

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, October 7, 2010.

The following actions were made during the meeting:

**Councilman Mickelson motioned to adopt the current City Council as the board for the Municipal Building Authority. Councilman Hansen seconded the motion.**

**Councilman Jacobsen motioned to amend saying the Mayor shall be president of the board and the City Manager shall be secretary. Councilman Dustin seconded the motion. The amendment passed unanimously 5-0; with Councilman Jacobsen, Councilman Dustin, Councilman Larsen, Councilman Mickelson, and Councilman Hansen in favor.**

**The amended 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 10-10. Councilman Jacobsen seconded the motion. The motion passed 3-2 with Councilman Mickelson, Councilman Jacobsen, and Councilman Hansen in favor. Councilman Dustin and Councilman Larsen were opposed.**

**Councilman Dustin motioned to grant preliminary approval to Mountain View Villas at Sunset parks planned unit development. Councilman Jacobsen seconded the motion.**

**Councilman Dustin motioned amend to include all conditions previously attached the planned unit development prior to expiration. Councilman Hansen seconded the motion. The amendment passed 3-2; with Councilman Dustin, Councilman Hansen, and Councilman Jacobsen in favor. Councilman Mickelson and Councilman Larsen were opposed.**

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

**Councilman Mickelson motioned to approve the concept plan for a planned unit development of 86 lots proposed by Neighborhood Non-Profit. Councilman Hansen seconded the motion. The motion on the floor passed 3-2 with Councilman Dustin, Councilman Mickelson, and Councilman Hansen in favor. Councilman Jacobsen and Councilman Larsen were opposed.**

**Councilman Hansen motioned to approve Ordinance 10-07 to rezone from agriculture to R-2A. Councilman Dustin seconded the motion. The motion failed 3-1; with Councilman Jacobsen, Councilman Larsen, and Councilman Hansen**

**opposed. Councilman Mickelson was in favor. Councilman Dustin abstained from voting.**

**Councilman Jacobsen motioned to reconsider the vote. Councilman Hansen seconded the motion. The motion passed 3-2 with Councilman Jacobsen, Councilman Hansen, and Councilman Mickelson in favor. Councilman Dustin and Councilman Larsen were opposed.**

**The reconsidered motion failed 2-2 with Councilman Hansen and Councilman Mickelson in favor. Councilman Larsen and Councilman Jacobsen were opposed. Councilman Dustin abstained from the vote.**

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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, October 7, 2010 Nibley City Council meeting to order at 6:05 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. Larry Anhder, the City Manager was also in attendance.

#### **Call to order, approval of the evening's agenda and minutes of the September 2, 2010 meeting.**

Councilman Hansen made a motion to approve the minutes and the evening's agenda. Councilman Jacobsen seconded the motion which passed unanimously 5-0; with Councilman Hansen, Councilman Jacobsen, Councilman Larsen, Councilman Dustin, and Councilman Mickelson all in favor.

#### **Consideration of the adoption of a Resolution approving the adoption by the Municipal Building Authority of Nibley City, Utah of a parameters resolution authorizing not more than \$850,000 lease revenue bonds for the purpose of constructing a new city hall and related matters.**

Mr. Anhder said this resolution authorized the building authority to make certain actions. Councilman Larsen read minutes from the January 15, 2009 minutes which identified building authority officers and which he said was contrary to the third page of the resolution which spelled out different officers. Mr. Anhder said the board is the Mayor is the Chair with board members Larry Jacobson, Scott Larsen, Bryan Hansen, Thayne Mickelson, and Shawn Dustin. Councilman Larsen said the motion passed by the Council did not name Bryan or Thayne as members of that body. Mr. Mark Edmunster said typically when they set up a municipal building authority it lists the mayor and them members of the City Council at that point and whoever succeeds them in that position; it usually supersedes by position not by name.

Mr. Anhder said the enabling legislations from the state suggests that the council members are the board of directors. The council could appoint themselves as the board members tonight and that would be refilled with the state. Mayor Knight asked what they needed to do to the resolution to name this Council as the building authority board. Mr. Anhder said they should appoint members by motion.

Councilman Mickelson made a motion to adopt the current City Council as the board for the Municipal Building Authority. Councilman Hansen seconded the motion.

Councilman Jacobsen made a motion to amend saying the Mayor shall be president of the board and the City Manager shall be secretary. Councilman Dustin seconded the motion.

Councilman Dustin thought the intent of the motion was that from here on out it was by position and not by name.

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

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

Councilman Dustin said as a point of clarification; from this point forward there shouldn't be any need to add individual names. If you are serving on the Council you are serving on the board. Mr. Anhder noted that the Resolution number was 10-10.

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

Councilman Larsen read it that the resolution set the building authority as the responsible party. Mr. Anhder said this authorized the building authority to do what it needed to do to build the building and sell the bonds up to \$850,000. Mr. Edmunster said which is simply adopting a parameters resolution, setting the date for public hearing, and authorizing publication of the notice of intent to issue bonds. The city is not committed to anything right now; nor is the building authority. It permits the bonding process to move forward. Councilman Dustin reiterated that the feedback they had gotten from the public was consistent and was in line with his feelings. He did not feel they need to do this at this time. He did not feel a city hall or this expenditure was in the city's best interest and for those reasons he was opposed to this. Councilman Mickelson said it was not fair to say everyone had stated that. He noted that he had received opinions and one documented letter that signified a different response. Councilman Dustin said in his view, with regard to the Schiess property, they did what the citizens asked them to do in spite of what he thought was in the best interested of the city in the long term and in this case they were doing the opposite.

The motion passed 3-2 with Councilman Mickelson, Councilman Jacobsen, and Councilman Hansen in favor. Councilman Dustin and Councilman Larsen were opposed.

**Review and discussion about proposed plans for a new city hall.**

Mr. Jim Childs, an architect with JR Architects was present at the meeting. Mr. Childs gave a rendering of the proposed building to the City Council. He said were looking at brick veneer and rock veneer for the outside of the building. The actual colors and specifics will be discussed in the next two weeks with the building design committee. Mr. Childs said it was the feeling of the design committee to try work on the west side and reduce the length of the patio and not dig down on the east side. They would focus more on the north and around the corner to the west.

Councilman Mickelson said he was not in favor of such a stark all rock entrance; he would like to see it broken up with more wood. He also was not in favor of the red brick and would like it more conducive to the rock color. He said otherwise they were headed in a good direction. Councilman Larsen asked about bringing natural light with dormers. Mr. Childs said he held off because they crowded the whole building and it was difficult from a framing point of view to get the light down to the rooms.

**6:30—Public Hearing—to receive comments concerning a request for a Planned Unit Development for residents over 55 years of age at 2700 South on 1000 West.**

Mr. Randy Gnehm, the developer, was present at the meeting. Mayor Knight said this was a subdivision that was approved some time ago but was never completed so their application had expired. Councilman Larsen said this subdivision was first approved in July 2008 and he state the ownership had changed. Mr. Gnehm said the ownership had not changed. When Councilman Larsen questioned further he said there is a new silent partner. Mayor Knight gave direction to the public present. Mr. Randy Gnehm, the developer, was present at the meeting. Mayor Knight said this was a subdivision that was approved some time ago but was never completed so their application had expired. Mayor Knight said this subdivision was first approved in 2008. Mr. Gnehm said the ownership had not changed. Mayor Knight gave direction to the public present.

Mayor Knight opened the public hearing at 6:32.

Marilyn Miller said she lived in Sunset Park and wondered how long it would take before they started developing phase 2. She asked if there was an ordinance considering motorcycles and 4-wheelers. She said she dealt with them riding in phase 2 everyday. Mayor Knight said there was a nuisance ordinance of they presented themselves as a nuisance but as far a public property, no. Mayor Knight advised Ms. Miller to call the Sheriff's department and if no one responded then call him. Mr. Gnehm said it was posted that it was private property and was prohibited and he had thrown individuals off the property himself.

Norma Dawson said she lives in Sunset Park. Her backyard is adjacent to the proposed property. She said they have heard several different stories as to what is going in on that property and they would like some clarification. Ms. Dawson got clarification on what was being renewed and that it was the same as what was previously proposed. Ms. Dawson inquired about a road on the back side of their property. Councilman Jacobsen said that road had been abandoned by the city.

Phillip Arnoldson asked what types of homes were going in the development. Mayor Knight said they were single dwelling homes. Mr. Arnoldson asked if there was a limit to how big or small the homes were. Mayor Knight said they had to fit the setbacks on the lot size. Mr. Anhder said they were very similar to the homes right next to the property. It was noted that the average lot size was 58,000 square feet.

Corlyss Drinkard noted her objection to the densification of Nibley City. Mr. Arnoldson seconded that. Barbara Wilden said for a senior development the smaller lots fit; not every senior wants to take care of an acre of land.

Jane Harston had heard that some of the houses would be as little as 1,000 sq. ft. and asked if they would follow what they have now. Mayor Knight said they would have to ask the developer and see if he had restrictive covenants. He said the city did not regulate that; their only regulation is this design and the setbacks.

Mr. Arnoldson said they were concerned with the value of their homes compared to their homes. He said Bishop Homes are actually very nice; they offer lower homes just to get people to look at them but he has seen few built.

Ms. Dawson asked if this got approved if they could only put 46 homes in there. Mayor Knight said yes. She wanted to be sure they could not put 2 homes on one lot.

Ms. Drinkard asked who enforced the age on these residences. Mr. Anhder said there was a home owners association. Mr. Gnehm said there would only be one home owners association; it would be the same. Ms. Drinkard said she got the gist that HOA's did not actually exist in Nibley. Mayor Knight said they were not city regulated. Ms. Drinkard said she understood that they exist insofar that the builder presents them to the future owners but as soon as the development is sold they disappear; the HOA's do not function and basically cease to exist. Mayor Knight said that was an over generalization. Mr. Gnehm said they had not formed their HOA yet because of the economy. Mr. Gnehm thought it was 70% of lots sold when the HOA was formed. Councilman Larsen asked how many lots in Sunset were sold right now. Mr. Gnehm said about 15-16; almost half. Councilman Larsen referenced meeting minutes from July 2008 that said the HOA should change hands to the majority at 70% and at that time 15 of the 30 lots had sold. Mr. Gnehm said they sold one last year and one this year.

Marilyn Miller asked when phase 2 was going to be started. Mayor Knight said they cannot start construction until they receive final approval from City Council. Mrs. Miller said she was concerned about the weeds that were growing. Mayor Knight advised Ms. Miller to call the city and the property owner would be contacted. Ms. Dawson asked about other adjoining properties and the weeds growing there. Mayor Knight said it was the property owner's responsibility to maintain their property and control the weeds.

Councilman Jacobsen asked the public present about how they felt about living in this development. He said they looked at this planned unit development for seniors as a way to have a variety of housing in Nibley to suit different people's needs. Ray Swanton said

it was the best thing since chocolate ice cream for people like them; he liked the closeness, he liked the small lots, and no through traffic. He would like to see more of these.

Ms. Dawson said they had fantastic people living there. They were individual homes that you can do anything you want with your property within limitations.

Mr. Arnoldson said he was right across the street and he noticed a tight-knittedness between them but his concern was the availability of a whole other phase when they had not finished the first one. It did not seem very efficient. He thought they should just stick with the first one and leave the other as is.

Jane Harston said they were old but they were still living and alive. They are still helpful and volunteer and keep young. Ms. Miller said they have a hard time with snow removal and wondered if Nibley City could come through the main corridor for them. Mayor Knight said they cannot do that on a private road. Councilman Hansen asked how they felt Nibley City was meeting the needs of the elder citizens. Ms. Dawson said it would be nice to have a Sr. Center in Nibley. Mrs. Harston asked about a sidewalk by her property and dust and if the dust would be taken care of soon. Mr. Anhder said there was a sprinkler system going in this fall.

Councilman Jacobsen asked if the proposed phase 2 would adversely affect their properties. Ms. Dawson said if they were similar to what they have then it shouldn't; if they were cracker boxes then it would.

Seeing no other public comment Mayor Knight closed the public hearing at 7:03.

**Consideration of proposed Mountain View Villas Planned Unit Development for residents over 55 years of age at 2700 South on 1000 West.**

Councilman Dustin made a motion to grant preliminary approval to Mountain View Villas at Sunset parks planned unit development. Councilman Jacobsen seconded the motion.

Councilman Mickelson said he hoped the developer had a great opportunity to build homes for less and get the economy moving. He thought things got overinflated. The price difference might just be the economy in which the homes were bought. He said he had four kids that were out of school and not in homes now and it did not bother him to see small square footage homes; they can be nice too.

Councilman Jacobsen asked if they had started on a new planned unit development ordinance. Mayor Knight said they had. Councilman Jacobsen said he was encouraged because he was concerned with their current planned unit development ordinance. He thought the fact they had started on a new ordinance meant something in terms of enabling another option. Once a city starts working on another ordinance they have the option to not consider a proposal that would be impacted by an ordinance change for what he thought was 180 days; the city can say they do not have standing because they

are working on a new ordinance. Councilman Jacobsen and Mayor Knight discussed Utah State law on delaying approval if a new ordinance is being developed.

Councilman Larsen said he shared some of the concerns that the citizens had brought up. He had been concerned about the start and lack of finish. At the first approval it was sold to them that there was a great demand. He said he was happy to welcome the senior citizens. He said Nibley has two current senior developments that have not sold well at all. It was hard to say there was a need there and give approval for 46 new homes. He fears for the change of the 55 and older; he hoped the developer would hold true to that. Councilman Larsen said the Council had the authority to reject planned unit developments. He said the concern existed if the sidewalks would be open to the general populace there; he had heard that other citizens had noted they were not welcome to be in that area. Councilman Larsen said he was not in favor of doing this again; at least not right now. The best option is to fill up the current development. Councilman Larsen recommended the Council not grant approval of this subdivision.

Councilman Jacobsen asked if given that the initial approval of this planned unit development expired after 18 months and there would be the same 18 month limitation if this was a good time to be proposing this. Mr. Gnehm said if you own a property like that with a mortgage you have to have it passed off to renew the loan. He has to renew it to keep the project going.

Jane Harston noted how they were not selling but in Logan and Smithfield they were completely full. She said there was a need for them. Mayor Knight said that may come down to marketing. Ms. Dawson said they were not being advertised.

Councilman Larsen asked if the preliminary requirements from the first approval were still standing.

Councilman Dustin made a motion amend to include all conditions previously attached the planned unit development prior to expiration. Councilman Hansen seconded the motion.

Councilman Dustin said they were comfortable enough to approve this 18 months ago and he did not see any compelling reason to throw it out and to allow it to continue as it had been. Councilman Larsen noted Commissioner Anderson talked about open space and the planned phasing of the improvement for the entire subdivision. Councilman Larsen said would like to have more teeth as to when things get done. Councilman Dustin said he saw this as a renewal to a preliminary and in his view nothing had changed.

Mayor Knight questioned the appropriateness of the amendment. Mayor Knight said there were no conditions from the previous approval. Councilman Jacobsen said he thought the Council's work was at preliminary. He felt it was not fair to the developer to invest money and then they ask to change things at final approval. Councilman Jacobsen said he supports Councilman Dustin's amendment and if they thought it was appropriate at that time then it is appropriate now. Mayor Knight said he wanted those conditions

enumerated. Councilman Dustin said the intent of his amendment was he wanted to give the developer the same rules that they were given the last time they came in; they have not had anything come up in that last two years.

The amendment passed 3-2; with Councilman Dustin, Councilman Hansen, and Councilman Jacobsen in favor. Councilman Mickelson and Councilman Larsen were opposed.

Councilman Larsen said in his opinion it gives them a second shot to take another shot at this. He thought it would be a mistake to do this now. Last time he proposed and asked the Council the question of what the benefits of having this development in their community and why they needed to do it now.

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

**7:00—Public Hearing—Community Development Block Grant Public Hearing to receive comments and suggestions for potential projects for which CDBG funds may be applied.**

Mr. Anhder said Community Development Block Grant public hearings are held to solicit input for programs that may be applied for and that qualify for Community Development Block Grant (CDBG). In the Bear River region there is approximately \$700,000 available for projects. Projects that are likely to displace low and moderate income individuals will not be accepted. All eligible activities which can be accomplished under this program are identified in an “eligible grant Activities” handout. Nibley City has received CDBG money in the past in helping install the water line along 3200 South. All CDBG programs have to be eligible. The only participants that are eligible are low and moderate income individuals. The purpose of this hearing is to ask anyone who wants suggest a program for which CDBG funds may be applied.

Mayor Knight opened the public hearing at 7:42.

Councilman Larsen asked if the block grants where for capital improvements or for programs. Mr. Anhder said both. Mr. Anhder spoke on behalf of Habitat for Humanity. He said they had asked Nibley City to sponsor their grant. Habitat for Humanity wants to build two homes and use these funds to purchase two lots in Nibley to build Habitat homes. Mr. Anhder said they had also received CDBG to install sewer laterals.

Councilman Hansen asked if a community garden would be an appropriate use and in that category. Mr. Anhder said he did not know but it was a good suggestion. Councilman Mickelson suggested the development of Morgan Farm. Councilman Dustin asked if it was appropriate for members of Council to make a recommendation; he was curious of what their chances of getting CDBG money for Morgan Farm would be. Mr. Anhder said CDBG typically received 3 times the applications for the money they have available; unless they find a way of demonstrating that whatever improvement they did would

benefit low to moderate income people almost exclusively then they wouldn't have much of a chance.

Councilman Mickelson recommended a program that would bring in specialist to offer counseling and education for problems within the community.

Councilman Dustin proposed that Nibley City pursue funding from the Community Development Block Grant (CDBG) to make improvements to the Morgan Farm for the purpose of creating either a community garden or a facility for 4-H that would be targeted towards benefiting lower income members of the community.

Seeing no other public comment Mayor Knight closed the public hearing at 7:53.

Councilman Jacobsen made a motion to recess for a maximum of 10 minutes. Councilman Dustin seconded the motion which passed unanimously 5-0; with Councilman Jacobsen, Councilman Dustin, Councilman Mickelson, Councilman Hansen, and Councilman Larsen in favor.

The City Council meeting reconvened at 8:01.

**Consideration of concept plan for proposed planned unit development of 86 lots and 3.45 acres open space being proposed by Neighborhood Nonprofit Housing Corporation (NNHC) between 1100 West and 1200 West and south of 2600 South.**

Mrs. Kim Datwyler and Mr. Danny McFarland were present at the meeting representing NNHC. Mrs. Datwyler said when they started looking at this piece they wanted to capitalize on the walking path, the great open space, and the availability of a water feature. They met with Mr. Anhder and Ms. Phippen to get input on how they could utilize the open space. They have tried to incorporate the 8<sup>th</sup> west planter trees. The whole intent is to provide a subdivision that is very walkable, gives the city open space, gives them the capacity to do the next culinary well, and moving the secondary well that exists there in the city right-of-way. They have tried to keep the traffic coming out at a minimum and provided a couple of walking paths. They are also implementing a template for park strip landscaping that gives certain type of trees. She thought this would be the crown jewel of their subdivisions if they could make that work. Mrs. Datwyler said this subdivision was very similar to their Meadow View subdivision; they incorporated not doing the shallow deep lots but going to a quarter but keeping the same frontage. It gives a total of 86 lots.

Councilman Dustin asked how they proposed to access the open space. Mr. McFarland showed Councilman Dustin the access on the plan. Mr. McFarland said they would have a master tree plan so that there would be a lot of continuity. Councilman Jacobsen asked what the plan was for the open space. Mrs. Datwyler said they would give it to the city. Councilman Dustin said he liked what they had done and said it was very interesting. He would like to see more connectivity to make it a more walkable area. He liked the big open space and said this proposal would preserve that area.

Councilman Mickelson made a motion to approve the concept plan for a planned unit development of 86 lots proposed by Neighborhood Non-Profit. Councilman Hansen seconded the motion.

Councilman Jacobsen said he was not sure they should approve a concept plan. Councilman Hansen said he believed NNHC was one of the best things that had happened in Nibley. They have got some excellent people that have come into the community. Mrs. Datwyler said this would be their last subdivision in Nibley; they will be an ineligible city after the next census. She said she needed this approved by the end of the year to make it work. Councilman Jacobsen asked if they were familiar with the residential conservation subdivision ordinance and if it had been considered. Mrs. Datwyler said she had looked at it but liked this concept and how it feels. The proponents explained that they had read the conservation ordinance but that it would not work because it did not allow a density bonus. Councilman Jacobsen explained that there must be some confusion because the conservation ordinance does in fact grant density bonuses. Councilman Jacobsen read from page 32 of the general plan which stated "The Conservation Overlay may be applied to residential areas throughout the city. As land is rezoned from agricultural to residential, the Medium Residential Density (a subdivision average of two to four units per acre) will be achieved only through the Conservation Overlay process". The Council discussed the conservation subdivision requirements included in the general plan. Councilman Jacobsen said with planned unit developments they took all the rules and threw them away and he guessed they could justify throwing away the general plan for a planned unit development but he thought the plan was quite specific about land that was rezoned from agricultural. He felt that any land that was zoned from agriculture to medium-density residential ought to be done through a conservation subdivision process. Mr. Anhder said the discussion he remembered was for the agricultural lands south of 3200 South. Councilman Jacobsen read the description of a conservation subdivision to the public present. Councilman Jacobsen said this did not look like a conservation subdivision to him; they needed larger clustering. Mrs. Datwyler said she did not feel their applicants would want to come to a cramped feel. She said they would also be looking to more two story houses to provide four-bedroom, two-bath houses; that is what they want, to give room to grow. Councilman Mickelson suggested they look at uses for the open space should they decided to go to a conservation subdivision. Councilman Hansen said there could be a community garden, parks, and a trail space. Councilman Hansen said he believed what should be protected is already there and a lot of people would want to live next to that. Councilman Hansen recommended NNHC enhance the walking corridor even more. Councilman Larsen said in order to get the number of homes they want they are going to have to give more than three acres. Councilman Hansen said he liked what they had done but they could look at the concepts under the conservation subdivision that could benefit them; they get to make that decision. Mayor Knight said they had a problem if they are going counter to what their general plan is saying. He needed to know if they were going counter to their general plan; they were doing both a rezone and a planned unit development. Councilman Dustin said he thought the ditch it what was worth preserving. He agreed with Councilman Jacobsen that it looked like a standard subdivision but he thought they could work together to find a solution. Councilman Jacobsen said it was hard for him to ignore

the general plan without at least looking into the conservation subdivision with some outside-the-box thinking. Mr. McFarland said he was familiar with the conservation subdivision.

The Council had extensive discussion about the conservation subdivision and gave NNHC some concept direction. Mr. Anhder said staff completely ignored the conservations subdivision because it was assumed the general plan applied to land south of 3200. He said he recommended to Mrs. Datwyler the planned unit development. He said they contemplated a variety of things and it was discussed that they would need a water tank on the west end of the city. He also suggested to Mrs. Datwyler that they keep the lot frontages close to 100 feet. Mr. Anhder discussed that under a conservation subdivision the frontages would go down to 80-90 foot averages which would be a whole different feel to what was there now. He admitted he had not been on the same page with the Council. Mr. McFarland said maybe he needed to look at the ordinance more and thought he could do it, but it might not meet Mrs. Datwyler's desired plans.

Councilman Mickelson said while he did not think the general plan was the bible it gave direction to the way they should move. Every time they add something more to this it takes away from what is proposed because the cost of the dwellings will rise. Councilman Dustin made a motion to amend to encourage the proponent to consider a conservation subdivision and to address how that would impact the project. Councilman Larsen challenged whether that challenged the motion on the floor. Councilman Dustin withdrew the amendment. Councilman Larsen addressed that the conservation subdivision would not necessarily increase costs brought up by Councilman Mickelson. He did not feel the cost would rise because there would be less roads and infrastructure. He felt they needed to provide or those that were coming and protect the people that were already here and the reason why they came here and what they want. The reason a lot of people come here is for the open space. He said they need to protect the people that are here even more than the ones that are coming.

The motion on the floor passed 3-2 with Councilman Dustin, Councilman Mickelson, and Councilman Hansen in favor. Councilman Jacobsen and Councilman Larsen were opposed.

**Consideration of Ordinance 10-07—Change of zone approximately 35 acres between 1100 West and 1200 West, south of 2600 South from Agriculture to Residential 2A.**

Mr. Anhder said his recommendation was to rezone to R-2A.

Mayor Knight recessed the meeting at 9:41.

The meeting reconvened at 9:46.

Mayor Knight said the Planning & Zoning Commission and held a public hearing and recommended a rezone to R-2A. There are three parcels as listed.

Councilman Hansen made a motion to approve Ordinance 10-07 to rezone from agriculture to R-2A. Councilman Dustin seconded the motion.

Councilman Larsen said it make no difference if this was rezoned; they could build a planned unit development on the agriculture land as proposed. Councilman Jacobsen read from the general plan; the plan tells them they cannot rezone this to R-2A. They can only achieve that density through a conservation subdivision. The Council debated if they could rezone to R-2A. Councilman Larsen said he agreed with Councilman Jacobsen viewpoint on the general plan but the Council has pointed out to him when he uses that argument it is not law. He would like to stop doing that; if they do not like the general plan then they need to change it. Councilman Larsen said he thought they would be hard pressed to rezone it to anything but R-2A. They have never done a conservation subdivision and people are not sure what they are going to get. He was willing to say most of the citizens around them are o.k. because they either don't understand it or are alright with it because it isn't too bad. He said he strongly encourage the Council to not rezone this land to R-2A. Barbara Wilden noted other exception to the plan and ordinances that the council had made and said they needed to choose a side and stick to it. Mayor Knight said if they choose to ignore the conservation overlay then it is incumbent on the developer to change the general plan. Ms. Drinkard said they leave themselves open to the unequal application of the law. Councilman Hansen said he did not think this was as black and white as it should be. When he looks at this plan he thinks it meets many of the objectives of the conservation overlay. He felt they really have preserved something good. He did not feel they could say they had not met the objective and tell them to come back. Mayor Knight said he did feel the plan was black and white. Councilman Jacobsen said he did not feel the conservation subdivision had been looked at; he felt the proponents had not looked at the density bonuses and read the ordinance. He still felt they needed to change the general plan before they could go along with it.

Councilman Larsen said he thought the 3.3 acres wasn't even 10% considering other subdivision's have to leave open space for their retention basins which are turned over to the city. Councilman Larsen said they are getting something with the planned unit development to get more houses. Ten percent open space is not a conservation subdivision in his mind therefore it does not achieve what is in the general plan. Councilman Dustin said he saw two procedures; one is to go through the whole process and do a conservation subdivision. They just approved a concept on a planned unit development. As a planned unit development none of the discussion was relevant so the rezone may not be relevant either. He did not think they had done anything wrong in presenting this as a planned unit development. As a planned unit development they are trading something to get something back. It boiled down to a value judgment; the value of the service that NNHC provides and the value of the open space. The open space is there and he thought it preserved the relevant asset of that piece of property. Councilman Dustin thought they had some things to work out with the conservation subdivision ordinance. Councilman Larsen said the rezone is contrary to the general plan despite anything else they say. He said this may not meet their time frame but people perceive that they bend over backwards for developers. Councilman Dustin said he had no problem rejecting the rezone because it was not relevant to the other discussion. Mayor

Knight said they can do a planned unit development in an agriculture zone. Mayor Knight read that “a planned unit development shall be a conditional use in all zones”. Councilman Larsen said that was one of the problems he saw with their current planned unit development ordinance. Councilman Jacobsen said he thought they did that on purpose. He noted they might have thought of someone wanting to do a planned unit development that was specific to an equestrian lifestyle.

The motion failed 3-1; with Councilman Jacobsen, Councilman Larsen and Councilman Dustin opposed. Councilman Mickelson was in favor. Councilman Dustin abstained from voting.

Councilman Dustin said he did not understand why a rezone was necessary; they could come in as a planned unit development and meet the requirements of a conservation subdivision—they could do that. If they want to come in with no changes, they can do that. There is no reason to go through the rezone; it is all semantics. Mr. Anhder said it made them look silly to put down a residential community in an agricultural zone. It was laughable. Councilman Jacobsen said he just wanted to be consistent if nothing else. If they were on board with the concept plan then he did not know how they would be against the rezone. At least it was a consistent answer. Mayor Knight proposed they revisit the general plan and address what he saw as a conundrum with the section Councilman Jacobsen read. He like that idea but thought there might be an exception. Councilman Larsen said they would set the precedence with the other properties they were worried about. Councilman Mickelson said the general plan was not the bible. Councilman Mickelson read from city ordinance and said when the plan and the ordinance conflict they should go with the ordinance. Mayor Knight said when they are in conflict you change it.

After further discussion Councilman Jacobsen made a motion to reconsider the vote. Councilman Hansen seconded the motion. The motion passed 3-2 with Councilman Jacobsen, Councilman Hansen, and Councilman Mickelson in favor. Councilman Dustin and Councilman Larsen were opposed.

Councilman Hansen made a motion to rezone from agriculture to R-2A. After further discussion Councilman Hansen withdrew his motion. Councilman Larsen pointed out there is a motion already because of the reconsider. He said this planned unit development is higher density than any of their zones which is contrary to their ordinance.

The reconsidered motion failed 2-2 with Councilman Hansen and Councilman Mickelson in favor. Councilman Larsen and Councilman Jacobsen were opposed. Councilman Dustin abstained from the vote.

**Council report on attendance at the annual Utah League of Cities meetings.**

The Council decided to postpone this discussion.

### **Council Reports**

Councilman Larsen said he had issues with the Speth property. He said when they came in and subdivided the land and he argued that he would have to put sidewalk in. They Council said they had to put sidewalk in. Now there are cars on the property and it was his understanding that they had to have the sidewalk before they occupied the home. Mayor Knight said he they were to have sidewalk and would follow up on it.

Mayor Knight asked Councilman Hansen to discuss his flyer. Councilman Hansen said he was impressed at the league conference that they needed to go back to their identity and who they really are. Councilman Hansen said that they were named after Charles W. Nibley; he had read his autobiography and encouraged the Council to also read it; that he was an amazing man. He thought they could be a sustainable garden community that could be a model community for Cache Valley. Councilman Hansen said there was a sister city to Nibley in Gloucestershire, England. He researched what Nibley really meant. He learned it was a locational sir name or from name that was given to people after they left their home.

Councilman Hansen said he felt they had a great location in the Morgan Farm. He felt that was a great asset that could be an amazing place that could include a community garden or a place they could hold festivals.

Councilman Hansen said he was brainstorming and he had talked with Local First about Nibley hosting a Cache Valley district and having a home based/small business exposition and teach people that have an idea and how they can market those ideas.

Councilman Hansen said he thought it was time to take the website to the next level. He thought they should have a photo contest and include that on the website. He focused on the sister city relationship and the Local First concept. Mayor Knight said he liked it and asked what he wanted them to do next. Councilman Mickelson suggested he prioritize and come up with a committee.

### **Discussion of charges from Logan City for sewer treatment.**

Mr. Anhder said Logan was screwing them. He said Nibley and other outlying cities were going to send a letter in the coming week. He said it did not appear they should be charging Nibley and other cities what they were being charged.

### **City Manager Report**

Mr. Anhder said they were given a memo about the 5K and 1 mile walks through town. Mr. Anhder said they had not asked permission. Mayor Knight said until there was a problem he thought they should let this type of thing go on. Councilman Mickelson said they needed to register with the city. Mayor Knight said that would require an ordinance. Councilman Jacobsen said they do have a problem; RAGNAR had crossed a line. Councilman Larsen said they could start small and at least have them notify the city. The general consensus of the Council was to construct an ordinance.

Mr. Anhder said more than half the concrete was done and the steel was in place for the water tank.

The meeting was adjourned at 11:19 p.m.