

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, September 23, 2021.

The following actions were made during the meeting:

Councilmember Larsen moved to approve Resolution 21-24: Amending Fee-in-Lieu for Water Shares for Developments Vested Prior to September 10, 2020, for first reading. Councilmember Sweeten seconded the motion.

Councilmember Beus made a motion to amend to amend Resolution 21-24: Amending Fee-in-Lieu for Water Shares for Developments Vested Prior to September 10, 2020; amending section E.-i. from \$2500 to \$3500. Councilmember Larsen seconded the amendment. The amendment failed 2-3; Councilmember Beus and Councilmember Laursen were in favor. Councilmember Bernhardt, Councilmember Larsen, and Councilmember Sweeten were opposed.

Councilmember Bernhardt made a motion to amend Resolution 21-24, setting a sunset date with the additional wording:

“This resolution is effective only for the specific projects outlined herein and expires on December 30, 2022.”

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

Councilmember Larsen made a motion to amend Resolution 21-24, E.-i. removing “from the last major water share purchase by the City, escalated at 2%/yr from date of purchase at the time the request to purchase is made.” Councilmember Sweeten seconded the motion. The amendment passed 4-1; with Councilmember Larsen, Councilmember Sweeten, Councilmember Beus, and Councilmember Laursen in favor. Councilmember Bernhardt was opposed.

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

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

Councilmember Bernhardt made a motion to amend Ordinance 21-19: Amendments to Nibley City Nuisance Code 07.02; amending the definition of “PUBLIC VIEW” to the following:

“PUBLIC VIEW: can be seen from up to six feet above the surface of public property, which may include a road, sidewalk, trail, park or other public space. Any obstruction of public view must be of solid, opaque, permanent material, such as an opaque concrete, wood or vinyl fence or a permitted building.”

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

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

Councilmember Laursen moved to approve Ordinance 21-16: Amending Animal Land Use Regulations. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Laursen, Councilmember Larsen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Sweeten all in favor.

Councilmember Larsen moved to approve Ordinance 21-17: Lot Line and Parcel Boundary Adjustments Review Process. Councilmember Laursen seconded the motion. The motion passed unanimously 5-0; with Councilmember Larsen, Councilmember Laursen, Councilmember Beus, Councilmember Bernhardt, and Councilmember Sweeten all in favor.

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

Opening Ceremonies

Councilmember Bernhardt quoted Albert Einstein:

“There are only two ways to live your life. One is as though nothing is a miracle. The other is as though everything is a miracle. But without deeper reflection one knows from daily life that one exists for other people—first of all for those upon whose smiles and well-being our happiness is wholly dependent, and then for the many, unknown to us, to whose destinies we are bound by the ties of sympathy. A hundred times every day I remind myself that my inner and outer life are based on the labors of other men, living and dead, and that I must exert myself in order to give in the same measure as I have received and am still receiving . . . A human being is a part of the whole, called by us ‘Universe,’ a part limited in time and space. He experiences himself, his thoughts and feelings as something separated from the rest—a kind of optical delusion of his consciousness. This delusion is a kind of prison for us, restricting us to our personal desires and to affection for a

few persons near est to us. Our task must be to free ourselves from this prison by widening our circle of compassion to embrace all living creatures and the whole nature in its beauty . . . only a life lived for others is worth living."

Councilmember Bernhardt led the meeting in the Pledge of Allegiance.

Call to Order and Roll Call

Mayor Dustin called the Thursday, September 23, 2021, Nibley City Council meeting to order at 6:30 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, and Darren Farar, Nibley City Engineer was also present.

Approval of the September 9, 2021, Meeting Minutes and Current Agenda

Councilmember Beus moved to approve the September 9, 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 6:31 p.m.

Michael Stokes said he was present speaking on behalf of Beau Nicholl. He was asked to share Mr. Nicholl's appreciation of the work that had been done on the proposed nuisance code. He didn't know what the final vote would be but was pretty happy with what was being proposed. Mr. Stokes said he also appreciated the efforts that everyone had been put in. The way that it had worked out was awesome and the efforts that everyone was putting in was admirable.

Seeing no further public comments, Mayor Dustin closed the Public Comment Period at 6:34 p.m.

Planning Commission Report

Mr. Roberts said the Planning Commission had discussed a short-term rental ordinance. As had previously been discussed, the Planning Commission was anticipating requiring a business license for short-term rentals, rather than a conditional use permit. They were discussing provisions regarding parking and ensuring short-term rental tenants understood the Nuisance ordinance as well as other City ordinances. Mr. Roberts said the proposed ordinance would have a public hearing at the October 21, 2021, Planning Commission meeting and would then come to the City Council.

Councilmember Sweeten asked about a home that was also a business, if they were taxed as residential or as a business? Mr. Roberts said it would be considered a home occupation business if the homeowner lived in the home but if the homeowner didn't live in the home, it would be considered a commercial business.

Discussion & Consideration – Resolution 21-24: Amending Fee-in-Lieu for Water Shares for Developments Vested Prior to September 10, 2020 (First Reading)

Mayor Dustin said he was trying to address the concerns that were raised at the City Council's last discussion and finding a middle path between what had been proposed and what Council felt was too much and what was ultimately decided. Mayor Dustin and Mr. Maughan discussed the number of water shares available and that were required by the Ridgeline Park development. Mr. Maughan said 500 shares was a ballpark number, plus or minus, of what the city had in surplus shares. Mr. Maughan said Ridgeline was asking for 35 shares and in preliminary discussion, the Firefly development would need approximately 17 shares. Currently, it was the City's understanding that the Nibley Farms development didn't need any shares of water.

Councilmember Beus and Mr. Maughan discussed how the anticipated needed shares had been calculated; Ridgeline was calculated based on how Nibley City had done their Master Plan. Firefly could be less because they may be using Nibley City's old calculations. Firefly had already bought a share from Nibley City. Councilmember Larsen asked if the share Firefly had bought was purchased for \$7,500? It was clarified that \$7,500 was the amount paid.

Mayor Dustin went through the methodology of his proposed Resolution: it would be on the developer to prove to the city how many shares they had and they had to go through the same process as Ridgeline Park to substantiate their claim for how many shares they needed and if they proved that they were bringing all the shares they had, in good faith, they would be eligible for the purchase price set in the proposed resolution.

Councilmember Larsen moved to approve Resolution 21-24: Amending Fee-in-Lieu for Water Shares for Developments Vested Prior to September 10, 2020, for first reading. Councilmember Sweeten seconded the motion.

Councilmember Bernhardt asked if the resolution needed to be so wordy? He also questioned if they would run into an issue with Firefly because they had already bought a water share for \$7,500. Mayor Dustin said if they were willing to "jump through the hoops" and engage an engineer and share all their closing documents showing how much water they bought and sign an affidavit they could purchase the water shares. Councilmember Bernhardt questioned if they could change the fee schedule and accomplish the same thing? Mayor Dustin said only if they wanted to drop their fee down to \$2500. Mr. Maughan described the information he'd gotten regarding water and development from other entities.

Councilmember Beus made a motion to amend to amend Resolution 21-24: Amending Fee-in-Lieu for Water Shares for Developments Vested Prior to September 10, 2020; amending section E.-i. from \$2500 to \$3500.

She'd called around to different representative of the canal company and one of the hang ups was that the rate wasn't reflective of the market values. The canal companies had indicated that the market cost was between \$3500-5,000 per share.

Councilmember Larsen seconded the amendment.

Mayor Dustin said he was trying to solve the fundamental issue of fairness and if they were going to go to a market price on the water then what did they want to do when changing their overall fee-in-lieu ordinance. They'd created the PUDs in order to comply with their General Plan, they had the water available to do this and part of the compliance with the General plan was having diversified housing stock. Other than being punitive, he didn't see any point in going higher than what the City paid for the water. Councilmember Laursen received clarification on the conditions of the resolution.

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

Councilmember Larsen thought they should sell at the \$2500 and not do the 2% escalation. Councilmember Bernhardt questioned if they set this ordinance, if it was set in perpetuity. Mayor Dustin said he would be fine with putting a sunset on the fee and giving a year to figure things out.

Councilmember Bernhardt made a motion to amend Resolution 21-24, setting a sunset date with the additional wording:

"This resolution is effective only for the specific projects outlined herein and expires on December 30, 2022."

Councilmember Larsen seconded the motion.

Councilmember Laursen clarified that this amendment would be set a fourth point on the Resolution.

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

Councilmember Larsen made a motion to amend Resolution 21-24, E.-i. removing "from the last major water share purchase by the City, escalated at 2%/yr from date of purchase at the time the request to purchase is made." Councilmember Sweeten

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

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

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

Mr. Roberts let this presentation. He used an electronic presentation entitled Nibley City Council, September 23, 2021 (a printed copy of this presentation is included in the printed meeting minutes). Mr. Roberts described the updates that had been made to Ordinance 21-19 based on the City Council's direction at the September 9, 2021, City Council meeting.

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

Councilmember Bernhardt questioned the definition of Public View. He felt the intent was for opaque to apply to concrete, wood or vinyl fencing.

Councilmember Bernhardt made a motion to amend Ordinance 21-19: Amendments to Nibley City Nuisance Code 07.02; amending the definition of "PUBLIC VIEW" to the following:

"PUBLIC VIEW: can be seen from up to six feet above the surface of public property, which may include a road, sidewalk, trail, park or other public space. Any obstruction of public view must be of solid, opaque, permanent material, such as an opaque concrete, wood or vinyl fence or a permitted building."

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

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

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

Mr. Roberts led this presentation. He used an electronic presentation entitled Animal Land Use Regulations (a printed copy of this presentation is included in the printed meeting minutes). Mr. Roberts reviewed the recommended findings and changes to Animal Land Use regulations from the Nibley City Planning Commission.

Councilmember Laursen moved to approve Ordinance 21-16: Amending Animal Land Use Regulations. Councilmember Larsen seconded the motion.

Mayor Dustin clarified that it had been amended that a resident would need to have a five-acre lot to have a billy goat or rooster on their lot and could potentially have up to 500. People in a residential neighborhood couldn't have a billy goat or rooster. Councilmember Sweeten clarified with regard to Americans with Disabilities and what can be used for service dogs. She said she was aware of a household that had three service dogs and two regular dogs and understood that this was allowed under the proposed ordinance. Councilmember Sweeten questioned if a comfort animal fell under the same provisions as a service animal. Mr. Roberts clarified that it did not.

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

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

Mr. Roberts led this presentation. He used an electronic presentation entitled *Lot Line & Parcel Boundary Adjustments* (a printed copy of this presentation is included in the printed meeting minutes). Mr. Roberts reviewed these topics: Proposed Staff-level review process requires application with quitclaim deeds or boundary line agreements, lot line adjustments, and plats with existing

Councilmember Larsen moved to approve Ordinance 21-17: Lot Line and Parcel Boundary Adjustments Review Process. Councilmember Laursen seconded the motion.

Councilmember Laursen asked if they wanted the wording "as defined by State code" included in the definitions of the ordinance so if state code changed the definitions changed and were still in line. Mr. Roberts said the definitions were recommended by the City attorney and he felt if they were changed in State code, then they should address them.

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

Council and Staff Report

Councilmember Sweeten said she'd been approached by a resident asking if a playground was included in the open space in the Mt. Vista development. Mayor Dustin said a playground was not included.

Councilmember Laursen asked for staff to address the annexation questions he'd brought up at the last Council meeting.

Councilmember Beus asked about trees in the Mt. Vista. Mr. Roberts said the developers had contracted with Nibley City to plant required trees in the park strips. Rod Elwood has indicated the trees for phase 1 would be planted in the Fall. Councilmember Beus asked if this had been communicated to the residents. Mr. Maughan didn't believe they had and said he would follow up.

Mayor Dustin had some concerns with the amount of money the city spent with the Utah League of Cities and Towns (ULCT). He was concerned with what they were charging, and the services Nibley was getting. He said the conference cost the same, but they weren't getting the same quality. Mayor Dustin was not sure they were as participatory with small cities and rural communities. They seemed to be focusing on being a lobbying organization with the State legislature. He asked the City Council to encourage the ULCT to do what they could to add value for the small cities and provide opportunities.

Mr. Maughan asked the City Council to let staff know if they were going down to the Utah League of Cities and Towns conference on Tuesday night so that their hotel reservations could be amended.

Mr. Farar updated the City Council on city projects; Andher Park sidewalks, 3200 South repaving was complete, and they were still working on striping, on 1200 West there had been a lot of progress in firming up the soils on the south side of the road. On the north side of 1200 West there was sidewalk and curb and gutter that would be coming. Mr. Farar said LeGrand Johnson were anticipating being done by the first of November. Mr. Farar described how the ground at the 1200 West roundabout was being addressed using geofabric and geogrid materials. Mr. Farar said he'd firmed up the pricing on the Hammerhead in Stonebridge and the final touches had been put on the design for the parking lot at Ander Park. Mr. Farar discussed project priorities.

Mr. Maughan updated the City Council on October recreation activities.

Mr. Maughan said the flashing "No jake brake" signs had been installed and so far, the update was that there were fewer incidents.

Mr. Maughan described that the Nibley City Treasurer had gotten \$500,000 of Council of Governments (COG) money for the 1200 west roundabout and had gone back and gotten approximately \$250,000 in RAPZ tax dollars for Firefly Park.

Mr. Maughan discussed that the auditor had been with the city in the past week. The preliminary report was that everything looked good but the auditor had inquired if an annual ethical statement was signed by city staff. Mr. Maughan had provided a copy of the proposed statement to the City Council and asked for their review and notes.

Mr. Maughan reported on FEMA training that he'd attended in the past week, which included a tabletop drill with Nibley City staff. Mr. Maughan said he was proud and happy to live in Cache Valley.

Mr. Maughan reminded the City Council that their next meeting was on October 28, 2021, because there was no meeting scheduled over the Cache County school district's Fall break.

Councilmember Beus inquired about the building on the north side of Heritage Park. Mr. Maughan reported that it was a pavilion that could be used and closed in the winter.

Staff was directed to figure out and proceed with the process to annex the former Albiston property into Nibley City. Mayor Dustin said he would potentially call a special meeting if the City Council needed to act on the annexation process.

Adjourn to Closed Session – To discuss the Purchase, Exchange, or Lease of Real Property Pursuant to Utah Code 52-4-205

Councilmember Larsen moved to adjourn to closed session to discuss the Purchase, Exchange, or Lease of Real Property Pursuant to Utah Code 52-4-205. Councilmember Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilmember Larsen, Councilmember Bernhardt, Councilmember Beus, Councilmember Laursen, and Councilmember Sweeten all in favor.

The City Council moved to closed session at 8:00 p.m.

The City Council returned from closed session 8:41 at p.m.

The meeting was adjourned at 8:41 p.m.

Attest: _____
City Recorder