The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Wednesday, November 9, 2016.

The following actions were made during the meeting:

Commissioner Swenson motioned to recommend approval of the final plat for Phases 1 and 2 of Summerfield Place, a 28-lot subdivision located at approximately 2700 South 1000 West; applicant, Kelly Loosle, with the following conditions: that the appropriate water shares be given to the city, that the groundwater elevations be shown on the plat, and that the horizontal portion of the subdivision trail be completed in phase one of the development. Commissioner Green seconded the motion. The motion passed unanimously 5-0; with Commissioner Swenson, Commissioner Green, Commissioner Davenport, Commissioner Albrect, and Commissioner Johnson all in favor.

Planning and Zoning Commission Co-Chair Dave Davenport called the November 9, 2016 Planning and Zoning Commission meeting to order at 5:32. Those in attendance included Commissioner Dave Davenport, Commissioner Bret Swenson, Commissioner Bill Green, Commissioner Carol Albrect, and Commissioner Jim Johnson. Alternate Commissioner, Aaron Bliesner was also present. Mr. Stephen Nelson, Nibley City Planner, and Justin Maughn, Nibley City Public Works Director, were also present.

Approval of 10-26-16 meeting minutes and the evening's agenda
General consent was given for the evening's agenda.

Commissioner Davenport gave his suggested revisions for the meeting minutes.

General consent was given to approve the meeting minutes as amended by Commissioner Davenport.

<u>Accessory Building Permit</u>
Discussion and consideration of an application for an Accessory Building Permit (Applicant John Swanton) Final Plat
Mr. Nelson reminded the Planning and Zoning Commission that the former city planner had been given the authority and permission to approve accessory buildings at the staff level but this permission had ended with her employment. This duty was now returned to the Planning and Zoning Commission so this was the first accessory building permit the Planning and Zoning Commission had seen in some time.

Mr. Nelson summarized the proposed accessory building measurements and specifications.

Commissioner Bliesner made a motion to approve the conditional use permit for the accessory building permit located at 2915 South 1080 West; applicant John Swanton. Commissioner Swenson seconded motion.

Commissioner Bliesner expressed his concern with any existing utility easement on the applicant's plat. He said the applicant would be liable for moving the building should the utility easement be used.

The motion was ruled out of order because Commissioner Bliesner was acting in his alternate capacity at the evening's meeting and did not have the authority to vote. Commissioner Davenport noted that they had a full Commission present at the meeting with no one absent.

Commissioner Green made a motion to approve the conditional use permit and building permit for the accessory building located at 2915 South 1080 West in Nibley; applicant John Swanton. Commissioner Swenson seconded the motion. The motion passed unanimously 5-0; with Commissioner Green, Commissioner Swenson, Commissioner Davenport, Commissioner Albrect, and Commissioner Johnson all in favor.

Discussion and consideration of a final plat for Phases 1 and 2 of Summerfield Place, a 28-lot subdivision located at approximately 2700 South 1000 West. (Applicant: Kelly Loosle) Ordinance Revision
The applicant, Kelly Loosle was present at the meeting.

Mr. Nelson said this plat was slightly different than the plat that was posted in the Planning and Zoning Commissioners packets because of some recent changes that had been made to the plat. Mr. Nelson described the subdivision:

Mr. Nelson said the final plat was for a 28-lot subdivision located at approximately 2700 South 1000 West, just north of the Sunset Parks planned unit development. He said the property was zoned R-2A. Mr. Nelson reviewed the development standards for subdivisions in the R-2A zone and described how the proposed subdivision met those standards.

Mr. Nelson described the changes to the plat since the Planning and Zoning Commission had last seen it. He said the plat now included a pedestrian right-of-way trail connecting 10th and 12th west. He said the City Council had required this trail under Nibley City code 11-5-5E. Because of the extra cost imposed on the developer the City Council had agreed to pay for 50% of the trails development. Mr. Nelson said the City Council was also willing to sell a piece of city owned property to the developer in order to joining the trail system. He said the developer would be responsible for constriction and landscaping of the trial that would be turned over to the city. Mr. Nelson described that after review by city staff, a problem was found in from Nibley City code 11-3-8-B.2.

"A stamped report, prepared by a Utah Licensed Professional Engineer or Professional geologist, establishing the ordinary high groundwater elevation and finished floor elevations for the subdivision.

a. *No finished floor elevations, including basement floor elevations, shall be permitted below the aforementioned groundwater elevation.*
b. *The groundwater elevation and finished floor elevation limitations shall be recorded as a boxed note (min 14 pt font) on the recorded mylar*
c. *The report shall be attached to the Development Agreement."*

Mr. Nelson said this had not been done so it was recommended the plat be approved on condition that this is included on the plat before it went to City Council.

Mr. Nelson described that as a development came into the city they were required to turn over a certain number of water shares. Mr. Nelson said the development hadn't received this development's waters shared but that city staff was working with the developer to calculate the appropriate number of water shares and to receive those. Mr. Nelson said staff would also recommend the condition that approval be based on receipt of those water shares.

Mr. Nelson described the pedestrian right-of-way and read the spec according to Nibley City code. Mr. Nelson the right-of-way would be turned over to City staff to be incorporated into the development. Mr. Nelson said they wanted to ensure that it was built to city standard to be maintained and was economically feasible.

Mr. Nelson described the phasing of the proposed subdivision. He noted Nibley City code 11-1-8C. that required a sufficient amount of infrastructure be complete with the phasing of the subdivision so this would require that 50% of the trail be in place with the first phase of the subdivision. Mr. Nelson stated that staff recommended the application be moved forward to City Council with the discussed conditions.

Matt Phillip with Cache Landmark Engineers and representing the engineer on the development was present to address any questions by the Planning and Zoning Commission. Mr. Maughn said he had nothing to add unless the Planning and Zoning Commission had questions.

Commissioner Davenport asked if Mr. Loosle would be amendable to completing the horizontal portion of the trail during phase 1. Mr. Loosle said he would agree to this.

Commissioner Swenson made a motion to recommend approval of the final plat for Phases 1 and 2 of Summerfield Place, a 28-lot subdivision located at approximately 2700 South 1000 West; applicant, Kelly Loosle, with the following conditions: that the appropriate water shares be given to the city, that the groundwater elevations be shown on the plat, and that the horizontal portion of the subdivision trail be completed in phase one of the development. Commissioner Green seconded the motion.

Commissioner Bliesner thanked the applicant for being willing to work out the trail situation. He described that he lived in this area and described the Sunday Serengeti. He said this trail was a useful contribution to this subdivision and the surrounding area. Mr. Loosle said he appreciated Commissioner Bliesner's sentiments.

The motion passed unanimously 5-0; with Commissioner Swenson, Commissioner Green, Commissioner Davenport, Commissioner Albrect, and Commissioner Johnson all in favor.

Commissioner Davenport began discussing the decision to delegate accessory building approval to Ms. Phippen and asked if the Planning and Zoning Commission would be comfortable with delegating this to Mr. Nelson. Commissioner Green expressed that he was in favor of doing this. Commissioner Bliesner said it had been awhile since he had looked at the accessory building conditions. Commissioner Bliesner said there was a little bit of grey area when it came to setback and utility easements and what was allowed where. He described applicants that had chosen to build in the utility easement and accept the consequences should they arise. Commissioner Bliesner said he had done some research on the matter and had found that universally it was determined that applicants were not allowed to build in a utility easement. However, he also felt the utility easements had been arbitrarily drawn without justification. Commissioner Bliesner said they needed to resolve this question with staff and within Nibley City ordinance and felt the same about irrigation easements. Commissioner Davenport directed Mr. Nelson to take an action item on the utility easement and whether they should require applicants to keep accessory buildings out of the utility easement. Commissioner Albrect and Commissioner Johnson said they were in favor of city staff taking responsibility for accessory building permit approval.

<u>Discussion and consideration</u>
Discussion and consideration of an update to Nibley City Fence Ordinance
Mr. Nelson said that this item hadn't been before the public for public hearing so the item was on the agenda for discussion. Mr. Nelson described Mayor Dustin's desires to include fence ordinance regulations for trails and the desire to not have vinyl fence alleyways in the city that could be a place where mischief could occur.

Commissioner Green left and returned at 6:06 p.m.

Mr. Nelson had provided a paper copy of the proposed revisions to the ordinance to each Planning and Zoning Commissioner and asked that they read through the ordinance before their next Planning and Zoning Commission meeting.

Mr. Nelson showed pictures of fences through Nibley City that highlighted some of the fence issues that needed to be avoided in future development and options of fences that could be approved under the revised ordinance. Mr. Nelson described pros/cons of each photo. The Planning and Zoning Commissioners discussed each fence example. Commissioner Bliesner described how he felt that the current fence

ordinance was too restrictive, particularly on corner lots. He said residents should be able to give themselves privacy in their backyards and be able to fence their back yards off from the street view. Commissioner Davenport shared the discussion that was held at the last Planning and Zoning Commission meeting between himself, Commissioner Swenson, and Commissioner Green and reviewed that they had agreed that they could charge a fee with a fence permit and then require a fence to be inspected upon completion. Commissioner Albrect questioned what power the City had over someone who chose not to follow Nibley City ordinance and Commissioner Johnson commented that this applied to many ordinances. Commissioner Bliesner suggested the ordinance be changed so that property owners could build their fences within a foot of the sidewalk and would therefore bring the fences that were out of compliance into compliance and simplify the matter.

Justin Maughn expressed that he would be more concerned with pedestrian safety. He felt the six-foot fence was a problem should there be a six-year-old screaming down the sidewalk on his bike. Mr. Nelson and the Planning and Zoning Commission discussed other fence/safety issues including clear-view intersection issues. Commissioner Bliesner said they should have the engineer provide the sight-triangles for the given speed limits and make sure Nibley's ordinance didn't put a fence in that sight triangle. Commissioner Bliesner said they ought to have the officially recognized sight triangles as established by whatever official organization provided this information. Commissioner Bliesner said this should apply to structures and vegetation as well. Commissioner Davenport said he agreed.

Discussion and consideration of an update to Nibley City Canal Ordinance
Commissioner Davenport described that the proposed canal ordinance wanted to give the canal companies a 15-foot easement on both sides of the canal from the bank.

Paul Leishman, President of the Blacksmith Fork Canal Company was present at the meeting.

Commissioner Green asked Mr. Leishman to give his opinion of the creation of the Cache Valley water district that was recently passed in the election. Mr. Leishman gave his opinion.

Mr. Nelson said that this item hadn't been before the public for public hearing so the item was on the agenda for discussion. Mr. Nelson said that the goal of the ordinance was to reduce conflicts that had occurred between the canal companies and adjacent land uses. There had been some issues in the past that canal companies in Nibley were not able to access their canals for maintenance and repairs. He said parts of the ordinance had been taken from an agreement that that the City entered into with the Nibley Blacksmith Fork Canal Company and the ordinance would formalize aspects of the agreement. Mr. Nelson said the canal companies were being

sent a copy of the ordinance so they might comment at the future public hearing or otherwise provide input.

Commissioner Davenport directed Mr. Nelson to ensure copies of the ordinance had been provided copies to the College Ward Canal Company and the Hyrum Canal Company.

Commissioner Davenport asked if this ordinance would cover piped canals. Mr. Nelson said he and the city manager had thrown this question back to the city attorney. Mr. Nelson said there was nothing in the ordinance that specified whether this applied to just open canals or piped canals or both. Mr. Nelson said he had included this on a list of issues to be resolved before the ordinance was recommended to City Council for approval. Commissioner Bliesner asked if it had been considered that State code already recognized that the canal company had the right to access and maintain the canal without the proposed easement. Mr. Nelson said the goal of the ordinance was to formalize the agreement that the City had with the canal company. Commissioner Bliesner suggested the city should consider some measurable scale based on the size and situation of each canal as they considered the easement width. Commissioner Bliesner asked if the ordinance was retroactive to all existing properties? Mr. Nelson said there was a grandfather clause and wouldn't affect any structures that were already in place. Commissioner Bliesner asked for the genesis of this ordinance. Mr. Nelson said it was discussion with the Blacksmith Fork Canal Company. Commissioner Bliesner described that he worked with irrigation and farmland design issue and said it had been his experience that canal companies were rigid in their application with easements without regard for the property owner. He felt it wasn't a good way to establish good will between the canal company and the property owner and didn't feel the city should get in the middle of this rigid enforcement. He felt if the canal company was going expect 15 feet on either side of the canal that the property owner could essentially do nothing with, then the canal company should buy that land. Commissioner Davenport said they had discussed that property owners where proposed to be given up to a 10% density bonus for the canal. Commissioner Bliesner said he wanted to make sure they weren't giving away the property rights of a property owner and felt there were ways to work around things to get to a canal. Commissioner Johnson asked how wide canals were generally. Commissioner Davenport thought they were generally about four feet. Commissioner Johnson said that 30 feet was a lot of ground to maintain four feet of canal. Commissioner Swenson asked if Mr. Nelson knew of any other cities that had similar agreements. Mr. Nelson said he wasn't aware of any and Mr. Leishman said there were several and noted Utah County, Twin Falls, and Idaho Falls. Mr. Leishman said the canal company currently had no easements. He said the canal companies were established back when the area was colonized. He said they had only prescriptive easements by law and he would have to go to a court of law to have them enforced. Mr. Leishman said the canal company and City both had a vested interest in this ordinance because the canal company helped with stormwater. Mr. Leishman described the canals the irrigation company was responsible for and said the company was only responsible to get water to the

individual head gates and were not responsible for the small private canals. Commissioner Bliesner said the State of Utah the law was written that the conveyance of irrigation water was a right and it wasn't necessary to have a platted easement or right-of-way, however, they had to make sure there wasn't an encumbrance to the property owner. Commissioner Bliesner described what a prescriptive easement was. Commissioner Bliesner described situations with the canal that went across his father's property. He said this ordinance was extending a courtesy to say that the city was going to help the canal company maintain access. Mr. Nelson said he should have answers to the Planning and Zoning Commissioner's questions by their next meeting.

Staff Report
Mr. Nelson reported that he had been hired as the new City Planner and asked that the Planning and Zoning Commission contact him with any question they had. He expressed his desire for open communication between himself and the Planning and Zoning Commission.

Mr. Nelson gave information about the parks and recreation survey to the Planning and Zoning Commission. He encouraged the Planning and Zoning Commission to take the survey and encouraged them to get the word out to their family, friends, and neighbors.

Mr. Nelson updated the Planning and Zoning Commission about the Parks and Recreation Master Plan open house at Heritage Elementary being held on Saturday, November 12 at 10:00 a.m. He described the events that were planned for the event. Mr. Nelson updated the Planning and Zoning Commission about Muffins with the Mayor at 8:30 a.m. at the Nibley Public Works building. He said the Mayor intended to address transportation. Mr. Nelson updated the Planning and Zoning Commission of the Nibley Holiday Party on December 15.

Commissioner Bliesner asked if the city was giving turkeys again? Mr. Nelson said the city would be providing turkeys to city staff and elected and appointed officials and that detail would be forthcoming.

There was general consent to adjourn at 7:11 p.m.

Attest: _____
Deputy City Recorder