



NIBLEY CITY COUNCIL MEETING AGENDA
Thursday, May 4, 2017 – 6:30 p.m.
Nibley City Hall 455 West 3200 South, Nibley, Utah

1. Opening Ceremonies (Mayor Dustin)
2. Call to Order and Roll Call (Chair)
3. Approval of Minutes and Agenda (Chair)
4. Public Comment Period¹ (Chair)

5. Report by Ron Hellstern regarding the South Valley Loaves and Fishes Project
6. Conflict Disclosure and Selection of Mayor Pro-Tem for Items 6 and 7
7. A public hearing to receive comment regarding a preliminary plat for the Tin Rope Subdivision, located at approximately 500 W and 3200 S
8. Discussion of a preliminary plat for the Tin Rope Subdivision, located at approximately 500 W 3200 S
9. A public hearing to receive comment regarding Ordinance 17-09: Canal Ordinance
10. Discussion and Consideration of Ordinance 17-09: Canal Ordinance
11. Discussion regarding food vendors in Nibley City parks
12. Discussion and Consideration of Resolution 17-06: A RESOLUTION AMENDING THE BUDGET FOR VARIOUS FUNDS OF NIBLEY CITY FOR FISCAL YEAR 2016-17, ADOPTING THE BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS FOR FISCAL YEAR 2017-18 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES (First Reading)
13. Discussion and Consideration of Ordinance 17-10: AN ORDINANCE PROVIDING FOR THE COMPENSATION OF ELECTED AND STATUTORY OFFICERS OF NIBLEY CITY (First Reading)
14. Council and Staff Reports
15. Adjourn to Closed Session to discuss the purchase of real property pursuant to Utah Code 52-4-205

Adjourn Meeting

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 752-0431 A MINIMUM OF 24 HOURS BEFORE THE MEETING.

¹ Public input is welcomed at all City Council Meetings. 15 minutes have been allotted to receive verbal public comment. Verbal comments shall be limited to 3 minutes per person. A sign-up sheet is available at the entrance to the Council Chambers starting 15 minutes prior to each council meeting and at the rostrum for the duration of the public comment period. Commenters shall identify themselves by name and address on the comment form and verbally for inclusion in the record. Comment will be taken in the order shown on the sign-up sheet. Written comment will also be accepted and entered into the record for the meeting if received prior to the conclusion of the meeting. Comments determined by the presiding officer to be in violation of Council meeting rules shall be ruled out of order.



**Nibley City Council
Agenda Report for
May 4, 2017**

Agenda Item # 5

Description	Report by Ron Hellstern regarding the South Valley Loaves and Fishes Project
Department	City Council
Presenter	Ron Hellstern, Nibley Citizen
Applicant	
Background	The Loaves and Fishes Project is an interfaith effort to provide a weekly meal to people in need. The project began in recent years in Logan with several churches and non-profit organizations partnering together to provide a weekly meal to residents who might be elderly, disabled, poor or seeking social connections. Mr. Hellstern is working with leaders in the south end of Cache Valley to identify options for expanding the program in this region. He has met with Hyrum City leaders about the possibility of using the Hyrum Senior Center for the South Valley site and would like to tell the Nibley City Council about the progress of the potential expansion. He would also like to discuss the potential for Nibley City to financially support the project.
Findings	
Recommendation	Receive the report and discuss options for support. Give staff direction on any potential support.
Reviewed By	Mayor and City Manager

Agenda Item # 6

Description	Conflict Disclosure and Selection of Mayor Pro-Tem for Items 6 and 7
Department	City Council
Presenter	Shaun Dustin, Mayor
Applicant	
Background	In compliance with the Municipal Officers and Employees Ethics Act, Mayor Dustin has filed a written disclosure with Nibley City disclosing his involvement as a partner in the Tin Rope subdivision. In addition to the written disclosure, the Ethics Act requires elected officials with a conflict of interest to also announce the conflict of interest at the Council meeting before the item is addressed. Agenda items 6 and 7 on this agenda will address the Tin Rope subdivision. The Ethics Act does not require Mayor Dustin to recuse himself from chairing the meeting while his item is addressed; however, Mayor Dustin has voluntarily chosen to recuse himself from chairing the meeting during that time. Therefore, a Mayor Pro-Tem will need to be selected to temporarily chair the meeting during items 6 and 7.
Findings	
Recommendation	Receive the disclosure from Mayor Dustin and select a Mayor Pro-Tem.
Reviewed By	Mayor and City Manager

Agenda Item #s 7 & 8

<p>Description</p>	<p>A public hearing to receive comment regarding a preliminary plat for the Tin Rope Subdivision, located at approximately 500 W and 3200 S</p> <p>And</p> <p>Discussion of a preliminary plat for the Tin Rope Subdivision, located at approximately 500 W 3200 S</p>													
<p>Department</p>	<p>Planning</p>													
<p>Presenter</p>	<p>Stephen Nelson, City Planner</p>													
<p>Applicant</p>	<p>Shaun Dustin</p>													
<p>Background</p>	<p>The Tin Rope Subdivision is a 35-lot, 20 acre proposed conservation subdivision located at approximately 3200 S and 500 W. The applicant, Shaun Dustin, is the Mayor of Nibley City and has filed the proper disclosure paper work with the City as required by Nibley Code and State Law.</p> <p>The following is a breakdown of Conservation Land in the subdivision:</p> <table border="1" data-bbox="480 1077 1438 1497"> <tr> <td data-bbox="480 1077 1114 1140"> <p>Total Gross Acres of Subdivided Land</p> </td> <td data-bbox="1117 1077 1438 1140"> <p>20</p> </td> </tr> <tr> <td data-bbox="480 1144 1114 1207"> <p>Total Developable Acres</p> </td> <td data-bbox="1117 1144 1438 1207"> <p>16.44</p> </td> </tr> <tr> <td data-bbox="480 1211 1114 1274"> <p>Total Conservation Land</p> </td> <td data-bbox="1117 1211 1438 1274"> <p>3.32</p> </td> </tr> <tr> <td data-bbox="480 1278 1114 1341"> <p>Conservation Percentage</p> </td> <td data-bbox="1117 1278 1438 1341"> <p>20%</p> </td> </tr> <tr> <td data-bbox="480 1346 1114 1409"> <p>Incentive Multiplier</p> </td> <td data-bbox="1117 1346 1438 1409"> <p>18.75%</p> </td> </tr> <tr> <td data-bbox="480 1413 1114 1497"> <p>Total Lots allowed</p> </td> <td data-bbox="1117 1413 1438 1497"> <p>38</p> </td> </tr> </table>		<p>Total Gross Acres of Subdivided Land</p>	<p>20</p>	<p>Total Developable Acres</p>	<p>16.44</p>	<p>Total Conservation Land</p>	<p>3.32</p>	<p>Conservation Percentage</p>	<p>20%</p>	<p>Incentive Multiplier</p>	<p>18.75%</p>	<p>Total Lots allowed</p>	<p>38</p>
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	R-2 Zone 20% Conservation Subdivision Requirements	Tin Rope Actuals
Min Lot Size	12,000 sq. ft.	12,196 sq. ft.
Average Lot Size	≥ 14,673 sq. ft.	20,460 sq. ft.
Frontage	≥ 100 ft.	All lots comply
Total Lots Allowed	38	35

Engineer and Staff Review

The City engineer and staff have had a chance to review the lots and the proposed infrastructure changes. The plat contains all the of the requirements that are in Nibley City Code 11-4-1 Standards of Approval-Preliminary Plats, except that lots 33-35 have setback lines as required, but several of these setback lines intersect conservation land. Staff has also requested more information about the plan for lot 35. As the lot is drawn right now, staff is unsure how a building could be added with the small amount of developable space that is not listed as conservation area or canal easements. There are also a couple of minor errors with signature boxes. However, staff believes that these items can be easily corrected with the final plat. The plat includes all necessary infrastructure for water and sewer lines, Rights-of-way and trails. All of the frontages, minimum lot sizes, and average lot sizes meet Nibley City Code.

Conservation Land

The developer has proposed 3.32 acres of Conservation Land. These areas are to serve as buffer zones and will conserve some of the natural areas surrounding the canal, wetland, and tree stands. These lots are being proposed to be privately owned and to be used as open space, natural landscape and could serve as overflow for stormwater.

There were a couple of concerns that were brought up by staff and the Planning Commission. A concern that was mentioned by the Planning Commission was

that once the south parcel is developed, the wetland and conservation area may not be visible to the public as outlined in the Nibley City Code 10-18-14 (D). The Commission is also concerned that the two conservation areas on the North side of the property may not provide the value and use the Commission would like to see. Nibley City Code 10-18-13 (B) gives the Planning Commission the authority to approve conservation areas less than .5 acres. The Planning Commission has recommended to the developer that land along 3200 S be used as a buffer area. The developer has responded to those concerns by adding conservation space along 3200 S and 450 W. The Commission has recommended approval of the conservation lots.

The Commission has also requested that the Developer provide a plan on how each of these pieces of property will be maintained and watered. The Developer will need to submit a Maintenance Plan as outlined in Nibley City Code 10-18-17. This plan will outline ownership, cost, funding and other aspects of the plan for the conservation land within the subdivision and will be required with the final plat.

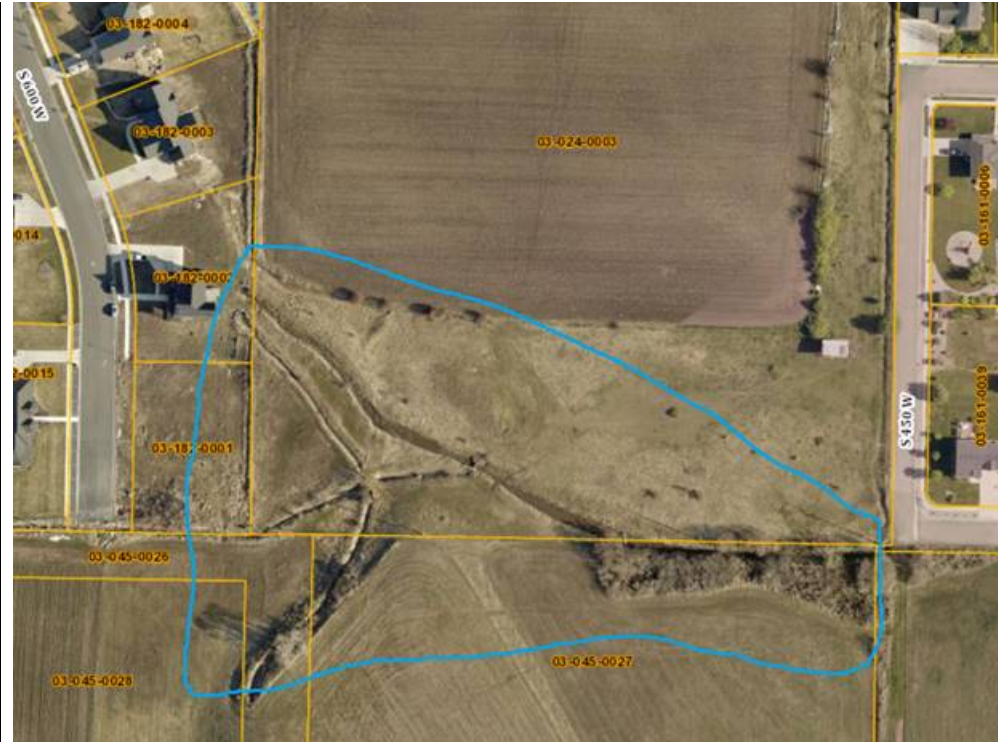
The Developer is also proposing to use the trails listed on the plat as conservation land. However, even if the trail spaces are not counted toward the conservation land requirements, the development would still have sufficient conservation land included.

Canal and Wetland

There are canals, ditches, wetlands and floodplain on the southern side of the property. As the wetland is currently mapped, it takes up a large space on the south end. All of these features are clearly marked on the plat as required by Nibley City code. Staff does have some concerns about lot 35 since most of that lot is occupied by wetland, conservation land and canals, making the buildable area very small.

It is also important to note that all or a portion of lots 29 and 33-35 are in the 100-year flood plain occupy all or a portion of the lot. Nibley does not have a code prohibiting from building in the 100-year flood plain.

The aerial photo below outlines the general area of the flood plain, irrigation canals and ditches and wetlands.



Trails

There are several trails that are being proposed in the subdivision. The first trail is on the West side of the subdivision on Harry Street between lots 26 and 27. This trail connects to a stormwater pond owned by Nibley City. The City has a 20' maintenance access through parcel 03-182-0004 that connects 600 W to that pond. However, that access is not a public easement and was intended only to be used by City workers to maintain the stormwater pond. In order to open the trail up from Ashbury Estates, the City would need to secure some sort of public access to the trail. However, the trail in the Tin Rope Subdivision could also be used by City staff for access to the Ashbury Estates stormwater pond.

The next trail is in the middle of the subdivision and connects Scout Street and Harry Street. It runs between lots 16 and 17 then lots 12 and 13.

The next trail is on Scout Street between lots 2 and 3. This trail's purpose would be to connect to a potential future walkway to Anhder Park as reflected in the proposed trail system in the new Master Trails Plan being developed by the City. That trail would extend from the Cottages Development on 250 W and then will continue North up to 2600 S. This trail is referred to as the City Center Trail.



Another change that should be pointed out is that, the first time the City Council reviewed this plat, the south end of the subdivision was show as a remainder parcel. It now shows 7 additional lots drawn in that area, as well as a new cul-de-sac on the street called Apple Tree Fort. With the addition of the cul-de-sac, the developer has included a pedestrian ROW, as required in Nibley City code 11-5-5 (E), that runs Northeast and Southwest between the cul-de-sac and the southern boundary of the subdivision. This would connect to a 10' trail easement that runs along the south side of the parcel. This trail will connect to the City Center Trail and is being proposed on the New Trails Master Plan.

One trail that is lacking in the subdivision that is being proposed in the new Trail Master Plan is the City Center Trail. The proposed master plan shows that the City Center Trail would travel along the entire eastern boundary of the subdivision. However, the Master Plan has not been adopted by the City Council yet and the trail is not required, but staff believes the City should encourage the trail be included.

Trail Requirements: There are a couple of places in City code that require a trail and provide some guidelines for those trails. One requirement, listed in Nibley City code 11-5-5 (E), is for a "pedestrian ROW" out of each cul-de-sac. The code gives clear standards for these trails as follows:

"The right-of-way shall consist of a minimum 5' sidewalk and a minimum 7.5' landscaped area on each side of the sidewalk. The Developer shall submit a compliant Landscaping Plan to the City for approval. The ROW shall be dedicated to the City upon completion and acceptance by the Public Works Director."

These standards only apply to trails and pedestrian ROW's that leave a cul-de-sac. Even these standards do not state what type of landscaping is required, but just that the Public Works Director needs to accept them.

The next place that trails are required is Nibley City Code 11-5-6. It requires that if a road segment is longer than 660 ft., the development must provide, at a minimum of 660 ft. intervals, a pedestrian ROW according to the same standards listed above. Staff has interpreted this measurement to take place at the centerline of the road. Staff has also interpreted this code that if a street turns 90 degrees towards the nearest ROW before the 660 ft. that it is no longer the same road segment. The cross section requirements listed in this code section only apply to those trails at 660 ft. intervals for pedestrian ROWs, and not trails in general.

The City is currently working on a Trails Master Plan, which will give the City better standards to know what cross section to require for trails.

Roads

The Transportation Master Plan calls for a local 60 ft. ROW to connect from 3200 S to 450 W on this parcel to create another North-South connection from 500 W to the area south of this subdivision. This plat proposes that connection and provides a 66 ft. ROW. The developer will also complete 450 W, on the east side of this subdivision, which is currently only a half road. Unlike the master road plan, the proposed connection goes through a couple of intersections and makes about four 90 degree turns. However, staff feels that the connection complies with the intent of the Transportation Master Plan.

There are two lots on 3200 S and the developer has agreed to have those lots face the interior of the subdivision.

The developer will also need to put in improvements along 3200 S. Those improvements will be included with the construction drawings for the final plat application.

Stormwater and Utilities

The plat complies with Nibley City requirements for utility lines and connections within the subdivision. For stormwater, the Developer has proposed a Low-impact Development (LID) option using roadside swales instead of curb and gutter. This option will help maintain the rural look of the area. However, Nibley City will require a percolation test to ensure the system meets Nibley City

	<p>standards. The Developer will also need to provide a plan for overflow needs within the system. One item that has been discussed is to use the conservation land on the north-west end of the subdivision as stormwater ponds. The need will be based on calculations that the City requires before the final plat approval.</p>
Findings	<p>All of the lot frontages and sizes meet Nibley City conservation standards.</p> <p>The plat has received a recommendation of approval from the Planning Commission.</p> <p>The Commission approved of the layout of the conservation land under .5 acres as stated by Nibley City Code 10-18-13 (B) (1)</p> <p>All other aspects of the plat comply with Nibley City code for a preliminary plat except for a few minor errors that staff believes can be fixed with the final plat before approval. Staff has sent a letter to the developer regarding the changes.</p> <p>The public infrastructure complies with Nibley City's adopted master plans and design standards.</p>
Final Impact	<p>There are several costs associated with new development and the higher impact that it brings on City infrastructure. However, these costs are offset by impact fees and other development fees, as well as property taxes and utility fees.</p>
Recommendation	<p>Approve the preliminary plat for the Tin Rope Subdivision</p>
Reviewed By	<p>City Planner, City Building Inspector, City Public Works Director, City Engineer, City Manager, and Nibley City Planning Commission.</p>

Agenda Item #s 9 & 10

Description	A public hearing to receive comment regarding the proposed Nibley City Canal Ordinance And Discussion and consideration of a proposed Nibley City Canal Ordinance
Department	Planning
Presenter	Stephen Nelson, City Planner
Applicant	N/A
Background	<p>After the first review of this ordinance on April 20, 2017, the City Council asked for Staff to make a few changes to the proposed ordinance. Staff has made the proposed changes.</p> <p>Easement vs. Right-of-Way</p> <p>At the last meeting, the Council expressed some concern about the difference between Rights-of-Way and Easements, as listed in the ordinance. Staff has added Sections 2 and 3 to help define them as they are used within this ordinance:</p> <p>2. Rights-of-Way or Right-of-Way as used in this Ordinance shall refer to land dedicated to the City, for use by the public, if the City chooses, as open space, park space or trails; and for the use of the Conveyance company and City for conveying of irrigation and stormwater and for the maintenance and repairs of the Conveyance or other infrastructure along the Conveyance. Typically, the underlying land will be publicly owned and will be subject to the Right-of-Way and uses described in this paragraph.</p> <p>3. Easement, as used in this ordinance, shall refer to legal and permanent access granted along an irrigation conveyance or canal on private land for the use of the canal company or City for conveying of irrigation and storm water and for the maintenance and repairs of the Conveyance or other infrastructure along the Conveyance.</p> <p>Staff believes that, with these definitions in the ordinance, it will help clarify the expectations of the code. Staff and the City Attorney have gone through the proposed ordinance to clean up language after the definition clarifications were added.</p>

As part of this update, staff has removed parts of Section 7 (what used to be 5) to no longer require easements to be recorded on the plat for any land use change or new permit issued for a property.

Section 5 Table:

Nibley City staff has also added a table to section 5 to allow for easier reading of the requirements.

Capacity of Irrigation Conveyance	Required Right-of-Way Width
40 CFS or greater	30'
≥ 20 and less than 40	20'
Less than 20	15'
Piped	20'

Section 5 Concerns:

One of the main concerns about the new ordinance is that it would require developers to provide Rights-of-way along canals to the City according to the table above. This could possibly mean that a lot of space would be given to the City for maintenance.

Other options, instead of requiring a right-of-way, would be to encourage Rights-of-Way in areas where the City wants a ROW, by providing some incentive or less-stringent requirements. Below are some examples

“Developers who choose to establish deeded public rights-of-way along open canals and waterways shall be entitled to an increased (10%) density bonus.”

Or

“Developers must install trails along open water conveyance in areas where the Nibley City Parks and Recreation or Transportation Master Plan show a planned trail.”

Or

“If a new subdivision is providing open space or conservation space for a subdivision that has a water conveyance within the development, X% of that open space must be adjacent to the water conveyance.”

There could also be incentives to keep canals open for a developer and offer them a higher density if that open space is along an open canal. However,

Irrigation Companies are within their right to pipe their canals.

Below are the Agenda Item Report notes from the April 20, 2017 City Council Meeting, for reference:

The Nibley City Planning Commission, the Nibley Blacksmith Fork and College Irrigation companies and staff have been working on a proposed Canal Ordinance with the following goals:

- To help establish and/or clarify canal easement and setbacks in the City
- To codify aspects of the operating legal agreement the City has with the Blacksmith Fork Irrigation Company
- To protect the canal from being altered or obstructed without the consent of the canal company
- To further establish legal penalties and enforcement policies for those who alter a canal without permission
- To protect the rights of residents, irrigation companies, shareholders and Nibley City
- To create options for land use next to canals as land transitions from agricultural use to other uses
- To allow the City to continue to use canals for stormwater purposes.

Here are some highlights from the proposed code:

Section 5 (formerly 3)

Section 5 establishes that easements or rights-of-way shall be dedicated to the City with new subdivisions along canals. Each easement established shall be based on the size of the canal capacity. As the canal gets smaller, the easement required also shrinks in size. The easement alignment shall be agreed upon by the City and canal company with the developer.

Section 6 (formerly 4)

Section 6 primarily deals with establishing setbacks for canals. According to Nibley's operating agreement with the Nibley Blacksmith Fork Irrigation Company, there should be a 15 ft. setback from the top of the inside bank along all both sides of open canals and 10 ft. from the centerline of both sides of a piped canal. However, the agreement also provides that this can be modified as if agreed to by the parties. Section 7 provides an option to submit to the canal company a plan to place items such as fences, bridges or other items closer to the canal with the canal company's permission.

Section 7 (formerly 5)

Section 7 requires that, when there is a change in land use, a formal easement be recorded.

Section 8 (formerly 6)

This section outlines different requirements and some conditions about Nibley’s access to the Blacksmith Fork Irrigation Company’s canals. A lot of this verbiage is taken directly from the City’s legal agreement with the Blacksmith Fork Irrigation Company. One of the primary issues this section addresses is the construction of new stormwater inlet structures and the process for the City to gain permission for these new pieces of infrastructure.

Section 12 (formerly 10)

Section 12 outlines the conditions for approval for the use of a canal for stormwater conveyance. The nature of canals is that they sometimes decrease in capacity the further down system the water goes. This is because, when used for irrigation, water is drawn out of the canal and less capacity is necessary after that point. Stormwater systems are designed to increase in size the further down system water goes as the system gains more water from runoff. Therefore it is important that the City and canal company consider the size of a canal at its smallest point when considering if it can be used for stormwater overflow. It is also important that canal water be given priority above that of stormwater. Section 10 seeks to lay out conditions for the City and canal company to consider for conveying stormwater.

Section 14 (formerly 12)

Section 14 outlines an appeal process for any land use application that is denied by the City in reference to this ordinance.

Section 15-20 (formerly 13-18)

These sections are aimed at protecting the integrity of the canal and providing a real consequence for violations. Some of these items include putting things in the canal such as green waste, garbage, poles, and other items that could cause problems or clogs in the canal. It also outlines that residents are not allowed to alter the canal, its banks or even the hillside that the canal rests on without the canal company’s permission.

Financial Impact

There are cost for enforcing and reviewing compliance with ordinances.

Recommendation	Make a motion to approve the first reading of this ordinance.
Reviewed By	City Planner, City Attorney, City Public Works Director, City Engineer, City Manager, Planning Commission and Mayor, Also reviewed by the Blacksmith Fork Irrigation Company and the College Ward Irrigation Company

Agenda Item # 11

Description	Discussion regarding food vendors in Nibley City parks
Department	Planning and Parks
Presenter	Stephen Nelson, City Planner
Applicant	
Background	Nibley City was recently contacted by a local food vendor who asked about the possibility of selling food items in Nibley City parks. Staff has done some research and had some discussions with the vendor and would like to present potential options to the Council for direction.
Findings	
Recommendation	Receive the staff report and provide direction to staff.
Reviewed By	Mayor, City Manager, City Planner

Agenda Item #12

Description	Discussion and Consideration of Resolution 17-06: A RESOLUTION AMENDING THE BUDGET FOR VARIOUS FUNDS OF NIBLEY CITY FOR FISCAL YEAR 2016-17, ADOPTING THE BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS FOR FISCAL YEAR 2017-18 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES (First Reading)
Department	City Council
Presenter	Shaun Dustin, Mayor David Zook, City Manager
Background	<p>The first draft of the budget for the next fiscal year will be presented to the City Council and public. Staff will present and review various accomplishments, changes and proposals in the budget. A public hearing regarding the budget will be held at a future meeting.</p> <p>State law requires the City Council to adopt the first draft of the annual budget at the Council's first meeting in May. By state law, the budget will also need to be adopted by the second meeting in June at the latest.</p> <p>Resolution 17-06 would adopt the budget for the next fiscal year, as well as make any final adjustments to the current year budget.</p> <p>Approval of this resolution would increase the stormwater fee from \$6.75 to \$7.00 per month per residence and proposes to keep the property tax rate at its current rate of 0.001667. If Cache County certifies a tax rate lower than this rate, this rate will not become the final adopted rate until after the City holds a truth in taxation hearing on August 3.</p> <p>Additional changes are expected before final adoption.</p>
Recommendation	Provide staff with direction on any proposed changes and make a motion to advance the resolution to the second reading.
Financial Impact	The total City budget for the next fiscal year is proposed to be approximately \$8 million dollars. This is an increase from last year due mostly to the Firefly Park construction project, which will be nearly a half million dollar project. There is also more than 1 million dollars in the capital project fund and several large equipment purchases proposed.
Reviewed By	Mayor, City Manager, All Departments

Agenda Item #13

Description	Public Hearing and Discussion and Consideration of Ordinance 17-10: AN ORDINANCE PROVIDING FOR THE COMPENSATION OF ELECTED AND STATUTORY OFFICERS OF NIBLEY CITY (First Reading)																				
Department	City Council																				
Presenter	Shaun Dustin, Mayor David Zook, City Manager																				
Background	<p>In 2015, the City Council established a policy of adjusting elected official stipends annually at the same rate as salaries are adjusted for other employees. A 2% cost of living adjustment (COLA) is being proposed in this budget for employees, therefore elected official compensation is proposed to be increased by an equal amount. The salary for the justice court judge is proposed to be increased commensurate with raises given to other city staff, as required by state law.</p> <p>The compensation of the elected and statutory officers is proposed as follows:</p> <table data-bbox="440 978 1409 1155"> <thead> <tr> <th>Office:</th> <th>Present Salary:</th> <th>Proposed Salary:</th> <th>Increase:</th> </tr> </thead> <tbody> <tr> <td>Mayor</td> <td>\$780/month</td> <td>\$796/month</td> <td>\$16/month</td> </tr> <tr> <td>Councilmember</td> <td>\$312/month</td> <td>\$318/month</td> <td>\$6/month</td> </tr> <tr> <td>Judge</td> <td>\$1114/month</td> <td>\$1147/month</td> <td>\$22/month</td> </tr> <tr> <td>Treasurer</td> <td>\$35,096-\$51,629/yr</td> <td>\$35,797-\$52,661/yr</td> <td>\$701-1,032/year</td> </tr> </tbody> </table> <p>A public hearing regarding this ordinance will be held at the second reading of the ordinance.</p>	Office:	Present Salary:	Proposed Salary:	Increase:	Mayor	\$780/month	\$796/month	\$16/month	Councilmember	\$312/month	\$318/month	\$6/month	Judge	\$1114/month	\$1147/month	\$22/month	Treasurer	\$35,096-\$51,629/yr	\$35,797-\$52,661/yr	\$701-1,032/year
Office:	Present Salary:	Proposed Salary:	Increase:																		
Mayor	\$780/month	\$796/month	\$16/month																		
Councilmember	\$312/month	\$318/month	\$6/month																		
Judge	\$1114/month	\$1147/month	\$22/month																		
Treasurer	\$35,096-\$51,629/yr	\$35,797-\$52,661/yr	\$701-1,032/year																		
Recommendation	Make a motion to advance the ordinance to the second reading.																				
Financial Impact	The impact to the City budget for the increases for the Mayor and Councilmembers will amount to \$264 per year.																				
Reviewed By	Mayor, City Manager																				

ORDINANCE 17-09
AN ORDINANCE PRESERVING THE
SAFETY AND ALLOWING FOR MAINTENANCE OF ~~IRRIGATION~~-CONVEYANCE

WHEREAS, Nibley City has an ownership interest in all irrigation companies within the City; and

WHEREAS, Nibley residents rely on free-flowing and clean conveyances for the conveyance of irrigation water to agricultural and rural landscapes, and also for the conveyance of City stormwater; and

WHEREAS, unobstructed conveyances are critical to controlling flooding of private and public property within the City, and, in some cases, are integral parts of the City's historic stormwater infrastructure; and

WHEREAS, open conveyances provide critical wildlife habitat and corridors, opportunities for connectivity and recreation, and are an integral part of the rural landscape; and

WHEREAS, water rights are privately held property and the diversion, distribution, delivery, and use of irrigation waters existed prior to the establishment of Nibley City, and much of the City's subsequent residential development; and

WHEREAS, agricultural irrigation and its conveyance corridors are critical to the sustainability of agricultural land uses in the community, and the preservation of desirable rural characteristics; and

WHEREAS, increased development pressure is impeding conveyance owners' ability to maintain the infrastructure such that it can function for its intended purposes of flood control and irrigation delivery; and

WHEREAS, Nibley City has certain contractual obligations with respect to the Nibley Blacksmith Fork Irrigation Company (NBFI); and

WHEREAS, Nibley City has the authority to establish policies to control the impact of development on commonly held assets and resources within the City.

NOW THEREFORE, BE IT ORDAINED BY THE NIBLEY CITY COUNCIL OF NIBLEY, UTAH THAT:

1. The attached ordinance, titled "AN ORDINANCE PRESERVING THE SAFETY AND ALLOWING FOR MAINTENANCE OF ~~IRRIGATION~~-CONVEYANCE" is hereby adopted.

2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.

3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____,
~~2016~~2017.

Shaun Dustin, Mayor

ATTEST:

City Recorder

ORDINANCE 17-~~09~~
AN ORDINANCE PRESERVING THE
SAFETY AND ALLOWING FOR MAINTENANCE OF ~~IRRIGATION~~ CONVEYANCE

1. Conveyance as used in this Ordinance includes surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface, and includes open canals or ditches as well as piped waterways.

2. Rights-of-Way or Right-of-Way as used in this Ordinance shall refer to land dedicated to the City, for use by the public, if the City chooses, as open space, park space or trails; and for the use of the Conveyance company and City for conveying of irrigation and stormwater and for the maintenance and repairs of the Conveyance or other infrastructure along the Conveyance. Typically, the underlying land will be publicly owned and will be subject to the Right-of-Way and uses described in this paragraph.

3. Easement, as used in this ordinance, shall refer to legal and permanent access granted along an irrigation conveyance or canal on private land for the use of the canal company or City for conveying of irrigation and storm water and for the maintenance and repairs of the Conveyance or other infrastructure along the Conveyance.

~~2.4.~~ Irrigation companies shall have the right of access to irrigation Conveyance structures, fixtures, features, channels, and pipes as allowed by state law, and as permitted by the ~~easements~~Easements and ~~rights-Rights-of-way-Way~~ of such companies.

~~3.5.~~ ~~Easements or rights~~Rights-of-wayWay shall be dedicated to the City with all new subdivisions as follows:

a. Applicants shall provide on all subdivisions where an open irrigation Conveyance with 40 cubic feet per second (CFS) capacity or greater traverses the subdivision ~~an easement and right~~a Right-of-wayWay of 30' to be identified on the preliminary plat and final plat.

b. Applicants shall provide on all subdivisions where an open irrigation Conveyance with greater than 20 and less than 40 CFS capacity traverses the subdivision ~~an easement and right~~a Right-of-wayWay of 20' to be identified on the preliminary plat and final plat.

c. Applicants shall provide on all subdivisions where an open irrigation Conveyance with less than 20 CFS capacity traverses the subdivision ~~an easement and right~~a Right-of-wayWay of 15' to be identified on the preliminary plat and final plat.

d. Piped irrigation Conveyances shall have a twenty-foot (20') ~~easement~~Right-of-Way extending (10') either side of centerline for any portion that has been piped.

<u>Capacity of Irrigation Conveyance</u>	<u>Required Right-of-Way Width</u>
<u>40 CFS or greater</u>	<u>30'</u>
<u>≥ 20 and less than 40</u>	<u>20'</u>
<u>Less than 20</u>	<u>15'</u>
<u>Piped</u>	<u>20'</u>

e. Each new subdivision shall dedicate ~~easements or rights~~Rights-of-way to the City, for use by the public if the City chooses, along irrigation Conveyances to the City. Irrigation Conveyance ~~easements or rights~~Rights-of-way will not count against zoning density requirements when preserved as an open channel or waterway. The company that is responsible for the maintenance of the Conveyance shall also have access to the ~~easement~~Right-of-Way in order to render service or maintenance to the Conveyance.

f. So far as possible, all dedicated ~~easements~~Rights-of-Way shall be directly accessible from another public ~~rights~~Right-of-way and shall provide unobstructed access for service equipment.

g. Alignment(s) of all ~~easements~~Rights-of-Way relative to the Conveyance alignment(s) shall be coordinated with the City and Conveyance company.

h. Irrigation structures such as boxes, bridges, trash racks, or similar structures or appurtenances which are wider than the open channel or piped Conveyance shall be provided with dedicated ~~easement or right~~Right-of-way no less than 15' beyond the maximum footprint of the structure, but not less than the width of the ~~right~~Right-of-way of the Conveyance upon which the structure is placed.

4.6. Setbacks to protect access to ~~irrigation~~ Conveyance structures, fixtures, features, channels, pipes shall be established on all new construction for emergency and maintenance activities, and to provide safety to structures near waterways.

a. Open Conveyances shall be provided a setback of fifteen-feet (15') measured from the top of inside bank of the canal, or the toe of the canal, whichever is greater; and piped Conveyances shall be provided 10' setback measured from the center of the pipe.

b. Setbacks shall apply to all primary and accessory structures, fences, decks or similar features that would otherwise hinder maintenance or emergency access to the Conveyance corridor regardless ~~or not if~~of whether a permit is required.

c. The City will not require permits for existing fences or structures or permanent improvements within the fifteen-foot (15') setback if such were legal under Nibley City Ordinances when such structures were constructed.

d. Nibley City will not issue building, fence, grading or other permits that would limit, hinder, infringe or encroach upon any established canal ~~easement~~Easement, Right-

~~of-Way~~ or setback by deed, use or otherwise for access to or maintenance of the canals and waterways within the City.

e. If these setback requirements conflict with other City Ordinances, agreements, franchise or other document governing setbacks provisions, the greater setback requirement shall prevail.

~~5.~~ For changes in land use, including but not limited to building permits, new subdivisions, rezones, annexations, and development:

~~a.~~ Nibley City shall condition approval upon the formal recording of any reasonable irrigation Conveyance easements for access, maintenance, and public safety.

~~b.~~ Easements for irrigation Conveyances and for access to the same within any new subdivision shall be required for approval of any proposed subdivision.

~~e.7.~~ The City may require Preliminary Plats or other applications/petitions to be submitted to canal or irrigation companies who may be impacted by the subdivision for review, comment and/or approval.

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~~6.8.~~ The City adopts the following conditions and requirements with respect to any land use change, development, or improvement that may impact any NBF I irrigation Conveyance structures, fixtures, features, channels, pipes, or access routes and which, at the discretion of the City Manager, in consultation with the Mayor, may be applied to and required for other irrigation Conveyance structures, fixtures, features, channels, pipes, or access routes within the City prior to any land use change, development or improvement:

a. Authorization for New Storm Water Inlet Structures and Outlet Structures. No new or additional Storm Water Inlet Structures and Outlet Structures and no increases in the flow of such inlets or outlets beyond the Current Discharge as defined by an Agreement between the City and NBF I shall be created or maintained except in conformance with the following procedure.

(1) The City, a landowner, or a developer may at any time contact NBF I to evaluate the potential for new Inlet Structures and Outlet Structures, or the potential for an increase in the capacity of any existing Inlet Structure or Outlet Structure.

(2) The City, a landowner, or a developer shall provide a written request to NBF I for each additional Storm Water Inlet Structure or Outlet Structure and for increases in flow beyond the Current Discharge or any previously approved increase for existing Inlet Structures or Outlet Structures. The request shall be accompanied by the following:

(i) Drawings in both digital and printed copy showing the location, size and design specifications of each Inlet Structure or Outlet Structure proposed to be added or increased.

(ii) Drawings showing the drainage area to be served by the Inlet Structure.

(iii) Expected occurrences that will cause Storm Water inflow into the irrigation Conveyance, including an estimate of the time of year during which maximum inflows are expected, subject to subsection (iv) below.

(iv) An estimate of the maximum inflow to be expected from the area to be served by the Inlet Structure (with the understanding that the maximum flow may not exceed the flow allowed by Current Design Standards). This rate is determined by completing a hydrologic analysis based on soil types to determine the runoff rates prior to any land use change, development or improvement for sites greater than 1 acre, or by assuming a historical runoff rate of 0.1 CFS per acre for sites smaller than 1 acre.

(v) Written disclosure of whether the Storm Water discharge to the irrigation Conveyance is expected to contain any Pollutant regulated under the Utah Clean Water Act and implementing regulations thereof.

(vi) Certification that the City, landowner or developer has complied and will comply with all applicable requirements of the Utah Water Quality Act and associated regulations.

(vii) Any additional documentation or information reasonably requested by NBF.

b. Any objections of any kind by NBF to a new proposed Inlet Structure, Outlet Structure, or the enlargement of either, shall be given by written notice within sixty (60) days after receipt by NBF of the written request for the same from the City, landowner or developer. NBF shall have the right to refuse such approval only if, as demonstrated by empirical data:

(1) in the case of a new Inlet Structure or enlargement of an existing Inlet Structure, water inflow into the Conveyance from such inlet will exceed the Current Discharge into the Conveyance from the drainage area to be served by such inlet;

(2) the inflows are found by a City-County Health Department or other State, County or federal agency to be physically harmful to animals, crops of any kind, or any other beneficial use of the water; or

(3) the proposed Inlet Structure or Outlet Structure will diminish the ability to utilize all of the water to which NBF is entitled under its water rights, hinder water deliveries, or alter, damage or obstruct, diversion structures, measuring devices, or regulating headgates on the Conveyance.

c. If NBFI does not provide written objections within sixty (60) days after receipt of the City's, landowner's, or developer's written request, NBFI shall be deemed to have approved the additional Inlet Structure, Outlet Structure, or increase in capacity of either.

d. If the request for additional Inlet Structures, Outlet Structures or increase in capacity of an inlet or outlet is not agreed to, NBFI shall work with the City, landowner or developer in an attempt to reach an equitable resolution in order to provide for the same.

e. If the additional Inlet Structure, Outlet Structure or increase in flow is formally approved or deemed approved as provided herein, the City shall allow commencement of construction or modification only after a written Agreement has been agreed-to, signed by the City, landowner or developer and NBFI.

f. The City shall require, as a condition to any land use change, development or improvement approval, that infrastructure (such as fencing or other improvements) be installed by a landowner or developer as part of a land development project, when reasonably determined by the City to be necessary.

g. Landowners or developers of any land within the City must include with their plans and specifications a storm water plan that provides for all storm water to be handled at the site of such any land use change, development, or improvement except as may be otherwise approved by the City and NBFI.

h. Trash Racks. The City shall require landowners or developers to install, in connection with City-approved land use changes, development plans, or improvements, trash racks and inlet grates, to the design standard set by the City and NBFI, on all Inlet Structures so as to prevent clogging of the headgates, screens and pipelines situated within the Conveyance.

~~7.9.~~ If any landowner or developer of any land proposes any piping of an open Conveyance such as a canal or ditch, the construction of bridges or retaining walls, fences within the setback, the installation of culverts, or any other action which may in any way affect a ~~conveyance~~ Conveyance or access to the Conveyance, the City shall require that the plans and specifications be delivered to the irrigation company, and that the irrigation company consent to the same, in writing, prior to the approval of such land development by the City, which consent or the basis for denying such consent shall be given by the canal company within sixty (60) days after receipt of the request for approval. If the canal company does not provide a written objection within sixty days after receipt of the request, the request will be deemed to have been approved.

~~8.10.~~ Alteration of irrigation Conveyance structures, fixtures, features, channels, or pipes, including grading, modification, contouring or removal of vegetation or soil of banks to canals or other irrigation Conveyance ~~easements~~ Easements or ~~rights~~ Rights-of-way Way, shall only be done by the irrigation company, or pursuant to a written permit issued by the irrigation company.

~~9-11.~~ Vested rights in the established irrigation ~~easements~~Easements or ~~rights~~Rights-of-wayWay for both Conveyance of water and for access and maintenance of the irrigation structures or channels or pipes shall be protected against all encroachments and no improvements shall be erected that interfere with the same and the City shall issue no permits for improvements that interfere with the same.

~~10-12.~~ Conditions to use of canals for storm water discharge and Conveyance:

a. The right to convey storm water in the canal extends to all times of the year and is not affected by the fact that during the irrigation season the canal company is operating the canal for the transportation and delivery of irrigation water to the canal company's shareholders, subject to the following:

(1) The use of the canal by the City extends only so far as the canal exists in its present state, and only to the extent of such rights as the canal company shall have in the canal. The canal company cannot authorize the City to expand the canal capacity in order to convey additional stormwater beyond that stormwater already authorized and agreed to between the canal company and the City.

(2) At all times, the Conveyance of irrigation water under water rights owned by the canal company shall have first priority in terms of the use and capacity of the canal.

(3) In evaluating the capacity of the canal as part of the City's Storm Water management program, the capacity shall be measured at the most restrictive location on the canal.

~~11-13.~~ A civil action for damages or declaratory relief to require a party to comply with this ordinance may be brought by the City or any person injured by another's actions in violation of this ordinance. Such civil action may be brought independent of any criminal action.

~~12-14.~~ If the Land Use Authority decision with respect to any land use application adversely affects an applicant, a board or officer of the City, or any other person or organization adversely affected by the Land Use Authority's decision under this Ordinance, the affected person or organization may file an appeal with the City's Appeal Authority only as provided in Section 10-3-3 of the Nibley City Code, Appealing Land Use Authority's Decision.

~~13-15.~~ It is unlawful for any person to place any pole, board or other obstruction whatsoever, or any trash, yard waste or other waste material, other than irrigation water, in any Conveyance structure, channel, or pipe for any purpose, or in any manner to interfere with the free and unobstructed flow of water in such Conveyance structure, channel, or pipe. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

~~14-16.~~ It shall be unlawful to willfully or maliciously alter, break, or injure any dam, irrigation Conveyance structures, fixtures, features, channels, pipes, or to dig away the bank or

banks of any ditch, canal, toe of side slop or reservoir within the Nibley City boundaries. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

~~15.17.~~ Whenever any irrigation company has an ~~easement~~Easement or ~~right~~Right-of-wayWay for any irrigation Conveyance, it shall be unlawful for any person to place or maintain in place any obstruction, or to change the water flow by fence or otherwise, along or across or in any irrigation Conveyance structures, fixtures, features, channels, or pipes, without first receiving a written permit for the change from the irrigation company. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

~~16.18.~~ Any person who in any way unlawfully interferes with, injures, destroys, or removes any dam, head gate, weir, casing, valve, cap, pump or other appliance for the diversion, apportionment, measurement, or regulation of water, or who interferes with any person authorized to apportion water while in the discharge of his or her duties, is guilty of a class B misdemeanor under this Ordinance.

~~17.19.~~ It shall be unlawful for any person to place or cause to be placed in the ~~easement~~Easement, Right-of-Way, channel, bed or bank of any river, stream, wash or other natural drain or within or upon any storm drain, flood control channel, reservoir, detention basin, debris basin, or other property over which the City or irrigation company has an interest, matter of any kind that may operate to impede, retard or change the normal direction of the flow of flood, storm or other waters, or that may catch or collect debris carried by such waters, or that may be carried downstream by such waters to the damage and detriment of adjacent private or public property, or that may degrade the quality of the water, without first obtaining a written permit for such placement from the City and irrigation company. Violation of this provision constitutes a Class B Misdemeanor under this Ordinance.

~~18.20.~~ In the event any person violates any of the provisions of this Ordinance and the City takes action to correct the violation in order to protect the health, safety or welfare of its residents or to protect public or private property, the violator shall pay all reasonable costs and expenses incurred by the City (including but not limited to reasonable charges for use of City equipment and employees plus ten percent (10%) overhead) when invoiced by the City. Failure to pay within thirty (30) days of invoice shall cause the amount due to bear interest at eighteen percent (18%) per annum from the invoice date until paid, plus attorney fees and costs incurred by the City in collecting the same.

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N-6512.43

RESOLUTION 17-06

A RESOLUTION AMENDING THE BUDGET FOR VARIOUS FUNDS OF NIBLEY CITY FOR FISCAL YEAR 2016-17, ADOPTING THE BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS FOR FISCAL YEAR 2017-18 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES

BE IT RESOLVED BY THE CITY COUNCIL OF NIBLEY CITY, STATE OF UTAH, AS FOLLOWS:

1. The attached Fiscal Year 2016-17 current-year budget is hereby adopted and approved as the amended budget for the current fiscal year ending June 30, 2017, with amendments, if any, as reflected in the attached budget document and the minutes of this meeting.
2. The attached budget entitled Final Budget FY 2017-18 is hereby adopted and approved for the fiscal year ending June 30, 2018, with amendments, if any, as reflected in the budget document and the minutes of this meeting.
3. The monthly charge for storm water shall be \$7.00 per month, per residential utility customer.
4. The adopted property tax rate is 0.001667.

Dated this _____ day of June, 2017

Shaun Dustin, Mayor

ATTEST

David Zook, City Recorder

ORDINANCE 17-10

AN ORDINANCE PROVIDING FOR THE COMPENSATION OF ELECTED AND STATUTORY OFFICERS OF NIBLEY CITY

WHEREAS, elected and statutory officers are required to devote a significant amount of time and talent to the effective administration of Nibley City; and

WHEREAS, elected and statutory officers should be fairly compensated for their time and expenses; and

WHEREAS, the Nibley City Council established a policy in 2015 of annually adjusting City Council Member compensation commensurate with the cost of living adjustment provided to other City employees; and

WHEREAS, a COLA of 2% is proposed this year for city employees.

NOW, THEREFORE, BE IT ORDAINED BY THE NIBLEY CITY COUNCIL OF NIBLEY, UTAH THAT:

1. All previous salary or compensation ordinances regarding the elected and statutory officers below are hereby repealed.
2. The compensation of the elected and statutory officers shall be as follows:

Office:	Present Salary:	Proposed Salary:	Increase:
Mayor	\$780/month	\$796/month	\$16/month
Councilmember	\$312/month	\$318/month	\$6/month
Justice Court Judge	\$1114/month	\$1147/month	\$22/month
Treasurer	\$35,096-\$51,629/yr	\$35,797-\$52,661/yr	\$701-1,032/year

3. Elected and statutory officers shall be paid on the same schedule as other municipal employees.
4. The compensation listed above is not inclusive of per diem, mileage, phone allowance or other expenses which may be incurred in the course of conducting Nibley City business.
5. This ordinance shall become effective upon posting as required by law.

Passed by the Nibley City Council this ____ day of June, 2017.

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder