

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, April 23, 2009.

The following actions were made during the meeting:

Councilman Jacobsen motioned to confirm the committee's decision to go with ASWN to write the parks, trails, and recreation master plan. Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hansen, Councilman Larsen, Councilman Dustin, and Councilman Mickelson all in favor.

Councilman Mickelson motioned to accept Ordinance 09-05 and amend it to allow up to three non-related employees to come to the site for supplies or for equipment transfer. Councilman Hansen seconded the motion.

Councilman Jacobsen motioned to amend and strike the addition made by Councilman Mickelson and accept the proposal as written. Councilman Dustin seconded the motion. The motion passed 4-1; with Councilman Jacobsen, Councilman Dustin, Councilman Larsen, and Councilman Mickelson all in favor. Councilman Hansen was opposed.

Councilman Larsen motioned to amend to strike the home occupation portion of the Ordinance 09-05 to be addressed individually from the assisted living facility. Councilman Jacobsen seconded the motion. The amendment failed 1-4; with Councilman Mickelson, Councilman Dustin, Councilman Jacobsen, and Councilman Hansen opposed. Councilman Larsen was in favor.

Councilman Larsen motioned to amend Ordinance 09-05 amend to include conditional use in the agricultural and RE boxes and to add a footnote reference in the additional boxes of the assisted living facility chart. Councilman Jacobsen seconded the motion. The amendment passed unanimously 5-0; with Councilman Larsen, Councilman Jacobsen, Councilman Dustin, Councilman Hansen, and Councilman Mickelson all in favor.

The motion to adopt the amended Ordinance 09-05 passed 4-1; with Councilman Jacobsen, Councilman Dustin, Councilman Mickelson, and Councilman Hansen in favor. Councilman Larsen was opposed.

Councilman Dustin motioned to accept Ordinance 09-04 with Councilman Larsen proposed changes. Councilman Mickelson seconded the motion. The motion passed unanimously 5-0; with Councilman Dustin, Councilman Mickelson, Councilman Larsen, Councilman Jacobsen, and Councilman Hansen all in favor.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken and prepared by Assistant City Recorder Cheryl Bodily

Mayor Gerald Knight called the Thursday, April 23, 2009 Nibley City Council meeting to order at 6:00 p.m. Those in attendance included Mayor Gerald Knight, Councilman Scott Larsen, Councilman Shaun Dustin, Councilman Larry Jacobsen, Councilman Bryan Hansen, and Councilman Thayne Mickelson. Also in attendance were Larry Anhder, City Manager, and Shari Phippen, City Planner.

Item 1: Approval of the evening's agenda and minutes of the March 19, 2009 meeting.

Councilman Jacobsen made a motion to approve the minutes of March 19, 2009, the minutes of the special session of March 26, 2009 and the evening's agenda. Councilman Dustin seconded the motion which passed unanimously with Councilman Jacobsen, Councilman Dustin, and Councilman Mickelson all in favor.

Recommendation and approval of a consultant to work with the city to design a parks, trails, and recreation master plan.

Councilman Larsen arrived at 7:05 p.m.

Mr. Anhder said the parks, trails, and recreation selection committee recommended the ASWN proposal. Ms. Phippen stated they came highly recommended. She followed up with references on all three of the finalists. John Maws, who is the principle from ASWN on this project, also came highly recommended. He came and did a site inspection. They are good at public involvement and public workshops.

Councilman Hansen arrived at 7:07 p.m.

Mayor Knight said ASWN's response to their scope of work was the most detailed of all the proposals. Councilman Mickelson asked if part of the work plan entailed a cemetery. Mr. Anhder said his suggestion on a cemetery was to first poll the council on that issue. Councilman Mickelson stated they could coordinate some park space as a future plan for cemetery use and he would like it considered. Mayor Knight asked for a straw poll from the council on a cemetery. Councilman Larsen stated that Councilman Mickelson was directed during consideration of the general plan to consider a cemetery with the parks plan. Councilman Hansen said he saw it as open space. He thought it could be considered that. Councilman Jacobsen said he would like to move forward with the parks master plan, consider the cemetery later and perhaps add it to their scope of work. Mayor Knight would like a discussion on a cemetery put on the second week in May agenda. Councilman Larsen said ASWN was his top pick at the preliminary vote at committee. During the interview process however, the firm with the web based and rolling tabs became his favorite. The committee split 3-2 on these two firms, but all support this recommendation. Councilman Jacobsen made a motion to confirm the committee's decision to go with ASWN to write the parks, trails, and recreation master plan.

Councilman Hansen seconded the motion. Mayor Knight asked for discussion. Councilman Larsen said he did a survey of the citizens a year ago and he is convinced they could do this in-house however he believed having the visual plan will help them in-house. The motion passed unanimously.

Mayor Knight stated approval of the advisory committee for the park plan will be on the next agenda. He will have the names by the next meeting.

Mayor Knight moved to the discussion of the naming of city streets as it was not time for the public hearing.

Discussion about naming of city streets

Councilman Hansen said 3200 south is not a bad name but feels they could add some identity. He feels they could rename some of the main roads in Nibley. Councilman Larsen said the fire department did not like names and the post office often gave specific recommendations to use the grid address. Councilman Dustin said he always uses the grid. Councilman Mickelson said he would support it if it would create a community identity and had a sequence. Councilman Mickelson said it would only work for him if they kept the number. Councilman Jacobsen said he is happy with the grid. Mr. Anhder said emergency services have encouraged them to use numbered streets. However, there are a few streets in Nibley that are only name streets because they go diagonally to the grid and they do cause problems. Mayor Knight stated they were just discussing 3200 at this time. Ms. Phippen suggested using the name of the new elementary school. Councilman Dustin said generally if it is a main street they use someone who is significant to the city or a historical figure. Mayor Knight said if Councilman Hansen brings back a proposal with names he will have it put on an agenda. Councilman Hansen asked who is in favor of adding a name to the street. Mayor Knight said Councilman Larsen is opposed, Councilman Dustin is o.k. depending on the name, Councilman Jacobsen will not going to argue it, and Councilman Mickelson is in favor.

Consideration of Ordinance 09-04—Group Living Facilities

The Council reviewed the ordinance. Councilman Jacobsen said when he reviewed the definition for an assisted living facility he noted that is said “for more than eight unrelated person’s” but when he reviewed the land use chart within the ordinance they didn’t have anything on the page for more than eight people. Ms. Phippen said the group living facility ordinance will only govern eight people or less otherwise it will need to be classified as an assisted living facility. Councilman Jacobsen asked Councilman Mickelson if he is sure he wanted a Sunshine Terrace type facility to be allowed in a place like Hollow Road. Councilman Jacobsen said that type of facility fell under institutional guidelines. Councilman Jacobsen felt they should provide life cycle living throughout their community but when they start taking about more than eight residents he feels they should be talking commercial. Councilman Mickelson said he supported making assisted living facilities conditional in residential zones and not just permitted. The Council discussed and proposed changes to residential support, residential treatment, changed a title (Permitted Uses to Use Regulations), and added wording that referred to the permitted uses table. Mayor Knight advised they put the discussion on hold and move to the public hearing.

6:45—Public hearing to receive comments concerning consideration of borrowing approximately \$350,000 from the Community Impact Board for the construction of a Community Center in conjunction with Cache County School District.

Mayor Knight opened by stating this hearing concerned financing the new community center that will be an addition to the new elementary school. Mr Mark Edminster of Lewis Young financial consultants said that the application was actually submitted for \$370,000. The application will be considered at the Community Impact Board's next meeting which is May 7, 2009. This is not the meeting in which they will make the decision to grant the money. That meeting will be the first hearing of the application in which the application will either be put on the priority list or be put on the pending list which will require more discussion. Mr. Edminster stated that the request to the board was for a loan and that it would be a debt of the city. He believed the CIB could offer a loan to the city at favorable interest rates. Mayor Knight opened the public hearing at 6:53. Mr. Richard Eversall said he was under the impression that this was a granted process and asked for clarification on what the center will be used for. Mayor Knight said the city is paying for the additional square footage that they are having added to the new elementary school. He said they are nearing the end of bond payment on the existing Council chambers. Mayor Knight said they would move the council chambers there, freeing up the existing council chambers for much needed office space. It would also serve as a reception area or a meeting place for large gatherings. Lee Hopkins asked who would pay the maintenance on the project. Mayor Knight said the city will have an agreement worked out with the school. Mr. Anhder said part of the area they are building will be joint use which could be expanded to accommodate large groups. Eric Johnson, the bond attorney, said there were a couple of items will need to be addressed. The city will need to have some recordable interest in the property. One way to do that is to draw a line around the room saying this property is the City's and the rest is the school's. The other way is to get the City some sort of undivided interest within the school and have that stated within an agreement. The Community Impact Board will be sensitive to if the property can stand alone and function by itself. Some sort of undivided interest is best. Mr. Eversall asked what the benefit is of adding on to the school. Mayor Knight stated they get the parking lot and do not have to pay for it. They also improve their access to the rest of the facilities such as the gym, library, etc. They will have access to this building besides school functions. Councilman Dustin said there was no study done to devise if it would have been more economical to build a facility independently and the council was not unanimously in support of the proposal. Mayor Knight said the school had said they would buy the property if the city does not have use for it anymore. Mayor Knight closes the public hearing at 7:04. Councilman Mickelson asked if they might want to amend the agenda to reflect the actual price. Mr. Edminster said that \$370,000 was submitted to the Impact Board but that may not be the amount that is actually bonded. It could be less. The Council determined they would not need to amend the agenda. Mr. Eversall asked how the bond will be paid for. Mayor Knight said they will not have to increase taxes. Councilman Larsen stated the payment on the current building will expire a year from now, at which time the payment would swap to the new building. He also pointed out that the Superintendent said that the School District is willing to work with the City on usage whether we do this project or not.

7:00—Public hearing to receive comments concerning an ordinance proposing changes to the land use chart of the Land Use laws of Nibley City.

Mayor Knight opened the public hearing at 7:08 p.m. Councilman Jacobsen introduced the changes to the land use chart. He gives the changes to the public. He said in Nibley City they have traditionally supported a home occupation that is a business use but have tried to limit that to avoid impact to the neighboring community. The old ordinance said to be employed by the home occupation you had to live there. Right now the ordinance reads “provided additionally that the occupation is limited to members of the family who reside on the premises”. Councilman Jacobsen read his proposed changes. His changes allowed a home occupation to employ individuals that must not report to that house for occupation related activities. Councilman Jacobsen said with the current ordinance you cannot have employees at all. Richard Eversall said in any business you are going to have to have employees come to your home. Heather Humphreys said she has a secretary, a housekeeper, and a sister that come to her home and work and wondered if that was not allowed. It is determined that the secretary and housekeeper are independently contracted and would not be impacted. Mayor Knight said in addition to the home occupation definition change the Land Use Chart would also be changed to include an assisted living facility with this ordinance. Ms. Phippen said the land use chart would be changed to reflect the changes to the group living facility ordinance and the inclusion of a definition and use regulation for an assisted living facility which had already been changed during previous discussion with the council. Ms. Phippen read the changes to the public present. Richard Eversall asked for the changes in writing. He asked where assisted living was permitted currently. Ms. Phippen described this to the public. Councilman Larsen stated this ordinance was in basis to how other cities have regulated group living facilities. Richard Eversall stated he is concerned that there are unfounded concerns with having persons with disability in a home. He is concerned they have an ordinance that doesn’t seek to make classifications of disabilities. Mayor Knight closes the public hearing at 7:25.

Consideration of Ordinance 09-05—Changes to the Land Use chart of the Nibley City Zoning law.

Councilman Jacobsen said the strict interpretation of the previous ordinance was that you could not have employees unless they were employees living in the home. The question at hand is does it matter if a home occupation has employees if those employees never come to that home. He said he does not care if those home occupations have employees if those employees do not come to that home or impact the neighborhood. Mayor Knight said he knows if cases in Nibley where employees do come in and pick up supplies or vehicles from the residence and wonders if that could get out of hand. Councilman Jacobsen stated he believed it could get out of hand. Councilman Dustin said he would like residential to remain residential and he feels this change is a reasonable compromise. Councilman Mickelson said he felt the new change was also too tight. He does not want to squash the idea of home based businesses because they are too restrictive. Councilman Jacobsen suggested removing A and B and letting them have employees but then requiring the Planning and Zoning Commission to set conditions. Councilman Larsen said he does not think the new definition will address his concerns. He believed they take

two lines to say the same thing they had with one and that employees are not allowed. He said he is in favor of home occupation, but is not in favor of home business that are conducting commercial business in a residential zone. He said the way the conditional use permit is, they can only set conditions to a certain level. Richard Eversall asked if the businesses currently operating would be grandfathered in. Councilman Jacobsen said if they are loosening the ordinance there is no such thing as grandfathering. Mr. Anhder stated that some businesses operating in the city would be in violation under the old and new ordinance. Mr. Anhder proposed they add 1-3 employees. Mr. Eversall asked the difference between a commercial business versus a home based business license and if it was a matter of just paying a fee. Councilman Jacobsen said the home occupation is a loop hole but it is a valid loop hole that is needed. If it has no impact on neighbors it should be allowed. Councilman Dustin proposed they look at their land use chart and address the issues there. He believed that was a more appropriate venue for this discussion. Ms. Phippen stated she thought it could be fixed with 2 changes to the land use chart: changing the classification of general office and adding a category for equipment storage. Mayor Knight asked for a motion on Ordinance 09-05.

Councilman Mickelson made a motion to accept Ordinance 09-05 and amend it to allow up to three non-related employees to come to the site for supplies or for equipment transfer. Councilman Hansen seconded the motion.

Councilman Mickelson said it made it too arbitrary to not allow employees to come and go. Councilman Dustin said he is opposed to the amendment because he felt this is the wrong place to address it. Councilman Larsen said he is opposed to it because it allowed commercial entities to take place within a home occupation.

Councilman Jacobsen made a motion to amend and strike the addition made by Councilman Mickelson and accept the proposal as written. Councilman Dustin seconded the motion. Councilman Larsen said this proposal allows home occupations which are contrary to what he feels a home occupations should be. If they have outside employees, not within the family, they should not be a home occupation. Heather Humphreys asked Councilman Larsen if he was speaking for personal reasons or for the city because his reasoning would put multiple people out of business. Councilman Jacobsen spoke in support of Councilman Larsen and said that although sometimes they may disagree, it is his opinion that the things Councilman Larsen says are thought out and are in the best interest of the City as he sees it. He takes it seriously and doesn't do things personally but for citizens. Mayor Knight called for a vote on the amendment. The amendment passed 4-1 with Councilman Hansen opposed. Mayor Knight stated the motion on the table is the ordinance as written with the grammatical change and the title change.

Councilman Larsen made a motion to amend to strike the home occupation portion of the Ordinance 09-05 to be addressed individually from the assisted living facility. Councilman Jacobsen seconded the motion. The amendment failed 1-4 with Councilman Mickelson, Councilman Dustin, Councilman Jacobsen, and Councilman Hansen opposed. Councilman Larsen was in favor. Mayor Knight stated they were back to the Ordinance as originally proposed.

Councilman Larsen made a motion amend to include conditional use in the agricultural and RE boxes and to add a footnote reference in the additional boxes of the assisted living facility chart. Councilman Jacobsen seconded the motion. The amendment passed unanimously.

The main motion as amended passed 4-1 with Councilman Larsen opposed.

Consideration of Ordinance 09-04—Group Living Facilities (cont'd)

Councilman Mickelson suggested they take action according to state law. Ms. Phippen said it is basically the same ordinance the county passed. Mr. Anhder said the county planner, Josh Ruhnar, reported the county's ordinance had received very good legal reviews. The state is now using Cache County's ordinance as a guideline for other cities. The Council decided to take out the business license requirement and reworded the ordinance to do so. Mayor Knight stated he is assuming those changes in wording will be included in the motion to accept or not accept the ordinance. Councilman Larsen proposed they wanted no residential facility for elderly persons to be established within $\frac{3}{4}$ mile of another existing residential facility for elderly persons, or residential facility for persons with disabilities. The Council approved that change. Councilman Larsen proposed they limit the residential facilities for persons with disabilities that are substance abuse facilities shall not be located within 500 ft. of a school to provide in accordance with the rule established by the Department of Human Services. The Council approved that change.

Councilman Dustin made a motion to accept Ordinance 09-04 with Councilman Larsen proposed changes. Councilman Mickelson seconded the motion. The motion passed unanimously.

Consideration of Commercial and Institutional Design Guidelines

Mayor Knight asked if the council wanted to continue or address this on the next agenda. Ms. Phippen stated the Guidelines were given to Mark Morris which he updated it and made the changes the council made that last time the issue was discussed. The Council discussed whether they had the right document. Ms. Phippen was asked to get and updated and dated version of the design guidelines to the Council. Councilman Dustin made a motion to continue the discussion at a later date. The motion passed unanimously. The Council moved the discussion to the next agenda.

Council Reports

Councilman Mickelson stated he had received comments about the new stop light and that citizens were confused and felt it was dangerous. Mayor Knight noted the concerns and said it had been brought up with UDOT and the city did what UDOT says. Councilman Mickelson addressed the need to help business in Nibley and proposed giving new businesses incentives. Councilman Mickelson asked to be updated on the Animal Rights Ordinance. Councilman Jacobsen said he lost control of a public meeting. The last time people did not read the draft ordinance. Councilman Jacobsen said if and

when the draft ordinance comes to City Council he strongly recommended another public hearing. Councilman Larsen also supported that.

Councilman Hansen said that the Easter Egg Hunt was hosted at the Heritage Park and it went really well. The sound system also worked great and he recommended they purchase it.

Councilman Jacobsen recapped his notes from the League of Cities and Towns meeting. The minutes of Council meetings now need to be made public when completed and not after they are approved.

Councilman Dustin said the Alleman family run was last Saturday and was very successful. They made \$3000 from the run and \$1000 from the garage sale for the Alleman family. Councilman Dustin said Becky Yeager is working with the School Community Council with the school and are considering a plaque by the flag pole that may be lighted. They may approach the city for support. Councilman Dustin addressed the use of windmills in Nibley and is going to get more information on them. He would like the Council to consider addressing them. Councilman Dustin is working with the Space Dynamic Lab to work on an enhanced treatment facility the deal with waste water. There is a proposal for stimulus money.

Councilman Larsen said the run for the Stokes Nature Center had been cancelled. He discussed changes to the minutes. He requested being added to the next agenda to submit his changes. Councilman Larsen recapped his notes from the League of Cities and Town meeting. Plans on Heritage Days are progressing.

Mayor Knight said the assessment for the Hyrum Library this year was \$14,760. There are 492 active cards which is roughly one third of Nibley's households. Mayor Knight said the Maverick was a big social venue and it is mostly because of the Redbox. Mayor Knight recapped the League of Cities and Towns Conference.

City Manager Reports

Mr. Anhder said there is progress with the railroad on the railroad crossing. The city will be done with the waterline along 3200 on Monday and work progresses on the 3200 road reconstruction. The budget will be presented at the next meeting. The budget will propose a 2% cost of living increase to employees and merit raises on anniversary dates. They are only seeing a dip in the city's sales tax revenue.

The meeting was adjourned at 10:06 p.m.