

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, October 21, 2010.

The following actions were made during the meeting:

Councilman Dustin motioned to express support for concept number 2 of Maple View subdivision as a conservation subdivision with a waiver for minimum lot size, average lot size, and frontage width as indicated in the concept plan. Councilman Jacobsen seconded the motion. The motion passed with 3-1; with Councilman Dustin, Councilman Jacobsen, and Councilman Hansen in favor. Councilman Mickelson was opposed.

Councilman Mickelson motioned to require home owners to hook up to the sewer system within 12 months or they could file for a hardship extension and develop a plan of action and limiting with no more than 36 months. Councilman Hansen seconded the motion. The motion passed 4-1 with Councilman Mickelson, Councilman Hansen, Councilman Jacobsen, and Councilman Dustin in favor. Councilman Larsen was opposed.

Councilman Hansen motioned that they move forward with tilling of the site and applying a pesticide for the weeds at Morgan Farm. Councilman Mickelson seconded the motion. The motion passed 4-1 with Councilman Hansen, Councilman Mickelson, Councilman Jacobsen and Councilman Dustin in favor. Councilman Larsen was opposed.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken and prepared by Assistant City Recorder Cheryl Bodily

Mayor Gerald Knight called the Thursday, October 21, 2010 Nibley City Council meeting to order at 6:02 p.m. Those in attendance included Mayor Gerald Knight, Councilman Thayne Mickelson, Councilman Brian Hansen, Councilman Larry Jacobsen, Councilman Scott Larsen, and Councilman Shaun Dustin. Also in attendance were City Manager, Larry Anhder, and City Planner, Shari Phippen.

Call to order, approval of the evening's agenda and minutes of the October 7, 2010 meeting.

Councilman Larsen proposed some changes to the minutes. He proposed the changes were to the recorder via email. Councilman Jacobsen proposed and noted his changes. The recorder also received these changes via email. The changes were approved by the Council.

Councilman Larsen made a motion to approve the minutes as amended by Councilman Jacobsen and himself. Councilman Hansen seconded the motion. The motion passed

unanimously with Councilman Larsen, Councilman Hansen, Councilman Mickelson, Councilman Mickelson and Councilman Dustin in favor.

Councilman Mickelson made a motion to approve the agenda for the night. Councilman Hansen seconded the motion. The motion passed 4-1 with Councilman Mickelson, Councilman Hansen, Councilman Jacobsen, and Councilman Dustin in favor. Councilman Larsen was opposed.

Discussion as to if there is a need to consider a change in the Nibley City General Plan.

Ms. Phippen said in a meeting with Kim Datwyler and Danny McFarland they realized there were some things that overlapped in the general plan and left some loopholes; specifically the point brought up by Councilman Jacobsen about the conservation subdivisions in agricultural land rezoned to residential. They realized there was an overlap in densities; medium density is considered 2-2 and high density is 3-8. When things overlap it brings to issue if things need to be polished or cleaned up.

Councilman Larsen said they had the discussion about the general plan. In his notes they were agreed that it had to overlap because they currently have no high density in the city. R-2A is high density. Ms. Phippen said R-2A is not high density it still fits under the medium density. Councilman Larsen asked what Ms. Phippen defined low density as and noted there was an overlap from low and medium density and there needed to be an overlap in order to fit everything. Ms. Phippen said she was not steering either way but staff had noticed these issues; how do they deal with issues that do fit in the overlap.

Councilman Jacobsen said if they wanted to eliminate that overlap and all ambiguity in the general plan then they needed to go all the way to the specific definitions about what is R2, R-2A, etc. To eliminate all ambiguity and make the general plan less general they would have to adopt and include the zoning map in the general plan. However, if they wanted to go through that process and that specificity then they would have to go through the entire process and change the general plan to get a rezone. He thought it was alright to be general with low, medium, and high density. He said if they want to clear up the ambiguity they need to go all the way. Councilman Larsen said he interpreted it that the only time medium density will be achieved (2-4) is by through a conservation overlay. Councilman Jacobsen thought the point was they would skip the conservation overlay and go straight from agricultural to high density; he did not think the plan said that. Mayor Knight asked if they needed to clear up that ambiguity. Councilman Jacobsen said he thought they needed to clear it up by saying “to get to the medium density from agricultural you have to go through the conservation process and you don’t get to go to the high density”.

Councilman Mickelson said in looking at the concept maps that had come to him it would be hard to do any major salvage of any agricultural ground of any substance. He thought they should offer the option of purchasing these rights from people in the agricultural community that have said they would like to register to save Ag land. They could say these were the properties that were available and a have willing participants and they

could purchase conservation easement right. They would save larger block of land instead of these little developments. He said there were better ways to go about saving agricultural land. Councilman Jacobsen said the conservation program could accomplish the conservation of ag land, wildlife habitat, views and vistas, programmed parks, etc. He agreed it was hard to conserve very productive agricultural land one acre at a time.

Councilman Dustin said he did not have a problem of reopening the general plan. He said there was a lot in the general plan he didn't like but a lot more he did like which is why he voted to support it. If they were going to reopen it he wanted to have specific proposals so they were not rewriting the entire general plan. He was not in favor of simply reopening the general plan. Mayor Knight said he wanted to see if there was a need to clarify the inconsistency of 1-2 paragraphs that were pretty specific. He would like staff to propose a change and let it run its course. He wanted direction on how to approach this. Councilman Mickelson thought it would be healthy to review the general plan yearly. Maybe they would find needed to change things or maybe there just need to be clarification.

Mayor Knight asked Mr. Anhder if he felt there was enough ambiguity in the general plan to cause problems in the future with an agricultural to residential rezone. Mr. Anhder said no. Mayor Knight asked the Council members the same question. Councilman Larsen voiced his no. Mayor Knight said then that puts the issue aside. Mr. Anhder said he did think there were conflicts in the general plan which misled staff; specifically between the land-use map, which showed future land uses, and the paragraph from the general plan. Mayor Knight disagreed and said the map fell right in line with the paragraph 32 of the general plan.

Councilman Larsen took personal privilege and left at 6:31.

Councilman Jacobsen said he thought the general plan was clear and that is was stated clearly. He thought the conservation overlay could be equally applied across the city and be successful. If they felt developers only have to go for conservation overlay south of 3200 south then they needed to get this cleared up. Councilman Jacobsen said he interpreted the general plan that anything that is rezoned from agricultural to residential and wants to get medium density needs to be in the form of a conservation subdivision. Councilman Dustin said that was open to interpretation. He said the fact that they need this discussion said that it was open to interpretation. Mayor Knight said he did not feel there was any room for dispute. Councilman Jacobsen said the fact that there were only a few agricultural pieces left in that area led him to say "maybe they should just give up and punt" and they don't do a conservation subdivision again but then they just keep "punting". They need to put a stake into the ground and really try the conservation subdivision out and stop giving lip service to conserving land in this town.

Mayor Knight thought he saw that the majority did not want to revisit this specific issue on the general plan. He thought Councilman Mickelson point that they needed a yearly review of the general plan was a good one. Councilman Dustin said if staff finds ambiguity in the general plan that is causing problems with enforcing the plan and

causing conflict between staff, the Mayor, or Council that they put together a punch list and bring a specific proposal before Council. The Council agreed with that.

Review and reconsideration of a Concept Plan for NNHC subdivision at 1200 West.

Mayor Knight said they had asked the proponent to come back with some other ideas. They have come back with three ideas; two conservation subdivision plans and one that is a hybrid between the planned unit development and the conservation subdivision. Danny said the hybrid (concept #2) is more along the lines of an R-2A conservation subdivision. He noted that the conservation subdivision ordinance states that it is “voluntary and provided to developers as an alternative to development of property as a conventional subdivision”. Mr. Anhder said he had never considered the agricultural preservation area on their general plan as anything but agricultural preservation, not for conservation subdivisions. If someone wants to come in and annex into the city their plan says they will rezone to low density residential but if someone wants to volunteer to do a conservation subdivision then they can go to higher densities. Mr. Anhder said it is voluntary in those areas. Mr. Anhder said in his opinion they already anticipated medium density residential in that area and that is where he got off track.

Councilman Jacobsen said he wanted to come to two points; there is an important distinction in that this property is not zoned R-2A it is zoned agricultural and there is no guarantee that says they have to rezone it to R-2A. He proposed they could change the general plan to read “areas listed as low density residential on this future land-use plan will only be converted to medium density residential through the conservation process.” Councilman Hansen said he seconded that. The Council discussed the land-use map.

Mayor Knight asked the proponent if they had looked at these proposals with a business eye. Mrs. Datwyler said they would work this year; with building cost right now it was possible but if things change and if building costs go up then they were in trouble because she has families whose incomes will not go up with the market. Councilman Mickelson asked if they built the subdivisions in proposals 1, 2, or 3 if the cost of their homes were different. Mrs. Datwyler said the style and cost of the homes will all be about the same but market conditions change. Councilman Mickelson asked if they threw market conditions out if they would have to charge more. Mrs. Datwyler said she can’t predict with any certainty what phase 2 or phase 3 will cost to develop; she said with certainty they could do phase 1. He asked how that compared to their first proposal. Mrs. Datwyler said a lot; they go from 86 lots to 78 lots. Councilman Mickelson said he thought the point was they would get higher density. Mayor Knight said he was comparing to a planned unit development but if they were to develop in R-2A then they would get 78 lots. Councilman Hansen said they had discussed that there were some zones that it would not be a benefit for a conservation easement. Councilman Jacobsen said it is not zoned an R-2A piece of property yet. Councilman Mickelson thought they were driving the costs up to the people they were trying to serve. Mayor Knight said the general plan does not just address the developer; it addresses the residents that already live in Nibley too.

Councilman Dustin said it seemed to him when they discussed this conceptually they knew there would be issues with it because nobody knew how it was going to apply; namely infrastructure costs, and agricultural conservation. He thought they need to recognize that at this point it was a blunt instrument. He said they have to follow ordinance; he did not want to be arbitrary. Councilman Jacobsen said that is why they included paragraph 10-18-7; “any provisions of this chapter may be waived by the City Council upon a vote of not less than 3 members of the City Council”. Councilman Dustin said he liked conservation subdivision number one the best. Mr. McFarland said concept number 2 did not meet the conservations subdivision in one regard and that was minimum lot size. Mrs. Datwyler said she wanted concept number 2; she said it gave them what they wanted but kept costs lower. She said she was requesting consideration of concept number 2 with a waiver and the good intent because that is what works. Councilman Hansen noted wording in the conservation subdivision ordinance that addressed the value of land to the community said he was not sure if everything along 12th west was valuable to the community. He thought they should add space to the park. Ms. Phippen said another reason they placed the open space along 12th was because they said they could not front lots and they did not want driveways backing on to 12th. That is anticipated on the master road plan to be a through corridor. Councilman Dustin asked the proponent if they requested concept number 2 as a planned unit development or a reconsideration of the average lot size. Mrs. Datwyler said they would be requesting a waiver on the minimum lot size for the conservation subdivision. Councilman Mickelson said for the purpose they were here he was still in favor of the original concept. He thought with the concepts they did not keep the housing costs low enough for this lower income group of people. Knowing this was the last one he wanted to make it the best they could. Councilman Jacobsen asked who the winners and losers were when they talk about a difference of eight lots. Kim Datwyler said in all likelihood the lowest income borrowers because the lots will cost more.

Councilman Jacobsen thanked the proponent for looking at getting behind the idea. He said the first step was to identify what is valuable to the community. He thought their proposal did that and warranted a waiver on the lot size. Mrs. Datwyler asked about the possibility of future impact fee waivers for the homeowners on those lots. Mayor Knight said he thought historically they had done those every time. Mrs. Datwyler said those would offset the higher costs of the land. Mr. Anhder suggested if the council did that then they include a recapture of the fees when the homes are sold.

Councilman Dustin made a motion express support for concept number 2 of Maple View subdivision as a conservation subdivision with a waiver for minimum lot size, average lot size, and frontage width as indicated in the concept plan. Councilman Jacobsen seconded the motion.

Councilman Dustin said he would also like to have an access easement between lots 51 and 52 considered. Mrs. Datwyler asked the city what their intent was for the open space they were dedicating to the city. Mr. Anhder said he did not know; they would landscape it and maintain it. Mr. Anhder said he anticipated the access easement would be a sidewalk and large enough to maintain with a skidster. Councilman Mickelson said he

thought for this instance that this was a mistake and will tax the people they are trying to serve at a higher rate and they will have to subsidize through the taxes of the citizens of the city to additionally pay for that open space and for what they were going to give in additional reimbursements to sewer hook ups. He said they were going to pay for that space. He would rather go with the original plan because it served that community and the needs they were trying to serve better. He would rather go with and vote that they had two weeks ago when they conceptually approved that plan.

The motion passed with 3-1 with Councilman Dustin, Councilman Jacobsen, and Councilman Hansen in favor. Councilman Mickelson was opposed.

Mr. McFarland said he wanted to applaud the city on the conservation subdivision. He thought they were going in a good direction. Ms. Phippen asked if this now needed to be rezoned to R-2A. Mr. Anhder said the preliminary approval and rezone could be done at the same time. He said the city would start the rezone process.

Mayor Knight introduced a representative from the Hard News Café at Utah State University. Max Dahl said he had been at Utah State for a year and was majoring in journalism.

Discussion and review of the proposed Nibley City Parks Plan.

Ms. Phippen said the Parks Plan gave them a good list of what they already have and based on the small community park standards that the consultants gave to them it projected out what they would need over the next 20 years. It seemed what was preferred, other than developing small community parks, was developing large scale parks similar to Willow Park. This plan guided the phasing of that; at the end of 10-15 years they would have a 50 acre sports complex. There are also some construction cost estimates. They are estimates but it gave them a ball park of the cost. There was also some maintenance costs included. Ms. Phippen said there was information included about trails and gave some estimated costs of developing trails. The plan also included the survey results that were given to the public that would not be included in the final draft. There were really rough graphics of the existing parks and what there was room for. Ms. Phippen noted there were a couple of pages that need to be removed because they delineated a soccer field on property at Hollow Road and it was made abundantly clear that the public wanted that left alone. Councilman Hansen said it did not need to be removed altogether; they wanted the trail left in and the piping of the canal taken out.

Mayor Knight said he wanted to identify key points of the plan. He said the Parks committee was recommending the parks plan with the 50 acre sports park. Councilman Hansen said he did not feel the plan addressed passive park use as a specific need. He said he felt that was a form of recreation as well and had true value in their community. Mr. Anhder noted that didn't rank very high on their needs. Councilman Hansen felt the plan was well done but only addressed their recreational needs and not their passive recreation needs.

Councilman Dustin said he felt he interpreted the results of the survey differently. He interpreted that distributed recreation got a lot of use. He did not know that he would go to the conclusion that they needed another big park. Looking at graph 5 it said they were getting use out of their playgrounds and playing fields but the lack of walking & biking trails/cemetery were not meeting the needs of the community. He felt the community wanted connectivity. He felt they were delaying that effort. Mr. Anhder said they looked at the large area park was because of the availability of land. The athletic fields were a priority because of need with the number of young families coming to Nibley; the projected growth drove that. A shortfall of the plan is that it does not project any money to get the right-of-ways for trails.

Corlyss Drinkard said she came and picked up a copy of the parks master plan and she thought they had done a very nice job and with regard to the passive park she saw the need. She complimented the council on how they had taken care of the parks needs in the community. Councilman Mickelson said they had done a good job as a city to not spend outside money and go in to debt especially in maintaining their parks and using their own crew. He thinks what they plan to do will triple their costs and he would like to proceed with caution with that in mind.

Councilman Dustin noted that he got input from his children and their feedback was different from what was reflected in the survey results. He encouraged everyone to take the children's input into consideration on this. Councilman Jacobsen asked how soon they could get the parks inventory of existing facilities on the website. Mayor Knight said it was already there. Councilman Dustin referred to graph number 16 of what folks wanted to financially support and what they were willing to spend money on was facilitating and maintaining existing infrastructure. He said a large sports complex did not seem to have a lot of popular support. Councilman Mickelson said there was a difference between functionality and façade. He thought they could get some of these parks/fields up and running and useable but hold off on some of the lights or fencing. Councilman Hansen said the trail plan in the general plan was much more detailed than in the parks and master plan. Ms. Phippen said she thought that was just a product of the rough draft of the plan; some of the graphics needed to be fixed.

Discussion about the number of residents that have not connected to the city sewer.

Mayor Knight said there were 175 residents that had not connected to the sewer that should; they were required by state law to connect. Mr. Anhder said all but six of them are paying for the service. Mayor Knight said those residents have to bear the cost for putting that lateral in. Mr. Anhder said they were getting their fee and the city did not have to process their effluent. Previous city councils have consciously decided to not pursue this aggressively. One of the consequences of pursuing this is it may require a reexamination of their rate structure. Alternatively it could help determine what their sewer can and should be doing. The bottom line was they could turn their water off if they do not connect to the sewer.

Councilman Mickelson suggested they send a letter that requires they get a permit for not being connected to the sewer that requires them to pay an additional \$10 fee per month to maintain their permit.

Councilman Larsen returned at 8:27.

Councilman Hansen asked if there was ever a letter circulated that they need to be hooked up by a certain date. Mr. Anhder said there was not but that was a conscious decision of the council. He said they could send a strongly worded letter.

Councilman Dustin asked if there was a legal requirement from Bear River Health to hook up. Mr. Anhder said it was not from Bear River Health; it was a state requirement. Councilman Dustin was not sure Councilman Mickelson suggestion would work because they could not permit an illegal use. Mayor Knight said the law is pretty clear and it is trying to do something. If they just ignore enforcing that law they are negligent. Councilman Dustin asked if they could make it illegal to pump septic tanks in Nibley. Mr. Anhder said that did drive a few of them. Mayor Knight asked Mr. Anhder to write a letter to those residents requiring them to hook up. Councilman Larsen said he believed the law applied to new development; he thought those residents could be grandfathered in. The Council discussed whether the law applied only to new development.

Councilman Mickelson made a motion to require home owners to hook up to the sewer system within 12 months or they could file for a hardship extension and develop a plan of action and limiting with no more than 36 months. Councilman Hansen seconded the motion.

Councilman Larsen said he did not see the benefit to the city of forcing the citizens to hook on. It would be a detriment and cost the citizens more. Mayor Knight said he thought it was the council's wish that the law be enforced. He said they should be consistent in the enforcement of the rules. Councilman Larsen said he was on the Council before when they decided to not send a letter and his perceptions was if he had to do it everyone had to do it. He also questioned the legality of this. Councilman Mickelson asked if there were any options to help residents with funding. Mr. Anhder said they had received grants in the past; they could look into finding funding to help residents with the costs. The Council discussed what should be included in a letter to the residents involved.

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

Discussion regarding community gardens in Nibley.

Taun Beddes, a USU extension agent over horticulture, was present at the meeting. Councilman Hansen said several of them attended the agricultural walking tour and the League conference; this stemmed partly from that. He had met with Diane Baum, a master gardener in their community and toured the St. Thomas Aquinas Church community garden in North Logan. Councilman Hansen said there were many benefits to having an existing community garden in their town; they can multi site the program itself

and can be coordinated from one site; there was the benefit of receiving the funds from the people that signed up. There are many sights in Nibley that could serve as a community garden but the one that connected with him in terms of accessibility and location was the Morgan Farm site. This is just south of Elkhorn Park and has 10-15 parking spaces already in place. The site has water adjacent to it on the west side that has a pump as well. Initially, in the fall, the city would need to spray the site for weeds and then till. The extension office has spray if they were not willing to use their own. He was looking for approval to go ahead with those two items. Councilman Hansen said in November they would like to have a community garden feasibility study done by as an Eagle Scout project. Councilman Hansen drove through the city noting the trailer courts, Spring Creek Town Homes, +55 neighborhoods, and Neighborhood non-profit subdivisions. Councilman Hansen said he drove to those sites and estimated there were approximately 100 homes, not including Neighborhood Non-profit, which could benefit from this program. The feasibility study would identify potential plot gardeners and potential volunteers. It would include a site plan and a map to the site. There would no commitment at that point but residents would express their interest. That could be completed over a month long period with the results presented at a December city council meeting. He said as a city they could determine what the need was. Mr. Beddes said 60% of their gardeners in the community garden at the St. Thomas Aquines Church had incomes lower than \$30,000 a year. Councilman Hansen said he believed there was really a need there with the some of the smaller lot sizes. He said this sent the message that they are a community that believed in gardening and that the city could provide a service to educate gardeners. Councilman Larsen said the land at the Morgan Farm was not appropriate for gardening. Mr. Beddes said they received generous donations from the Logan Landfill of compost and bark every year. Mr. Bettles said on a 10 x 20 plot you can grow approximate \$300 worth of produce. Mayor Knight said he thought it was a good idea. Councilman Hansen said in talking with Mr. Saunders he felt they could build the sprinkler system on a modular system. Councilman Hansen discussed some of the other options they could do on this site. He said there would possibly be a small 10 X 10 shed for tools. He thought if they believed in maintaining their agricultural heritage then this would be a great benefit.

Councilman Hansen motioned that they move forward with tilling of the site and applying a pesticide for the weeds at Morgan Farm. Councilman Mickelson seconded the motion.

Councilman Larsen asked where they were getting the funds to do this; he said they could not make a motion. Councilman Hansen said Mr. Saunders said they would prefer to do the tilling and they had the spray available. Councilman Dustin said the Morgan Farm was listed as a park and they maintained their parks.

Councilman Mickelson said he thought it was great to start using this property and would like to continue to explore opportunities. Councilman Larsen said he did not agree with city staff on their assessment of costs. Councilman Hansen said they did not have any other opportunities like this. The request of the city is to till the land in the spring and the fall. Councilman Dustin said he appreciated Councilman Hansen taking the ball and

running with it. This was the type of diversified program he wanted to see in the city. Mr. Beddes said there were a lot of avenue to pursue with acquiring funding; either through grants or donations.

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

Reports on the Utah League of City and Towns Fall Conference.

Councilman Hansen said he would be doing a presentation the first week in November in a second grade class at Heritage Elementary on the history of Nibley.

Councilman Hansen said the Home Based and Small Business Expo should be held mid-January. Ms. Phippen had told him they had approximately 200 home based businesses in Nibley.

Councilman Hansen said the developers of the farmer's market where discussing doing a mid-week farmer's market; possibly on a Wednesday at Heritage Park.

Councilman Jacobsen said he attended an interesting session in the dissenting opinion.

Councilman Dustin said he received a call about cross-walks at about 2980 and 10th ; the citizen was concerned that the cross walks were coming up. Mr. Anhder said they had decided to install the cross walks at that site. The resident requested a kid count at the cross walks on 3200.

Mayor Knight reviewed his notes from the League meetings.

Council Reports

Councilman Mickelson asked for an update on the new city hall plans, the well, and the water tank.

Mr. Anhder said the city hall will be on the agenda in two weeks for bond approval and there will be a public hearing.

Mr. Anhder said they were starting the permitting process for the well.

Mr. Anhder said the all walls were poured for the well and the shoring was in place for the roof. The water line was within 600 ft.

Mr. Anhder said the building committee met for the new city hall and he said it was coming together nicely. He said it would be an asset to their community for 30 years.

Councilman Larsen said he had talked to Rod Elwood and he had expressed he was opposed to the canal staying open at the Maple View subdivision.

Mayor Knight said he had multiple complaints about roosters. The concern of the complaining party is that the residence looked unsightly. The resident could possibly be in violation of the nuisance ordinance. Mayor Knight asked for Council direction. Councilman Jacobsen said if the resident had violated an ordinance then city staff should proceed.

City Manager Report

Mr. Anhder said their IT support had been inconsistent. They had defaulted to Fred Hodge. He received a proposal from a resident of Nibley to be their IT support. He felt it was time, with their new building, to proceed with hiring new IT support. Councilman Larsen said to cut the ties but the council did not have a personal relationship with Mr. Hodge. Councilman Mickelson said they should identify the needs and the level of expertise needed and put it out for bid. Mr. Anhder said he would like help from someone on the council in choosing someone. Council directed city staff to proceed with a RFP for IT support.

Mr. Anhder said the school board was meeting tonight and they seemed very serious about buying the Zollinger property on 3200 South for a high school. Mr. Anhder reviewed the other properties under consideration. Everything they are looking at is in Nibley.

The meeting was adjourned at 10:11 p.m.