

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, June 25, 2020.

The following actions were made during the meeting:

Councilmember Bernhardt moved to approve Resolution 20-07: Setting Water Rates for Nibley City. 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.

Councilmember Beus moved to approve Resolution 20-08: Updating Nibley City's Consolidated Fee Schedule. Councilmember Sweeten seconded the motion. The motion passed unanimously 5-0; with Councilmember Beus, Councilmember Sweeten, Councilmember Bernhardt, Councilmember Larsen, and Councilmember Laursen all in favor.

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

Opening Ceremonies

Councilmember Larsen discussed types of places to live and an experience he'd had in Idaho when buying a trailer. He said they lived in a great place and he wanted everyone to have this. He thought it was important to remember what they had, value what they had, and share it with others.

Councilmember Larsen led the meeting in the Pledge of Allegiance.

Call to Order and Roll Call

Mayor Shaun Dustin called the Thursday, June 25, 2020, Nibley City Council meeting to order at 6:32 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Kathryn Beus, Councilmember Thomas Bernhardt, Councilmember Norman Larsen, and Councilmember Kay Sweeten. Mr. David Zook, Nibley City Manager, Levi Roberts, Nibley City Planner, Justin Maughan, Nibley City Public Works Director, and Michelle Jensen, Nibley City Treasurer was also in attendance.

Approval of agenda; and approval of the June 11, 2020 meeting minutes

Mayor Dustin said the first item on the agenda had been withdrawn because the proponent had asked that the item be rescheduled. The agenda was as presented with the deletion of item 6.

Councilmember Beus moved to approve the previous meeting minutes and the evening's agenda. Councilmember Larsen seconded the motion. The motion passed

unanimously 4-0; with Councilmember Beus, Councilmember Larsen, Councilmember Bernhardt, and Councilmember Sweeten all in favor.

Public Comment Period

Councilmember Nathan Laursen arrived at 6:35 p.m.

Mayor Dustin gave direction to the public present and opened the Public Comment Period at 6:35 p.m.

Mark DeCoursey of 3250 south 470 west said he and his wife had been Nibley residents since 2007 and had loved Nibley. They were interested in coming to a consensus on what to do with the swales in Apple Creek subdivision. He said there had been issues in the past and was excited to move forward and come up with a solution. Mr. DeCoursey said they had spent the last couple days putting in sod with the neighbors and said they had a great neighborhood. Mrs. Tami DeCoursey said they were aware of the code of 16 inches deep in the swale and had gotten a letter and had read it. They were aware that several of the swales in the neighborhood were not compliant. They all had the same concern of getting off “the list” and solving the problems. They wanted their water to drain and they didn’t want it to be a problem. Mr. DeCoursey said the water was not draining.

Mr. Michel Stokes of 3340 south 600 west said he knew there were a lot of feelings on both sides of several issues on the agenda. He expressed his appreciation of the City Council and the positions they held. He thanked them for thinking through what actions meant and the personal side and future side of living as residents.

Mickey Duke of 1012 west and 2400 south read a few comments he’d received as they’d had the opportunity to talk with City Council members and other residents. He said the R-PUD concept was not bad and could be used more effectively to create more diversity and assist in meeting various quotas but the R-PUD overlay was completely inappropriate to use on the 20 acre Firefly estates area in Nibley. It was way too small. He felt this inappropriate use was viewed as a misuse by 1500 out of 3200 residents. Instead of listening, it seemed the City had decided to discount those voices, characterizing them as anti-multifamily and not understanding what it took to run a city. Mr. Duke said he cherished representative government. It seemed the City Council was not willing to represent the citizen’s views that Nibley remain primarily single-family housing and they had decided what they wanted Nibley to be. He asked the City Council to listen and slow down. He said the R-PUD that was approved to the east of City Hall more than fulfilled the stated goals of the moderate income-housing plan. They needed to do much more explaining to voters what changes in the housing policy were needed and why.

Wendy Droge of 2346 South Clear Creek Circle felt that a couple of the R-PUD developments could end up being a really great thing and felt the City Council was working

hard to make Nibley Meadows look really good. She appreciated those who had reached out to residents who were affected by Firefly Estates and hoped the people could be heard on this. Mrs. Droge hoped there could be better communication with Council people. She hoped people would reach out better in more constructive ways to be worked with other than just discounted. She felt the City Council had the intention of doing their very best. She hoped they could move forward with more communication and have the citizens be represented in what they wanted.

Mr. Zook noted there had been comments submitted via email that would be submitted into the meeting record. Mayor Dustin said they would be entered into the record. Mr. Zook said Ms. Bodily had received a couple of emails and directed the City Council to forward any comments they'd received to Ms. Bodily; to be entered into the official meeting record.

Mayor Dustin closed the public hearing at 6:49 p.m.

Planning Commission Report

Mr. Roberts described that the Planning Commission had heard the preliminary plat application for Ridgeline Park. There were a few items that needed to be amended before approval and the Planning Commission had not approved the application. He anticipated it would be moved forward at the next Planning Commission meeting and would then be seen by the City Council. Mr. Roberts said staff was still working through the park agreement with Ridgeline Park. Mr. Roberts described a building permit that that had been considered and approved. Finally, the Planning Commission had discussed two items on the current City Council agenda: accessory dwelling units and the Rural Preservation subdivision.

Mayor Dustin recognized that Commissioner Tyler O Bray was present at the meeting.

Mayor Dustin said the Planning Commission had requested to meet with the City Council to discuss the R-PUD ordinance. He suggested meeting with the Planning Commission at the first City Council meeting in June. Mayor Dustin and the City Council discussed whether this date would work and the format of the meeting.

Discussion & Consideration – Resolution 20-07: Setting Water Rates for Nibley City (Second Reading)

Mr. Maughan led this presentation.

Mr. Maughan said the ordinance had been changed to reflect an implementation date of October 1, 2020.

Mr. Maughan reviewed the *Nibley City Water Rate Analysis June 2020* presentation that he first gave at the June 11, 2020 City Council meeting (a printed copy of this presentation is included in the June 11, 2020 meeting minutes).

Councilmember Bernhardt asked if delaying the start date would have a significant financial impact on what Mr. Maughan anticipated they would be able to save versus what they would have to borrow for future infrastructure needs. Mr. Maughan didn't believe it would have much impact. He said this rate would not be charged until October to afford the opportunity to educate residents and help them understand before the next peak water season.

Councilmember Bernhardt moved to approve Resolution 20-07: Setting Water Rates for Nibley City. Councilmember Laursen seconded the motion.

Mayor Dustin thanked Mr. Maughan for "threading the needle" between doing what they had to do (because the State said so) and not shocking people and having what was needed.

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

Discussion & Consideration – Resolution 20-08: Updating Nibley City's Consolidated Fee Schedule (Second Reading)

Mrs. Jensen described the changes that had been made to the consolidated fee schedule since the City Council had last reviewed it on 6-11-2020. Mrs. Jensen pointed out that the water rate in the consolidated fee schedule reflected the rates that were just adopted by the City Council. The rate would not go into effect until October 1. Mrs. Jensen said the other change was in dog licensing. There was a new contract in place with the Cache Human Society and the fees reflected what the CHS charged the City. Mrs. Jensen said the other big change was the R-PUD application fee. She had done research and contacted the Utah Association of Public Treasurers and felt comfortable with what seemed to be the average fee of \$500. She said staff would track how long R-PUD applications were taking and how much they were costing the City.

Councilmember Beus moved to approve Resolution 20-08: Updating Nibley City's Consolidated Fee Schedule. Councilmember Sweeten seconded the motion.

Councilmember Laursen said he liked the change. Mayor Dustin said he appreciated seeing the consolidated fee schedule on a regular basis.

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

Workshop – Ordinance 20-13: Accessory Dwelling Unit Standards

Mr. Roberts led this presentation. He utilized an electronic presentation entitled *Accessory Dwelling Units (ADUs)* (a printed copy of this presentation is included in the printed meeting minutes). His presentation included the following topics: Back ground and Purpose, and Provisions.

Councilmember Sweeten questioned how bona fide temporary absences were defined. Mr. Roberts didn't know if this was defined. Mr. Zook said the definition could be added. He assumed it was for vacation or an LDS Mission where the resident would be gone for a period of time and then be back. He suggested they could add an "upon approval by the Planning Commission or City Planner" provision. The Mayor and City Council discussed the length of an absence. Mr. Roberts said he would do research and define bona fide temporary absence. Councilmember Larsen questioned if there was a mechanism to show that there was an absence at a dwelling. Councilmember Beus thought this would be reflected with the utility bill.

Councilmember Bernhardt asked what trades the Planning Commission did with minimum lot size and minimum building size. Mr. Roberts described the discussion that had taken place regarding lot size and dwelling size. He said the ADU worked for some people but didn't work for the majority of people but did provide flexibility. Councilmember Bernhardt wanted to wait until they had addressed the R-PUD ordinance before they tackled ADU. Councilmember Bernhardt and Councilmember Beus discussed if there would be a flood of applications for ADU. Councilmember Beus asked for clarification on why setbacks were different than they were for a shed. Mr. Roberts said they just wanted to keep ADUs a little further from the property line because someone would be living in the unit. Mr. Roberts clarified that applicants would have to get a residential building permit for an ADU. Mayor Dustin questioned if the code would need explicit requirements for the building permit process. Mr. Roberts agreed that it probably should. He described that anything over 200 square feet in Nibley needed a building permit and ADUs were a minimum of 300 square feet but it couldn't hurt to include the building permit provision in the code. Councilmember Sweeten questioned if there was a provision, regarding 2 off street parking spaces, which would keep an applicant from putting two parking spaces in the middle of their front yard. Mr. Roberts said Nibley code only allowed one driveway access every 24 feet. Mayor Dustin proposed adding a provision that they had precedence for; when a conditional use permit was issued they required all equipment be parked behind the front plane of the house. Councilmember Laursen questioned why there couldn't be an ADU in a wetland or floodplain. Mr. Roberts said building in a floodplain was a tedious process and felt it was a risk reduction provision. Councilmember Bernhardt discussed fees. Mr. Roberts said the applicant would be charged for a building permit and \$30 for an accessory dwelling permit. Ms. Jensen said the other building fees would apply; inspection fees, stormwater inspection fees, etc. Most fees would fall under what already existed. The City Council discussed if the unit would have a separate utility meter. Mr. Roberts said utilities would come off the same line as the primary residence. Mr. Maughan said he liked this because there would be less road cuts.

Councilmember Bernhardt asked about parking access. He questioned if they would use the primary unit parking access or if the access could be extended. Mr. Roberts thought they would use the existing curb cut. He thought they would need to add something that could be an exception to the standard. Councilmember Bernhardt said he didn't want to allow another curb cut. The Mayor, City Council and Mr. Roberts discussed the appropriate number of curb cuts.

Mr. Roberts summarized that the City Council wanted clarification on a bona fide temporary absence, a provision that building permits were required, that inspections were required, and a provision that ensured the full front yard was not a parking lot. Councilmember Laursen wanted a general look at the required parking space, what a good design for a parking space was, mixed with the lot size and the percentage of the lot as a whole. Councilmember Bernhardt said he would be interested to understand what trades were made to get down to a 12,000 square foot lot versus ADU size. Mayor Dustin thought it would also be helpful to go back and look at general accessory units and what could be built on a 12,000 sq. ft. lot. Councilmember Laursen was also curious to know what the fee would be to apply for an accessory dwelling unit. Mrs. Jensen said it would be \$30 unless it was specifically changed.

Workshop – Ordinance 20-14: Update to Nibley City Code 21.10.020 Amending the Rural Preservation Subdivision

Mr. Roberts led this discussion. He utilized an electronic presentation entitled *Rural Preservation Subdivision Code Revisions* (ADUs) (a printed copy of this presentation is included in the printed meeting minutes). His presentation included the following topics: Purpose and Provisions.

Mr. Roberts said the Planning Commission would like to change the ordinance name to Open Space Subdivision. The Planning Commission also reduced the small pockets and islands of open space and tried to consolidate them into larger tracts of open space and put them adjacent to existing undeveloped land so they could be built upon as development happened.

Mayor Dustin was concerned that the original intent of the conservation subdivision was to conserve the spaces that were important to the historical residents of Nibley City. He was concerned they were prioritizing the other direction. Mayor Dustin said he would prioritize the ordinance to say preservation and conservation of sensitive lands shall be prioritized and then after that they would try to push stuff where they could consolidate space. Councilmember Laursen questioned whether the City needed a specific subdivision or could this be written into the code; that they considered these things before anything was approved? He wanted to consider these things with all developments. Mr. Roberts said a lot of cities had sensitive land ordinances. Nibley could define those areas and what restrictions were in those areas. Mayor Dustin said he thought that guidance that constrained sensitive land had priority in developing the

open space. This gave some direction to the applicant and didn't leave the City Planner left on his own to try and negotiate with a developer. He wanted their intent captured in the ordinance and thought the fourth paragraph needed some work to capture this intent. Councilmember Laursen said he didn't like the name change and suggested Sensitive Lands subdivision. The City Council threw around several name suggestions: back to Conservation subdivision, Conservation-Preservation subdivision, Heritage Subdivision. Mr. Roberts clarified that the Council wanted to prioritize sensitive lands first, and all else being equal, other open space be on the edge of a proposed development. Councilmember Laursen said the name change changed the intent of the ordinance too much. Councilmember Sweeten suggested the name Sensitive Preservation subdivision or Preservation subdivision. Councilmember Laursen said if the ordinance were written well enough it would achieve its purpose.

Councilmember Laursen suggested paragraph 4 read as follows: "Open space land shall be consolidated and maximize the design standards . . . ". He said this gave the City Council a lot of freedom with each proposal that came to them but encouraged the developer to maximize contiguous land, agricultural land, buffering, natural landscape or pedestrian access. Then the City Council or Planning Commission could tell them whether or not they were maximizing. Councilmember Bernhardt thought they were reprioritizing the items that were listed in section (i). Councilmember Laursen said he liked the "located adjacent" sentence.

Council and Staff Reports

Councilmember Sweeten reminded the City Council that they needed the addresses of flyers that were placed on homes near Firefly Park.

Councilmember Larsen reviewed that residents needed help relocating mailboxes on 3200 South. Mayor Dustin said notice had gone out from the Postmaster that residents had 2 weeks to move their mailboxes to the south side of 3200 south. The City was constrained from helping move the mailboxes. He asked if the City Council knew of any individuals or organizations that would be willing to help to have them contact the city. The residents had till Monday, July 6 to move their mailboxes.

Councilmember Bernhardt reported on his engagement with Nibley residents. He thanked the other City Council members that had reached out and engaged with citizens.

Mr. Zook reported that Heritage Days was a great success. He thanked the City Council for their participation.

Mr. Zook reported that Malouf was repurposing their facility in Nibley. Warehousing and warehouse jobs would be moving to California. The space in Nibley would be transitioning to higher end office jobs and professionals.

Mr. Zook asked the City Council members to complete the auditor training that had been email out at the last City Council meeting. He asked the City Council to send their certificate of completion for filing.

Mr. Zook reported that office staff had been looking toward moving to normal office hours in the next week. They were still tracking positive COVID case counts daily. He was open to input from the City Council.

Mayor Dustin called for a five minutes meeting recess at 8:43 p.m.

The meeting resumed at 8:56 p.m.

**Adjourn to Closed Session–To Discuss REAL ESTATE and PENDING LITIGATION,
PURSUANT to Utah Code 52-4-205**

Councilmember Beus moved to adjourn to closed session to discuss real estate and pending litigation pursuant to Utah Code 52-4-205. Councilmember Larsen seconded the motion.

The City Council moved to closed session at 8:57 p.m.

After returning from closed session, general consent was given to adjourn the regular City Council meeting at 10:29 p.m.

Attest: _____
Deputy City Recorder