

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, December 16, 2010.

The following actions were made during the meeting:

**Councilman Mickelson motioned to approve Ordinance 10-9; the rezone of 35 acres from agriculture to R-2. Councilman Hansen seconded the motion. The motion passed 3-0; with Councilman Mickelson, Councilman Hansen, and Councilman Dustin all in favor.**

**Councilman Mickelson motioned to approve the preliminary plat for Maple View subdivision on 1200 West and south of 2600 South. Councilman Hansen seconded the motion. The motion passed 3-0; with Councilman Mickelson, Councilman Hansen, and Councilman Dustin all in favor.**

**Councilman Dustin motioned to adopt option B for their enforcement policy on snow removal from sidewalks in Nibley City. Councilman Hansen seconded the motion.**

**Councilman Dustin motioned to amend on line item 3 in option B the addition of enforcement will be “handled per city ordinance” as complaints are received by staff. Councilman Larsen seconded the amendment. The amendment passed 3-1; with Councilman Dustin, Councilman Larsen, and Councilman Hansen all in favor. Councilman Mickelson was opposed.**

**Councilman Larsen motioned to amend to strike wordage in 4 of option B to “Nibley city will clean the sidewalks on Highway 165 and farm land that is adjacent to the roadway”. Councilman Dustin seconded the amendment. The amendment failed 1-3; with Councilman Larsen in favor. Councilman Mickelson, Councilman Hansen, and Councilman Dustin were opposed.**

**Councilman Larsen motioned to amend to add 600 West because it is adjacent to a shoulder. Councilman Dustin seconded the amendment. The amendment tied 2-2; with Councilman Larsen and Councilman Dustin in favor. Councilman Mickelson and Councilman Hansen were opposed. Mayor Knight broke the tie and was opposed. The amendment failed 2-3.**

**The amended motion tied 2-2; with Councilman Dustin and Councilman Hansen in favor. Councilman Larsen and Councilman Mickelson were opposed. Mayor Knight broke the tie by voting in favor. The amended motion passed 3-2.**

**Councilman Dustin motioned to authorize city staff to negotiate the easement for the portion of the properties along 2600 S. beginning with Speth’s property and ending with Jensen’s property; in particular when there is question with the water line, with the stipulation that the outcome is that they swap the sidewalk in front of the property for the water line easement. Councilman Hansen seconded the motion.**

**Councilman Mickelson motioned to amend that this did not include any future development; the city will trade the full easement in exchange for the sidewalk in front of Mr. Speth's. Councilman Larsen seconded the motion. The amendment tied 2-2; with Councilman Mickelson and Councilman Larsen in favor. Councilman Dustin and Councilman Hansen were opposed. Mayor Knight broke the tied and was opposed. The amendment failed 2-3.**

**Councilman Larsen motioned to amend the motion to stipulate that the sidewalk be granted only to the immediate family of Cordell Jenson. Councilman Mickelson seconded the motion. The amendment passed 4-0 with Councilman Larsen, Councilman Mickelson, Councilman Hansen, and Councilman Dustin all in favor.**

**The amended motion tied 2-2 with Councilman Dustin and Councilman Hansen in favor. Councilman Larsen and Councilman Mickelson were opposed. Mayor Knight broke the tied and voted in favor. The amendment passed 3-2.**

**Councilman Hansen motioned to accept the reappointment of Aaron Bliesner to the Planning & Zoning Commission. Councilman Dustin seconded the motion. The motion passed 3-0; with Councilman Hansen, Councilman Dustin, and Councilman Mickelson in favor. Councilman Larsen 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, December 16, 2010 Nibley City Council meeting to order at 6:03 p.m. Those in attendance included Mayor Gerald Knight, Councilman Brian Hansen, Councilman Thayne Mickelson, Councilman Shaun Dustin, and Councilman Scott Larsen. Also in attendance were City Manager, Larry Anhder, and City Planner, Shari Phippen. Councilman Larry Jacobsen was excused from the meeting.

#### **Call to order, approval of the evening's agenda and minutes of the November 18, 2010 and December 2, 2010 meetings.**

Mayor Knight said Councilman Jacobsen and Councilman Larsen were not present because of work conflicts. He noted that Councilman Larsen may be present later. Councilman Hansen made a motion to approve the meeting minutes from November 18<sup>th</sup> and December 2 and the evening's agenda. Councilman Dustin seconded the motion. The motion passed unanimously 3-0; with Councilman Hansen, Councilman Dustin, and Councilman Mickelson all in favor.

**Presentation of annual audit of Nibley city finances by Fred Burr, Wiggins & Co.** Mr. Fred Burr was present at the meeting. Mr. Burr reviewed the entire auditing report with the City Council.

Mr. Burr said pages 3-8 where management discussion and analysis; this give a synopsis of the changes that had happened throughout the city during the fiscal year. He specifically went through pages 5-7 which made year to year comparisons. He noted the city had maintained or had surpluses in their budgets for the last couple of years which was a reflection of good management by the City Council and city staff. He said assets had increased by while liabilities had decreased. He said Nibley was an exception to most of the entities he had audited. Mr. Burr said page 8 was a year to year comparison of capital assets. He said Nibley City invested 1.35 million into their capital assets which by far exceeded the depreciation for the year which accountants like to see; they want to see them take the cash generated from the depreciation and put it back into the system. Mr. Burr said this was an excellent year for Nibley; they put together good, tight, conservative budgets and then adhere to them.

Mr. Burr then went over the management reports. Mr. Burr said there appeared to be immaterial instances of noncompliance that had to be reported; the first was a weaknesses in Nibley's internal control system in the accounting for and tracking of capital assets. The Council and city staff discussed the necessity of this. Mr. Anhder said they had begun listing their assets. Mr. Burr said the city would have to hire staff part-time for a month to do data entry and enter the assets into the record. He said it was required by accounting principles and standards. Mr. Burr said the next finding they had was from the payroll processing; two out of the last three years they reported there were miscalculations in the payroll or it was recorded in the wrong account; that process needed to be enhanced. Mr. Burr said the third finding was that bonuses needed to go through the payroll process and be taxed. Mr. Burr said the fourth finding was that in those three categories the expenditures exceeded the appropriations; he said none of them were significant dollar amounts. Mr. Burr said finding number five was a good finding because their general fund had excess fund balance; state laws requires they only have 18% of the prior year revenue and they have an excess of that. Nibley needs to budget that surplus to be used in the next year. Most entities move the excess to their capital project fund.

**6:30—Public Hearing—to receive comments concerning the change of the zone of 35 acres along 1200 West and south of 2600 South from Agriculture to Residential-2**

Kim Datwyler with Neighborhood Non-Profit Housing Corporation was present and requesting the change on NNHC's behalf. Mayor Knight gave direction to the public present.

Mayor Knight opened the public hearing at 6:46.

Chad Horton asked the Mayor to explain the differences of two related items on the agenda.

Mayor Knight said this request had been made before and was not granted because of conflicts with the general plan. Those had been rectified; it pertained to land use issues. In order for this ground to be subdivided they needed approval from the governing body.

The rezone was to move the land from agricultural, which had limitations on it, and make it residential so they could subdivide.

John Swanton asked if this size of development in Nibley would affect future roads and if it would increase access and created more of traffic issues with people going back onto the highway. He felt it increased traffic in Nibley.

Chad Horton asked if the rezone was approved but the subdivision was not what would happen. Mayor Knight said it would remain rezoned.

Mayor Knight closed the public hearing at 6:53.

Councilman Dustin said as part of the city transportation plan, 1200 is designated as one of the major north/south routes. If city policy is consistent, when that land is developed they will develop the road and it will be a significant north/south route. Mayor Knight said they do not want to build the roads but it may get to the point that they have to include 2600 in their road impact fund. Mr. Anhder said on the portion of 2600 S. running east there have been subdivisions approved on both sides of that and will complete both sides of the road and connect with 1100 and 1200 west. He said it was all waiting to be done as developers develop.

#### **Consideration of Ordinance 10-9—Changing the zone of 35 acres from Agriculture to R-2**

Mayor Knight read the ordinance.

Councilman Mickelson made a motion to approve Ordinance 10-9; the rezone of 35 acres from agriculture to R-2. Councilman Hansen seconded the motion.

Councilman Dustin said he agreed that if this rezone went through and the subdivision did not get approved it would remain R-2 and then any developer coming in meeting an R-2 compliant subdivision would have to be approved. He felt that may be something they needed to look at in their conservation subdivision ordinance. Mr. Anhder said if they approve the subdivision it was mute point; but what was rezoned could be changed again. Mayor Knight asked if Mrs. Datwyler had an option on all 35 acres. Mrs. Datwyler said they owned the first two pieces and they have an option on the southern most piece which they would like to exercise as soon as they dealt with the well issue.

The motion passed 3-0; with Councilman Mickelson, Councilman Hansen, and Councilman Dustin all in favor.

#### **6:45—Public Hearing—to receive comments concerning proposed Maple View subdivision, a Conservation Subdivision, on 35 acres on 1200 West and south of 2600 South**

Ms. Phippen said they had been presented with a preliminary plat by NNHC wanting to develop the property that was just rezoned. They were proposing 78 lots on 35 acres with a total of 6+ acres of open space. The open space would blend in with the retention ponds

and walking trail the city already has in place. There are some larger conservancy lots that will be available for individual home owners. Ms. Phippen said if this was developed as a traditional subdivision there would be between 58-61 half acre lots. If developed as an R-2A subdivision there would be 80+ lots on the land. Ms. Phippen said there was a maintenance plan that was submitted that give the particulars on how the open space would be maintained, who would own it, etc.

Mayor Knight opened the public hearing at 7:09.

John Swanton asked if the phases were presold and if they had an estimate on how long it would take to build out a phase. He asked if the concept of the open space with the few larger lots was what they had that in mind with the conservation subdivision; there was no guarantee what those homeowners will do with their lot.

Tony Tuttenham asked how they proposed getting access to conservation area number 4 and the community garden without going through someone's back yard. He asked about the bigger lots and how many there were and if they would ever get subdivided into smaller lots. Mr. Tuttenham noted that Mrs. Datwyler had said this needed to go through by the end of the year because Nibley would be ineligible because of the census and that the census had already been taken so Nibley should already be ineligible.

Chad Orton asked if the agricultural use for the entire area would be terminated as this area was being built in phases.

Corlyss Drinkard said she is opposed to any plan that had the word "development" in it but thought this was a worthy project to represent the Council's conservation subdivision; much better that the previous one that was present to them.

Kim Datwyler said the phases where not presold but they had 18 families that where waiting. The open spaces along the road were intended to give the view along the road and there was a maintenance plan. They cannot subdivide the larger lots and there will be no other structures allowed on them. The community garden access has a strip 30 ft. wide on the south end for access. They have had approval from rural development to pursue this and they had received national approval from the National office. She said Mr. Zilles would still farm the land until they built on it.

Ray Swanton asked if this would be the final plat. Mrs. Datwyler said they liked it and it probably would be.

Stuart Speth asked about the open space on the bigger lots and what the animal rights would be on those and if they would be maintained. Mrs. Datwyler said those lots had to be maintained and the number of animals was dictated by Nibley's animal ordinance.

Tony Tuttenham asked about the conservancy lot sizes. Ms. Phippen said the total between the three was 4.5 including the buildable residential area.

John Swanton asked about the agricultural water rights that existed and if there was water maintenance plans that would be maintained by the city. He wondered if it was irrigation or culinary water that would take care of the open space.

Mayor Knight closed the public hearing at 7:21.

Mrs. Datwyler said they had restrictive covenants and the neighborhoods were good at enforcing them themselves; they are legally enforceable. Mayor Knight said the management plan is different than the restrictive covenants because the city did enforce that.

Councilman Mickelson said on that small amount of open space he assumed someone would come in with 1 horse and without the proper management and intensive rotational grazing he thought they would turn into dirt lots. Mr. Anhder said the management plan would dictate what was expected there and it was enforceable by the city. Councilman Mickelson said they could get some training on utilizing those spaces. They have an option of setting rules different than their ordinance and require rotational grazing. Mr. Anhder said they need to put things in the management plan they can enforce.

#### **Consideration of Preliminary Plat Approval for Maple View Subdivision, a conservation subdivision**

Bill Saunders, Nibley Public Works Director, was present at the meeting. Kim Datwyler and Danny McFarland with Neighborhood Non-Profit Housing Corporation (NNHC) were present at the meeting. Mr. Anhder said staff believed they were creating a very nice avenue along 1200 west. They have recommended the developer be responsible for the fencing along 1200 west; a three wood rail fence along the open space. The road will develop with buffers on each side of the road. He estimated 1200 west would be the second most traveled road through Nibley going north-south.

Councilman Mickelson made a motion to approve the preliminary plat for Maple View subdivision on 1200 West and south of 2600 South. Councilman Hansen seconded the motion.

Councilman Dustin said he thought they were getting a community out of this and they were getting a good move. He thought overall it was a good thing. Councilman Dustin asked Mr. Anhder if once this was built out and became a major corridor through Nibley if there was a plan for commercial development; he had no idea where they were going to put commercial in Nibley. He would like to see that addressed. Councilman Dustin asked Mrs. Datwyler about the conservation areas under page 3; he said it looked to him like they couldn't put any outbuilding on a conservation lot. He thought there was a conflict between that and their animal ordinance. He wanted that addressed before final. Mr. Anhder said the conservation subdivision did allow agricultural buildings. Councilman Dustin noted snow removal along 1200 west; he asked who would be responsible for that. Ms. Phippen said the city would have to do it. Councilman Dustin said he would like that explicitly addressed in the maintenance plan. Councilman Dustin asked if they would get down to species origins on the trees. Mr. McFarland gave that information to Councilman

Dustin. Councilman Dustin was also concerned about the level of specificity on conservation area number 4; he did not know if he wanted to commit to building and maintaining that area. Mrs. Datwyler said that went to the issue of the area being a community or a neighborhood garden. Councilman Hansen said they were currently looking to a community garden in another area that he felt was a better location and he did not want to maintain this area; he felt it was subprime. Councilman Dustin said he would take a lot of the specificity out of that plan and have the option open. Corlyss Drinkard addressed renting the plot to people outside of the community. Mrs. Datwyler said she did not want to see additional structures on the space. Councilman Dustin suggested no infrastructure at this point. In summation Councilman Dustin said he wanted to see three things at final; specificity on the snow removal; to address conservation area number 4; and the outbuildings. Councilman Mickelson asked about ownership on the open space. Mr. Anhder said on lots 1-3 the home owner will have ownership but there will be deed restrictions in place.

Councilman Hansen asked if there was tree planting proposed along 1200 West. Mrs. Datwyler said that would get pricey in a hurry. Mr. Anhder said the city probably would over time.

Councilman Dustin thanked the proponent for their plan; he said it was really good and he appreciated the level of specificity. Councilman Dustin asked who put the hammer down on people for the water. Mr. Anhder said the enforcement falls to the city. Councilman Dustin asked city staff if in their opinion this would cost as much as a regular subdivision to maintain. Mr. Anhder said it would take more. Bill Saunders expressed that he thought this a good thing to invest their time and effort into making nice. Councilman Hansen said he thought this was a great example of what a conservation subdivision should look like. Mr. Anhder said there was extra labor in this but he thought the payoff would be great.

The motion passed 3-0; with Councilman Mickelson, Councilman Hansen, and Councilman Dustin all in favor.

#### **Public Hearing—to receive comments concerning a proposed amendment to the Sewer Impact Fund 2010-2011 budget**

Mr. Anhder said this amendment proposed building and budgeting a sewer from the proposed new City Council hall and going north to 2965 S. where they will hook on to the current sewer. The resolution had taken \$50,000 from their sewer impact fee fund and was transferring it to their sewer; if qualifies for impact fee funding because it services new development. This sewer line will service the new city hall and anything that develops east of the new city hall.

Mayor Knight opened the public hearing at 8:16. Seeing no public comment Mayor Knight closed the public hearing at 8:17.

Councilman Dustin said he wanted to move up the discussion for the bid for the new City Office building because he felt it had direct bearing on the direction they go with the

sewer line. Mayor Knight said the discussion was only bringing back items of information for the City Council and was not an item to be voted on. Councilman Dustin said if they did not discuss the bid first then he would have to vote “no” on the sewer line.

### **Discussion of bid for new City Office building**

Mr. Anhder distributed a revised budget for the new city hall. He said the original bids came in at \$1.6 million which was approximately \$400,000 over their projections. In a meeting with the building committee it was determined by the contractor and the architect that they could have the same building without the basement. The construction portion then comes in at \$1.19 million dollars. This included a contingency fund; the revised sight work and utility bids puts them at 1.2; the pre-anticipated costs puts them at 1.39 with a proposal to fund that with the \$850,000 from the impact board, some of the surplus they have of \$350,000, and \$100,000 from the water and \$100,000 from the sewer surpluses because this will be the headquarters for the water and sewer. Mr. Anhder said the building committee believed the building will proceed according to this work plan.

Councilman Dustin questioned that the building committee had the authority to take the citizen of Nibley from \$150/sq. ft. at 1.8 million to \$233/sq. ft. at 1.4 million. He said someone dropped the ball on this; they had cost estimates from the architect, builder, and engineer and no one came up with a 30% price difference; this was a serious change. He also did not recall seeing offices for sewer and water in the building. He thinks they should have looked at alternate sites. It seemed they kept making wrong turns and they were not being addressed by the right people. He did not think this was the right way to proceed with the project. As a resident he did not want to pay the same amount for half as much.

Mayor Knight said the basement was thought of as cheap extra space and they operated under that assumption. The architect had always said that the basement would be much higher. The basement did not function like the ground floor. Mayor Knight said he did not feel the basement was a deal breaker for him.

Councilman Dustin said a difficulty he had was that it was presented in one context; and in spite of what he regarded as significant public opposition they went forward with and they went forward on the basis of a specific building with a specific design and a specific budget. They were sticking with the budget but not the building. He did not see the urgency now because they were not saving any money. Councilman Hansen said there is always the point when you come to the point of what the actual cost is. He felt as a city they were still getting the core element of what they really need and what can benefit them in the long run out the building. Barbara Wilden said she thought the basement was supposed to extend the life of the building and she thought this needed to go back to the public; she felt short changed here.

Wayne Anderson was present at the meeting. Mr. Anderson explained the process that they had gone through. He said Mr. Child had given them a study that showed that if a basement was not filled within the first 7 seven years they were not getting any payback

on their investment. Councilman Dustin said this was not the right way to go about this; the first thing they should have looked at was the site and not cutting the building in half.

Corlyss Drinkard said from personal experience with government contracting they would have cancelled the operation and rebid; they would have gotten the information and made different decisions. She said this new development did not make economic sense; they want to materially alter the design in order to get something for what they are paying. Mayor Knight said assumption were being made that the revised costs were outrageous on a per square foot basis. They have lumped in site cost, parking lot, landscaping, fill material, etc. Mayor Knight questioned why it was costing that much per square foot himself; if these were good rates, which he believed they were, then if they were to build the same building in 5-10 years it would be much more. The hard part was reconciling taking the basement out. Councilman Dustin said the only unknown was the site conditions. He thought they were hell bent on that site and the architecture regardless of if it was the best thing for the city. He did not think the building committee had the authority to make a modification of that scope. Mr. Anhder said the majority of the Council was for this building.

Corlyss Drinkard said they could console themselves that Mr. Anderson came in with straight bids. Mr. Anhder said they also used the general contractor/construction manager approach to do this so they got a little bit of credit.

**Consideration of Resolution 10-12—to amend the 2010-2011 budget for the Sewer Impact Fee Fund for the construction of 1600 feet of sewer line at 400 West**

Mayor Knight said this would be resolution would be tabled until the first meeting in January.

**Consideration of policy for the enforcement of the Nibley ordinance for the cleaning snow from sidewalks**

Mayor Knight addressed the public and said they recently set a fee for not cleaning sidewalks after snowfall to the tune of \$25.00. They now needed to consider an enforcement policy so that the resident will clear their sidewalks but not feel beat over the head. Mayor Knight read two options to the Council.

Councilman Mickelson said there come a point in time where they have the responsibility to serve their public. He could think of 15 different scenarios of why you cannot clear your sidewalk. It seemed to him like they would spend so much time enforcing it that they would be better off giving encouragement. Mayor Knight read option number 2 of the enforcement policy:

The following shall be the policy for enforcement of snow removal from city sidewalks:

1. In the event of a snow storm where the storm ends prior to 6:00 a.m., residents are required to have their sidewalks cleaned by 9:00 a.m. If the storm ends after 6:00 a.m., the sidewalks must be cleaned within a reasonable time, typically by 8:00 a.m. the following morning.

2. City staff will ensure that frequently traveled routes (to and from Nibley and Heritage Elementary) are cleared and will monitor and observe other areas of the City.
3. Apart from frequently traveled routes, enforcement will be handles as complaints are received by staff.
4. Nibley City will clean the sidewalks on 800 West and Highway 165 because of the narrow shoulders and 3200 South because of the farm land that is adjacent to the roadway.
5. Persons pushing snow into the streets will be cited by the Cache County Sheriff's Department.

Councilman Dustin said either option was alright with him but he preferred option 1; he would rather be hardnosed about it. He asked why they had to include verbage about cleaning specific sidewalks in Nibley and did not just do it. Mr. Anhder said that was in there from city staff point of view so that it was clear and specific Council policy they could refer to.

Councilman Hansen thought that the good neighbor element of this applied. Councilman Dustin said it is the ones that won't do it that force kids to tromp through the snow until it is so icy that it can't be cleared that he wants to go after. Bill Saunders said they anticipated that this would give them guidance and the ability to manage this better. He did not foresee them driving around seeing who cleared their sidewalks.

Councilman Larsen arrived at 9:09.

Mr. Saunders said he would be for option B. Councilman Larsen said policy number one it was already in code; to do anything than other than what the code says is not legal. They would have to change the code to match their policy.

Councilman Dustin made a motion to adopt option B for their enforcement policy on snow removal from sidewalks in Nibley City. Councilman Hansen seconded the motion.

Councilman Mickelson suggested they consider changing the code to match the policy; this could be passed and then brought back as a possible code change.

Councilman Larsen questioned if in two or three they were going to pick and choose which areas they wanted to enforce and what defined frequently traveled. He also questioned how many complaints would have to be received before enforcement was made. He said they needed to enforce it or take it off the books. Councilman Hansen said neighbors are the best enforcement and will let the city know. Councilman Dustin said there is no enforcement action under option B. There was no hammer. Mr. Anhder said

number 3 handled that. Mr. Saunders said they will have to use a little common sense; a one inch storm is different than a ten inch storm.

Councilman Dustin made a motion to amend on line item 3 in option B the addition of enforcement will be “handled per city ordinance” as complaints are received by staff. Councilman Larsen seconded the amendment. The amendment passed 3-1; with Councilman Dustin, Councilman Larsen, and Councilman Hansen all in favor. Councilman Mickelson was opposed.

Councilman Larsen said under item 4 he understood the need to plow certain areas like 165 and he agrees with cleaning farmland because it will not be done otherwise. He was not in favor of cleaning sidewalks along 3200 South or 800 West. He said the sidewalks along 600 West also had narrow shoulders and there were a lot of kids going to school along 10<sup>th</sup> West. He did not feel they needed to plow everyone’s sidewalk.

Councilman Larsen made a motion to amend to strike wordage in 4 of option B to “Nibley city will clean the sidewalks on Highway 165 and farm land that is adjacent to the roadway”. Councilman Dustin seconded the amendment.

Councilman Dustin said he would be more comfortable with that and gave staff the latitude they needed. They were also not giving anyone a guarantee that they would plow their sidewalks indefinitely. He questioned Councilman Larsen if they removed 800 West then that meant all the parkland owned by the city along 800 West is not implicitly included. Councilman Larsen said all that property is owned by them and it is their responsibility as a city to clean their own sidewalks. Councilman Dustin questioned homes that their back yards abutted the sidewalks. Councilman Larsen said if their property had a sidewalk it was the city ordinance that they would clear their sidewalks. Mr. Anhder said those were theirs because they had extra property deeded to them.

The amendment failed 1-3; with Councilman Larsen in favor. Councilman Mickelson, Councilman Hansen, and Councilman Dustin were opposed.

Councilman Larsen made a motion to amend to add, because it is adjacent to a shoulder, 600 West. Councilman Dustin seconded the amendment.

Councilman Larsen said it was the same as 800 W. The width of the sidewalk is the same and the fact that it is a narrow shoulder is the same. Mayor Knight said 800 West has more automobile traffic. Councilman Larsen said the only place a child had been hit is in front of Jensen’s. Councilman Hansen said he did not feel he would get the vote but they could watch and look at it in the future. Councilman Mickelson said he thought they needed to be more proactive and help where they can and not go into enforcement mode. That is why he was voting they way he did. Councilman Larsen said he didn’t know why they wanted to expend city funds.

The amendment tied 2-2; with Councilman Larsen and Councilman Dustin in favor. Councilman Mickelson and Councilman Hansen were opposed. Mayor Knight broke the tie and was opposed. The amendment failed 2-3.

Councilman Larsen questioned the number of complaints they would accept. Mr. Saunders said one should be enough. Mr. Anhder said he believed it should be a judgment call. Mayor Knight said they should get something on the books and go forward from there.

The amended motion tied 2-2; with Councilman Dustin and Councilman Hansen in favor. Councilman Larsen and Councilman Mickelson were opposed. Mayor Knight broke the tie by voting in favor. The amended motion passed 3-2.

### **Consideration of sidewalk at 493 West 2600 South**

Mr. Stuart Speth and Mr. Bruce Jensen were present at the meeting. Mr. Saunders said Mr. Speth built a house along 2600 South and the City Council required that a sidewalk be in place before the house was occupied. Mr. Saunders gave background on the property of an undocumented agreement between Mayor Nelson and the Sr. Mr. Jensen that the city would put in the improvements in exchange for the placement of the waterline. There is a 26 inch water line down 2600 South.

Mayor Knight said he proposed that the city pay for the sidewalk and got an agreement in writing with a recorded easement for the water line that was there. He said Mr. Speth needed to sign over an easement for the water line that was there. Mr. Saunders proposed that when they rebuild the road in the future they save the money for the sidewalk for then. Mayor Knight said when Mr. Jensen sold that ground then the developer should put in the sidewalk. If Mr. Jensen decided he wanted to do something then the city would put in the sidewalk. The city would get an easement on the water line. Councilman Mickelson said for any future development the sidewalk should then be at the cost of the new landowner.

Councilman Dustin made a motion to authorize city staff to negotiate the easement for the portion of the properties along 2600 S. beginning with Speth's property and ending with Jensen's property; in particular when there is question with the water line, with the stipulation that the outcome is that they swap the sidewalk in front of the property for the water line easement. Councilman Hansen seconded the motion.

Councilman Mickelson said he did not feel they should be responsible for any future developer that comes in there. Mr. Speth said if it changed ownership then any agreement should get thrown out the window.

Councilman Mickelson made a motion to amend that this did not include any future development; the city will trade the full easement in exchange for the sidewalk in front of Mr. Speth's. Councilman Larsen seconded the motion. The amendment tied 2-2; with Councilman Mickelson and Councilman Larsen in favor. Councilman Dustin and

Councilman Hansen were opposed. Mayor Knight broke the tied and was opposed. The amendment failed 2-3.

Mayor Knight said he voted the way he did on the amendment because they have a water line on property in which they did not have an easement and it would cost them a lot more in legal cost to get the easement.

Councilman Larsen made a motion to amend the motion to stipulate that the sidewalk be granted only to the immediate family of Cordell Jensen. Councilman Mickelson seconded the motion.

Mayor Knight asked if those terms would be acceptable to Mr. Speth. Mr Speth said he did not want the sidewalk. He said he would give them easement to the water line just don't make him pay for the sidewalk. Mr. Jensen said that sounded reasonable to him.

The amendment passed 4-0 with Councilman Larsen, Councilman Mickelson, Councilman Hansen, and Councilman Dustin all in favor.

Councilman Larsen said as the motion was right now he would vote against it. If it were to allow them to negotiate the water line and not the sidewalk he would vote for it. Councilman Dustin said his intent was to swap on a foot by foot basis the water line for the sidewalk. If they decided to put the sidewalk in tomorrow they can or they can wait.

The amended motion tied 2-2 with Councilman Dustin and Councilman Hansen in favor. Councilman Larsen and Councilman Mickelson were opposed. Mayor Knight broke the tied and voted in favor. The amendment passed 3-2.

### **Appointment of member of Planning and Zoning commission**

Mayor Knight proposed the City Council appoint Commissioner Aaron Bliesner for another 5 year term on the Planning & Zoning Commission. His term expired December 31, 2010. Mayor Knight said in talking to him he seemed anxious and willing to serve. Ms. Phippen said the Planning & Zoning Commission functioned very well as a group. Councilman Mickelson asked his attendance record. Ms. Phippen said during the summer he missed more but said he was there 80% of the time. Commissioner Anderson said he thought they would do the city a disservice not to reappoint him. Addressing Mayor Knight, Councilman Larsen said he thought it was humorous to come for advice and consent when he had just a name. He also questioned whether it was time for some new blood. He also believed Commissioner Bliesner had a skill set that was valuable.

Councilman Hansen made a motion to accept the reappointment of Aaron Bliesner to the Planning & Zoning Commission. Councilman Dustin seconded the motion. The motion passed 3-0; with Councilman Hansen, Councilman Dustin, and Councilman Mickelson in favor. Councilman Larsen abstained from the vote.

### **Consideration of the proposed Nibley City Park and Trails Master Plan**

Mayor Knight proposed they postpone this consideration until next year.

### **Consideration of Nibley City Storm Water Master Plan**

Mayor Knight proposed they postpone this discussion until next year. Councilman Larsen questioned whether this needed to be done now. Ms. Phippen said it was already turned into the state however there were also a couple of things in the appendices that were not the direction Nibley should be headed in terms of what size of event they design storm water for. Over the next few months they will be revising the design standard for storm water. Ms. Phippen suggested they take out the design standards, put the design standards they have currently on the books in, and adopt the storm water plan. Then over the next couple of months they can revise the design standards so that when it comes time to submit the annual report to the state in the fall they submit updated design standards. Councilman Mickelson asked if this involved canals and if it did they probably needed to have a review of that with the canal company. Mr. Anhder said they need an agreement with the canal company that would handle this globally. Ms. Phippen said what's in their storm water plan cannot and should not be dictated by the canal company.

### **Award of contract for construction of sewer line east of new city building**

Mayor Knight suggested they postpone this discussion until they had a full Council.

### **Discussion and consideration of continuance of Crossing guards for east part of 3200 South**

Mr. Anhder said when they first went into the crossing guard situation they were considering the Anderson Estates and Tuscany subdivisions. Since then the school had decided to pick those two subdivisions up as a courtesy stop and as a consequence they only have two kids crossing in the morning and 4-6 kids crossing in the afternoon. State guidelines dictates that they are not obligated to do a crossing guard if there are less than ten kids crossing. Mr. Anhder said they have already discontinued the mid-day crossing guard due to lack of use. Mr. Anhder said the crossing guard by the railroad track was quitting. Councilman Mickelson asked if they could put out orange flags for the kids. Mr. Anhder said the orange flags were mainly used for Jr. High and middle school ages. Councilman Larsen said if there were only two students he was not sure they should continue. Mr. Anhder said he leaned towards leaving it in place for the rest of the school year.

Councilman Larsen made a motion to discontinue the crossing guard for the east part of 3200 South. The motion died due to lack of second.

### **City Manager Report**

Mr. Anhder said he received a couple of thank you notes from city employees for the city Christmas party and their bonus.

### **Council Reports**

Councilman Mickelson asked if there had been any indication of non-payment of utilities due to unemployment. He wondered if there was any role the city could play to offering classes to give some education on resume building, etc. Councilman Larsen said he thought that was available in the valley and there were other non-profit organization that

did that and he did not know that it was their responsibility to do that. The Council encouraged Councilman Mickelson to pursue that if that was a project he felt he wanted enact. Councilman Larsen said he did not want to expend staff or city funds to do that. Mayor Knight said he felt there very already services in place for that.

The meeting was adjourned at 10:52 p.m.