

NIBLEY CITY COUNCIL MEETING

Thursday, November 29, 2007

The following actions were made during the meeting

**Action Item 1: Councilman Jacobsen made a motion to approve Ordinance 07-19, an ordinance establishing requirements for giving public notice for meetings and a variety of land use actions. Seconded by Councilman Mickelson.**

**Councilman Jacobsen made a motion to amend Ordinance 07-19, Chart 10-19-6 to put an “x” in the City Council column for Ordinance Change, New or Existing, erasing superscript in the Planning Commission column. Also adding an “x” on the Subdivision Ordinance in the City Council column erasing superscript on Planning Commission column. Seconded by Councilman Mickelson. Motion to amend passed unanimously.**

**Councilman Larsen made a motion to amend to have a public hearing at the City Council level to vacate, alter or amend a public street or right-a-way. Seconded by Councilman Jacobsen. Motion to amended passed unanimously.**

**Councilman Jacobsen asked for general consent to change the superscript three for a conditional use permit moved from the land use application column to the City Staff column. General consent was given.**

**Councilman Jacobsen asked for general consent to change the heading of the section itself to “Venue for Public Hearings” and also change the column headings for the last three columns to “Venue for Public Hearings”.**

**Councilman Jacobsen withdrew his request but then asked for general consent to have the heading in the table match the heading in the section to say “Land Use Authority for Public Hearings”. General consent was given.**

**Councilman Jacobsen asked for general consent to change footnote #1, he proposed to change the word hear to consider. Reading “the City Council shall consider this matter after the recommendation of this matter”. General consent was given.**

**Councilman Jacobsen then asked for general consent to change on Item 3 the “Planning Commission may designate” to “City Council may designate”. General consent was given.**

**Councilman Larsen made a motion to amend 10-19-8, time for notices to read 72 hours. Seconded by Councilman Mickelson. Motion to amend passed unanimously.**

**Councilman Larsen made a motion to amend to add that notices will be posted in three public locations. Seconded by Councilman Mickelson. Motion to amend passed unanimously.**

**Councilman Larsen made a motion to amend 3-B and 4-C with the additions of subscript “Signs under this section shall meet the following specifications: 1) a sign that shall consist of four foot by four foot (4' x 4') plywood or other hard surface mounted on two (2) Four inch by four inch (4" x 4") posts or attached to another City Manager’s approved support in such a manner that it is perpendicular to the roadway along which the sign is posted and the bottom of the sign is at least three feet (3') above the ground. 2) Centered at the top of the four foot (4' x 4') signboard in six inch (6") letters shall be the words “City of Nibley Public Hearing Notice”. In addition, each sign will inform the public of the nature of the hearing, the date, time and address of the hearing location, a**

summary of the proposal to be considered, a city contact phone number, the location of the development and the name of the applicant, and if applicable, the proposed development. Each sign shall be painted white, and the letters shall be painted black and shall appear on both sides.”  
Seconded by Councilman Jacobsen. Motion to amend passed unanimously.

Motion as amended passed unanimously.

**Action Item 2:** Councilman Harrison made a motion to approve ordinance 07-21, subject to approval of Shari Phippen corrections made in the last three meetings. Seconded by Councilman Mickelson.

General consent was give to change the third whereas to 2002, not 2004.

The motion failed with Councilmen Harrison and Mickelson in favor and Councilmen Jacobsen, Larsen and Mayor Knight opposed to the motion.

OFFICIAL MINUTES OF THE MEETING  
Minutes taken and prepared by Deputy Recorder Jessica Lawes

Mayor Knight called the Thursday, November 29, 2007 Nibley City Council Meeting to order at 6:07 p.m. Those in attendance include City Council Members Scott Larsen, Larry Jacobsen, Jay Harrison and Thayne Mickelson. Councilman Bryan Hansen was excused. Shari Phippen and City Manager Larry Anhder were also in attendance. The meeting took place at the Nibley City Hall, 625 West 3200 South.

**Item 1: Approval of evening's agenda.**

**Councilman Mickelson made a motion to approve the evening's agenda. Seconded by Councilman Larsen. Motion passed unanimously.**

**Item 2: Approval of Ordinance 07-19 establishing requirements for giving public notice for meetings and a variety of land use actions.** Councilman Larsen asked if the chart on 10-19-6 was accurate. Councilman Jacobsen said he researched the state code and said the items he checked within the state code are in compliance. He said he would like to see more public hearings at the City Council level and less at the Planning Commission level to shield the Planning Commission from public clamor. Councilman Larsen said he would like to see additional public hearings at the City Council level even when they are required by the Planning Commission. Councilman Mickelson said that any opportunity for the public to have a voice, the council should take advantage of it. Mayor Knight is worried about redundancy and when there is a hearing at both levels, the Planning Commission feels as though they are getting second guessed by the City Council actions. Larry Anhder said that typically when two hearings are held those citizens that are interested only come to one of the meetings. Councilman Jacobsen said the only things that he thinks need to be added to be heard at both levels are the subdivision ordinance and the land use ordinance. Councilman Larsen thinks that new ordinances should be held at both levels especially the new conservation subdivision. Councilman Mickelson said he has some very specific topics to discuss when it comes to the conservation subdivisions and thinks a lot of input will be needed.

**Councilman Jacobsen made a motion to approve Ordinance 07-19, an ordinance establishing requirements for giving public notice for meetings and a variety of land use actions. Seconded by Councilman Mickelson.**

**Councilman Jacobsen made a motion to amend Ordinance 07-19, Chart 10-19-6 to put an "x" in the City Council column for Ordinance Change, New or Existing, erasing superscript in the Planning Commission column. Also adding an "x" on the Subdivision Ordinance in the City Council column erasing superscript on Planning Commission column. Seconded by Councilman Mickelson.**

During discussion Councilman Jacobsen said he was interested in hearing from City Staff if this was a burden they could tolerate. Larry Anhder said they have already been doing that because of the conflict between state law and the city's ordinance and would be happy to keep doing it.

**Motion to amend passed unanimously.**

Councilman Larsen said the subdivision approval process, as it stands now, that only one public hearing is held at preliminary approval. Larry Anhder said that was per State Law and that in many cities, it is not even done at a City Council level. It is unusual to have a public hearing on such an administrative act. Councilman Larsen said he thinks that if they get a developer in at an early stage it is easier to make changes and will lessen the costs later in development and would like to have hearings on both levels. Mayor Knight said the nice thing about it now is that they come before the Planning Commission, who

are the planners, and get the ideas and two weeks later come to the City Council and give the Planning Commission recommendations, then get the public's comments and then they go back and spend the money to make the changes. Councilman Larsen said he would like to hold a public hearing on subdivision preliminary approval.

Councilman Larsen said the proposal to vacate a road is only heard at the Planning Commission level and if he understands the state code correctly, City Council are the ones that actually vacate the road. He said he would like to hear public comments on these issues because it is not a common occurrence.

**Councilman Larsen made a motion to amend to hold a public hearing at Planning Commission level for preliminary approval of a subdivision. Motion dies for lack of a second.**

**Councilman Larsen made a motion to amend to have a public hearing at the City Council level to vacate, alter or amend a public street or right-a-way. Seconded by Councilman Jacobsen. Motion to amended passed unanimously.**

**Councilman Jacobsen asked for general consent to change the superscript three for a conditional use permit moved from the land use application column to the City Staff column. General consent was given.**

Councilman Jacobsen said that when he picks up the chart, he worries that they are trying to describe the Land Use Authority as opposed to the venue for public hearings.

**Councilman Jacobsen asked for general consent to change the heading of the section itself to "Venue for Public Hearings" and also change the column headings for the last three columns to "Venue for Public Hearings".**

Larry Anhder said the law says the council has to enumerate a land use authority for these actions. Councilman Larsen said they designated the Planning Commission at the last meeting. Larry Anhder said it was only for some actions, the can be a variety of land use authorities depending on the actions.

**Councilman Jacobsen withdrew his request but then asked for general consent to have the heading in the table match the heading in the section to say "Land Use Authority for Public Hearings". General consent was given.**

**Councilman Jacobsen asked for general consent to change footnote #1, he proposed to change the word hear to consider. Reading "the City Council shall consider this matter after the recommendation of this matter".**

Councilman Jacobsen said it was decided to have the City Council designate to City Staff it's Land Use Authority for outlined conditional use permit applications.

**Councilman Jacobsen then asked for general consent to change on Item 3 the "Planning Commission may designate" to "City Council may designate". General consent was given.**

Councilman Larsen said his next suggestion goes along with notification in regards to subdivisions based on research that he has done and a copy of Meridian, Idaho's ordinance he obtained, he would like to make a recommendation to require signs be place at the location and the sign should meet the following requirements or a variation thereof: 1) a sign that shall consist of four foot by four foot (4' x 4') plywood or other hard surface mounted on two (2) four inch by four inch (4" x 4") posts or attached to another director approved support in such a manner that it is perpendicular to the roadway along which the sign is

posted and the bottom of the sign is at least three feet (3') above the ground. 2) Centered at the top of the four foot (4' x 4') signboard in six inch (6") letters shall be the words "City of Nibley Public Hearing Notice". In addition, each sign will inform the public of the nature of the hearing, the date, time and address of the hearing location, a summary of the proposal to be considered, a city contact phone number, the location of the development and the name of the applicant, and if applicable, the proposed development. Each sign shall be painted white, and the letters shall be painted black and shall appear on both sides.

Councilman Larsen said the reason he is proposing this is because he has seen these signs in other communities and thinks it will get the notification public hearings need and has always thought it was a good idea and is better than the little sign that was being done while Conley Thompson was here. Councilman Mickelson asked whose responsibility it would be to post the signs, the city or the developer. Shari Phippen said if the city has a form made up then the city can provide the sign and the developer will have to put it in the ground. It would be something that would be used every time. Larry Anhder suggested not have the city be responsible for the signs, just give them the dimensions when it is put out come back in and let the city know it has been done. Councilman Larsen said it was the intention to have the developer be responsible. Councilman Mickelson said if the city is going to start using a sign people will get used to it being their notifications for changes, the city needs to be consistent with the idea. Councilman Larsen said this is only for subdivision and vacation of roads. Mayor Knight said it will all be detailed in the packet the developer will receive when they apply.

Councilman Larsen asked if section 10-19-8 of ordinance 17-19 was changed to read notices would be 72 hours. Mayor Knight said he thought it was general consent to change to 72 hours. Larry Anhder said it was never changed.

**Councilman Larsen made a motion to amend 10-19-8, time for notices to read 72 hours. Seconded by Councilman Mickelson. Motion to amend passed unanimously.**

Councilman Larsen said he would rather have three public locations instead on just one. Maybe just change the locations that are already in place. Mayor Knight said the reasoning behind changing it to one location was that notices would be posted on the City's website. Larry Anhder said it was old state law that said three public locations, new state law only says one. Councilman Larsen said not everyone has access to the internet and does not think it is too hard to place in three locations. Councilman Harrison said one location is fine with him. Councilman Mickelson said it depends on the locations and would like to discuss different locations, more valuable places and is not opposed to three locations.

**Councilman Larsen made a motion to amend to add that notices will be posted in three public locations. Seconded by Councilman Mickelson. Motion to amend passed unanimously.**

Audience member Dave Poulsen said he agrees with Councilman Larsen and if the citizens are directed to the website on those signs it will get the attention wanted.

**Councilman Larsen made a motion to amend 3-B and 4-C with the additions of subscript "Signs under this section shall meet the following specifications: 1) a sign that shall consist of four foot by four foot (4' x 4') plywood or other hard surface mounted on two (2) Four inch by four inch (4" x 4") posts or attached to another City Manager's approved support in such a manner that it is perpendicular to the roadway along which the sign is posted and the bottom of the sign is at least three feet (3') above the ground. 2) Centered at the top of the four foot (4' x 4') signboard in six inch (6") letters shall be the words "City of Nibley Public Hearing Notice". In addition, each sign will inform the public of the nature of the hearing, the date, time and address of the hearing location, a summary of the proposal to be considered, a city contact phone number, the location of the**

**development and the name of the applicant, and if applicable, the proposed development. Each sign shall be painted white, and the letters shall be painted black and shall appear on both sides.”  
Seconded by Councilman Jacobsen. Motion to amend passed unanimously.**

Councilman Jacobsen asked Dave Poulsen if he felt they had made progress in parting the burdens or veil that runs down the center of the table and if not what do they need to do to make it better. Mr. Poulsen said that he did not see anything wrong with going the extra mile in letting people know what is going on. He suggested putting the sign at the main entrances to the city so that people would see them. He even suggested making them red; saying red is an alarm color.

**Motion as amended passed unanimously.**

**Item 3: Consideration of Ordinance 07-21: Adoption of the new Nibley City General Plan.**

During discussion the Council came up with the following accepted changes to the General Plan:\*

- Page 88
  - 1.0- Background Information: Strike the phrase “and above-average home prices” from the opening sentence.
  - Affordable Housing Requirements: revise the first paragraph so it reads:
    - “Section 10-92-403 of the Utah State Code establishes the availability of moderate-income housing as a statewide concern, and it requires municipalities to propose a plan for moderate-income housing as part of their general plan. “Moderate-income housing” is defined by 10-9a-103-21 of the Utah State Code as “...housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.” This is commonly referred to as the area median income (AMI).
- Page 93
  - Revise the last sentence of the top paragraph to read:
    - The lack of 18-24 year olds in the City may be attributed to many moving out of Nibley to attend school, to find entry-level work, or to find more affordable housing.
- Page 101
  - Add the following subdivisions to the chart “Recent and Planned Subdivision Development”:
    - Shadow Crest
    - Ashbury Estates
    - Zollinger Acres
    - Foxborough
- Page 112
  - Add a policy to Objective 2 which reads:
    - Multi-family and high-density housing shall have minimal impact on surrounding single-family housing.
- Page 113

- Add a policies to Objective 3 which read:
  - All street lighting plans shall be designed to be dark sky compliant.
  - Require street lights rather than yard lights in new subdivision areas. Coordinate a city-wide street lighting master plan.
- Revise the second policy of Objective 4 to read:
  - Develop and implement an urban forestry program that includes a shade tree and landscape ordinance to encourage a quality urban environment.
- Page 115
  - Revise the fourth policy of Objective 9 to read:
    - Require on-site management of larger multi-family developments.
- Page 116
  - Strike the fourth policy of Objective 11 which currently reads “Encourage the use of vacant lots within existing residential subdivisions.”
- Page 124
  - Strike, in its entirety, the paragraph heading “Cost of Service to Annex Area” and the paragraph that follows.
  - Clarify the introduction to Objective 2 so that it reads:
    - Promote the creation of area wide plans, especially a comprehensive general plan of Southern Cache County and Blacksmith Fork Canyon...
- Page 130
  - Revise the first policy under Objective 2 to read:
    - All on-site public infrastructure and related facilities required by a development will be constructed according to City standards and specifications and paid for by the developer.
- Page 132
  - Revise Objective 7 to read:
    - Support delivery of high quality and cost effective telecommunications services to Nibley residents

\* Summary prepared by Shari Phippen.

**Item 4: Discussion:**

Councilman Jacobsen said he had an issue to discuss with the council. He said the last time anonymous letters got put into mailboxes, the entire Planning Commission got called dishonest and that they had hidden agendas by a bunch of people that did not understand what was being proposed. He then asked Councilman Mickelson if he had anything to do with a letter that was put into mailboxes along Hollow Road. Councilman Mickelson said he did not have anything to do with writing the letter but he did help distribute it. Councilman Jacobsen said it was not good policy and what they are up against now needs to be talked about now. Councilman Mickelson said he has a responsibility to citizens that live in that area and if they think it is the Council’s goal to buy property along Hollow Road he needs to explain. Councilman Jacobsen then asked why it was a problem if he decides to sell his property or if anyone else does for the City to put a bid on that property. Councilman Mickelson said it is his responsibility to inform the citizens about what is going on. Councilman Larsen said he thinks Councilman Mickelson has a false understanding of what was just discussed and the direction for staff to come up with different wording. If he did, he would know what their intentions are. Councilman Mickelson said if the City is going to seek to obtain river bottom property that pretty much tells what the intentions are, trails. Larry Anhder said trails have been in the plan from the beginning. Councilman Larsen said the wording is was

changed to not state actively look or seeking, what the council wants is that if land becomes available the City would like to look at it. If it is not feasible then the land is not purchased. The City is not going to go knock on doors and propose to purchase unless there is a immediate need, like a water storage area. Councilman Mickelson asked why it had to state river bottom land, why not just land. Councilman Jacobsen said this issue needs to be controlled now and if it is gong to happen let it happen, no anonymous letters. It is the wrong approach to City government.

Mayor Knight said there is a statement in the general plan, as proposed, that is critical to this discussion and asked Shari Phippen to read it. Shari Phippen read: "It is not the intent of the city to condemn land to develop the trail system. Trail development is done at land owner's digression". Mayor Knight said that was the biggest concern from the residents that border the river. Councilman Jacobsen said he was the one that coined that phrase in anther discussion. He said he does not want this general plan to be torpedoed for that one policy. He suggested it be taken out. Mayor Knight he does not have a problem with the wording that the council decided and thinks the Council's motivations is pure, not covert and underhanded. He thinks there are adequate safeguards and trust. Councilman Jacobsen said he would still like it pulled. He does not think that statement needs to be in the general plan to give the City authority to put a bid on land if it comes up for sale. It is not worth fighting the battle at this point. Mayor Knight said he agrees with Councilman Jacobsen, it is an easy way to defuse a potential problem. Mayor Knight asked if everybody was okay with removing the policy. Councilman Larsen said he has not seen the wording yet. Councilman Harrison said if the wording is properly explained he does not think it will be a problem but it is not worth the risk, take it out.

Councilman Larsen said he still had questions on the general plan discussion summaries that Shari Phippen had prepared and would like a chance to see them all. Councilman Harrison suggested approving the ordinance subject to satisfactorily looking at Shari Phippen's summary notes.

**Councilman Harrison made a motion to approve ordinance 07-21, subject to approval of Shari Phippen corrections made in the last three meetings. Seconded by Councilman Mickelson.**

During discussion Shawn Dustin asked if any action was going to be taken on the proposal and petition of Nibley Parkway road. Mayor Knight said it was taken into consideration and that as it stands, they would not take any action. It will stay a local road that is shown on the map. Shawn Dustin said that he is disappointed with the council that they can take into consideration the feelings of the citizens on Hollow Road and not those that live along Nibley Parkway. Mayor Knight said the discussion that came from that and where they differ is that the council felt that after the expatiations that were made by council to the citizens, that the citizens understood that it was not going to be a truck route and there would be care taken in the design between where that road currently terminates and hooks up to Nibley Parkway in traffic calming devices and the citizens understood that the council's intent was not to make that a major thorough fair road.

Councilman Larsen said that if they are adopting ordinance 07-21 as written, the third whereas is wrong. It was never adopted on 2004, he said he was on the council then and it was never adopted.

**General consent was give to change the third whereas to 2002, not 2004.**

Councilman Jacobsen asked what they were saving by making a partial adoption. Mayor Knight said the only items that will be discussed next meeting will be those that Shari Phippen has recovered as the recommended changes. Councilman Harrison said it will limit what is focused on. Councilman Jacobsen said he would benefit by seeing the whole thing and if something new comes up he would like to be able to bring it up. Councilman Larsen said he agrees with Councilman Jacobsen. He would like to see all changes together.

**Mayor Knight then called the December 6, 2007 meeting for 5 p.m. and asked the council to read through the summary that Shari Phippen provides them so that they can quickly move through.**

**The motion failed with Councilmen Harrison and Mickelson in favor and Councilmen Jacobsen, Larsen and Mayor Knight opposed to the motion.**

**Item 5: Council Reports -**

Councilman Mickelson:

Councilman Mickelson asked Larry Anhder if he had ever contacted Smith, the car repair shop. Larry Anhder said he tried once and forget. He then asked Larry Anhder if he was going to the water meeting at the Capital Building. Larry Anhder said he was on the committee and would be there.

Councilman Mickelson said the beer sales issue is something that they will have to address and when it come time to do so, he would like to present a whole different take and would like the rest of the council to think about it. He would like to make a presentation about responsibility, not regulation. He said his wife said she would like to work with the other council member's spouses and address a responsible community. He said he thinks they are fighting a losing battle. Mayor Knight said it will be on the agenda on January 6, 2008. Councilman Mickelson said he would like to give a short presentation with a video of a person that was injured by a drunk driver. Councilman Jacobsen said the city owes the citizens the discussion and is looking forward to having it.

**Item 6: City Manager's Report:**

Larry Anhder said that new council orientation will be held in Logan on January 5, 2008 and to let him know if any would like to go.

Larry Anhder said a meeting was held on the 3200 South road construction and he was highly disappointed with the turn out and is still working on getting easements.

Larry Anhder said the Swearing In Ceremony for new council member will be held on the first Monday in January, which means there will be a council meeting before the swearing in.

Larry Anhder said he has proposed a joint meeting the City Council and the Planning Commission on Wednesday, December 12, 2007 from 6 to 8 p.m. where a presentation will be made by the staff and the consultant on the conservation subdivision ordinance.

**Item 7: Adjournment:** General consent to adjourn at 12:08 a.m.

Signed \_\_\_\_\_  
Mayor Gerald Knight

Attest \_\_\_\_\_  
Assistant Deputy Recorder