

The Meeting of the Nibley City Council held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Thursday, September 1, 2011.

The following actions were made during the meeting:

**Councilman Dustin made a motion to adopt the policy regarding renting and use of the Nibley community center. Councilman Jacobsen seconded the motion.**

**Councilman Dustin motioned to amend to eliminate the differentiation between a wedding reception and a family party; and change the rates to resident (\$100); non-resident (\$200). Councilman Jacobsen seconded the motion. The amendment passed 3-2; with Councilman Dustin, Councilman Jacobsen, and Councilman Mickelson in favor. Councilman Hansen and Councilman Larsen were opposed.**

**Councilman Jacobsen made a motion to reconsider the amendment. Councilman Larsen seconded the motion. The motion passed 4-1; with Councilman Jacobsen, Councilman Larsen, Councilman Hansen, and Councilman Dustin all in favor. Councilman Mickelson was opposed.**

**The amendment failed 1-3; with Councilman Jacobsen, Councilman Hansen, and Councilman Larsen opposed. Councilman Dustin was in favor. Councilman Mickelson did not vote.**

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

**Councilman Larsen motioned to approve the amendment of the subdivision at Sunset Park PUD to contain four lots instead of five as drawn on the plat dated September 1, 2011. Councilman Dustin seconded the motion.**

**Councilman Jacobsen motioned to amend for the removal of the wording “to be used by the members of the said HOA” on note number five. Councilman Dustin seconded the motion. The amendment passed 3-2; with Councilman Jacobsen, Councilman Dustin, and Councilman Hansen in favor. Councilman Mickelson and Councilman Larsen were opposed.**

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

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OFFICIAL MINUTES OF THE MEETING  
Minutes were taken by Assistant City Recorder Cheryl Bodily

Mayor Gerald Knight called the Thursday, September 1, 2011 Nibley City Council meeting to order at 6:05 p.m. Those in attendance included Mayor Gerald Knight, Councilman Larry Jacobsen, Councilman Thayne Mickelson, Councilman Bryan Hansen, Councilman Shaun Dustin, and Councilman Scott Larsen. Larry Anhder, the City Manager, and Shari Phippen, the City Planner, were also in attendance.

**Call to order; approval of agenda and minutes of August 18, 2011 read and approved**

Councilman Jacobsen made a motion to approve the evening's agenda and the previous meeting minutes. Councilman Hansen seconded the motion. The motion passed unanimously with Councilman Jacobsen, Councilman Hansen, and Councilman Mickelson in favor.

**Meeting and discussion with Kent Phippen of RAGNAR race and its impact on Hollow Road**

Mr. Kent Phippen was present at the meeting. Mr. Phippen said the Wasatch back relay started eight years ago; it is a 200 mile relay race that goes from Logan to Park City and is held every June. Team of twelve do this and each team has two separate vehicles with six people per van and they leapfrog from Logan to Park City with every person running three legs of the 36 leg race.

Councilman Dustin arrived at 6:08.

Mayor Knight said the reason Mr. Phippen had been invited there was to discuss some of the concerns that residents had raised that live along Hollow Road and some of the negative things they were seeing. The residents love and value their community and are anxious to show it off. Mr. Phippen said it was a beautiful road.

Councilman Mickelson said the biggest thing they held as a concern was safety; safety was a huge concern on that road. He gave examples of safety concerns with racers on the road. He said they can't get in and out of their homes; they can barely access the road and if there were to be an emergency he would be afraid of how they would get runners out of the way to get emergency vehicles down the road. He said they needed to figure out how to maintain access and keep people safe.

Councilman Larsen arrived at 6:13.

Councilman Hansen discussed his concerns that they have the runners taking up one half of the road and the vehicles trailing them using the rest of the road; they are basically using both lanes which puts both the runners and the drivers at risk. He said there was not a lot of shoulder there to handle the vehicle. He believed there was a runners' bible that stated in situations like these with a narrow road that the support vehicles would go on another road and the runner would continue down the road without their support team for that time. He also thought they could put cones down the middle of the road and allow for runners in one lane and vehicles in another which would allow one way access. They would have to communicate that the lane would be one way; he thought that was one way

to accommodate the race with he loved to have there. Councilman Hansen said he would also like some communication as to when the race was going to be impacting the neighborhood.

Councilman Jacobsen thanked Mr. Phippen for coming. He said this Council and Mayor signed a letter written to Dan Hill dated July 5, 2007. Councilman Jacobsen read the letter out loud to the Council and Mr. Phippen. Councilman Jacobsen said he did not receive a response to the letter and four years later he felt it had come to a head and needed to be dealt with. He believed their race bible dealt with this and read from several sections of the RAGNAR race bible; he said he did not believe the problem was the runners; the challenge was the traffic that followed at runners speed.

Mr. Phippen agreed with Councilman Mickelson that the issue was safety and said that concern was number one for them. He also agreed that they needed to address this and apologized that there was no response to the letter they sent. He asked how long Hollow Road was. Councilman Hansen said it was three miles. Mr. Phippen said he would like to take this and try to come up with a solution. He agreed that they could have it be a runners' only road and the van would not be allowed to go down that road. They could also put cones down the road. He said they could also put volunteers down that road to monitor the situations and make sure the runners and vans were not stopping where they weren't supposed to. He thought the easiest situation was to just have the runners go down Hollow road.

Councilman Dustin suggested that there was no need for back-and-forth discussion; it would be a reasonable accommodation to set up the aid stations on both sides and if they were willing to entertain that he would suggest they resolve it today and take care of it. Councilman Jacobsen said he thought that would take care of the issues but it would be up to RAGNAR to enforce it. Ms. Phippen noted her experiences with keeping cars off roads and said it was possible. Mr. Phippen said for 2.5 miles it would not be a huge inconvenience and they could set up a couple of aid/water stations along the way. He said the race was a big race and more than anything they wanted to address concerns with the cities so they could remain safe. Councilman Hansen asked if it would be possible to communicate with the residents along the road and give them a heads up. Mr. Phippen said that was possible and that they did that in other race areas.

#### **Consideration of policy regarding renting and use of Nibley community center**

Councilman Dustin made a motion to adopt the policy regarding renting and use of the Nibley community center. Councilman Jacobsen seconded the motion.

Councilman Hansen when he was looking at the rental fees but when he looked at the commemorative celebrations he wondered if they would include wording that there would be no kitchen use. He noted that a person's posterity grew as people got older and he wondered if outside of Nibley they should charge a small fee. Councilman Hansen recommended for Nibley city residents it would be no cost but for nonresidents it would be \$25; he thought a wedding reception and a commemorative celebration were close to the same thing. Mr. Anhder said it was a nice gesture for the older residents and was

intended for residents. Councilman Larsen asked why they were charging the fees. Mr. Anhder said the fees they were charging were for clean up, a little bit of wear and tear, and recouping a little for electricity. Councilman Dustin was curious about wedding reception and family parties having a different fee; he had been to “nutty” family parties but not many “nutty” wedding receptions. He also noted there were no hours listed. He thought the fees ought to be the same for a family party or wedding reception. Mayor Knight said he agreed and that it simplified it. Councilman Larsen questioned the difference between a reception and a ceremony; if they served cake it should be considered a reception. Mr. Anhder said if they had food then they were considered using the kitchen. Councilman Dustin suggested it should be \$100 for a resident to use the space and \$300 for a non-resident to use it. Councilman Larsen said generally a wedding happened once and family parties happened more frequently; he did not want to price anyone out of using the building. Councilman Dustin said he did not understand the logic behind the rates; the bigger issue was that the space was not available for city use during those times and that someone has to clean up afterwards. He thought they should set a fair price to recoup their costs and not differentiate; they ought to charge a single rate; something that was fair to the city for loss of use.

Councilman Dustin made a motion to amend to eliminate the differentiation between a wedding reception and a family party; and change the rates to resident (\$100); non-resident (\$200). Councilman Jacobsen seconded the motion.

Councilman Larsen said he was alright with the distinction and he would leave it up to staff to figure out if they were trying to cheat the system. He was of the opinion that the new building would not get a huge amount of use. He said they ought to just try the numbers and the cost to begin with and reevaluate later to see if they needed to make changes.

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

The Council discussed the costs of renting out the building. Councilman Hansen said he didn't think he would use the building if it cost him \$100.

Councilman Jacobsen made a motion to reconsider the amendment. Councilman Larsen seconded the motion. The motion passed 4-1; with Councilman Jacobsen, Councilman Larsen, Councilman Hansen, and Councilman Dustin all in favor. Councilman Mickelson was opposed.

Councilman Dustin said he did not see any distinction between a wedding reception and a family party. He did not see the need to subsidize weddings or family parties. Councilman Mickelson said he understood it that people were saying it was too expensive for residents; he just wanted to get to a number.

The amendment failed 1-3; with Councilman Jacobsen, Councilman Hansen, and Councilman Larsen opposed. Councilman Dustin was in favor. Councilman Mickelson did not vote.

Mayor Knight said Councilman Dustin had pointed out that they were subsidizing people's activities. He said they were providing a service just like the parks; they were going to require some responsibilities of the individuals that want to use the building by requiring them to do two things; put a security deposit down to ensure there is no damage and require them to rent it for some fee that could be arbitrary. He said they may be recouping some of the cleaning costs with this fee. Councilman Dustin said he would like to hear the logic to charging less for the family party than the wedding. Ms. Phippen said in her mind a wedding reception had a higher impact and more people than a family party. Councilman Dustin said he did not see the impact being substantially more; he saw no need to differentiate and he felt they were subsidizing one or the other. He said the philosophy in writing this was that a family party was messier than a wedding reception. Councilman Larsen said he looked at the actual attendance; there would be more people at a reception than a family party and number was impact to him.

Councilman Larsen stated on page 1, number 6, line H; and questioned that the charging and approval for use was taken by a representative of the city but overnight occupancy needed to be approved by the City Council. He did not feel the City Council needed to approve these and that it could be done by city staff. Councilman Dustin said occupancy to him, meant physical occupation by a person; they should strike the "occupancy" so that they did not have people wanting to stay overnight. Mayor Knight proposed they change "City Council" to "a representative of Nibley City". Ms. Phippen argued that this could mean any person working for the city. They proposed they change all references to "a representative of Nibley City" to "the City Manager". Councilman Dustin asked if it took two days if they would be charged for two days. Mr. Anhder said he would rather leave that to their discretion. The entire Council was in favor of those changes.

Councilman Larsen noted some of the notes in the policy conflicted with items in the reservation section of the policy. Ms. Phippen described the intent of those items to the Mayor and Council. They changed a word in that item from "shall" to "should". Councilman Larsen discussed the cancellations policy and questioned if it was not a cancellation but a move of date. Ms. Phippen said it was not a cancellation and the fees would transfer with it. He asked what the purpose of the cancellation fee was. The Council agreed to add the words "or change of date" to the heading and cancellation policy.

Councilman Larsen questioned the closure time of 11:00 p.m. Ms. Phippen said having come from a larger family it took about two hours to clean up from a reception that ended at nine and that was what she based those numbers on. He also questioned if the city would be locking the building. Mr. Anhder said he did not have a problem with the person using the building locking it up. Mr. Anhder said he also felt alright with a closure time of 12:00 a.m. He said the building would be secure and they would only have access to certain areas of the building the way it was keyed. The mayor and City Council

decided to strike the first sentence in number 5. Councilman Larsen said referring to the deposit, they did not reference how much of the deposit they would keep, what basis they had to keep the deposit, or when they returned the deposit. Mr. Anhder said there were some references to that throughout and could be left to their discretion. Councilman Jacobsen said because the goal of a deposit was to recoup cleaning and breakage fees it did not make sense for a resident and non-resident to pay a different fee.

Councilman Jacobsen proposed that residents pay a \$300 deposit for a wedding reception and a \$150 deposit for a family party as it was for a non-resident. The Council was alright with that change. Councilman Jacobsen said he proposed “no kitchen use, no food” be added so that it was known that food and kitchen went hand in hand. The Council approved that change. Councilman Jacobsen wanted to add a category; trade show, craft fair, or similar with a rental fee of \$200 and a deposit of \$300. The Council also approved of that change.

Councilman Hansen said they had a room that could be partitioned in half with an activity in one half and another in the other half. He also thought they had a conference room that could be available. Mr. Anhder said because of the way the room was keyed he suggested that not be available to the general public. Councilman Larsen said there was the possibility of using a dead bolt that could only be accessed from one side; similar to connecting hotel rooms. Mr. Anhder thought they should just partition off the big room and if the meeting was too big or there were already two meetings scheduled then they would have to schedule another night. He did not see that much of a need for the conference room. Mayor Knight proposed they look at what the needs were and then reevaluate. Councilman Hansen recommended on the commemorative celebrations that it should be no charge for residents but for a non-resident; a \$25 charge with a \$50 deposit. Three of the Council agreed with that change.

Councilman Dustin suggested city staff put together an inventory and condition sheet for a walk through before and afterward so there was a basis if there was a charge. He thought they ought to consider changing the numbers of items they had listed. Mr. Anhder agreed that would be a good idea. Mayor Knight said he wanted to have a line for the business license number for record keeping and he wanted to document proof of insurance in the middle, office use section.

Councilman Larsen thought the entire deposit issue was arbitrary and thought those that did not have anything currently at least have the smallest amount for a deposit (\$50). Councilman Hansen proposed if they used half the hall that they cut the deposit in half.

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

**Discussion and consideration of a request to amend a portion the of Sunset Parks PUD located at 2770 S. 1000 W.**

Mr. Randy Gnehm was present at the meeting. Mr. Anhder said Sunset Parks had five lots in the area and they proposed the amendment to make each lot a little bigger and just

do four lots. Mr. Gnehm said the first lots in the area, on larger lots, had all sold. He had a buyer that wanted a larger garage so they thought they would take these five lots and make four larger lots which deleted lot 12; all four of the lots would fit a 3 car garage.

Mayor Knight said there was one concern with the pedestrian right-of-way between lots 11 and 13 that it was only being dedicated to the members of the HOA. Mr. Anhder said it tied into the other subdivision and should be a public easement. Mr. Anhder suggested they remove the last language of the sentence. Councilman Larsen said technically they did not have public access to his at all; only Mr. Gnehm allowed them to access it. He said it was a private road. Mr. Gnehm said it was not the intent to exclude; there were not gate and connected onto city sidewalks which was continuous. Councilman Larsen said technically they had no right to get the public anywhere in there; you cannot access public property through private property without permission. Mr. Anhder noted they would have to go through public property to access the public right-of-way. Mr. Anhder suggested they add wording that said there was a trail system along the roadways.

Councilman Larsen questioned if Mr. Gnehm had a building permit to make the addition to the building. Mr. Gnehm said he did and it was in place; owned both lots and he could combine lots if he wanted to. Councilman Larsen had been to that area to talk to the residents. Councilman Larsen made the Council aware that the additional building space may be living space or a three car garage. He thought going five to four was great. He said the four residents he talked to bordered this property and were in favor of the four lots instead of five. He discussed the feedback he received from the neighbors. He said the residents had voiced their concerns about what happened in their back yards and that the low income PUD would reduce the value of their homes and the concern that Mr. Gnehm would not build out to the north the ways he was supposed to.

Councilman Larsen made a motion to approve the amendment of the subdivision at Sunset Park PUD to contain four lots instead of five as drawn on the plat dated September 1, 2011. Councilman Dustin seconded the motion.

Councilman Jacobsen made a motion to amend for the removal of the wording "to be used by the members of the said HOA" on note number five. Councilman Dustin seconded the motion.

Councilman Larsen asked for clarification on wording; "This easement is to be designated to the Sunset Park HOA as a pedestrian right-of-way". Mr. Anhder suggested "This easement is to be dedicated as a public right-of-way". Councilman Jacobsen said that was the intent of the motion. Councilman Dustin said he supported that motion was on the off chance that this ever did become a public road then it was already in place. Councilman Mickelson said he was not sure they could legally do that; give public access to something that was private. They were taking away rights that had already been sold with those rights in place. Mr. Anhder noted the owner was there. Councilman Larsen said they all owned into it because they were members of the HOA. Mr. Anhder said

arguably they were already there; the minutes would show when it was approved that it was proposed way; Mr. Gnehm proposed it that way.

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

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

### **City Manager reports**

Mr. Anhder said they had a big water break on 250 West at 3650 South; it was a 30 year old line. They were going to replace about 100 feet of the pipe next week while the hole was dug.

Mr. Anhder said the Natural Resources Conservation Service were going to come in a dredge the river but that money will now be going to the areas hurt by hurricane Ilene. They were still working with FEMA to get some reimbursement for Nibley City for the work they did on the river. He had told those people the pending Council approval there could be a cost share formula (50% County, 25% Nibley, 25% Millville). As of now he did not know what would happen with getting the river dredged; if it would be done, most of it would have to be done with local money. Councilman Jacobsen said they had an agreement with FEMA to take care of dead fall in the river. He asked if there was money for that. Mr. Anhder said they were coming up with a plan; the money would come out of their general expenses.

Mr. Anhder said they were looking to get a new measuring device at the sewer lift station; when they went to get it in it was built backwards and they hope to get that going next week. Councilman Jacobsen asked if Logan knew they were installing the flow meter. Mr. Anhder said they did.

Mr. Anhder said they were very close to an agreement with the College Irrigation Company on the transfer of their shares with regard to the well on the west side.

Mr. Anhder said they had met on the transportation plan with Rod Blossom and things were moving there; he thought they would have a plan by October or November.

### **Council reports**

Councilman Mickelson asked if there was any update to litigation with the canal company. Mr. Anhder said they were in the process of exchanging information.

Councilman Jacobsen asked who in the city had dealt with Linda Barns on a weed nuisance issue. Mr. Anhder said no one on city staff could remember talking to her.



Councilman Hansen said Councilman Larsen had provided an amazing service to the city with his email contact. He thought when Councilman Larsen left they should continue that, perhaps on a city level. The Mayor and City Council discussed whether this form of contact should be a city or individual effort. The City Council also discussed the city website and content they could/should add or include.

Councilman Larsen said he was asked to look into a nepotism issue. The concern was raised at the Meet the Candidates meeting last night whether Kathryn Ahnder Buse could be on the City Council and Mr. Anhder keep his job as City Manager. He read legal advice from Dave Church and Title 52, Chapter 3, Section 1, 2b from Utah Code. He concluded that Mrs. Buse election had no effect on Mr. Anhder's employment but that she could not make recommendations on any relatives' raises in pay or evaluation of performance. Mr. Anhder said she had encouraged Kathryn not to run but she got advice elsewhere and this was something she was interested in it. The Council, Mayor, and City Manager discussed relatives working for the city.

Councilman Larsen discussed an issue he had with bill payment and policy with the city. He was proposing the late fee needed to be lowered.

Mayor Knight said Nibley Elementary had sent them a thank you note concerning the crossing guards which he read to the Council.

Mayor Knight had an email from a resident with concerns about taxes.

Mayor Knight thanked Mrs. Wilden for the milk and cookies she brought for the Council.

The meeting was adjourned at 8:34 p.m.