

A special session of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Wednesday, May 12, 2010.

The following actions were made during the meeting:

Councilman Dustin motioned to accept the joint use and lease agreement between Nibley City and the Cache County School District for the addition to the new Heritage Elementary school for use by the city with the following changes; changes as marked in the draft copy given to the City Council; in D line 3 & 4 change the word “building” to “center”; add item 9. to section C to state “city retains ownership of times outlined in section C and attachment B upon termination of the agreement”; revise attachment B to reflect the square footage less the square footage of the new bathroom; and to revise the unit cost for the half canopy at entry to reflect actual construction cost for a canopy system and recalculate the total based on those costs. Councilman Jacobsen seconded the motion. The motion passed unanimously 5-0; with Councilman Dustin, Councilman Jacobsen, Councilman Mickelson, Councilman Hansen, and Councilman Larsen in favor.

Councilman Jacobsen motioned to authorize the city manager to negotiate the canopy change if the first motion fails. Councilman Hansen seconded the motion. The motion passed 4-1; with Councilman Jacobsen, Councilman Hansen, Councilman Mickelson, and Councilman Dustin in favor. Councilman Larsen abstained from the vote.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken and prepared by Assistant City Recorder Cheryl Bodily

Mayor Pro Tempore Scott Larsen called the Wednesday, May 12, 2010 Nibley City Council meeting to order at 6:05 p.m. Those in attendance included Mayor Pro Tempore Scott Larsen, Councilman Shaun Dustin, Councilman Larry Jacobsen, Councilman Bryan Hansen, and Councilman Thayne Mickelson. City Manager, Larry Anhder, was also in attendance.

Call to order

Mr. Anhder said because this was a special meeting all council members received written notice 24-hours before the meeting. 100% of Council members were in attendance. Mayor Pro Tempore Larsen said notice was also issued to the newspaper, although not published, and posted around town in accordance with state law.

Consideration and approval of an agreement with the Cache County School District for the Community Center Room at the new Nibley Elementary School

Mr. Anhder said the superintendent was very upbeat about this and still wanted it to work. He felt better about the compromise and felt confident that the school board would accept it. The school board did not meet until Thursday night to either ratify the new

agreement or come up with something else. Mayor Pro Tempore Larsen said he was not present for the first discussion but had reviewed the minutes and listened to the first hour of the recording. He asked if the strikes and underlines were their additions or subtractions. Mr. Anhder said they were the additions made as per their last meeting. They were the negotiated changes and were initiated by the City Council. Mayor Pro Tempore Larsen questioned if it was leased to the city and Mr. Anhder said that would probably be up to the bond attorney. The school legal council is reluctant to give them an ownership share. The bond council is leery of that situation. He thought that portion of it was out of their hands. The school district did agree to whatever it took to get the bond. Mr. Anhder said there may be another options; a sales tax pledge bond. Mayor Pro Tempore Larsen said the way they had talked about the funding before is that they would have to have ownership. They did not ever seriously consider a sales tax option. They did not think it was a better option. Mr. Anhder is does save a little of the red tape of being the building authority that does this.

Mayor Pro Tempore Larsen questioned section A; that there be no separate legal entity created but they create a management committee that decides how much they pay and fees, etc. He asked how they were not creating a separate entity. Mr. Anhder said that addresses that this does not create a separate legal entity that is immune from control by the school or by Nibley City and can operate on its own. Mr. Anhder said this was included in the Smithfield and Logan agreement.

Mayor Pro Tempore Larsen questioned who had priority over the scheduling in each section and whether the district can say “no” to them. He said even though the superintendent wanted to have good relations with them, they have not had such good relations with Nibley Elementary this year. Mr. Anhder said here they have the management committee that will get into that. Councilman Hansen said once they get into the center and establish a good report with them things should open up; if they are good tenants. Mr. Anhder said in their discussion on Tuesday they discussed the intent of doing more agreements and making the school more accessible and they unanimously agreed with that and thought this was the first step towards that. Mayor Pro Tempore Larsen asked what their concern was about using the rest of the building. Mr. Anhder said the issue with the rest of the building is security. They need to control who is in the building when there are kids in the building. It makes it better with the bathroom because now they have a separate exit from that area. Putting in the additional restroom allows them to shut off from the rest of the school and made it a win-win deal for everybody. Councilman Jacobsen said if they just said the city or pubic could not have access during school hours if that would make the extra bathroom unnecessary. Councilman Hansen said he never saw the need of it during school hours. Councilman Dustin said if the facility is rented on a Sunday then they become responsible for kids walking down the hallways. It only takes one case of vandalism to take care of \$30,000. Mayor Pro Tempore Larsen said it gives them another option to have it available during the say. Mr. Anhder said they have been approached by groups such as the Daughters of the Utah Pioneers who would have need of the facility during the day. Mayor Pro Tempore Larsen said he had been contacted by other groups that would like the facility during the day. Mr. Anhder said the principle was concerned with parking during the day; there may not

be much parking available at that time. Mayor Pro Tempore Larsen said he is usually able to find parking during the day at the current school. It is a concern but he does not see a huge number of people using the facility during the day.

Councilman Jacobsen said he can see the school districts point of view better; that they are in their house; they are responsible for the safety of those kids. He can even see that as a negotiable point. He said that this allows it. Mayor Pro Tempore Larsen said that the city schedules the facility and wondered about the liability involved. He noted that Mr. Anhder said Smithfield had the same square footage and put in the same facility. He questioned if the school could disallow them from scheduling that part of the school for third party use. Mr. Anhder said he did not think so.

Mayor Pro Tempore Larsen said initially he was in favor of the center but after reading the agreement and hearing comments from the last discussion, he was on the fence about it. He said the area seemed small to him. He cannot visualize 100+ people sitting in there. Councilman Hansen said the architect showed them the plans of the chairs and tables in that space.

Councilman Dustin said from his perspective his issues are they do not have an ownership stake, the costs are excessive—in the cost breakdown at the end of the contract, they are paying as much per square foot on 370 sq. ft. of tin over the entry way as they are for square footage inside the building, that is 15% of their total area and they have to pay utilities on 10 ft of the area outside the building. He thought on some level they have a moral obligation to follow through. They have made the financial commitment and he would probably have to vote to follow through. Mr. Anhder said how they handle utilities was left to be discussed and reconciled with the management committee.

Councilman Dustin said \$138/sq. ft. includes all the specific finishes in the school and the entry was 20% of their total space and did not have all those specific finishes. He still did not feel this was equitable for the citizens. Councilman Mickelson said he felt instead of coming up with a very large amount for property, parking, and building costs, it lengthens out the need for that facility and allows them the extra space they need here until they are really ready to develop. He did not see the need for something else coming in the next 10 years. He said it was as good a situation as they could get. Councilman Dustin said he thought this building would have been just fine and if they needed more office space they could have leased. If they are going to follow through he does not want pay more than is equitable. He did not feel the need to subsidize the school district on the backs of a bond for the city. He also wanted the number cut down; they are paying cash for the bathroom, so he expects to see the number fall for the square footage of the bathroom; he will not pay for the bathroom twice. Mayor Pro Tempore Larsen asked with the buyout in C-4. if they could take the \$60,000 in supplies (tables, chairs, screen, desk) when they leave. Mr. Anhder said yes, the items that can be easily taken.

Councilman Dustin made a motion to accept the joint use and lease agreement between Nibley City and the Cache County School District for the addition to the new Heritage

Elementary school for use by the city with the following changes; changes as marked in the draft copy given to the City Council; in D line 3 & 4 change the word “building” to “center”; add item 9. to section C to state “city retains ownership of times outlined in section C and attachment B upon termination of the agreement”; revise attachment B to reflect the square footage less the square footage of the new bathroom; and to revise the unit cost for the half canopy at entry to reflect actual construction cost for a canopy system and recalculate the total based on those costs.

Councilman Dustin said he would like to see two unit costs that they are charged for; one unit price for the square footage of the finished room itself, and another unit cost that addressed the canopy. He wants to pay half the cost of the actually canopy. He wants to pay the unit rate of 370 sq. ft. of canopy.

Councilman Dustin requested that the management committee take into account that 20% of their square footage is outside when utility costs are negotiated with the management committee.

Councilman Jacobsen seconded the motion.

Councilman Mickelson asked if this could cost them more. Mr. Anhder said he did not think so but for logistics if they do not have an agreement by Friday they will move forward and finish the school and to put the bathroom in will become a remodel rate. If anything comes in different from the school board they may have to call another meeting. Councilman Mickelson asked if they could leave the logistics to Mr. Anhder. Councilman Dustin said the worst thing that will happen is they put the bathroom all that way down hall; then they don't use the bathroom during the day. Councilman Mickelson said they were close enough that they should give him the go ahead for whatever he had to do.

Councilman Jacobsen asked for clarification on the half canopy. He said it seemed fair to say that the City Council addition was 1727 sq. ft. and that they agreed to pay \$138/sq. ft. for that 1727 and they agree to pay half the construction costs of the canopy. He is alright with saying Nibley City will pay for half the construction costs of the canopy.

Councilman Mickelson suggested they talk to Commissioner Anderson to decide what the half canopy involved; if they are paying for half a canopy or if it was called a half canopy. Commissioner Anderson was not answering his phone. Councilman Mickelson asked where the extra costs were coming from. Councilman Jacobsen said half of the cost of canopy was \$51,000. He said Councilman Dustin's point was a good one. The canopy did not cost \$138/sq. ft. to build and that is the rate they are asking them to pay. Councilman Jacobsen said they could be including the parking spaces they are going to use in there. Councilman Dustin said if the overall square footage of the school is 200,000 sq. ft. and the total square footage of the canopy is 700 sq. ft. that is a throw away number. In their case, proportionally, that is 20% of their cost. Mayor Pro Tempore Larsen said the \$138/sq. ft. if for the building can include projectors and carpets and moldings. They are already paying for the extra. He perceived they were paying extra on top of that.

Councilman Jacobsen said he had a comparison; at Campbell Scientific they are looking at a 40,000 addition that is bare bones and it is costing over 100/sq. ft. \$140/sq. ft. did not seem that outrageous to him. Councilman Dustin said he would not argue the \$138/sq. ft. for the finished portion but he did questions that for a canopy. Mayor Pro Tempore Larsen said they were quoted \$350,000 and wondered if that was there way of getting to 350,000. Councilman Hansen said they might not be far off. Councilman Hansen asked if there were any outdoor uses for that canopy area. Councilman Hansen said he recalled they had to expand the canopy for the expansion of the building.

Mr. Anhder suggested he attempt to get the canopy thrown out. Councilman Dustin said he thought they needed to be fair. Negotiating for the actual unit rate is something they can fall back to. After reviewing his files, Mr. Anhder noted that the canopy had been included under the extras for awhile. They are figuring it up with the whole costs of the building. Mayor Pro Tempore Larsen said the motion on the floor reflects that they do not want to pay that much for the canopy. They have paid for the extras in the extra part of the building. Mayor Pro Tempore Larsen asked for further discussion. Councilman Jacobsen asked if it was clear what they said on the canopy. They are only going to pay for 370 sq. ft. of the unit cost of the canopy.

Councilman Jacobsen said there was one minor thing on page. Councilman Jacobsen made a motion to strike “the lesser of the replacement costs or”. Mr. Anhder clarified what was discussed at his meeting with the superintendent. Councilman Jacobsen withdrew his motion. Councilman Jacobsen said they should not minimize the fact that they can walk away with the money they put into it. Mayor Pro Tempore Larsen said in five years if they decide to build—the school must see value in that portion or they would not have done it in Smithfield—he thought in five years they may be willing to buy them out. Councilman Jacobsen said they have an exit strategy that may be a win-win for both of them.

Mr. Anhder said they could handle it by letting them take the agreement to their board and if the board said no he would email the Council and ask if they will vote yes on amending contract at the next meeting. Councilman Dustin said he had one sticking point; the square footage of the bathroom. Councilman Jacobsen said he thought the email voting was a good idea but it bothered him. He would rather vote on the original motion and then make another motion.

Councilman Mickelson made a motion to call for question. Councilman Dustin seconded the motion. The motion passed unanimously with Councilman Mickelson Councilman Dustin, Councilman Jacobsen, Councilman Larsen, and Councilman Hansen all in favor.

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

Councilman Jacobsen made a motion to authorize the city manager to negotiate the canopy change if the first motion fails. Councilman Hansen seconded the motion. The

motion passed 4-1 with Councilman Jacobsen, Councilman Hansen, Councilman Mickelson, and Councilman Dustin in favor. Councilman Larsen abstained from the vote.

Mayor Pro Tempore Larsen asked for approval for fireworks for Nibley Heritage Days. He said the money was available. The Council had discussed doing either the fireworks or the concert. The concert is a go. They got 500 dollars from the Cain College of Arts for the concert and are negotiating getting a piano donated. There is budgeted money for the fireworks in the Heritage Days budget. The fireworks would be June 19th. Councilman Mickelson said with the 4th of July and the 24th of July he would rather not do the fireworks. He would rather use the money for other cultural experiences. Mayor Pro Tempore Larsen said it would be at the 3200 So. park. Council Dustin said he was for it. Councilman Hansen said he would like to get some music going with it. Councilman Jacobsen said yes because Councilman Larsen had fit it in the budget.

The meeting was adjourned at 7:29 p.m.