

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, April 15, 2010.

The following actions were made during the meeting:

Councilman Jacobsen motioned to adopt Ordinance 10-04 (governing the use of green waste and recycling bins provided for general community use) as listed. Councilman Hansen seconded the motion. The motion passed unanimously 3-0; with Councilman Jacobsen, Councilman Hansen, and Councilman Larsen all in favor.

Councilman Larsen motioned to refer the weed ordinance (10-05) to a committee of staff. Councilman Jacobsen seconded the motion. The motion passed unanimously 3-0; with Councilman Larsen, Councilman Jacobsen, and Councilman Hansen all in favor.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken and prepared by Assistant City Recorder Cheryl Bodily

Mayor Gerald Knight called the Thursday, April 15, 2010 Nibley City Council meeting to order at 6:18 p.m. Those in attendance included Mayor Gerald Knight, Councilman Scott Larsen, Councilman Larry Jacobsen, and Councilman Bryan Hansen. Also in attendance were Larry Anhder, City Manager, and Shari Phippen, City Planner. Councilman Thayne Mickelson was excused from the meeting.

City Manager Report

Mr. Anhder discussed special district laws with the Council.

Mr. Anhder said the Box Elder County School District had some portable buildings they had no need for. The buildings would cost the amount it took to move them. The Council decided they would like to look into the buildings for storage purposes. The Council discussed where they could put the building. Councilman Larsen said he would be in favor of it. Councilman Jacobsen and Councilman Hansen said they should look at least look at them.

Call to order, approval of the evening's agenda and minutes of the April 1, 2010 meeting.

Councilman Hansen made a motion to approve the minutes and the evening agenda. Councilman Jacobsen seconded the motion. The motion passed unanimously with Councilman Hansen, Councilman Jacobsen, and Councilman Larsen all in favor.

Consideration of Ordinance 10-04 Governing use of recycling and green waste bins

Mayor Knight switched the order of the agenda because Chief Nielsen was not yet present. Mayor Knight said the new ordinance changed violations to a Class C misdemeanor instead of an infraction. Mayor Knight said they will also now have camera

surveillance. Mayor Knight read sections of the proposed ordinance addressing that they have to place two sign in the area. If those sign are in place it will be a Class C misdemeanor to place any prohibited item or substance in a recycling bin. The two things that must be posted are a list of the items that can be deposited and a statement that reads "Deposit of any other item in this recycling bin is against the law". Councilman Larsen asked if they were required to do the items on listed in B-1 & 2. He said Logan City places this on each bin in multiple location and they can change what they take at any time. Councilman Jacobsen said B read it was a Class C misdemeanor to place any prohibited item or substance in a recycling bin if the information is posted and was defining what it takes to be punished. In order to prosecute somebody they had to let them know what is expected of them. Mayor Knight said he thought it was just good practice.

Councilman Jacobsen made a motion to adopt Ordinance 10-04 (governing the use of green waste and recycling bins provided for general community use) as listed. Councilman Hansen seconded the motion.

Councilman Larsen said he had received concerns about the increase they may generate in other bins, but at the same time it came back to policing which they plan on doing. Mr. Anhder said part of the reason they were doing this was to clamp down on what is going into the bins. Contaminated waste ruins the entire bin. The new site, the camera, and enforcement are the reasons they are doing the ordinance. He also added that they have had three other cities come and see that area. They were impressed with the accessibility. Mr. Anhder said they regularly bring an employee in on Saturday and smash down the green waste container with a backhoe because they get so overloaded.

Chief Nielsen arrived at 6:20.

Councilman Larsen said when they passed the relocation and allocation of funds for that project they passed a fence on the east side so that debris would not blow into neighboring or adjacent properties. Councilman Larsen asked if and when that fence would be place. Mr. Anhder said he did not recall that discussion. They had talked about some planting along there. Mr. Anhder said he would check on the fence.

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

Annual presentation from Cardell Nielsen, Chief of Hyrum City Fire Department

Chief Nielsen said all the fire departments in the County have mutual aid. For Nibley this means anytime there is a structural fire they page Hyrum and Wellsville. If it is on the north side of 3200 S. Logan is also paged. Whoever arrives first on scene decides if they need more help and can call. It is becoming more and more difficult to get volunteer firefighters to come on staff. It is quite demanding and takes \$6,000-\$7,000 to equip a firefighter. They have 28 members on the fire department; this included two young ladies. Chief Nielsen said last year they had 164 calls; one-third of those where to Nibley. They provide service to Hyrum, Nibley, Millville and in between in the County. They

had 49 calls in Nibley last year. They documented 451 man hours for these calls, with 9 personnel per call who are paid \$8-9 per hour. They have a battalion chief and a secretary. Chief Nielsen distributed a summary of the calls to Nibley. They had a lot of CO² calls to Nibley. Most times when they are called for CO² it is because the detector batteries are low. Chief Nielsen said they were proud to have this relationship with Nibley.

Mayor Knight asked if they were at a point that they were in trouble with the lack of volunteers. Chief Nielsen said they were not in trouble but it has become a lot more demanding. People have to make a living and they do not make a living being on the volunteer fire department. Of the 28 firefighters they have some that their companies will let their people off and some that don't. He said they have plenty of staff in the evenings but not so many in the daytime.

Mr. Anhder asked Chief Nielsen if he foresaw the need for full-time staff soon. Chief Nielsen said he did see that need in the future but that it would take their entire year's budget to pay that person. Mr. Anhder said Nibley's annual budget for firefighters was \$27,000.

Blake Christensen, a fire fighter noted that since the light had been included at Maverick, a lot of the accidents are occurring from automobiles coming from Nibley turning into Millville. The fire fighters get called to those areas to clean up fluid from automobiles. Mr. Christensen said they will be looking at recruiting another round of volunteers and asked permission to add something to Nibley's newsletter to help solicit volunteers. He said they work well and have a good relationship with Nibley's First-Responders. Mayor Knight asked how many of the 28 were from Nibley. Chief Nielsen said none were from Nibley. Councilman Larsen said they shared the same concerns about the light at the Maverick and had expressed their concerns to UDOT.

Councilman Jacobsen asked the proper protocol for CO² problems. Chief Nielsen said the protocol is to call the fire department. If the people have been out of the house and there are no symptoms they usually do no arrived with lights blazing. Mr. Christensen said they recommend that CO² and smoke detectors are replaced every seven years. Mr. Christensen said they could include notices in the newsletters about CO² detectors and changing the batteries on their smoke detectors, etc. He said they currently do that for Hyrum. Dispatch tells individuals to close the doors and window and leave the property. Mayor Knight thanked Chief Nielsen for their service.

Mayor Knight recognized Devon Overly and his Scout troop. Mr. Overly said they did not know their troop number as of yet—they are a new chapter. They used to be Troop 14. Troop members Parker Stokes, Nicholas Max Spalding, and Brian Wood introduced themselves.

Consideration of Ordinance 10-05—Weed control and removal

Councilman Larsen asked if this ordinance number had changed. Ms. Phippen said it had been changed from 02 to 05 because subsequent ordinances had been passed since this

ordinance was last before Council. Councilman Larsen said they tabled the ordinance and referred it to staff so it should have been the same number. He said they should stick with the same ordinance number for when there is a need to go back and look.

Ms. Phippen said in undertaking this she thought it would be easier if citizens knew what to expect and when to expect it. In talking to the Planning & Zoning Commission it was decided that the three enforcement dates, six weeks apart would be sufficient. The main difference between the existing ordinance and this ordinance was a paragraph (4-2-2-A) that had been included stating weeds constituted a nuisance when they create a fire hazard, were a source of contamination or pollution of the water, air or property, danger to health, breeding place or habitation for insects or rodents or other forms of life harmful to humans, or are unsightly or deleterious to their surroundings. She said for ease of enforcement they needed a standard to hold people to.

Mayor Knight said the changes were significant from the previous proposal. Mr. Anhder said they had added one the one paragraph and Ms. Phippen said she reordered the paragraphs under section 4-2-4 (Notice of Violation) to change the flow but did not change the text. Ms. Phippen said under 4-2-5 they added that if the city were to incur any cost in remedying violations that the costs would be passed on to the property owner. Councilman Hansen noted Councilman Mickelson concerns that any city owned property should also follow the ordinance. Mr. Anhder said a phone call would be helpful in some of those areas.

Councilman Jacobsen made a motion to approve Ordinance 10-05 regulating weeds. Councilman Hansen seconded the motion. Mayor Knight asked for discussion on the motion.

Councilman Jacobsen asked about the definition of weed (4-2-1) and if it had to be declared a weed to constitute a nuisance (4-2-2: A.). He sighted grass as an example. He asked if they could declare tall grass a fire hazard. Ms. Phippen noted 4-2-4: D.1. which required grass to be maintained at a height of less than 12 inches or less. Councilman Jacobsen said if they are going to ask people to cut their grass at 12 inches but don't define a nuisance unless it is a weed then that seemed out of order. Councilman Larsen said 4-2-1 is what is included in their ordinance now which was passed in 1977. The State's list of weeds has changed significantly as well as the County definition of noxious weeds so it was tough to label anything. Councilman Jacobsen thought they needed to add weeds "or plants" to 4-2-2:A Ms. Phippen noted there were three or four weeds that are the bulk of the problem in Nibley.

Councilman Jacobsen made a motion to amend 4-2-2:A to read "that plants or weeds constitute a nuisance when they create a fire hazard . . .". Councilman Hansen seconded the motion.

Councilman Larsen noted that they say they will do an annual notice in 4-2-4:A and then in B they say no further notice will be required. He said he interpreted it that they do not have to send a letter; they can just enforce it. Councilman Larsen also said the ordinance

they are proposing is in conflict with the ordinance they already have in chapter 1 of chapter 4.

Mr. Anhder said the object of this ordinance was to have their own chapter just for weeds and the abatement thereof. This would be their abatement procedure for weeds. Their intent was to have one section that deals with weeds and one section that deals with all other nuisances. Councilman Larsen said the nuisance ordinance included a process for appeal whereas this did not include an appeal process. Mr. Anhder said they needed to include an appeal process but they could reference back to that section of the ordinance (4-1-6:A.3. B.2) or write its own appeal process. Mayor Knight suggested they not reference back to the nuisance ordinance but write its own appeal process. Mr. Anhder said he would have it appealed it to the city manager or the Mayor. Councilman Larsen said they have never had anyone appeal the current weed ordinance. Mr. Anhder said they have had two appeals to their nuisance ordinance; he gave examples of those appeals. Councilman Jacobsen said he would rather not reference it back to the nuisance ordinance. He wanted it clear; not cut and paste. Councilman Larsen questioned how much time someone had to appeal, who they appeal to, and what happens after they appeal. He said a couple of sentences did not cover the appeal process sufficiently. Councilman Larsen said it was better to reference back to the appeal procedure. Councilman Jacobsen said he thought 4-1 covered all of this.

Mr. Anhder said under the old ordinance there was no appeal process because there was only an infraction issued. Mr. Anhder recommended that they remove the part of the proposed ordinance that states they are going to clean up and treat it as an infraction; then they do not need to include an appeal. Ms. Phippen described what had been done under the current ordinance. Mayor Knight said title four of city ordinance is Public Health and Safety and chapter one covers nuisances. Mayor Knight said they have assumed that weeds are a nuisance. They could change the word nuisance to weeds or some other word besides nuisance. Mr. Anhder said in 4-2-4-D of the proposed ordinance they can cross out number 3 and put "If this violation is not corrected 10 days from this date you shall be cited with a Class C misdemeanor." They are cited and then they go to the judge. Mayor Knight said and the weeds still do not get cleaned up. Mayor Knight said weeds in other cities have been treated as a nuisance that need to be taken care of immediately and if they are not taken care of in a certain time frame then the city takes care of them and the property owner is given the bill. Mayor Knight said they need to have the option of mowing those weeds so they can clear the sidewalks and kids do not have to walk down the street, and passing on the bill. Mr. Anhder said if they mow them they have to give due process and that will drag the process out further. Mr. Anhder said their appeal process in this ordinance is to the judge. The Council discussed how much time was need for due process. Councilman Larsen said he did not like that they did not reference how costs would be passed on to the land owner (4-2-4:D.3). Ms. Phippen said she thought they just need to take out D3. Councilman Jacobsen asked what was wrong with the old ordinance. Ms. Phippen said the proposed ordinance gave three dates so that they were not arbitrarily taken out. Councilman Jacobsen said they could set three dates and administratively monitor those weeds. They did not need to include them in the

ordinance. Councilman Larsen addressed that Ms. Phippen wanted to have a time frame for when the violator needs to have the weeds cleaned up.

Mr. Anhder said staff had gotten very good insight from the discussion and requested the Council remand this back to staff so they could research and bring a proposal back. Ms. Phippen asked if Council wanted her to revise the existing ordinance or come back with the new ordinance. Councilman Jacobsen said he wanted to support staff on whatever it takes to get the enforcement in place and make it work. He did not want to micromanage how they get their weeds taken care of. Mr. Anhder said his suggestion was to bring the old ordinance back with notice and so many days to comply; then it is an infraction, then they are sited, and then it goes before the judge.

Councilman Larsen made a motion to refer the weed ordinance to a committee of staff. Councilman Jacobsen seconded the motion which passed unanimously 3-0; with Councilman Larsen, Councilman Jacobsen, and Councilman Hansen all in favor.

Mr. Anhder said he appreciated this discussion from the Council and that it was insightful.

Report and discussion from Council members about their attendance at the Utah League of Cities mid-year conference

Mayor Knight, Councilman Scott Larsen, Councilman Larry Jacobsen, and Councilman Brian Hansen and City Manager, Larry Anhder attended training on the open meetings law presented by David Church, legal counsel for the Utah League of Cities and Towns on April 9, 2010 while attending the mid-year conference of the league.

Councilman Hansen noted a presentation from GSBS Architects who had bid on their recreation plan and were not selected. He said they had a presentation of an interactive part of their website that allows people to go onto the site view the city as a whole and also specific parks and other part of the city; it shows what is available at that park and can do the entire layout of the city. It was a nice way to present the vision of the city. It could be linked to their current website. Councilman Larsen said they could include virtual examples of what they envision happening at specific sites. Councilman Hansen said the one they saw of Lehi was very dynamic and he envisioned something very dynamic. Councilman Hansen was impressed with that plan and would recommend they include something like that in the future. Councilman Jacobsen asked if the contractor they had could get some of that done. Mayor Knight said he did not know. Councilman Jacobsen said the priority was to come up with a new road plan.

Councilman Hansen was impressed with the presentation by Deseret News. He suggested they set up a Facebook/Twitter account for Nibley City. It was suggested that this was an avenue that allowed their citizens to stay connected and informed with something they are already using and connected to. The city needs to tap into the forms of communication that the citizens are using. Councilman Jacobsen said he thought the Desert News Community page was a valid thing for them to think about. It is an alternative or another news outlet, besides their city website, with the advantage that all

participating cities in Utah started from the same home page. He is in favor of Nibley getting city news on the Deseret News Community website said that he could look into it more. Mayor Knight said they should find out what kind of effort is required. Corlyss Drinkard suggested they have a counter included on the City website to determine if there are enough “hits” to warrant the effort of participating in the website.

Councilman Hansen said he was curious about accidents at 3200 South on highway 89-91 in the last 3-4 months and when the light would be in place. Mr. Anhder said it will be done when it warrant it. Councilman Larsen said it was probably low on UDOT’s priority list. Mayor Knight said it was in the County so they couldn’t worry about it too much.

Councilman Jacobsen said the social media session was very good. He also enjoyed the road system session and noted that he learned the most important time to maintain a road is when it is 0-5 years old. Mr. Anhder said the proposed budget included starting chip sealing this year. Councilman Jacobsen said it was time to spend the money maintaining roads. He said the session pointed out the most expensive asset they have in the city is the road system.

Councilman Larsen noted the general plan session he went to. He read a quote from Daniel Burnham, the father of American city planning; “Make no little plans, they have no magic to stir men’s blood and probably themselves will not be realized. Make big plans; aim high in hope and work, remembering that a noble, logical diagram once recorded will never die, but long after we are gone will be a living thing, asserting itself with ever growing insistence.” Councilman Larsen suggested there may be some things in their general plan that they could use grad students from USU to develop the processes and plans a little better. He thought they should include pictures in their general plan that illustrated their vision. He said they should follow, correlate, and support their ordinances with the general plan. He thought they did a really good job doing that.

Councilman Larsen also noted the financial bond session he went to and wondered if there might be funding available for different ideas or projects they have. The speaker talked about money that may be available. Councilman Larsen specifically addressed Weathershield and getting something in there that was a more desirable tenant—maybe they could provide incentives. Councilman Larsen said they need to follow the prudent investor rules: 1) what is expected of their return, 2) what is the impact upon the local government, 3) access concerns over undue favoritism, 4) are there any unique characteristics, 5) how much skin is in the game, 6) who are the competitors on the project, and 7) who is representing the local government in the issue. Councilman Larsen thought there were creative investment opportunities there. They need to be aware of what is there and utilize it as best they can. Mayor Knight asked for specific comments to what they were doing now. Councilman Larsen said they needed to prioritize their capital improvement projects.

Mayor Knight gave his thoughts from the general plan session. He asked the Council if there were any points in the Envision Cache Valley plan that they could/would adopt or edit into Nibley’s general plan to improve it. The Council discussed well planned commercial and economic development. Mayor Knight asked how much they spend on

League conferences. Mr. Anhder said they spent about \$10,000/year to go to all their conferences. Mayor Knight said he thought they should continue to go to the meetings and that the information they were getting was worth the money.

Mayor Knight addressed the Utah Land Use Law course taking place on Thursday, April 29th. It is a six hour course. He encouraged the Council to go. He said the city gets a great amount of benefit when the Council is educated through the League, on land use, and vision. He thanked the Council for attending the League meetings.

Mayor Knight said he attended a conference on managing risk which might result in a policy on seat belt and cell phone use for the employees.

City Manager Report

Mr. Anhder said he and Brent Jensen from Hyrum have talked about the difficulty of getting volunteers for the fire department. He can see that something is going to have to happen and it is going to cost money to do it.

Mr. Anhder said 400+ kids have signed up to play soccer this year and 200+ kids have signed up to play softball. He said they needed to provide a place for them to play.

Mr. Anhder said on May 6th he will present the proposed budget and amendments to the current budget. The next budget will include an additional full-time position in the parks/sewer department. The Council will be asked to approve that position. He would like to move that up so they can advertise and recruit for the position.

Mr. Anhder said he felt very highly of the Council.

Council Reports

Councilman Larsen said the bathrooms needed to be opened at the parks. Mr. Anhder said the plan was to start opening them last weekend. He thought it had started.

Councilman Larsen said Miss Nibley fees are due April 16th. This year there will be a Princess, Sweetheart, Jr. Miss and Miss.

The meeting was adjourned at 9:25 p.m.