

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, March 25, 2021.

The following actions were made during the meeting:

**Councilmember Bernhardt move to approve the Contract and Hiring of a New Nibley City Manager, for Justin Maughan as currently constituted. Councilmember Larsen seconded the motion.**

**Councilmember Larsen moved to amend that the City Manager contract include the use of a company vehicle. Councilmember Sweeten seconded the motion. The motion passed unanimously 3-0; with Councilmember Larsen, Councilmember Sweeten, and Councilmember Bernhardt all in favor.**

**The amended motion passed unanimously 3-0; with Councilmember Bernhardt, Councilmember Larsen, and Councilmember Sweeten all in favor.**

**Councilmember Bernhardt moved to approve Resolution 21-07: 2020 Municipal Wastewater Planning Program Report; and waive the second reading. Councilmember Larsen seconded the motion. The motion passed unanimously 3-0; with Councilmember Bernhardt, Councilmember Larsen, and Councilmember Laursen all in favor.**

**Councilmember Bernhardt moved to approve the Revision to Ridgeline Park Subdivision - Phase 1 and Phase 2, Final Plat, applicant, Visionary Homes. Councilmember Larsen seconded the motion. The motion passed unanimously 3-0; with Councilmember Bernhardt, Councilmember Larsen, and Councilmember Laursen all in favor.**

**Councilmember Larsen moved to approve Resolution 21-05: Transportation Master Plan Map Amendments. Councilmember Bernhardt seconded the motion. The motion passed unanimously 3-0; with Councilmember Larsen, Councilmember Bernhardt, and Councilmember Laursen all in favor.**

**Councilmember Laursen moved to approve Resolution 21-08: Consolidated Fee Schedule (Updated Community Center Fee), and waived the second reading. Councilmember Larsen seconded the motion. The motion passed unanimously 3-0; with Councilmember Laursen, Councilmember Larsen, and Councilmember Bernhardt all in favor.**

**Councilmember Bernhardt moved to approve Resolution 21-09: Noticing Nibley City's Intent to Participate in Ranked Choice Voting During the 2021 Municipal Election, for first reading. Councilmember Laursen seconded the motion. The motion passed**

**unanimously 3-0; with Councilmember Bernhardt, Councilmember Laursen, and Councilmember Larsen all in favor.**

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

**Opening Ceremonies**

Councilmember Laursen discussed what was happening in the Country and locally. He quoted Thomas Jefferson:

*“The purpose of government is to enable the people of the nation to live in safety and happiness. Government exists for the interests of the governed, not for the governors.”*

**Call to Order and Roll Call**

Mayor Dustin called the Thursday, March 25, 2021 Nibley City Council meeting to order at 6:35 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Tom Bernhardt, Councilmember Norman Larsen, and Councilmember Nathan Laursen. Councilmember Kay Sweeten was participating electronically via phone. Justin Maughan, Interim Nibley City Manager, and Levi Roberts, Nibley City Planner, was also present.

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

Mayor Dustin wanted to move the approval of the City Manager contract to be flexible so that the City Council could open this discussion as soon as Councilmember Sweeten was available to join the meeting. He reminded the Council that Councilmember Laursen was not allowed to vote in the contract and they needed a quorum to approve the contract.

Councilmember Larsen moved to approve the evening’s agenda with the suggestion proposed by Mayor Dustin and the previous meeting minutes. Councilmember Bernhardt seconded the motion. The motion passed unanimously 3-0; with Councilmember Larsen, Councilmember Bernhardt, and Councilmember Laursen all in favor.

Councilmember Larsen moved to approve the March 11, 2021 closed session meeting minutes. Councilmember Laursen seconded the motion. The motion passed 3-0; with Councilmember Larsen, Councilmember Laursen, and Councilmember Bernhardt all in favor.

**Public Comment Period**

Mayor Dustin gave direction to the public present and opened the Public Comment Period at 6:37 p.m.

Mayor Dustin submitted for the record, that if any public participating in the meeting via the Zoom link wanted to submit comment, they could do so by emailing their comments in writing before the close of the meeting.

Seeing no further public comments, Mayor Dustin closed the Public Comment Period at 6:37 p.m.

### **Planning Commission Report**

Mr. Roberts reported that the Planning Commission had seen and recommended approval of the Ridgeline Park Plat revision. The Planning Commission had also held a workshop on the Mixed Residential Housing ordinance. There would be a public hearing for this ordinance on April 1. If a positive recommendation for the ordinance was given, the City should see the ordinance after April 1.

Councilmember Bernhardt asked that the City Council receive more notice of proposals that are being presented to the Planning Commission. Specifically rezone applications. He reported that he'd been caught off guard by some emails from residents.

Mr. Roberts told the City Council about a rezone application that had been received at 4350 South Main Street. The applicant wanted to rezone a portion of the property Commercial.

### **Discussion & Consideration – Approval of Contract and Hiring of a New Nibley City Manager**

Mayor Dustin said the proposed contract was the same the City Council had seen two weeks previously with the exception of the inclusion of a stipend for vehicle travel. Mr. Maughan also noted that the City Treasurer had caught an error in the proposed salary, which had been increased by approximately \$6.00. Mr. Maughan described how he'd calculated the vehicle stipend: the lease the City currently paid with an average of about \$80/month in gasoline and \$30/month in insurance. He felt the stipend was more expensive to the City and the City would have to calculate mileage when he traveled outside of Cache Valley. He calculated it would cost approximately \$7,000/year to go the stipend route.

Councilmember Bernhardt wanted the City Attorney's opinion if the City would be held liable if Mr. Maughan were to be in an accident in a City vehicle. Councilmember Bernhardt felt the stipend was cleaner.

Councilmember Bernhardt moved to approve the Contract and Hiring of A New Nibley City Manager, for Justin Maughan as currently constituted. Councilmember Larsen seconded the motion.

Councilmember Larsen discussed the proposed contract calculation of comp time.

The City Council continued discussion of the City Manager's use of a city vehicle versus receiving a vehicle stipend. Mayor Dustin said his preference was that the City Manager drive a city vehicle that represented the city and the insurance issued was binary. He suggested the City Council approve the contract with that particular portion unresolved for a couple weeks while staff did research. Councilmember Bernhardt asked that the section be struck from the contract until they could get the opinion of the city attorney. Councilmember Bernhardt requested that the employee vehicle use policy be brought up for review by the City Council. Councilmember Larsen suggested the contract be passed with the provision that the City Manager, Mr. Maughan is driving a city vehicle.

Councilmember Larsen moved to amend that the City Manager contract include the use of a company vehicle. Councilmember Sweeten seconded the motion. The motion passed unanimously 3-0; with Councilmember Larsen, Councilmember Sweeten, and Councilmember Bernhardt all in favor.

Voting on the motion was as follows:  
Councilmember Sweeten was in favor.  
Councilmember Larsen was in favor.  
Councilmember Bernhardt was in favor.

The amended motion passed unanimously 3-0; with Councilmember Bernhardt, Councilmember Larsen, and Councilmember Sweeten all in favor.

Councilmember Laursen abstained from voting on this issue because of a familial relationship with the proposed City Manager.

Councilmember Sweeten no longer participated in the meeting via telephone after 6:51 p.m.

#### **Department Report – Parks**

Rod Elwood, Nibley City Parks Superintendent was present for this discussion. Mr. Elwood presented the accomplishments of the Parks department in the past year. He said the parks department had received a couple pieces of equipment to make themselves more efficient with CARES act money. Mr. Elwood presented the park department's upcoming projects. Mr. Elwood discussed the challenges in the Park Department. He reported they were having a difficult time finding employees and that it had been hard to retain full-time employees. He reported that the existing sports fields were experiencing wear and tear from overuse.

Councilmember Bernhardt asked what the sports fields were being used for most; was it competitive use or recreation use. Mr. Elwood said it was the size of teams and the size requirements for certain age groups. Mr. Elwood and Councilmember Bernhardt discussed that the ball field at Heritage Park was being used as a dog run.

Councilmember Bernhardt said there was a lot of pressure from the Strata apartments on Firefly Park. He asked if Mr. Elwood had an opinion of Firefly being opened up for dogs. Mr. Elwood professionally thought that dogs shouldn't be allowed for the wildlife preservation in the area. He would also prefer that dog not be allowed on sports fields or fields that were allowed for sports use. He and Councilmember Bernhardt discussed "no dog" signage at Firefly Park. Mr. Elwood pointed out that Nibley City currently had an intern that was designing and working on new park signage.

Mr. Roberts presented information on parks that were approved with Ridgeline Park. He said the approved development agreement specified that before Ridgeline Park got their first building permit, they would front the impact fees for the first 40 homes (\$180,000) and this would pay for the design of the park. Ridgeline Park had broken ground on the utilities but hadn't gotten a building permit yet. They'd indicated they could give the City Council the check earlier than this. The City would lead the design process. Mr. Roberts said the next part of the contract was that the developer would pay the \$4,500 park impact fee with each unit. Once they got to \$540,000 the City had to expend 75% of this (about \$400,000) to the first phase of the park. He anticipated the first phase would happen after 160 homes were built. Then the phasing it was broken up into the same chunks. The City Council had set up a minimum of 75% of park impact fees would be spent in the park. Unless the City Council decided to front the cost, the funding was meant to be commensurate with the receiving of park impact fees. Mr. Roberts described that Nibley Meadows development agreement had been structured similarly; up to 50% of park impact fees would be spent in the park and the remaining 50% needed to be spent within a half-mile radius. Mr. Roberts there was not yet a park development agreement in place with Nibley Meadows. Councilmember Larsen asked about smaller park development, like the small park at Mt. Vista.

Benjamin Steele, representing the developer of Ridgeline Park (Visionary Homes) was present at the meeting. Mr. Steel said the plan was for the area to be sodded. It had been built up quite a bit and there would be trees and a trail that came to it. He described other landscaping that should occur at in the Mt. Vista subdivision.

Mayor Dustin remembered that the City Council had the right to budget the funds to design the R-PUD parks and then reimburse themselves. Mr. Roberts said the development agreement the City Council had approved, had this provision written into it. Mayor Dustin questioned if the funds had been allocated to advertise for Request for Proposals (RFP) and start park design. If they hadn't allocated the funds, they needed to do this in the next fiscal year budget. Councilmember Larsen wanted staff to seek public input and have an answer for the public as big developments came in.

#### **Discussion & Consideration – Resolution 21-07: 2020 Municipal Wastewater Planning Program Report (First Reading)**

Justin Pope, Nibley City's Water/Wastewater department head, was present at the meeting. Mr. Maughan said this was a standard report that was done every year for the

State of Utah and did a kind of health check on the sewer system. The report helped staff know where they were short or needed to plan better. Mr. Maughan said they felt very good about Nibley's sewer system and felt that financially they were in a very good situation. However, staff had discussed that these things could change rapidly because of some of the high-density developments that had been approved but so far there hadn't be major concerns. Mr. Maughan discussed that that southwest area Nibley may be in need of a lift station in the near future and the proposed Updated Sewer Master plan was addressing this area specifically. Mr. Maughan said the area through Nibley Meadows and Nibley Farms, with cooperation from developers, was upsizing their lines and they hoped to handle more capacity than what would be served by those developments. The hope was to eliminate the Scott lift station. Mr. Maughan presented that the water department was working on the following projects: trying to get the modeling accurate and the wastewater department worked hard to control infiltration into the sewer system. Mr. Maughan summarized the findings of the Municipal Wastewater Planning Program Report.

Councilmember Bernhardt asked when the sewer rates were raised a few years ago the goal was to set aside funds for a future date. He asked how those funds were being tracked and if the funds were being used to upsize lines at Meadow View or Mt. Vista. Mr. Maughan said the increase in funds was primarily to handle treatment. Mr. Maughan said the sewer fund was sitting really well and a lot of this was impact fee money. He reminded the City Council that the city still owed quite a bit on the upgraded sewer system. Mr. Maughan, Mr. Pope and the City Council discussed how the sewer system was functioning.

Councilmember Bernhardt moved to approve Resolution 21-07: 2020 Municipal Wastewater Planning Program Report; and waive the second reading. Councilmember Larsen seconded the motion. The motion passed unanimously 3-0; with Councilmember Bernhardt, Councilmember Larsen, and Councilmember Laursen all in favor.

Mr. Elwood and Mr. Pope left at 7:58 p.m.

**Discussion and Consideration: Revision to Ridgeline Park Subdivision - Phase 1 and Phase 2, Final Plat (Applicant: Visionary Homes)**

Mr. Roberts had an electronic presentation to accompany his discussion (a printed version of the presentation is included in the printed meeting minutes). He directed the City Council to the presentation and requested they follow the presentation. The topics he discussed were as follows: Ridgeline Park Final Plat Revision, revision map, several building mockups, and Planning Commission Recommendation.

Councilmember Bernhardt asked for clarification on the proposed change of a Commercial lot size. Mr. Steele clarified that the lot would be 40 feet bigger.

Councilmember Bernhardt moved to approve the Revision to Ridgeline Park Subdivision - Phase 1 and Phase 2, Final Plat, applicant, Visionary Homes. Councilmember Larsen seconded the motion. The motion passed unanimously 3-0; with Councilmember Bernhardt, Councilmember Larsen, and Councilmember Laursen all in favor.

**Discussion & Consideration – Resolution 21-05: Transportation Master Plan Map Amendments (Second Reading)**

Councilmember Larsen moved to approve Resolution 21-05: Transportation Master Plan Map Amendments. Councilmember Bernhardt seconded the motion. The motion passed unanimously 3-0; with Councilmember Larsen, Councilmember Bernhardt, and Councilmember Laursen all in favor.

**Discussion & Consideration – Resolution 21-08: Consolidated Fee Schedule (Updated Community Center Fee) (First Reading)**

Mayor Dustin said staff had realized that putting the building back into service for community use would require better cleaning. They had run the numbers and realized the need to increase the charge for use of the building. Councilmember Laursen questioned if the change were permanent until the City Council decided differently? Mr. Maughan agreed that it was.

Councilmember Laursen moved to approve Resolution 21-08: Consolidated Fee Schedule (Updated Community Center Fee), and waived the second reading. Councilmember Larsen seconded the motion. The motion passed unanimously 3-0; with Councilmember Laursen, Councilmember Larsen, and Councilmember Bernhardt all in favor.

**Discussion & Consideration – Resolution 21-09: Noticing Nibley City's Intent to Participate in Ranked Choice Voting During the 2021 Municipal Election (First Reading)**

Deputy Recorder Bodily led this presentation. Deputy Recorder Bodily described how Ranked Choice Voting worked. She described that Nibley anticipated contracting with Cache County for the upcoming municipal election with the new State requirement that all elections be conducted by mail. She described the costs associated with contracting with Cache County for elections and expressed that there was a cost saving involved with contracting with Cache County versus running a by mail election independently. Deputy Recorder Bodily described the pros of a RCV election: no Primary election, campaign signs would be up for a shorter amount of time, studies had been done that RCV led to a more civil election, and candidates needed to appeal to a broader spectrum of voters. Deputy Recorder Bodily described the cons of a RCV election: citizens would need a great deal of education on what Ranked Choice Voting was, there would be no polling place at Nibley City Hall, however this would be the case regardless of which voting method Nibley City chose, with Cache County partnering with the election. Deputy Recorder Bodily described that Cache County had expressed that they were set and ready to assist with RCV and would be able to count RCV ballots. Nibley City RCV ballots would be sequestered from ballots from other entities that were not cast using

RCV. The County had also expressed that there was less chance for a spoiled ballot using RCV. Deputy Recorder Bodily described that there had been two ballots that had been removed because they were considered spoiled at Nibley City's last municipal election. Councilmember Laursen asked if Payson and Vineyard had discussed how often the RCV ballot counting had gone past a couple rounds. Deputy Recorder Bodily said she had not gotten to that level of detail but could try to find that detail.

Councilmember Bernhardt moved to approve Resolution 21-09: Noticing Nibley City's Intent to Participate in Ranked Choice Voting During the 2021 Municipal Election, for first reading. Councilmember Laursen seconded the motion.

The City Council discussed the reasons Nibley City had not opted to hold Ranked Choice Voting during the 2017 Municipal election. The City Council discussed their perceived pros and cons of running a RCV election. Councilmember Laursen asked that an additional "Whereas" be added to the proposed Resolution that more specifically addressed community education about RCV. Councilmember Bernhardt asked about the availability of ballots being available in the Spanish language. He asked that this be researched. Councilmember Laursen also asked for a plan of action regarding how staff would educate the public regarding RCV.

The motion passed unanimously 3-0; with Councilmember Bernhardt, Councilmember Laursen, and Councilmember Larsen all in favor.

#### **Council and Staff Report**

Councilmember Laursen discussed the City Council's budget assignments and asked what their direction was regarding those assignments. Mayor Dustin directed Councilmember Laursen to reach out to Mr. Maughan and he would give direction about who each Councilmember should be having discussion with.

Councilmember Laursen asked about virtual registration to the Utah League of Cities and Towns conference. Deputy Recorder Bodily said she would complete his registrations.

Councilmember Laursen said he had some things he'd like to talk to Nibley's Parks Superintendent about. He asked if Mr. Maughan would like these requests directed through him. Mr. Maughan expressed that he would like requests directed through him.

Councilmember Bernhardt had no report.

Councilmember Larsen asked about a timeframe for city assistance for swales at the Apple Creek subdivision. Mr. Maughan said the individuals who had requested assistance would be contacted just as soon as conditions allowed.

Councilmember Larsen asked about dumpsters and a community clean up.

The City Council discussed the proceedings at the March 25, 2021 Cache County Boundary Commission meeting.

Mr. Maughan reported on Nibley City's Firefly referendum decision from the Utah State Supreme Court. The Firefly developers had already reached out the city about getting their development moving again.

Mr. Maughan reported on holding a potential community cleanup in April. He discussed the potential of having containers available for steel recycling due to the number of recyclable materials that were left the previous year. The Council discussed if they'd like the process changed from what had happened the previous year. Councilmember Bernhardt directed to the same as they had done the previous year and recommended Mr. Maughan look at when the site had closed and if it would be useful to arrange for one more dumpster.

The City Council opted to have one meeting on April 15, 2021 and the Nibley City Planning Commission will hold one meeting on April 1. Mayor Dustin anticipated holding a public hearing for the Multi-Use Residential ordinance on the 15<sup>th</sup>.

Mr. Maughan reported that Darren Farar had accepted the Nibley City Engineer position. He anticipated Mr. Farar would begin his employment at the end of April for beginning of May.

The City discussed that there was no need to hold a closed session meeting at that time.

**Adjourn to Closed Session – To Discuss the Purchase, Sale or Lease of Property pursuant to Utah Code 52-4-205**

This closed session did not occur.

The meeting was adjourned at 9:31 p.m.

Attest: \_\_\_\_\_  
Deputy City Recorder