

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, August 26, 2021.

The following actions were made during the meeting:

Councilmember Larsen moved to approve Resolution 21-23: Approving A Water Share Agreement with Ridgeline Park for first reading. Councilmember Bernhardt seconded the motion.

Councilmember Beus moved to amend Resolution 21-23, changing the price of \$17,500 to \$262,500. Councilmember Laursen seconded the motion. The motion to amend failed 2-3; Councilmember Laursen and Councilmember Beus were in favor. Councilmember Bernhardt, Councilmember Beus and Councilmember Sweeten were opposed.

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

Councilmember Larsen moved to approve the amendment to the Dedication Agreement for 2600 South between Highway 89/91 and 1200 west; applicant, Wesley Nelson Farms); and waived the seconded reading. Councilmember Sweeten seconded the motion. The motion passed 4-1; with Councilmember Larsen, Councilmember Sweeten, Councilmember Beus, and Councilmember Laursen in favor. Councilmember Bernhardt opposed.

Councilmember Beus moved to approve Ordinance 21-18: Amending NCC 15.02.030 Fees; New Developments, Contributions; for first reading. 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 Beus moved to approve Resolution 21-22: ADOPTING THE FINAL BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS FOR FISCAL YEAR 2021-22 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES; and waived the second reading. Councilmember Larsen seconded the motion. The motion passed 5-0; with Councilmember Beus, Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Larsen moved to approve Ordinance 21-19: Amendments to Nibley City Nuisance Code 07.02; for first reading. Councilmember Laursen seconded the motion. The motion passed 5-0; with Councilmember Larsen, Councilmember Laursen,

Councilmember Beus, Councilmember Bernhardt, and Councilmember Sweeten all in favor.

Councilmember Laursen moved to approve Resolution 21-20: Amending Nibley City's Consolidated Fee Schedule; Appeal and Variance Applications, amending implementation of the Resolution in January of 2022. Councilmember Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilmember Laursen, Councilmember Bernhardt, Councilmember Beus, Councilmember Larsen, and Councilmember Sweeten all in a favor.

Councilmember Laursen moved to approve Ordinance 21-16: Amending Animal Land Use Regulations, removing pigs as recommended by staff; for first reading. Councilmember Larsen seconded the motion.

Mayor Dustin made a motion to amend Ordinance 21-16, that rooster, chicken be 500 pts and the billy goat be 500 points. Councilmember Larsen seconded the motion. The amendment passed 4-0; with Councilmember Larsen, Councilmember Beus, Councilmember Laursen, and Councilmember Sweeten all in favor.

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

Councilmember Larsen moved to approve Ordinance 21-17: Lot Line and Parcel Boundary Adjustments Review Process; for first reading. Councilmember Beus seconded the motion. The motion passed unanimously 4-0; with Councilmember Larsen, Councilmember Beus, Councilmember Laursen, and Councilmember Sweeten all in favor.

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

Opening Ceremonies

Mayor Shaun Dustin led the meeting in the Pledge of Allegiance

Call to Order and Roll Call

Mayor Dustin called the Thursday, August 26, 2021, Nibley City Council meeting to order at 6:30 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Kathryn Beus, Councilmember Norman Larsen, and Councilmember Nathan Laursen. Councilmember Tom Bernhardt was attending remotely via Zoom. Justin Maughan, Nibley City Manager, and Levi Roberts, Nibley City Planner, Levi Roberts was also present.

Approval of the August 12, 2021 Previous Meeting Minutes and Current Agenda

Councilmember Larsen moved to approve the August 12, 2021 meeting minutes and the current agenda. Councilmember Laursen seconded the motion. The motion passed unanimously 5-0; with Councilmember Larsen, Councilmember Laursen, Councilmember Beus, and Councilmember Bernhardt were all in favor.

Public Comment Period

Mayor Dustin gave direction to the public present, describing that the Public Comment Period was different from the Truth in Taxation hearing and opened the Public Comment Period at 6:35 p.m.

Larry Jacobsen, who had signed up on the Public Comment Period sheet, differed his comments until the Truth in Taxation hearing.

Seeing no public comments, Mayor Dustin closed the Public Comment Period at 6:36 p.m.

Discussion & Consideration – Resolution 21-23: Approving A Water Share Agreement with Ridgeline Park (First Reading)

Mayor Dustin said the reason for the agenda item was that the Ridgeline Park subadvisor had been inactive development for a while and with every subdivision it was necessary for that subdivision to provide the water necessary for the development.

Mayor Dustin recognized Councilmember Kay Sweeten who arrived at the meeting via Zoom at 6:37 p.m.

Mr. Maughan said typically when a standard subdivision came in, the city used a calculation based on state guidelines and rules to calculate on the amount of water that was to be supplied with subdivision per the development. In the state, there had been a big push towards metering and a push to accurate measurements and data to be able to make decision as opposed to old code, which was being debated as to where it came from. The state had passed down guidance to calculate the amount water that was required. The Nibley City master, adopted in 2020, utilized the states recommendation in Nibley's planning. When the Ridgeline subdivision was brought in, the city gave a preliminary estimate of water that would be required for the entire development using the old code and rules. The master plan had come out with discussion with the subdivider using their studies and with subdues the city had done using the new guidance, they came up with a volume of water in acre feet of what the Ridgeline subdivision would need to contribute to Nibley to cover the amount of water they needed to bring.

Mayor Dustin said they were 35 acres short of the water that was required to complete the subdivision. After consulting with the City Attorney it was determined the City Council had discretion in this matter and Mayor Dustin chose to approach the matter

that the developer had standing under the previous ordinance because the new ordinance e after their application was submitted. The attorney had recommended this be handled with a resolution, so the Council had Resolution 21-23: Approving a Water Share Agreement with Ridgeline Park before them. Mayor Dustin described that this could also be handled as a PUD, which was a legislatively negotiated agreement but he recommended against this because this would open the door for any PUD development to negotiation with them on how much to charge for water.

Mr. Lane Ropelato was present at the meeting.

Mayor Dustin read portions of Resolution 21-23.

“WHEREAS, Ridgeline Park Subdivision application was submitted to Nibley City on June 11, 2020.

WHEREAS, On Sep 24, 2020, Nibley City Council created a fee on the Consolidated Fee Schedule for \$2,500 per acre-foot of water purchased from the City, superseding language in code 15.02.030.d in regards to how fee in leu of providing physical water to the City with a development was to be charged;

WHEREAS, The Ridgeline Park subdivision application was made prior to the changes outlined above;

WHEREAS, The City Council has discretion about which of the two approaches to use, and the application was made and agreements were entered into in good faith based on ordinances on the books at the time the application was made;

WHERAS, a detailed review by the City Attorney determined that it would be in the best interest of the City for the Council to specifically address the issue in a Resolution specific to the Ridgeline Park Development.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NIBLEY CITY, STATE OF UTAH, AS FOLLOWS:

1. Nibley City Council approves the use of 35 water shares from the Nibley Blacksmith Fork Irrigation Company, currently owned by Nibley City to fulfill the water supply requirement of the Ridgeline Park subdivision.
2. The Developer is responsible to pay the Nibley City a fee in-leu of providing physical water in the amount of \$17,500.00.”

Councilmember Larsen moved to approve Resolution 21-23: Approving A Water Share Agreement with Ridgeline Park for first reading. Councilmember Bernhardt seconded the motion.

Councilmember Bernhardt said he was not excited about selling city water shares to a landowner who would turn around and donate the shares to a developer. He questioned how this would benefit the citizens of Nibley. Mayor Dustin said 1) the Ropelato's were Nibley residents who had entered into an agreement in good faith with the ordinances that were on the books and 2) he was morally uncomfortable with changing the rules in the middle of the game whether the city had the legal right or not. He said it was changed without giving forewarning. Mayor Dustin said the other thing was that if this were tied up and ended up in court then it would stop the development until it was resolved and that was not in the best interest of the citizens. The practical answer was he didn't want a half-developed project on the city books, indefinitely.

Councilmember Beus said she didn't see it as their problem to supply water. They could go out and buy the water on the market. If they were doing what was best for Nibley residents, it wasn't giving water away. She could not approve the agreement as written. They could walk and they would have to come up with the shares themselves. Mayor Dustin and Councilmember Beus discussed that Mayor Dustin felt the \$7,500 fee for water shares had been set by Nibley and would set the fees found on the market. Councilmember Larsen questioned if the 35 shares of water included the park? Mayor Dustin said the 35 shares was what was left of the water requirement that came out of calculations. Mr. Maughan said it did include the park, which he believed was 4 or 5 shares. Councilmember Beus agreed that it as a benefit to update the way water was assessed and was willing to negotiate but was not willing to vote to approve. She felt the current Resolution was a detriment to the residents of Nibley. Mayor Dustin said they also had to have a system where the people could rely on the government to keep its word and be consistent. The Council discussed when water fees were assessed and given with development, which was typically when final plat approval was submitted. Councilmember Sweeten asked if they knew when in the process, the Ropelato's knew there wouldn't be enough water shares for the project? Mr. Ropelato said he was not sure when in the process he realized when they were short. Councilmember Beus said they were at first reading, and they could negotiate on the cost before the resolution was brought back for second reading. They could negotiate to cost and bring it back with another number. Mayor Dustin said this would open up negotiations with R-PUD's for water share negotiations. Councilmember Beus felt she and Mayor Dustin disagreed with at what point of the process the price was fixed. She said the price was fixed at time of final approval and this standard could be held to other PUDs. Councilmember Beus was not willing to pass the Resolution for \$17,500.00. Councilmember Beus calculated the cost of per acre foot and determined that the alternate fee was \$262,500.00 for 35 shares at \$2,500 per acre foot.

Councilmember Laursen said the objectives were to make sure they had the amount of water they needed to maintain the and there was a disagreement on what the fee should be and they had the ability to come up with the fee. Mayor Dustin said that as it was written they would have to choose between the two fees. If they went to the PUD

justification, then negotiations would come in and could lead to other negotiations with PUDs. Mayor Dustin described how the city brokered water.

Councilmember Beus moved to amend Resolution 21-23, changing the price of \$17,500 to \$262,500. Councilmember Laursen seconded the motion.

Councilmember Laursen said he supported the amendment because they had learned as these developments had come in that they were not providing the water they needed for these types of areas. Mayor Dustin disagreed and said the \$7,500 was set without the intention of impact the project and was set without thought as to how it would impact these projects. They made a strategic decision as a city to allow PUDs and you try to mitigate the unintended consequences. The Council discussed if the consequences of the discussion on other approved R-PUD developments. They discussed the current phases of Nibley's R-PUD developments. Mr. Roberts noted that Ridgeline Park only had final approval for phase 1 of their development and the Resolution was projecting for the entire development. Mr. Maughan clarified that Ridgeline Park had provided the water shares needed for phases 1-3 of the development. Councilmember Sweeten was curious to know the consequences of not approving the Resolution as far as the development if it were to not move forward. What would the cost be to the city and the residents? Mayor Dustin said it could be but in terms of impact fees not collected and lost property taxes because he felt the land would go back to greenbelt. Mr. Maughan said there would also be a delay with the development of the proposed city park on the property. Councilmember Larsen said he was on board with what was presented. Councilmember Larsen clarified that his motion to approve was for first reading.

The motion to amend failed 2-3; Councilmember Laursen and Councilmember Beus were in favor. Councilmember Bernhardt, Councilmember Beus and Councilmember Sweeten were opposed.

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

Discussion & Consideration – Amending the Street Improvement and Dedication Agreement for 2600 South between Highway 89/91 and 1200 west (Applicant: Wesley Nelson Farms) (First Reading)

Mr. Maughan said the city had been approached by Mr. Al Bingham with Wesley Nelson Farms regarding the Street Improvement Agreement which was passed by the City Council and signed on July 29, 2021. The agreement outlined a non-standard way for the development of 2600 South to the highway over to the intersection of 1200 West and 2600 South. The property was dedicated as a easement so that the road could be built and the subdivision and subdivision issued would be dealt with at a later time when actual subdivision took place. Typically, with a normal subdivision process, they were required to provide security in the form of a letter or credit or bond and this, as

standard practice, was written into the signed agreement in item 10. Mr. Bingham had approached the city and asked if this could be removed from the agreement so he could reserve some cash flow to be able to continue the project and move other things around concerning the property. The proposal before the City Council was to remove the posting of the bond or financial assurance from the agreement. Mr. Maughan said there were no costs or financial ties for the city.

Mayor Dustin said the proponent had asked the Council to waive the second reading of this agreement.

Councilmember Larsen moved to approve the amendment to the Dedication Agreement for 2600 South between Highway 89/91 and 1200 west; applicant, Wesley Nelson Farms); and waived the second reading. Councilmember Sweeten seconded the motion.

Councilmember Bernhardt asked for the likelihood of only getting a half-road in. Mr. Maughan reported that the proposal was to build more than half a road now, but it was not a complete road. There was a large financial incentive for the property owner to get the road done, to sell the property. Mr. Maughan said the city engineer had approved the road drawing and inspectors were ensuring the road was constructed to city standards. Councilmember Bernhardt discussed requiring 50% of the estimated cost. Mr. Maughan said this had not been discussed.

The motion passed 4-1; with Councilmember Larsen, Councilmember Sweeten, Councilmember Beus, and Councilmember Laursen in favor. Councilmember Bernhardt opposed.

Discussion & Consideration – Ordinance 21-18: Amending NCC 15.02.030 Fees; New Developments, Contributions (First Reading)

Mr. Maughan said this address the coded that conflicted with the water supply requirement that was discussed under item 5 of the current meeting agenda. This code was in the water section of code, NCC 15.02.030 D. The City Council had passed other code and this code hadn't been cleaned up. The conflicting ordinance that had been passed were the subdivision ordinance and the fee schedule. The City Council discussed if repealer language had been included in the conflicting code.

Councilmember Beus moved to approve Ordinance 21-18: Amending NCC 15.02.030 Fees; New Developments, Contributions; for first reading. 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.

Truth in Taxation Hearing

Mayor Dustin said this was done every year as a matter of practice. A tax rate of .001667 allowed the city to keep pace with inflation and to continue to maintain the city and stay healthy financially. State law required them to have the Truth in Taxation hearing so that everyone knew the impact of the tax rate. Mayor Dustin suggested Nibley residents also follow through with Cache County and the school districts regarding their taxes because this was where most of their taxes went. Mayor Dustin said the impact for the year was about \$35 per year for the average home.

Mr. Maughan gave a presentation utilizing an electronic presentation entitled Nibley City Truth in Taxation Hearing FY 2021/2022 (a printed copy of this presentation is included in the printed meeting minutes). The topics in his presentation included the following: Tax Rate Fun Facts, How Truth in Taxation Works, Property Tax Increases as Percentage of Total Budget, How does a small increase effect the City and Citizens?

Mayor Dustin gave rules to the public present and opened the Truth in Taxation hearing at 7:38 p.m.

Larry Jacobsen of 412 East and 4300 South said he could give the Council a couple of reasons why they should reject the tax increase. He was at a phase in his life when he was moving away from regular full-time employment to part-time employment or something else and would have a substantial decrease in family income; the second reason was that he apply for a job and a was filling his “golden years” with another part-time job and had put his name on the ballot. Mr. Jacobsen was not going to do this because he felt that 1/600th of about half of the appraised value of a residential house was about the right number to provide the amenities that their families enjoyed out the general fund; road maintenance, parks, recreation programs, law enforcement, EMS. He felt it was a rate that had been established historically and was fair and kept the City Council on their toes. Mr. Jacobsen quoted Will Rogers asked the City Council to promise to give them the government they were paying for and to do this efficiently. He thanked the City Council and Mayor going through the onerous process they went through for their service to Nibley.

Hall Ward of 1288 West Nibley Parkway asked if the tax was based on the new inflated values of properties? He said homes were selling for more this year than they were in the past year. He discussed how much his home had gone up in value. The average person hadn’t gotten a pay raise and had more costs, and the only value was if a person sold their home. Mr. Ward didn’t feel the tax raise was necessary and didn’t feel they needed to raise the rate in Nibley. He asked if they could tell him how much his tax rate would be based on his home value. Mayor Dustin said the values advertised were based on the assessed values that were given by the County. He described the calculations of the assessed value of a home in Nibley City. Mr. Ward said there were a lot of retired people in Nibley City who wouldn’t have the ability to raise the money.

Barbara Wilden of 660 West and 3200 South tried to recall how many City Council meetings she had sat through. This afternoon she had gone to visit her late husband and had thought about how much they had loved living in Nibley and being a part of Nibley. She said living in Nibley was well worth the \$2.96/month even if it meant a 12 pack of Diet Coke.

Matt Logan of 2670 South and 850 West, member of the Nibley City Planning Commission, said he was running for Mayor, like Mr. Jacobsen and wanted to talk about having an efficient government. He had looked online based on Utah's Right to Know Act and had questions about the efficiency of Nibley's city government. He questioned that the City Manager made north of 70% more than city managers across the nation and the water and sewer guy, Pope, made north of 40% more than all his counterparts across the nation and Nibley was a tiny city. He wondered if this was an efficient use of Nibley's taxes and made him question certain things. He said the overhead for things far outweighed what they got. Mr. Logan said the truck Pope drove home every night was a Ford Platinum and questioned why it wasn't a Ford XLT. He questioned if this was efficiency?

Angelica Gardner of 2617 South Main Street said she'd lived in Nibley since 1994 and said her taxes had more than doubled in that time. Based off Mayor Dustin direction, she felt she needed to hit up the County. She thanked the City Council for their hard work and said she appreciated the comment on contacting the County. She said taxes were really high and for someone on a fixed income, it was really hard. She said the city and county had to keep going but if there were a lower way to do things that lower taxes would be great. Mrs. Gardner thanked the City Council for their service.

Mayor Dustin closed the Truth in Taxation hearing at 7:53 p.m.

Mayor Dustin addressed Mr. Logan's questions regarding salaries and fleet vehicles.

Mayor Dustin thanked the public for taking the time to come in and give their comments.

Discussion & Consideration – Resolution 21-22: ADOPTING THE FINAL BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS FOR FISCAL YEAR 2021-22 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES (First Reading)

Mr. Maughan gave a presentation utilizing an electronic presentation entitled 2021/2022 Nibley City Budget (a printed copy of this presentation is included in the printed meeting minutes). The topics in his presentation included the following: Changes Since Second Reading.

Councilmember Beus moved to approve Resolution 21-22: ADOPTING THE FINAL BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS

FOR FISCAL YEAR 2021-22 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES; and waived the second reading. Councilmember Larsen seconded the motion.

Voting on the motion was as follow:

Councilmember Sweeten was in favor, Councilmember Bernhardt was in favor, Councilmember Laursen was in favor, Councilmember Larsen was in favor, and Councilmember Beus was in favor.

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

Discussion & Consideration – Ordinance 21-19: Amendments to Nibley City Nuisance Code 07.02 (First Reading)

Mr. Roberts gave a presentation utilizing an electronic presentation entitled Nuisance Ordinance Amendments (a printed copy of this presentation is included in the printed meeting minutes). The topics in his presentation included the following: Background and Purpose, Provisions.

Councilmember Laursen asked what the penalties for zoning were, if they found an improper structure or building with the zoning ordinance. Mr. Roberts said it would be treated almost the same as a nuisance, but it would be treated as a misdemeanor and the sheriff would be involved.

Councilmember Larsen moved to approve Ordinance 21-19: Amendments to Nibley City Nuisance Code 07.02; for first reading. Councilmember Laursen seconded the motion.

Councilmember Larsen said it seemed that everyone loved cars, but no one wanted cars. He quoted coded from the Town of Windsor that had a separate permit for restoration or preservation that could be reviewed annually. He said it was more work on the city's part but might bridge the gap, showing they are doing something.

Councilmember Larsen said the issues were public health and safety, and property values. There were times a permit for a special interest could be considered and could bridge the gap on some of the issues that were before the Council. He asked for a straw poll if the City Council would consider this if it were brought back for second reading. Mayor Dustin stated he had no concerns with this. Councilmember Larsen said this could be explained to residents and if people knew what was going on it would be easier to described what was taking place. Councilmember Larsen also knew some of the concern was environmental and he could work on seeing what other Council's had to address these concerns.

Councilmember Bernhardt referred to B-7 and B-8 and thought in theory they could have 6 vehicles on his property if he had an acre. Mr. Roberts said this had been discussed; number of vehicles on the property and read from the proposed code B 7-8.

“Inoperable Vehicles & machinery: Unsheltered storage of more than two, unused, stripped or junked machinery, vehicles, implements or, equipment which are no longer safely usable for the purposes for which they were manufactured, for a period of thirty (30) days or more (except in licensed junkyards) within the city. Any unregistered passenger vehicle shall be considered unused.

Excessive and Unsheltered Vehicle Storage: The parking of more than four (4) passenger vehicles per acre of property outside of a driveway or unsheltered, whether operable or not.”

Councilmember Bernhardt questioned if 4 inoperable vehicles balanced with rural feel. Councilmember Bernhardt said this was not rural to him; to have a mini junkyard in the backyard. He questioned where it stopped before someone had to get a junkyard permit. Mayor Dustin said he was interested to see how the language came back addressing the firm line if someone were using vehicle for economic benefit. Once someone started taking money for something it clearly not something that would fall under an exception to the nuisance ordinance. Mr. Roberts said it was difficult to prove if someone were operating a business. If there were a clear line it made it more enforceable.

Councilmember Sweeten expressed a concern with cars being parked on the grass or dirt from her experience. She was concerned at which point it became public safety with oil leaks or other fluids leaking on to the surface or ground. She wants people to be able to use their property but also wants to provide a safe community.

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

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

Mr. Roberts described that the City Council had been considering instating a fee of \$750 for land use and nuisance appeals and a fee of \$1,000 for variance requests to cover the cost of the appeal authority and to hold the appeal hearings. The City had recently had quite a few appeal and variance hearings and the cost had fallen to the city and to the general public. The cost for a variance was currently \$200 and there was no cost for an appeal. Mr. Roberts said staff and the Mayor had discussed adopting the Resolution but delaying the timeline, perhaps to the start of the year, because staff was working with the nuisance ordinance. This would give staff time to work through the nuisance changes. Councilmember Bernhardt asked if there would be education given between

the Resolution being adopted and when it would take effect. Mr. Roberts reported how this would be done. Councilmember Sweeten questioned when the fee would be applied. Mr. Roberts said this fee would be assessed when an application was submitted. Councilmember Sweeten questioned if the applicant would still have the fees for not complying. Mr. Roberts said if the appeal were lost, they would still have the fees but the appeal stayed the time they needed to comply with the ordinance; until they had a written decision from the appeal authority.

Mayor Dustin said his recommendation was that the City Council's motion delay implementation of the Resolution until January 1, 2022.

Councilmember Laursen moved to approve Resolution 21-20: Amending Nibley City's Consolidated Fee Schedule; Appeal and Variance Applications, amending implementation of the Resolution in January of 2022. Councilmember Bernhardt seconded the motion.

Councilmember Laursen said he struggled with charging someone for helping them realize they had done something wrong or an ordinance needs changed if they won their appeal. He questioned considering refunding the fee if the appeal was won. Councilmember Beus referenced that there were circumstances but felt charging that high of a fee gave people they feeling they didn't have access to their government. She said the fee was too high and was a crushing amount of money. Councilmember Laursen discussed that the fee was only covering costs to go through the process. Mayor Dustin said the fee was similar to what they saw in surrounding cities and was not opposed to the fee and felt the danger would be mitigated to finding out they had another bad appeal officer. He liked the idea, if someone were successful in their appeal but didn't think the refund should apply to a variance. Councilmember Bernhardt said wasn't sure it should be the full amount because there was time invested. He said he could be persuaded either way. Councilmember Sweeten said she felt comfortable with the \$1,000 fee for a variance, but she was concerned about the appeal process. Councilmember Sweeten said a lot of her neighbors had recently been educated with a nuisance letter and were willing to come into compliance but were concerned with the cost of coming into compliance. They might want to consider an appeal, but the cost was intimidating enough to the point they were just burying their heads in the sand. She felt the \$750 seemed high. Staff was given direction to address the appeal fee.

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

Discussion & Consideration – Ordinance 21-16: Amending Animal Land Use Regulations (First Reading)

Mr. Roberts gave a presentation utilizing an electronic presentation entitled Animal Land Use Regulations (a printed copy of this presentation is included in the printed

meeting minutes). The topics in his presentation included the following: Miniature Pigs, Consideration, Other ordinance revisions, Recommended Findings

Councilmember Bernhardt left the meeting at 9:02 p.m.

Mayor Dustin recommended the language on pig be removed from the proposed code and 1,000 points be attached to roosters and billy goats.

Councilmember Laursen moved to approve Ordinance 21-16: Amending Animal Land Use Regulations, removing pigs as recommended by staff; for first reading. Councilmember Larsen seconded the motion.

Councilmember Laursen questioned the morals of certain pets, particularly teacup pigs, and said ultimately this was why he was against miniature pigs. He said society was getting more interesting in how they created pets and though the City Council should keep this in mind. Councilmember Laursen clarified that the enforcement of animals land use was done through Cache County Animal Control

Mayor Dustin made a motion to amend Ordinance 21-16, that rooster, chicken be 500 pts and the billy goat be 500 points. Councilmember Larsen seconded the motion.

Mayor Dustin said both roosters and billy goats were currently allowed in a residential neighborhood, which he felt was inappropriate because they had the ability to impact people that were close to them.

The amendment passed 4-0; with Councilmember Larsen, Councilmember Beus, Councilmember Laursen, and Councilmember Sweeten all in favor.

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

Discussion & Consideration – Ordinance 21-17: Lot Line and Parcel Boundary Adjustments Review Process (First Reading)

Mr. Roberts gave a presentation utilizing an electronic presentation entitled Lot Line & Parcel Boundary Adjustments (a printed copy of this presentation is included in the printed meeting minutes).

Councilmember Beus left the meeting at 9:10. p.m.

The topics in Mr. Roberts presentation included the following: Proposed Staff-level Review process

Councilmember Beus returned to the meeting at 9:13 p.m.

Mr. Roberts continued his presentation with discussion of the Planning Commission Recommendation.

Councilmember Beus asked about the creation of non-conforming lots clarifying that residents were coming to an agreement with a neighbor and doing a lot line adjustment with the remainder lot not being in compliance with the current zoning. Mr. Roberts agreed and clarified that staff would have the ability to deny this and the resident's recourse would be paying for an appeal. Mr. Roberts discussed that the new process would require more communication with the County Recorder. They would have to kick adjustment proposals back to the city. As of now there was no Nibley City review process. Nibley City currently had a good relationship with the County Recorder.

Councilmember Larsen moved to approve Ordinance 21-17: Lot Line and Parcel Boundary Adjustments Review Process; for first reading. Councilmember Beus seconded the motion. The motion passed unanimously 4-0; with Councilmember Larsen, Councilmember Beus, Councilmember Laursen, and Councilmember Sweeten all in favor.

Council and Staff Report

Councilmember Sweeten apologized for being late but described that a medical procedure, which she was thrilled to have completed, had required her to be late to the meeting.

Councilmember Laursen knew there had been some discussion about building on top of an easement, etc. He had concerns about where the city can say "no" and a resident proceeding with the knowledge that a building could be torn down. Mr. Maughan said staff was doing research. He had consulted with other the attorney and had reached out to other cities, but more research needed to be done. Councilmember Laursen questioned if the issue would need to be included in ordinance. He felt it might need to be on a future agenda item

Councilmember Larsen asked for an update on a meeting with UDOT.

Mayor Dustin reported on meeting with Malouf and Mr. Maughan regarding Tax Increment Finance (TIF) and the RDA. Mr. Maughan said there was a big step forward taken when the school district had decided they would like to participate. There were a lot of steps that still needed to happen. Cache County needed to get involved.

Mr. Maughan reported on the next Movie in the Park on August 27, 2021

Mr. Maughan reported that the Boonanza was set for October 29, 2021, and Holiday Decorating would be ongoing. He said Mr. Wright might be contacting elected officials or candidates for help at these events.

Mr. Maughan reported on soil conditions at the 3200 South roundabout and costs that may be associated with mitigating the soil issues at the roundabout.

Mr. Maughan reported that the Anhder Park sidewalk would be worked on around Labor Day as well as 3200 south road work by the railroad and at the east end of 3200 south.

Mr. Maughan reported on the Utah Department of Transportation public hearing that was held at Nibley City Hall the previous evening (August 25, 2021). The discussion centered around the potential lighting at 3200 South and highway 89/91. UDOT had indicated they would be ready to break ground mid-June of the following year.

The meeting was adjourned at 9:32 pm

Attest: _____
Deputy City Recorder