

1 A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South,
2 Nibley, Utah, on Thursday, October 8, 2020.

3
4 The following actions were made during the meeting:

5
6 **Councilmember Sweeten moved to approve the items on the October 8, 2020 Consent**
7 **agenda. Councilmember Larsen seconded the motion. The motion passed**
8 **unanimously 4-0; with Councilmember Sweeten, Councilmember Larsen,**
9 **Councilmember Bernhardt, and Councilmember Laursen all in favor.**

10
11 **Councilmember Larsen moved to approve Ordinance 20-18: Annexation Petition for 1**
12 **Parcel on 25.86 Acres, Contained Within Parcel TaxID:03-014-0025, Located North of**
13 **3200 South, and West of 1600 West, and East of the Hyrum Slough, for first reading.**
14 **Councilmember Bernhardt seconded the motion.**

15
16
17 **OFFICIAL MINUTES OF THE MEETING**
18 Deputy City Recorder Cheryl Bodily took minutes

19
20 **Opening Ceremonies**

21 Councilmember Larsen shared a story about a farmer and a hired hand. He equated this
22 to having our houses in order.

23
24 Councilmember Larsen noted the recent vice-presidential debate and the last question
25 that was posed about controversy and getting along with each other. He appreciated
26 how everyone on the City Council and staff got along and were civil to one another.

27
28 **Call to Order and Roll Call**

29 Mayor Dustin called the Thursday, October 8, 2020 Nibley City Council meeting to order
30 at 6:30 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Tom
31 Bernhardt, Councilmember Norman Larsen, Councilmember Nathan Laursen and
32 Councilmember Kay Sweeten. David Zook, Nibley City Manager, Levi Roberts, Nibley City
33 Planner, and Justin Maughan, Nibley City Public Works Director was also present.
34 Councilmember Kathryn Beus was excused from the meeting.

35
36 **Approval of the Previous Meeting Minutes and Current Agenda**

37 Mayor Dustin proposed the fiber optic and broadband workshop be moved earlier on
38 the agenda.

39
40 Mayor Dustin described the Consent Agenda process.

41
42 Councilmember Laursen moved to approve and amend the evening's agenda and the
43 previous meeting minutes; moving item 11 to after the Planning Commission Report.
44 Councilmember Sweeten seconded the motion.

Councilmember Larsen questioned if they should also move item 10 because Mr. Albrecht was also present at the meeting to give his report.

Councilmember Larsen made a motion to amend the agenda; also moving item 10 to occur after the Planning Commission Report. Councilmember Laursen seconded the motion. The amendment passed unanimously 4-0; with Councilmember Larsen, Councilmember Laursen, Councilmember Bernhardt, and Councilmember Sweeten all in favor.

The amended motion passed unanimously 4-0; with Councilmember Laursen, Councilmember Sweeten, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Public Comment Period

Mayor Dustin asked if there were any public comments and seeing none, he moved to the next agenda item.

Approval of Items on the Consent Agenda

25-a.—Resolution 20-13: Approving an Agreement with Cache County for Emergency Medical Services

5-b.—Resolution 20-16: Appointing Nibley City's Representative to the Cache Mosquito Abatement District Board of Trustees

5-c.—Resolution 20-18: Appointment of a Nibley City Personnel Appeals Board Chairperson and Board Member

5-d. —Resolution 20-19: Appointment of a Nibley City Appeals Hearing Officer

Mr. Zook described that normally there would be no discussion on the Consent Agenda. If the City Council wished to have discussion on an item, then the item should be moved off the consent agenda and moved on to the regular agenda. Councilmember Bernhardt questioned item 5c. and requested this appointment be reviewed on an annual basis, coinciding with the beginning of the year. Mr. Zook said this would be added to the annual calendar.

Councilmember Sweeten moved to approve the items on the October 8, 2020 Consent agenda. Councilmember Larsen seconded the motion. The motion passed unanimously 4-0; with Councilmember Sweeten, Councilmember Larsen, Councilmember Bernhardt, and Councilmember Laursen all in favor.

Planning Commission Report

Mr. Roberts reported that the Planning Commission had approved a conditional use permit for Standar for an extensive expansion their building. They had also discussed a resident that wanted to build a small flower shop in a residential zone. The resident had a conditional use permit to operation a flower shop but wanted to have an actual building,

1 which wasn't allowed. Mr. Roberts felt this was reasonable so he and the Planning
2 Commission were looking at how they could amend ordinance to allow this to happen.
3 Mr. Roberts reported that the Planning Commission had discussed landscaping
4 requirements and ensuring that landscaping was installed. The City had no way to ensure
5 landscaping was installed. The Planning Commission was discussion having a potential
6 deposit until landscaping was installed.

7
8 **Workshop–Presentation of an Economic Development Study by the Western Rural**
9 **Development Center**

10 Mr. Don Albrecht, Director of the Rural Development Center, was present at the
11 meeting and gave this workshop presentation. His presentation, entitled *Overview of*
12 *Nibley ASAP (Area Sector Analysis Process)*, included the following topics: collaborative
13 efforts, where ASAP had been implemented, ASAP as an award winner, ASAP Model,
14 ASAP data requirements, data assets, community goal survey, desirability/compatibility
15 index, Nibley targeted sectors, next steps, and ASAP team contact information.

16
17 Councilmember Bernhardt and Mr. Albrecht discussed the representation and the
18 number of survey participants. Mr. Zook said this data could be taken to the Planning
19 Commission and they could have discussions of zoning and what parts of the City, or
20 future parts of the City that might be annexed, could be zoned for the types of uses or
21 business developments indicated in the survey. Mayor Dustin said they needed to figure
22 out how to get infrastructure in place to allow for potential and growth. Mr. Zook
23 thought the environment focus that they saw in the surveys was interesting and
24 discussed why businesses had relocated to Nibley. He felt they should use the data from
25 the survey to think about continuing to make the City a good place for businesses to
26 expand to. Nibley didn't have much available land zoned commercial or industrial. This
27 was something they needed to work on based on the information from the survey.

28
29 **Workshop–Presentation Regarding Fiber Optics/Broadband**

30 Mr. Ky Sealy, Senior Principal Engineer at WiTricity Corporation was present at the
31 meeting and led this workshop presentation.

32
33 Mr. Sealy said Providence City had been looking at fiber optics for the city and he had
34 been appointed to as technical advisor for the city. Providence City had looked at several
35 different models of fiber optics; including a Utopia model (the city bonds against the fiber
36 optic infrastructure but doesn't own the infrastructure and makes money from servicing
37 residents and businesses), and utility-based models or service-based models. With these
38 models, the City owns the infrastructure and have to run the fiber optic network or have
39 to hire out management to the third party. The city has the ability to decide how the
40 infrastructure works and what their peak interests were in the infrastructure. Providence
41 City had decided to go the utility-based route which would require every resident to pay
42 a utility fee whether or not they subscribed for service and gave every resident basic web
43 capabilities. Mr. Sealy said this mitigated a lot of the financial risks for the City but
44 required a great deal of technical expertise, which was why he was part of a technical

1 advisory committee. This committee met at least every other week. Mr. Sealy said
2 Providence City had received a public/private partnership proposal from Strada Networks
3 out of Roosevelt and had opted to move in this direction to build out the utility model.
4 Mr. Sealy said he was very excited about the opportunity for fiber optics in Providence
5 City; with COVID issues he saw this as a valuable service and said there was a need to
6 build this infrastructure throughout communities.

7
8 Councilmember Larsen asked what the monthly utility fee was? Mr. Sealy said they had
9 looked at several models and developed a fee that got down to \$10 per month which had
10 a minimum take rate (number of subscribers on the network) of 14-25%. Councilmember
11 Bernhardt asked what the data rate was for \$10/month? Mr. Sealy said this was basic web
12 browsing and email. He said for subscriptions the idea was to start with 250 mbps service
13 and 1 gbps. Councilmember Bernhardt asked if this would be voted on by the residents
14 or handled by the City Council? Mr. Sealy said Providence City had done a number of
15 townhall meetings as well as the technical advisory committee. He said from those town
16 hall meetings, in general, the responses had been overwhelmingly positive.
17 Councilmember Bernhardt asked for the length of the Providence bond. Councilmember
18 Sealy, of the Providence City Council, who was also present at the meeting agreed the
19 bond would be 8 million over 25 years and she said they anticipated paying down the
20 bond in 10 years. Mr. Sealy and the Council discussed pulling and laying fiber using micro-
21 trenching. They discussed if fiber would be obsolete in 25 years. Mr. Sealy said fiber line
22 should remain perfectly viable with changes of equipment and updates and could be
23 continuously improved over time.

24
25 **Public Hearing—To Receive Comments Regarding a Community Impact Board Grant for**
26 **a Sewer Master Plan Update**

27 Mayor Dustin opened the public hearing at 7:40 p.m.

28
29 There was no public present at the meeting.

30
31 Seeing no comment, Mayor Dustin closed at the public hearing at 7:40 p.m.

32
33 Mr. Roberts said the City's current Sewer Master Plan was adopted in 2015. The City had
34 grown and continued to grow so there was a need to upgrade this plan and take into
35 account the additional growth and density to ensure that infrastructure was in place and
36 to analyze how to take care of, or place, future sewer infrastructure. Mr. Roberts said
37 staff had submitted an application for a grant to the Community Impact Board (CIB) for
38 \$20,000. The City had 20,000 budgeted in the Engineer budget to match this amount. It
39 was a 50/50 match if Nibley City received the grant. Mr. Roberts said the grant was
40 submitted the first of October and felt they would know by December if Nibley had
41 received the grant.

1 **Public Hearing—Ordinance 20-18: Zoning and Annexation Petition for 1 Parcel on 25.86**
2 **Acres, Contained Within Parcel Tax ID: 03-014-0025, Located North of 3200 South, and**
3 **West of 1600 West, and East of the Hyrum Slough**

4 Mr. Roberts described the location of the annexation; a little to the south and west of
5 Malouf's current location. This was about 27 acres adjacent to current Nibley City
6 boundaries. The City Council had accepted the petition for further consideration and
7 part of the requirements were to certify the petition. The final step on the City's side
8 was the approval of the ordinance. This was the future site of the expansion of the
9 Malouf campus.

10
11 Mr. Zook said this would be part of the Community Reinvestment Area (CRA) and the
12 CRA was on hold until the annexation was approved because they had wanted to
13 include this land in that area. Mr. Roberts reported that the Planning Commission had
14 recommended and approved the annexation area be zoned Commercial.

15
16 Mayor Dustin opened the public hearing at 7:47 p.m. Seeing no public or comments,
17 Mayor Dustin closed the public hearing at 7:47 p.m.

18
19 **Discussion & Consideration—Ordinance 20-18: Annexation Petition for 1 Parcel on**
20 **25.86 Acres, Contained Within Parcel TaxID:03-014-0025, Located North of 3200**
21 **South, and West of 1600 West, and East of the Hyrum Slough (First Reading)**

22 Councilmember Larsen moved to approve Ordinance 20-18: Annexation Petition for 1
23 Parcel on 25.86 Acres, Contained Within Parcel TaxID:03-014-0025, Located North of
24 3200 South, and West of 1600 West, and East of the Hyrum Slough, for first reading.
25 Councilmember Bernhardt seconded the motion.

26
27 Councilmember Bernhardt discussed the homes at Meadowview Park. He asked what
28 the buffer was between these homes and the commercial zoning. Mr. Roberts said in
29 industrial there was a 50-foot setback but didn't know there was a specific setback in
30 the commercial zone. Mr. Zook discussed the concept he'd seen. Mayor Dustin said he'd
31 held discussion with Malouf of them controlling the environment around campus and
32 implementing their design standards on whatever commercial were developed around
33 their campus. They also wanted to be able to control the road going in so their
34 employees would have access to the highway at a lighted intersection. Councilmember
35 Laursen said he'd read the space requirements that there was 20-foot front setbacks
36 and 10 or 20 side and rear setbacks. There were also height restrictions. Mr. Roberts
37 presented that the area was proposed zoned commercial in the Nibley City General Plan
38 and Mayor Dustin said the area had been planned as commercial since before his time
39 on City Council and shouldn't be too much of a surprise.

40
41 Councilmember Bernhardt requested having discussion with Malouf about the impact to
42 the residents there and mitigating the impact. How did they have those discussion
43 about giving them extra considerations; they don't necessarily have to take full
44 advantage of what the code allowed. Mayor Dustin said he and Mr. Zook had discussed

1 changing setback requirements based on building height; he felt there were things they
2 could do with the code to address buffering issues.

3
4 Councilmember Laursen questioned if the code needed to be changed before the
5 annexation was accepted or how much negotiation could happen with the Community
6 Redevelopment Agency. Mr. Zook said when they came up with an agreement with
7 Malouf through the CRA they had a lot of flexibility on what the funds would be used for
8 and until a land use application was made they still had time to change the code.

9 Councilmember Laursen requested the code changes be considered and addressed.

10 Mayor Dustin asked for the City Council suggestions regarding commercial code and to
11 get those to Mr. Roberts and the Planning Commission. Councilmember Laursen said he
12 thought they should consider viewing angles, etc. Councilmember Bernhardt said he
13 would be a lot more comfortable moving toward second reading after they'd had some
14 discussion and commitment with Malouf about their timeline and level of commitment.
15 Mayor Dustin thought they could reach out to Malouf for some clarification before the
16 next reading. Councilmember Laursen said he would like to address the road through
17 the Malouf property before the second reading; he was concerned their issue at 3200
18 and 89/91 would further their problem.

19
20 The motion passed unanimously 4-0; with Councilmember Larsen, Councilmember
21 Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

22 23 **Council and Staff Reports**

24 Councilmember Laursen said he anticipated helping the Cache Valley Wildlife
25 Association on Saturday from 10:00 am to 12:00 p.m. and got confirmation on whether
26 there would be flowers provided at the event.

27
28 Councilmember Sweeten said she'd received a number of comments from citizens
29 regarding vehicle being parked on property. She said many of the vehicles were
30 operating vehicles. They didn't want to see more and more of it without the City being
31 aware and pondering and thinking of a response. She said it had been a number of
32 citizens over the past 6 months.

33
34 Councilmember Sweeten discussed Tammy and Mark Decoursey who'd come to City
35 Council meeting and wanted to work with the City on the swales in the Apple Creek
36 subdivision. Councilmember Sweeten thought they would need to address the swales
37 somehow. Mr. Zook said before the homes were built and the subdivision built, all the
38 swales had been inspected and laser leveled to where they were supposed to be and
39 whatever happened after that point was unclear. Mr. Zook reminded the City Council
40 that the swales were in the subdivision to handle a certain amount of stormwater; the
41 subdivision had no retention pond; the retention pond was spread out throughout the
42 subdivision. Letters had been sent out reminding residents that they would need a
43 swale modification permit to modify any swales. Letters had also been sent that if
44 swales had been filled in, they would need to be fixed. Mr. Zook said it was obvious that

1 communication hadn't been clear about what the residents needed to do with the
2 swales and the purposed of the swales. Mayor Dustin said he would recuse himself from
3 any decision the City Council made on this. He stated he had sent a letter to the City
4 that this was what was designed, and this was what was approved, and his Errors and
5 Omissions insurance wouldn't cover it is somebody built something that wasn't what
6 was approved by the City. He didn't feel the city's insurance would cover anything
7 either. He said it needed to be corrected but they would need to find the balance
8 between justice and mercy.

10 Councilmember Sweeten had a woman knock on her door looking for housing. She was
11 specifically looking for people who were Bishops to let them know she was looking for
12 housing. She was looking for affordable housing. She was currently approved for
13 housing but had an eight year wait for one location and a three-year wait at another.
14 She thought the Council should be aware of this as they studied things out.

16 Councilmember Larsen said his neighbors had expressed that they were grateful for the
17 sidewalks that had been placed on 640. For him is was a lot cleaner and approachable
18 and visible.

20 Councilmember Bernhardt reviewed the Herald Journal article about the flash mob band
21 that had been arranged by Nibley's recreation department. He said Chad Wright had
22 done a phenomenal job with the parks and rec staff and the flag football program.

24 Councilmember Bernhardt reported on meeting with Logan City regarding the shared
25 Nibley City/Logan City boundary line. He said they were working on the draft language
26 in terms of a proposal but not much had changed. Councilmember Bernhardt reported
27 on the requested code change on an RV park need Renegade Sports.

29 Mr. Zook reported on staff CPR, EMD and EOC trainings.

31 Mr. Zook reported on CARES Act spending. He said the State had "killed" the bathroom
32 proposals. Staff was looking at portable bathrooms. He asked the City Council to send
33 any CARES act spending ideas to staff's attention.

35 Mayor Dustin adjourned the meeting at 8:30 p.m.

43 Attest: _____
44 Deputy City Recorder