

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, August 13, 2020.

The following actions were made during the meeting:

Councilmember Bernhardt moved to approve Ordinance 20-15: Amending the Logan Wastewater Treatment Impact Fee; and waived the second reading. 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 Larsen moved to approve Ordinance 20-14: Update to Nibley City Code 21.10.020 Amending the Rural Preservation Subdivision, as presented. Councilmember Sweeten seconded the motion.

Councilmember Bernhardt made a motion to amend the wording of NCC code 21.10.020 H.4 to read as follows:

“Open Space Land Coordination: When directed by the Planning Commission and City Council, Open space land shall be consolidated and located on the boarder of proposed subdivision and be located adjacent to undeveloped or open space land. In consideration of open space consolidation, design standards described in this chapter shall be maximized, including the preservation of significant areas and natural landscape, and adequate pedestrian access.

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

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

Councilmember Beus moved to approve Ordinance 20-07: Residential Planned Unit Development Overlay Zone and Development Agreement for Nibley Meadows, located at approximately 1000 W and 3200 S. Proposing 273 units on 54.6 acres, as presented. Councilmember Larsen seconded the motion.

Councilmember Bernhardt made a substitute amendment that the development agreement for Nibley Meadows include that up to 50% of the park impact fees are dedicated to building the Nibley Meadow five-acre park, built by the developer, to Nibley City’s design. Councilmember Beus seconded

the substitute motion. The amendment 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 Ordinance 20-07; that 100% of the Nibley Meadows park impact fees are committed to be used within .5 miles of the Nibley Meadows development as part of the subdivision approval. Councilmember Larsen seconded the motion. The amendment passed unanimously 5-0; with Councilmember Laursen, Councilmember Larsen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Sweeten all in favor.

Councilmember Larsen made a motion to amend; that the Nibley Meadow development agreement include that the developer must pay for the first 25 parking stalls, all road cross-section improvements to the access road and 1200 West surrounding the park, all trails within the park, sewer stubs for the restroom, and \$60,000 towards a park restroom; independent of all impact fees. Councilmember Beus seconded the motion. The amended, amendment passed 5-0; with Councilmember Larsen, Councilmember Beus, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

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

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

Opening Ceremonies

Councilmember Sweeten shared the story of when she became an American citizen, the citizenship ceremony, and what she experiences every time she says the Pledge of Allegiance. She was given the advice to remember what was in their heart and why they chose to become citizens every time they recited the Pledge. She appreciated the opportunity she had to say the Pledge each and every time.

Councilmember Sweeten let the meeting in the Pledge of Allegiance.

Call to Order and Roll Call

Mayor Dustin called the Thursday, August 13, 2020 Nibley City Council meeting to order at 6:32 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Kathryn Beus, Councilmember Tom Bernhardt, Councilmember Norman Larsen, Councilmember Nathan Laursen, and Councilmember Kay Sweeten. Justin Maughan, Nibley City Public Works Director was also present.

Approval of the Previous Meeting Minutes and Current Agenda

Councilmember Beus moved to approve the previous meeting minutes and the evening's agenda. Councilmember Laursen seconded the motion. The motion passed unanimously 5-0; with Councilmember Beus, Councilmember Laursen, Councilmember Bernhardt, 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 6:33 p.m.

Asher Dustin of 169 West 3300 South in Nibley said it would be pretty cool to build a bike track in the empty lot next to Anhder Park because he knew a lot of people would be using it and it would be a good recreational thing to have in town.

Seeing no further public comments, Mayor Dustin closed the Public Comment Period at 6:34 p.m.

Councilmember Bernhardt said he'd love to see a BMX park at the property on 1500 West; the big park they were never going to do anything with. He discussed how busy the Logan bike park was. Mr. Maughan clarified that that Nibley property Councilmember Bernhardt was referring to was at 640 and 4000 South.

Planning Commission Report

No Planning Commission report was given.

Public Hearing – Ordinance 20-15: Amending the Logan Wastewater Treatment Impact Fee

Mayor Dustin said most of the Council was already familiar with the impact fee. The issue was who collects the money and Logan had said they wouldn't do it and they had people trying to build homes that were not able to unless they collected the impact fee. Legally Nibley couldn't collect the impact fee unless the ordinance was changed. Mayor Dustin read the proposed change to the ordinance.

"17.08.040 Wastewater Impact Fee

- C. Nibley City ~~Logan City or the Environmental Services Department~~ will collect the Wastewater Impact Fee at the time of building permit application. All impact fees must be paid in full before a building permit is issued"

Mayor Dustin opened the public hearing at 6:37 p.m. and seeing no comments, he closed the public hearing at 6:37 p.m.

Discussion & Consideration – Ordinance 20-15: Amending the Logan Wastewater Treatment Impact Fee (First Reading)

Councilmember Bernhardt moved to approve Ordinance 20-15: Amending the Logan Wastewater Treatment Impact Fee; and waived the second reading. Councilmember Larsen seconded the motion.

Councilmember Bernhardt said he'd discussed this with the Nibley Treasurer who'd said there would be reporting requirements on Nibley's side. He questioned if there was a processing fee they could add to Nibley's fee schedule so they were taking care of staff time in dealing with the change. Mayor Dustin discussed surcharges with garbage and sewer that covered staff time. He said this could be considered the next time the City Council reviewed the Nibley City fee schedule.

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

Discussion & Consideration – Ordinance 20-14: Update to Nibley City Code 21.10.020 Amending the Rural Preservation Subdivision (Second Reading)

Mayor Dustin reviewed the proposed changes to the ordinance. He said the primary changes were to rename the ordinance and included the additional verbiage designating priority for open space preservation. Mayor Dustin asked if there were any other issues the City Council wanted to consider.

Councilmember Larsen moved to approve Ordinance 20-14: Update to Nibley City Code 21.10.020 Amending the Rural Preservation Subdivision, as presented. Councilmember Sweeten seconded the motion.

Councilmember Beus asked for clarification on what the subdivision was renamed to. The Mayor and City Council discussed and clarified that the ordinance was being renamed the Open Space subdivision.

Councilmember Laursen asked if they were concerned that open space had to be on the border. Councilmember Bernhardt felt that the wording "As directed by the Planning Commission and City Council . . ." gave them the ability to change this. He and Mayor Dustin debated amended wording they felt would make the section clearer.

Councilmember Bernhardt made a motion to amend the wording of NCC code 21.10.020 H.4 to read as follows:

“Open Space Land Coordination: As When directed by the Planning Commission and City Council, Open space land shall be consolidated and located on the boarder of proposed subdivision and be located adjacent to undeveloped or open space land. In consideration of open space consolidation, design standards described in this chapter shall be maximized, including the preservation of significant areas and natural landscape, and adequate pedestrian access.

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

Discussion & Consideration – Ordinance 20-07: Residential Planned Unit Development Overlay Zone and Development Agreement for Nibley Meadows, located at approximately 1000 W and 3200 S. Proposing 273 units on 54.6 acres (Fourth Reading)
Mr. Travis Taylor, representing the developer, was present at the meeting.

Mr. Maughan showed the latest development concept map. He said the roadway that stubbed from the bottom was proposed to be a public street to access the corner lot for an egress and should help with keeping traffic from accessing on to 3200 South. Mr. Maughan said the density had gone down slightly. Mr. Taylor said the density had gone to 4.84 units per acre with 56% townhomes and 44% residential.

Councilmember Larsen asked for clarification on the park proposed in the development. He asked if the developer was covering the costs for both sides of the road near the park and asked if there would be grass and trees planted along the area. Mr. Maughan said his understanding was the developer would dedicate the space as a City park and the amenities were negotiable. Mr. Taylor described which open space was private open space; mostly internal open space. He also described the public open space and he said it would be developed with the impact fees funds collected from the area.

Councilmember Bernhardt clarified that the developer was asking to retain the impact fees to develop the park. Mr. Taylor said “yes” to this. Mr. Taylor said all of the roads and parking stalls came in with the development. Mr. Taylor said the parking stalls would be part of the park improvements overall. He assumed they would be building all the concept amenities and using a combination of funds to do it. Councilmember Beus clarified that the park was just under five acres. She believed this opened up a broader discussion of the use of impact fees and how much impact fees were going toward

projects that were going to have public open space. Mr. Maughan said it was not clear to him that the impact fees paid for the amenities. He was not sure if Mr. Taylor had this discussion with the City Planner. He did not see this in the development agreement and felt it should be clarified in the development agreement. Councilmember Laursen said he also didn't recall seeing a maintenance plan. Mr. Taylor believed the maintenance plan came with each plat proposal.

Councilmember Beus moved to approve Ordinance 20-07: Residential Planned Unit Development Overlay Zone and Development Agreement for Nibley Meadows, located at approximately 1000 W and 3200 S. Proposing 273 units on 54.6 acres, as presented. Councilmember Larsen seconded the motion.

Councilmember Larsen discussed that they'd had the developer pay for parking stalls at Firefly Park. Councilmember Bernhardt said there wouldn't be enough parking stalls for the area, especially if the area were used for a soccer field or splash pad. Councilmember Larsen felt the developer should pay for the first 20 parking spaces before they started dipping into the impact fees. Councilmember Beus said they needed to have a discussion of the percentage of impact fees that could be used. She wanted to ensure they had impact fees to use for future projects. Councilmember Bernhardt thought they should commit that they were going to spend a certain percentage of the impact fees.

Councilmember Bernhardt made a motion to amend; that the development agreement for Nibley Meadows include that up to 75% of the park impact fees are dedicated to building the Nibley Meadow five-acre park, built by the developer, to Nibley City's design. Councilmember Beus seconded the motion.

Councilmember Bernhardt said they should essentially copy and paste what was in the Ridgeline Park development agreement.

Councilmember Sweeten thought it was an excellent idea to set something solid that night. She noted that the park at Meadow View was significantly smaller than the park at Ridgeline Park. Councilmember Sweeten asked if the Council should consider the difference in size and how impact fees were affected. The Council discussed the amount of impact fees they were considering. Councilmember Beus and Councilmember Bernhardt discussed the cost of a splash park.

Mayor Dustin said he would prefer that the majority of impact fees go into developing park space around existing residents to help mitigate the areas that were impacted by the higher density development. He said for local and regional parks he would rather see the money get spent in neighborhoods that were impacted by the development; not necessarily in the development. After further debate, Councilmember Bernhardt made a substitute amendment.

Councilmember Bernhardt made a substitute amendment that the development agreement for Nibley Meadows include that up to 50% of the park impact fees are dedicated to building the Nibley Meadow five-acre park, built by the developer, to Nibley City's design. Councilmember Beus seconded the substitute motion. The amendment 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 that the other 50% of Nibley Meadow park impact fees be spent withing a half-mile radius of the Nibley Meadow development. Councilmember Larsen seconded the motion.

Councilmember Bernhardt said they were only able to entertain the discussion because they had the same developer building out both areas; Nibley Meadows and Nibley Farms. Councilmember Bernhardt said they were doing an end around their Parks and Recreation Committee. Councilmember Beus said the Council had already determined they needed a park in the area. Councilmember Laursen said he liked the idea of putting a nice park in the area because they were adding townhomes to the existing area that had no parks. Mayor Dustin discussed how these discussions effected their parks priorities and their Park Master Plan. Councilmember Bernhardt described that the amendment made it unclear as to what the developer would do with 50% of the impact fees. Councilmember Laursen said it was his intent that the City commit to use those funds within .5 miles of the development. Councilmember Bernhardt said this should not be included in this developer's agreement. Mayor Dustin thought they could take it out of the developer's agreement but could leave it in the approval or condition of the subdivision. Councilmember Larsen clarified that his proposal was for Ordinance 20-07; to be a condition of the ordinance; that at the City commits 100% of the impact fees be spent withing a mile of the Nibley Meadows development. Councilmember Laursen said that area needed something.

Councilmember Laursen amendment was clarified to read as follows:

Councilmember Laursen made a motion to amend Ordinance 20-07; that 100% of the Nibley Meadows park impact fees are committed to be used within .5 miles of the Nibley Meadows development as part of the subdivision approval. Councilmember Larsen seconded the motion.

The Council discussed and clarified the intent of Councilmember Laursen amendment and how it could be implemented.

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

Councilmember Beus discussed that the Council was still obligated to clarify what amenities were expected of the developer as part of the R-PUD process. Mayor said the developer was still obligated to this. He understood that those amenities were for the betterment of those particular developments. They were still obligated to these amenities and had more control over where these amenities went. Councilmember Beus questioned how much they expected from the developer in the five-acre park.

Councilmember Larsen made a motion to amend; that the Nibley Meadow development agreement include that the developer must pay for the first 25 parking stalls, all road cross-section improvements to the access road and 1200 West surrounding the park, all trails within the park, and a park restroom; independent of all impact fees. Councilmember Beus seconded the motion.

Mr. Taylor reviewed the amenities they were required to put in based on the number of homes they were building: all trails, one swing set, two playgrounds, one either clubhouse, pool or splashpad, and one sports field. He noted that these amenities were shown. He expressed that he was okay with the trails and park spots. He hoped they could cooperatively do something that was great and that there would be an appropriate number of parking spots. The Council discussed and debated the cost associated with construction of a restroom.

Councilmember Larsen amended his amendment to include the first the \$60,000 of a park bathroom must be paid by the developer. Councilmember Beus seconded the motion.

The Council debated if the required \$60,000 included sewer stubs. Mr. Maughan suggested the street infrastructure needed to happen now and, in his mind, it made sense to keep the stubs separate from the actual restroom. Mr. Maughan said stubs were peanuts compared to the \$60,000.

Councilmember Larsen said he wanted to include bathroom stubs in his amendment:

Councilmember Larsen made a motion to amend; that the Nibley Meadow development agreement include that the developer must pay for the first 25 parking stalls, all road cross-section improvements to the access road and 1200 West surrounding the park, all trails within the park, sewer stubs for the restroom, and \$60,000 towards a park restroom; independent of all impact fees. Councilmember Beus seconded the motion.

The voting on the amendment to the amendment was unanimous. 5-0 with Councilmember Larsen, Councilmember Beus, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

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

Councilmember Bernhardt pointed out that Nibley would have all of this housing, but nothing would impact the moderate-income housing plan. Councilmember Sweeten discussed the numerical figures for the Moderate Income-Housing plan came from 2018 and noted they had no numbers from 2020. She understood from readings from the Utah League of Cities and Towns and the law that the intent was to create housing that was significantly closer to creating affordable opportunities. Mayor Dustin thought they had a supply and demand problem. He felt they could alleviate some of this by increasing supply.

Voting on Ordinance 20-07 was as follows: Councilmember Laursen was opposed. Councilmember Sweeten in favor. Councilmember Beus was in favor. Councilmember Bernhardt was opposed.

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

Workshop – Ordinance 20-13: Accessory Dwelling Unit Standards

Mayor Dustin asked if the Council had an idea of what they would be incentivizing and of the impact it could have on neighborhoods. He wanted to see if the Council had things to discuss and gauge some direction for staff if the ordinance was brought back. Mayor Dustin concerns were the impact on existing neighborhood and that Nibley didn't have ordinance in place for short-term rentals.

Mr. Maughan showed schematics prepared by Nibley's Planner of examples of ADUs in different areas of Nibley.

Mayor Dustin felt ADU parking should be provided behind the front-plane of the primary house. He'd also like to see ADU as a conditional use and a requirement for public notification so that some sort of public hearing took place at either the Planning Commission or City Council. Councilmember Beus asked if impact fees had been addressed by staff. Mayor Dustin reported that Levi had reported he could justify and approximate 30% reduction in impact fees based on square footage. Councilmember Bernhardt said he was all about impact fees because this was a separate dwelling unit. He agreed that it was essentially a flag lot that hadn't been subdivided. Mr. Maughan discussed his research on Logan's history with ADU ordinance. Councilmember Bernhardt said he'd like to do separate utilities and separate billings. Mr. Maughan said it was messy to bill separate utilities off of one connection.

Mayor Dustin said he'd questioned what kind of problem they were trying to solve. If they could figure out a way to do it without creating a bunch of problems with staff and neighbors, then he was all for it. Councilmember Bernhardt said he felt ADU had a bigger potential of having an impact on affordable or moderate housing than the higher impact developments that were happening but was not ready to be California. The City Council discussed increasing the minimum lot to 15,000 square feet. Councilmember Laursen said they didn't have an objective of why they were doing the ordinance yet. Councilmember Beus thought an objective was property rights. Councilmember Bernhardt said the objective for him was that it was outlined in their Moderate-Income housing plan. Councilmember Laursen wanted to have an objective they were trying to solve. The Council discussed the impact of an ADU versus the impact of a basement apartment.

Mayor Dustin said he liked having the impact fees because it might disincentivize someone from doing this. He said at the very least they should tighten up their apartment ordinance.

The Mayor asked the Council if they wanted to bring the ordinance back on a future agenda:

Councilmember Bernhardt was opposed.
Councilmember Sweeten was opposed.
Councilmember Laursen was opposed.
Councilmember Beus was in favor.
Councilmember Larsen was in favor of bringing it back.

Mayor Dustin asked Councilmember Beus to work with himself and Levi Roberts to see if they could tighten up the ordinance before it was possibly brought back.

Councilmember Bernhardt thought it should be brought back as a new zone. Mayor Dustin said they already had this with the flag lot. Councilmember Laursen said he liked the idea of addressing apartments at the same time.

Council and Staff Reports

Mayor Dustin reported that he had discussed the possibility of putting a pump track in the lot next to Anheuser Park. He said they had dirt, equipment, and time and felt this could be installed in a matter of days. He suggested they do this and test its use until the Fall. The Mayor's primary objective was using the space. He said this was his Ted's. Councilmember Laursen questioned if there would be liability considerations. Mayor Dustin suggested they post the same signage that Logan posted at their track.

Councilmember Beus left the meeting at 8:49 p.m.

Mr. Maughan said he'd reached out to the City's insurance company who'd let him know they should what they'd need to do for liability; have clear signage and enforce the rules.

Councilmember Beus returned at 8:51 p.m.

Councilmember Larsen said he was in favor of this but thought they would get people who would try to motorize on the track. The City Council indicated that they were in favor of moving forward; Councilmember Bernhardt thought this should be on the condition that open communication would take place with the neighbors.

Mayor Dustin relayed conversation with Mayor Miller. Councilmember Beus had asked for permission to continue to pursue wastewater with Hyrum. Mayor Dustin said he had given Councilmember Beus permission to take this on as her own initiative.

Mayor Dustin reported on UDOT's preferred alignment for 3200 South and Highway 89/91 and Nibley City's response. The Council discussed the alignment the Council had decided they preferred. The Mayor and City Council helped compose a response letter to UDOT.

Mayor Dustin reported that Councilmember Laursen and he would be meeting in the next week to review the Nibley flag submissions.

Mr. Maughan reported on construction progress at Clear Creek Park.

Mr. Maughan said construction on the bike park at Anhder Park should start the second week of September.

Councilmember Bernhardt asked about the playground at Clear Creek Park. Mayor Dustin said there was a disagreement between the supplier the City had typically used for this equipment and equipment suggested by the Park and Recreation Advisory committee. Councilmember Bernhardt suggested they go with whichever supplier could go the fastest.

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

Councilmember Bernhardt moved to adjourn to closed session to discuss real estate and pending litigation pursuant to Utah Code 52-4-205. Councilmember Beus seconded the motion. The motion passed unanimously 5-0; with Councilmember Sweeten, Councilmember Bernhardt, Councilmember Beus, Councilmember Larsen, and Councilmember Laursen all in favor.

The City Council moved to closed session at 9:16 p.m.

The City Council returned from closed session at 10:52 p.m. and adjourned their meeting at 10:52 p.m.

Attest: _____
Deputy City Recorder