

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, November 18, 2021.

The following actions were made during the meeting:

Councilmember Bernhardt moved to approve the Development Agreement for MPI Group, LLC Temporary Parking Allowance. Councilmember Larsen seconded the motion. The motion passed 5-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Beus, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Laursen moved to adopt Resolution 21-26: Adopting the 2022 Annual Meeting Schedule for the Nibley City Council; and waived the second reading. Councilmember Bernhardt seconded the motion. The motion passed 5-0; with Councilmember Laursen, Councilmember Bernhardt, Councilmember Beus, Councilmember Larsen, and Councilmember Sweeten all in favor.

Councilmember Sweeten moved to approve Ordinance 21-20: Short-term Rental Regulations, for first reading. Councilmember Beus seconded the motion.

Councilmember Laursen made a motion to amend Ordinance 21-20: Short-Term Rental Regulations, 19.24.260.D. to have the Cache County Fire Marshal annually inspect for residential fire standards. Councilmember Bernhardt seconded the motion. The amendment passed unanimously 5-0; with Councilmember Laursen, Councilmember Bernhardt, Councilmember Beus, Councilmember Larsen, and Councilmember Sweeten all in favor.

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

Councilmember Laursen moved to approve Resolution 21-27: Adopting a Nibley City Flag, for first reading. Councilmember Sweeten seconded the motion. The motion passed unanimously 5-0; Councilmember Laursen, Councilmember Sweeten, Councilmember Beus, Councilmember Bernhardt, and Councilmember Larsen all in favor.

Mayor Dustin moved to accept the employee evaluation of Mr. Justin Maughan for the year 2021. Councilmember Beus seconded the motion. The motion passed 4-1; with Councilmember Beus, Councilmember Bernhardt, Councilmember Larsen, and Councilmember Sweeten in favor. Councilmember Laursen abstained from voting.

Deputy City Recorder Cheryl Bodily took minutes

Opening Ceremonies

Mayor Dustin quoted President Abraham Lincoln:

“Four score and seven years ago our fathers brought forth upon this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.

Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battle-field of that war. We have come to dedicate a portion of that field, as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.

But, in a larger sense, we can not dedicate—we can not consecrate—we can not hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.”

--Abraham Lincoln
November 19, 1863

Call to Order and Roll Call

Mayor Shaun Dustin called the Thursday, November 18, 2021, Nibley City Council meeting to order at 6:32 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Kathryn Beus, Councilmember Tom Bernhardt, Councilmember Norman Larsen, Councilmember Nathan Laursen, and Councilmember Kay Sweeten. Justin Maughan, Nibley City Manager, Levi Roberts, Nibley City Planner, Darren Farar, Nibley City Engineer and Steve Eliason, Nibley City Public Works Director was also present.

Approval of the October 28, 2021, Regular and Executive Session and November 15, 2021, Meeting Minutes and the Current Agenda

Councilmember Beus moved to approve the October 28, 2021, regular and executive session and November 15, 2021, meeting minutes and the current agenda.

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

Public Comment Period

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

Seeing no public comments, Mayor Dustin closed the Public Comment Period at 6:33 p.m.

Planning Commission Report

Mr. Roberts gave this report. He reported that at the last Planning Commission meeting, the Planning Commission had made a recommendation for a parking agreement with Malouf that the City Council would discuss. The Commission had also workshopped discussion on accessory dwelling units, and this also affected two-family dwellings. There had been a change in State code with internal accessory dwelling units and there had been a bit of confusion with accessory dwelling units and two-family dwellings and the ordinance change would put Nibley Code in line with State code.

Discussion & Consideration – Development Agreement for MPI Group, LLC Temporary Parking Allowance

Mr. Roberts had an electronic presentation to lead this discussion (a printed version of this presentation is included in the printed meeting minutes). His presentation was entitled *Malouf Parking Agreement* and included the following topics: Background, a map showing the current Malouf building location and the location of the proposed temporary parking, a map showing the phases placement of permanent parking, Agreement Provisions, and the Planning Commission Recommendations.

Mr. Roberts said the Planning Commission had reviewed this agreement and had recommended the City Council approve the development agreement for MPI Group, LLC temporary parking allowance.

Mayor Dustin asked if staff was concerned with setting any sort of precedence with the agreement. Mr. Roberts discussed that he felt there were enough safeguards in the agreement, and it was a pretty unique circumstance; where Malouf was going through the process of de-annexing and annexing. The City Council could alternately consider changing ordinance to allow for temporary parking.

Councilmember Beus asked how much the city was requiring for the bond. Mr. Roberts said the same amount that was required for the permanent paved parking area, which was yet to be calculated. Councilmember Bernhardt asked Mr. Roberts to clarify that the vacant, temporary parking spot was in Nibley but the permanent parking spot was in Logan. Mr. Maughan asked how far Malouf was in the process of de-annexation from Logan. Mr. Roberts was not confident of where they were in the de-annexation process.

Councilmember Sweeten said it seemed the Council were uncertain that the temporary parking area was all in Nibley. Mr. Roberts pulled imaging up on the Cache County

parcel viewer showing that the temporary parking area was in Nibley. Councilmember Laursen asked where the access to the temporary parking was. Mr. Roberts showed the access area on the parcel viewer. Councilmember Laursen questioned if there would be concern of employees going through the Stonebridge subdivision area to access Malouf. Councilmember Bernhardt felt Malouf could put up a temporary barrier at any access to Stonebridge.

Councilmember Bernhardt moved to approve the Development Agreement for MPI Group, LLC Temporary Parking Allowance. Councilmember Larsen seconded the motion.

Councilmember Bernhardt reiterated his concern that barriers were placed to alleviate Stonebridge subdivision concerns. Mr. Maughan said the city could talk to Malouf about this and could potentially put something up.

Councilmember Bernhardt made a motion to amend the development agreement to include that Malouf put in barriers to prevent traffic flow in and out of the Stonebridge (2930) subdivision. Councilmember Sweeten seconded the motion.

Mayor Dustin presented his recollection of the agreement to abandon the road access to Stonebridge. He thought the best course of action was to put up barriers and allow Malouf or the citizens of Stonebridge to request alternate use of the road. He said if the Council were to allow traffic on the road, they would be allowing city traffic to go onto private land to cross to another city road on the other side. Councilmember Laursen thought they should consider Maple Valley road as well.

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

Mayor Dustin said he would ask staff to review with legal counsel what obligations the City had for access. If Malouf didn't have access from those public streets, then the city may have to block those accesses regardless. Private landowners had to get access from public streets and the City had to grant access from public streets and there was a preexisting agreement. Mayor Dustin felt they should pass the development agreement and the City Council could revisit the access issue after speaking with Malouf and the Stonebridge HOA.

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

Discussion & Consideration – Resolution 21-26: Adopting the 2022 Annual Meeting Schedule for the Nibley City Council (First Reading)

Mayor Dustin expressed his concern with the schedule having only one meeting in April with getting the annual budget put together. He asked the City Council to keep this in mind and be flexible during that time. The Mayor and City Council discussed the history of moving City Council meets to the second and fourth Thursdays versus the first and third Thursdays of each month. The City Council discussed that Mayor-elect Jacobsen would be sworn in during a special meeting of the City Council on Monday, January 3, 2022. The City Council discussed the anticipated date of 2022 Heritage Days.

Councilmember Laursen moved to adopt Resolution 21-26: Adopting the 2022 Annual Meeting Schedule for the Nibley City Council; and waived the second reading. Councilmember Bernhardt seconded the motion.

Councilmember Sweeten said Chad Wright had switched so that Heritage Days was the third full week in June and the adopted schedule put the City Council meeting on Heritage week. She suggested Heritage Days could be scheduled for the previous week and described that this could be accommodated with the Children's Theatre. Councilmember Sweeten felt they should encourage Heritage week be the week before.

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

Discussion & Consideration – Ordinance 21-20: Short-term Rental Regulations (First Reading)

Mr. Roberts led this presentation. Mr. Roberts reported that Nibley City did have a very small section of short-term rentals, which were considered a conditional use. The consensus among the Planning Commission was that they didn't want to create too many barriers to short-term rentals. The Planning Commission had proposed to keep regulations limited and to allow short-term rentals as a permitted use but require a business license and a license with the State. Mr. Roberts utilized an electronic presentation entitled *Short-term Rentals* (a printed version of this presentation is included in the printed meeting minutes). The topics included in his presentation included the following: Background, Recommended provisions:

1. Require a business license for all short-term rentals. (Home occupation if occupied by the homeowner, commercial if not.)
2. Allow one short-term rental per property
3. Restrict short-term rentals to permanent, residential structures (not RVs or camping)
4. Require inspection by Fire Marshall
5. Require adequate off-street parking
6. Require hosts to inform tenants of noise and parking ordinance

And Planning Commission Recommendation.

Mr. Roberts said it was the Planning Commission recommendation that the City Council approve Ordinance 21-20: Short-Term Rental Regulations.

Councilmember Sweeten asked if someone was gone for 6-month out-of-the year and rented out their home if it would be commercial. Mr. Roberts felt it would be commercial; it was owner occupied but not while the owner was there. He said this could be clarified and felt this was a common occurrence with “snowbirds.” Councilmember Laursen asked about requiring the business license to be renewed annually. He clarified that the fire inspection provision had been changed from being renewed annually to “before operation.” Mr. Roberts said the Planning Commission had felt that was sufficient.

Councilmember Sweeten moved to approve Ordinance 21-20: Short-term Rental Regulations, for first reading. Councilmember Beus seconded the motion.

Mayor Dustin said this was a commercial thing and felt it was even more important to have a fire inspection because the tenants were turning over constantly. He didn’t think it was burdensome to have the fire marshal come in and inspect. The City Council discussed the charge of having a fire inspection (\$45/hour). Councilmember Beus felt if they made the requirements too rigid then no one would get a business license. Mr. Roberts reported that short-term rentals couldn’t be enforced by using a short-term rental website. They had to have proof. The owner could be approached, and the owner would have to admit to having a short-term rental. Mr. Roberts said he could use short-term rental websites to reach out to the rental owner. If the ordinance were passed, he anticipated reaching out to potential short-term renters. The City Council continued to debate requiring an annual fire inspection. Councilmember Laursen said he’d like to see short-term rentals get a fire inspection every year. Mr. Roberts said the Planning Commission had also recommended that short-term rental be allowed in accessory dwelling units. They were currently prohibited but the Planning Commission had recommended this prohibition be stricken.

Councilmember Laursen made a motion to amend Ordinance 21-20: Short-Term Rental Regulations, 19.24.260.D. to have the Cache County Fire Marshal annually inspect for residential fire standards. Councilmember Bernhardt seconded the motion.

Mayor Dustin asked the City Council to think about how they want to deal with short-term use cases and that they get their notes to Mr. Roberts as soon as possible for consideration at the second reading.

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

Councilmember Laursen gave direction to staff to look at differences between home-occupied licenses and a normal commercial license and give a short presentation. Councilmember Laursen suggested the Council read home-occupied and commercial regulations. Mr. Roberts said the said the biggest current difference was the fee; \$250

versus \$30 and a commercial use would have to have the fire inspection. Councilmember Laursen requested a presentation on home-occupied versus commercial short-term rental.

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

Discussion & Consideration – Resolution 21-27: Adopting a Nibley City Flag (First Reading)

The City Council discussed the meaning of the red stripe on the proposed flag. Mayor Dustin said it was originally meant to represent soil but there was no way to make brown work on the flag. Councilmember Sweeten suggested red represent brotherly love. The Mayor and City Council discussed the significance and historical references in the flag. Mayor Dustin said the flag was distinctive and unique and represented Nibley's values and past and future.

Councilmember Laursen moved to approve Resolution 21-27: Adopting a Nibley City Flag, for first reading. Councilmember Sweeten seconded the motion.

Councilmember Larsen made a motion to amend to waive the second reading of Resolution 21-27. Councilmember Beus seconded the motion.

Councilmember Larsen said he would like a second reading to workshop the symbolism sentences before the Resolution was passed.

The amendment failed 0-5; with Councilmember Larsen, Councilmember Beus, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all opposed.

The City Council suggested Councilmember Laursen reword the symbolism and suggested he include wording for red and signify and distinguish between the two shades of blue included on the flag.

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

Discussion & Consideration – Nibley City Manager's Review

Mayor Dustin said it was his privilege and pleasure to conduct Manager Justin Maughan's annual review. Mayor Dustin said he didn't want to put the burden of conducting the review in February on the new Mayor.

Mayor Dustin suggested the City Council continue with the contract with Mr. Maughan and asked for suggestions and comments regarding his goals and accomplishments. Mayor Dustin noted that it was a provision in Mr. Maughan's contract that his review could be conducted in closed session, but Mr. Maughan had requested his review be done in open session because he was a big advocate of openness and transparency. Per his contract, he was able to do his reviews in closed session.

Mayor Dustin presented Mr. Maughan's evaluation for their acceptance.

Councilmember Bernhardt suggest the goals and accomplishments Mr. Maughan had noted be listed out in more detail. He questioned if some of the accomplishments could be more accurate and discussed the timeline with the playground equipment at Clear Creek Park.

Mr. Maughan said he appreciated openness and honesty and was open to

Mayor Dustin moved to accept the employee evaluation of Mr. Justin Maughan for the year 2021. Councilmember Beus seconded the motion. The motion passe 4-1; with Councilmember Beus, Councilmember Bernhardt, Councilmember Larsen, and Councilmember Sweeten in favor. Councilmember Laursen abstained from voting.

Council and Staff Report

Councilmember Bernhardt reported that asphalt the Logan/County road at 2200 South and 800 West was a nasty road. It was very uneven, and the plow would hit the asphalt and pull it up.

Mayor Dustin reported on the Cache Summit. He'd gone to a couple sessions on planning and appreciated staff's efforts when it came to planning.

Mayor Dustin reported that the intent was to start paving 12th west on Saturday.

Mr. Roberts reported that Nibley City had received a Safe Route to School grant to install sidewalks on the south side of 3200 south and there would be continuous sidewalk on the south side of 3200 south. He said it was \$110,000 grant with a \$30,000 match. Mr. Maughan said it was basically a reimbursement grant. Nibley City would install the sidewalk and could expect to receive the grant money back some time in 2024. Councilmember Beus and Mr. Maughan discussed the specifics of the sidewalks and crossing guards.

Mayor Dustin said he'd met with Holly Daines, David Zook, and Gia Worthen to discuss the Albison property. He said they'd done the research and identified that this was the location of the old fort. County-wide historical resource. Troy Karchner said he didn't have any specific plans for the site and had just decided to pick the property up. Mayor

Dustin has asked Mr. Kartcher to be sure to talk to Nibley City when he started pursuing options.

Mr. Maughan reported on how much the lots on 800 Wets sold for: \$130,000 for the small lot and \$140,00 for the corner lot. Mr. Maughan said he'd signed paper today and felt they'd be receiving a check soon. Mr. Maughan reported that Nibley City also owned the property next to Nibley City Hall. The City Council needed to figure out what to do with the property. Councilmember Bernhardt said he'd love for Mr. Maughan to explore using the property for the recreation department.

Mr. Maughan reported on hiring. He said they'd hired Wendy Lindberg as a front-desk receptionist and Chet Olsen as the new Street division help. Mr. Maughan said he was impressed with the fact that so many Nibley residents wanted to work for Nibley City.

Mr. Maughan reported that the City Council could pick up their turkeys on the following Monday.

Mr. Maughan reported that the city Holiday Party would be on December 13 and there would be some sort of fund raiser component.

Mr. Maughan reported on the Holiday Decorating Contest and noted that submissions were due by November 30. He also reported on the drive through live Nativity.

Mr. Maughan reported that the Ridgeline Request for Proposals (RFP) was due the next day and they'd received back the RFPs for an impact fee analysis and report.

Mr. Maughan reported on kids crossing at Heritage Elementary school. He'd attended Heritage Elementary's PTA meeting and hoped they'd come up with a solution.

Mr. Maughan reported that staff had tried to gather data and use some of their connections to help secure right-of-way and secure construction for the remainder of the 1200 west road.

The meeting was adjourned at 8:16 p.m.

Attest: _____
Deputy City Recorder