

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, July 8, 2021.

The following actions were made during the meeting:

Councilmember Beus moved to approve Resolution 21-19: Appointment of Nibley City Treasurer, Nibley City Recorder and Nibley City Chief Finance Officer; and Administration of Oath of Office for Appointed Officials. Councilmember Laursen seconded the motion. The motion passed unanimously 5-0; with Councilmember Beus, Councilmember Laursen, Councilmember Bernhardt, Councilmember Larsen, and Councilmember Sweeten all in favor.

Councilmember Bernhardt moved to approve Ordinance 21-11: Amending Nibley City Code: 19.24.060 Accessory Buildings in Residential Zones; Setback Standards for Accessory Buildings. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Beus, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Larsen moved to approve Resolution 21-20: Amending Nibley City's Consolidated Fee Schedule; Appeal and Variance Applications, for first reading. Councilmember Bernhardt seconded the motion.

Councilmember Laursen made a substitute motion to amend that the variance application increase to \$1000 but an application for nuisance appeal fee stay at \$750. Councilmember Bernhardt seconded the motion. The substitute amendment passed unanimously 5-0; with Councilmember Laursen, Councilmember Bernhardt, Councilmember Beus, Councilmember Larsen, and Councilmember Sweeten all in favor.

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

Councilmember Larsen moved to approve the Street Improvement and Dedication Agreements for 2600 South between Highway 89/91 and 1200 west: applicants, Wesley Nelson Farms, Tri H Farms, Catholic Diocese of Salt Lake City, & River Valley Development, as presented. Councilmember Sweeten seconded the motion.

Councilmember Beus made a motion to amend to strike *"The road construction shall not be eligible for impact fee credits."* from paragraph 7, page 3 of the dedication agreement. Councilmember Larsen seconded the motion. The amendment passed unanimously 5-0; with Councilmember Beus,

Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

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

OFFICIAL MINUTES OF THE MEETING

Deputy City Recorder Cheryl Bodily took minutes

Opening Ceremonies

Mayor Dustin led the meeting in the Pledge of Allegiance.

Call to Order and Roll Call

Mayor Dustin called the Thursday, July 8, 2021, Nibley City Council meeting to order at 6:31 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Tom Bernhardt, Councilmember Kathryn Beus, Councilmember Nathan Laursen, and Councilmember Kay Sweeten. Justin Maughan, Nibley City Manager, 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 June 24, 2021, meeting minutes and the evening's agenda. Councilmember Sweeten seconded the motion.

Councilmember Bernhardt noted that items in the City Council meeting box had been recently updated. He said he'd appreciate it if they had more time to look at things. Mayor Dustin and Councilmember Bernhardt discussed the schedule for posting meeting agendas and meeting materials.

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

Public Comment Period

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

Stacy Wright of 3319 South 490 West said she wanted to talk about agenda item number 6 and the Wellbeing Survey. She felt there were some amenities that really benefitted the community and one of those was recreation space. She said to get this sort of amenity it took a group of people thinking big and doing things a little bit bigger than what had been done in the past. She said she'd read over the Parks and Recreation Master plan and the Wellbeing Survey and felt the data showed that an indoor recreation space would be well received in the community. Ms. Wright said she was

encouraged that the City Council was looking forward with a feasibility study. He recognized a recreation center would come at significant expense but would also be a significant benefit to the community. She encouraged the City Council to be willing to look a bit bigger and have some forward thinking.

Seeing no further public comments, Mayor Dustin closed the Public Comment Period at 6:35 p.m.

Planning Commission Report

Mr. Roberts reported there were a number of workshops on the last Planning Commission agenda, including a Lot Line Parcel Boundary Adjustment ordinance. There had been changes with State code on parcel boundary adjustment and subdivision amendments. The Planning Commission also had a goal to come up with an ordinance where the city at least had some level of review. Staff was working on drafting an ordinance for this.

Councilmember Larsen arrived at 6:36 p.m.

Mr. Roberts continued by reported that the Planning Commission also had a robust discussion of open space preservation. Mr. Roberts reported he was about to submit a Request for Proposals (RFP) for a Transfer of Development Rights ordinance. Staff had engaged the Planning Commission on what their priorities were for open space preservation. They talked openly about what attributes they should be preserving with open space. Mr. Roberts said the Planning Commission had dealt with a request for miniature pigs and had opened the animal land use ordinance and found other changes that they felt needed to be made. There would likely be a recommendation moving forward recommending some changes to the animal land use ordinance. Mr. Roberts said the Planning Commission had discussed that State mandated training that Planning Commission get 4 annual hours of training on land use duties and law and the Planning Commission would need to complete this training. He said the city would be tracking this.

Councilmember Bernhardt discussed compensating Planning Commissioners for attendance at training events. After discussion, the Mayor and City Council determined the Planning Commission had been compensated and should be compensated for attending training at the normal per meeting rate. Mayor Dustin and Councilmember Bernhardt said this should be made clear to staff and the Commissioners.

Presentation – Nibley Wellbeing Survey

Professor Courtney Flint, Professor of Sociology with Utah State University led this discussion. Professor Flint had an electronic presentation entitled *Wellbeing in Nibley; Results from the 2021 Utah Wellbeing Study Survey* (a printed copy of this presentation included in the printed meeting minutes). The topics included in her presentation included the following: Participating Cities, Nibley's Survey Results are Online, Nibley

Wellbeing Survey, Demographic Overview, Personal Wellbeing in Nibley, Community Wellbeing in Nibley, Nibley Wellbeing Matrix, Nibley's COVID-19 Experience, Community Connections, Concerns in Nibley, Population and Economic Growth, Landscapes and Wellbeing, Nibley Recreation, Open Comments: Community Values in Nibley, directions to the online report, and Questions.

Councilmember Laursen asked for clarification on questions; if some were standardized and then questions had been solicited from individual entities? Professor Flint agreed that this clarification was correct and described question subjects that other cities had used in their wellbeing surveys.

Councilmember Beus asked how Professor Flint could attribute the greater participation in 2021 versus 2020? Professor Flint said she felt there was passive involvement in 2020. In 2021 Chad Wright had went above and beyond and used many mechanisms to reach out to a diverse local population. Having a champion within the city that can use the channels the city had at their disposal to reach a representative group was very helpful. Professor Flint said they planned find what mechanisms cities used that were very successful and planned to share their information.

Discussion & Consideration – Resolution 21-19: Appointment of Nibley City Treasurer, Nibley City Recorder and Nibley City Chief Finance Officer; and Administration of Oath of Office for Appointed Officials

Councilmember Beus moved to approve Resolution 21-19: Appointment of Nibley City Treasurer, Nibley City Recorder and Nibley City Chief Finance Officer; and Administration of Oath of Office for Appointed Officials. Councilmember Laursen seconded the motion.

Councilmember Bernhardt questioned if this was done every year? The City Council discussed Ms. Bodily's historic title of Deputy Recorder.

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

Administration of Oath of Office – Nibley City Manager, Nibley City Treasurer, Nibley City Recorder

Recorder Bodily repeated the following Oath of Office, that was administered by Mr. Maughan:

I, Cheryl Bodily, having been appointed on July 8, 2021
by the Nibley City Council, as
Nibley City Recorder

Do solemnly swear that I will support, obey and defend
The Constitution of the United States and
The Constitution of this State, and

That I will discharge the duties of my office with fidelity.

Nibley City Treasurer, Amy Johnson repeated the following Oath of Office, that was administered by Mr. Maughan:

I, Amy B. Johnson , having been appointed on July 8, 2021
by the Nibley City Council, as
Nibley City Treasurer
Do solemnly swear that I will support, obey and defend
The Constitution of the United States and
The Constitution of this State, and
That I will discharge the duties of my office with fidelity.

Lastly, Nibley City Manager, Justin Maughan repeated the following Oath of Office, that was administered by Nibley City Recorder, Cheryl Bodily:

I, Justin G. Maughan , having been appointed on March 11, 2021
by the Nibley City Council, as
Nibley City Manager
Do solemnly swear that I will support, obey and defend
The Constitution of the United States and
The Constitution of this State, and
That I will discharge the duties of my office with fidelity.

**Discussion & Consideration – Ordinance 21-11: Amending Nibley City Code: 19.24.060
Accessory Buildings in Residential Zones; Setback Standards for Accessory Buildings
(Third Reading)**

Mr. Roberts reminded the City Council that there was a motion at the last meeting to change the setback standard, which simplified the ordinance to when an accessory building height was greater than 15 feet, then the setback would be a minimum of 10 feet of side yard, rear yard, or interior setback.

Councilmember Bernhardt moved to approve Ordinance 21-11: Amending Nibley City Code: 19.24.060 Accessory Buildings in Residential Zones; Setback Standards for Accessory Buildings. Councilmember Larsen seconded the motion.

Mayor Dustin relayed that in discussion with Mr. Roberts, the setbacks should be similar to what was done with Commercial setback and setting the setback to a minimum of 10 feet with any building over 15 feet was easier. The intent was to make things easier and more enforceable in the permitting process. Councilmember Bernhardt felt the proposal was better and felt it would help to not surprise residents. Councilmember Larsen and Councilmember Beus expressed their concerns with the setback area being kept up or maintained. Councilmember Laursen noted a few typographical errors in the ordinance.

General consent was given to make Councilmember Laursen's suggested typographical amendments to Ordinance 21-11.

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

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

Mr. Maughan led this discussion. He said staff had been working through and trying to make some code enforcement enhancements and to put a little more enforceability to issued they were having across the city. Staff had been working heavily with the City Attorney to come up with a process. Staff had learned that fees for variance requests and nuisance appeals did not match the level of effort and cost that was incurred by the city. Appeals were heard by the hearing officer and the city was incurring costs of \$400+ to close to \$1,000 for the fee that was paid to the hearing officer. Staff had reached out other entities in the County to see what they were charging and had taken the approach to aim for the middle, about \$750, to cover costs for variances and appeals.

Councilmember Larsen moved to approve Resolution 21-20: Amending Nibley City's Consolidated Fee Schedule; Appeal and Variance Applications, for first reading. Councilmember Bernhardt seconded the motion.

Councilmember Bernhardt questioned historic request for variance and nuisance were seen each year and if there had been an uptake in applications for appeal. Mr. Maughan described that staff had seen an uptake in nuisance appeals. Nuisance enforcement in the past hadn't been assertive or aggressive but in the past couple years the city had done a sweep of the city for violations. Mr. Maughan described the notification process. Nuisance appeals really come down to the residents that didn't want to cooperate. Mayor Dustin said they anticipated residents who'd encroached on city easements with fences along 1200 West. This would create problems for future City Councils and staff if it weren't dealt with. Mr. Roberts reminded the City Council that the fee was currently \$200 for a variance but an appeal cost nothing. He questioned if residents were requesting an appeal because it bought them more time to come into compliance. Mayor Dustin said the proposed fee only covered direct costs and didn't address staff time. Councilmember Bernhardt thought this fee should be a higher number. This provided more backup from City staff perspective. He'd heard complaints that Nibley City hadn't done enforcement and by doing enforcement it took staff away from other things they did.

Councilmember Bernhardt made a motion to amend to change the fee for variance and nuisance appeal from \$750 to \$1,000 for each of them. Councilmember Larsen seconded the amendment.

Councilmember Laursen like the proposal to raise the fee except for the fee for nuisance appeals. He described that a nuisance appeal was the ability to have something “second guessed” and he wanted the citizens to have the right to appeal a decision that was made by a person. Councilmember Bernhardt argued that the fee didn’t prohibit residents from coming in and talking to staff. However, he was open to additional amendments. Mayor Dustin said it was a challenge to staff to enforce and to enforce equitably and consistently. Councilmember Laursen stated that this would ensure they wrote good laws and if they’d written a bad law, they would find out fast. Councilmember Sweeten asked for clarification of the nuisance process. Mr. Roberts described the nuisance violation process from letter to citation.

Councilmember Laursen made a substitute motion to amend that the variance application increase to \$1000 but an application for nuisance appeal fee stay at \$750. Councilmember Bernhardt seconded the motion.

Councilmember Bernhardt said if someone were to win an appeal, he felt there should be some sort of recompensation. Councilmember Bernhardt requested staff investigate this process. Councilmember Sweeten requested the same. Mayor Dustin requested this discussion be brought back to the City Council as a workshop item. He also requested the enforcement process be brought back for discussion. Councilmember Laursen requested staff provide examples of what they’d had to do in regard to nuisance violation.

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

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

Discussion & Consideration - Street Improvement and Dedication Agreements for 2600 South between Highway 89/91 and 1200 west. (Applicants: Wesley Nelson Farms, Tri H Farms, Catholic Diocese of Salt Lake City, & River Valley Development)
Al Bingham, that applicant, was present at the meeting.

Mr. Roberts led this discussion. He had an electronic presentation entitled *200 South Roadway Agreement* (a printed version of this presentation is included in the printed meeting minutes).

Councilmember Sweeten left at 7:35 p.m.

The topics included in Mr. Roberts’ presentation included the following: a schematic map of the proposed roadway,

Councilmember Sweeten returned at 7:38 p.m.

Mr. Roberts continued his presentation with the following: a schematic of an Adjusted TS-3 Cross Section, Elements of Agreement and Staff recommendations.

Mayor Dustin felt the commercial potential for the property was such that he believed the ability to apply for reimbursement should be open ended. The City Council discussed who'd been plowing the road and the placement of utilities. Councilmember Larsen questioned if this should be done within the year. Mr. Bingham said contracts had been signed pending City Council approval to start construction. They had a UDOT permit for the intersection at 89/91 that expired by the end of the year and the plan was to get the road in the year. He said as soon as the road came in, it would be a major access point into Nibley City so the legislature had funds allocated so that everything could be done. There was concern this laying asphalt in cold and there was a concern with the supply side; supplies were taking 14-16 weeks to get in. The goal was to get everything put in to place within the year.

Councilmember Larsen moved to approve the Street Improvement and Dedication Agreements for 2600 South between Highway 89/91 and 1200 west: applicants, Wesley Nelson Farms, Tri H Farms, Catholic Diocese of Salt Lake City, & River Valley Development, as presented. Councilmember Sweeten seconded the motion.

The City Council debated the assessment of impact fees and giving credit for impact fees. Mayor Dustin said to stay silent didn't obligate them to give credits but gave the applicants the ability to pursue credits if they wanted. He didn't see the harm in staying silent. Mayor Dustin didn't want to give credit for impact fees and didn't want to tie a future City Council.

Councilmember Beus made a motion to amend to strike "*The road construction shall not be eligible for impact fee credits.*" from paragraph 7, page 3 of the dedication agreement. Councilmember Larsen seconded the motion.

Mr. Roberts said Nibley's attorney had suggested the agreement not leave impact fees open ended. The City Council discussed if the proposed road easement was an adequate cross section.

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

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

Council and Staff Report

Councilmember Larsen said he'd talked to his brother about jake brakes. His brother had said jake brakes didn't activate unless speeds were over 25 miles per hour unless they had been modified. If the speed were under 25 the jake brakes won't turn on.

Councilmember Beus said she had apartment property in Logan and some of those properties had junk vehicles. They'd received a notification from Logan City that "any vehicle that doesn't have a current registration sticker will be subject to a daily fine." She'd contacted her tenants and told them it was their responsibility to take care of the vehicles.

Mayor Dustin thanked staff for all they were doing.

Mr. Maughan reported about the Nibley City Movie in the Park the following evening.

Mr. Maughan reported that staff had looked at getting some blinking signs for 1200 West and potentially putting the amount of a jake brake fine on the sign. The current fine was \$80 and staff felt \$350 would be enough to have truck drivers pay attention.

Mr. Farar updated the City Council on construction projects on 3200 South. He reported that construction had begun at the 3200 South roundabout. He said the 3200 South repave project was nearing completion and may be done the end of the following week. Milling and repaving would start on Monday, July 12.

Mr. Farar reported that construction at Firefly Estates had started. Councilmember Bernhardt questioned if the hammerhead at 2200 South had been put out for bid? Mr. Farar said he'd met with LeGrand Johnson at the site, and they were estimating their quantities for the improvements.

Mr. Maughan reported staff expected the sidewalk project at Anhder Park to begin the first week of August. Councilmember Beus questioned what the plan was for property south of the tennis courts at Anhder Park. Mr. Maughan reported that the short-term plan was to level and put in sod. The long-term plan was to potentially put in a parking lot to provide a little parking for the tennis courts.

The meeting was adjourned at 8:21 p.m.

Attest: _____
City Recorder