

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, November 5, 2009.

**The following actions were made during the meeting:**

**Councilman Hansen motioned to approve the contract with Cache County for emergency medical services and first-responder services. Councilman Jacobsen seconded the motion. The motion passed unanimously 3-0; with Councilman Hansen, Councilman Jacobsen, and Councilman Larsen all in favor.**

**Councilman Larsen made a motion to approve Ordinance 09-15 striking the paragraph and chart that addressed “Housing-Multi-Family”. Councilman Jacobsen seconded the motion. Councilman Larsen**

**Councilman Jacobsen motioned to amend with the following; that they strike public utility substation to just utility substation in two instances. That they change “including” to “excluding low power radio service/cell tower”, and change not permitted to conditional in the floodplain and sensitive overlay. Councilman Hansen seconded the motion. The amendment passed unanimously 3-0; with Councilman Jacobsen, Councilman Hansen, and Councilman Larsen all in favor.**

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

**Councilman Hansen motioned to approve phase 2 of Foxborough Subdivision located at 1600 West on 3200 South. Councilman Jacobsen seconded the motion.**

**Councilman Larsen motioned to amend that a sidewalk will be included on the pedestrian easement. Councilman Jacobsen seconded the motion. The amendment passed unanimously 3-0; with Councilman Larsen, Councilman Jacobsen, and Councilman Hansen all in favor.**

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

**Councilman Hansen motioned to approve the moving forward of the negotiation for the purchase of 800 W. property. Councilman Jacobsen seconded the motion. The motion passed unanimously 3-0; with Councilman Hansen, Councilman Jacobsen, and Councilman Larsen all in favor.**

**Councilman Hansen motioned to accept the proposal to reimburse Jim Jensen as stated in the agreement. Councilman Larsen seconded the motion. The motion passed unanimously 3-0; with Councilman Hansen, Councilman Larsen, and Councilman Jacobsen all in favor.**

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## OFFICIAL MINUTES OF THE MEETING

Minutes were taken and prepared by Assistant City Recorder Cheryl Bodily

Mayor Gerald Knight called the Thursday, November 5, 2009 Nibley City Council meeting to order at 6:20 p.m. Those in attendance included Mayor Gerald Knight, Councilman Scott Larsen, Councilman Larry Jacobsen, and Councilman Bryan Hansen. Councilman Thayne Mickelson and Councilman Shaun Dustin were excused from the meeting. Also in attendance were Larry Anhder, City Manager, and Shari Phippen, City Planner.

### **Approval of the evening's agenda and minutes of the October 15, 2009 meeting.**

Councilman Hansen made a motion to approve the minutes from October 15, 2009 and the agenda. Councilman Jacobsen seconded the motion. Councilman Jacobsen asked that lines 45 and 46 of the minutes be brought into line with lines 442-443. The motion passed unanimously with Councilman Hansen, Councilman Jacobsen and Councilman Larsen all in favor.

### **6:05 Gary Roberts, David Lidell—contract with Cache County for Emergency Medical Services and First Responders**

Mr. Jay Downs, the Cache County EMS service area director, was present at the meeting. He introduced Mike Waller and assistant Chief Gary Roberts, two EMS employees. He also introduced Dave Lidell, President of Squad 140—Nibley/Millville EMS responders. Dave Lidell introduced Dave Davenport and Rachel Swanton, who were members of squad 140.

Mr. Downs gave a presentation to the Council and described the Cache County EMS authority (CCEMS). The contract provides Nibley with CCEMS funding. The CCEMS authority provides ambulance and paramedic services, coordinates the valley first-responders and EMS services, and medical control. The EMT intermediate has three levels: basic, intermediate, and paramedic skills. Nibley's first responders are at a basic level, backed by the EMT ambulance and Logan City paramedics, and respond to every call. The back-up service for the Hyrum ambulance comes from Logan. Nibley City is covered well both ways; from Hyrum and Logan. CCEMS gets its funding from Cache County and billing from patients using the ambulance.

Nibley City needs to contract with the CCEMS authority for services and to work within the system with first responders throughout the rest of the county and the ambulances. Mr. Downs said they need to bring everybody under one umbrella. The contract says the County desires to provide the services and the city agrees to provide Workmans' compensation services for their first-responders. Mr. Downs said a lot of areas provide a minimal minimum wage for their first-responders. First-responders spend 120+ hours to become a basic EMT. The contract will help to fund reflective vests and things that are required for CCEMS funding. They do not want to create an undue burden on the individual city's first-responders. They have to have a medical control and the county

agrees to pay \$1500. The term of the contract is for one year and if both parties are satisfied it renews itself. The contract also gives direction on how the first-responders will interact when out on call in several different situations. The CCEMS has a pool of supplies that the various first-responders will pull from. The first-responding unit is being covered because they do not have to buy supplies. CCEMS also provides coordination services. Mr. Anhder said this is a continuation of the contract Nibley has with Millville. When Mr. Anhder was on the County Council they tried to coordinate services for 12 years. He commended this program. He commended Dave and the other first-responders who cover Nibley. Mr. Anhder said they need to provide, at least, some sort of minimal compensation for the first-responders. Nibley City is contributing \$7,500 a year which covers training and operating costs. Mr. Downs said they are asking for Workmans' Compensation for the first responders and recognition and administrative support of the first-responders. Mr. Anhder said he recommended approval of the contract and secondly he recommended talking about a minimal compensation for the first-responders. Councilman Larsen asked if this contract had changed at all. Mr. Anhder said it had not. Councilman Larsen said they did not have to approve it then, because it renews itself. Councilman Hansen made a motion to approve the contract with Cache County for emergency medical services and first-responder services. Councilman Jacobsen seconded the motion. Councilman Larsen said he did not like to vote on something he had not reviewed and requested that they avoid this in the future. The motion passed unanimously 3-0 with Councilman Hansen, Councilman Jacobsen, and Councilman Larsen all in favor. Mr. Downs said in this process Smithfield was contracted to provide the CCEMS for the County. Mr. Downs said for every EMT they have they get money from the CCEMS. They can also put in for more equipment grants. Mr. Anhder asked how many calls the first-responders respond to. Mr. Dave Lidell said they respond to 75/ year or 1.5 a week, 80% of which coming from Nibley.

**6:30—Public Hearing to receive comments concerning a proposal to amend the allowed or conditional uses as part of Land Use Ordinance**

Mayor Knight asked Ms. Phippen to give an update from the Planning & Zoning Commission. Ms. Phippen said when they redid the land-use chart, originally there was a provision for a utility sub-station. Somewhere in the process it was taken off the land-use chart. Two weeks after the land-use chart was passed, Questar came requesting a regulator station which was not allowed according to their land-use chart. Planning & Zoning Commission has recommended that it be put back on. Ms. Phippen said if they were going to have multi-family housing in their planned unit development ordinance, then it needed to be included on the land-use chart. She said it may be premature to have the public utility substation and multi-family housing together. They may want to consider it after the planned unit development ordinance is passed. Councilman Jacobsen asked if the comments he received from Councilman Larsen needed to be read into public record. He noted he had responses to those comments.

Mayor Knight opened the public hearing at 7:00. Barbara Willden said she could not imagine the public utility substation being a problem unless it is in her backyard. Corlyss Drinkard said she agreed it may be premature to discuss multi-family housing until the planned unit development ordinance was resolved. Councilman Larsen said they had a

public hearing on the planned unit development ordinance and said they should speak on that now. Barbara Willden asked the meaning of multi-family housing. She said most people in Nibley are not thrilled about having apartments in Nibley: be it townhomes or apartments, she would not like to see the type of residences that have such high turn-over in Nibley. Mayor Knight said those that support multi-family housing do not want to have the same development that has happened on the North side of Logan. They are looking at restricting the frequency of multi-housing. They cannot have them on adjacent lots. He is talking about a limiting them to a four-unit development and having perhaps one per block. Mrs. Willden said she could live with that. Corlyss Drinkard said that she is perplexed that they cannot discuss business outside the public meeting and hearing the Council advise sending email with their comments. Councilman Jacobsen said they always have access to the public body. Councilman Larsen said the members of the council cannot get together and discuss business of the city. Mayor Knight said they had been advised that email can be considered the same as a phone call. Corlyss Drinkard said a Councilman might conceivably conceal comments made to him by the public via email. She feels the policies are “loosey-goosey”. Mayor Knight said as a politician, the public is their boss—they can fire them, they have the right to campaign frequently with every elected official. They must act on their knowledge of laws and not public clamor. Corlyss Drinkard asked how much the public actually knew about what was going on here. She is trying to get more system in it so the public can act accordingly. Councilman Jacobsen said the minimum of how much public comment will be collected is called a public hearing. The meeting time that is devoted to the collection of public comments is the question. The public can address the Council at any time. Corlyss Drinkard said any email that is sent in conjunction with city business should be considered public record. Mr. Anhder said his belief was that any communications between the Council via email is personal communication but when it comes through the city then it becomes accessible through GRAMA (Government Records and Management Access). If somebody wants something on the record it is sent to the official record keeper of the city. Councilman Hansen said they can understand from this that there is some confusion and that they should address this with the newsletter and public education. Mayor Knight redirected the discussion to Ordinance 09-15. Mayor Knight closed the public hearing at 7:20

### **Consideration of Ordinance 09-15—Amending the Land Use Chart of the Land Use Ordinance**

Councilman Larsen made a motion to approve Ordinance 09-15 down to the “Housing-Multi-Family” portion. Councilman Jacobsen seconded the motion. Councilman Larsen said in the chart they currently regulated cell towers and radio towers throughout the city as not permitted except in three instances and questioned why they regulated one so strongly. Mr. Anhder said there should be some sort of cutoff that should do with voltage that is carried or some other measure. Councilman Larsen suggested it be redefined as local distribution. Mr. Anhder said they should changes the definition to differentiate between transmission lines. Mr. Anhder said the power company has the power of condemnation and wondered if they could regulate the lines. Mr. Anhder asked if they should look into if they could regulate them. Councilman Larsen said the two lines of the land-use chart needed to come into agreement. Councilman Jacobsen said they should do a conditional use in the floodplain and sensitive overlay. He also suggested changing

“including” to “excluding” and low power radio service/ cell tower. Councilman Jacobsen suggested making the title a utility substation.

Councilman Jacobsen made a motion to amend with the following; that they strike public utility substation to just say utility substation in two instances. That they change “including” to “excluding low power radio service/cell tower”, and change not permitted to conditional in the floodplain and sensitive overlay. Councilman Hansen seconded the motion. The amendment passed unanimously 3-0; with Councilman Jacobsen, Councilman Hansen, and Councilman Larsen all in favor.

Councilman Jacobsen noted objective 8 of the general plan which states “We will provide housing that meets the demands of all stages of the life cycle, including charter and senior housing, and will allow for multi-family or townhome mixed use development as buffers between commercial and single family residential areas, as well in the vicinity of the town center. He would like them to keep their minds open to life cycle housing. He hoped they could not envision the bad housing examples when they address a planned unit development ordinance that could include a provision for multi-family housing.

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

### **Final Plat Approval for Foxborough Subdivision, phase 2, at 1600 West on 3200 South**

Mr. Shawn Cronquest, representing Foxborough, was present at the meeting. Ms. Phippen said back in May the Planning & Zoning Commission was presented with phase 2 of Foxborough. According to the engineer there were no problems with the plat. There were issues with the construction drawing. When there are issues with the construction drawing Planning & Zoning Commission does not usually hold up final plat approval because typically the engineer will not sign off on the mylar until the construction drawings are complete. The only difference is now they are only doing half the lots. There will be three phases instead of two. Ms. Phippen said this was not the same thing Planning & Zoning Commission had signed off on. They had recommended the entire phase 2 & 3. She said there were no differences besides the number of lots. Councilman Hansen asked the advantage to splitting it into two phases. Mr. Cronquest said the only reason for splitting the remaining lots were economic. There were fewer infrastructures required and that they could get the revenue from selling lots. Ms. Phippen said she did not see any issues with the plat.

Councilman Hansen made a motion to approve phase 2 of Foxborough Subdivision located at 1600 West on 3200 South. Councilman Jacobsen seconded the motion. Councilman Larsen wanted it stated in the minutes that there will be a sidewalk on the pedestrian easement. Councilman Larsen made a motion to amend that a sidewalk will be included on the pedestrian easement. Councilman Jacobsen seconded the motion. The amendment passed unanimously 3-0; with Councilman Larsen, Councilman Jacobsen, and Councilman Hansen all in favor. The motion passed unanimously 3-0; with Councilman Hansen, Councilman Jacobsen, and Councilman Larsen all in favor.

### **Consideration of purchase of and donation of property on 800 West and water shares**

Mr. Anhder said in a discussion with Tim Gibbons on 800 W. he suggested he would be willing to sell to the city the equivalent of two building lots as well as donate 21 shares of Nibley/Blacksmith Fork irrigation water for \$60,000. Mr. Anhder valued that at land and the water shares at \$178, 050. Mr. Anhder proposed they sell the one lot to the South and landscape the corner north lot in association with the park. He needed a go ahead from the Council. Councilman Larsen noted that the lots had not sold. He asked if they would need to address fixing up the lot or adjusting the lot line. Mr. Anhder said they would. Councilman Larsen questioned if they acquired the water rights as a city if it limited what is available for purchase. Mayor Knight said it drove up the price and gave the city more money. Mr. Anhder said Mr. Gibbons is a very public spirited person. Councilman Hansen suggested making the corner lot a Veterans' memorial. Councilman Larsen asked where the money came from. Mr. Anhder said they would probably borrow the money.

Councilman Hansen made a motion to approve the moving forward of the negotiation for the purchase of 800 W. property. Councilman Jacobsen seconded the motion. The motion passed unanimously 3-0; with Councilman Hansen, Councilman Jacobsen, and Councilman Larsen all in favor.

### **Discussion about water bill adjustments**

Councilman Larsen said in the past citizens have come to the city when there was an water overcharge, or a leak and the bill has been split with the city. He was under the impression that it came before the Council. Now it does not come before them and the decision is made by staff. Mr. Anhder said there is a resolution that allows them to do that. Councilman Larsen said this is a different situation. Mr. Anhder said Jim Jensen owned the dairy on 3500 South Main. The sewer line was put in a location according to Mr. Jensen's choosing. There was an old spring that the sewer line was close to. They could have affected the flow of the spring. The Jensens's do not own any rights to that spring but they have been using it for many years. The City has approximately calculated the number of head of cattle and the amount of water used by those animals. Partly to move on, this proposal is being made. Mayor Knight said these negotiations have been going on for quite some time. They have done a fair amount of research and engineering to see if the discussion went legal, where they would be. There is a lot of doubt about what would transpire if it did go legal. Mr. Anhder said he disagreed with the Mayor on the legal issue. Mr. Anhder said to go legal would cost a lot more than the \$2,000 proposed dollars. Councilman Larsen said he thought it was in their best interest as a good neighbor to do this. He said they calculated what it would cost based on his yearly consumption. If it varies up he is short-changed and if it goes down he is getting additional benefit. He suggested the amount be reviewed every year. He said they should check the history every year. Mr. Anhder said he has had broken lines at least three times in the last ten years. Mr. Anhder said now he has a radio read meter that will be read every month

Councilman Hansen made a motion to accept the proposal to reimburse Jim Jensen as stated in the agreement. Councilman Larsen seconded the motion. Councilman Larsen asked if his account has to come current by December of 2010. Mr. Anhder said he has carried a large balance with the city because of this dispute and this puts him under notice that he will be treated like every other customer. The motion passed unanimously 3-0; with Councilman Hansen, Councilman Larsen, and Councilman Jacobsen all in favor.

**Discussion and consideration of Ordinance 09-08—Amending the Planned Unit Development Ordinance**

Ms. Phippen said if the council decided not to go with the apartment style multi-family housing she would strongly encouraged the Council to go with townhome style development. Councilman Larsen said the large developments were the bulk of people's concerns. He did not feel that they need multi-family housing but is alright with what they had planned with the conservation subdivision. If they are scattered out and blend in then they do not make such an impact. It does provided variety to the landscape. They do not need to get into how much someone has to make to live in our community. The massing of homes makes people nervous. Councilman Hansen asked if there was a way to write the planned unit development to have a percentage of housing devoted to multi-family. Ms. Phippen said on page three it addressed limiting percentages. Councilman Larsen said he is concerned with the number of units and zero lot lines.

Councilman Larsen said the ordinance is giving density points because the developers are giving public access to certain things. He said if they are giving access only for their development then they are taking pressure off of public amenities and should be given some credit for them.

Mr. Anhder asked if they wanted to allow Garbet Homes type development. It told them a lot how to develop the planned unit development. Councilman Hansen said he personally did not want another Garbet Homes development. He would prefer to not have something that is so uniform. He prefers to see more variety—with a single family look. The Council referenced the Daybreak area. Mayor Knight said that is what he sees the planned unit development ordinance addressing. Councilman Larsen said he thought the public would be more receptive to that. Ms. Phippen asked if they wanted a planned unit development ordinance and also a mixed use ordinance. Mayor Knight said he thought yes. Ms. Phippen said she could make this strictly a residential planned unit development ordinance and take the commercial out. Mayor Knight directed Ms. Phippen to do that and include multi-family housing to a limited degree. Councilman Jacobsen said on page 2-3 the amenities did not scale properly. He suggested addressing the amenities on a per acre basis. Councilman Larsen said they also did not stipulate types or the quality of amenities. Ms. Phippen said they did not want to have it too cost prohibitive but also give direction. Mayor Knight directed Ms. Phippen to tie it to acreage, give equitable bonus to the amenity, and address public vs. private usage.

The Council discussed the pros/cons of including commercial development in the planned unit development ordinance. Mayor Knight said Island Market has struggled a lot over the years. Councilman Larsen said things are slowly turning back to walking

communities. Councilman Jacobsen said he thought they liked the idea of a mixed use ordinance that would include some commercial. He thought they would tackle them individually.

Councilman Larsen had questions with the 10 acre minimum. Mr. Anhder said he is intimately involved with a development that is 7.5 acres that would be developed to have a spring running through it, walking trails that would connect to the existing walking trails, and trees and landscaping. Without the latitude they would have to have half-acre lots and all the amenities would go away. Mr. Anhder said there are many similar properties. He encouraged the Council to consider something less than 10 acres. The Council changed the minimum planned unit development requirement to five acres.

Councilman Larsen asked if they wanted a planned unit development of manufactured homes (B-1). He said they did not want a planned unit development of manufactured homes. Mr. Anhder said they should not include it in the ordinance and give anyone the idea. The Council discussed if the planned unit development was conditional. Ms. Phippen said under section VI the planned unit development was a rezone and would have to be approved and could be denied. The Council requested the reference of the rezone be moved and placed in a more visible area. Councilman Larsen said he did not need the home occupation listed at all because it was addressed in the land use ordinance. The Council included a reference to the animal land use ordinance. Mayor Knight told Ms. Phippen they needed to define “open space”. Councilman Larsen said they cannot even define open space in their general plan.

Councilman Larsen was concerned on page 3-#2 with the phasing of the amenities. Ms. Phippen said she was not sure about making all the amenities being in place. She could get behind phasing in the amenities with the percentage of the development that is being completed—i.e. 20% of the amenities with 20% of the lots. The Council tasked Ms. Phippen with making it read that way. Mayor Knight said maybe it could be addressed with bonding. Mayor Knight said they would continue the planned unit development discussion later.

### **Council Reports**

Councilman Hansen said the Children’s Christmas party was scheduled for December 12<sup>th</sup> @ 10:00 a.m. at Little Wonders.

Councilman Hansen said he will not be building the Elementary School and Community Center by himself as was quoted in the Herald Journal.

Councilman Larsen questioned the Peterson property and the hole that was dug in the corner. Mayor Knight said they stripped it and are storing dirt that will be used to build the water tank. Councilman Larsen said the Harris’s asked what was going on near their home. Mayor Knight said that was the area where they would be placing the recycle bins. Councilman Larsen said they approved a budget of \$10,900 for the recycle area and asked how much that was costing and if the money had been appropriated. Councilman Larsen addressed the sidewalks that were being built and if they were spending money

that hadn't been appropriated by the Council. Mr. Anhder said they would be reimbursed for the sidewalk across the road. Councilman Larsen thanked everyone that attended the Halloween party. He said it was well attended and that those types of functions built community spirit.

Mayor Knight noted there was a forum for elected officials at the Bridgerland Campus. Mayor Knight said he had heard sentiment that conflict happens and communities that try to avoid conflict are dying and they need to learn how to deal with it. Mayor Knight also referred to stick to your ordinances instead of reacting. Mr. Anhder said developers complain that local official do not know what they are doing. Mayor Knight said Craig Call said he would come up and give them training on land use. He is associated with the league. Councilman Larsen suggested having the training during a Council meeting. Mr. Anhder suggested they bring in the Planning & Zoning Commissioners for that meeting. Mr. Anhder suggested to the Council that when they make appointments to the Planning & Zoning Commission they should require them to attend the land use training.

### **City Manager Report**

Mr. Anhder said they needed to conduct a canvass to the election. It cannot be sooner than 7 days or later than 14 days after the election. He needed a quorum to do that. He interpreted that the Mayor could be involved. The meeting will be held on Wed. November 11<sup>th</sup> at 12:00 at Café Sabor.

Mr. Anhder said in the next meeting that there will be a resolution that the sewer increase that was approved be postponed until July 1<sup>st</sup>. The sewer revenues are good and he did not feel the city needed to be the savings account for the general citizenry.

The meeting was adjourned at 10:08 p.m.