

The Meeting of the Nibley City Council held at Nibley City Hall, 455 W. 3200 S. Nibley, Utah, on Thursday, December 6, 2012.

The following actions were made during the meeting:

Councilman Jacobsen motioned to move the proposal to rezone 19.88 acres of property located at approximately 1200 W 2600 S from Agricultural to Residential R-2A to a second discussion. Councilman Hansen seconded the motion. The motion passed 5-0. Councilman Mickelson was in favor, Councilwoman Cook was in favor, Councilman Platt, was in favor, Councilman Hansen was in favor, and Councilman Jacobsen was in favor.

Councilman Jacobsen motioned to promote Ordinance 12-08; amending the criteria for corner lot fence regulations to a second reading. Councilwoman Cook seconded the motion. The motion passed 5-0. Councilman Mickelson was in favor, Councilman Platt was in favor, Councilwoman Cook was in favor, Councilman Hansen was in favor, and Councilman Jacobsen was in favor.

Councilman Jacobsen made a motion of consensus for the City Engineer RFP Review Committee panel. Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hansen, Councilwoman Cook, Councilman Mickelson, and Councilman Platt all in favor.

Councilwoman Cook made a motion of consent to appoint William Green to the Nibley City Planning & Zoning Commission. Councilman Jacobsen seconded the motion. The motion passed unanimously 5-0; with Councilwoman Cook, Councilman Jacobsen, Councilman Hansen, Councilman Platt, and Councilman Mickelson all in favor.

Councilman Hansen motioned to continue Ordinance 12-07 until they had a chance to observe sign light output. Councilman Mickelson seconded the motion.

Councilman Mickelson motioned to amend that a moratorium be put in place on this type of sign until this issue is resolved. Councilman Jacobsen seconded the motion. The amendment failed 0-5; with Councilman Mickelson, Councilman Jacobsen, Councilman Platt, Councilwoman Cook, and Councilman Hansen opposed.

The motion to continue passed 4-1; with Councilman Hansen, Councilman Jacobsen, Councilman Mickelson, and Councilman Platt in favor. Councilwoman Cook was opposed.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Assistant City Recorder Cheryl Bodily

Call to order

Mayor Gerald Knight called the Thursday, December 6, 2012 Nibley City Council meeting to order at 6:30 p.m. Those in attendance included Mayor Gerald Knight, Councilwoman Carrie Cook, Councilman Thayne Mickelson, Councilman Shawn Platt, Councilman Bryan Hansen, and Councilman Larry Jacobsen. Mr. David Zook, the City Manager, the City Planner, and Bill Saunders, the Public Works Director, were also in attendance.

Mayor Knight recognized scouts Alec Finley and Caden Finley from Troop 210 who were present at the meeting..

Approval of agenda; and approval of the November 15, 2012 meeting minutes

Councilman Jacobsen made a motion to approve the minutes from 11-15-12 with his proposed changes and the evening's agenda. Councilwoman Cook seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilwoman Cook, Councilman Mickelson, Councilman Platt, and Councilman Hansen all in favor.

Public Hearing—A public hearing to receive comment regarding an application to rezone approximately 19.88 acres located at approximately 1200 West 2600 South from Agricultural to Residential R-2A. (Applicant: River Valley Development, LLC)

The proponent, Kevin Allen was present at the meeting. The City Planner described where the property was located and displayed the concept plan of the proposed development. The City Planner said the property was currently zoned agricultural but the general plan anticipated the area to be zoned medium to high density residential so the development fit into the general plan and the surrounding area. She said the property would be developed under Nibley's cluster subdivision ordinance which allows for clustering lots together in a closer area provided the bounds of the property is set aside as open space. The City Planner said both staff and the Planning & Zoning Commission recommended granting the rezone request.

Mayor Knight gave instruction to the public present. Councilman Jacobsen clarified that the Planning & Zoning Commission had not approved a concept plan. He said in terms of a subdivision proposal the City Council had not approved a concept plan and were not bound. They were not bound by the concept plan regardless of what the Planning & Zoning Commission may have done. Mayor Knight opened the public hearing at 6:42.

Barbara Wilden said she was in the Planning & Zoning Commission meeting when this was presented and said she was against it. She thought City Council and Planning & Zoning Commission had an inherent need to be cautious when taking land out of agricultural. There needed to be guidelines and they needed to be slow. Mrs. Wilden noted that there was only one access going in and out of the proposed subdivision. She said the proposed area also had problems with ground water. Mrs. Wilden said she was concerned with subdivisions in that same area that had not been sold yet. She said there were a lot of things that needed to be considered when they lost farmland and started growing houses.

Corlyss Marsha Drinkard said she wanted to echo Mrs. Wilden concerns, particularly when building homes on wetlands. She described experiences she had with flooding. She was concerned that so much of Nibley was built on wetland. She said she would like to hear more of the proposed arrangement to give open land to the city and if that land would be the boggiest.

Wendy Finley, a resident of Nibley, said a concern for her was the lot size. She said one of the attractive things about living in Nibley was the space between homes and that there was room to breathe. She said she objected to the smaller lot size.

Seeing no further comment, Mayor Knight closed the public hearing at 6:50.

Discussion and consideration of Ordinance 12-10: An Ordinance Rezoning 19.88 acres of property located at approximately 1200 W 2600 S from Agricultural to Residential R-2A. (1st Reading)

Councilman Mickelson expressed that he believed they used their agricultural land too quickly and he was opposed to enforcing that through land use regulation; it ought to be a voluntary approach not a land use regulation approach. Councilman Mickelson also said because something looked a little wet did not necessarily mean it was designated wetlands. Councilman Mickelson discussed the designation process for wetlands. He said he too was concerned with the smaller lot size but they had seen that smaller lot sizes had beneficial uses and provided for families at a lower cost to get in to a home. He said their regulations for how those homes sat on the lot and the requirements of the types of homes that are put in was their job and they needed to make them stringent enough that they had sound development practices that made a good community.

Mayor Knight discussed the zoning differences of R2 and R2A and discussions that had taken place with Neighborhood Non-Profit Housing Corporation. The City Planner addressed the housing requirements for the R2A zone.

Councilman Jacobsen said they had to consider that people had individual property rights that they had to attempt to balance those with the interests and rights of the community. He reminded the rest of the Council that this was one of the few steps where they had legislative power to say “yes” or “no” in terms of a rezone. If the proponent brought them a proposal that matched and met the land use requirement of their ordinance then it was not longer a legislative decision; it then became an administrative decision. Councilman Jacobsen said they needed to consider if extending the utilities would put an undue burden on existing citizens. Bill Saunders said they currently had sewer and water mains that ran right next to the proposed development and they would therefore be required to continue those to the subdivision. Councilman Jacobsen discussed the suggestion that the open space would be donated to the city and asked if that land would be valuable to the city. The City Planner said the plan could be used as retention or a park. Mr. Saunders said it could also be left as open space. Councilman Jacobsen said a rezone didn’t do away with restrictions to mitigate wetlands that may be destroyed in the process of a

development. He advised the proponent may have wetlands issues when developing the property.

Councilman Jacobsen made a motion to move the proposal to rezone 19.88 acres of property located at approximately 1200 W 2600 S from Agricultural to Residential R-2A to a second discussion. Councilman Hansen seconded the motion. The motion passed 5-0. Councilman Mickelson was in favor, Councilwoman Cook was in favor, Councilman Platt, was in favor, Councilman Hansen was in favor, and Councilman Jacobsen was in favor.

Report from Public Works Department regarding staffing reorganization

Mr. Zook said they had lost an employee in Public Works a couple of months ago and he and Mr. Saunders had worked to reorganize the staff. The City Council was given organization charts of the Public Works department to refer to. Mr. Saunders discussed their current staffing positions in the public works department. Mr. Saunders said they were splitting their parks department; Rob Elwood would be mainly responsible for the parks and he would be training Brok Nelsen to take over the sewer department. Skyler Lowe would be taking over and overseeing the park maintenance. Austen Powell would be working part time in the parks department and he was also working on becoming certified as a building inspector.

Councilwoman Cook asked if the city was paying for the cost of the building inspection training and asked how much that cost. Mr. Saunders said yes and that it was about \$2,500/year. Councilman Jacobsen asked if there was an obligation on the employee's part to stay employed with the city. Mr. Saunders discussed what he felt Mr. Powell's intent was. Mr. Zook said they hadn't implemented anything formally but that they could.

Presentation of Annual Audit

Mr. Fred Burr, representing Wiggins & Co. was present at the meeting and gave the presentation. He started with a review of the financial reports. He said the bottom line was that the city was \$132,000 revenues over expenditures. Mr. Burr discussed the debt amount that had been retired and commended the city for retiring debt early. Next, Mr. Burr discussed the management report and the internal control findings.

Councilman Jacobsen requested the two reports be published on the city's website for the public to view.

Mr. Zook discussed the internal control findings and the processes that had been established and were proposed to be established to address those findings. Mr. Zook and the City Council discussed personnel payroll policies. Mr. Zook identified two other areas that were prioritized above the personnel policy. Councilwoman Cook and Councilman Platt felt it should be a priority to update their personnel policies and Councilwoman Cook suggested Mr. Zook reprioritize. Mr. Zook said he felt the problem lay with the issue of comp time being calculated manually. Mayor Knight said he felt the problem had a low level of seriousness. Mr. Zook said he identified these issues before the audit and had taken steps to correct the process already. He asked for time to finish

addressing the process. Councilwoman Cook said she wanted it clearly delineated what employees were entitled to benefits, comp time, overtime, and what constituted full-time or part-time employment. She said when it came time to adding a position they would already have things lined out.

Corlyss Drinkard discussed her observations with comp and overtime.

Councilman Jacobsen asked if it was possible to address the personnel policy that addressed the audit finding first. Mr. Zook said that could be done at the next meeting. Councilwoman Cook agreed.

Public Hearing—A public hearing to receive comment regarding a proposed change to the Nibley City Fence Ordinance

The City Planner introduced the proposed ordinance and changes. The City Planner said the proposed ordinance recommended people living on corner lots be allowed to built six foot privacy fences along their side-yard property line on corner lots adjacent to the street with a provision for an increased clear view. She said after the discovery that they were working from the incorrect ordinance, that the proposed changes were the same as previously proposed and incorporated into the correct ordinance.

Mayor Knight said there had been a couple of appeals that had been granted based on their ordinance and this was to address an apparent short coming of the ordinance.

Mayor Knight gave direction to the public present and opened the public hearing at 8:20.

Corlyss Drinkard raised the issue of enforcement and how the city went about enforcement. She said she listened to comments on October 4th of a citizen that was seeking money from the city to remedy an issue having to do with a property owner who wouldn't maintain the property outside his fence. She asked how willing the city was in enforcing the ordinance.

Allen Cook said he lived on a corner lot and he asked if the property line was the basis from where they had to go in 40 foot in and 40 feet across. Mr. Cook was trying to understand how this ordinance would affect him. Mr. Cook clarified what was required under the current ordinance on his property. He said he was concerned with the 40 foot site distance.

Seeing no further comment, Mayor Knight closed the public hearing at 8:27.

Discussion and consideration of Ordinance 12-08: An Ordinance amending the criteria for Corner Lot Fence Regulations (1st Reading)

Councilman Jacobsen made a motion to promote Ordinance 12-08; amending the criteria for corner lot fence regulations to a second reading. Councilwoman Cook seconded the motion.

Councilman Jacobsen discussed that he felt the two drawings on the ordinance were in conflict; with one drawing being more lenient. Mr. Zook discussed the drawings and said the first drawing could be removed. The Council and Mr. Zook discussed the drawings. Councilman Jacobsen said ordinance tell people what they can't do and did not list what they can do. Mr. Zook thought they should leave both drawings in until the City Council decided what they would do with the ordinance. Councilman Jacobsen urged the remaining Council to understand the definitions of a front yard, side yard, rear yard, side yard setbacks, and front yard setbacks when reviewing the proposed ordinance. He believed the appeal authority had derailed their legislative process. He reminded the Council that they had an option to take the appeal one more step and let a judge decide the issue. He said he was having trouble understanding why they would adopt an ordinance that was less restrictive on corner lots than are on non-corner lots. Councilman Jacobsen observed that they were actually in trouble with this ordinance because they had enforced the ordinance; they had been appealed and successfully appealed.

The motion passed 5-0. Councilman Mickelson was in favor, Councilman Platt was in favor, Councilwoman Cook was in favor, Councilman Hansen was in favor, and Councilman Jacobsen was in favor.

The City Planner asked for items she could have prepared for the Council when the ordinance came before them for a second reading. Councilman Mickelson asked for photographs representing the options that were being proposed.

Appointment of Councilmember Carrie Cook to City Engineer RFP Review Committee

Mayor Knight said he was asking for consent from the Council for the panel to review the requests for proposals for a city engineer. He said the panel would consist of Mr. Zook, Shari Phippen, Bill Saunders, Councilwoman Cook, and himself.

Councilman Jacobsen made a motion of consensus for the City Engineer RFP Review Committee panel. Councilman Hansen seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hansen, Councilwoman Cook, Councilman Mickelson, and Councilman Platt all in favor.

Reappointment of William Green to Planning and Zoning Commission

Mayor Knight said the Planning & Zoning Commission's terms were for five years and Mr. Bill Green's term was almost up. He was asking for consensus to re-appoint Mr. Green. He said Mr. Green was willing and committed to the Planning & Zoning Commission and wanted a very good community.

Councilwoman Cook made a motion of consent to appoint William Green to the Nibley City Planning & Zoning Commission. Councilman Jacobsen seconded the motion.

Councilman Jacobsen asked if anyone else had put their name forward for consideration. Mayor Knight said there had been a few some time ago which had had taken into consideration.

The motion passed unanimously 5-0; with Councilwoman Cook, Councilman Jacobsen, Councilman Hansen, Councilman Platt, and Councilman Mickelson all in favor.

Public Hearing—A public hearing to receive comment regarding a proposed change to the Nibley City Sign Code

The City Planner introduced the proposed change to the Nibley City Sign ordinance. She said electronic messaged displays (EMDs) currently had no regulations and one was permitted to come in and they realized it may be advisable to include tight regulations about light output and brightness. She said the city would purchase a light meter, ensuring signs that were put in complied with the ordinance. The proposed code required that any EMD that came in would be required to be reviewed and approved by the Planning & Zoning Commission. The City Planner said they were limited in where they were allowed; they are not allowed on SR-165 and were permitted only in commercial and industrial zones along 89/91. The City Planner summarized the distance requirements. She said there was no strobe, flashing, star effect, or video permitted.

Mayor Knight opened the public hearing at 8:51.

Corlyss Drinkard stated her concerns. She said there was no ambiguity with the ordinance that was passed by City Council last year and said it was a disgrace that the Peterson development got the sign they got. She said EMDs were tacky and the only modification the ordinance needed was to specifically prohibit electronic message displays.

Ethan Lindstrom said he personally had nothing against electronic message displays. He agreed with Ms. Drinkard that if the idea was to keep Nibley rural then it made sense to ban them.

Barbara Wilden said she felt this was a waste of the City Council's time and that this had been decided before. She said they needed to be more specific and not waste the Council's time.

Commissioner Mark Lawver said he felt this was a good compromise. It would keep the annoying signs out and encourage businesses to come in. He said it was Nibley City, not Nibley farm, and businesses would fund their development. He said this would limit the number of sign that could even go up and the ordinance also helped limit the signs to that space.

Seeing no further comment, Mayor Knight closed the public hearing at 8:57.

Discussion and consideration of Ordinance 12-07: An Ordinance amending the Nibley Sign Code (2nd Reading)

Mayor Knight recommended they observe actual physical output of light from an EMD and he recommended they continue this consideration.

Councilman Hansen made a motion to continue Ordinance 12-07 until they had a chance to observe sign light output. Councilman Mickelson seconded the motion.

Councilman Mickelson made a motion to amend that a moratorium be put in place on this type of sign until this issue is resolved. Councilman Jacobsen seconded the motion.

Mr. Zook clarified that a moratorium would need to be put on the agenda.

The amendment failed 0-5; with Councilman Mickelson, Councilman Jacobsen, Councilman Platt, Councilwoman Cook, and Councilman Hansen opposed.

Councilman Jacobsen discussed light output.

The motion to continue passed 4-1; with Councilman Hansen, Councilman Jacobsen, Councilman Mickelson, and Councilman Platt in favor. Councilwoman Cook was opposed.

The City Planner said she would look into borrowing a measuring device.

Mayor Knight called a five minute meeting recess at 9:11. Mayor Knight called the meeting back to order at 9:18.

Presentation of Impact Fee Study

Mr. Fred Philpot, representing Lewis Young Robertson & Burningham, Inc. was present at the meeting and conducted the presentation. His presentation included a PowerPoint presentation which was displayed for the City Council, staff, and public present. His presentation addressed impact fee methodology as applied to parks, sewer, and water.

Councilman Mickelson said he would like to review their contract regarding the impact fee study. Mr. Philpot said their contractual obligation was not done with this presentation and listed the further items that would be completed. He said once they had provided the documents and the public hearing had concluded then their contractual obligation ended. Mr. Zook said this was in line with his understanding of the contract.

Discussion and consideration of Ordinance 12-09: An Ordinance amending the Impact Fees for Parks, Water and Sewer (1st Reading)

Mayor Knight said he felt it was more appropriate to consider the first reading of this ordinance in conjunction with the public hearing and not to act on the first reading. Councilman Mickelson and Councilman Platt agreed with the Mayor.

Presentation of Economic Development Study Findings

Mr. Fred Philpot, representing Lewis Young Robertson & Burningham, Inc. was present at the meeting and conducted the presentation. His presentation included a PowerPoint presentation which was displayed for the City Council, staff, and public present. Mr. Philpot stated that this was a preliminary review. He said the purpose of this study was to provide a tool to assist policy makers to form and communicate their economic vision.

This presentation included discussion on demographics, strong neighborhood retail potential, and the potential of industry and job growth.

Councilman Hansen asked if Mr. Philpot's company could help them identify potential areas for retail development and provide advertisements for those. Mr. Philpot said they typically didn't provide advertising materials. He said they help to evaluate those processes so they can make a project a reality.

Council Reports

Councilman Platt addressed if they should send additional thanks or greetings to the active members of the military living in Nibley.

Councilwoman Cook reported on the on-going details of the Santa activity occurring at Little Wonders Day Care.

Councilwoman Cook brought up discussion on the pheasant population. She wanted to know what the Council's thought were on establishing areas to protect in regards to hunting. Councilman Platt said there were already laws in place about hunting near private residences which could be turned over to law enforcement. Councilman Mickelson thought these things naturally went away with the occurrence of development. Mayor Knight said his first priority was to be safe. Councilwoman Cook thought protecting rural heritage included protecting natural animals. Mayor Knight thought the protection was already in place. Councilman Jacobsen thought they could prohibit hunting on city land and he felt he was a steward of Nibley City property. Mr. Zook said it was against the law to shoot within 600 feet of a house. Councilman Platt said he did not see that as a city function. They would be creating more laws to complicate the issue.

Corlyss Drinkard said she wanted to commend the City Council on their dealings with the city engineer, on not raising taxes, and she wanted to compliment them on their wisdom in hiring Mr. Zook. She said he was a real asset to the community.

Ross Wilson said if they wanted their impacts fees to go up then they should use peak flow information with water and sewer rate flows.

Staff Reports

Mr. Zook noted an email he had sent to the Council about a number of properties the realtor they had tasked had identified and direction and information that needed to be provided.

The meeting was adjourned at 11:37 p.m.