discussion. Mayor Dustin said if members of the public had input they felt was relevant to the proceedings, then he would allow the input so long as they were able to keep to a schedule and the Council was able to do the Council's business.

Jeff Jackson and Dallas Nichol were present at the meeting representing Visionary Homes.

Mr. Nelson gave a brief introduction and summary of discussion regarding the proposed development.

Mr. Jackson told the City Council they had determined to ask for \$25,000/acre on the park space land because of the limited use on wetlands; the acreage was 18.6 acres. Mr. Jackson described the proposal that Visionary maintain all the park impact fees for the project and install the entire city park up to the amount of the park impact fees. Part of the park impact fees would be used to purchase the acreage. Mr. Jackson wanted to discuss the park property, road layouts and for the City Council to tell them what they liked or didn't like about the project. Mr. Jackson's goal was to move to preliminary plat discussion within the next 30 days. Mr. Zook said the proposal was that they would come put up with an agreement and the city would waive the park impact fees and the developer would put in an equivalent amount of amenities. Councilmember Jacobsen said this seemed to eliminate options for the City. He asked where the win for the City was with the narrowing of choices. Mr. Zook said the City wouldn't have to build that park and would avoid the administration of building the park. Mr. Nelson said another advantage was that the city could waive some of the requirements within the development to require larger amenities within the public park.

Councilmember Ramirez said if the City Council went this route they needed to put in measures to ensure that complied with Nibley City standards with trees, parks, etc. Mr. Jackson said he believed they could do this for far less dollars than the City could and there would be some minimal administrative fees. Councilmember Ramirez agreed that Mr. Jackson could build the area for much less as a private entity. Councilmember Larsen asked if the City would have to pay for portions of roadways. Mr. Zook said the developer would pay for the road. Mr. Jackson gave a concept plan to the City Council and said they had ballpark estimated the concepts in the development would be 2.5 million. Councilmember Bernhardt had concerns in terms of the citizens. He had done basic calculations of density and money that would be spent and coming in and thought they could do better than what had been proposed. He was not sold on the math. Councilmember Beus asked for the total money that had been spent on Firefly Park, including the acquisition of the land. Mr. Zook said they would be in about 2 million by the end of phase 2. Mr. Jackson said he anticipated phasing the park as they phased the

development of units. He anticipated it would be a 12-year project and the park would be nearly completed by year 4. Councilmember Ramirez said he liked the idea and they got the most bang for their buck. Councilmember Jacobsen said it was a cool partnership.

The City Council and Mr. Jackson discussed roads. Mr. Jackson said he understood that 250 West was a high desire. He discussed that they would have to disturb wetland and wasn't sure the Corps (Army Corps of Engineers) would let them go through the wetlands. Mr. Zook thought they should pursue the road and let the Corps make the decision. The City Council discussed intersection connections to SR 165. Mayor Dustin discussed that he didn't care if Mill Road went through or if 3200 South went through but they needed to have the discussion and cooperation of Millville. Councilmember Jacobsen agreed that it would be up to Millville to do the alignment; he didn't think they had a problem to solve at the current time. Mr. Maughan said he believed the reason they had the light at 3200 South the way it was is because UDOT didn't like the idea of pushing straight through. The preferred alternate recommendation from the people he had talked to was to curve 3200 South up and connect at Maverick and Mill Road and there would never be another full intersection in the area of 3200 South and SR 165.

Mayor Dustin, the City Council, staff, and Mr. Jackson discussed 250 west. Councilmember Beus said she would still like to see the connectivity at 250 west. Mr. Zook said the City liked roads that lined up. Mr. Jackson said he would try for 250 west.

Mayor Dustin asked if the proposed development would be under the same HOA. Mr. Jackson said there would be a master HOA and sub HOAs. Mr. Jackson described the Master/Sub HOA organization.

Councilmember Jacobsen said he'd always envisioned more opportunity for commercial development. The East road could be a great frontage road for commercial development. Councilmember Jacobsen discussed the need for more commercial zones in Nibley. Councilmember Ramirez said he was disappointed in the amount of commercial on the project. Mr. Jackson discussed the concept of work/live units at 2100 north 200 east in North Logan that hadn't worked. Councilmember Larsen asked if there was any consideration for commercial on 3200 south? Mr. Zook and Mr. Nelson reported that commercial zoning was being discussed at the Planning Commission.

Mr. Jackson asked for the next step on the park discussion. Mayor Dustin believed this would come as part of the development agreement as part of the proposal process. Mr. Nelson said code allowed them to approve the R-PUD separate from a preliminary plat. The developer would need to provide the details (densities, general road layout, utilities, proposed amenities) and the City Council could approve the development with the contract based on the master plat. The developer would later come in with each phase and show the detailed engineering and layout and the development agreement would cap them at density that the City Council and developer agreed to.

Councilmember Jacobsen said he was in and the quid pro quo sounded fine. Councilmember Ramirez said he thought they'd done a good job and he was okay with it. Councilmember Beus said that as long as they had the amenities they'd agreed to (or similar) she was all right with the concept. Councilmember Bernhardt said he was on the fence about it but wanted to take the conversation with Mayor Dustin offline. Councilmember Larsen said he felt it was good. Mr. Laursen said the concept was better than the proposal from two weeks ago and appreciated the effort that had been put in to it. Mrs. Sweeten liked the effort that was put in to the concept and agreed that it was a better that what was presented two weeks ago. She said it was going in the right direction and needed to be refined. Mayor Dustin said he liked the concept.

Council and Staff Reports

Councilmember Larsen said it had been brought up that there were a lot of refrigerated trucks going in and out from Millers to Zollinger's. He asked staff to look in to this.

Councilmember Jacobsen said they'd put in a lot of effort to preserving open space and he was worried that they'd loose the intended use and values of open space. He hoped the City Council moving forward would zealously protect the open space as quiet, peaceful places that were fully enforced, according to the ordinance. He didn't want to make a bunch of open space that turned into things they weren't intended to do.

Mayor Dustin reported on EMS services and sewer. Millville wanted to connect sewer with Hyrum and wanted to connect to Hyrum through Nibley. Millville's engineer was putting together cost estimates and preliminary designs. Mayor Dustin said this could give the opportunity to put in a lift station and pump to Hyrum. Mayor Dustin discussed that Logan wanted to charge an impact fee on all new development of approximately \$2,500; it was something they were going to have to apply to all new development. Mayor Dustin said Logan had made it clear that they were pulling out of EMS services and he'd started having discussions with Hyrum. Mayor Dustin said he'd asked Mr. Zook to sit down with the City Manager of Hyrum to discuss the borders between Nibley, Millville, and Hyrum. Councilmember Ramirez said he'd come to realize that the South end of the valley hadn't gotten the service they needed and that he'd come to see this was the best thing that could happen. This could be a positive thing and thought the governments had the opportunity to make a strong south end. Councilmember Jacobsen said the County should yank all to funding from Logan and Smithfield and make a County-wide system so that everyone had the same level of service. The City Council questioned how they could make this happen. Mayor Dustin suggested they could put a resolution together stating this was how Nibley thought the issue ought to be resolved and requesting a response from the County Council.

Mr. Nelson reported on an economic development plan and a survey that was being done across Nibley City. The City Council was given information for accessing the survey.

Mr. Zook reported on the Capital Projects Master Plan, which was almost read to go out to bid, and Mr. Maughan was finalizing the Water Master plan.

Mr. Zook reported on the election process and thanked Cheryl Bodily for running the election.

Mr. Zook reported that Nibley City had won the BRAG Bike to Work Day again and had won a new bike rack for the City that had been installed at Heritage Park. Mr. Zook showed a picture of the bike rack to the City Council.

Mr. Zook reported on a fence project on 3200 South that had caused some issues with a Nibley City resident that had involved the Sherriff's office.

Mr. Zook reported on negotiations regarding the 1200 West intersection roundabout.

Mr. Zook reported on Wesley Nelson Farm's annexation petition. It would be on Logan City's agenda the following Tuesday.

Mr. Zook reminded the City Council that their next and final meeting for 2019 was on December 12, 2019.

Mr. Zook reported that the Nibley City Holiday Party would be on December 19, 2019 at the Riverwoods. Invitations had gone out and he requested the City Council RSVP.

There was general consent to adjourn the meeting at 9:43 p.m.

Attest: _____
Deputy City Recorder