

NIBLEY CITY COUNCIL
CITY COUNCIL MEETING THURSDAY, September 21, 2006
The following motions were made during the meeting:

Motion #1 The council voted unanimously in favor of the motion to approve an Eagle Scout Project Proposal by Sam Briggs to construct two park signs as outlined in the plan proposal with Nibley City to help fund half of the sign project with the cost to the city not to exceed \$100.00.

Motion #2 Councilman Scott Larsen made a motion to table for two weeks the request for a Building Permit for Nate Zollinger at 695 West 1700 South in order to acquire additional information. Councilman Hansen made a second to the motion which was approved unanimously.

Motion #3 Councilman Hansen made a motion to approve a request for Final Approval of Stonebridge Subdivision Phase One of a Cluster Subdivision located between 2700 South and 3000 South on 12th West with the following conditions:

1. Developer will provide a prorated bond based on the number of lots for the park when that phase is approved.
2. The design of the fence along 1200 West will include a 5 ft. vinyl fence with lattice on the upper portion.

There was a second on the motion by Thayne Mickelson. The motion was approved with Councilmen Hansen, Harrison, and Mickelson voting in favor and Councilman Larsen opposing the motion.

Motion #4 Councilman Bryan Hansen made a motion to approve Ordinance 06-09, an ordinance annexing 24 acres of real property into the corporate boundaries of Nibley City with conditions of annexation outlined in the ordinance. Councilman Jay Harrison made a second to the motion which was approved unanimously.

NIBLEY CITY COUNCIL
CITY COUNCIL MEETING THURSDAY, September 21, 2006

Minutes taken by Assistant City Recorder Kerry Bringhurst.

Mayor Pro-tem Jay Harrison called the Thursday, September 21, 2006 Nibley City Council Meeting to order at 6:00 p.m. Those in attendance included City Council Members Bryan Hansen, Scott Larsen, Jay Harrison, and Thayne Mickelson. Mayor Gerald Knight and Councilman Scott Wells were excused. City Manager Larry Anhder and City Planner Conley Thompson were also in attendance. The meeting took place at the Nibley City Hall, 625 West 3200 South.

Item 1: Approval of evening's agenda and to approve the minutes from September 7, 2006.

Scott Larsen made a motion to approve the minutes of the September 7, 2006 Nibley City Council Meeting minutes. Councilman Bryan Hansen made a second to the motion which was approved unanimously.

Item 2: Discussion of name for 800 West Park-

Councilman Scott Larsen was asked to present some suggestions for possible names for the 800 West Park. Mr. Larsen explained that 5 acres of land for the park was purchased from Tim Gibbons. Mr. Larsen said another 5 acres of property was also gifted to the city from Mr. Gibbons. Councilman Larsen, who was not a member of the council at the time, said he has a copy of a gift agreement outlining two stipulations. The stipulations said that the city was to use the property for a park or if sold, the money would go toward a park, and that back taxes would be paid by the city. There was also property purchased from Mr. Bertolio, which is considered a gift. Councilman Larsen said the question is whether or not the agreement was to include Mr. Gibbons name as part of the naming of the park? There was some mention by city staff to Mr. Gibbons at the time of the donation that his name would be included as part of the naming of the park. Mr. Gibbons said during a conversation with Mr. Larsen prior to the evening's meeting that he was under the impression that he would have his name included in the naming of the park. Mr. Larsen said Mr. Gibbons said he would support including the name of his father, Virgil, in the naming. Another option would be to just include the last name of Gibbons. Mr. Larsen said Mr. Gibbons understood that the council has the right to determine the name of the park. Councilman Harrison said there was an understanding during a council meeting when the property was donated that Mr. Gibbons' name would be included and said he feels the city should stand by that agreement. Councilman Hansen said he thinks the city park should be given a name that is easily remembered, with a mention of Mr. Gibbons as the property donor. Councilman Mickelson suggested having a contest where residents can have some say in what the park is named. Councilman Larsen said the city newsletter could include a request for suggestions of what the park could be named.

In addition to discussing a possible name for the park, Councilman Larsen made suggestions about what materials will be used to make the sign. He said there was some discussion of using a plasma cut metal sign as proposed by the parks department. However, using wood or metal are both options. Councilman Harrison said the city needs to make a decision regarding the name of the park first and added that it should include Mr. Gibbons name and said the city might want to consider a policy regarding these type of matters. Mr. Harrison said in a discussion just today, Mr. Gibbons said he understood his name would be included as part of the naming of the park. Mr. Anhder said Councilman Hansen's suggestion would be adequate as a way to name the park while at the same time including the property donors name. Mr. Anhder suggested hearing a presentation from a local scout interested in constructing the sign to help determine a time frame for when the sign might be completed. He suggested this might help determine whether or not there is time to consider public comment or ideas on the naming of the park.

Councilman Larsen said his research show there is nothing in previous minutes or in any other agreement where it states the property would be named after Mr. Gibbons. It was decided by the council that a request for ideas for the naming of the park should be included in the upcoming newsletter with the understanding that Mr. Gibbons name will be included in some form.

Item 3: Eagle Scout Project Proposal- Sam Briggs presented a proposal including a cost estimate of \$100.00 for the wood needed to construct two park signs as part of an Eagle Scout project. Mr. Briggs said it was his understanding he would be responsible for constructing the signs but that the city would be responsible for hanging and placing the signs. The plan calls for a wood dowel construction with the lettering to be a route-out style. Mr. Briggs said he talked with Bill Saunders who asked for the signs to be made out of rough cut wood. Mr. Briggs said he would like to complete the signs as soon as possible but would be willing to work with the city. Councilman Larsen asked Mr. Briggs if he had completed all of his other badge requirements. Mr. Briggs said he has. Councilman Mickelson said the design allows for construction of the sign without knowing the name of the park. There has been some discussion with the city parks director who has also suggested a metal plasma cut sign would also work, but added that the metal could be applied to the wood. Mr. Harrison said he sees no reason to make Mr. Briggs wait until a name is decided.

Councilman Hansen made a motion to approve an Eagle Scout Project Proposal by Sam Briggs to construct two park signs as outlined in the plan proposal. Councilman Thayne Mickelson made a second to the motion.

Councilman Larsen moved to amend the motion to include funding from Nibley City to help pay half the cost of the project with the cost to the city not to exceed \$100.00. Bryan Hansen made a second to the amendment which was approved unanimously.

The council voted unanimously in favor of the motion to approve an Eagle Scout Project Proposal by Sam Briggs to construct two park signs as outlined in the plan proposal with Nibley City to help fund the sign project with the cost not to exceed \$100.00.

Item 4: Request for Building Permit for Nate Zollinger at 695 West 1700 South. City Manager Larry Anhder updated the council regarding Mr. Zollinger's request. Mr. Anhder said Mr. Zollinger did request an advisory opinion from the property rights ombudsmen, Mr. Call, to give direction on the matter. Mr. Call indicated the request to locate a septic tank on the property was not inappropriate and should be allowed. However, Mr. Anhder said there was not adequate consideration of the fact that the property where the septic tank is being requested is protected as a source protection zone. Mr. Anhder said he has contacted the Utah Division of Drinking Water which oversees the protection of water. He said the divisions representative indicated Nibley City has the right to protect the city's water source. However, the representative, in regards to this protected well, said the quality construction of the well would limit the possibility of the water becoming contaminated. But, the state division representative also left the decision to the city to protect the water as it sees necessary. Mr. Anhder said he is not worried about setting a precedence because there is not a lot of property that would require such a set up. However, Mr. Anhder said he would like to see Mr. Zollinger be willing to pay the cost of connecting to the city sewer system in an effort to support the city in trying to take a conservative stride to protect the city's water.

Mr. Zollinger said the advisory opinion from the property rights ombudsmen was adequate. He said he would not make the request if he felt the septic tank would harm the protected water system, but he said since the wells is protected by a concrete tank and other protective factors were put into place when constructed he feels find about placing the septic tank in an area where there are existing septic tanks already installed.

Councilman Mickelson asked if Mr. Zollinger will be required to hook into the city sewer system later, when the sewer line becomes closer to the home? Mr. Anhder said the law requires him to connect to a line that is located within three hundred feet of his property. Mr. Mickelson also stated that he is concerned about what allowing the project would indicate to residents in Nibley about the city's priority for protecting city water. Councilman Hansen agreed that it does send a message one way or the other about what the city will do to protect this water source.

The council asked what it would cost Mr. Zollinger to run a line to connect to the city sewer? He presented several bids. Mr. Anhder said a 250 East sewer line has been discussed but there has been a problem acquiring an easement and there were other factors that made it less feasible. Mr. Mickelson asked if other nearby property owners had been contacted about servicing a new line? Mr. Anhder said the possibilities are limited.

In other matters, Councilman Hansen asked Mr. Zollinger about concerns of the river flowing onto his property? Mr. Zollinger said work has been done to build up the property as recommended by the state of Utah to protect his property from the river. He said he has also considered the need to construct his basement in a way that will not be affected by ground water. Councilman Larsen said he still has a problem with the project proposal when it comes to protecting the water source.

He said it is difficult for him to give approval when there is the possibility of the water becoming contaminated. Mr. Zollinger said his septic tank system has been approved by the the Bear River Department of Health. Mr. Larsen asked if Mr. Zollinger would be willing to consider alternative systems that are designed to provide better protection. Mr. Zollinger said he feels he has taken adequate measures and is proposing a system that will provide the necessary protection. He said the drain field has been tested and the well is cement cased. Mr. Zollinger said he is comfortable with the proposed septic system.

Councilman Harrison asked what steps could be taken should the city deny the request? Mr. Zollinger said he would begin the arbitration process to have the decision reversed. Councilman Harrison said he is uncomfortable allowing the septic tank based on a decision by Mr. Call when it appears the water source protection issue was not evaluated adequately in the decision making process.

Councilman Mickelson said it might be more cost effective for the city to install a line to within three hundred feet of Mr. Zollinger's property, rather than take on litigation costs. He said Nibley City is required to meet obligations for protecting residents who already reside in Nibley. He said the other obligation is to do what is within reason to help those who want to locate here to be able to move here. He said installing a sewer system to allow Mr. Zollinger to connect to the sewer system seems to be the best solution financially when you consider possible legal costs. Mr. Harrison said running a sewer line is a lot of taxpayer money to spend. He said the council should look at the time limit of when the city can charge future residents for the cost of running the sewer line. Mr. Zollinger said he can work to obtain an easement from the Daines, but he does not know what the cost of obtaining that easement might be to the city.

Mr. Anhder explained there are two approaches to running the sewer line. He said there is an estimated cost of between 30-35 thousand dollars to run it from Brook Side Meadows. Or, he said there is the option to run the line up the lane past Murray's property which would be a shorter distance, but there are a few hook up options to justify the cost of running a line.

Mr. Anhder said a small area impact fee could be assessed by the city to potential uses to help recover some of the cost. An impact fee in addition to other assessments could also be established. He said there are several ways to work an assessment if the city council wants to in order to help recover the costs. Mr. Zollinger said he still feels confident that a septic system as proposed is not going to contaminate the well. He suggested the logical solution would be to allow for him to install a septic system now with plans to have him connect to the system when the Peterson development is completed.

Mr. Zollinger said if the council rejects his request he will take the matter to court since the Bear River Health Department will allow a septic tank on the property. Mr. Harrison feels the city needs more information about the risk of having a septic tank installed, but he does not want Mr. Zollinger to wait. Councilman Hansen said he feels it is the city's responsibility to run a sewer line so that Mr. Zollinger can access the city's sewer system. Mr. Larsen said he is willing to consider the variance to allow for a septic tank because Mr. Zollinger's property is at a distance that is not typically considered in a protection zone that normally effected by a septic tank.

Mr. Anhder said there was considerable research done to help determine which zones could be effected by something like a septic tank.

Councilman Harrison and Councilman Larsen asked Mr. Anhder to provide the following information by the next city council meeting.

1. Cost of running sewer to within 300 ft. of Mr. Zollinger's property.
2. Letter from state explaining opinion from the Utah Drinking Water Division.

Councilman Scott Larsen made a motion to table for two weeks the request for a Building Permit for Nate Zollinger at 695 West 1700 South in order to acquire additional information. Councilman Hansen made a second to the motion which was approved unanimously.

Item 5: Public Discussion regarding the park: Councilman Harrison allowed time for Nibley resident Max Burr to comment on the naming of the 800 West Park. Mr. Burr said he would like to see the park named the "Veterans Memorial Park". He said there are many veterans from this area, including the most decorated veteran in Cache Valley who he said is buried in the Millville Cemetery. Mr. Harrison thanked Mr. Burr for his suggestion.

Item 6: Request for Final Approval of Stonebridge Subdivision Phase One of a Cluster Subdivision located between 2700 South and 3000 South on 12th West. Mr. Anhder outlined the proposed plan. He said there is a development agreement between the developer and Nibley City to have the developer connect to the sidewalks. Mr. Anhder said the city has received a copy of a letter stating the irrigation company has approved the proposed design and engineering changes to the nearby canal. Councilman Hansen asked if all of the roads meet city standards. Mr. Anhder verified that all roads meet the necessary standards. The council was told the Home Owners Association will construct and maintain the park and green space areas. The buffer property along 1200 West between the homes and the street will be dedicated to the city for maintenance. The park will be private since the HOA will own and care for the area.

Councilman Harrison said information at recent meetings he attended during the ULCT Convention brought up concerns about HOA's and possible problems with maintaining open space which can become an eyesore. Councilman Larsen said there could be pressure from residents for the city to take responsibility for the private park. Councilman Harrison said the problem comes when cities allow for substandard requirements and do not require developers to meet city requirements and then the city becomes responsible for the park, roads, and other HOA projects. Councilman Larsen said in this case the city is allowing for smaller lots to allow for open space with the possibility that the open space will not be cared for adequately and could become a city concern.

Nibley resident Brian Anderson asked for an opportunity to question the council about approval of any requests for further development in Nibley. He questioned whether the city can provide snow removal, public safety, etc. to meet the increased growth. Mr. Anderson said there are many subdivisions that look great, but there are problems with increased weeds along some road sides. And, he said, while he does

not oppose this particular project he is concerned about the city's ability to provide the necessary infrastructure for any future development. Councilman Harrison thanked Mr. Anderson for his comments and vowed to continue to work as a city representative to help answer these questions.

Returning to the matter of the request by Stonebridge, Councilman Harrison allowed for further discussion. Councilman Larsen asked when the developer will turn over the HOA to owners. Mr. Anderson said they plan to turn the control over to the HOA when ninety percent of the homes are sold.

Councilman Mickelson asked what stipulations were included in the approval by the Planning and Zoning Commission? Councilman Larsen reviewed the requirements outlined by P&Z. One of the requirements was to install a 6 ft. opaque fence along 1200 West. Mr. Anhder said he would recommend rather than a 6 ft. fence he would like to see a fence similar to the one along 800 West.

There was also a request by P&Z to have the developer provide a bond to help guarantee the open space is developed adequately in a case where all three phases of the project are not completed.

Councilman Hansen made a motion to approve a request for Final Approval of Stonebridge Subdivision Phase One of a Cluster Subdivision located between 2700 South and 3000 South on 12th West with the following conditions:

- 1. Developer will provide a prorated bond based on the number of lots for the park when that phase is approved.**
- 2. The design of the fence along 1200 West will include a 5 ft. vinyl fence with lattice on the upper portion.**

There was a second to the motion made by Thayne Mickelson.

During further discussion Councilman Larsen asked about the sidewalks and stated that he does not like meandering sidewalks. Councilman Larsen said for snow removal and walking with strollers and for someone with disabilities a straight sidewalk makes more sense.

Councilman Harrison asked for a vote on the motion. The motion was approved with Councilmen Hansen, Harrison, and Mickelson voting in favor and Councilman Larsen opposing the motion.

(Note: Councilman Thayne Mickelson takes leave of the meeting.)

Item 7: Consideration of Ordinance for Annexation of approximately 24 acres at 1500 West and 3200 South. Mr. Anhder explained the request for annexation and recommended the council approve the ordinance for annexation with the following conditions:

1. The property owners are responsible to extend, provide and pay all costs for water and sewer service to the property in a manner acceptable to Nibley City;
2. The property owners shall include all of 1500 West street to the east right of way line in this annexation.
3. Property owners, at the time of development, agree to pave 29 feet of the 1500 West right of way in a manner acceptable to Nibley City.

Councilman Bryan Hansen made a motion to approve Ordinance 06-09, an ordinance annexing 24 acres of real property into the corporate boundaries of Nibley City with conditions of annexation outlined in the ordinance. Councilman Jay Harrison made a second to the motion which was approved unanimously.

Item 8: City Managers Report- Larry Anhder presented a letter to the council from the UDOT suggesting a speed limit change along State Highway 165. The speed limit would be changed from the current 45 mph to 50 mph. Councilman Larsen suggested Mr. Anhder inform the UDOT that an impending light is scheduled for 3200 South that will change the traffic study. There is also concern by the council that there are a number of residential structures along the highway. The council asked Mr. Anhder to draft a letter to the UDOT requesting the speed limit be left at 45 mph for the reasons mentioned.

Item 9: Council Reports-

Councilman Thayne Mickelson was excused earlier in the meeting but before leaving he presented photographs of the hillside and roadway that is part of the Blacksmith Fork Subdivision near Hollow Road. Councilman Mickelson said the photographs represent a days worth of rain and were examples that show there is a risk to future homeowners should they decide to build a home there as things exist. Councilman Mickelson asked the council to consider requiring a storm water fence to hold the run off which results in sediment flowing into the river. Councilman Harrison said the photographs bring up an important point. Councilman Mickelson said even though this is a private road, the city could become responsible. Councilman Hansen said if the road does become public, Nibley City will also have to deal with the problem of non-conforming lots. Councilman Mickelson suggested Mr. Fronk be contacted to meet before the council to address some of these concerns.

Bryan Hansen: Councilman Hansen attended the ULCT Convention and suggested the council schedule a time to discuss some of the workshops and what information would be helpful to the city. He suggested the city needs to have better preparation for the future in terms of development and growth. Mr. Hansen said it would be helpful to have a reduced copy of the Nibley road master plan for reference during meetings. Mr. Anhder said a retreat for city officials might be appropriate to discuss many issues that would benefit the council and the community. He suggested the council provide suggestions for an agenda that would be appropriate for a retreat. The meeting will be open to the public and should be advertised. Councilman Hansen suggested inviting George Shaw, Sandy City Planner, to help with land use issues. Mr. Anhder suggested Thursday, October 19th from 6:00 p.m. - 10:00 p.m. as a date for holding a council retreat, including a presentation to provide the council with ideas of what should be considered when preparing a city plan. Agenda items for the retreat should be brought to the next meeting on October 5th.

Scott Larsen: Councilman Larsen asked for an update on the Hal Fronk request which was tabled at the last meeting. Mr. Anhder said there are still some unanswered questions regarding the private road. Mr. Larsen asked for an update on the refuse collection RFP. Mr. Anhder informed the council that the deadline for proposals was scheduled for the next day, September 22, 2006. Mr. Anhder said he is waiting to see what proposals will come forward. He said Nibley City did receive a letter from Logan City stating their opinion is that Nibley City will not be allowed to use the Logan City Landfill should they contract with an outside provider. Councilman Larsen asked if Nibley City was able to resolve a pricing issue included in the resolution by the county outlining garbage service? Mr. Anhder said the matter has not been resolved.

Mr. Larsen brought up the matter of a motion made at the P&Z Commission's last meeting to allow for the posting of the Planning and Zoning Commission draft minutes on the city web site. Councilman Larsen said he opposes the action and said the council has the right to determine the policy in this case which he said states that the draft minutes should not be posted until final approval. The council asked Mrs. Bringhurst to inform the P&Z Commission about the policy.

Councilman Larsen also suggested the city consider using a digital recording device to record the minutes to allow for the public to have easier access to the recorded minutes.

Jay Harrison: Councilman Harrison said he is concerned about HOA'S as a result of information presented at the ULCT. He suggested having a presenter provide information to the commission and P&Z about the pro's and con's of HOA's.

Item 11: Planning & Zoning Commission- City Planner Conley Thompson was asked by Chairman Wayne Anderson to represent the commission at the meeting. He said in regards to the Stonebridge Subdivision the commission is concerned about some sort of guarantee that the park and open space will be developed, even in a case where all three phases of the development are not completed. Mr. Thompson updated the council on the Maverick Country Store project and said work is underway.

Item 12: Adjourn- Bryan Hansen made a motion to adjourn. Jay Harrison made a second to the motion which was approved unanimously.

Signed _____
Mayor Pro-Tem (Jay Harrison)

Attest _____
Assistant Deputy Recorder