
City of Nibley
Joint City Council/Planning Commission Meeting
Held at Nibley City Hall
455 West 3200 South
Nibley, UT 84321
Thursday March 17, 2022

Call to Order – Roll Call – Approval of Agenda – Approval of Minutes

Meeting called to order at 6:33 p.m.

Present: Mayor Larry Jacobsen, Councilmember Norman Larsen, Councilmember Kay Sweeten, Councilmember Nathan Laursen and Councilmember Tom Bernhardt arrived at 6:38 p.m.

Commission Chair Bret Swenson, Commissioner Garrett Mansell, Commissioner Matt Logan, Alternate Commissioner Erin Mann and Commissioner Karina Brown via Zoom

Absent: Councilmember Kathryn Beus and Commission Vice Chair Tyler Obray

Staff Present: City Manager Justin Maughan, City Planner Levi Roberts, City Recorder Cheryl Bodily and Assistant Recorder Jamie Ann Gonzales

Guests Present: Consultant John Janson, People + Place and Consultant Jake Young, People + Place

Action: Approve the evening's agenda

Motion: Commissioner Logan

Second: Commissioner Mansell

Vote: Unanimous Commission

Action: Approve last meeting's minutes

Motion: Commissioner Mansell

Second: Commissioner Logan

Vote: Unanimous Commission

Workshop: Transfer of Development Rights (TDR) Study and Ordinance

Mr. Roberts welcomed Mr. Janson and Mr. Young. He reiterated that the workshop was an exploring tool with the goal to preserve some open space, other areas, and character of Nibley City.

Mr. Janson introduced himself. He indicated that he previously worked for West Valley City and they had a TDR program that was eventually terminated. Mr. Young also introduced himself.

Mr. Janson utilized an electronic presentation entitled *Nibley City Transfer of Development Rights Project* (a printed copy of this electronic presentation is included in the printed meeting minutes). His presentation included *Staff Introduction, TDR Background, Successful Utah Stories, Relevant Trends, On-line Sales, Maps of Nibley City Agricultural Land, Vacant Properties, Year Built and Land Values, Agricultural Protection Zones in Nibley, Concept, Example, What Makes this Work?, TDR's Potential Role, Making TDR Work (Generally), Making TDR "Pencil", Utah TDRs, Zoning Discipline, R-PUD Areas, and Process from our Scope.*

He informed the bodies, that one of the big decisions in a TDR program was what should be preserved. Alternate, Erin Mann thought of natural waterways and wetlands. Commissioner Mansell said historic monuments and places. Mayor Jacobsen added views of the mountains with Mr. Roberts bringing up the views on Hwy 165. Councilmember Laursen expressed areas with quality soil.

Mr. Janson indicated that another piece to the program was deciding on locations for higher density. Commissioner Logan said closer to the highways. Mayor Jacobsen thought closer to commercial.

Mr. Janson communicated the importance of assuring development rights without questionable zoning. He affirmed that property rights were not taken away. The program was set up through city ordinance, but the transactions were private and strictly voluntary between the property owner and developer. Mayor Jacobsen asked about the conversion rate. Mr. Janson replied that there were calculations and formulas but found out personally, that the best way, was to ask developers how much they would be willing to pay for another door.

As part of a multi-faceted strategy – PDR is the Purchase of Development Rights by coming up with a fund.

Mr. Janson stressed that developers could not obtain densities in other ways and cited West Valley as an example of why it did not work. He said the council was not willing to say no to higher density in other places. He also emphasized and described "hurdles".

Mr. Young discussed three examples – Mapleton, Spanish Fork, and Ogden Valley. He stated that Mapleton was the most successful that they were aware of. Mr. Janson gave clarity to Mayor Jacobsen's question regarding the city's role in receiving the land. The Mayor observed it as a bribe or getting paid for zoning. Mr. Roberts pointed out that specific areas were designated by the city. Councilmember Larsen brought up discussion using Nibley's regional park. The Mayor gave an example and reiterated that it sounded like selling density, which he would be opposed to.

Mrs. Bodily left the meeting at 7:11 p.m.

Mrs. Bodily returned at 7:12 p.m.

Mr. Young continued the discussion on Spanish Fork in process of reviewing and adopting an ordinance. He pointed out that there was no reason to give density to an area that could not be built. He went over sending area “credits” and reviewed their receiving area density chart. He also reported on concerns received from a November 2021 public hearing. The message of an optional, voluntary program did not get communicated. He reported that residents supported the general plan for preservation but were less involved in the ordinance, whereas farmers and landowners were more involved.

He went on to discuss Ogden Valley’s ordinance and pointed out some notes. Alternate, Commissioner Mann asked for clarity on the preservation and density area. Mayor Jacobsen contributed that the sending areas were not designated and anything was open to send the development up to the ski area. Mr. Young thought that was a risk. And the Mayor added that the land wanting to be preserved was not identified. He specified that both the sending and receiving areas that were being discussed for an ordinance were within Nibley City. Mr. Young threw out the consideration to look at annexation areas as well. Mr. Roberts said the scope of the project would be limited to Nibley but mentioned that the county was looking at it as multijurisdictional.

Mr. Maughan asked about the utilization in Spanish Fork and Ogden Valley. He wanted an update on the property with the conservation easement. Mr. Janson communicated that maintenance and continued farming were an issue. Alternate, Commissioner Mann asked if any of the examples included rights transferred to the city. Mayor Jacobsen responded that the sending area was, but the development rights went to another developer in the receiving area. Mr. Maughan added that probably not all the area went to the city. Mayor Jacobsen said if it was city owned, it would be worth getting the easement out of the city so the next city council could not undo it.

Alternate, Commissioner Mann wanted to know if the regional park was the situation Nibley was considering or was it TDRs in general. Mr. Roberts answered that it was generally. He said the process was in the beginning stage. He further explained that they were looking at how to preserve what was important in response to her question on the development growth. Mayor Jacobsen added that the park did not apply because the City already purchased the land. Mr. Maughan interjected that it was still possible to sell credits and develop it. The Mayor and Mr. Maughan debated.

The Mayor stated that *“when the city is involved, the city is selling density, when it’s private to private, the city isn’t profiting from that. In my opinion, the city is taking part in active planning and deciding where we want density and where we don’t want density.”* Councilmember Bernhardt replied that ultimately the city was profiting from property taxes. They debated. Councilmember Larsen joined in the discussion with the suggestion to put the money in a

separate account and buy land that became available. Mr. Young gave insight with thought about overlay zones.

Mr. Roberts questioned if the city could legally profit from the sale of development rights. Mr. Janson thought the only profit would be the property tax from the denser area. He informed the bodies that the city owned parks were a “*wrinkle*” because there was no development potential in a public facility.

Councilmember Laursen asked about existing state and federal regulations. Mr. Janson answered that there was a vague, state law for TDRs but not federal.

Mayor Jacobsen’s last point was that it seemed “*cleaner*” if it was between private parties with the city only identifying the sending and receiving areas. Councilmember Sweeten received clarity using the Mapleton model as an example. The Council discussed possibilities.

Mr. Janson discussed R-PUD (Residential Planned Unit Development) receiving zone complications. Mayor said he liked the additional incentives.

Mr. Janson tested the Council and Commission with the four (4) questions in the *Test Your Zoning Discipline* slide. The results were as follows:

1. Councilmember Bernhardt
3. Councilmember Laursen, Mayor and Commissioner Swenson

From his perspective, Councilmember Bernhardt liked the amenities nearby the R-PUD. Mayor said they were trying to put amenities and density in the same project. The bodies discussed receiving and sending areas with the Mayor’s input on annexation incentives.

In response to Councilmember Bernhardt’s question, Mr. Janson responded that he was not aware of any city that tied actual affordable housing to a TDR. He reported on the ten (10) percent affordable housing in Heber City. Mr. Young thought it was an option and could work. He informed the bodies that there was legislation for cities to create their own strategy for an affordable housing program.

Alternate, Erin Mann asked about examples of other successful TDR implementations in Utah. Mr. Janson listed Farmington, Davis County, and Park City. Mr. Young added that there were not many, as it was discussed often but not implemented. He said that many cities were looking at it now due to the housing demand. Mr. Janson went on to say that cities realized they were losing their character. Alternate, Erin Mann thought it was clear, made sense and was something to be explored.

Councilmember Bernhardt had a question about water rights and how it worked with a TDR. Mr. Janson replied that it would need to be worked out in the ordinance to make sure it was clear with the conservation easements.

Meeting adjourned at 7:54 p.m.

ATTEST:

Jamie Ann Gonzales, Assistant Recorder