

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, April 9, 2020.

The following actions were made during the meeting:

Councilmember Laursen motioned to approve the Proclamation Recognizing Arbor Day in Nibley City, as read. Councilmember Sweeten seconded the motion. The motion passed unanimously 5-0; with Councilmember Laursen, Councilmember Sweeten, Councilmember Beus, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Councilmember Bernhardt moved to approve Ordinance 20-09: An Update to Nibley City Commercial and Neighborhood Commercial Zoning Standards, for first reading. Councilmember Beus seconded the motion.

Councilmember Bernhardt made a motion to amend Ordinance 20-09, section C.4.; to limit residential unit remodel areas to neighborhood commercial areas that were along collector roads, arterial roads, and State highways. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Beus, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Bernhardt made a motion to amend Ordinance 20-09, section 1.3. to read:

"If a development chooses to build condominiums, they must provide sufficient parking and landscaping for each unit. Consistent with current City Commercial standards at the time of the rezone application."

To make sure parking followed current Nibley City code based off of the application rezone time. Councilmember Laursen seconded the motion. The amendment passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Laursen, Councilmember Beus, Councilmember Larsen, and Councilmember Sweeten all in favor.

The amended motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Beus, Councilmember Larsen, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Larsen made a substitute motion to approve Ordinance 20-06: Residential Planned Unit Development Overlay Zone and Development Agreement for Ridgeline Park, in the area north of 3200 S, West of Highway 165, and East of City Hall. Proposing 529 units on 76 acres. Councilmember Sweeten seconded the substitute motion.

Councilmember Beus made a motion to amend that the Ridgeline Park development agreement prohibit residential driveways and on street parking on 250 West. Councilmember Larsen seconded the motion. The amendment pass unanimously 5-0; with Councilmember Beus, Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Bernhardt made a motion to amend item #9 in the Ridgeline Park development agreement; that after 250 west is developed, that a public roadway to Highway 165 through the eastern neighborhood commercial property be brought up for consideration with every subsequent plat that is brought in for discussion and approval. Councilmember Beus seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Beus, Councilmember Larsen, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Laursen made a motion to amend the fifth *Whereas* in Ordinance 20-06 which referred to “Firefly Estates” to refer to “Ridgeline Park.” Councilmember Sweeten seconded the motion. The motion passed unanimously 5-0; with Councilmember Laursen, Councilmember Sweeten, Councilmember Beus, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Councilmember Beus made a motion to amend that a minimum of 75% of park impact fees collected from the Ridgeline Park development be allocated for use in the proposed Nibley City park. Councilmember Larsen seconded the motion. The motion passed 5-0; with Councilmember Beus, Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Sweeten made a motion to amend; to include dog spaces and amenities on the HOA property within Ridgeline Park, to the Ridgeline Park development agreement. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Sweeten, Councilmember Larsen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Laursen all in favor.

The amended motion passed 3-2; with Councilmember Larsen, Councilmember Sweeten and Councilmember Beus in favor. Councilmember Bernhardt and Councilmember Laursen were opposed.

Councilmember Beus moved to continue discussion and consideration of Resolution 20-04: Interlocal Agreement Regarding Wastewater Services. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Beus,

Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

OFFICIAL MINUTES OF THE MEETING

Deputy City Recorder Cheryl Bodily took minutes

To prevent the spread of COVID-19 and to assist with social distancing and to allow remote public participation, this meeting was also presented electronically, utilizing the Zoom meeting program. Deputy Recorder Bodily participated in the meeting using the Zoom program.

Opening Ceremonies

Councilmember Sweeten discussed how differently people were handling the coronavirus situation. She referred to Fijian Prime Minister Josaia Voreqe Bainimarama and LDS missionaries who had left their luggage behind so that 11 other Fijians could be reunited with their loved ones. She said this was a powerful and awesome example of people looking out for one another. She said President Bainimarama had said,

“While this virus can shut borders, keep us at home, and even take lives, it cannot rob us of our humanity. It cannot diminish the love we hold for others, regardless of who they are, where they come from, or the faith they follow. In the weeks and months to come serious sacrifices may be demanded from all of us. As long as we use compassion as our guiding principle, there is no challenge we cannot overcome.”

Call to Order and Roll Call

Mayor Shaun Dustin called the Thursday, April 9, 2020, Nibley City Council meeting to order at 6:34 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Kathryn Beus, Councilmember Thomas Bernhardt, Councilmember Norman Larsen, Councilmember Nathan Laursen, and Councilmember Kay Sweeten. Mr. David Zook, Nibley City Manager and Mr. Maughan, Nibley City Public Works Director was also in attendance. Nibley City’s STAR Deputy, Jake Carley was present in the audience.

Approval of current agenda; and approval of the March 26, 2020 meeting minutes

Councilmember Bernhardt moved to approve the previous meeting minutes and the evening’s agenda as outlined. Councilmember Laursen seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Laursen, Councilmember Beus, Councilmember Larsen, and Councilmember Sweeten all in favor.

Public Comment Period

Mayor Dustin gave direction to the public present and opened the public comment period at 6:36 p.m. After seeing no public comments via Zoom Chat and having received

no public comments via email, Mayor Dustin closed the Public Comment Period at 6:37 p.m.

Planning Commission Report

There was no Planning Commission report.

Discussion & Consideration—A Proclamation Recognizing Arbor Day in Nibley City

Mr. Zook described that Nibley had made a commitment for the last several years to follow the standards of the Arbor Day Foundation to be a Tree City USA. Those include having a tree care ordinance and a tree board and spending a certain amount of money on trees each year (both in cash and staff's time). Mr. Zook said part of the designation also included having a proclamation. Nibley City normally partnered with the Rotary Club and an Eagle Scout and had a tree-planting event. This event had been scheduled but had to be cancelled because of current events. Mr. Zook described that there was no specific activity planned for Arbor Day but the Arbor Day Foundation had said that simply adopting the Proclamation would be sufficient. Mr. Zook said he anticipated holding an event later in the year.

Mayor Dustin read the Arbor Day proclamation to those present at the meeting.

Councilmember Laursen motioned to approve the Proclamation Recognizing Arbor Day in Nibley City, as read. Councilmember Sweeten seconded the motion.

Councilmember Bernhardt said that Wendy Hellstern had contacted him and felt it was appropriate that when Mr. Hellstern had passed away they had asked for donations in lieu of flowers, to plant trees. Mrs. Hellstern said she had a gift card from Anderson Seed that she wanted to donate to the City for tree planting in the City and in remembrance of Mr. Hellstern. Councilmember Bernhardt wanted the City Council to be aware of this.

The motion passed unanimously 5-0; with Councilmember Laursen, Councilmember Sweeten, Councilmember Beus, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Public Hearing—Ordinance 20-09: An Update to Nibley City Commercial and Neighborhood Commercial Zoning Standards

Mr. Zook led this presentation.

Mr. Zook reported that former City Planner, Stephen Nelson had been helping Nibley City out in the interim and that Nibley City had hired a new City Planner who would begin his job at the end of the month.

Mr. Zook reminded the City Council that they'd had a workshop on the proposed ordinance changes at their previous meeting. Mr. Zook reviewed that the proposed

ordinance had changes regarding sight improvements. If there were a commercial structure that was converted in a subdivision that it would have to follow commercial code. Home remodeling, allowing houses along areas such as SR 165 to be remodeled to commercial. They would still have to meet some legal requirements such as the Americans with Disabilities Act (ADA) but might not need to adhere to commercial standards. Mr. Zook reminded the City Council of proposed changes to the neighborhood commercial standards. Staff felt the neighborhood commercial lot size was too big and limited options for neighborhood commercial, so this had been reduced to 1/4 acre and some setback requirements had been changed. Mr. Zook reported the section regarding Accessory Dwelling Units (ADUs) had been stricken from the proposed ordinance.

Mayor Dustin opened the public hearing at 6:46 p.m.

Seeing no public comment, Mayor Dustin closed the public hearing at 6:47 p.m.

Discussion & Consideration—Ordinance 20-09: An Update to Nibley City Commercial and Neighborhood Commercial Zoning Standards

Councilmember Bernhardt moved to approve Ordinance 20-09: An Update to Nibley City Commercial and Neighborhood Commercial Zoning Standards, for first reading. Councilmember Beus seconded the motion.

Councilmember Laursen asked about clarification on “common” use (section I.) and the specific reference to condominiums. Mr. Zook believed the reason was the difference between a condominium and a townhouse. This was something that would be a separate section of a building that was separately owned as opposed to a building that would be owned as a townhouse. Mayor Dustin speculated that this was for fire code reasons and partitions between units and sprinkler systems. Mayor Dustin referred to the Peterson store complex on the west side of Highway 89/91. His assumption was that split units, under separate ownership, were what was being talked about. Mayor Dustin said if it were residential he would like to understand why; it was just commercial he thought he understood why. He asked that clarification be given before the second reading of the ordinance. Mr. Zook said he also assumed the ordinance referred to commercial condominiums. He said a portion of the building was separated into a separate, legally owned, piece of property even though they were sort of on the same lot. Councilmember Laursen and Councilmember Bernhardt had both defaulted to residential. Councilmember Bernhardt said it had stuck out on his mind that they had commercial nodes and questioned if this made a gray area where a developer could build condominiums and call them a neighborhood commercial zone. Mr. Zook said the Agenda Item Report had made it clear that the ordinance was referring to commercial condominiums and said the ordinance could be amended to clarify commercial as well.

Councilmember Larsen asked about monument signs and asked if the commercial owner could also have a sign on the building (section K.). Mr. Zook said the ordinance

only allowed monument signs. He said his interpretation was they would not allow poll, wall, or backlit signs. Mr. Zook described the specifications of a monument sign. Councilmember Larsen felt they would want signs on buildings and said they should look into this. Mr. Zook said he felt the reasoning was that monument signs were less intrusive to neighboring areas. Councilmember Larsen said he felt a certain percentage of the building could have a sign. He offered to gather information for a proposal. Councilmember Bernhardt questioned if remodeling of existing residence was limited to SR 165. Mr. Zook assumed the intent was to include areas using the future land use map that were envisioned as potential neighborhood commercial areas. Councilmember Bernhardt said sections of the ordinance seemed pretty specific to the State highway. Mayor Dustin said one way to address this was to restrict neighborhood commercial areas to roads that were collectors and arterials.

Councilmember Bernhardt made a motion to amend Ordinance 20-09, section C.4.; to limit residential unit remodel areas to neighborhood commercial areas that were along collector roads, arterial roads, and State highways. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Beus, Councilmember Laursen, and Councilmember Sweeten all in favor.

Mayor Dustin suggested section I.3. was ambiguous and suggested they add “consistent with current City Commercial standards at the time of the rezone application.”

Councilmember Bernhardt made a motion to amend Ordinance 20-09, section 1.3. to read:

“If a development chooses to build condominiums, they must provide sufficient parking and landscaping for each unit. Consistent with current City Commercial standards at the time of the rezone application.”

To make sure parking followed current Nibley City code based off of the application rezone time.

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

Voting on the amended motion was as follows: Councilmember Bernhardt was in favor, Councilmember Beus was in favor, Councilmember Larsen was in favor, Councilmember Sweeten was in favor, and Councilmember Laursen was in favor.

The amended motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Beus, Councilmember Larsen, Councilmember Laursen, and Councilmember Sweeten all in favor.

Discussion & Consideration—Ordinance 20-06: Residential Planned Unit Development Overlay Zone and Development Agreement for Ridgeline Park, in the area north of 3200 S, West of Highway 165, and East of City Hall. Proposing 529 units on 76 acres (Third Reading)

The following individuals represented the applicant, Visionary Homes: Mr. Benjamin Steel was present at the meeting. Mr. Jeff Jackson and Mr. Dallas Nichols were participating via Zoom meeting.

Mr. Zook said there had been two primary discussion points at the previous meeting regarding the transportation network and park development agreement. He showed the newest road layout that had been provided by the developer. He discussed a road that provided a continuous flow from the Elkhorn Ranch subdivision to SR 165 and lined up with the driveway with Maverick, which was required by UDOT. He noted the requirements to pave 2900 South were still in the development agreement.

Mr. Zook said the other point of discussion, specifically how much of the impact fees would be spend on the development had been reviewed. The developer was on board with what Mayor Dustin had proposed. Mayor Dustin said the number they'd gotten to was that 63% of the ground was developable and 37% was wetland. He and the developer had assigned that 60% of full development (to develop the wetland areas) and were proposing 85% of the park impact fees would be used on the City park. Mayor Dustin said this was Nibley's park and theirs to design so they could end up spending more than 85% on the park. Mr. Zook said it was staff's perspective that it would not be difficult to spend all the impact fees on the development. He said it was approximately the same size as Firefly Park. He described the amenities he'd like to see in the area. He suggested they spend more in the area than just impact fees because this was their downtown area. He didn't have a problem spending 100% of the impact fees on the area; he didn't have a problem with spending 200%. Mr. Zook said it was proposed that a minimum of 85% (of \$2.2 million) of the impact fees be spent in the area. Councilmember Bernhardt asked about the fill acreage of the park with the new road layout. Mr. Steele and Councilmember Bernhardt discussed if the park had gone from 18.6 acres to 18.3 acres.

Councilmember Larsen moved to approve the overlay zone, as presented. Councilmember Sweeten seconded the motion.

Councilmember Bernhardt wanted to talk about the half-road along 2900 South. Mr. Zook said according to the development agreement it would be developed to Nibley City's half-road standards, which was 29 feet. He said it would be built in the right-of-way of way, which was approximately 20 feet. Councilmember Bernhardt and Mr. Zook having two vehicles on the road and discussed eventual pavement of the full road. Mr. Zook suggested what the City had put in the development agreement was a fair amount. Mr. Zook said he would suggested the City figure out what alignment they wanted for the road so that by the time the developer got to paving they would have a completely

clear route and the right-of-way and tell the developer where to put the half-road so they wouldn't have to potentially realign the road later. He said they could put in the development that if the City decided to move the right-of-way later that they would still have to put in the road, but it would be a lot of guessing because they wouldn't know where other roads might align.

Councilmember Beus discussed 250 west and not having on street parking or driveways onto the road because she felt it would be a heavily trafficked road. Mr. Steel said they didn't have any driveways accessing 250 based on the illustrative conceptual diagram. Mayor Dustin clarified that the developer wouldn't have an objection to set the restriction on 250 west; he felt it would be wise. Mr. Steel stated he didn't think they would. Mr. Zook said they could make this a condition of the development agreement. Mr. Zook also requested the City Council make a substitute motion to include approval of Ordinance 20-06. He reviewed the items covered in the ordinance.

Councilmember Larsen made a substitute motion to approve Ordinance 20-06: Residential Planned Unit Development Overlay Zone and Development Agreement for Ridgeline Park, in the area north of 3200 S, West of Highway 165, and East of City Hall. Proposing 529 units on 76 acres. Councilmember Sweeten seconded the substitute motion.

Councilmember Beus made a motion to amend that the Ridgeline Park development agreement prohibit residential driveways and on street parking on 250 West. Councilmember Larsen seconded the motion. The amendment pass unanimously 5-0; with Councilmember Beus, Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Beus referred to a road connecting through commercial and that it would be built when the commercial was built out (#9 Development Agreement).

"The Developer shall provide a public roadway to Highway 165 through the eastern neighborhood commercial property. This roadway shall be built when the commercial property is developed, or when traffic generated in the development warrants the intersection, as determined by Nibley City, and according to Nibley City traffic and design standards. "

She asked at what point they decided a roadway was "really busy" and should build the road. She asked if it could be worked into the development phasing? Mayor Dustin and Mr. Zook clarified their interpretation of this portion of the development agreement.

Councilmember Bernhardt made a motion to amend item #9 in the Ridgeline Park development agreement; that after 250 west is developed, that a public roadway to Highway 165 through the eastern neighborhood commercial property be brought up for

consideration with every subsequent plat that is brought in for discussion and approval. Councilmember Beus seconded the motion.

Mr. Zook clarified that the City Council wanted to require pavement of the road as a condition of potentially any plats that may come forward from the developer in the future. Mayor Dustin understood the intent to give the Council and staff a review trigger to say this was the time to consider whether it was warranted or not. Councilmember Bernhardt and Councilmember Beus agreed with Mayor Dustin.

The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Beus, Councilmember Larsen, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Laursen made a motion to amend the fifth *Whereas* in Ordinance 20-06 which refereed to “Firefly Estates” to refer to “Ridgeline Park.” Councilmember Sweeten seconded the motion. The motion passed unanimously 5-0; with Councilmember Laursen, Councilmember Sweeten, Councilmember Beus, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Councilmember Beus made a motion to amend that a minimum of 75% of park impact fees collected from the Ridgeline Park development be allocated for use in the proposed Nibley City park. Councilmember Larsen seconded the motion. The motion passed 5-0; with Councilmember Beus, Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Beus discussed why she felt the recently passed moratorium on the ordinance was necessary, describing the calculation of open space under the current ordinance. She and Mr. Steele discussed the open space being proposed in the development. Mr. Steel felt the proposed development would still fall into the calculation of open space even if the right of ways were not included.

Councilmember Bernhardt questioned the timing of deeding the City park over to Nibley. He asked what processes would need to take place; if the open competition process would be triggered. Mr. Zook felt they would need to get the opinion of the City Attorney before the City got to the plat process. Councilmember Bernhardt discussed the moderate-income housing plan. He highly doubted any of the housing would qualify under the moderate-income housing plan. Councilmember Sweeten said she’d asked the developer about this specifically who’d said some of the proposed development would fall under the Moderate Income Housing Plan. She shared the calculations she’d received from the developer; condos would start at \$170k and the townhomes would fall around \$215k.

Mr. Zook reported that, after consulting with Nibley City’s attorney, as far as impact fees went, it didn’t say how many impact fees they got. The City can determine how much

credit they were going to give them for the things they were doing. This would all be a negotiation. The development agreement didn't say exactly how much they were going to spend for each amenity.

Councilmember Sweeten referred to #4 in the Ridgeline Park development agreement.

“Developer shall develop and construct all open space, landscaping, housing units, utilities, amenities, roadways, and all other improvements in accordance with the standards listed within Nibley City Design Standards, Nibley City Code Title 21, Nibley City Code Title 21 Chapter 32.”

Councilmember Sweeten said she couldn't find anywhere in current code that discussed dog stations being an amenity and thought this was something they should consider considering the number of townhomes and condominiums. She said having a specific dog run under the HOA property and having a place for people to take their pets should be included.

Councilmember Sweeten made a motion to amend; to include dog spaces and amenities on the HOA property within Ridgeline Park, to the Ridgeline Park development agreement.

Mr. Zook asked if it was Councilmember Sweeten's intent to put dog amenities in the City owned area or in the HOA owned area. Councilmember Sweeten clarified that she meant the HOA owned areas.

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

Councilmember Laursen expressed that he found it hard, with the number of amendments they'd just made, to have a final vote, not seeing the changes in writing.

Mayor Dustin and the City Council discussed how developable the public open space was. They also discussed things that could be done in the open space.

Voting on the amended motion was as follows: Councilmember Bernhardt was opposed, Councilmember Beus was in favor, Councilmember Larsen was in favor, Councilmember Sweeten was in favor, and Councilmember Laursen was opposed.

The motion passed 3-2; with Councilmember Larsen, Councilmember Sweeten and Councilmember Beus in favor. Councilmember Bernhardt and Councilmember Laursen were opposed.

Discussion & Consideration—Resolution 20-04: Interlocal Agreement Regarding Wastewater Services (Third Reading)

Mayor Dustin suggested the City Council continue this discussion because he and staff were still getting number from engineers.

Councilmember Beus moved to continue discussion and consideration of Resolution 20-04: Interlocal Agreement Regarding Wastewater Services. Councilmember Larsen seconded the motion.

The City Council discussed the timeframe associated with the Resolution. Mayor Dustin said it was his intent to have numbers to the City Council by the next Council meeting.

The motion passed unanimously 5-0; with Councilmember Beus, Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

Council and Staff Reports

Mayor Dustin discussed the COVID-19 health response from the Bear River Health Department. He said there was a lot of panic stuff, masquerading as information out in the public. He said the BRHD information was the report that was most simple and easy to understand.

Mayor Dustin and the City Council discussed holding a second meeting in April.

Councilmember Sweeten reported her brother had recovered from COVID and was now allowed to go wherever he wanted to.

Councilmember Larsen said he appreciated staff going out and executing what the City Council directed them to do.

Mr. Zook reported that City Hall had been completely shut down. He discussed that all the office staff was working from home and public works was running as normal.

Mr. Zook directed the City Council to information that advertised ideas the Nibley City recreation staff had come up with to take the place of recreation events that had been cancelled due to COVID-19. Mr. Zook said Mayor Dustin had asked him to include an addendum to Nibley City's emergency plan about pandemics.

Mr. Zook and Councilmember Sweeten discussed if the Nibley City tennis and pickleball courts were open. Mr. Zook reported they were not open for the season yet. There had been discussion of whether they should open the courts. Councilmember Beus said they should open the courts and post guidelines. Councilmember Bernhardt said "Don't lick the tennis balls." Councilmember Sweeten agreed with opening them with some very clear, overly obvious signs.

Mr. Zook reported on Nibley's upcoming Spring Clean Up event.

Mr. Zook reported on the installation of sidewalk along 3200 South and some issues that had come up with a Nibley resident who was effected by the sidewalk placement. Deputy Carley contributed to this discussion.

Mr. Maughan reported on 640 West.

There was general consent to adjourn the meeting at 8:55 p.m.

Attest: _____
Deputy City Recorder