

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, January 14, 2021.

The following actions were made during the meeting:

Councilmember Bernhardt moved to approve Ordinance 21-01: Amendments to the Nuisance Ordinance; for first reading. Councilmember Sweeten seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Sweeten, Councilmember Beus, Councilmember Larsen, and Councilmember Laursen all in favor.

Councilmember Larsen moved to approve Ordinance 21-02: Establishing a Time Limit and Deposit to Install Landscaping for New Construction; for first reading. Councilmember Beus seconded the motion.

Mayor Dustin made a motion to amend NCC 19.24.170 to add to paragraph 5 "The deposit shall be returned to the owner of the property at the time that the determination had been made that the required improvements are in place." Councilmember Larsen seconded the motion. The 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 Bernhardt, and Councilmember Larsen in favor. Councilmember Laursen and Councilmember Sweeten were opposed.

Councilmember Beus moved to approve Resolution 21-02: A Resolution of the City of Nibley Approving an Adjustment of Solid Waste Collection and Disposal Fees; waiving the second reading. 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.

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

Opening Ceremonies

Councilmember Sweeten discussed her choice to become an American citizen and led the meeting in the Pledge of Allegiance.

Call to Order and Roll Call

Mayor Dustin called the Thursday, January 14, 2021 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, 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 Bernhardt moved to approve the evening's agenda and the previous meeting minutes. Councilmember Beus seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Beus, Councilmember Larsen, 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.

Seeing no public comments and after confirming that there had been no public comments submitted to Deputy Recorder Bodily, Mayor Dustin closed the Public Comment Period at 6:33 p.m.

Mayor Dustin told the City Council that he had a commitment at 8:30 p.m. that night and the City Council may need to appoint a Mayor Pro Tem.

Council Training–Ethics

Mr. Zook led this presentation. He utilized a PowerPoint presentation entitled *ETHICS TRAINING Nibley City Council* (a printed version of this presentation is included in the printed meeting minutes). Mr. Zook presentation included the following topics: Ethics Act, TOP 3 Points from the Ethics Act, the Municipal Ethics Review Commission, and a link and reference to an Ethics Act training video.

Discussion & Consideration–Ordinance 21-01 (previously numbered 20-17): Amendments to the Nuisance Ordinance (First Reading)

Mr. Roberts led this presentation. Mr. Roberts said the proposed amendments to the nuisance ordinance lowered the penalty for a nuisance offence to an infraction rather than a class B misdemeanor; adjusted the appeal authority to the Administrative Appeals Officer rather than the City Council; and consolidated some of the descriptions of nuisance that were conflicting. The City Council had discussed adding a description of unoccupied structures. Mr. Roberts said language was being recommended that spoke to unoccupied for unmaintained properties.

“Unmaintained Structures: Structures which have a foundation, exterior wall, and/or roof not maintained in good repair, thus not allowing all rooms and other interior areas to be weathertight, watertight, and rodentproof and be maintained in good condition. This includes broken windows and surfaces which are not

painted, stained, or constructed of decay-resistant materials to protect and preserve the safety and appearance of the structure.”

Mr. Roberts noted a few other changes to the ordinance that had been recommended by the City Attorney.

Councilmember Bernhardt moved to approve Ordinance 21-01: Amendments to the Nuisance Ordinance; for first reading. Councilmember Sweeten seconded the motion.

Voting on the motion was as follows:

Councilmember Laursen voted in favor.

Councilmember Sweeten voted in favor.

Councilmember Larsen voted in favor.

Councilmember Beus voted in favor.

Councilmember Bernhardt voted in favor.

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

**Discussion & Consideration—Ordinance 21-02 (previously numbered 20-20):
Establishing a Time Limit and Deposit to Install Landscaping for New Construction
(First Reading)**

Mr. Roberts led this presentation. He said the ordinance established a time limit for new construction to install landscaping within 18 months and established a deposit, which was withheld at time of building permit and released once the landscaping was installed in both public property and what was required in the right-of-way. Mr. Roberts reminded the City Council that they had discussed the amount that was held at their last meeting. In general, staff was supportive if the Council wanted to raise the reimbursable fee to \$2,000. He reviewed that as the ordinance was written it would be \$1,000/residential lot and \$1,000/commercial acre. Mr. Roberts reminded the City Council that they had also discussed how the deposit would be administered and refunded. Mr. Roberts suggested the City could give an option to the builder; whether they would be in charge of landscaping and get the deposit or if they would pass this along to the homeowner but administratively there was a little more of a burden. Hyrum put the entire burden on the builder, and this was incentivizing to have the builder put in the landscaping. The developer could act as the middle person. Staff was recommending the fee be collected from the builder and when the landscaping was installed the deposit be returned to the builder. Mr. Roberts said the code gave the time limit, what the deposit would be, and the stipulations to refund the deposit.

Mr. Roberts said the ordinance couldn't be passed until the City Council held a public hearing on the ordinance.

Councilmember Larsen moved to approve Ordinance 21-02: Establishing a Time Limit and Deposit to Install Landscaping for New Construction; for first reading. Councilmember Beus seconded the motion.

Councilmember Bernhardt asked if they had the ability to require the developer to go ahead and put the landscaping in. He thought it would be better to just have the developer put the landscaping in. Mayor Dustin felt their primary issues were the park strip and questioned if they could require them to design and install the park strip. Mr. Roberts felt the Planning Commission intend to also address the front yard as well as the park strip and felt this incentivized both. Councilmember Sweeten questioned if the issue were new development or the random lot that was left not landscaped. Councilmember Bernhardt relayed how things were done in Texas with developers installing the landscaping. Mayor Dustin felt the biggest issue were the park strips and he wanted to make sure the incentive was tied to the behavior they wanted to incentivize. The Council discussed if \$1,000 was enough of a motivating factor and separate regulations for park strips. Mayor Dustin felt the incentive should go back to the home owner unless they wanted to require the developer to install landscaping. If they were going to have the developer install the landscaping they would have to go into developing landscaping standards. The deposit should follow the ownership instead of builder. Mr. Roberts said this could be put in the agreement when the builder made the deposit. Councilmember Laursen questioned how many future problems would be resolved by a nuisance ordinance. He questioned if they should go back to park strips and change their design standards. Mr. Roberts didn't think the Planning Commission intended to change the current standards; they wanted to ensure the landscaping was put in. They did address some things in the nuisance ordinance but the intent with the proposed ordinance was to address things before they became a nuisance; giving an incentive to do things on the front end. Councilmember Laursen also discussed his concerns with maintenance. Maintenance wasn't addressed in any of Nibley's standards; specifically referring to Chapter 19 of Nibley City code.

Mayor Dustin made a motion to amend NCC 19.24.170 to add to paragraph 5 "The deposit shall be returned to the owner of the property at the time that the determination had been made that the required improvements are in place." Councilmember Larsen seconded the motion.

Mayor Dustin said the builder could wrap the deposit into the sale price and the owner could get the deposit back. Councilmember Laursen asked for staff's input of how this would occur at their next meeting. Councilmember Bernhardt questioned how the owner would know there was an extra \$1,000 lying in wait for them to collect, if the developer didn't let them know. Mr. Roberts agreed that this would require a little bit more communication between the City and whoever was putting the landscaping in. Councilmember Larsen suggested a nuisance letter could include this information.

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

Voting on the amended motion was as follows:

Councilmember Laursen was opposed.

Councilmember Sweeten was opposed.

Councilmember Larsen voted in favor.

Councilmember Beus voted in favor.

Councilmember Bernhardt voted in favor.

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

Discussion & Consideration—Resolution 21-02: A Resolution of the City of Nibley Approving an Adjustment of Solid Waste Collection and Disposal Fees (First Reading)

Mr. Zook led this discussion. Mr. Zook said Nibley had provided a place for greenwaste drop-off in Nibley City and described historic greenwaste locations. He said it was very popular with Nibley residents but had been quite problematic and these locations tended to be problematic throughout the County. Logan City Environmental had decided to discontinue the service last year and a number of cities and residents had complained and asked that the service be restored. Logan City Environmental department had agreed to resume the service but only for an additional charge of an additional \$1.00/mo. per residence.

The resolution before the City Council would increase the solid waste fee by \$1.00/resident per month and would be passed on to Logan City Environmental. Mr. Zook said the greenwaste site would be provided year-round.

Councilmember Larsen questioned if it would have to be plowed if it would be year-round. Mr. Zook agreed that it probably should be plowed. Mr. Zook broke down that the fee was \$.50/household for pickup and \$.50/household for processing

Councilmember Beus moved to approve Resolution 21-02: A Resolution of the City of Nibley Approving an Adjustment of Solid Waste Collection and Disposal Fees; waiving the second reading. 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.

Discussion & Consideration—Resolution 21-01: A Resolution Indicating the Intent to Adjust the Boundary Between the City of Logan and Nibley City (First Reading)

Councilmember Bernhardt reported that the proposed agreement was no different than what had been discussed with Logan City in September of 2020. He didn't feel there had

been a negotiation. They had talked about the proposed boundary at 2200 South and 800 West and the Paul Campbell property directly north of Clear Creek Park. The Campbell property was in both cities' annexation plans and Logan had it zoned for multi-family residential. Councilmember Bernhardt reported that he and Councilmember Beus had asked that Logan City change the projected zoning for the property and they had offered to change the proposed zoning classification to "undecided."

Councilmember Beus said Logan wanted the west side of the highway. Logan felt the intersection at 2200 had a lot up for grabs and Logan would forfeit this if Nibley forfeited the west side of the highway. Logan felt the services on the west side of the highway were barely sufficient, but Mr. Maughan had confirmed there was plenty of supply on the west side.

The Council discussed talking to the owners on the corner of 2200 South. Councilmember Beus felt it was inevitable that the lines would end up as presented; it would happen organically.

Councilmember Larsen moved to approve Resolution 21-01: A Resolution Indicating the Intent to Adjust the Boundary Between the City of Logan and Nibley City; waiving the second reading. The motion died due to lack of second.

Mayor Dustin thought the potential useful thing on the agreement was there was not mention of Logan's setback requirement. Mr. Zook agreed that he thought Logan had backed away from the setbacks they had initially asked for. Councilmember Beus did feel it was beneficial to have the attempt at open communication. Mayor Dustin agreed and thought Councilmember Beus and Councilmember Bernhardt could go back to Logan City if they wanted.

Council and Staff Report

Councilmember Beus asked Mr. Roberts to zoom in on 2965 South on the Cache County Parcel Viewer. She said there was a resident that was interested in buying land next to the right-of-way at 2965 South. The Council discussed the City's process for selling land. Mayor Dustin asked for staff to compile a list of surplus properties for the City Council to discuss.

Councilmember Laursen expressed support for Deputy Recorder Bodily.

Mr. Zook reported on the progress with the Community Reinvestment Area and Malouf.

Mr. Zook reported that staff was working on a park signage project. They wanted to do uniform signage throughout Nibley's parks. Mr. Roberts was working on hiring at least one planning intern.

Mr. Zook reported that he had met with the Sherriff and talked about parking and law enforcement. He reported the department may be creating a code enforcement officer position. They had discussed adding this to the contract with Nibley City.

Mr. Zook reported that staff was working on the Capital Projects master plan.

Mr. Zook had talked to the Bear River Health Department about vaccines, and at some point in the process, Nibley City staff would be added to their priority list. The BRHD has also mentioned they might like to do a clinic at Nibley City Hall for residents.

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

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

The Council moved to closed session at 7:41 p.m.

The regular Council meeting resumed at 8:17 p.m. and was adjourned at 8:17 p.m.

Attest: _____
Deputy City Recorder