

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, July 22, 2021.

The following actions were made during the meeting:

Councilmember Bernhardt moved to continue Resolution 21-20: Amending Nibley City's Consolidated Fee Schedule; Appeal and Variance Applications, until he next scheduled City Council meeting. Councilmember Larsen seconded the motion. The motion passed 4-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Beus, and Councilmember Laursen all in favor.

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

Councilmember Kathryn Beus started the meeting and nominated Councilmember Norman Larsen to act as Mayor Pro Tem until Mayor Dustin arrived. Councilmember Laursen seconded the motion. The motion passed unanimously 4-0; with Councilmember Beus, Councilmember Laursen, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Opening Ceremonies

Councilmember Larsen noted that Utah's Pioneer Day was coming up and described that his ancestors came from England and Switzerland to Hyrum. He described the obstacles and fears they and he'd overcome. He noted there were some City Council seat up for election and said that people could be a "pioneer" in their family and run for elected seat.

Councilmember Larsen let the meeting in the Pledge of Allegiance.

Call to Order and Roll Call

Mayor Pro Tem Larsen called the Thursday, July 22, 2021, Nibley City Council meeting to order at 6:32 p.m. Those in attendance included Mayor Pro Tem Larsen, Councilmember Kathryn Beus, Councilmember Tom Bernhardt, and Councilmember Nathan Laursen. Levi Roberts, Nibley City Planner, and Darrin Farar, Nibley City Engineer was also present.

Approval of the Previous Meeting Minutes and Current Agenda

Councilmember Beus moved to approve the minutes from the July 8, 2021, meeting and the evening's agenda. Councilmember Bernhardt seconded the motion. The motion passed unanimously 4-0; with Councilmember Beus, Councilmember Bernhardt, Councilmember Larsen, and Councilmember Laursen all in favor.

Public Comment Period

Mayor Pro Tem Larsen gave direction to the public present and opened the Public Comment Period at 6:33 p.m.

Michael Stokes said he'd grown up in Wellsville and described a new move-in from California who'd volunteered to do some helping in the city and had the time to let people know what needed to be improved. They quickly found that this neighbor's newfound desire was to enforce codes and make sure everyone knew the codes. Mr. Stokes described an interaction between this man and another neighbor and his grandfather. Mr. Stokes' father had said, "Everyone gets to have an opinion. What matters is how we enforce those opinions," He said he was in support of Beau Nicoll and making Nibley City's code more clear; of how they enforce where vehicles were parked and what needed to be done in order to afford them. He said he was in positive support and a supporting neighbor and friend of Beau Nicoll.

Beau Nicoll of 4030 South Main Street thanked the City Council for letting him be there. He described that he was a car guy and an automotive instructor at Bridgeland Applied Technical college and restored old cars and trucks. He'd intentionally purchased a large piece of property with a shop so that he could do what he loved and his kids could have more space. He had received a code violation letter in the mail regarding Nibley City code 7.02.050 B.7. He believed the code needed to be reviewed and rewritten with more clarity and definitions, more understandable, and fairly enforced. He believed "sheltered" needed to be defined more clearly. Mr. Nicoll described that he'd received a similar code violation letter in the past year and he'd come into compliance but since then the code had changed and he'd received the second code violation letter and no complaint had been filed against him. He'd tried to come to a solution that worked for both the city and himself. He believed for some one that was trying to work with the city and was willing to make changes and willing to find a solution that thoughts should be entertained. Mr. Nicoll said he'd offered to construct a privacy fence that would shield the cars on his property from view unless a person were to be on the property. He did everything he could to make his vehicle storage look tidy. He asked the City Council to take the time to review and rewrite the code to make it more understandable, fair, and equitable to its citizens. Mr. Nicoll said he wanted to work with the city and find a solution to make Nibley an enjoyable place for everyone to live.

Jennifer DeWall of 2960 South 450 West reiterated quite a few of the points Mr. Nicoll introduced. As a citizen and community member she wanted the same ideals for Nibley City as much of the community did. She wanted it to be an aesthetically pleasing place and didn't want it to be a hazard to anyone in the community. She wanted to be able to accommodate for this and also consider personal rights and personal property rights and to be able to consider certain instances as they arise. Mrs. DeWall said she had discussed this with Councilmember Larsen and Councilmember Laursen and had discussed continuing to do things a scale of what their human rights were and still be in compliance with the city. They needed to find something that worked for both the community and the citizens. Mrs. DeWall said the majority of this had to do with loose

interpretations of codes and when they had responded they'd hit closed doors. She had been unable to receive a definition of the word "sheltered" and described that she and her family had been out of town for the majority of the time that they had to be in compliance of the code. They'd asked for an extension to be considered. Now that the ordinance might be reconsidered, she asked for consideration that there be a stay of the violation and that the corrective action that have been set forth so that those cannot be enforced without a correct definition and interpretation of code.

Dave Anderson of 115 West 4000 South was in the same situation as Mr. Nicoll. He described that he'd lived in Nibley his entire life. Mr. Anderson described how his brother had also received a nuisance notification. They'd never heard a thing from Nibley City in 35 years. Mr. Anderson said he wanted to work with the city too and described the current construction of his shop. Mr. Anderson had issues with pictures taken from the road and described the appeal authority's use of aerial photos. Mr. Anderson described his cedar and redwood fence around his property. He felt they had no idea what was on his property except from the aerial shot.

Mayor Shaun Dustin arrived at 6:48 p.m.

Mr. Anderson described that the nuisance code needed definitions of licensed vehicles, sheltered, and the ability for Nibley City to work with people in the ordinance. He didn't have a good feeling about the way the city was going about this. He thought it was unfair and the city didn't care about looking into individual situations. Mr. Anderson said he was here and was willing to work on this.

Joe Kimple of 485 West and 2850 South said he'd come in support of Beau Nicoll. He said they needed to find a way for people and the city to work together. Nibley was a great place. He loved how Nibley looked but they needed to find a way to work with people to help things look pretty and so people could keep their vehicles. Mr. Kimple said he was also a pilot and he loved to fly over Nibley and flew over Nibley quite often. He described what he observed flying over Nibley City. Mr. Kimple said the City Council needed to find a way to work together with people to keep the city looking nice and work with people as well.

Seeing no further public comments, Mayor Pro Tem Larsen closed the Public Comment Period at 6:53 p.m. and turned the meeting back to Mayor Dustin.

Councilmember Larsen let Mayor Dustin know that most of the comments had been regarding the Nibley City ordinance regarding vehicles. Councilmember Laursen suggested more definitions and giving Mr. Roberts more clarity so he could be more consistent and clearer with the ordinance. Mayor Dustin asked if the City Council had addressed that code enforcement was done typically when the city received complaints. There were two sides to all issues which put the City Council in a difficult position from an enforcement standpoint. Mr. Roberts clarified that staff did respond to complaints

but also proactively went out and looked for violations once-a-year. A lot of the violations had not been complaint based but once a year there was sweep of the city when staff drive the entire city and look for violations. Mayor Dustin said if the ordinances were wrong and not addressing the real concerns, the City Council had the duty to look at the ordinance. They would look at it.

Planning Commission Report

Mr. Roberts reported that the Planning Commission had a workshop on animal land use regulation and a request for miniature pigs on smaller lots. They'd also discussed amending some definitions and taking out some subjectiveness with interpretation with service and animals and other things in the code. He said a public hearing was scheduled for August 5, 2021. Mr. Roberts reviewed that the Planning Commission had a workshop on lot line adjustments and parcel boundary adjustments. Currently there was no city review process and applicants went to the County. This would allow a staff level review to ensure applicants were compliant with city code and complied with current zoning. They were requesting a staff level review based of the State requirement that a review had to be done withing 14 days, which sometimes didn't fall within the City Council schedule. Staff would need to coordinate with the County to have issues sent to Nibley City. Mr. Roberts said this was a planning goal that was reviewed by the City Council.

Introduction of Matt Whitaker, Administrator at Cache Community Food Pantry

Mr. Matt Whitaker was present at the meeting. He said he'd met with Justin Maughan who'd suggested Mr. Whitaker come to the City Council. Mr. Whitaker described how the Cache Community Food Pantry was expanding. He described that if there were any American Rescue Plan Act (ARPA) money left over at the city level if there was any money left over, the City Council could consider donating to the Cache Community Food Pantry. This would serve a second purpose in showing bigger foundations such as the Eccles Foundation and Daniel's Fund, that the food pantry had community support and investment. Councilmember Larsen asked how many families the food pantry served? Mr. Whitaker said the food pantry served 150-175 families every week with about 60% coming from Logan City. Mr. Whitaker said they served more families more often through other organizations that came directly to the pantry. Councilmember Laursen asked if the Cache Community Food Pantry worked with the student organization SNACK? Mr. Whitaker described that the pantry provided a lot of food for them. He said the pantry was supported mostly by individual and business donations. He said they were also funded through state monies and some grants. He said they got a little CDBG money from Logan in the past year.

Discussion & Consideration - Resolution 21-21: Adopting the 2021 Sewer Master Plan Update (First Reading)

Chris Slater, with JUB Engineers was present and chaired this presentation. Marcus Simons, also with JUB engineers was also present. Mr. Slater used an electronic presentation entitled *Nibley City 2021 Sewer Master Plan Update* (a printed version of this presentation is included in the printed meeting minutes). Mr. Slater's presentation

included the following topics: Background, a schematic map of the existing system, existing capacity, land use, projected growth, 2031 capacity, buildout capacity, C.F.P., capital facilities plan (10 years), capital facilities plan – build out, conclusions & recommendations.

Councilmember Larsen asked if the cost of buildout was with current dollar amount or projected dollar amounts. Mr. Slater said the buildout costs were projected at current dollars and would need to adjusted according to then they were built.

Councilmember Bernhardt discussed raising sewer fees. He said it would be nice to reflect what Nibley thought they would capture to offset the charges from Logan, in the budget. He wanted what was reflected in the master plan update reflected in the budget. Mayor Dustin said this usually happened through the impact fee process. The impact fee assessment always ties into a rate discussion. Councilmember Bernhardt discussed Millville's upcoming sewer system.

Mayor Dustin asked if the Hansen lift station should be planning on four pumps for an emergency contingency. Mr. Slater said they wanted a redundant pump. Once they started running a second pump, they would want the third pump to be a redundant pump. They would need to reevaluate in about 10 years to see if they would need to include a fourth pump. Mayor Dustin asked about the north-east corner proposed lift station and the area just south of 2600 South were not modeled? He asked if the assumption was that there would be 8-in lines for carry out? Mr. Slater said this was all going into the existing collection system and this would be handled. Mayor Dustin clarified modeling for other undeveloped properties within Nibley City boundaries.

Councilmember Larsen questioned if the Nibley sewer system could be switched to Hyrum. Mr. Slater said they would have to investigate this more. Councilmember Larsen asked what size of city would necessitate having their own sewer system. Mr. Slater described that many small communities that had looked at this had received push back from the Department ??? but it could be looked at.

Councilmember Laursen moved to approve Resolution 21-21: Adopting the 2021 Sewer Master Plan Update for first reading. Councilmember Larsen seconded the motion. The motion passed unanimously 4-0; with Councilmember Laursen, Councilmember Larsen, Councilmember Beus, and Councilmember Bernhardt all in favor.

Workshop: Discussion of Nuisance Violation & Enforcement Processes

Mr. Roberts led this presentation. He used an electronic presentation entitled *Nibley City Code Enforcement; Nibley City Council July 22, 2021* (a printed version of this presentation is included in the printed meeting minutes). Mr. Roberts' presentation included the following topics: Overview, code enforcement process, 2021 – Summary of Violations; bar chart, 2021 – Summary of Violations; pie chart, several images showing before and after examples of nuisance code violations, images showing properties that

had been involved in appeal cases, 2021 – Summary of Nuisance Appeals, Code Enforcement Issues.

Mayor Dustin asked what Mr. Roberts' recommendations were. He'd noticed that 84% of the issues had come into compliance. It seemed like it was working. Mr. Roberts thought it would be nice to allow for extensions and it could be the City Manager, or someone else, that made that call. There should be clear standards for when there could be extensions; for example, that progress had been made and was being made. Mr. Roberts felt low-level and high-level offenses were difficult to define. He noted that a lot of their issues were about vehicles, and they could base enforcement on the numbers of vehicles because 1-2 vehicles might not be worth their time. Councilmember Bernhardt felt this would also depend on the size of a property. Mr. Roberts suggested the words, "sheltered," and "driveway" should be better defined and reasonable. He said staff was making a list of words he felt could be better defined from the ordinance. Mr. Roberts suggested a potential unified billing ordinance might address the city's concerns with collection. Mr. Roberts reminded the City Council that staff was also suggesting a fee for requests for appeal. He said staff was working to ensure the scope of the appeal was clear to the applicant.

Councilmember Laursen said he didn't want a nuisance ordinance to be used as a weapon or to be felt like it was being used as a weapon; the purpose of the ordinance was health and safety. He wanted to give staff and the citizens a lot of clarity and he didn't want to follow a law he didn't understand. He suggested the City Council get the ordinance on the agenda and propose a stay on the three current nuisances through a Resolution. He thought it was fair to put on stay for those who'd indicated they'd like to work with the city. Mr. Roberts suggested this process go through the city attorney. Councilmember Laursen said they needed a timeline to get the ordinance fixed. Mayor Dustin noted Councilmember Laursen and Mr. Roberts had some suggestions to clean the ordinance up and suggested the City Council members that were engaged in the process, work with Mr. Roberts to rework the language on the existing law and find out the options for retroactively forgiving some fees while the ordinance was being cleared up and the ordinance being brought up with some revising language of what could and could not be done with fees. Mr. Roberts reminded the City Council that they hadn't been through the whole process, so they didn't know what did and didn't work. Mayor Dustin thought a moratorium on the fines was within the City Council's authority. He thought being punitive about fines on a normally written law, he was alright with that. Mayor Dustin wanted the City Council's insights on the ordinance before it was brought in for a vote. Mr. Roberts suggested other members of staff had insight on the ordinance. Councilmember Laursen and Councilmember Larsen offered to meet with city staff regarding amendments to the ordinance. Councilmember Laursen said he would like to at least tackle the moratorium in the next City Council meeting.

Discussion & Consideration – Resolution 21-20: Amending Nibley City's Consolidated Fee Schedule; Appeal and Variance Applications (Second Reading)

Mr. Roberts reminded the City Council that the discussion was to increase the fee for a variance from \$200 to \$1000 to reflect the actual cost of a variance appeal more closely and to set a fee for nuisance and land use appeals to cover costs at \$750.00. Mr. Roberts said there was another consolidated change to the consolidated fee schedule proposed. The transportation impact fees had been changed in Nibley City code, and this is what staff had been using, and this change would align with what was in Nibley City ordinance.

Mayor Dustin recommended the City Council either continue the resolution or approve the Resolution contingent on the revision of the nuisance ordinance.

Councilmember Bernhardt moved to continue Resolution 21-20: Amending Nibley City's Consolidated Fee Schedule; Appeal and Variance Applications, until he next scheduled City Council meeting. Councilmember Larsen seconded the motion. The motion passed 4-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Beus, and Councilmember Laursen all in favor.

Council and Staff Report

Mr. Farar reported on the progress of current road projects. Mr. Farar said discussion was being held about safe routes to school regarding getting kids safely through constructions zones once school started. It was planned to have flyers distributed at Back-To-School night describing the plans that were in place. Mr. Farar said deadline for the completion of the roundabout was in October.

Councilmember Laursen thought at the very least, Nibley City could get better jake-brake signs. Mr. Farar said the city had investigated flashing LED solar-lighted signs. They had been ordered and were at least 4 weeks out.

Councilmember Larsen asked how the city was sitting regarding water. Mr. Farar reported the Mr. Maughan had observed that they hadn't had issues with water supply and were keeping up with demand. From an irrigation perspective, it was definitely a dry year.

Councilmember Beus asked about procedure regarding approving minutes.

Councilmember Beus had reached out to the Cache County Executive to request a tour of the new County facility. He'd said anyone on the City Council or staff was invited to attend a tour on August 2nd at 10:30 p.m.

Mayor Dustin described a meeting with the school district regarding population and concerns in the city and growth. The school district agreed to take these issues under advisement.

Mayor Dustin reported on 2600 South and a proposed traffic light. Al Bingham had indicated they were anticipating starting this process in the next week. Their intention was to go the light done by the Fall.

Mayor Dustin said the Malouf fireworks show was planned. He suggested the City Council advertise that Nibley City residents were invited to enjoy viewing the show from a Nibley City park.

The meeting was adjourned at 8: p.m.

Attest: _____
City Recorder