

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, December 8, 2022.

The following actions were made during the meeting:

Councilmember Bernhardt moved to approve Resolution 22-29—Waiving Transportation Impact Fees for Stokes Nature Center and waived the second reading. Councilmember Beus seconded the motion.

Voting on the motion to approve Resolution 22-29 was as follows:

Councilmember Bernhardt voted in favor.

Councilmember Beus voted yes.

Councilmember Larsen voted in favor.

Councilmember Laursen voted in favor.

Councilmember Sweeten voted yes.

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

Councilmember Beus moved to accept the Annexation Petition for further consideration for Real Property into the Municipal Boundaries of Nibley City for the remainder of parcel 03-004-0011, located at approximately 101 West 2600 South; applicant, Stokes Nature Center). Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Beus, Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

Councilmember Larsen moved to approve Ordinance 22-21— Amending Definitions in NCC 5.06.030 Municipal Telecommunications License Tax and waived the second reading. Councilmember Laursen seconded the motion.

Voting on the motion to approve Ordinance 22-21 was as follows:

Councilmember Bernhardt voted yes.

Councilmember Beus voted yes.

Councilmember Larsen voted in favor.

Councilmember Laursen voted in yes.

Councilmember Sweeten voted in favor.

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

Councilmember Beus moved to approve Ordinance 22-20—Animal licensing. Councilmember Sweeten seconded the motion.

**Voting on the motion to approve Ordinance 22-20 was as follows:
Councilmember Bernhardt voted in favor.
Councilmember Beus voted yes.
Councilmember Larsen voted in favor.
Councilmember Laursen voted in favor.
Councilmember Sweeten voted in favor.**

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

Councilmember Laursen moved to approve Johnson Meadows Subdivision Preliminary Plat, located at 3400 South 450 West; applicant, Todd Stimpson, with the condition that trail alignment follow the Nibley City Transportation master plan. Councilmember Larsen seconded the motion. The motion passed 5-0; with Councilmember Laursen, Councilmember Larsen, Councilmember Bernhardt, Councilmember Beus and Councilmember Sweeten all in favor.

Councilmember Bernhardt moved to approve Modifying the Addendum to the 2600 South Street Agreement with Nibley Development as presented with changes. 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. None were opposed.

OFFICIAL MINUTES OF THE MEETING
City Recorder Cheryl Bodily took minutes

Opening Ceremonies

Councilmember Larsen shared a family story from his great-grandpa Alma Larsen. He said the stories reminded him of families that currently lived by them. He hoped the City Council would listen for the “wirelesses from heaven” and spend their time and compassion to help their good neighbors. This was what made a great community.

Call to Order and Roll Call

Mayor Larry Jacobsen called the Thursday, December 8, 2022, Nibley City Council meeting to order at 6:35 p.m. Those in attendance included Mayor Larry Jacobsen, 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, Tom Dickinson, Nibley City Engineer, and Steve Eliason, Nibley City Public Works Director was also present.

Mayor Jacobsen noted that Commissioner Garrett Mansell was at the meeting and that Commissioner Erin Mann was participating remotely.

Approval of the Previous Meeting Minutes and Current Agenda

General consent was given to accept the November 10, 2022, and November 17, 2022, meeting minutes.

General consent was given to approve the proposed December 8, 2022, meeting agenda.

Public Comment Period

Mayor Jacobsen gave direction to the public present and opened the Public Comment Period at 6:38 p.m.

Seeing no public comments, Mayor Jacobsen closed the Public Comment Period at 6:39 p.m.

Planning Commission Report

Mr. Roberts gave this report. He described that the Planning Commission had seen and discussed a conditional use permit for A-1 Sheds for a shed display. The business would have some sheds and a sign on highway property along highway 89/91. The Planning Commission had also heard a request from Jim Jensen to look at the Master road plan and the connection to Meadow View Lane. The Planning Commission thought there was value with that connection and that it should be on the plan, but they were not opposed to holding a public hearing and going through the process on that request. Mr. Roberts said there was discussion of mobile home parks and regulation related to mobile home parks. The City had received an application for a mobile home park on 8th west. Mobile home parks were currently permitted as a condition use in industrial zones. The applicant had submitted an application and were vested under current Nibley City ordinance. The Planning Commission had discussed not permitting mobilize home parks in the future, particularly in Industrial zones. In general, the Planning Commission consensus was to remove mobile home parks from the list of conditional uses. Finally, Mr. Roberts reported that the Planning Commission had discussed the Transfer of Development Rights ordinance. They would hold a public hearing on December 15. This was the second public hearing that would be held because there had been significant changes to the Transfer of Development Rights map.

Presentation: Stokes Nature Center Outdoor Classroom Project

Kendra Pendry, Executive Director of the Stokes Nature Center was present at the meeting. Ms. Pendry described the history of the Stokes Nature Center outdoor classroom and nature park plan. She described seeking funding for the classroom and

nature park plan. Ms. Pendry described the goals of the Stokes Nature center and the outdoor classroom and nature park. She described the various proposed areas included in the concept plan at the Nibley nature park and the excitement that had been expressed for the nature park.

Councilmember Sweeten and Councilmember Laursen agreed that the plan was very exciting. Mayor Jacobsen described that the easement on the property was held by the Department of Wildlife Resources. Mr. Maughan asked if Ms. Pendry had talked to the State of Utah, Outdoor Recreation division? Ms. Pendry described that they had and had acquired a \$310,000 grant from them and described other funding options that were being explored.

Discussion & Consideration: Resolution 22-29—Waiving Transportation Impact Fees for Stokes Nature Center (First Reading)

Mayor Jacobsen described that the 2015 City Council had shown support for the Stokes Nature Center project by passing a resolution to waive water and sewer impact fees. He asked the City Council to consider also waiving the transportation impact fee. He described that Mr. Roberts had indicated there would be no parks impact fee because there was no residential dwellings being constructed.

Mr. Roberts described that his financial impact information was a very rough estimate, but the estimate was based on the Stokes Nature Center concept plan which described the structures. The transportation impact fee based on square footage and based on the concept plan was a little over \$6,000.

Councilmember Beus asked if the merit on this proposal was a donation to the cause, or they didn't think it was merited to have the fee assessed to them. Mayor Jacobsen felt this was an individual question for each Council member. Mayor Jacobsen said in 2015 he felt it was the city getting behind the idea and supporting the area. He didn't feel they could say there was no impact. They might argue that some of the transportation impact fees went to trails. He felt the concept plan showed more of an asset than a liability when it came to active transportation for Nibley citizens.

Councilmember Bernhardt moved to approve Resolution 22-29—Waiving Transportation Impact Fees for Stokes Nature Center and waived the second reading. Councilmember Beus seconded the motion.

Councilmember Bernhardt thought it was great and suggested the waiver could be utilized and shown as Ms. Pendry was seeking more funding or donations. Ms. Pendry said this fee could be shown as an in-kind donation for any matching grants.

Voting on the motion to approve Resolution 22-29 was as follows:

Councilmember Bernhardt voted in favor.

Councilmember Beus voted yes.

*Councilmember Larsen voted in favor.
Councilmember Laursen voted in favor.
Councilmember Sweeten voted yes.*

Discussion & Consideration: Acceptance of an Annexation Petition for further consideration for Real Property into the Municipal Boundaries of Nibley City for the remainder of parcel 03-004-0011, located at approximately 101 West 2600 South. (Applicant: Stokes Nature Center)

Mr. Roberts led discussion on this item. He used an electronic presentation entitled, *Nibley City Council, December 8, 2022; Stokes Nature Center Annexation* (a printed version of this presentation is included in the printed meeting minutes). The topics included in his presentation included the following: Background, a plat map of the area proposed for annexation, and staff recommendation.

“Accept Annexation Petition for further consideration for Real Property into the Municipal Boundaries of Nibley City for the remainder of parcel 03-004-0011, located at approximately 101 West 2600 South.”

Councilmember Laursen noticed that the application had no electricity proposed. Ms. Pendry said they intended to use solar panels. Councilmember Laursen received clarification that there were no tax implications in play because of the status of the organization.

Councilmember Beus moved to accept the Annexation Petition for further consideration for Real Property into the Municipal Boundaries of Nibley City for the remainder of parcel 03-004-0011, located at approximately 101 West 2600 South; applicant, Stokes Nature Center. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Beus, Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Sweeten all in favor.

Public Hearing: Ordinance 22-21—Amending Definitions in NCC 5.06.030 Municipal Telecommunications License Tax

Mr. Maughan reported that the agenda item was the result of a discussion with Nibley’s Engineer. Fiber optic was a growing industry and way of passing around the internet. They wanted to ensure that fiber optic was included in the same category as Comcast or Century Link and communications that pay a franchise tax. He and Mr. Dickinson had discussed this with the City Attorney (Rob) who’d suggested they make the proposed changes to the definitions in the ordinance to be more inclusive of fiber optic and make sure they were on the same playing field as other communication companies. Mr. Maughan said staff’s recommendation was to approve the changes to Ordinance 22-21 and waive the second reading.

Seeing no objections, Mayor Jacobsen opened the public hearing at 7:08 p.m.

Seeing no public comment and without objection from the Council, Mayor Jacobsen closed the public hearing at 7:09 p.m.

Discussion & Consideration: Ordinance 22-21— Amending Definitions in NCC 5.06.030 Municipal Telecommunications License Tax

Councilmember Larsen moved to approve Ordinance 22-21— Amending Definitions in NCC 5.06.030 Municipal Telecommunications License Tax and waived the second reading. Councilmember Laursen seconded the motion.

Voting on the motion to approve Ordinance 22-21 was as follows:

Councilmember Bernhardt voted yes.

Councilmember Beus voted yes.

Councilmember Larsen voted in favor.

Councilmember Laursen voted in yes.

Councilmember Sweeten voted in favor.

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

Public Hearing: Ordinance 22-20—Animal licensing, Changing Licensing Term Dates

Mr. Maughan described staff was proposing to move the term from of a dog license from the calendar year of January to end of December, moving the term a couple of months to move away from the holiday and to give City staff a little buffer with other things that happened around the same time. This would also give people extra time to understand the new fee structure with the early-bird and regular as opposed to the regular and late fee structure. This ordinance change moved the term of a dog license from the beginning of March to the end of February.

Mayor Jacobsen asked if licenses that expired at the end of the current year received a grace period? Mr. Maughan said this was staff's intention

Seeing no objections, Mayor Jacobsen opened the public hearing at 7:12 p.m.

Cody Sorenson of 1460 West 3045 South said he liked the changes and was in favor of how it read.

Seeing no further public comment and with general consent from the Council, Mayor Jacobsen closed the public hearing at 7:12 p.m.

Discussion & Consideration: Ordinance 22-20—Animal licensing (Second Reading)

Councilmember Beus moved to approve Ordinance 22-20—Animal licensing.

Councilmember Sweeten seconded the motion.

*Voting on the motion to approve Ordinance 22-20 was as follows:
Councilmember Bernhardt voted in favor.
Councilmember Beus voted yes.
Councilmember Larsen voted in favor.
Councilmember Laursen voted in favor.
Councilmember Sweeten voted in favor.*

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

Discussion & Consideration: Johnson Meadows Subdivision Preliminary Plat, located at 3400 South 450 West (Applicant: Todd Stimpson)

Mr. Roberts led discussion on this item. He used an electronic presentation entitled, *Nibley City Council, December 8, 2022; Preliminary Plat: Johnson Meadow* (a printed version of this presentation is included in the printed meeting minutes). Mr. Roberts described why the City Council was seeing the application for a standard subdivision on their agenda. The Planning Commission had recommended a condition that was different from Nibley City Code. This could occur through a development agreement and approval from the City Council. The topics included in Levi Robert's presentation included the following: a description of the area zoning, and minimum requirements, a proposed plat of the property, Phasing, Utilities and easements, Transportation, and Trails. Mr. Roberts described the reason the application was coming to the City Council was a Master Plan trail that followed the canal alignment. The applicant was proposing to not continue the trail along the canal alignment, but to push the trail to the southern brother of the development along lot 11, connecting to 450 West. After the application had been submitted, staff's interpretation was that the application didn't adequately comply with a provision in Nibley City code that required they follow the Trails master plan. The Planning Commission recommendation was to allow the trail as proposed because the utility of the trail didn't change all that much. Mr. Roberts showed the plat of the proposed trail. Mr. Roberts said if the City Council decided the proposal was adequate, a development agreement would be put tother that would allow them to do the trail. They would have to notice and go through basically the same process as amending the ordinance itself. Mr. Roberts described that state code has recently changed that they could allow things that were against code, provided they went through the same process as if they were amending the code to do that thing. Councilmember Beus clarified the location of the canal easement.

Mr. Roberts continued his presentation with information regarding the Floodplain, and Planning Commission Recommendation.

- 1. The phasing of the subdivision needs to be modified so that the value of improvements is commensurate with the number of units in each phase. This may be accomplished by moving the phase line to include*

all improvements on 3400 South or by splitting the phases more evenly with 5 lots in one phase and 6 in another phase.

2. *Need to include a note at final plat that stormwater is to be managed by individual lots.*
3. *Need to add existing floodplain to preliminary plat and remove note that no floodplains are on the property.*
4. *The trail on the south side of Lot 11 needs to include required improvements of a 10' wide trail design.*

Mr. Roberts said the applicant had submitted an amended plan that took care of the first three conditions.

Mayor Jacobsen said he was not happy about a new State code that would allow them to ignore an ordinance on a case-by-case basis if they were willing to follow that same process as changing an ordinance. That allowed flexibility but sounded like a legislative body that was run by developers and real estate agents. Mayor Jacobsen advised the City Council to be careful about not following their ordinance to the tee.

Councilmember Beus asked if they had talked about the landowners completing 200 ft. of road on 450 west. Mr. Maughan reported he'd had a conversation with the landowner a number of years ago and he was very much opposed to a road going through. Councilmember Beus ruminated that unless they trail along the back connect to the Cottages there wasn't much good to having the trail on the piped canal, but she didn't like having selective application of code either. Mayor Jacobsen was pretty sure if they didn't do the trail on the canal easement now, there wouldn't be a cool trail that connected along the meandering path near the Cottages.

Councilmember Laursen moved to approve Johnson Meadows Subdivision Preliminary Plat, located at 3400 South 450 West; applicant, Todd Stimpson, with the condition that trail alignment follow the Nibley City Transportation master plan. Councilmember Larsen seconded the motion.

Councilmember Laursen said they had an abundance of trail in that area that led to nowhere but there was hope, call the master plan, that they would eventually connect. This would be one more step towards that hope.

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

Discussion: Auditing Services for Nibley City

Mr. Maughan reported that Nibley's current auditor had been auditing Nibley City books for five years and typical practice was to switch this up about that timeframe and the City Council had recommended the Request For Proposals (RFP) be put out. Mr.

Maughan reported that the RFP had been issued to 8 qualified firms in the region and those were due soon to come back as proposals. The item before the City Council was a proposal on how to move forward on selection of a firm. Mr. Maughan requested the City Council decide if the rubric that had been provided was sufficient and secondly to help nail down what the committee should be. Mr. Maughan said staff recommended the committee consist of himself, Amy Johnson, David Sanderson and two members of Council.

Councilmember Bernhardt asked if there were any more guidelines to go along with the rubric such as cost of audit. Mr. Maughan said this could be clarified before proposals were seen and described how the rubric was typically used in the engineering process. Councilmember Laursen suggested that rating of 1-01 seemed high and suggested rating 1-5 or 1-4. Mr. Maughan asked if the City Council would be comfortable with the committee “hammering” the details out before the applicants were scored. In general, the Council indicated that the committee could decide on the details. Mayor Jacobsen suggested if they had 3 firms apply, they would have three ranks; if they had four firms, there would be four ranks, etc. Councilmember Laursen viewed this as a hiring committee and was applying this approach. Mayor Jacobsen felt the rating criteria gave a justifiable reason to make a decision.

Mayor Jacobsen asked who was interested in being on the selection committee. Councilmember Bernhardt and Councilmember Laursen indicated they were interested. Councilmember Larsen said he was comfortable with Councilmember Bernhardt and Councilmember Laursen’s participation.

Discussion & Consideration: Modifying the Addendum to the 2600 South Street Agreement with Nibley Development

Mayor Jacobsen described that Al Bingham with Nibley Development had asked for a small changed on item 1 of the addendum:

“Nibley City and Nibley Development have agreed to use \$500,000 in Tax Increment Funding”

Mayor Jacobsen said the remainder of the paragraph was still in force; that the CRA performance agreement would put more parameters on the tax increment funding. Mayor Jacobsen described the other minor editing changes that had been made to the agreement addendum.

Councilmember Bernhardt moved to approve Modifying the Addendum to the 2600 South Street Agreement with Nibley Development as presented with changes. 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. None were opposed.

Seeing no objection from the City Council, Mayor Jacobsen called for a meeting break at 8:07 p.m. The meeting resumed at 8:18 p.m.

Discussion & Consideration: Process of Appointing an Interim Nibley City Council member

Filling a City Council Vacancy

Suggested Procedure, L Jacobsen

Pre-Meeting

1. *Kathryn Beus' move to the County Council creates a three-year vacancy on the Nibley City Council. The interim Council Member appointed by this process will fill the first of those three years. The remaining two years will be filled by the 2023 Nibley Municipal elections, with a two-year term starting in January 2024. (Utah Code 20A-1-510-2-a-i and ii)*
2. *Advertise the vacancy. Notice a public meeting for 14 December 2022 to fill the vacancy. (Utah Code 20A-1-510-1-b-i and ii)*
3. *Qualify candidates.*
4. *Provide to the candidates a list of possible questions that the Council might ask at the public meeting.*

Interviews

5. *Assemble the Council and candidates in the noticed public meeting for interviews and selection. (Utah Code 20A-1-510-1-b-iii)*
6. *Assign the order of candidate responses according to 2022 Utah Master Ballot Position List and rotate to the next candidate to start each subsequent round of introductions/questions.*
7. *Give each candidate 1:30 minutes to introduce themselves and explain why they are interested in serving on the Council.*
8. *Allow each Council Member to ask a question of the candidates. Council Members may choose a question from the distributed list or an entirely new question. Each candidate will have the opportunity to answer with a response of up to 1:30 minutes.*
9. *Allow optional follow-up responses of up to 30 seconds from each candidate.*
10. *After one round of questions, ask the Council if they want to ask additional questions. Repeat until the Council is ready for a first vote.*

First Vote

11. *The Council votes to narrow the candidates to the two highest vote getters. (Utah Code 20A-1-510-1-C-ii) Each Council Member is allowed two non-ranked votes.*
12. *If more than two candidates tie for the highest number of votes (5-2-2-1, for example), drop the lowest vote getters, and vote again. Keep the highest two vote getters.*

13. *If dropping the lowest vote getters would leave only one candidate (4-2-2-2, for example), draw lots to eliminate one low vote getter, and then vote again. Keep the highest two vote getters.*

Additional Questions and the Final Vote

14. *Allow the Council to ask additional questions of the remaining two candidates. Repeat until the Council is ready to take a final vote.*

15. *The Council votes to fill the vacancy. Each Council Member gets one vote. The replacement must receive a majority vote of the Council. If neither candidate receives a majority vote of the Council, draw lots to fill the vacancy. (Utah Code 20A-1-510-1-c-ii)*

Removed the optional follow up 30 second and then first vote. Strike 9, Strike 10 (28:00) 12 then you count the Mayor's vote and see if this remedies it

13 Back to original verbiage with 4 Council members indicating they were in favor.

Announcement of votes and winner

Monday at 12:00

Council and Staff Report

Councilmember Sweeten shared a text message she'd received from a resident regarding ??? snow removal.

Councilmember Sweeten brought up that there was discussion of having a plaque put up at Elkhorn Park. There had been quite a bit of evidence that at least part of the original Elkhorn Ranch existed at Heritage Park. Mayor Jacobsen discussed that he was working with the Cache Historical Society to get plaques put up throughout the valley.

Councilmember Laursen agreed with the text and verbal things that were said to him about snow removal.

Councilmember Laursen ??? if the City Council could want to take up possibly adding the word "churches." Mayor Jacobsen said he would put this on a meeting agenda. Mayor Jacobsen said they might say "churches or gathering places."

Councilmember Laursen asked if a citizen wanted to know about an easement, who they would contact. Mr. Maughan said this was kept at the County Recorder's office. Staff

could show him how to look this information up on the Cache County Parcel Viewer. Mr. Maughan said Councilmember Laursen would need to look at specific parcels.

Councilmember Larsen said someone had brought up having crosswalks on 3200. Mr. Eliason said there were currently 8 crosswalks. Councilmember Larsen said Kent Stevens had asked for a crosswalk specifically by the railroad tracks.

Councilmember Beus spoke about how much she loved the community and what an honor it had been to serve the community. It was not hard to leave in regards to the fact that she was leaving the city in good hands. She counted everyone in the room and respected them as friends and colleagues.

Mayor Jacobsen described that he had sent the City Council a poll about what they'd like to see on future agendas.

Mr. Maughan reported on bills that had come in on the 3200 west roundabout project.

Mr. Dickinson 1200 west phase 4 had met with property owners in seeking right-of-way acquisition. There were two others they would probably have to purchase property and he was awaiting appraisals on the properties.

Mr. Maughan reported on a transportation meeting with UDOT he'd attended.

Mr. Maughan reported on a workshop held at Nibley City Hall that had been attended by many throughout the region regarding outdoor recreation grants. There seemed to be a ton of money for outdoor recreation.

Mayor Jacobsen reported on the Cache Waste consortium. He said RFPs had gone out and the consortium had received 4 bids.

Mr. Maughan reported on the recent break into City Hall.

Mr. Maughan discussed Nibley City properties that were out for lease.

Mr. Maughan notified that Nibley City had received the ??? Distinguished Budget Award and gave a "shout out" to Amy Johnson, Nibley City's Treasurer.

Ms. Bodily

Ms. Bodily

Mr. Maughan discussed that Nibley City staff had

Mr. Dickinson reported on a meeting with the Blu Designs consultants regarding the park at Ridgeline Park.

Seeing no objection, the meeting was adjourned at 9:55 p.m.

Attest: _____
City Recorder