

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, December 10, 2020.

The following actions were made during the meeting:

Councilmember Larsen moved to approve the December 11, 2020 Consent Agenda. Councilmember Beus seconded the motion.

5-a. Resolution 20-22: 2021 City Council Meeting Schedule

5-b. Resolution 20-23: Appointment to the Nibley City Planning Commission and Appointments of the 2021 Planning Commission Chair and Vice-Chair

5-c. Resolution 20-24: Authorizing Purchases Funded by the Cares Act (Pressure Washer)

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

Councilmember Bernhardt moved to approve Ordinance 20-22: Amending Water Supply Requirements for Development with an amendment to include Residential and also Institutional uses; and waived the second reading. Councilmember Larsen seconded the motion. The motion passed unanimously 4-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Beus, and Councilmember Laursen all in favor.

Councilmember Beus moved to adopt a Notice of Impending Boundary Action. Councilmember Laursen seconded the motion. The motion passed unanimously 4-0; with Councilmember Bernhardt, Councilmember Laursen, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Councilmember Beus moved to approve Ordinance 20-13: Accessory Dwelling Unit Standards. Councilmember Larsen seconded the motion.

Councilmember Laursen made a motion to amend Ordinance 20-13: Accessory Dwelling Units, A.2. to read as follows:

“The purpose of this chapter is to provide opportunities to develop affordable moderate-income housing by allowing accessory dwelling units in zoning districts specified in this title, to establish the conditions under which accessory dwelling units are regulated under this chapter, and to set forth criteria and standards to be required of accessory dwelling units when this chapter is applicable.”

Councilmember Beus seconded the amendment. The amendment passed unanimously 4-0; with Councilmember Laursen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Mayor Dustin made a motion to amend Ordinance 20-13 to include the following provisions: parking for two vehicles is provided behind the front plane of the house and one-story ADU setbacks are as noted and amending that two-story setbacks are double the single-story setbacks. Councilmember Beus seconded the motion. The motion passed unanimously. The motion passed unanimously 4-0; with Councilmember Beus, Councilmember Bernhardt, Councilmember Larsen, and Councilmember Laursen all in favor.

Councilmember Bernhardt made a motion to amend Ordinance 20-13 that instead of waiving impact fees, impact fees for ADU are paid upfront. The City will rebate 20% of paid impact fees over a term of five years; the resident receives a portion back as an incentive. If the resident sells the residence before that time, the rebate is non-transferable. Councilmember Larsen seconded the motion. The motion passed unanimously 4-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Beus, and Councilmember Laursen all in favor.

Mayor Dustin made a motion to amend Ordinance 20-13 to include that the ADU shall comply with local CCNR design requirements; and shall meet or exceed the quality of architectural finishes on the primary dwelling unit. Councilmember Larsen seconded the motion. The motion passed 4-0; with Councilmember Larsen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Laursen all in favor.

Councilmember Bernhardt moved to amend Ordinance 20-13, Section E.-13.-a.1-3 to read:

“13. Impact Fees: Accessory dwelling units shall be subject to impact fees for residential buildings in accordance with the Nibley City Impact Fee Schedule.

- a. Owners may petition the City for a rebate of impact fees for accessory dwelling units. The maximum rebate amount shall be set at 20% annually of the total collected impact fee for a period of five (5) years. City Staff shall determine if documentation of rent collected is acceptable. If documentation is not provided within 30 days of each anniversary of the issuance of the certificate of occupancy, the rebate shall be forfeited for that year. The rebate shall be non-transferrable.***

- 1. *The unit's rent is considered affordable to a household of four (4) earning 50% of the area median income of the Logan, UT-ID Metropolitan Statistical Area (MSA), according to income limits set by the US Department of Housing and Urban Development (HUD) for a period of five (5) years.***
- 2. *The rent limit shall be set using the following calculation: HUD annual 4-person 50% AMI Income Limit * 0.3 (30 %) – \$150 (for utility expenses). "***

Councilmember Laursen seconded the motion. The motion passed unanimously 4-0; with Councilmember Bernhardt, Councilmember Laursen, Councilmember Beus, and Councilmember Larsen all in favor.

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

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

Opening Ceremonies

Mayor Dustin noted that Councilmember Sweeten was excused from the meeting but may be present later.

Mayor Dustin quoted the Scout Law:

"A Scout is: trustworthy, loyal, helpful, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent."

He said thanked the Boy Scouts of America for his first mission statement.

Call to Order and Roll Call

Mayor Dustin called the Thursday, December 10, 2020 Nibley City Council meeting to order at 6:31 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Kathryn Beus, Councilmember Tom Bernhardt, Councilmember Norman Larsen, and Councilmember Nathan Laursen. David Zook, Nibley City Manager, Nibley City Planner, Levi Roberts, and 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 Larsen seconded the motion.

Councilmember Laursen made a motion to amend to move item 6 in the evening's agenda to right before Council and Staff Reports. Councilmember Bernhardt seconded the motion. The amendment passed unanimously 4-0; with Councilmember Laursen, Councilmember Bernhardt, Councilmember Beus, and Councilmember Larsen in favor.

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

Public Comment Period

Mayor Dustin gave direction to the public and opened the Public Comment Period at 6:33 p.m.

Mayor Dustin noted there were not public comments via the Zoom meeting broadcast and closed the Public Comment Period at 6:33 p.m.

Approval of Items on the Consent Agenda:

5-a. Resolution 20-22: 2021 City Council Meeting Schedule

5-b. Resolution 20-23: Appointment to the Nibley City Planning Commission and Appointments of the 2021 Planning Commission Chair and Vice-Chair

5-c. Resolution 20-24: Authorizing Purchases Funded by the Cares Act (Pressure Washer)

Councilmember Larsen moved to approve the items on the December 11, 2020 Consent Agenda. Councilmember Beus seconded the motion.

Voting on the motion was as follows:

Cna was in favor.

Councilmember Larsen was in favor.

Councilmember Beus was in favor.

Councilmember Bernhardt was in favor.

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

Public Hearing – Ordinance 20-22: Amending Water Supply Requirements for Development

Mr. Roberts led a presentation on this ordinance. He discussed that the City required that when a subdivision comes in, before the final plat was recorded, the developer or subdivider turns over water rights or shares that are sufficient to service the development. If there were some sort of development that happened outside of the

subdivision, or a change of use, the City didn't require additional water. Mr. Roberts reported that staff had noticed this when reviewing a change of use applications for a large company. Mr. Roberts said the City Attorney had reviewed the proposed ordinance and said it was legal to require more water in other instances.

Mr. Roberts reported that the Planning Commission was concerned with the impact the ordinance might have on a single home, outside of a subdivision. The Planning Commission recommended the ordinance only apply to Commercial or Industrial construction or changes of use.

Mr. Roberts said staff felt the ordinance was pretty straight forward and recommended the City Council waive the second reading of the ordinance. Mr. Zook questioned if the ordinance would apply to institutional uses such as schools. Mr. Roberts said Institutional ought to be added.

Mayor Dustin Opened at 6:38 p.m. and seeing no public comments, Mayor Dustin closed the public hearing at 6:39 p.m.

Discussion & Consideration – Ordinance 20-22: Amending Water Supply Requirements for Development (First Reading)

Mayor Dustin discussed his concerns with Residential uses being removed from the ordinance and discussed additional residential uses. Councilmember Bernhardt also felt the potential Accessory Dwelling Unit (ADU) ordinance might put a further strain on residential use. Mr. Roberts said the Planning Commission felt the water right requirement one residential lot might be prohibitive to someone building a home.

Councilmember Bernhardt moved to approve Ordinance 20-22: Amending Water Supply Requirements for Development with an amendment to include Residential and also Institutional uses; and waived the second reading. Councilmember Larsen seconded the motion.

The Council and Nibley staff discussed how much water would be required for ADUs or residential units.

Voting on the motion was as follows:

Councilmember Bernhardt was in favor.

Councilmember Beus was in favor.

Councilmember Larsen was in favor.

Councilmember Laursen was in favor.

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

Discussion & Consideration – Adoption of a Notice of Impending Boundary Action

Mr. Zook led this discussion item. He reminded the City Council that they adopted an ordinance creating the Community Investment Agency the back in May, which gave them the ability to provide some incentives for the expansion of the Malouf headquarters. The Lieutenant Governor's office had since asked the City Council to adopt the Notice of Impending Boundary Action. The notice said the Council had adopted everything they needed to adopt and asked the Lt. Governor's office to create the agency; it was a formal legal document.

Councilmember Beus moved to adopt a Notice of Impending Boundary Action. Councilmember Laursen seconded the motion. The motion passed unanimously 4-0; with Councilmember Bernhardt, Councilmember Laursen, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Discussion & Consideration – Ordinance 20-13: Accessory Dwelling Unit Standards (Second Reading)

Mr. Roberts led this discussion. He utilized an electronic presentation entitled Accessory Dwelling Units (ADU) Standards; City Council-October 8, 2020 (a printed version of this presentation is included in the printed meeting minutes). Mr. Roberts presentation included the following topics: Background & Purpose, Provisions, and Updated Provisions.

Mr. Roberts said it was staff and the Planning Commission's recommendation that the City Council approve the ordinance.

Councilmember Larsen asked and discussed the logic of a 10-foot setback for a two-story accessory dwelling unit. He and Mayor Dustin felt the setback ought to be larger for a two-story ADU. Mr. Roberts thought it would be reasonable to require a two-story ADU be setback 20-feet from the rear-yard property line. Councilmember Larsen and Councilmember Laursen questioned asked if there were a mechanism so ADU dwellings wouldn't be short-term rentals. Mr. Roberts said that short-term rentals were defined in Nibley City code.

Councilmember Beus moved to approve Ordinance 20-13: Accessory Dwelling Unit Standards. Councilmember Larsen seconded the motion.

The Council discussed the provision in the ADU ordinance provided that an ADU could not be used for a short-term rental. Mr. Roberts reiterated that short-term rentals went against the intent of the ADU to provide affordable rental housing.

Councilmember Laursen made a motion to amend Ordinance 20-13: Accessory Dwelling Units, A.2. to read as follows:

"The purpose of this chapter is to provide opportunities to develop affordable moderate-income housing by allowing accessory dwelling units in zoning districts

specified in this title, to establish the conditions under which accessory dwelling units are regulated under this chapter, and to set forth criteria and standards to be required of accessory dwelling units when this chapter is applicable.”

Councilmember Beus seconded the amendment. The amendment passed unanimously 4-0; with Councilmember Laursen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Mayor Dustin discussed minimizing the impact of ADUs on neighbors. He felt it was reasonable to require that an ADU follow the same setbacks as the primary property and be treated the same way as a home-based business and include the provision of storing equipment or cars behind the front-plane of the house.

Mayor Dustin made a motion to amend Ordinance 20-13 to include the following provisions: parking for two vehicles is provided behind the front plane of the house and one-story ADU setbacks are as noted and amending that two-story setbacks are double the single-story setbacks. Councilmember Beus seconded the motion. The motion passed unanimously. The motion passed unanimously 4-0; with Councilmember Beus, Councilmember Bernhardt, Councilmember Larsen, and Councilmember Laursen all in favor.

Councilmember Bernhardt discussed the collection of impact fees for ADUs. He questioned if it was easier to reimburse someone or to collect after the fact. He questioned if the applicant didn’t have a rental contract.

Councilmember Bernhardt made a motion to amend Ordinance 20-13 that instead of waiving impact fees, impact fees for ADU are paid upfront. The City will rebate 20% of paid impact fees over a term of five years; the resident receives a portion back as an incentive. If the resident sells the residence before that time, the rebate is non-transferable. Councilmember Larsen seconded the motion. The motion passed unanimously 4-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Beus, and Councilmember Laursen all in favor.

The Council and staff discussed the structures, materials and appearances of ADUs. Mr. Roberts said the Planning Commission had discussed potential architectural standards but had ultimately come to that they didn’t have architectural standards for single-family homes either, but the structure had to be livable.

Mayor Dustin made a motion to amend Ordinance 20-13 to include that the ADU shall comply with local CCNR design requirements; and shall meet or exceed the quality of architectural finishes on the primary dwelling unit. Councilmember Larsen seconded the motion. The motion passed 4-0; with Councilmember Larsen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Laursen all in favor.

The Council discussed the wording of Ordinance 20-13: Section E.13.a.1-2. They discussed wanting this section to align with Councilmember Bernhardt motion to rebate impact fees. The Council and Mr. Roberts discussed and debated the wording of the code sections.

Councilmember Bernhardt moved to amend Ordinance 20-13, Section E.-13.-a.1-2 to read:

“13. Impact Fees: Accessory dwelling units shall be subject to impact fees for residential buildings in accordance with the Nibley City Impact Fee Schedule.

- a. Owners may petition the City for a rebate of impact fees for accessory dwelling units. The maximum rebate amount shall be set at 20% annually of the total collected impact fee for a period of five (5) years. City Staff shall determine if documentation of rent collected is acceptable. If documentation is not provided within 30 days of each anniversary of the issuance of the certificate of occupancy, the rebate shall be forfeited for that year. The rebate shall be non-transferrable.
 1. The unit’s rent is considered affordable to a household of four (4) earning 50% of the area median income of the Logan, UT-ID Metropolitan Statistical Area (MSA), according to income limits set by the US Department of Housing and Urban Development (HUD) for a period of five (5) years.
 2. The rent limit shall be set using the following calculation:
HUD annual 4-person 50% AMI Income Limit * 0.3 (30 %) – \$150 (for utility expenses).”

Councilmember Laursen seconded the motion. The motion passed unanimously 4-0; with Councilmember Bernhardt, Councilmember Laursen, Councilmember Beus, and Councilmember Larsen all in favor.

Voting on the motion was as follows:

Councilmember Bernhardt was opposed.

Councilmember Beus was in favor.

Councilmember Larsen was opposed.

Councilmember Laursen was in favor.

Mayor Dustin voted to break the tie vote and voted in favor.

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

Workshop – Ordinance 20-17: Amendments to the Nuisance Ordinance

Mayor Dustin discussed that most of the amendment came from a request from Hyrum's court about how Nibley handled things administratively and streamlined things. It was residual from Nibley decision to transfer the court down to Hyrum.

Mr. Roberts led this discussion. He utilized an electronic presentation entitled Nuisance Ordinance Update; October 22, 2020 City Council (a printed version of this presentation is included in the printed meeting minutes). Mr. Roberts presentation included the following topics: Background & Purpose, and Provisions.

Councilmember Bernhardt questioned if the Council should include uninhabited homes being a potential nuisance. The Council discussed a few particular properties. He wanted to include something regarding these homes in the ordinance. Mr. Roberts said he would look to see if this were already covered in Nibley City ordinance and research what other cities did with nuisance properties like those the Council discussed.

The Council agreed that Mr. Roberts could bring a draft ordinance to the Council.

Workshop – Ordinance 20-20: Establishing a Time Limit and Deposit to Install Landscaping for New Construction

Mayor Dustin said the proposal was to add a \$1,000 deposit to residential construction to incentivize residents to get their lawn in. Councilmember Beus recalled the Planning Commission had wondered if this was enough of an incentive. The Council discussed this as well. They also discussed how the fee was assessed and refunded. Mr. Roberts said the actual fee amount would be set in Nibley City's consolidated fee schedule and read through some of the specifics of the proposed code. Mayor Dustin saw an issue with aligning incentives so that the homeowner got the rebate and not the developer through the loan process. He discussed the advertising that would need to occur to inform homeowners of this rebate.

Councilmember Laursen said he'd like to see more specifics for parkstrips, etc. He thought the whole yard was a reach. Councilmember Beus said she understood the intent but didn't think they were quite there. Councilmember Bernhardt said he was in favor of continuing the discussion. Mayor Dustin thought this could help new homeowners with essentially \$2,000 included in their loan for landscaping. He thought it could help people but didn't want to enact an overreach. The Council felt they really needed to discuss the fee structure.

The City Council decided to bring the landscaping ordinance back for discussion

Presentation –Stormwater Department

Mayor Dustin said the state was going to continue to push low impact development which implied swales so he and Mr. Maughan had discussed better ways to educate

Nibley residents about swales and why they did them and what they could do. Councilmember Beus questioned if the State legislature was pushing swales because they were being environmentally conscious or because it cost less to develop. Mr. Maughan reported on some results from the Utah State Division of Environmental Quality. The advisability of swales changed depending on who was pushing the narrative. The Council and Mr. Maughan discussed the effectiveness of swales, flood control, and the pros and cons of swales.

Council and Staff Report

Councilmember Beus asked for an update on swales at Apple Creek. Mr. Zook reported that a letter had been sent and several residents had responded. Visionary had committed to coming in and re-grading the swales. Mr. Roberts gave specifics on the response to the letters.

Councilmember Larsen asked for an update on the R-PUD subdivisions that had recently been approved; things that the City should learn. Mr. Maughan said everything seemed to be going well. They were following plans and specs.

Councilmember Laursen recalled the City Council was supposed to have a plan for boundary alignments between Logan and Nibley City Council on November 30. He asked for an update. Councilmember Bernhardt updated the City Council. He said Logan had come back with an ordinance based on what Logan had originally proposed; with Highway 89/91 as a hard split and 2200 South as a hard split. Councilmember Bernhardt said he'd tried to get Logan to take the Campbell farm out of Logan. They were not willing to take this out of their annexation plan but were willing to change the future land use to "unknown." There was nothing really further to discuss.

Councilmember Laursen asked about a tree board and if the City Council was interested in bringing that back. Mr. Zook reported on Nibley City's participation in the Tree City USA program. The Tree Board was enacted in 2011 but had since floundered and had ceased to function. The board had somewhat morphed into the Cache Valley Wildlife Association. The Council could reconstitute the group as a volunteer group but felt the City Council could help by giving specific orders. Councilmember Laursen suggested they could get rid of the ordinance. Mayor Dustin offered that the City Council could help identify individuals who would want to serve on a tree board. Councilmember Laursen said he would work on this and come up with ideas.

Mayor Dustin wished everyone a Merry Christmas and happy holidays.

Mayor Dustin reported that he would be out of town the next Thursday through the 27th. He anticipated Mr. Zook would be available if there were an emergency.

Mayor Dustin said he'd been contacted by the Ridgeline Student Council. They were trying to collect \$10,000 for the families of kids that attended Ridgeline. They'd had a

hard time collecting funds and had only collected \$3,000. He wanted to make the City Council aware of this. He said he was proud of those kids for trying to hit this goal during a tough time.

Mr. Roberts reported that the Planning Commission had recommended the water supply requirement ordinance and had held a workshop regarding commercial zoning standards, specifically the issue of residential abutting commercial and setbacks. The Planning Commission would hold another workshop regarding this issue.

Mr. Zook reported that the Nibley City Christmas party had been cancelled and reported on what he and the Mayor had decided to do in lieu.

Mr. Zook reminded the City Council to complete their Open and Public Meetings Act training.

Mr. Zook reported on meetings with UDOT regarding 2600 South and 89/91 by the Wesley Nelson Farms.

Mr. Zook reported on Nibley's Live Nativity. He said UPR and the Cache Valley Media Group had done a story on this event. It would be a drive-through event.

Mr. Zook reported on the Christmas decorating activity. There was information about this event on the Nibley City website.

Mr. Zook reported on a meeting with UDOT regarding a study about the South Cache County corridor and the potential realignment of SR 101 along the 4400 South corridor. Councilmember Beus suggested this could be a good boundary line between Nibley and Hyrum. Mr. Zook said he would also like to push for this.

Mr. Zook reported that Nibley had gotten \$1.25 million from the Council of Governments (COG) that had been approved the previous Tuesday.

Mr. Zook reported that Nibley City had also received a \$20,000 grant to do the Sewer Master plan from the Community Impact board (CIB).

Mr. Zook reported on meetings regarding Emergency Medical Services.

Mr. Zook reported on a meeting about 1200 West and design concepts.

Mr. Zook reported on the trail system at Apple Creek.

Mr. Zook reported on the sidewalks and bike park near Anhder Park. He said the public works department had done the rough grading. They were coordinating with experts on what could be done in the spring to get the final shaping done.

Mr. Zook reported that Clear creek park was about done. They were waiting on a couple of equipment items.

Mr. Zook reported on meetings with the Army Corps of Engineers and had gotten them to commit to a study of potential flooding along that Blacksmith Fork River. Mr. Zook said they would meet with the State Flood Plain Coordinator as well.

Mr. Zook reported on issues with dogs at Firefly and Heritage Park; they'd gotten a couple of complaints. The City had reached out to law enforcement about the issues and were working on additional signage. Mr. Roberts had also reached out to the apartments across the street who'd committed to reach out to their residents that dogs were not allowed at Firefly and Heritage Park.

Mr. Roberts reported that Nibley had also gotten a grant for \$23,000 from UDOT for technical assistance for a Transfer of Rights ordinance.

The meeting was adjourned at 9:20 p.m.

Attest: _____
Deputy City Recorder