

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, September 3, 2009.

The following actions were made during the meeting:

Councilman Mickelson made a motion to approve Ordinance 09-09— Establishing a policy and procedure for the approval of written minutes. Councilman Larsen seconded the motion.

The following amendments were made to Ordinance 09-09:

Councilman Larsen motioned to amend and proposed to submit wording from Utah code (52-4-203-7 and 7a) to Section 1, number 7 that they do not have to take minutes when they go on tours and likewise. Councilman Mickelson seconded the motion. The motion passed unanimously 3-0; with Councilman Larsen, Councilman Dustin, and Councilman Mickelson all in favor.

Councilman Dustin motioned to amend to strike “and taken down” from Section 2, paragraph 1. Councilman Mickelson seconded the motion. The motion passed unanimously 3-0; with Councilman Dustin, Councilman Mickelson, and Councilman Larsen all in favor.

Councilman Larsen motioned to amend and proposed they strike “seven working days” from Section 2, paragraph 2 and make it “a reasonable time”. Councilman Mickelson seconded the motion. The motion passed unanimously 3-0; with Councilman Larsen, Councilman Mickelson, and Councilman Dustin all in favor.

Councilman Larsen motioned to amend and proposed they strike wording and add “the minutes shall be made available to the public upon request as proposed written minutes” in Section 2, paragraph 3. Councilman Mickelson seconded the motion which passed unanimously 3-0; with Councilman Larsen, Councilman Mickelson and Councilman Dustin all in favor.

Councilman Larsen motioned to amend Section 2, paragraph 5 with his proposed changes and add the wording “or postponed until the next meeting of the public body”. Councilman Mickelson seconded the motion. The motion failed 2-1 with Councilman Larsen and Councilman Mickelson in favor and Councilman Dustin opposed.

Councilman Dustin motioned to amend and accept Councilman Larsen’s changes to Section 2, paragraph 5 and include the revised paragraph 6. Councilman Larsen seconded the amendment. The amendment passed unanimously 3-0; with Councilman Dustin, Councilman Larsen and Councilman Mickelson all in favor.

Councilman Larsen motioned to amend and proposed they add “and presiding officer” to Section 2, paragraph 6 after “clerk of the meeting”. Councilman

Mickelson seconded the motion. The motion failed 2-1 with Councilman Larsen, and Councilman Mickelson in favor. Councilman Dustin was opposed.

Councilman Larsen motioned to amend and proposed they change “Part III” to “Section III” and added wording about a recording and availability of the recording. Councilman Mickelson seconded the motion. The amendment passed unanimously 3-0; with Councilman Larsen, Councilman Mickelson and Councilman Dustin all in favor.

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

Councilman Mickelson motioned to approve Ordinance 09-12—Establishing regulations for the number and type of animals permitted in Nibley. Councilman Hansen seconded the motion.

The following amendments were proposed for Ordinance 09-12:

Councilman Dustin motioned to amend that they require residential lots greater than 18,000 sq. ft. on 1 & 2 & 3 of 10-17-2-B. Councilman Larsen seconded the motion which passed 3-1; with Councilman Dustin, Councilman Larsen, and Councilman Hansen in favor. Councilman Mickelson was opposed.

Councilman Larsen motioned to amend on 10-17-3-B that they change the point value of horses, mules, and donkeys to 75 points on that acreage because of the impact of those animals. Councilman Dustin seconded the motion. The amendment passed 3-2 with Councilman Larsen, Councilman Dustin, and Mayor Knight in favor. Councilman Mickelson and Councilman Hansen were opposed.

Councilman Dustin motioned to amend to change the Goat: billy from 50 points to 75 in section 10-17-3B. Councilman Larsen seconded the amendment. The amendment passed 3-2 with Councilman Larsen, Councilman Dustin, and Mayor Knight in favor. Councilman Mickelson and Councilman Hansen were opposed.

Councilman Larsen motioned to amend to add bee hive to the first line of the setback chart. Councilman Mickelson seconded the motion. The amendment passed 4-0; with Councilman Larsen, Councilman Mickelson, Councilman Dustin, and Councilman Dustin in favor.

Councilman Larsen motioned to amend to strike lounging shed from the setback chart. Councilman Mickelson seconded the motion. The amendment passed unanimously 4-0; with Councilman Larsen, Councilman Mickelson, Councilman Dustin, and Councilman Hansen all in favor.

Councilman Dustin motioned to amend to add the wording “A legally non-conforming use are associated with the property on which they have been

established” to 10-17-8-3. Councilman Hansen seconded the motion which passed unanimously 4-0; with Councilman Dustin, Councilman Hansen, Councilman Mickelson and Councilman Larsen all in favor.

Councilman Larsen motioned to amend to add line 5 to 10-17-8 which says “The agricultural areas are established to provide areas where the growing of crops and raising of livestock can be encouraged and supported within the city.” Councilman Mickelson seconded the motion. The motion passed unanimously 4-0; with Councilman Larsen, Councilman Mickelson, Councilman Dustin, and Councilman Hansen all in favor.

The amended motion passed 4-0; with Councilman Mickelson, Councilman Hansen, Councilman Dustin, 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, September 3, 2009 Nibley City Council meeting to order at 6:05 p.m. Those in attendance included Mayor Gerald Knight, Councilman Scott Larsen, Councilman Shaun Dustin, Councilman Bryan Hansen, and Councilman Thayne Mickelson. Also in attendance were Larry Anhder, City Manager, and Shari Phippen, City Planner. Councilman Larry Jacobsen was excused from the meeting.

Approval of the evening’s agenda and minutes of the August 20, 2009 meeting.

Councilman Larsen made a motion to approve the agenda and the minutes with his proposed amendments. Councilman Mickelson seconded the motion which passed unanimously.

Mayor Knight recognized Scout Troop 409, who was present at the meeting—including Jordan Bond, Martin Corrington, Alec Finlay, Caden Eubanks, Clayton Scott, Austin Smith, Larry Coleman, and Eric Corrington. Carson Downs, with Troop 385 was also present.

Consideration of Ordinance 09-09—Establishing a policy and procedure for the approval of written minutes for the public meetings of the City Council and other public bodies of Nibley City

Councilman Larsen said he felt minutes were important to them. They could reference back to them all the time. They can get them into trouble or out of trouble. They are public record. The State statute says they have to adopt a policy to approve written minutes which he thought to a certain extent they already had in their current Nibley City ordinance. Councilman Larsen proposed some changes to the policy for writing minutes. Mr. Anhder said he had not received a copy of Councilman Larsen’s changes. Councilman Larsen questioned whether they needed this Ordinance when they had the

Utah Code. Mayor Knight said they could make this stricter than Utah Code and that Councilman Larsen had requested changes stricter than Utah Code.

Councilman Mickelson made a motion to approve Ordinance 09-09— Establishing a policy and procedure for the approval of written minutes. Councilman Larsen seconded the motion. Councilman Mickelson said he did not have problems with any of the items that were discussed and suggested debating the items that they had issues with.

Councilman Dustin said he would switch the order of the “Whereas” statements but he would like to keep both the “Whereas” because they both serve their own function. Councilman Dustin also had a question on number 7 on page 2 on Councilman Larsen’s addition. He wondered if some of the proposed items were legal. Councilman Larsen said that was a reference taken straight from Utah Code (52-4-203).

Mr. Anhder said the presiding officer should also sign the minutes along with the City Recorder or Assistant City Recorder.

Councilman Dustin said he questioned paragraph 1 in section 2. He thought they could strike “and taken down” from the paragraph. Mayor Knight agreed with that change. Mayor Knight said it did not get specific on how the recording takes place. Councilman Dustin said recorded did not necessarily mean an audio recording. To him it means someone is taking minutes and “and taken down” implied a separation between the two.

There was a pause in the discussion in order to print some information pertinent to the meeting. Mayor Knight took the time to introduce Benjamin Wood representing the Hard Rock News from Utah State University and Mr. John Carver who is running for Nibley City Council.

Councilman Dustin he liked the changed on Section 2, paragraphs 3 and 6. Councilman Dustin said he would rather not be specific on the number of working days referenced in Section 2, paragraph 2. Councilman Dustin said he liked (7) days, as long as it was less than 10 days.

Mayor Knight determined it would be more productive to address the changes line by line. Councilman Larsen said he was alright with switching the order of the second and fourth “Whereas” in the beginning of the ordinance. The entire Council was alright with that clerical change.

The Council discussed Section 1, number 2, (iii). The Council discussed Section 1, letter F and made a clerical change from “(2)” to “(4)”.

Councilman Larsen made a motion to amend and proposed to submit wording from Utah code (52-4-203-7 and 7a) to Section 1, number 7 that they do not have to take minutes when they go on tours and likewise. Councilman Mickelson seconded the motion. The motion passed unanimously with Councilman Larsen, Councilman Dustin, and Councilman Mickelson all in favor.

Councilman Dustin made a motion to amend to strike “and taken down” from Section 2, paragraph 1. Councilman Mickelson seconded the motion. The motion passed unanimously with Councilman Dustin, Councilman Mickelson, and Councilman Larsen all in favor.

Councilman Larsen made a motion to amend and proposed they strike “seven working days” from Section 2, paragraph 2 and make it “a reasonable time”. Councilman Mickelson seconded the motion. The motion passed unanimously with Councilman Larsen, Councilman Mickelson, and Councilman Dustin all in favor. Councilman Dustin asked if administratively they would set a time policy for when that needed to be submitted. Councilman Mickelson said he thought it could be handled administratively.

Councilman Larsen made a motion to amend and proposed they strike wording and add “the minutes shall be made available to the public upon request as proposed written minutes” in Section 2, paragraph 3. Councilman Larsen did not want to have the draft minutes posted for the public. He wanted them to be available only for public who sought them. Mayor Knight said he understood that Councilman Larsen did not want to be misunderstood or taken out of context if the minutes are incorrect. Councilman Larsen said his proposed amendments clarified things and added pertinent information that lead to a decision. Mayor Knight said he would err on the side of being too open and dealing with the occasional frustration or misconception. Councilman Mickelson said they could announce on the website that the draft is available at the city office. Councilman Mickelson seconded the motion which passed unanimously with Councilman Larsen, Councilman Mickelson and Councilman Dustin all in favor.

Councilman Larsen made a motion to amend Section 2, paragraph 5 with his proposed changes and add the wording “or postponed until the next meeting of the public body”. Councilman Mickelson seconded the motion. The motion failed 2-1 with Councilman Larsen and Councilman Mickelson in favor and Councilman Dustin opposed. Councilman Dustin said he would just as soon have them out there. Councilman Dustin said the action either happens or didn’t happen. More time is not going to change that. He is concerned that the minutes will get drug out forever. Councilman Mickelson asked if they could put a 60-90 day time limit on the minutes. Councilman Larsen said he did not want to drag it out either. Councilman Dustin decided he could reconsider.

Councilman Dustin made a motion to amend and accept Councilman Larsen’s changes to Section 2, paragraph 5 and include the revised paragraph 6. Councilman Larsen asked if Councilman Dustin wanted to include the signature of the presiding officer in paragraph six. Mr. Anhder thought the presiding officer’s signature should be there because it expressed the body’s desire that these are approved minutes. Councilman Mickelson thought it was a good thing to have in there. Councilman Larsen seconded the amendment. The amendment passed unanimously with Councilman Dustin, Councilman Larsen and Councilman Mickelson all in favor.

Councilman Larsen made a motion to amend and proposed they add “and presiding officer” to Section 2, paragraph 6 after “clerk of the meeting”. Councilman Mickelson seconded the motion. The motion failed 2-1 with Councilman Larsen, and Councilman Mickelson in favor. Councilman Dustin was opposed. Councilman Mickelson said he would like to have the code checked.

Councilman Larsen proposed they change “Part III” to “Section III” and added wording about a recording and the availability of the recording. Councilman Mickelson seconded the motion. Councilman Mickelson said he thought it would be worth discussion when the full Council was here to decide when and where minutes are available. The amendment passed unanimously with Councilman Larsen, Councilman Mickelson and Councilman Dustin all in favor.

The motion as amended passed unanimously with Councilman Larsen, Councilman Mickelson, and Councilman Dustin all in favor.

Consideration of Ordinance 09-12—An ordinance establishing regulations for the number and type of animals that are permitted on lots in the various zones of the city

Councilman Mickelson understood that there were a couple of unresolved issues they needed to discuss. Councilman Mickelson said the new set back chart was in line with the decisions they had made at the last meeting. Councilman Larsen said the way it was worded before didn’t work and they requested a chart. He said it is the same for every size lot but they are allowed to have more animals, and more manure in the bigger lots. He is not O.K. with that. Councilman Mickelson said he had a good point. Mr. Anhder said the smaller lots would not allow the types of animals that generated manure. Councilman Dustin said he had some proposals that might resolve some of these issues. Councilman Dustin said what they were doing in Nibley regarding animals was very liberal. He would rather ere on the side of caution and not create problems. Councilman Mickelson said they want to make sure they do not infringe on rights like kids participating in youth organizations. Councilman Dustin has concerns about manure piles that are in anything under an acre. He said in his mind when you move into a subdivision it is with the understanding that there is not going to be a pig or billy goat next door. He is worried about his property values and his neighbor’s property values.

Councilman Hansen arrived at 7:25.

Councilman Mickelson made a motion to approve Ordinance 09-12—Establishing regulations for the number and type of animals permitted in Nibley. Councilman Hansen seconded the motion.

Councilman Dustin asked about Section 10-17-A1 and how they were going to regulate cats and dogs. Mayor Knight said they had understood that it would be self-regulated. Mr. Anhder said they respond and enforce when there is a complaint. Councilman Dustin suggested they license cats. He said if they are not going to regulate it, why have it.

Councilman Dustin suggested on Section 10-17-B they put the exception for items 1-3 and say they are not permitted in R1, R2, R1A and R2A. He wants to link it to zone for those specific items. Councilman Dustin also proposed an alternative that in R1, R2, R1A, R2A, that no manure be permitted. It must be taken care of like a cleaning up after a dog. Councilman Dustin made a motion to amend in Section 10-17-2-D that no manure piles are permitted. Councilman Larsen said he understood that manure is declared a nuisance in city code. He thought it was addressed there. Councilman Dustin is concerned with the smell and how much manure they can put on land safely. Councilman Dustin said this ordinance allowed too much latitude especially on land under an acre. The amended motion died due to lack of second. Councilman Larsen thought they should reference no manure piles on smaller lots. Mr. Anhder suggested they go back to the 12,000 sq. ft. and bump it up to 18,000 sq. ft. in the entire section. Councilman Mickelson said they are trying to regulate management by elimination instead of by nuisance.

Councilman Dustin made a motion to amend that they require residential lots greater than 18,000 sq. ft. on 1 & 2 & 3 of 10-17-2-B. Councilman Hansen said he felt some people in those zones would like rabbits or pigeons. Councilman Mickelson suggested they wait until the entire Council was here to address the ordinance because they are revisiting issues that have already been discussed with other absent council members. Mayor Knight said they now had a Council member present that represented a different perspective which he believed they needed. Councilman Dustin believed the definition of household pets did not preclude rabbits or birds. Councilman Larsen seconded the motion which passed 3-1 with Councilman Dustin, Councilman Larsen, and Councilman Hansen in favor. Councilman Mickelson was opposed.

Councilman Dustin made a motion to amend that they make section B, Section C and create another section B in 10-17-1 that is similar to 10-17-2-B with items 4-8 revised from (6) to (3). Councilman Dustin said these are animals that would all be kept in a pen. Councilman Mickelson seconded the motion. Councilman Larsen pointed out that they did not have enough land to have a coop or pen. Councilman Dustin and the Council determined the previous amendment addressed the issues proposed in this amendment.

Councilman Dustin made a motion to amend that they strike paragraph C on 10-17-2-C and add that "All animals not specifically permitted are prohibited". Susan Hepworth asked how they take care of the animals they currently have in the city if they are not addressed in the Ordinance and that they could regulate that animal according to measurements. The motion dies due to lack of second.

Councilman Larsen made a motion to amend on 10-17-3-B that they change the point value of horses, mules, and donkeys to 75 points on that acreage because of the impact of those animals. Councilman Dustin seconded the motion. Councilman Mickelson said that is more of a management issue. That value limits the possibility of two animals. The amendment passed 3-2 with Councilman Larsen, Councilman Dustin, and Mayor Knight in favor. Councilman Mickelson and Councilman Hansen were opposed.

Councilman Dustin made a motion to amend to change the Goat: billy from 50 points to 75 in section 10-17-3B. Councilman Larsen seconded the amendment. Councilman Mickelson said Councilman Dustin and Councilman Larsen were randomizing. Councilman Dustin said Councilman Mickelson needed to think about the smaller lots in Nibley not just the bigger lots. Councilman Larsen noted his experience with the smell of billy goats. The amendment passed 3-2 with Councilman Larsen, Councilman Dustin, and Mayor Knight in favor. Councilman Mickelson and Councilman Hansen were opposed.

Councilman Larsen revisited the concern of a resident about bee hives and the setback limitations. He asked where it fell in the setback chart. He would like it added specifically to the setback table. He made a motion to amend to add bee hive to the first line of the setback chart. Councilman Mickelson seconded the motion. The amendment passed 4-0; with Councilman Larsen, Councilman Mickelson, Councilman Dustin, and Councilman Dustin in favor.

Councilman Larsen was concerned with manure piles being too close to property lines. Councilman Dustin said he would not allow manure piles in the city unless it was an agricultural zone. He might make an exception for RE. Councilman Mickelson said crap happens.

Councilman Larsen made a motion to amend to strike lounging shed from the setback chart. Councilman Mickelson seconded the motion. The amendment passed unanimously 4-0; with Councilman Larsen, Councilman Mickelson, Councilman Dustin, and Councilman Hansen all in favor.

Councilman Dustin made a motion to amend to add the wording “A legally non-conforming use are associated with the property on which they have been established” to 10-17-8-3. Councilman Hansen seconded the motion which passed unanimously 4-0; with Councilman Dustin, Councilman Hansen, Councilman Mickelson and Councilman Larsen all in favor.

Councilman Larsen made a motion to amend to add line 5 to 10-17-8 which says “The agricultural areas are established to provide areas where the growing of crops and raising of livestock can be encouraged and supported within the city.” Councilman Mickelson wanted a reference which included where it was in the general plan. Councilman Mickelson seconded the motion. The motion passed unanimously 4-0; with Councilman Larsen, Councilman Mickelson, Councilman Dustin, and Councilman Hansen all in favor.

The amended motion passed 4-0; with . Councilman Larsen said there would be major issues with compliance and enforcement.

Consideration of Ordinance 09-08—Amending and replacing the Nibley Planned Unit Development section of the Land Use Code

Councilman Larsen said he had a letter from Larry Jacobson when he was on Planning & Zoning Commission for planned unit developments. The letter noted Councilman Jacobsen had issues with this ordinance. He hoped they would hold off passage until Councilman Jacobsen was present. Councilman Larsen suggested they have a workshop discussion.

Councilman Larsen said he would like to add wordage from the old ordinance to the new ordinance. He encouraged the council to look at both versions. He said the planned unit development has its place but one of the reasons they were looking at it again was because it had issues and was hard to do. He noted the point system was entirely based on doing everything public. He is not as concerned with making it public as long as it takes pressure off of public facilities. He thought there could be bonuses, maybe smaller, as long as it took pressure off of public areas. Mayor Knight said he pushed for this new ordinance because there were no teeth to the old ordinance. The current planned unit development ordinance is based on a philosophy that less is more. He said fewer restrictions give more latitude to restrict. Councilman Larsen said the new ordinance formats what they have to come in with regarding architecture. Mr. Anhder said the biggest change was that this standardized the incentives and density bonuses. Councilman Mickelson said they needed to have a less random process for revisions. Mayor Knight wanted to give the Council flexibility to give more density when it benefited the whole community. Councilman Larsen said this ordinance allowed multi-family. If they are going to allow multi-family, which he opposes, he would like to see very strict restrictions. He did not think they needed it at all. Councilman Dustin said that most of them have lived in that type of residence and their children are going to need it eventually. He said there was a place for it. Mayor Knight said a great compromise is mixed-use. Councilman Larsen said if they were going to allow it he would limit it to the conservation subdivision. Councilman Hansen and Councilman Mickelson agreed with that sentiment. Mayor Knight said he thought the density bonuses were self limiting.

City Manager Report

Mr. Anhder said he did not have many code books. He needed the Council to leave their code books to be updated.

The sidewalks are going ahead as proposed. They are costing more than expected.

Council Reports

Councilman Larsen reminded the Council of the concert in the park on Saturday.

Mayor Knight said there was a meeting coming up on the Parks and Trails Master Plan committee and that they had received a lot of surveys since sending them out with utility billing.

Councilman Dustin said they had been getting action on the development of the Emergency Management Plan. They needed to be willing to get together and train with the plan.

Councilman Dustin said he had been working with an agency out of Salt Lake called No More Homeless Pets that have a wagon that comes out. He will approach the city to subsidize the fix-it bus. He was only considering feral cats not household pets. Mr. Anhder said the city has 4-5 live traps that they will lend out.

Councilman Dustin asked about the schedule for getting the cracks in the street sealed.

Mr. Anhder said the management agreement with the school district has been drafted and is currently with the bond attorney. He expected it in a couple of weeks.

Councilman Hansen revisited the speed limit sign on Hollow Road. Mr. Anhder said city staff had trimmed back some vegetation and would be contacting Councilman Hansen.

Mayor Knight showed the Council a petition from the Pleasant Haven subdivision asking the Council not to allow greater density subdivisions.

The meeting was adjourned at 9:29 p.m.