

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, May 28, 2020.

The following actions were made during the meeting:

Councilmember Larsen moved to approve Ordinance 20-12: An Ordinance Granting Rocky Mountain Power A Power Franchise, for first reading. Councilmember Beus seconded the motion. The motion passed unanimously 4-1; with Councilmember Larsen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Laursen in favor. Councilmember Sweeten abstained from the vote.

Councilmember Beus moved to approve Resolution 20-05: A Resolution Regulating the Use of Fireworks within Nibley City Limits and waived the second reading. Councilmember Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilmember Beus, Councilmember Bernhardt, Councilmember Larsen, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Bernhardt moved to approve Resolution 20-06: 2019 Municipal Wastewater Planning Program Report; and waived the second reading. Councilmember Sweeten seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Sweeten, Councilmember Beus, Councilmember Larsen, and Councilmember Laursen all in favor.

Councilmember Bernhardt moved to approve Ordinance 20-10: An Ordinance of the Nibley City Council Creating a Community Reinvestment Agency and waived the second reading. 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 Larsen moved to approve Ordinance 20-11: An Ordinance Providing for the Compensation of Elected and Statutory Officers of Nibley City, for first reading. Councilmember Laursen seconded the motion. The motion passed unanimously; with Councilmember Larsen, Councilmember Laursen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Sweeten all in favor.

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

Opening Ceremonies

Councilmember Beus discussed family traditions of observance during Memorial Day. She recalled the use of the word “remember.” She quoted the following:

“Ceremonies are important but our gratitude has to be more than visits to the troops and once-a-year Memorial Day ceremonies. We honor the dead best by treating the living well.”

Councilmember Beus led the meeting participant in the Pledge of Allegiance.

Call to Order and Roll Call

Mayor Shaun Dustin called the Thursday, May 28, 2020, Nibley City Council meeting to order at 6:31 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Kathryn Beus, Councilmember Thomas Bernhardt, Councilmember Norman Larsen, and Councilmember Nathan Laursen were present at the meeting. Mr. David Zook, Nibley City Manager, Justin Maughan, Nibley City Public Works Director, and Chad Wright, Nibley City Recreation Director was also in attendance.

Approval of agenda; and approval of the May 14, 2020 meeting minutes

Mayor Dustin noted that Councilmember Sweeten had asked to be excused until her daughter’s graduation was finished.

Councilmember Beus moved to approve the evening’s agenda and the previous meeting minutes. Councilmember Laursen seconded the motion. The motion passed unanimously 4-0; with Councilmember Beus, Councilmember Laursen, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Public Comment Period

Mayor Dustin gave direction to the public present. Seeing no public comments, Mayor Dustin moved to the next item on the agenda.

Planning Commission Report

Mr. Zook gave this presentation. Mr. Zook reported that the Planning Commission had seen Firefly Estates, Phase 1 and had a number of conditions of approval so the item had not been included on the City Council’s agenda as the applicants were working on those conditions. Mr. Zook reported that the R-PUD ordinance had been discussed and the Planning Commission would like to have a joint meeting with the City Council to get input from the Council. The Planning Commission had also worked on the Accessory Dwelling unit and Rural Preservation Subdivision ordinances and had made minor adjustments. They would be holding a public hearing on these ordinances.

Department Report – Recreation: Heritage Days Update

Nibley Recreation Director, Chad Wright gave this presentation. He utilized an electronic presentation entitled *2020 Heritage Days Reinvented Plan* (a printed version of this presentation is included in the printed meeting minutes). His presentation included the following topics: Why Reinvent, Why Heritage Days, Basic Human Needs, Challenge – Within Health Guidelines, Replacement for Nibley Children’s Theatre Production,

Included This Year, In the Works, Surprises, and Possible Council Support of Heritage Days. They discussed former parade participants.

Councilmember Bernhardt requested Mr. Wright clarified his expectations of help during the Nibley Heritage Days parade. Mr. Wright and Councilmember Beus discussed Mr. Wright's vision for a parade. Mr. Wright said he anticipated extending the parade route out further to accommodate distancing.

Mayor Dustin asked for an update from Jim Reece regarding a Mayor's Art Show.

Mayor Dustin said he'd like to keep the discussion open on fireworks. He said there was a point and then people could gather around the perimeter of that point. He felt with proper public outreach they could still do fireworks. He felt a lot of citizens watched the fireworks from different locations. The Mayor, City Council and Mr. Wright discussed if late scheduling with firework vendors were possible.

Mr. Wright left the meeting after his presentation.

Presentation – Cache Valley Transit District

Todd Buehler, Chief Executive Officer of the CVTD was present at the meeting for this presentation. Gregory Shannon, Nibley's representative on the CVTD Board gave the presentation. He utilized an electronic presentation entitled *Connect with CVTD To the People, places and things that matter most* (a printed version of this presentation is included in the printed meeting minutes). His presentation included the following topics: COVID-19 Safety Measures, COVID-19's Affects on Transit, Transportation Challenges for CVTD, Phase 1 – Implemented the "LOOP" trunk line, Phase 1 – Deployed technology, Phase 2 – Rethink existing service, Phase 2 – Identify Transit Corridors/Evaluate Service Alternatives, Phase 3 – Implementation, and questions.

Mr. Buehler left after the Cache Valley Transit District presentation was over.

General consent was give to suspend the evening's agenda to proceed with item 12 on the agenda; Ordinance 20-12: An Ordinance Granting Rocky Mountain Power A Power Franchise.

Discussion & Consideration – Ordinance 20-12: An Ordinance Granting Rocky Mountain Power A Power Franchise (First Reading)

Steve Leichty was present at the meeting representing Rocky Mountain Power.

Mr. Zook led this presentation. He described that franchise or utility taxes were one of the sources of revenue for Nibley City. He said it was a tax that was charged for the service, on users of the service in Nibley. In order for the utility to operate in Nibley City, there needed to be an agreement. Mr. Zook said the agreement allowed Rocky Mountain Power to operate on Nibley City property; specifically in Nibley's right-of-

ways. The agreement gave Rocky Mountain Power the non-exclusive right to continue operation in Nibley City. It also gave them the right to construct, maintain, operate, upgrade, and relocate their electric distribution/transition lines in, under, along, over, or across Nibley City streets or right-of-ways. Mr. Zook said in the State of Utah there was a municipal services tax in place, which was adopted by the City Council several years ago. Mr. Zook described that if one of RMP's facilities were in Nibley City's way then they would move their utility out of the way, free of charge. This was not the case with private property owners.

Mr. Zook said that he and Mayor Dustin had met with Rocky Mountain Power the previous day and discussed Nibley's recently adopted Dark Sky Ordinance. He described that Rocky Mountain Power had a dark sky street light and Mr. Zook felt it was their intent to make this light their standard light. Mr. Zook and Mayor Dustin discussed trail lighting, and undergrounding of utility lines, which was safer and attractive but very expensive when moving from overhead lines to underground lines. Mr. Zook discussed the creation of an improvement district, which would be an additional taxing district that would raise money specifically set aside for underground projects.

Mr. Zook said staff's recommendation was for the City Council to adopt the Ordinance for first reading and clarified that the agreement with Rocky Mountain Power was for 20 years.

Mr. Leichty said RMP appreciated the partnership they shared with all the communities they serve and RMP would be happy to help with Nibley's Heritage Days. He encouraged them to reach out for help and sponsorship. Mr. Leichty said the agreement was important for the continued operation of RMP utility in Nibley City and to maintain their facilities in Nibley City. Mr. Leichty offered to field questions from the City Council.

Councilmember Laursen asked about Section 8 in the agreement, which covered inspection of construction and maintenance. He asked about internal and external inspection. Mr. Leichty said they had two staff members who did on-site inspections to ensure all standards and codes were being followed. He described that a lot of time the public works department of each city will reach out if they see a problem. Mr. Maughan said Public Works ensures that the utilities are put where they have been told they are going to be placed. He wanted to ensure Nibley City was provided with drawing before infrastructure was put in place and wanted to ensure this process was "firmed" up. He wanted to have a say in the placement of utilities. Mr. Zook said the agreement gave Rocky Mountain Power the ability to trim trees that were in the way or going to be in the way. RMP covered the cost for tree trimming.

Councilmember Sweeten arrived at 7:39 p.m.

Mr. Leichty said the term limit of the contract was negotiable. Councilmember Laursen questioned if Nibley City ever utilized RMP's infrastructure. Mr. Zook said they had considered putting a camera on utility poles.

Councilmember Larsen moved to approve Ordinance 20-12: An Ordinance Granting Rocky Mountain Power A Power Franchise, for first reading. Councilmember Beus seconded the motion. The motion passed unanimously 4-1; with Councilmember Larsen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Laursen in favor. Councilmember Sweeten abstained from the vote.

Discussion & Consideration – Resolution 20-05: A Resolution Regulating the Use of Fireworks within Nibley City Limits

Mr. Zook led this presentation. Mr. Zook said fireworks season was coming up soon and the City Council determined if there were areas in the City they'd like to prohibit fireworks every year. Mr. Zook said Nibley City had historically prohibited the use of fireworks on the east side of SR 165 because of the river, mountains, and vegetation. The Resolution applied throughout the year. Mr. Zook said the County Fire department needed to public a yearly map by June 1st. Mr. Zook requested the City Council pass the Resolution and waive the second reading

Councilmember Beus asked what the penalty was for lighting fireworks. Mr. Zook said it was a misdemeanor. Councilmember Larsen asked if many tickets had been given out the previous year? Mr. Zook said he was not aware of any. Mayor Dustin thought law enforcement was lax in enforcement. He said this was good stance for the City to take; that they did not want to expend government funds to put out fires that could have been prevented. Councilmember Sweeten asked if any residents have expressed any concern over the restriction? Mr. Zook said he was not aware of any. Councilmember Beus said she had addressed the restriction with a couple of residents after it had been publicized in a newsletter. Councilmember Laursen questioned if they wanted to regulate fireworks in any other areas, such as Firefly Park. Mr. Zook said the restrictions were based on fire risk and discussed the brush at Firefly Park, reporting that the Public Works department always cut a fire line or break around the perimeter of the park.

Councilmember Beus moved to approve Resolution 20-05: A Resolution Regulating the Use of Fireworks within Nibley City Limits and waive the second reading. Councilmember Bernhardt seconded the motion.

The Council debated other areas that could be restricted and included in the Resolution. Mr. Zook reported there was already ordinance in place that prohibited fireworks from being lit off in city parks. Councilmember Laursen felt that with the provision in ordinance, he would be comfortable leaving the proposed prohibitions as they were. Mayor Dustin encouraged signage be placed at parks stating that Nibley City ordinance prohibited the discharge of fireworks at City Parks. Councilmember Bernhardt encouraged public outreach.

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

Discussion & Consideration – Resolution 20-06: 2019 Municipal Wastewater Planning Program Report

Mr. Maughan directed this discussion. Mr. Maughan said the report was required by the State of Utah of any municipality or anyone who ran a sewer system. It was a questionnaire for the State to track what was going on regarding sewer throughout the State. It focused on financial aspect and operational, best-management practices. Mr. Maughan said things for Nibley City Council looked good with financial forecasting and operations had gone smoothly for that last couple years. Mr. Maughan reported that his department expected to have each sewer line in Nibley cleaned every three years. He felt this was driven by the insurance company more than State regulations. Mr. Maughan discussed other technology that was available for checking sewer lines. Mr. Maughan said their biggest issues were infiltration into the sewer system and a lot of this was coming from manholes.

Mr. Maughan said his department felt really good about where the sewer system was and felt the biggest expense would be when to bring in and hire a new employee for the sewer department. He anticipated bringing this to the Council in the near future.

Mr. Zook asked that the City Council, if they felt comfortable, to waive the second reading of the Resolution because of an upcoming due date.

Mr. Maughan and Councilmember Beus discussed how water infiltrated a manhole.

Councilmember Bernhardt moved to approve Resolution 20-06: 2019 Municipal Wastewater Planning Program Report and waived the second reading. Councilmember Sweeten seconded the motion.

Councilmember Bernhardt questioned page 3, anticipating a worst-case scenario if the report were tied an account with Mr. Maughan. Mr. Maughan said the sewer system was required to have someone in charge and he believed it was charged to Justin Pope. They were required to notify the State who their sewer operators were.

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

Discussion & Consideration – Ordinance 20-10: An Ordinance of the Nibley City Council Creating a Community Reinvestment Agency (First Reading)

Mr. Zook led this presentation. Mr. Zook said the ordinance didn't authorize any particular incentive or any incentive at all. It approved the creation of the Community Reinvestment Agency. This agency would replace the Nibley City Community Development Agency, which was created over a decade ago. The agreement stated that the Mayor and City Council would be the board of directors for the agency and the City Manager would be the executive director of the agency. Nibley City boundaries would be the same boundaries of the Reinvestment Agency. The Mayor and City Council would be able to hold meetings, as the agency, to make decisions about incentives. Mr. Zook reviewed the process for determining and implementing incentives and said the CRA would be a separate legal entity, which would require a board of directors.

Mayor Dustin said it would be his recommendation that he City Council consider moving the ordinance forward (waive the second reading). Mr. Zook and Councilmember Bernhardt discussed which Nibley City ordinances required a public hearing.

Councilmember Bernhardt moved to approve Ordinance 20-10: An Ordinance of the Nibley City Council Creating a Community Reinvestment Agency and waive the second reading. Councilmember Beus seconded the motion.

Councilmember Beus clarified that the City Council was passing a framework for which any person could come in and apply for potential incentives. Mr. Zook said this created a separate legal entity that was very similar to what the city did when it created the Municipal Building Authority. These entities had separate laws that applied with regards to financing. Mr. Zook said he believed these agencies were formed to ensure funds were segregated; separate entities would have to keep budgets separate. It was not always the City Council that sat on this type of board. Mr. Zook described how potential incentives could be utilized and benefit the City and community. He said State law governed how incentive money could be used. Councilmember Laursen questioned if the Community Reinvestment Agenda needed bylaws. Mr. Zook said potentially there would be bylaws at a future meeting that the agency would adopt.

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

Discussion & Consideration – Ordinance 20-11: An Ordinance Providing for the Compensation of Elected and Statutory Officers of Nibley City (First Reading)

Mr. Zook directed this discussion. Mr. Zook reminded the City Council that in 2015 the City Council began a policy of adjusting the pay for elected and appointed officials each year according to whatever adjustment was made to salary for the rest of staff. In 2015 it was determined that pay hadn't been updated for elected and appointed people in many years and they determined it needed to be caught up. This ended up being a bigger bump and in order to avoid doing large increases in the future, they decided to keep the pay level and steady; similar to what was done with property tax. Mr. Zook said

the 2020-21 budget proposed a 2% Cost of Living Adjustment for all salaries and therefore a 2% increase for elected and appointed positions. Mr. Zook reviewed the proposed increase for each position. Councilmember Larsen and Mr. Zook reviewed Planning Commission pay.

Mayor Dustin described the history of a proposed yearly COLA increase for Nibley City's appointed and elected officials.

Councilmember Larsen moved to approve Ordinance 20-11: An Ordinance Providing for the Compensation of Elected and Statutory Officers of Nibley City, for first reading. Councilmember Laursen seconded the motion.

Councilmember Sweeten said her first City Council she'd attended, pay for City Council had been discussed and she'd written a letter encouraging the Council to give themselves a raise. She said it was very different sitting on the other side. Councilmember Bernhardt recalled debate he'd had with a former Councilmember. He said it was uncomfortable but he appreciated the comfortableness that it caused. Mayor Dustin said he didn't want financial pressure to be a reason that anyone on council was not able to serve and he wanted the best people to present themselves as candidates for elected office. He liked the diversity of experience and age they had on the City Council and he liked the diversity of incomes as well.

Voting on the motion was as follows:

Councilmember Laursen was in favor, Councilmember Sweeten was in favor, Councilmember Larsen was in favor, Councilmember Beus was in favor, and Councilmember Bernhardt was in favor. The motion passed unanimously.

Council and Staff Reports

Mayor Dustin reported on discussions with Mayor Hair and Mayor Miller about sewer.

Councilmember Laursen thanked Nibley City staff, particularly the recreation department and office staff, for how they'd dealt with COVID-19.

Councilmember Sweeten reported that she and Becky Yeager would be going door-to-door to deliver flyers to residents who lived closest to Firefly Park. She also reported on a drawing that resident could be entered into for keeping their outside lights off. Councilmember Sweeten asked if any caution or fence barrier would be put up around the fireflies. Mr. Zook said this hadn't been decided.

Councilmember Larsen requested an update on the Firefly referendum. Mr. Zook said he would address this in his report.

Councilmember Bernhardt asked how compliant Nibley City Hall was with the Dark Sky ordinance? Mr. Zook said some lights were and some weren't dark sky compliant. He

believed the parking lot lights were. Councilmember Bernhardt questioned if they had a plan for coming into compliance moving forward. Mr. Maughan said Heritage Park was compliant and Mayor Dustin reported this had been discussed in a meeting with Rocky Mountain Power.

Councilmember Bernhardt questioned who had responsibility for weeds along 1200 west from Nibley Park Avenue to 2600 south. Mayor Dustin said the weeds that were not maintained were homeowners. Councilmember Bernhardt said the weeds were getting pretty tall.

Councilmember Bernhardt questioned a cone along 1200 West by the disc golf course? Mr. Maughan said he would find out what the cone was.

Councilmember Bernhardt said he'd had a resident reach out to him about what it would take to get fish in the Clear Creek Pond. Mr. Zook said there had been fish in the pond before but didn't feel they had made it through the winter. He assumed that if the fish were native species that they could be put in the pond but didn't feel it could support too many fish because of its size and depth.

Councilmember Bernhardt requested construction drawings for Firefly and Clear Creek.

Mayor Dustin reported on his discussions with the Nibley City Park's Committee the previous night.

Mr. Zook reported that he'd confirmed with Nibley City's attorney that they did not need to do a public hearing on the Community Reinvestment Agency ordinance.

Mr. Zook reported on a tree-planting event to honor Ron Hellstern.

Mr. Zook reported on appraisals received from the Property Rights Ombudsman for the properties at 1200 west and 3200 south. The City was setting up mediation between those property owners and the Property Rights Ombudsman for the purchase of those properties.

Mr. Zook reported on a meeting with resident Brian Anderson. He updated the Council that the Post Office hadn't decided when it would change the deliveries on 3200 south but had indicated they would make a decision in the next week. Mr. Zook reported that the Post Master thought Nibley City had a really good chance to get a zip code.

Mr. Zook reported on the completion of Arbinger training for some Nibley City staff.

Mr. Zook reported on a meeting with Visionary Homes about Ridgeline Park and the park area development agreement.

Mr. Zook reported on Dark Sky public outreach.

Mr. Zook reported on the current Nibley City referendum. He, the Mayor, and City Council discussed the referendum procedure.

Mr. Zook reported on an instance in the past week where Nibley's culinary water system was crossed with a secondary water system.

There was general consent to adjourn the meeting at 9:36 p.m.

Attest: _____
Deputy City Recorder