

The Meeting of the Nibley City Council held at Nibley City Hall, 455 W. 3200 S. Nibley, Utah, on Thursday, August 1, 2013.

The following actions were made during the meeting:

Councilmember Cook motioned for approval of the final plat for Stonebridge Subdivision, Phase 2 located at approximately 1290 West 2980 South. Councilmember Whittaker seconded the motion.

Councilmember Cook motioned to amend that the final plat approval of Stonebridge Subdivision, Phase 2 be contingent on the development agreement showing detailed irrigation plans, the improvement for 12th west going south, the engineered approved temporary stormwater basin for phases 1 and 2, weed control in undeveloped lots is addressed in phase 2, and the development and maintenance plans for green space in phase 2. Councilmember Whittaker seconded the motion. The amendment passed unanimously 3-0; with Councilmember Cook, Councilmember Whittaker, and Councilmember Jacobsen all in favor.

The amended motion passed unanimously 3-0; with Councilmember Cook, Councilmember Whittaker, and Councilmember Jacobsen all in favor.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Assistant City Recorder Cheryl Bodily

Mayor Gerald Knight called the Thursday, August 1, 2013 Nibley City Council meeting to order at 6:30 p.m. Those in attendance included Mayor Gerald Knight, Councilmember Carrie Cook, Councilmember Larry Jacobsen, and Councilmember Amber Whittaker. Mr. David Zook, the City Manager, Bill Saunders, the Public Works Director, and the City Planner were also in attendance. Councilmember Thayne Mickelson and Councilmember Bryan Hansen were excused from the meeting.

Call to order; approval of agenda; and approval of the 7-18-2013 meeting minutes
Councilmember Cook made a motion to approve the evening's agenda and the July 18, 2013 meeting minutes. Councilmember Jacobsen seconded the motion. The motion passed unanimously 3-0; with Councilmember Cook, Councilmember Jacobsen, and Councilmember Whittaker all in favor.

Discussion and consideration of a final plat for Stonebridge Subdivision—Phase 2 (31 lots) located at approximately 1290 West 2980 South (Applicant: Gary Nilson)
Mr. Nilson was not present at the meeting. Mr. Ted Chalfant was present at the meeting representing Gary Nilson.

The City Planner said the last time this was before the City Council the main concerns were with the canal company and the storm water. The City Planner said they had a letter from the canal company from when the subdivision was initially put in and she said Mr. Saunders had discussed the subdivision with a member of the canal company, Gordon Zilles. The City Planner noted that the application was for a cluster subdivision and discussed the requirements and specs for a cluster subdivision.

Councilmember Jacobsen said he was interested in canal issues and asked if timelines were associated with the agreements with the canal company; particularly the phasing timeline. The City Planner said in her research she had found no specific timeline associated with the phasing. Councilmember Jacobsen asked if the City Planner had found anything in the development agreement or minutes that would indicate what would be introduced in each phase. Councilmember Jacobsen wanted to note that they should be more diligent in indicating those things in the future; he said in retrospect they should have addressed phasing issues. They needed to be aware the subsequent phases may not happen. Councilmember Jacobsen asked if there was a timeline indicated in the letter from the canal company.

Mrs. Jane Nilson, Gary Nilson's business partner, arrived at 6:40.

The City Planner noted there was not. Councilmember Jacobsen asked if there were specifics of what the developer, city, and canal company had agreed to. Mr. Zook read the actual letter from the canal company and noted there were no engineering specifications attached to the letter. Mayor Knight said he was not current on what Nibley ordinance said on phasing but that was generally left up to the developer. The City Planner said the city was silent on phasing. Mayor Knight said that presented a concern and asked what control the city had over phasing. The City Planner said they had nothing in ordinance that addressed phasing. She discussed that they could make it a requirement of the preliminary plat; giving them an idea of what the phasing of the development would be. Councilmember Jacobsen said he would like phasing to be determined in the preliminary plat. The Council discussed phasing and the timeline for which things got done. Councilmember Jacobsen asked about green space development. He asked if they had an agreement from the developer on the development of the green space in writing. The City Planner said there was recorded minutes that said the home owners association was responsible for developing and maintaining the space and that the park would be private. Councilmember Jacobsen asked if there was an associated timeline. The City Planner said there was not.

Councilmember Jacobsen asked about the pump that was currently in the middle of 12th West. The City Planner reviewed previous discussion about the well and said they had verbal "ok" from the canal company that the city could move the well as long as the canal company did not have to pay for it. Councilmember Jacobsen asked if they had that agreement in writing. The City Planner said city staff had all agreed that the 12th west road should go strait. Mayor Knight thought there didn't need to be further discussion because if the road were to be strait or curve was dependent on the developer to the east and would not adversely affect the developer to the west. Councilmember Jacobsen

wanted it put it in writing; i.e. who would be responsible for moving the well and the associated cost and the timeline for doing so.

Mr. Saunders discussed the stormwater for Stonebridge. He noted the current storm water for phase 1 had not been draining because the grading was too high in the temporary storm water retention basin so the water did not drain quickly. He talked about the completion of phase 2 and that the storm water was intended to dump into at temporary retention basin but it was found that the grading there was too high also so the water would be directed to the northwest portion that was in the corner of phase 3. He said this basin would be built to the capacity of a 25 year storm and would function as if the whole system was complete and operational. He said this basin would eventually dump into their retention basin that was in the design stage now and would be completed in the next one to two years.

Mayor Knight asked Dave Davenport if that had addressed his concerns. Mr. Davenport said their concerns would be addressed when the work was in place and functioning.

Councilmember Cook asked what type of system was in place. Mr. Saunders said it was a gravity flow system and described how the system should work. Councilmember Cook and Mr. Saunders discussed the proposed regional storm basin and the finances associated with developing the basin. Mr. Zook said this was not an ideal situation. He said ideally they would have the infrastructure in place before the development and he hoped they would address these issues with the proposed storm water master plan. Part of the problem of developing a regional basis was that they are designed for a number of developments and those developments are not all built at the same time so there would be a financing question. Councilmember Cook asked if the temporary basis was not functioning, who was accountable to make sure that it did function. Mr. Saunders said it was the city's responsibility to make sure it was built to the standard it was designed to and described what would occur to make the basin function. Councilmember Whittaker asked when this would be completed because they had residents waiting. Mr. Saunders said he understood that the developer was anxious to have the infrastructure in and working before winter. Mr. Davenport said it was functioning adequately but they also hadn't had much precipitation. He discussed what happened to the water when it got cold. Mr. Davenport said he and the residents were nervous when they hear the word "temporary". He said they bought the property with the understanding that the infrastructure was complete and functioning. The City Planner said the timing for the new temporary pond would be outlined and dictated in the development agreement.

Marilyn Nielsen, a resident of Stonebridge Drive, said the storm water came up the grate and made a lake by the gutter and had caused her driveway and gutter to sink. She said their gutter now needed to be fixed. Councilmember Cook asked if it was the city's or developer's responsibility to fix the gutter. Mr. Saunders said it was the city's responsibility. Mr. Davenport addressed the proposed green space. He said any green space in the development was up to the developer to develop. He said it was the home owners association's responsibility to maintain the green space.

Councilmember Whittaker said she understood that that phase 2 developer was not responsible for the things the phase 1 developer had not completed. Mayor Knight said if it was infrastructure he believed they could; especially if it affected the infrastructure of phase 2. Mayor Knight didn't believe they could hold them for development of green space. He discussed greenspace development and asked if it was not completed by the developer who took care of it. Bill Saunders said that should be covered under the security deposits which they had lost on phase 1. Councilmember Whittaker read from the ULCT manual on page 146 which references Utah Code 10-9a; "the law specifically provides that the city or town does not have any liability to improve a dedicated but unimproved street just because it is shown on the approved subdivision plat." She wondered if it was the city's responsibility to improve that green space. Mr. Zook said that would be his opinion that it would not be the city's responsibility where it is private land. Councilmember Jacobsen said they needed to put into place, processes that would make sure these things got done. Councilmember Cook said it was her understanding that they could hold building permits until work was completed. Councilmember Jacobsen asked what it meant that they had lost the security deposit. The City Planner said the city let the letter of credit expire; she said there was an expiration date on security.

Councilmember Jacobsen addressed holding developer 2 responsible for developer 1. He felt they had standing to say that they had agreed on the preliminary and that phases 2 and 3 were encumbered by phase 1. Councilmember Jacobsen said they needed to get everything spelled out and timelines for completion of items in phase 1 before phase 2 could move on. Mr. Saunders said the developer had agreed to put the 12th west road in as agreed by phase 1. Councilmember Cook objected and said the city "dropped the ball" on collecting the security deposit and had allowed eight lots to be sold and houses to be built and were still owed infrastructure. Councilmember Cook wondered if developer 1 made developer 2 aware of the things that needed to be taken care of and if the city had made developer 1 aware and accountable for his obligations.

Mr. Chalfant said one of his concerns was the fact that the storm drain didn't work. He said in order to make it work, his developer needed to get in and move pipe and grade to make things work. He said the developer wanted to buy phase 3 and 4 but they needed to be able to get in there to make things work. Mr. Chalfant said it was not their responsibility to fix encumbrances from phase 1. He noted that this developer was seasoned and had been open and forthright and had been nothing but helpful with the issues that had come up. He said the developer was trying to move on and make sure these things got done and done right

Mayor Knight said they needed to decide what needed to be done and who paid for it. He thought phase 1 needed to be separated and dealt with separately with the developer of phase 1. Mr. Zook said the two main issues with phase 1 and phase 2 were the paving of 12th west and the storm water. He said, in his opinion, those primary issues would be resolved through moving forward with the approval of phase 2. Councilmember Cook asked if developer Neal Anderson (developer 1) had gotten approval and full development of phase 1. Mr. Saunders said phase 1 had not been completed 100% and he had never gotten a completed inspection. Councilmember Cook asked if he had paid all

his fees or had outstanding fees. Mr. Saunders said he believed he owed the city approximately \$50,000 for stormwater and had an agreement with the city for those fees. Mr. Saunders said the development of phase 2 would fix the issues with the stormwater. Councilmember Cook asked if they had allowed Mr. Anderson to not pay his stormwater fees. Mr. Saunders said that was correct. The City Planner said it had been their practice that they collect stormwater fees when the lots were sold. After discussion with other staff, they had determined that they should collect all the stormwater money up front and have the developer add that cost into the cost of the lot. Mr. Zook discussed the agreement made with Mr. Andersen for fees owed. Councilmember Cook thought they should tell Mr. Andersen that until the city was paid in full he would not be given another building permit. Mr. Zook said the Council could direct him to do that. Councilmember Cook said they had a lot to discuss with developer 1 and she did not feel that should hold up developer 2. She said they needed to address their policies and procedures as a Council. The City Planner said the direction staff was moving was to collect the stormwater money up front. Councilmember Cook directed Mayor Knight that she would like to have discussion on this at another time.

Mayor Knight read from city ordinance regarding final plat subdivision approval.

Councilmember Cook made a motion for approval of the final plat for Stonebridge Subdivision, Phase 2 located at approximately 1290 West 2980 South. Councilmember Whittaker seconded the motion.

Councilmember Jacobsen said he could not get behind the idea that phase 2 was divorced from phase 1. They could not do a phase 2 without a phase 1. Councilmember Jacobsen believed there was a solution but that he needed to see it. Councilmember Whittaker asked if he was asking to see the development agreement. Councilmember Jacobsen said he was. The City Planner noted that the development agreement was not done until after final approval was given because the development agreement is based on the conditions of given in final plat approval.

Councilmember Jacobsen said he wanted to see, in the development agreement, the details of the irrigation plan, the improvements to the 12th West to 3200 South road, the stormwater issues for both phase 1 and phase 2 (moving the storm water to the new location), and green space development in phases 1 and 2, and he wanted to see weed control on undeveloped lots. Councilmember Whittaker asked if phase 1 had been approved why they would make phase 2 contingent on phase 1. Councilmember Jacobsen said he was not making a phase 2 approval contingent on a phase 1 approval; he was making phase 2 approval contingent on the agreements that were made in conjunction with the final of phase 1; that those be delivered and fulfilled before phase 2 moved forward.

Councilmember Jacobsen made a motion to amend that the final plat approval of Stonebridge Subdivision, Phase 2 be contingent on the inclusion of the following in the development agreement; the details of the irrigation plan, the improvements to the 12th West to 3200 South road, the stormwater issues for both phase 1 and phase 2 (moving the

storm water to the new location), green space development and maintenance plans for phases 1 and 2, and to see weed control plans on undeveloped lots in phase 2; and that the Mayor or City Council be responsible for reviewing the development agreement. Councilmember Whittaker directed Councilmember Jacobsen that if he could revise the green space agreement to include only phase 2 green space development then she could second the motion. Councilmember Jacobsen said the intent of the amendment was to see a plan and not to say who would be responsible for development. The motion died due to lack of a second. Mr. Zook said he thought staff could do all of the things that were included in Councilmember Jacobsen amendment. He said they could limit all future development contingent on completion of the green space.

Councilmember Cook made a motion to amend that the final plat approval of Stonebridge Subdivision, Phase 2 be contingent on the development agreement showing detailed irrigation plans, the improvement for 12th west going south, the engineered approved temporary stormwater basin for phases 1 and 2, weed control in undeveloped lots is addressed in phase 2, and the development and maintenance plans for green space in phase 2.

While discussing the motion; the Council directed city staff to take other measures to ensure the city received the funding owed for stormwater from phase 1 and the development and maintenance plan for green space in phase 1.

Councilmember Whittaker seconded the motion. The amendment passed unanimously 3-0; with Councilmember Cook, Councilmember Whittaker, and Councilmember Jacobsen all in favor.

The amended motion passed unanimously 3-0; with Councilmember Cook, Councilmember Whittaker, and Councilmember Jacobsen all in favor.

The City Council and Mr. Zook discussed the actions to be taken by city staff: Staff would take other measures to collect the outstanding storm water fees from phase 1 and to take steps to ensure the development of the green space in phase 1. The City Planner said they could put building permit restrictions in place. Mr. Zook said he had other ideas that he felt should be discussed privately or in an executive session.

The City Planner said she anticipated reworking Nibley's subdivision ordinance. Councilmember Jacobsen asked for a timetable. The City Planner anticipated they would have a new, adopted ordinance in six months; she said she could have a first draft to the Planning & Zoning Commission in two weeks.

Council Reports

Councilmember Jacobsen thanked Mr. Saunders and his staff for the amazing job they had done helping with irrigation water the previous evening.

Councilmember Whittaker asked what special assignments she would be given and mentioned the Community Covenant. Mayor Knight said he would bring that suggestion before the City Council and it would be made official.

Mayor Knight reported on his excursions to Cambodia and Thailand.

Mayor Knight read a thank you note from Cynthia Fredrickson, City Treasurer.

Staff Reports

Mr. Zook displayed retention basins located next to the townhomes and updated the City Council on a previous sidewalk discussion.

Mr. Zook updated the City Council members on the upcoming League of Cities Conference and asked for attendance. He said the League was looking for nominations for their board.

Mr. Zook said there would be a summer employee party on August 22nd at Heritage Park and asked the City Council to R.S.V.P.

Mr. Zook informed the City Council of a CBTD bus route change.

The meeting was adjourned at 8:26 p.m.

Attest _____
Deputy City Recorder