

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, June 3, 2010.

The following actions were made during the meeting:

Councilman Dustin motioned to send the letter to the State Office of the Court Administrator as requested by the County Attorney and move on this issue (appointment of members to represent the Council on a Justice selection committee) in two weeks. Councilman Jacobsen seconded the motion.

Councilman Larsen motioned to amend to strike the sending of a letter. Councilman Dustin seconded the motion. The amended motion passed unanimously 3-0; with Councilman Dustin, Councilman Jacobsen, and Councilman Larsen all in favor.

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Councilman Dustin made a motion to approve phase 5 of Zollinger Acres subdivision as presented. Councilman Jacobsen seconded the motion.

Councilman Larsen motioned to postpone approval until the easement between 66 and 65 is rectified. Councilman Jacobsen seconded the motion. The motion passed 3-0; with Councilman Dustin, Councilman Jacobsen, and Councilman Larsen all in favor.

Councilman Jacobsen motioned to give consent to the Mayor's nomination of Jack Stevens as Nibley Citizen of the Year. Councilman Dustin seconded the motion. The motion passed 3-0; with Councilman Dustin, Councilman Jacobsen, and Councilman Larsen all in favor.

Councilman Larsen motioned to proceed with exploring consideration and construction of a new city hall by issuing an architectural RFP, funding options, and other needed information to make a future decision. Councilman Jacobsen seconded the motion. The motion passed 3-0; with Councilman Dustin, Councilman Jacobsen, and Councilman Larsen 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, June 3, 2010 Nibley City Council meeting to order at 6:15 p.m. Those in attendance included Mayor Gerald Knight, Councilman Shaun Dustin, Councilman Larry Jacobsen, and Councilman Scott Larsen. Also in

attendance were Larry Anhder, City Manager, and Shari Phippen, City Planner. Councilman Brian Hansen and Councilman Thayne Mickelson were excused from the meeting.

Call to order, approval of the evening's agenda and minutes of the May 6, May 12, and May 20, 2010 meetings

Councilman Jacobsen made a motion to approve the minutes from May 20th, May 12th, and May 6th, and the evening's agenda. Councilman Larsen seconded the motion which passed unanimously with Councilman Jacobsen, Councilman Larsen, and Councilman Dustin in favor.

Appointment of members to represent the Council on a Justice selection committee

Mr. Anhder said they are exploring the possibility of doing a regional justice court or providing the justice court services for Cache County. As a consequence they could be losing in excess of \$180,000 that they could be receiving from citation written in unincorporated Cache County. They presented this option to Lynn Lemon, the County Executive and he was very intrigued by it. They are not sure where everything is going to go. Jack Stevens is retiring and the State Court has asked for nominations to this committee. Mr. Anhder and the County Attorney would like to ask the state courts to postpone the recruitment of a new judge pending the City Council's and County's review the option of a Nibley City/Cache County Justice Court. He did not feel an urgency to fill this appointment in September when Judge Stevens leaves Nibley because they can appoint a qualified judge on an interim basis. They have two options because this is on the agenda; they can name the persons they would like on the committee or let them petition the state court to delay the whole process so they can decide. This entire discussion ties in with a later discussion on building a new city office building.

Mayor Knight asked if they combine a County Justice Court with Hyrum if they would petition to use their building. Mr. Anhder said Hyrum has not petitioned at all to have a County Justice Court. Mr. Anhder said he is open to the idea but is not sure that a regional justice court is in their best interest; financially or otherwise.

Mr. Anhder said there is a committee to be set up with two members appointed by this council, a member from the Cache County bar, a member from the Mayor's Association, and a member from Cache County. Those persons call for applications, review them and then make a recommendation of 2-3 persons to the Mayor and then the Mayor makes a selection to be ratified. Justices are not reappointed by the City Council; they have to stand for a retention election every six years. The City Council has very little say after this committee process. Mayor Knight asked if they combine with Hyrum if each community would appoint two members. Mr. Anhder said the law clearly states to per each city. Mr. Anhder recommended they postpone this and have a discussion and not hurry into an appointment.

Councilman Larsen noted that if they built a building it would be at least a years' time before it is done; he did not see why they couldn't just appoint someone until the process took them to a regional system. Mr. Anhder said there are two reasons; the Judge holds

that office and has a paycheck for six years whether they use them or not, and the County Council wanted to have representation on the selection committee. Councilman Dustin said they could have their justice court; they would be coming in to accept their judge as well as their building. Councilman Dustin said if they build the building to County standards then there would be significant cost. Mr. Anhder said the difference between what they would have to build for the County's needs is minimal. Councilman Dustin said if they do that, it sounded like it would be a fundamental change to how they do the selection process. They would potentially have more control if they have the facility and the judge. Mr. Anhder said it jeopardizes their position because the County wants to feel like they have a say in it. Mayor Knight said they do not have to go through the selection process for the Pro Tem; if they have a Pro Tem then they have ultimate control there. Councilman Larsen said as far as the facilities go, their own court said the payment system did not work. Councilman Larsen said with a new building they could take that into account with perhaps a glass partition. Councilman Larsen said Nancee Jabbs would like more separation when fulfilling her duties. Mr. Anhder said he anticipated a council desk that would also serve as a judge's desk. An office shared by the clerks and two additional rooms; a room that attorney's can meet with clients in, and a conference room. Mr. Anhder said as far as he knew the changes to the physical facilities would be minimal. Councilman Jacobsen asked Mr. Anhder if he knew approximately how many patrons would be serviced under the County Court. Mr. Anhder said Nibley usually had 1,200 issued/year and that Cache County had twice that at about 2,200/year.

Mr. Anhder said he is not optimistic in a consolidated regional court working; there is not a lot the city's will gain. Mr. Anhder said the Nibley/Cache County court was much more appealing; the County had nothing to lose. Councilman Dustin said he did not understand why the interim appointment is more beneficial than a full appointment. He would see a permanent appointment for Nibley City would be more beneficial because at this time they have two votes. Mr. Anhder said he thought that would be seen as uncooperative. Councilman Dustin said if they appoint someone they have a year's track record and they can all make an informed decision. Mayor Knight said but the County feels that would be six years. Councilman Dustin said if they need somebody they can appoint somebody and have someone with a years' track record to draw from later. Councilman Larsen said they could appoint their selection committee now so they are already in place. He said would be in favor of that tonight. Councilman Jacobsen asked if there was a pool of candidates to pull from in the interim. Mr. Anhder said there were three sitting judges in the County who had expressed interest in the position. Councilman Jacobsen said he did not want to go ahead with this and create the perception that they absolutely needed the new building. He is not starting with the assumption that they need the new city hall. The current facility is sufficient for the Nibley Justice Court but not sufficient for a Nibley/County Justice Court. Councilman Dustin asked what their cut was for doing this for the County. Mayor Knight said at a meeting with the County they said they would save on personnel. Councilman Dustin said then there is nothing in it for them. Mr. Anhder said the financial incentive is that they charge the County a lease on the building. Mr. Anhder also sees an upside to Nibley; here is a major governmental facility that is in Nibley, not in Logan.

Councilman Jacobsen said he would not feel right about forming a committee and making an appointment and then pulling the rug out from underneath them. Mr. Anhder said that would also send the wrong message to the County. Councilman Dustin said Nibley needs a justice court because he did not want to give up the revenue. The County does not have anywhere to go; they have a lot of hoops to jump through and he did not want to wait for the County to make a decision. He will wait a little while but did not want to hold up forever. Mr. Anhder suggested two weeks

Councilman Dustin made a motion to send the letter to the State Office of the Court Administrator as requested by the County Attorney and move on this issue in two weeks. Councilman Jacobsen seconded the motion.

Mayor Knight recessed the meeting at 7:12. The meeting reconvened at 7:15.

Mayor Knight said the people's who's name are suggested for the committee needed to be contacted. Councilman Dustin said he appreciated the potential benefit of working with the County but the more they integrate with the County the more their control is diluted; as a word of caution he did not see any benefit to Nibley of letting the County control their judge. Councilman Jacobsen said he did not want Nibley in control to appoint a judge that may be biased. He supported the legislature and not giving the defendant the benefit of the doubt that the judge may be biased. Councilman Dustin said he thought three members of the committee would be a majority and that the judge would be decided by those three members. Mr. Anhder said there are a lot of unanswered questions and they need time to look into this. He asked basically, if the City Council was interested in the concept and wanted to learn more. Councilman Larsen said he is alright with exploring this more and getting some answers; he would allow the two weeks to get some answers but did not support the sending of the letter until they had more information.

Councilman Larsen made a motion to amend to strike the sending of a letter. Councilman Dustin seconded the motion. The amended motion passed unanimously 3-0; with Councilman Dustin, Councilman Jacobsen, and Councilman Larsen all in favor.

The motion passed unanimously 3-0; with Councilman Larsen, Councilman Dustin, and Councilman Jacobsen all in favor.

Approval of phase 5 of Zollinger Acres subdivision, 11 lots at 3300 South and 1380 West (Jeremy Wilcox)

Jeremy Wilcox was present representing Zollinger Acres. Ms. Phippen showed the City Council the proposed phase and where it fit in the overall subdivision and area. Ms. Phippen said it met all minimum lot sizes requirements. The average lot size is 14,061 sq. ft. When the city engineer reviewed it there was a minor legal description that they remedied and some issued needed to be worked out on the construction drawings. Mr. Wilcox said they do not anticipate moving on this phase until the fall. They still have six lots in the current phase. They just want to be ready to go and have everything in place.

Councilman Jacobsen asked if the temporary turnaround was paved. Mr. Anhder said the city did not require that they pave them.

Councilman Dustin made a motion to approve phase 5 of Zollinger Acres subdivision as presented. Councilman Jacobsen seconded the motion.

Councilman Larsen asked if there was a pipe underneath the easement between 66 and 65 and why the width was so narrow on the one end. Councilman Larsen asked where the easement went after it enters the road. Mr. Anhder said it is a drain and irrigation ditch. That is something that needs to be shown better on the plat. Councilman Larsen, Councilman Jacobsen, and Mayor Knight reviewed the engineers drawing. Councilman Larsen told the developer that the retention pond from phase 1 or 2 is still not landscaped and was concerned that they have a dirt retention basin with all of this in place. Mr. Anhder said the development agreement will address that. Mr. Jared Neilsen said they are having problems with the irrigation company because of problems the irrigation company has with Nibley City. Mr. Anhder said the irrigation company thinks it can get at the city by giving the developer a hard time. Mr. Anhder said he is of the opinion that they should go ahead without the irrigation company. Mr. Anhder said the basins are made to capture excess water and hold it then it seeps in. Mayor Knight said Councilman Larsen did not feel he could vote in favor of the motion because of the plat that is not correct and as such the motion will fail because of the size of the quorum.

Councilman Larsen made a motion to postpone approval until the easement between 66 and 65 is rectified. He did not know if there was enough easement on 66. Councilman Jacobsen seconded the motion. The motion passed 3-0; with Councilman Dustin, Councilman Jacobsen, and Councilman Larsen all in favor.

Councilman Jacobsen said he would like specific comments from the engineer after he reviews that easement to make sure they are not overstepping. The Council is not an engineering body.

Nomination and approval of the Nibley Citizen of the Year

Mayor Knight said it was his opportunity to make this nomination. Councilman Larsen said it was the Council's nomination. Mayor Knight said he would take suggestions. Mayor Knight said he wanted to nominate Tim Gibbons postulate. He has done some great things for Nibley City and feels it is appropriate to honor him. Ms. Phippen said in light of his retirement she would suggest Judge Stevens. Councilman Dustin said he thought they could recognize Mr. Gibbons publicly. Mr. Anhder said Jack has been judge in Nibley city for 33 years. Mayor Knight said he nominated Jack Stevens as Nibley Citizen of the Year and asked for approval.

Councilman Jacobsen made a motion to give consent to the Mayor's nomination of Jack Stevens as Nibley Citizen of the Year. Councilman Dustin seconded the motion. The motion passed 3-0; with Councilman Dustin, Councilman Jacobsen, and Councilman Larsen all in favor.

Mayor Knight told Ms. Phippen that was a great suggestion. Mayor Knight directed Mr. Anhder to put together a proclamation.

Discussion and consideration of the construction of a new City Hall building

Mr. Anhder said the School District and Nibley City were unable to come to terms on a community center. They have an approved \$350,000 loan at 1.58% interest. There is an indication that they can increase that amount but it must be all completed by the end of the year. The city owns land that had been discussed would be a great place for a city hall. Building costs are very, very low and the last payment on the current city hall building is this year. It is arguably not necessary but it is a very opportunistic time to build. Mr. Anhder said he anticipated a 600,000 square foot building that would be two times the size of the current building. He anticipates a loan of approximately \$700,000 which would put their payments the same as the current building which will be paid off so there would be no change in the budget. He did not believe they would see building costs this low for some time. Some of the money available is stimulus money that will go away at the end of the year. Mr. Anhder said the downside is they time crunch they would be under.

Mr. Anhder said they do not need to decide this tonight but with Council approval they could advertise an RFP (Requests for Proposals) for architectural service and look into increasing the loan amount. That would save them time if they did decide to move ahead at a later date. Mr. Anhder said there were other sources of money that are available to them; they have maintained a reserve account in their general fund up to the statutory limit of approximately \$200,000; and the reservoir they had projected would cost 1.4 million dollars has come into bid at approximately \$800,000 which also reiterated the low building costs.

Councilman Larsen said now they do not feel the crunch and when they looked at the school opportunity he was not in favor of the council chambers so much as the need for space. He said debt is debt and he looks at other things around the city that may cost them significant funds. He said there were a lot of unknowns but he would like more information as long as it did not require a lot of money. Mayor Knight said one of the things that appealed to him about the school was the opportunity to have a gathering space for the community. Mayor Knight said he would like to know the reasons they would move ahead on this. Councilman Dustin said he was concerned with the school because he did not see it as a long term solution. He did not want to tie that much capital up and be at the school districts mercy. He said they will probably need the building in the future and if it was the right building that would move them towards a city center he would be for it. Councilman Larsen said he was totally against it. Councilman Larsen said a positive would be ownership but there was not a need. He does see a need in recreation that will cost a significant amount. There is a big need for a softball or baseball field. Mayor Knight asked what his perceived need was for a city hall; why did he vote for the school. Councilman Larsen said he wanted to utilize the school better than it is being utilized now. Councilman Jacobsen said he agreed with the positives that have been brought out; the timing is right. He wondered if they could sell to the citizen on new

recreation facilities if they are already building a new city hall that they do not perceive a need for.

Jeremy Jensen said he did not see how it was the city's duty to provide all the recreation and meeting needs for the city. It has taken a lot of money from individual who may or may not use the facilities. He said he did not know if now a good time to spend a lot of money. Mayor Knight said it comes down to a quality of life issue; they could run a lot leaner than they do but there are some intangible benefits of doing that. It directs youth in a positive, upending fashion. These are things that make for a very pleasant community. Jeremy Jensen said it has also created some negative consequences; problems with increased traffic and he has noticed some gang graffiti around the park.

Councilman Larsen said it was alright to explore and needed more information before he said it was alright to build. The City Council discussed if they were at maximum capacity in the current city building. They discussed that they were at or above capacity now.

Councilman Larsen made a motion to proceed with exploring consideration and construction of a new city hall by issuing an architectural RFP, funding options, and other needed information to make a future decision. Councilman Jacobsen seconded the motion. The motion passed 3-0; with Councilman Dustin, Councilman Jacobsen, and Councilman Larsen all in favor.

Councilman Larsen said to make sure the RFP went out to the people that attended the league meetings.

Discussion of the sewer rates according to the new rates required by Logan City treatment plant

Mr. Anhder said they met with Logan City a year and a half ago and then they were approached about helping pay for a phosphorus reduction program. Ultimately they will be paying \$1.86/thousand for treatment up from \$1.33/thousand. Mr. Anhder said currently they have approximately a \$400,000 surplus in their operating account for the sewer and an additional \$100,000 in a reserve fund that could be used to pay for the upgrade proposed by Logan. He proposed they leave their rates at \$40.00 and chip into their reserves for at least a year to pay for their share of the 10 million dollar upgrade; Nibley's share of the upgrade is about \$400,000. Mr. Anhder said their contract with Logan city said they can make any improvements to the system and then they will pay for the improvement after it is done. Logan City said they want to pay for it in their rate structure; that is was easier to keep track of and account for. He was not concerned about it until he saw a notice in the paper that Logan City was transferring \$314,000 from their sewer fund to their general fund. He also did some research that they had been transferring money every year from the sewer to their general fund for at least the last 4 years. That meant that Nibley is subsidizing 4% of their parks, police, etc. Mr. Anhder asked for time to discuss this with other city managers.

Councilman Larsen said the sewer rates are going to increase to \$40.00 in July and he would like to not have another increase for at least a year if they can manage it. He would

like to try that but keep their eye on it. Councilman Larsen also suggested they revisit Sunrise's proposals and would like to pursue what their other options are. Councilman Dustin said they could at least evaluate their options and see if there is something else to talk about before they rally others. Mr. Anhder said it may be worthwhile to dust off the Sunrise proposal. Councilman Dustin said they should look at Hyrum.

City Manager Report

Mr. Anhder said because they were concerned with the types of bidders they were going to get for the reservoir with so many people looking for work, they did a value based bid where they could evaluate experience and weighted that one half the total and the price the other half. The lowest bid firm did not rank very high on any list. Spindler Construction is the firm they want to award to; they have been highly ranked and were the second low bid. COP Construction out of Salt Lake was upset because they were the low bidder and have engaged a law firm. Two weeks from the tonight they should be able to bring a proposal before City Council.

Council Reports

Councilman Dustin said he would be out of town for the next City Council meeting.

Councilman Larsen said Miss Nibley was crowned on the 22nd of June. McKenzie Fuller was crowned Miss Nibley. Lindsay Jenkins was crowned the Jr. Miss Nibley.

The meeting was adjourned at 9:33 p.m.

Attest _____
Assistant City Recorder