

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, April 1, 2010.

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

**Councilman Mickelson motioned to approve Ordinance 10-02. Councilman Larsen seconded the motion. The motion passed unanimously 5-0; with Councilman Mickelson, Councilman Larsen, Councilman Hansen, Councilman Jacobsen, and Councilman Dustin all in favor.**

**Councilman Mickelson motioned to approve Ordinance 10-03. Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Mickelson, Councilman Hansen, Councilman Jacobsen, Councilman Dustin, and Councilman Larsen all in favor.**

**Councilman Mickelson motioned to approve Resolution 10-03. Councilman Dustin seconded the motion.**

**Councilman Jacobsen motioned to postpone discussion and action until later in the meeting. Councilman Dustin seconded the motion. The motion failed 2-3; with Councilman Hansen, Councilman Mickelson and Councilman Larsen opposed; Councilman Jacobsen and Councilman Dustin were in favor.**

**The motion passed 4-1; with Councilman Mickelson, Councilman Hansen, Councilman Jacobsen, and Councilman Dustin in favor. Councilman Larsen was opposed.**

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**OFFICIAL MINUTES OF THE MEETING**

Minutes were taken and prepared by Assistant City Recorder Cheryl Bodily

Mayor Gerald Knight called the Thursday, April 1, 2010 Nibley City Council meeting to order at 6:06 p.m. Those in attendance included Mayor Gerald Knight, Councilman Scott Larsen, Councilman Shaun Dustin, Councilman Larry Jacobsen, Councilman Bryan Hansen, and Councilman Thayne Mickelson. Also in attendance were Larry Anhder, City Manager, and Shari Phippen, City Planner.

**Call to order, approval of the evening's agenda and minutes of the March 18, 2010 meeting.**

Councilman Hansen made a motion to approve the minutes of March 18, 2010 and evening's the agenda. Councilman Jacobsen seconded the motion which passed unanimously with Councilman Hansen, Councilman Jacobsen, Councilman Dustin, and Councilman Larsen all in favor.

**Hearing a report of Nibley City Youth Council.**

Mrs. Trudy Knight, Miss Ashley Peterson the co-Mayor for the Nibley City Youth Council, Miss Shelby Rudd, Miss Samantha Jenkins, and Mr. Alex Nielsen were present at the meeting. Miss Peterson gave the report. Miss Peterson said they recently attended the USU Leadership Conference for city youth councils throughout Utah. At the conference they participated in a challenge that lasted 3-5 hours. The challenge consisted of answering questions about the Constitution, Bill of Rights, Declaration of Independence, and other activities that included designing a poster with the crest of their city. Miss Peterson said they took first place by 87 points. They won \$125 for their youth council. She said there were 38 schools in attendance. Miss Peterson and Miss Rudd made a poster for a contest and the also got first place in that. Mrs. Knight said this was a really great opportunity for the council to unify and learn some important leadership skills. Miss Peterson thanked the Council for allowing the Youth Council to attend the conference. Mayor Knight asked about the 3-5 hour challenge and said that apparently their knowledge of the constitution was remarkable. Mrs. Knight said the kids in Nibley were fabulous and she had no problems with them. Mayor Knight said Nibley should be proud of their kids. He thanked the Council for their dedication and success.

Councilman Mickelson arrived at 6:13.

**Managers Report**

Mr. Anhder noted the Scout Community Clean-Up day on April 17<sup>th</sup> and said they have had two troops approach the city for projects. Mr. Anhder asked if the city should assign area to be cleaned up like had been done in the past. Councilman Larsen said he needed to confer with Richard Eversull to see what he needed. Mr. Anhder said he wanted to check with the Council to see if they were instructing the Scouts to do the right things. Councilman Larsen said they should be going through the BSA for coordination so they get credit for those service hours with the national organization. Councilman Larsen said one person should organize it through the city. Mr. Anhder said they would make assignments so there would be no overlap, provided bags, and a dumpster to put trash in. Mr. Anhder asked if they just wanted clean up or if they wanted them at the parks. Councilman Larsen requested he be able to talk to Richard Eversull first.

Mr. Anhder said there was a soccer group requesting the field on 800 W. for a Sunday soccer league. They will have two games per Sunday for 6-8 weeks. They are willing to rent the field. Mr. Anhder said it was his opinion to let them rent the field because otherwise it was not being used. Mr. Anhder said Rod Elwood was alright with the group being on the grass. Councilman Jacobsen said it sounded alright to him. Mr. Anhder asked if anyone was against it. None of the Council indicated they were opposed.

Mr. Anhder said Logan City went through a sewer rate study last year. As a result they have had to up their sewer rates to facilitate new buildings and systems. Nibley was contacted and said they had not included an algae treatment program and said they had not raised the rates enough. Mr. Anhder said the new system would take care of the nitrogen and phosphorus. Mr. Anhder said their current rate is \$1.23/1000 and will increase to \$1.76/1000. He feels they can there are alternative to this and will bring a

proposal on the sewer budget to the council at a future meeting. He thinks they will not need to increase rates that much. Nibley only contributes approximately 3.2% of their total flow. This rate study has taken that into account and the rate increase has been set proportionately according to the flow. Mr. Anhder said he did not feel they were to the point where their own sewer treatment plant would pay off. Councilman Larsen said he sees Logan doing this all the time. He feels they are always trying to pull a fast one.

**6:30—Public Hearing—to receive comments concerning the annexation proposed by Clair Petersen of approximately 134 acres south of 4000 S. to 4400 S. near 350 W.**

Mr. Anhder demonstrated the area to be annexed to the public present. Mr. Anhder said the Peterson property was included in Nibley's annexation declaration. Mr. Anhder said there were no protests received on the petition for annexation. The Peterson's have signed the agreement wherein as a condition of annexation they agree that any upsizing in utility lines required to go through their property to access property further away will be an expense born by the Peterson's. The annexation includes 8.47 acres of Schiess property that was put into an Agricultural Protection Zone by the County. They have a signed agreement from the Schiess' that they will not protest the annexation.

Mayor Knight opened the public hearing at 6:34.

Mr. Ryan Peterson said they urge the Council to pass this annexation. He thanked everyone for their time and consideration on the matter.

Barbara Ferris asked what the advantage of the annexation was to the city. Mayor Knight said if they annex they have some control of what goes on in that area. If they do not annex they have to go along with whatever the County decides in that area. The County has very loose zoning and building requirements. Mrs. Ferris said her concern is that is one of the only places in that area that is not developed. She would like to see it remain that way.

Barbara Wilden asked when it is developed if Nibley would be responsible for providing water, sewer, etc. Councilman Larsen said that is the developers' responsibility. Mrs. Wilden asked if it costs the city money. Mayor Knight said they have the developer assume the responsibility for those facilities. The city provided the service after the infrastructure is put in place. Councilman Jacobsen said as houses are built there are also impact fees levied against individuals. Mr. Anhder said they are asking anyone that annexes to assume the responsibility to upgrade. This is the only time a city has complete control over that piece of property. Mrs. Ferris asked what the advantage annexation was to the Peterson's. Mayor Knight said they can provided the services; such as culinary water, etc. Mayor Knight said the County usually has to draw water from a well. Mayor Knight said it allows them to develop in a more desirable way.

Mr. Ryan Peterson said they are trying to protect their options. As of right now, they are farming. They are not developing. They are also not saying they will not develop in the future. There are different problems when developing in the County. They would much rather work with the city and not the County.

Mayor Knight closed the public hearing at 6:44.

**Consideration of Ordinance 10-02—Annexation of approximately 134 acres south of 4000 South.**

Mayor Knight said this was an ordinance annexing 134 acres of real property into the corporate boundaries of Nibley City. Councilman Mickelson made a motion to approve Ordinance 10-02. Councilman Larsen seconded the motion.

Councilman Larsen noted line three that said the property shall be zoned agricultural which it is now. Any newly annexed property when it is rezoned will be rezoned R1; that was the intent when they passed their general plan. He said they had talked about the importance of the road plan in this area. He encouraged the Council to get working on the road plan.

Councilman Jacobsen said he appreciated Mrs. Ferris's comments. He referred to the handbook of the Utah League of Cities and Towns written by Dave Church of why people want to live in incorporated areas. Councilman Jacobsen read three reasons: 1) to provide services, 2) to develop and preserve a sense of community, 3) to provide local control. Councilman Jacobsen read from section 5.0 of section 3 of the Nibley City general plan; "As land is rezoned from agricultural to residential the medium residential density will only be achieved through this conservation overlay process." He thought they were in agreement with the Peterson's on this. Mr. Peterson said they understood Nibley's vision. Councilman Jacobsen said otherwise it is 1 unit/acre. Mr. Clair Peterson said this land had been in their family for going on 100 years and they value this land. If it is developed he wants it to be something his ancestors would be proud of. He said they would work well with the city.

The motion passed unanimously 5-0; with Councilman Mickelson, Councilman Larsen, Councilman Hansen, Councilman Jacobsen, and Councilman Dustin all in favor.

Mr. Anhder complimented Clair Peterson and he was very complimentary to work with the city in placement of the new water line. He believes he will be a good citizen and plan his property really well.

**Consideration of Ordinance 10-03—Restrictions and use of compression release engine brakes (Jake Brakes) with in Nibley City limits.**

Councilman Hansen asked who brought this to the city's attention. Mayor Knight said it was their prosecutor. There was a ticket issued and the prosecutor could not find an ordinance restricting the noise. Ms. Phippen said the city code adapts the Utah Traffic Code so strictly speaking they do not have an ordinance against Jake brakes. There is a tenuous connection at best that can be interpreted to restrict Jake brakes. The man challenged the ticket and went to trial. Judge Stevens issued a fine because the connection can be made but the fine was not as big as it could have been. Judge Stevens put some provisions on the fine. Tony Baird, the prosecutor advised them to get an ordinance in place so if someone else is found in violation it isn't a stretch to make it stick.

Councilman Mickelson made a motion to approve Ordinance 10-03. Councilman Hansen seconded the motion.

Councilman Larsen said he thought the bigger problem was the traffic itself. Most of this is Miller's trucking. There are multiple reasons they come through Nibley; it is easier and they are not encumbered by hills. Councilman Jacobsen said now these devices are being installed in regular pick-up trucks and this would apply to them as well. Councilman Mickelson said the people installing them on their trucks are doing it to make noise and he felt they should get a misdemeanor. Councilman Larsen asked about enforcement of this ordinance. Mr. Anhder said if it is witnessed by a law enforcement officer he can cite them or a citizen can issue a complaint. Councilman Larsen said the enforcement issue may not be easy.

Mr. Randy Feser said he lived on 3200. There has been a long problem with Jake brakes. Normally the neighbors would call him because he worked out to Millers and would call them. This trucker did it continually, on purpose, for a year and a half. When he would see him outside he would do this on purpose and make unfriendly hand gestures. He was outside on December 22, 2009 and the individual came by. Mr. Feser called the plant and Mr. Feser said he threw a snowball at the driver. He would like to see Nibley City get more proactive at requesting law enforcement address the issue. It only takes the Sheriff's department sighting one person and the issue stops. Those that live on that street would appreciate this ordinance being passed but they would also appreciate a push on enforcement of the ordinance. Mr. Feser said charges were brought against him for throwing the snowball and he has paid his debt and learned his lesson. Mr. Feser said the trucking company was requested by the city in 1990 not to use the highway coming in from the stop light because of a fatality. Councilman Larsen said there was an underlying problem; they are using their city when the plant is not in the city. Councilman Jacobsen said he agreed with Mr. Feser in the enforceability of the issue. He said you can get a conviction without a deputy being present when the law is violated. Councilman Larsen said sometimes citizens make false accusation but they need the citizens to do their part. Mayor Knight said they can ask the officers to patrol certain areas, at certain times, for certain reasons.

The motion passed unanimously 5-0; with Councilman Mickelson, Councilman Hansen, Councilman Jacobsen, Councilman Dustin, and Councilman Larsen all in favor.

**Consideration of Resolution 10-03—A Resolution expressing support for the Envision Cache Valley process and future development strategies.**

Councilman Mickelson shared comments he had received from the Commissioner of Agriculture who said this document has no teeth and provides no way to get the things done that it states. Mayor Knight said the committee had discussed that several times. The problem they run into is each city has their own philosophy and believes they are smarter than all the other cities. It is a big hurdle. They do not want to give up their economy or control. Mr. Anhder said if the Council passes a resolution then it is a formal commitment that the Council supports those ideas and will work towards those ideas. Mayor Knight said they thought it was a great step forward to encourage and show they

are willing to take that leap. Councilman Mickelson said it was encouraging that there were still some people out there who still want agriculture in their community.

Councilman Jacobsen said regional planning was great but they had to include some regional revenue sharing. That was not included to his satisfaction. Councilman Jacobsen said he thought they had next to no chance of convincing Logan City, based on past history, to equally share revenue from sales tax. Councilman Jacobsen said on page 35 he looked at the base line scenario land use and asked what it takes to achieve that. He noted that in Nibley they would have to sign up for 6 units per acre on new development. That is not in their general plan; that is not what they see their future as. He does not know how to sell that to the residents. Councilman Larsen said this did not mess with their general plan. Councilman Larsen said the vision is good but asked how they implemented it. He said as he read through the document that they want them to approve it and then nothing will ever happens and although they got the populace input it does not mesh with their general plan. Mayor Knight said they want the majority of the growth to occur in the cities and the growth that is occurring in Nibley and other similar areas will continue in a country setting. Councilman Jacobsen said it is hard to be a bedroom community at 6.1 units/ acre. Mayor Knight said the plan not only deals with density but also with transportation and economics. It has to be taken all together .They are trying to set a guiding light that will help adjust and mold opinions and philosophies and the acceptance of the public. Councilman Dustin said he has no problem with living in an urban area and walking to a grocery store, or restaurant. If you want more density in a core area then you have to make it a nice place to live. They need to take the interests of the people that live in the urban area and consider what they want as well as the agricultural area. Mayor Knight said they have to have variety. Mayor Knight said conservation subdivisions are a good move in that area. Councilman Dustin said that requires a commercial development as well.

Councilman Larsen said unless they are pushed in that direction it will not happen. Barbara Wilden asked why they thought the houses in Nibley sold so quickly. It was because of what the Council has done here and for the ambiance of Nibley. That is the reason they come here. She said what has been done in Nibley so far has been wonderful.

Councilman Hansen said he thought the best way they could implement the plan was to be an example. He did not think they could do anything better than lead. He thought this helped them look outside their boundaries.

Councilman Mickelson made a motion to approve Resolution 10-03. Councilman Dustin seconded the motion.

Mayor Knight suggested Mr. Anhder contact the Herald Journal if the resolution passed. Councilman Jacobsen asked if this was the model resolution. Mr. Anhder said it looked as if it was becoming so. Councilman Larsen asked what happened after this. They have wasted time and money for nothing. Councilman Mickelson said they should use it as a guiding document when the update the general plan. Councilman Larsen said they do not match and asked if they adopt their plans to follow theirs. Dustin did not feel this

resolution binds them but it helps them consider what they want the community outside of Nibley to look like. Councilman Larsen said he did not know if he could support it. There are good things in it but he did not support the document. He supported their general plan. Councilman Dustin said the document had flaws but if they did not accept it within the context of the resolution then where were they and what do they have to talk about. Councilman Mickelson said he believed those that were involved in the process did the best they could to gain common ground. He felt that was the best they could get with that size arena. Councilman Hansen said there was a big difference between supports and implementing. Councilman Mickelson suggested ways they could amend the resolution. Mayor Knight said he thought they shouldn't amend the document. He said the resolution was general enough and did not bind them to anything. Mayor Knight said they have a lot of natural barriers that create open space. He felt economics would cause them to start building up.

Councilman Jacobsen asked for help reconciling implementing what their general plan calls for and 2-4 units per acre. He cannot get past that if they sign on to this he is saying he supports that new development in Nibley will be six units per acre. Mr. Anhder asked him to not get hung up on one development. He said globally that goal is achievable. Councilman Hansen said he thought Councilman Jacobsen was looking at this much too literally. He said this was a guide. These are principles we are hoping other communities will buy in to.

Councilman Jacobsen made a motion to postpone discussion and action until later in the meeting. Councilman Dustin seconded the motion. The motion failed 2-3; with Councilman Hansen, Councilman Mickelson and Councilman Larsen opposed; Councilman Jacobsen and Councilman Dustin were in favor.

Councilman Dustin said he was hung up on the 6.1 because it seemed like a specification. He said they were a progressive City Council and that they had interesting ideas that came out of this group. He thought this was a good group to tackle something like this. There is a good diversity of opinion. He said basically this plan took the same principles they had identified in their master plan and applied it to the entire valley. Councilman Jacobsen said he could get behind section 3 of the plan which is the vision. He can get behind the vision and the nine points there.

The motion passed 4-1; with Councilman Mickelson, Councilman Hansen, Councilman Jacobsen, and Councilman Dustin in favor. Councilman Larsen was opposed.

### **7:30—Cache County Sheriff Deputy Black.**

Deputy Black was present at the meeting. Deputy Black said he looked at the projected hours for Nibley and that they're currently at 219% of those hours so they are getting a lot for their money. They keep track of those hours because there are some areas that need more and some that need less. Nibley is on the high end of the bunch. Mayor Knight asked how that had changed over the year. Deputy Black said they have always seemed to be at the 200% or higher mark. He spent 65 minutes in Nibley today; he wrote 1 citation and 1 warning and then just general patrol. Mr. Anhder said they get a monthly

print-out on Calls for Service. Deputy Black said the more people they get in town the more issues they will have. Councilman Hansen asked if there were any specific places that had more problems. Deputy Black said there was not. Deputy Black noted factors that influenced calls; population, income levels, education levels, etc. He said it is getting difficult to issue citations in Nibley; that is because people are following the laws and changing their behavior. Deputy Black said they issued citations to change behavior and not to create revenue. Deputy Black said they want input from the city and the city's citizens and then they can fix problems. Mayor Knight asked if they had any general concerns they could address. Deputy Black said the general concerns of the police department are that they like strait streets that are numbered. There are not many direct routes through Nibley. Nibley has a lot of crooked streets and cul-de-sacs. Deputy Black noted they have not had a single call to the dense housing they have near the highway. Councilman Hansen asked about drug citations that had been issued in Nibley. Deputy Black said it is just a fact that there are a lot of drug and gang problems in Utah. He stated the reasons for that. Mayor Knight told Deputy Black that he would like to hear from him at least once a month. Mr. Anhder complimented Deputy Black and his response. Councilman Larsen told Deputy Black that their city celebration would be June 14-18. Deputy Black said he would try to work on candy throwing issues. He advised that eventually that would lead to a fatality. He would like to have some kind of control over that. The Council expressed their appreciation to Deputy Black.

### **Council Reports**

Councilman Hansen said the Easter Egg Hunt was this Saturday at 1:00 at Heritage Park. He said Youth Council was great to help out. They filled the eggs at Little Wonders; they are always great to help out.

Councilman Dustin said he would be happy to answer any questions about the waste water treatment plant. Mr. Anhder requested a tour.

Councilman Larsen said the pageant was set now. He asked the Council to encourage participation.

Councilman Larsen asked the Council if they were interested in fire works for Heritage Days. The Council decided they should either do fireworks or the John Schmidt concert. Councilman Dustin said he would rather have fireworks. Mayor Knight said the committee would decide what they would do.

Councilman Larsen asked about the County ordinance on special events. He wondered who needed to apply under the ordinance. Councilman Jacobsen said the RAGNAR relay needed it. Mr. Anhder said that many cities were going to adopt the same type ordinance. Mr. Anhder is of the opinion they should try it under the County Ordinance for a couple of years.

Councilman Larsen said he was approached by an individual that came from the mid-west and was involved with the Lion's club. He wondered if they would allow that when



they opened the city center. Councilman Larsen said he advised him that he thought they would be able to use the facility.

Mayor Knight said he got letters periodically from people asking for donations from the city. He wanted to know if the Council had changed their opinion on that issue. No one on the Council indicated that their opinion had changed.

Mayor Knight asked for direction from Councilman Larsen on the Envision Cache Valley process.

The meeting was adjourned at 8:49 p.m.