

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, September 17, 2020.

The following actions were made during the meeting:

Councilmember Beus moved to adopt Resolution 20-12: Adopting Fraud Risk Policies, for second reading. 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.

Councilmember Bernhardt moved to approve Resolution 20-14: Approving a Water Share Use Agreement with the Sheridan Ridge Homeowners Association (Second Reading). Councilmember Larsen seconded the motion. The motion passed unanimously 4-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Laursen, and Councilmember Sweeten all in favor. Councilmember Beus abstained from voting.

Councilmember Bernhardt moved to approve Ordinance 20-16: An Update to Nibley City Code 19.32 Amending Residential Planned Unit Development (R-PUD) Requirement, amending a 20-acre minimum to a 40-acre minimum. Councilmember Larsen seconded the motion.

Councilmember Laursen made a motion to amend Nibley City Code 19.32 Amending Residential Planned Unit Development, section 19.32.030 B. to create a new regulation the read as follows:

"H. At no time shall the Planning Commission or City Council approve an R-PUD overly application if the total possible percentage of R-PUD area exceeds 15% of Nibley City's total acreage."

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

Councilmember Laursen made a motion to amend Nibley City Code 19.32 Amending Residential Planned Unit Development, section 19.32.010 A. to read as follows:

"Intent: This section provides enabling authority and standards for the review and approval of applications for Residential Planned Unit Developments (R-PUD's). The intent of this ordinance is to achieve local economic development goals, provide a diversity of housing options, create walkable neighborhoods, and protect air, water and open space resources by providing an alternative to traditional subdivision design;

by encouraging innovation and offering flexibility in design of residential developments with an emphasis on the permanent preservation and creation of a variety of amenities for the enjoyment and benefit of the citizens of Nibley.”

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

Councilmember Bernhardt made a motion to amend Nibley City Code 19.32 Amending Residential Planned Unit Development, to delete the Firefly section (20-acre parcel) from the R-PUD designation map. 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.

Councilmember Beus moved to amend Nibley City Code 19.32 Amending Residential Planned Unit Development, removing references to R-PUD’s under 40 acres. 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.

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

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

Opening Ceremonies

Mayor Dustin had been thinking about the Boy Scouts a lot. He missed finding institutions that kids can be involved in that aspire to high values. This was something he appreciated about the folks that ran the Nibley Youth Council. The values Scouts aspire to are values he still looks to. Mayor Dustin went through the Scout Law:

“A Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.”

Call to Order and Roll Call

Mayor Dustin called the Thursday, September 17, 2020 Nibley City Council meeting to order at 6:31 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember

Tom Bernhardt, Councilmember Kathryn Beus, Councilmember Norman Larsen, Councilmember Nathan Laursen and Councilmember Kay Sweeten. David Zook, Nibley City Manager, and Levi Roberts, Nibley City Planner was also present.

Approval of the Previous Meeting Minutes and Current Agenda

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

Public Comment Period

Mayor Dustin gave direction to the public present and opened the Public Comment Period at 6:32 p.m.

Rebecca Sweeten said she was the daughter of one of the City Councilmembers and had the opportunity to have an inside look at one of the issues in Nibley's community. Miss Sweeten said she was a college student and lived at home, but the R-PUD and housing did affect her. It was college students that were moving into these condos. She had graduated high school recently and didn't have a place in Nibley anymore. She said she loved Nibley but the housing options she would be able to afford were not here. She said the way people had reacted to this made her not want to live in Nibley in a condo. She shared her concern that young people didn't have a place in Nibley. Nibley tried to build the youth with amazing programs but didn't allow them a place to come back and make the City even better.

Seeing no further public comments, Mayor Dustin closed the Public Comment Period at 6:35 p.m.

Discussion & Consideration – Resolution 20-12: Adopting Fraud Risk Policies (Second Reading)

Mr. Zook gave this presentation. He said the State Auditor had taken action to help protect cities protect themselves from fraud and abuse of public resources and had distributed an assessment sheet. This was a self-review that would be taken up with the city's auditor. Mr. Zook summarized the policies the assessment called for: conflict of interest, procurement, purchasing, ethical behavior, ways to report fraud and abuse, travel policies, credit card purchasing policy, use of public resources, IT and computer security, and cash receipting and deposit policies. Mr. Zook said Nibley City had most of these policies in place already and had consolidated a document that included the existing policies Nibley already had as well as sample policies provided by the State Auditor.

Mr. Zook reviewed that the Fraud Risk document would create an Audit Committee, which would be composed of 3 people; City Council member, a person who had background in government finance, and a community member. These individuals would

be appointed by the Mayor at a later date and would come to the City Council for appointment.

Mr. Zook said the policy clarified conflicts of interest. A City Councilmember or City official is required to disclose conflicts and file a conflict of interest disclosure form. The State Auditor had also asked for the creation of a hotline. Nibley had the option of creating their own line for people to call in with anonymous complaints, or Nibley could use the State hotline that was in place already. The policy clarified that Nibley City would use the State's hotline. Mr. Zook reviewed the travel policy, credit card use policy, and a recommendation for IT and computer security purposes.

Mr. Zook said if the Fraud Risk Policy were adopted, the City Council would see appointments to the Fraud Risk Committee at a later meeting.

Councilmember Bernhardt asked for clarification if someone had an issue with Mr. Zook. Mr. Zook said he had updated this section; that a complaint could be made to the Mayor or to audit committee.

Councilmember Beus moved to adopt Resolution 20-12: Adopting Fraud Risk Policies, for second reading. 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.

Discussion & Consideration – Resolution 20-14: Approving a Water Share Use Agreement with the Sheridan Ridge Homeowners Association (Second Reading)
Mayor Dustin gave background that when Sheridan Ridge was approved as a subdivision there was discussion of a water use agreement. Sheridan Ridge proceeded as if the water use agreement was already in place, but nothing had been signed or formalized. This had been brought to the City's attention by the canal company. The Resolution formalized this agreement, gave Sheridan Ridge access to the water and established legal ties.

Councilmember Beus recused herself from participation in the voting on the issue because of a conflict of interest as she was in the Sheridan Ridge homeowner's association

Councilmember Bernhardt moved to approve Resolution 20-14: Approving a Water Share Use Agreement with the Sheridan Ridge Homeowners Association (Second Reading). Councilmember Larsen seconded the motion. The motion passed unanimously 4-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Laursen, and Councilmember Sweeten all in favor. Councilmember Beus abstained from voting.

Mr. Zook added that there was discussion at the last meeting of developing an ordinance to address the use of both the culinary water system as well as a secondary

irrigation system. He had met with the City Attorney and they had a draft ordinance they could review and potentially put on a future agenda.

Discussion & Consideration – Ordinance 20-16: An Update to Nibley City Code 19.32 Amending Residential Planned Unit Development (R-PUD) Requirements (Second Reading)

Councilmember Bernhardt moved to approve Ordinance 20-16: An Update to Nibley City Code 19.32 Amending Residential Planned Unit Development (R-PUD) Requirement, amending a 20-acre minimum to a 40-acre minimum. Councilmember Larsen seconded the motion.

Councilmember Bernhardt felt a lot of his issues, that he put in an email to the City Council and staff, would be resolved if the minimum acreage were 40 acres.

Mr. Roberts said if there were a 40-acre minimum it would essentially exclude the property where Firefly Estates was. If the City Council wanted to go this direction, they might consider amending the piece that delineated where the eligible R-PUDs would be. That property was about 20 acres and he didn't see a way to combine this property with other properties. Councilmember Larsen thought they could always buy more land. Mr. Roberts said they would have to consolidated property and there was no other area included on the R-PUD map.

Councilmember Laursen made a motion to amend Nibley City Code 19.32 Amending Residential Planned Unit Development, section 19.32.030 B. to create a new regulation the read as follows:

"H. At no time shall the Planning Commission or City Council approve an R-PUD overly application if the total possible percentage of R-PUD area exceeds 15% of Nibley City's total acreage."

Councilmember Beus questioned if it could be first come first serve. Councilmember Laursen said their current proposed R-PUD acreage was 24% and was just too much. Councilmember Bernhardt said it seemed the concern was how fast the townhomes and condos were growing. Councilmember Laursen said they needed to do R-PUD proportionately. Mayor Dustin and Councilmember Beus agreed that the R-PUD map didn't need to be changed. The map didn't delineate that R-PUD would happen; just that that the area was R-PUD eligible. The City Council discussed Nibley's annexation area. Councilmember Bernhardt asked where they were, percentage wise, with what had already been approved. Mr. Zook calculated they were at 6% with the assumption that Firefly "sticks." The Council discussed that Firefly Estates had standing under the old R-PUD ordinance. Councilmember Laursen said he would like to see Firefly removed from the map. Councilmember Larsen questioned if this would make development come in quicker. Mayor Dustin clarified that Councilmember Laursen's motion was to cap R-PUD at 15% of Nibley City's total land area at the time of approval.

Councilmember Bernhardt seconded the motion to amend.

Councilmember Bernhardt wanted to do more homework on this and decide if 15% were the right number for proportional growth. Mayor Dustin said he kind of liked it and discussed maintaining the proportion through Nibley's buildout. He didn't mind tying the buildout percentage to their current percentage and maintaining the proportion through buildout. The Council revisited why the areas selected for R-PUD consideration had been considered; they would be viable but were buffered from existing single-family neighborhoods and they were near transportation corridors.

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

Councilmember Sweeten said she liked 40 acres but was curious of having both 40-acres a limit of a certain number of units contributing to what they ultimately had at Firefly. She questioned the benefit of either saying they wanted larger areas or removing the minimum number. Councilmember Bernhardt thought they had more negotiating room than what they had on a 20-acre parcel; they would have more negotiating power on a bigger parcel. Councilmember Laursen said not every R-PUD had to be a giant, extravagant thing and they would be eliminating this as a possibility. Mr. Zook discussed that the City had a PUD ordinance before and there were a couple parcels that were developed as senior communities. They were small and had basically no amenities. Mr. Zook said homeowner's associations also struggled to operate effectively because they didn't have enough revenue to hire the staff to do the things that need to be done. He was in support of larger development because he felt it was more financially feasible to operate effectively afterward and to build and maintain infrastructure.

Mr. Roberts reported that if Nibley's whole annexation declaration boundary were taken into consideration, they had approximately 10% land area designated as eligible R-PUD overlay.

Councilmember Laursen made a motion to amend Nibley City Code 19.32 Amending Residential Planned Unit Development, section 19.32.010 A. to read as follows:

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Councilmember Larsen said he wanted to talk about economic development goals, diversity of housing options and wanted walkable neighborhoods. He wanted it listed that these were the things they wanted out of these developments.

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

Councilmember Bernhardt made a motion to amend Nibley City Code 19.32 Amending Residential Planned Unit Development, to delete the Firefly section (20-acre parcel) from the R-PUD designation map. 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.

Councilmember Beus moved to amend Nibley City Code 19.32 Amending Residential Planned Unit Development, removing references to R-PUD's under 40 acres. 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.

Councilmember Beus questioned if they had addressed Councilmember Laursen's amendments from the previous Council meeting on September 10, 2020. Mr. Roberts described that Councilmember Laursen's motion at that meeting had not stood because the Council had ultimately voted to continue the discussion. Mr. Roberts said he had included Councilmember Laursen's change in the draft that had been presented. Councilmember Laursen said the reference was in Open Space Amenities; item 1; beneath the table. Mr. Roberts said this was the only changed that had been made since the last meeting.

Voting on the 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 Larsen, Councilmember Beus, Councilmember Laursen, and Councilmember Sweeten all in favor.

Council and Staff Reports

Councilmember Larsen reported the he and Councilmember Bernhardt had attended Logan's City Council meeting. He reported that they had talked about doing an RV Park on 800 West with 96 RV stalls near the racetrack portion of Renegade Sports. Councilmember Bernhardt said it surprised him that they were talking about this

considering that when it had gone to Planning Commission it had been presented under another ordinance and the ordinance still needed to be amended. They still had work to be done. Councilmember Bernhardt said these RV parks would be zoned for the Logan School District.

Councilmember Beus reported that she and Councilmember Bernhardt had a meeting with Logan about the boundary line the following Tuesday. She asked if the City Council had questions they wanted them to take back. Councilmember Larsen said he wouldn't cap the boundary at the highway. He would go further west. Councilmember Laursen had a handout with information about where R-PUDs and apartments should go. He wanted them to read the handout. Councilmember Larsen brought up the EMS boundary line that Logan had presented. Mayor Dustin hoped they would recognize the value of someone taking ownership of Ted's. That was a big unknown and they ought to give them something for that. Councilmember Sweeten said if they were going to push Ted's then they should push back on 8th west going further past 2200 south. The Council discussed boundary line

Councilmember Laursen asked if the letter had been sent to the State representatives about the realignment of 3200 South. Mayor Dustin reported that Representative Casey Snider told UDOT what they could do and how they could do this. UDOT gave them a commitment to figure out how to get the alignment they had chosen done.

Councilmember Laursen asked for a report of traffic from 8th north to the highway on 2600 South. Mr. Zook described that once the radar signs were taken down, they would download that data and get the report to the Council.

Councilmember Laursen said he appreciated the project list that had been provided by staff to the City Council but questioned a stop sign at 2600 South and 10th West had been stalled. He asked if the citizen that had brought this up and been informed why it was on hold. Mr. Zook said he thought so but would follow up. Mr. Zook also reported that the sign for Firefly Circle had been ordered but hadn't been received yet.

Mr. Zook reported that the EMS agreement had been bumped off the agenda because Cache County and Smithfield were unable to reach a successful agreement. The contract would only be between Nibley City and Cache County. SIMS wouldn't exist based on current discussion with the County. This would answer the question about who the governing structure would be; the County Council.

Mr. Zook discussed property negotiations around Nibley's future 3200 south and 12th west roundabout. A question had been asked by a property owner if the Council's payout included moving some fencing and an irrigation line. Mr. Maughan's opinion was that these items were included in the appraisal and Mr. Zook had agreed. He asked if it was City Council's intent to just pay the appraised amount of \$128,000? Councilmember Bernhardt and Councilmember Beus said their intent was the only \$128,000.

Councilmember Larsen agreed as well. Mayor Dustin said he was not comfortable going above the appraised rate and was not interested in setting this president.

Mr. Zook showed pictures of the size and volume of greenwaste that had been dumped at the site that had been provided to Nibley citizens. He showed a current photo showing that the substantial pile was gone. Mr. Zook gave Mr. Maughan credit for getting the greenwaste removed so quickly; partly because of the relationships he had with other entities.

The meeting was adjourned at 7:54 p.m.

Attest: _____
Deputy City Recorder