

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, August 6, 2009.

The following actions were made during the meeting:

Councilman Dustin motioned to approve Ordinance 09-02—An ordinance setting design standards for commercial and institutional buildings with the proposed changes. Councilman Jacobsen seconded the motion. The motion passed unanimously 4-0; with Councilman Dustin, Councilman Jacobsen, Councilman Hansen, and Councilman Larsen all in favor.

Councilman Jacobsen motioned to approve Ordinance 09-06—An ordinance adopting an Impact Fee Analysis and imposing Roadway Impact Fees, providing for the calculation and collection of such fees, providing for appeal, and accounting for fees as discussed and modified. The motion was seconded by Brian Hansen. The motion passed 3-1; with Councilman Jacobsen, Councilman Hansen, and Councilman Dustin in favor. Councilman Larsen was opposed. Councilman Mickelson abstained from the vote.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken and prepared by Assistant City Recorder Cheryl Bodily

Mayor Gerald Knight called the Thursday, August 6, 2009 Nibley City Council meeting to order at 5:30 p.m. Those in attendance included Mayor Gerald Knight, Councilman Shaun Dustin, Councilman Larry Jacobsen, and Councilman Bryan Hansen. Larry Anhder, City Manager was also in attendance.

Approval of the minutes of July 2nd, 2009, and approval of the evening's agenda. Councilman Jacobsen made a motion to approve the July 2nd minutes as presented and the proposed evening's agenda. Councilman Hansen seconded the motion which passed unanimously.

Councilman Larsen arrived at 5:31.

Consideration of Ordinance 09-02—An ordinance setting design standards for commercial and institutional buildings.

Councilman Larsen stated he had questions on the plan review. He had emailed the city planner his questions and had not had a chance to review her response. Councilman Larsen asked if the site review was to decide if they were in accordance with the design standards. He asked if they had defined a site anywhere. Councilman Larsen said it was his understanding that they do not record sites. He noted that on page 2, line 79 and page 3, line 108 it made note of recording in the site plan. Councilman Larsen noted that Ms. Phippen said the site plan does not typically get recorded. Councilman Larsen read Ms. Phippen's email response which recommended "they impose time limits of having

signatures from the staff on the site plan”. Councilman Larsen questioned the wording “record” and suggested they needed a better word. Councilman Dustin said the verbage struck him as coming out of a subdivision plan. Councilman Dustin proposed they strike “by the planning commission and/or city council” and say “approval of preliminary plan shall be valid for one year from date of approval”. Mr. Anhder said paragraph five was good because a year starts from their last approval. Councilman Jacobsen proposed striking lines 77-81 on page 2. Councilman Larsen proposed issuing only one extension that is good for a year. Councilman Larsen said if progress is not made in two years then the entire plan ought to be reviewed. Councilman Dustin said he would prefer the council not be involved in this type of thing. Councilman Jacobsen said if the developer is headed in a new direction they can deny an extension. Councilman Larsen said he would be in favor of just one extension. The Council agreed with that change. Mr. Anhder clarified that for an extension the developer does not have to pay additional fees. Councilman Larsen said if they only allow a year on an extension they need to strike wordage from line 114 that read “a second time extension may be requested and if granted the extension can be no longer than six months. No other time extension shall be granted.” Councilman Dustin said they need to strike lines 108-111 starting with “and” on page 108 to the word “subdivision” on page 111. Councilman Larsen questions 8 that referenced city code 11-4-2 (Plat Subdivision). He asked why they were referencing a final plat in a site plan approval. Mr. Anhder said he would strike the whole things. Councilman Larsen and Mr. Anhder proposed the reference should read “shall be prepared and submitted in accordance to Nibley City Commercial and Institutional Design Standards” instead of the reference to code 11-4-2. Councilman Dustin recommended taking all the approvals and processes item and taking them out of the individual ordinances and bringing them together into one place, in the future. Councilman Dustin made a motion to approve Ordinance 09-02—An ordinance regulating the Nibley City design standards for commercial and institutional uses and the associated approval processes with the proposed changes. Councilman Jacobsen seconded the motion. The motion passed unanimously with Councilman Hansen, Councilman Jacobsen, Councilman Dustin, and Councilman Larsen all in favor.

Councilman Hansen was excused at 5:55

Consideration of Ordinance 09-06—An ordinance adopting an Impact Fee Analysis and imposing Roadways Impact Fees, providing for the calculation and collection of such fees, providing for appeal, accounting for fees.

Councilman Jacobsen said the example of the fueling station did not help him and was not clear. Councilman Jacobsen said the example needed to say “where only one vehicle can be serviced, at a time, on each side of each dispenser”. The wording was changed to “fueling stations shall mean the number of vehicles the can be fueled simultaneously at a service station”. The Council struck the last sentence on fueling stations. Councilman Larsen questioned 6-2 and imposing impact fees on schools and charter schools and whether they are currently paying impact fees. Mr. Anhder said yes, they are currently paying impact fees. Councilman Dustin asked if the last sentence on 6-2 was required. Mr. Anhder said that last sentence in 6-2 gave the Council latitude to do something.

Councilman Jacobsen said 6-2 gave them the latitude they needed. The Council agreed to strike the last sentence in 6-2.

Councilman Hansen returned at 6:02.

Councilman Larsen noted that in 7-3 they referenced that they would give this information upon request and he said there was a push by the state to say how much that would cost to get information. He asked if it was addressed in their copy regulation. Mr. Anhder said it was not. Councilman Larsen said according to the state they can charge for copies of this Ordinance and that they can recoup the cost of producing the document. He wondered if it was free or if they should list a cost for the written analysis. Councilman Jacobsen said it would be reasonable for city staff to make that determination and suggest they write that a fee may be required in the ordinance and not state a specific fee.

Councilman Larsen asked if in 7-5 and 7-6 they can put a limitation on when someone can get judicial release. Mr. Anhder said they can set a limitation. Mr. Anhder said they have to go through the process in order to seek judicial release. Councilman Larsen questioned 7-6 regarding appeals and the portion they added and how the decision is made by the city attorney. Councilman Larsen was under the impression that they wanted the decision to come to the Council and not go to the appeal authority. Councilman Larsen said if they are going to have the officer then they need to change dates in section 10-3-3. Mr. Anhder said those dates apply to land use appeal. This is not a land use, it is an impact fee. Mr. Anhder said personally he thought City Council was a good place to come. Mayor Knight said he liked it as it was. Councilman Dustin asked if the City Council wanted to be tied down with those types of actions. Mayor Knight said the appellate determines whether the City Council and city staff followed the ordinance. Councilman Dustin said that would be a convenient place for it to go to the executive branch, which is the Mayor, but the Mayor did not want it. Councilman Dustin said he is alright with going forward as it was.

Councilman Mickelson arrived at 6:16.

Councilman Jacobsen said it seemed outrageous to charge \$8,000 per fueling station. Mr. Anhder questioned if charging this much for retail would be prohibitive. Councilman Larsen wanted to strike the last sentence in 6-1 for the same purpose the struck the last sentence in 6-2. The Council agreed with that change. Councilman Jacobsen made a motion to approve Ordinance 09-06—An ordinance adopting an Impact Fee Analysis and imposing Roadway Impact Fees, providing for the calculation and collection of such fees, providing for appeal, and accounting for fees as discussed and modified. The motion was seconded by Brian Hansen. The motion passed 3-1 with Councilman Jacobsen, Councilman Hansen, and Councilman Dustin in favor. Councilman Larsen was opposed. Councilman Mickelson abstained from the vote.

Consideration of Ordinance 09-09—An ordinance establishing a policy for the approval of minutes for the public meetings of the City Council and other public bodies in Nibley.

Councilman Larsen said he takes the minutes seriously. He said this is cut and paste from the Utah Code. Councilman Larsen did not receive his copy of this ordinance until just

recently. He said there were a couple of typos that needed to be adjusted. Councilman Larsen said all of section one is cut and paste from State code. Councilman Larsen said basically all they have to do is adopt the minutes. Mayor Knight said the only change he saw was the need for a signature only from the clerk. Mr. Anhder thought the Mayor should sign them. Councilman Larsen will give his comments on the ordinance to the Council and this ordinance will be addressed at the next meeting. Councilman Larsen questioned 6 and wondered if Mr. Anhder and Mayor Knight need to have minutes when they sit down together. The Council discussed what constituted a public body. Councilman Jacobsen said a public meeting needed to have a quorum of a public body. Councilman Dustin said the definition of a meeting was addressed in section 2-A. Mr. Anhder said according to legal counsel, when the Heritage Days planning committee meets for Heritage Days they need to have notice, and minutes are to be kept because they can expend but until instructed otherwise, as City Manager he will not enforce that. Mayor Knight said they do not authorize the expenditure of those funds. The City Council does that.

City Manager Report

Mr. Anhder said according to the bills they sent out this month, they now are a community of over 5,000 people. They have lost their rural status for a number of different programs.

Mr. Anhder asked the City Council to review the sidewalk plan for 3200 which affected 2 properties; Gary Wagstaff's and Randy and Susan Crockett's properties are affected. Mr. Anhder said they can get the sidewalk between their bushes and cause minimal interruption. The issue is the sidewalk will be a big impact on both those properties. The properties are landscaped right now. Mayor Knight said the sidewalk will not happen immediately. Proposals will be given before City Council makes a decision.

Councilman Larsen said the city needs to clear off sidewalks that are adjacent to farm property. Councilman Larsen asked if Ashburry was going to put in their section. Mr. Anhder said they were.

Mayor's Report

Mayor Knight had nothing to add.

Council Reports

Councilman Mickelson asked what time of year they did the audit. He asked how long they had used the same auditing firm. Mr. Anhder said they had been the same for the past three years. Councilman Mickelson asked if they needed to use a new auditing firm and recommended they do.

The meeting was adjourned at 6:36 p.m.