

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, February 23, 2023.

The following actions were made during the meeting:

**Councilmember Sweeten moved to approve Ordinance 23-11 — Adopting an Impact Fee Analysis and Adjusting Impact Fees for Water, Sewer and Parks for first reading. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Sweeten, Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Mann all in favor.**

**Councilmember Larsen moved to approve Resolution 23-03— Adopting Annual Amendments to the Nibley City Consolidated Fee Schedule for first reading. Councilmember Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, Councilmember Sweeten, and Councilmember Mann all in favor.**

**Councilmember Bernhardt moved to approve Ordinance 23-08: Amendment to Nibley City R-PUD Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision for first reading. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Laursen, Councilmember Sweeten and Councilmember Mann all in favor.**

**Councilmember Larsen moved to approve Ordinance 23-09: Park Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision for first reading. Councilmember Mann seconded the motion. The motion passed unanimously 5-0; with Councilmember Larsen, Councilmember Mann, Councilmember Bernhardt, Councilmember Larsen, and Councilmember Sweeten all in favor.**

**Councilmember Laursen moved to continue discussion and consideration of Ordinance 22-19—Transfer of Development Rights (TDR) Ordinance and zoning several parcels as a TDR Sending Overlay Zone or a TDR Receiving Overlay Zone. Councilmember Bernhardt seconded the motion. The motion passed 3-2; Councilmember Laursen, Councilmember Bernhardt, and Councilmember Mann were in favor. Councilmember Larsen and Councilmember Sweeten were opposed to continuing.**

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OFFICIAL MINUTES OF THE MEETING  
City Recorder Cheryl Bodily took minutes

#### **Opening Ceremonies**

Councilmember Larsen led the meeting participants in the Pledge of Allegiance.

**Call to Order and Roll Call**

Mayor Larry Jacobsen called the Thursday, February 23, 2023, Nibley City Council meeting to order at 6:31 p.m. Those in attendance included Mayor Larry Jacobsen, Councilmember Tom Bernhardt, Councilmember Norman Larsen, Councilmember Nathan Laursen, Councilmember Kay Sweeten and Councilmember Erin Mann. Justin Maughan, Nibley City Manager, and Steve Eliason, Nibley City Public Works Director was also present.

**Approval of the Previous Meeting Minutes and Current Agenda**

Councilmember Larsen moved to approve the February 9, 2023, meeting minutes and the evening's agenda. Councilmember Sweeten seconded the motion. The motion passed 5-0; with Councilmember Larsen, Councilmember Sweeten, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Mann all in favor.

**Public Comment Period**

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

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

**Presentation: Public Works 2022 accomplishments and 2023 goals**

Steve Eliason, Nibley City Public Works Director gave this presentation. He used an electronic presentation entitled *WORKING TOGETHER TO MAKE NIBLEY CITY A WONDERFUL PLACE TO LIVE! Public Works 2022* (a printed version of this presentation is included in the written meeting minutes). The topics of his presentation included the following: Water Department, Broken Water Saddle, 4000 South Hwy 165 Main Line Break, Firefly Restroom, Sewer Department, Check Valves Hansen Lift Station, 3200 South Sewer Line Cleaning, Four Points Lift Station, Streets Department, Sign Installation 1000 West, Firefly Restroom, Storm Water Department, Parks Department, Placing Sleeves Ahnder Park, Public Works, and Nibley City Street Signs.

The Council discussed their preferences from the street sign choices Mr. Eliason had presented. Councilmember Mann asked about the differences in cost between the larger and smaller length sign and Councilmember Sweeten asked how long the signs typically lasted. Councilmember Sweeten said she liked differentiation between the public and private roads and that she liked the slightly longer sign; it was a lot easier to see from a distance. Councilmember Mann said she liked the longer sign and the green color. Councilmember Bernhardt expressed that he liked the blue. Mayor Jacobsen said liked the aspect ratio of the font on the longer sign. Councilmember Larsen also liked the blue. Councilmember Laursen liked the green. Councilmember Sweeten said she didn't have a preference on the color and Mayor Jacobsen said he liked the blue.

The City Council, Mr. Eliason, and Mr. Maughan discussed the process of replacing water saddles.

Levi Roberts, Nibley City Planner arrived at 7:08 p.m.

**Discussion & Consideration: Ordinance 23-11 — Adopting an Impact Fee Analysis and Adjusting Impact Fees for Water, Sewer and Parks (First Reading)**

Seth Benson with Zions Public Finance was present at the meeting and gave a presentation. He used an electronic presentation entitled *Nibley Impact Fees, February 23, 2023* (a printed version of this presentation is included in the written meeting minutes). The topics of his presentation included the following: WHAT IS AN IMPACT FEE? BASIC DOCUMENT REQUIREMENTS – Utah Code 11-36a, and the data used in the calculation of water, sewer and park impact fees.

- Water Impact Fees; Demand Units, Service Levels, Capital Facilities Plan, Proportionate Share, Maximum Fee by Meter Size.
- Sewer Impact Fees; Demand Units, Service Levels, Capital Facilities Plan, Proportionate Share, Maximum Fee by Meter Size.
- Park Impact Fees; Demand Units, Service Levels, Capital Facilities Plan, Proportionate Share, Maximum Impact Fees

Mr. Benson's presentation concluded with discussion of City Comparisons.

Councilmember Mann noted that the park impact fee was being calculated on community and neighborhood parks. She asked for clarification of park impact fees and the difference between community and neighborhood parks versus local parks.

Councilmember Laursen asked for Mr. Benson to give an overview of credit calculations. Mr. Benson addressed Councilmember Laursen's question.

*Councilmember Sweeten moved to approve Ordinance 23-11 — Adopting an Impact Fee Analysis and Adjusting Impact Fees for Water, Sewer and Parks for first reading. Councilmember Larsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Sweeten, Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, and Councilmember Mann all in favor.*

**Discussion and Consideration: Resolution 23-03— Adopting Annual Amendments to the Nibley City Consolidated Fee Schedule (First Reading)**

Mr. Maughan described that staff had worked heavily over the course of a couple years on the Consolidated Fee schedule. Staff had discovered that there was some ambiguity and fees that should be charged or fees that should be charged correctly. This year staff had focused on understanding what every fee was and who was responsible that the fee was charged to make sure the fee was collected that had been adopted and approved by the City Council. Mr. Maughan reported that many of the fee changes were around

development to ensure developers were paying their appropriate share. Mr. Maughan said Tom Dickinson would be present at the next meeting to address questions regarding these fees. The other fees that were being changed was the sewer rate based on the graduated scale that had been adopted five years previously. This was the final increase stage, and the fee shouldn't go up until such time as Logan deemed that they should redo the rate study. There were some at the sewer rate committee that wanted to do this. Mr. Maughan felt they didn't have enough data to do a rate study until they had a full year's worth of operational data.

Councilmember Sweeten declared for record that she held a business license in Nibley City. Mayor Jacobsen also declared for the record that he held a home occupation business license in Nibley City.

Mayor Jacobsen asked how much effort had been put into the amendments to the consolidated fee schedule document. Mr. Maughan described the number of hours he projected had been put into the document amendments.

*Councilmember Larsen moved to approve Resolution 23-03— Adopting Annual Amendments to the Nibley City Consolidated Fee Schedule for first reading. Councilmember Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilmember Larsen, Councilmember Bernhardt, Councilmember Laursen, Councilmember Sweeten, and Councilmember Mann all in favor.*

#### **Discussion: Ranked Choice Voting Update**

Ms. Bodily described that she had been seeking more information regarding alternate voting method, Ranked Choice Voting to present to the City Council. At the same time, Cache County had informed municipalities that they would not support Ranked Choice Voting for the 2023 elections. Ms. Bodily said Nibley City's option if they chose to participate in Ranked Choice voting for 2023 election was to contract with another county that was facilitating the alternate voting method. She asked for the City Council direction on continuing to solicit information regarding Ranked Choice voting and their direction on finding the cost of contracting with another county to facilitate Ranked Choice voting method for 2023. The City Council disused the number of candidates who would have to declare to hold a Primary election for both a two-year term and a four-year term.

Councilmember Laursen felt one of the reason's they'd chose RCV in 2021 was cost. He expressed that going out and asking other counites for the cost of their services might be helpful. Councilmember Mann also said it might be worth it to ask and see. Councilmember Bernhardt said the uniqueness of the situation of 2023 elections was worth the extra price they would pay for a general election and for the understanding of the citizens, he would go with a traditional election. Councilmember Larsen said he would go traditional. Councilmember Sweeten said traditional because she felt citizens in general were more comfortable with voting and would hopefully lead to more

participation. Mayor Jacobsen said he liked RCV for a single-winner election. He felt for multi-winner elections it was not clean and in the political backdrop of discrediting election processes, he would go traditional. Mayor Jacobsen asked Ms. Bodily to look into additional costs. Mayor Jacobsen said he was honoring the minority because the City Council hadn't taken an official vote.

Councilmember Laursen asked if the City Council was at all interested in discussing voting districts. Councilmember Bernhardt felt voting districts was maybe the right thing to do, but not in an election year.

### **Planning Commission Report**

Mr. Roberts described that the Planning Commission had disused and approved a conditional use permit for the commercial business, Pet Wants. Pet Wants was expanding their services to dog grooming. Mr. Roberts reported the Planning Commission had also discussed modifications to Trail Standards and adding churches to the list of locations that trails should connect to. Staff had recommended additional changes that if it were a trail that stubbed into a commercial, institutional or industrial use, they had to provide the connection. The Planning Commission had expressed some concerns over this and would hold additional discussion at their next meeting. Mayor Jacobsen said the debate would them good discussion of whether they wanted to be a walkable community or not and dovetailed well into the Center for Disease Control Walkable Virtual Academy and the opportunity to do a specific plan for active transportation.

Seeing no objection, Mayor Jacobsen called for a short meeting break at 8:26 p.m. The meeting resumed at 8:30 p.m.

### **Discussion and Consideration: Recommendation for Ordinance 23-08: Amendment to Nibley City R-PUD Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision (First Reading)**

Mr. Roberts, Nibley City Planner gave this presentation. He used an electronic presentation entitled *Nibley City Council, February 23, 2023, Nibley Meadows DA Amendment* (a printed version of this presentation is included in the written meeting minutes). The topics of his presentation included the following: Nibley Meadows DA Amendment Background, Summary of Terms, a plat showing the phasing of the development, and staff and Planning Commission recommendation

*"Recommend approval of Ordinance 23-08: Amendment To Nibley City R-PUD Development Agreement Between Nibley City and 7 Point Royal, LLC for Nibley Meadows Subdivision"*

Councilmember Bernhardt asked what consideration the developer had given the city to adjust the .12 acres of park land. The City Council debated going back to the developer to account for .12 acres. Councilmember Bernhardt recommended the City Council only

approve the first reading and put in a consideration for .12 acres if the developer were to come back and be able to build on the potential wetland areas. Mayor Jacobsen suggested the development agreement could be drafted “that if they come back to reclaim those units, they were giving up now, because the wetland turned out to not be a wetland, we have to find something to make up for the .12 acres that they lost” without specifying what that was.

*Councilmember Bernhardt moved to approve Ordinance 23-08: Amendment to Nibley City R-PUD Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision for first reading. Councilmember Larsen seconded the motion.*

Mr. Maughan described the process of delineation of a wetland and of property put under the jurisdiction of the Army Corps of Engineers. Mr. Maughan and the Council discussed the process that had already taken place regarding the potential wetlands included in the development and the wetland delineation process that had taken place in the Ridgeline Park development.

Mayor Jacobsen restated that the City Council was voting first reading the caveat that on second reading there was an attempt to recover the .12 acres of park space if the wetland turns out not to be wetlands. This contingency would be written into the development agreement.

Councilmember Laursen asked Mr. Roberts about the amenity requirements of the R-PUD and if the playground would have to go or if it were being moved elsewhere. Mr. Roberts said the developer had indicated that they would put the amenity somewhere else in that area.

*Voting on the motion to approve Ordinance 23-08 for first reading passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Laursen, Councilmember Sweeten and Councilmember Mann all in favor.*

**Discussion and Consideration: Recommendation for Ordinance 23-09: Park Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision (First Reading)**

Mr. Roberts, Nibley City Planner gave this presentation. He used an electronic presentation entitled *Nibley City Council, February 23, 2023, Nibley Meadow Park DA* (a printed version of this presentation is included in the written meeting minutes). The topics of his presentation included the following: Background, Summary of Terms, Staff Recommendation

*“Recommend approval of Ordinance 23-09: Park Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision”*

Councilmember Laursen asked for clarification of the agreement of park impact fees in relation to the development. Councilmember Mann noted the recreation departments need for more soccer fields and questioned if the park space could be used to provide this amenity? The City Council discussed the amount of land and parking needed for a soccer field. The City Council discussed the cost of developing a splash pad. The City Council and Mr. Roberts debated if they were required to construct a splash pad under the development agreement. Councilmember Laursen gave guidance to staff to amend section 2.e.iv. of the park development agreement:

*“build a private splash pad or equivalent amenity under the city code within the Development’s common space prior to the issuance of the 200<sup>th</sup> building permit within the development or pay the city \$150,000 towards the construction of a city-owned splash pad in the Park Space with the \$150,000 inflated at a rate indexed to inflation based on construction costs from the date of final acceptance of the Phase 1 infrastructure by the city;”*

To read:

*“build a private splash pad or equivalent amenity under the city code within the Development’s common space prior to the issuance of the 200<sup>th</sup> building permit within the development or pay the city \$150,000 towards the construction of the amenity in the Park Space with the \$150,000 inflated at a rate indexed to inflation based on construction costs from the date of final acceptance of the Phase 1 infrastructure by the city;”*

*Councilmember Laursen moved to approve Ordinance 23-09: Park Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision for first reading. Councilmember Mann seconded the motion.*

The Council recollected their understanding of the cost of building a splashpad. Mr. Roberts noted that anything in the agreement that conflicted with the original agreement superseded the original agreement, but the original agreement had been agreed to by the City Council and the developer. Councilmember Mann questioned if the .12 acres of property in item 10 could be compensated to use for the amenity. Councilmember Laursen pointed out that item 5 read a little “weird” and suggested some commas. Councilmember Bernhardt asked staff to make sure that the area talked about in agenda number ten also filtered onto this retention basin; to make sure it was consistent.

*The motion to pass Ordinance 23-09 for first reading passed unanimously 5-0; with Councilmember Laursen, Councilmember Mann Councilmember Bernhardt, Councilmember Larsen, and Councilmember Sweeten all in favor.*

**Discussion & Consideration: Ordinance 22-19—Transfer of Development Rights (TDR) Ordinance and zoning several parcels as a TDR Sending Overlay Zone or a TDR Receiving Overlay Zone (Third Reading)**

Mr. Roberts, Nibley City Planner gave this presentation. He used an electronic presentation entitled *Nibley City Council, February 23, 2023, Transfer of Development Rights Ordinance* (a printed version of this presentation is included in the written meeting minutes). The topics of his presentation included the following: Update, the updated map with areas that property owners had expressed they wanted to be excluded from the map removed.

Mayor Jacobsen described his and Mr. Roberts participation in a Utah Land Usage Institute discussion, at which TDR was the topic.

Councilmember Sweeten expressed her thoughts of preserving land and was concerned that much of the ordinance was directed to land that was outside of Nibley's current boundaries and was perceived as government overreach. She was concerned they might be less inclined to annex into Nibley because of negative feelings toward Nibley. Councilmember Bernhardt said that money changed opinions quickly. He liked the idea but thought they should look at a sunset clause or look at a third party to control the property so the property wouldn't ever be developed. Councilmember Laursen agreed with Councilmember Bernhardt's thought and expressed that they should possibly get rid of the map and describe the types of places they would be inclined to designate as sending and receiving areas. Councilmember Mann said the map put them one step ahead and cleared some of the headaches for developers on what was already a tricky process. Mayor Jacobsen said this took the general plans and turned the process into an administrative process instead of a legislative process. The City Council discussed what was needed to move the process of approval or denial forward.

*Councilmember Laursen moved to continue discussion and consideration of Ordinance 22-19—Transfer of Development Rights (TDR) Ordinance and zoning several parcels as a TDR Sending Overlay Zone or a TDR Receiving Overlay Zone. Councilmember Bernhardt seconded the motion.*

During the motion, Councilmember Laursen gave guidance that the City Council do a better job before they get to the next reading of the ordinance and suggested a work committee be formed with a couple of Council members. Councilmember Bernhardt suggested this review could be done individually with suggested deadlines.

Councilmember Larsen discussed the work that had gone on with the ordinance in the past year. He said the concept was good but questioned how well they could make people understand the process.

Councilmember Bernhardt discussed what he felt the individuals in his neighborhood wanted to preserve. Mayor Jacobsen discussed trails and making Nibley City a walkable

community. He didn't feel the TDR did that, that it was disjointed. He suggested he the City Council try to make trails happen that connect point A to point B. He didn't feel it was practical that the predator research farm would change hands and would take that area off the map. Mayor Jacobsen said he would take all the landowners who had objected off the map. The City Council discussed the developer's process regarding TDR.

Councilmember Laursen said there were a few ways to control and preserve land. The County had decided to pay for the land or buy it. Councilmember Laursen thought the city had identified where they wanted to have receiving zones. He suggested they actually test and look into sustainable land in the city, to farm for centuries. Councilmember Laursen suggested they use the USU Extension. The City Council disused options to fund oversight of conservation areas, including stewardship fees. Mayor Jacobsen discussed the advantages of the conservation subdivision process.

*The motion to continue Ordinance 22-19 passed 3-2; Councilmember Laursen, Councilmember Bernhardt, and Councilmember Mann were in favor. Councilmember Larsen and Councilmember Sweeten were opposed to continuing.*

### **Discussion: Planning Commission Goals for 2023**

Mr. Roberts, Nibley City Planner gave this presentation. He used an electronic presentation entitled *Nibley City Council, February 23, 2023, Planning Commission Goals for 2023* (a printed version of this presentation is included in the written meeting minutes). The topics of his presentation included the following: Planning Commission Goals for 2023.

1. Review and make recommendations to create/update the following ordinances:
  - a. Landscape Ordinance and Standards
  - b. Town Center Commercial Zone and Standards
  - c. Conditional Uses
  - d. Subdivision Financial Assurance provisions
  - e. Access, Connectivity Standards and Intersection spacing
  - f. Update Nibley City Code to address development requirements outside of residential subdivisions
  - g. All required ordinance changes from State legislature
2. Update Parks, Recreation and Open Space Master Plan
3. Commence development of Active Transportation Master Plan to replace and update Trail Master Plan and active transportation elements of Transportation Master Plan
4. Develop more robust and standardized public and stakeholder engagement activities to ensure public buy-in of major code changes and plan updates.
5. Update Annexation Policy Plan, including analyzing areas to accommodate future growth in which utilities can be efficiently provided.
6. Implement strategies identified in Moderate Income Housing Plan
7. Update Tree Policy Plan

Councilmember Bernhardt suggested brining in a developer to figure out how Nibley City's current conditional use permit code could be exploited. Mr. Roberts suggested they could look at the code through that type of lense. Councilmember Laursen gave

direction that non-residential developers be thought of too with the expansion of industrial and commercial development.

#### **Discussion: City Prosecution Contract Update**

Mr. Maughan said Cache County was interested in terminating the contract to provide Nibley City's prosecution services. He'd spoken with Nibley's civil attorney, Rob Patterson, who'd recommended Josh Jenkins and said he would be an asset to the court. Mr. Maughan said of the options proposed, staff's recommendation was to negotiate a contract with Mr. Jenkins. Mr. Maughan described the advantages he saw to contracting with Nibley's own prosecutor.

Councilmember Mann asked for the cost difference between Nibley's current option and the option suggested by staff. Mr. Maughan suspected the fee would almost double. Councilmember Mann asked how the prosecutor's fee would be structured. Mr. Maughan said there would be a monthly fee paid to the prosecutor. Councilmember Laursen asked the terms of the contract, such as an annually reviewed contract. Mr. Maughan described the process he anticipated moving forward which included negotiating combined prosecution services with Mendon and Hyrum. Councilmember Laursen said he would like a Request for Proposals and to look at review of the service every 3-5 years.

Councilmember Bernhardt suggested they solve the short-term problem and include "exit ramps" then issue an RFP to find a professional that works in their best interest. Mr. Maughan described issues with enforcement of Nibley City's ordinance and said it had been indicated to him that this would be an issue for the prosecutor. Councilmember Bernhardt suggested there be an annual review of the Nibley City code to ensure that the code was enforceable. He felt this could be incorporated into the prosecutor's fixed monthly fee and that effort could be incorporated. Mayor Jacobsen said the prosecutor and law enforcement officers needed to work hand-in-hand. They'd found the Sheriff's office was not working well with the County attorney. There was a great opportunity to provide efficiencies between the Sherriff's office and a prosecutor with a private law firm. Mr. Maughan said he understood his marching orders to see what kind of contract Nibley City could line up with a private law firm prosecutor and bring it back to the City Council.

#### **Council and Staff Report**

Councilmember Sweeten reported on a meeting with the Mayor and David Mann regarding putting up signage at the Elkhorn Ranch area.

Councilmember Mann reported on a meeting with the Watermark developers and the Thomas Edison Charter School principal and vice-principal and a few residents. She felt the outcome of that meeting had been positive. They had discussed annexation. Mayor Jacobsen shares his feedback from that same meeting.

Councilmember Mann reported that she and Mr. Maughan had attended the Nibley Community Council meeting regarding safe routes to school, including the Strata apartments. She also reported on a vehicle crash at 2450 South and requested looking into other pedestrian crossing options.

Councilmember Laursen believed it was water that was talked about in the March newsletter and suggested information be included to prepare residents for flooding.

Councilmember Larsen thanked staff for the snow removal with recent storms.

Councilmember Bernhardt reported on the same car accident Councilmember Mann had discussed. He described the response of Nibley/Millville's First Responders. He gave kudos to that crew. He also expressed his appreciation to the Nibley City road crews.

Mr. Maughan reported he would be in St. George for the Rural Water conference in the upcoming week and would be available by phone.

Ms. Bodily discussed Heritage Days and the process used to pick a Citizen of the Year or parade Grand Marshal.

Mayor Jacobsen discussed his Mayor's Journal reports.

Mayor Jacobsen discussed that Safe Routes to School had gone to a Federal level.

Mayor Jacobsen discussed bills in front of the State legislature including Senate Bill 174.

Seeing no objection, the meeting was adjourned at 11:24 p.m.

Attest: \_\_\_\_\_  
City Recorder