

The Meeting of the Nibley City Council held at Nibley City Hall, 455 W. 3200 S. Nibley, Utah, on Thursday, October 17, 2013.

The following actions were made during the meeting:

Councilmember Hansen motioned to adopt Resolution 13-10: A Resolution Amending the Nibley City 2013-14 Budget—Mid-year Budget Review. Councilmember Jacobsen seconded the motion. The motion passed 3-1; with Councilmember Hansen, Councilmember Jacobsen, and Councilmember Whittaker in favor. Councilmember Cook was opposed.

Councilmember Hansen motioned to accept the contract, and JUB Engineers, as the consulting services for the Nibley City Sewer and Stormwater Master Plan. Councilmember Cook seconded the motion.

Councilmember Jacobsen made a motion to amend to approve the contract with JUB Engineers for Sewer and Stormwater Master Plan services contingent on review from the city attorney and written documentation on if the contracting process was valid. Councilmember Cook seconded the motion. The amendment passed unanimously 4-0; with Councilmember Jacobsen, Councilmember Cook, Councilmember Hansen, and Councilmember Whittaker all in favor.

The amended motion passed 4-0; with Councilmember Hansen, Councilmember Cook, Councilmember Jacobsen, and Councilmember Whittaker all in favor.

Councilmember Jacobsen motioned to deny the request for an exception to connect to the public sewer for 4204 S. Hollow Road. Councilmember Whittaker seconded the motion. The motion passed 4-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Hansen, and Councilmember Cook all in favor.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Assistant City Recorder Cheryl Bodily

Mayor Gerald Knight called the Thursday, October 17, 2013 Nibley City Council meeting to order at 6:35 p.m. Those in attendance included Mayor Gerald Knight, Councilmember Carrie Cook, Councilmember Amber Whitaker, Councilmember Larry Jacobsen, and Councilmember Bryan Hansen. Mr. David Zook, the City Manager, and Bill Saunders, the Public Works Director, were also in attendance.

Mayor Knight noted that they had completed a mobile workshop which included a bicycle tour of Nibley.

Call to order; approval of agenda; and approval of the 10-3-2013 regular meeting and executive session meeting minutes

Councilmember Jacobsen made a motion to approve both sets of October 3, 2013 minutes and the evening's agenda. Councilmember Whittaker seconded the motion. The motion passed 4-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Cook, and Councilmember Hansen all in favor.

Public Hearing

A Public Hearing to receive input regarding opening and amending the budgets for Fiscal Year 2013-2014

Mr. Zook reviewed the requests that had been made by the Nibley City public works department; to purchase three (3) backhoes. He said in order to any budget changes they were required to have a public hearing. He said the public hearing had been posted and advertised as was required by law. Councilmember Jacobsen felt they should review the public works proposal for the benefit of the public present. Mr. Zook displayed a spreadsheet that displayed the city's current backhoe stock and the cost of maintenance; the assumed amount brought in from the sale of those backhoes; the costs associated with renting backhoes; the costs to purchase and the proposed resale amount from those backhoes. Mr. Zook said the proposal was to take the money set aside for the purchase of a mini-excavator and the money from the sale of the current backhoe stocks (approximately \$125,000) and then the additional amount to be split between the water and sewer funds to purchase 3 backhoes at a total of \$240,000. He said they viewed this as a one-time investment which they intended to roll over

Mayor Knight opened the public hearing at 6:44.

Corlyss Drinkard asked if this was completely independent of the sewer and the engineer's assessment of the sewers and the studies that were done with respect to charged impact fees; she asked if any of this was related to that. Mayor Knight said no.

Lorena Cook asked about warranties and insurance costs for the backhoes. Mr. Saunders addressed Ms. Cook's questions. Ms. Cook also asked about the resale values and where those estimates had come from. Mr. Saunders also addressed these questions.

Mayor Knight closed the public hearing at 6:48.

Discussion and consideration of Resolution 13-10: A Resolution Amending the Nibley City 2013-14 Budget—Mid-year Budget Review

Mayor Knight read Resolution 13-10.

Councilmember Hansen made a motion to adopt Resolution 13-10: A Resolution Amending the Nibley City 2013-14 Budget—Mid-year Budget Review. Councilmember Jacobsen seconded the motion.

Councilmember Jacobsen asked Mr. Saunders or Mr. Zook if they knew of any cities that were buying and reselling backhoes. Mr. Saunders discussed Smithfield City's leasing and resale practices. Mr. Zook said they had gotten this idea from Logan City who had the same resale policies with Logan trucks. Councilmember Whittaker asked if

it would be feasible to try this with one backhoe and see how the resale went. Mr. Saunders said they had already expended a great deal on maintenance of Nibley's current backhoes and he felt they were on borrowed time. Councilmember Hansen and Mayor Knight asked how much the city's backhoes were used on the Blacksmith Fork river project. Mr. Saunders projected they had been used on the river for approximately 3-4 hundred hours. Councilmember Cook asked about the hour usage on the current backhoes. Mr. Saunders believed the oldest backhoe had 6,300 hours; the next oldest 3,800 hours; and the newest had 1,800 hours. Mr. Saunders estimated they were putting approximately 300 hours per backhoe per year. Councilmember Whittaker asked Mr. Saunders to explain to the public why the city needed three backhoes. Mr. Saunders summarized Nibley City's backhoe usage. Councilmember Jacobsen asked about the impact of putting the used backhoes up for public bid. He assumed it would be minimal and Mr. Zook agreed. Councilmember Jacobsen asked if public works would be alright without the mini-excavator. Mr. Saunders said of the two options they would prefer having three backhoes. Councilmember Cook asked for a review of where the additional money would be coming from. Mr. Zook displayed and discussed the affected budget lines.

Mayor Knight asked for a roll call vote: Councilmember Whittaker was in favor; Councilmember Cook was opposed; Councilmember Hansen was in favor; and Councilmember Jacobsen was in favor.

The motion passed 3-1; with Councilmember Hansen, Councilmember Jacobsen, and Councilmember Whittaker in favor. Councilmember Cook was opposed.

Discussion and consideration of a contract to provide Sewer and Stormwater Master Planning Services

Ross Peterson, contracted with Nibley City for engineering services, and with JUB Engineers, was present at the meeting. Mr. Zook said earlier in the year they had identified that they needed better information about Nibley's sewer system (i.e. capability, longevity, capacity) and they had decided to update Nibley's Sewer Master plan and Stormwater Master Plan. Mr. Zook said they did request for proposals for those plans and also for GIS data to map infrastructure in the city. Mr. Zook said they had applied for a grant from the Permanent Community Impact Board and had received a \$62,500 which was a 50% matching grant that Nibley City would have to match. Mr. Zook said Nibley had received proposals from JUB Engineers, Sunrise Engineering, and Forsgren Engineering. Mr. Zook reviewed the individuals who comprised the committee who recommended the engineering firm that would handle the sewer and stormwater master plan; himself, the City Planner, Councilmember Mickelson Mayor Knight, and the public works director. Mr. Zook discussed the items they had reviewed the proposals for and then discussed the distinguishing factors between the three submitted proposals stating that the most distinguishing factor was the price with JUB Engineers at (\$109,000), Sunrise Engineering at (\$125,000), and Forsgren Engineering at (\$148,000). Mr. Zook said the committee made the decision to contract with JUB Engineers to complete the sewer and stormwater master plans and the GIS study and gave the reasons for their recommendation. He then discussed the additional options the committee had negotiated

into the JUB price. He said in was the recommendation of the committee to contract with JUB Engineering and that the City Council had the contract with JUB Engineers before them to consider.

Corlyss Drinkard asked who had prepared the specifications for the contact and the government estimate for the contract. Mr. Zook addressed who had prepared those things. He said all firms had access to how much they had budgeted for the contracts because they were public knowledge on the city website.

Corlyss Drinkard asked if the city engineer was instrumental in preparing the specifications and the information on which they based the budget item for these studies. Mr. Zook said they had conferred with the city engineer earlier in the year on how much a study might cost. Mr. Peterson said they were specifically asked not to provide the specifications that were included in the request for proposals. He said they knew the budget amount because it was public knowledge and on Nibley City's website. Councilmember Jacobsen asked Mr. Peterson if there was an opportunity for independent review and if his firm had any plans for independent review. Mr. Peterson said they had a strict internal quality control policy and they had an independent engineer from another office review their work. Councilmember Jacobsen asked if they had included a contract modification clause in the contract. Mr. Peterson said if the scope of work changed then they would renegotiate a new price for additional services. Councilmember Whittaker asked if the city had gone back to the other engineering firms with the other specifications. Mr. Zook said they had not but they viewed the additional work as their approach to the project. He said they could approach the firms with the additional work but that the price was still much lower. Mr. Peterson said JUB had included other items they felt the city could use in their proposal. He called it their shopping cart.

Councilmember Hansen made a motion to accept the contract, and JUB Engineers, as the consulting services for the Nibley City Sewer and Stormwater Master Plan. Councilmember Cook seconded the motion.

Councilmember Jacobsen thought it might be wise to consult with the city attorney on their section process and if they had been

Councilmember Jacobsen made a motion to amend to approve the contract with JUB Engineers for Sewer and Stormwater Master Plan services contingent on review from the city attorney and written documentation on if the contracting process was valid. Councilmember Cook seconded the motion.

The City Council discussed the questions the expected the attorney to address.

Corlyss Drinkard said she was a contract attorney and that getting the questions in writing and the written responses in writing was critical.

The amendment passed unanimously 4-0; with Councilmember Jacobsen, Councilmember Cook, Councilmember Hansen, and Councilmember Whittaker all in favor.

The amended motion passed 4-0; with Councilmember Hansen, Councilmember Cook, Councilmember Jacobsen, and Councilmember Whittaker all in favor.

Consideration of a Request for Exception from the Public Sewer Connection Requirement—Applicant: Tami and Derek Jones, 4204 S Hollow Road

Tami and Derek Jones were present at the meeting. Mr. Zook displayed a plat drawing of the property being discussed. Mr. Zook said Mr. and Mrs. Jones owned a flag lot at 4204 S. Hollow Road. They wanted to build a home on this lot and were required by Nibley City ordinance to connect to the sewer if their lot was within 300 feet of a sewer line. Mr. Zook said to connect to the home, the line would have to be built back approximately 1,000 ft. Mr. Zook said the sewer ordinance granted the City Council rights to waive this requirement in extraordinary cases. He said he had contacted the city attorney and the attorney had expressed his interpretation that economic difficulty was not usually considered an extraordinary reason and that distance alone would not qualify as an extraordinary case. Mr. Zook had minutes from the meeting when the lot was created and believed from the minutes that the City Council had intended for the lot to be connected to the sewer at the time it was developed.

Mrs. Jones introduced herself and her husband. She said her educational background was in environmental health. She described their flag lot and the requirements to connect to the city sewer line and the costs involved. She said that Hollow Road would have to close for 2-3 days in order to connect to the sewer. Mrs. Jones then discussed a residential septic system. She said they had a favorable feasibility analysis study done by the Bear River Health department about septic safety and that they had said the site was a good site for a septic system. Mrs. Jones discussed Nibley Ordinance under Chapter 5 Title 4: Public Health and Safety. She discussed the perception that septic systems could be a public health risk but said when they are properly sited, designed, constructed, and operated they pose a relatively minor threat to public water systems. Mrs. Jones said the estimated costs would be a substantial and unusual financial hardship to her family and that they would guarantee construction of a septic system that would not present a public health risk.

Mr. Jones said his background was in environmental engineering. Mr. Jones gave the background history on the purchase of the lot and the job bids they had received for both sewer and septic systems.

The City Council discussed the placement of the Jones' home. Councilmember Whittaker asked when the Jones' purchased their home. Mr. Jones said they had purchased it in March. The City Council discussed minutes from when the lot was subdivided. Councilmember Whittaker asked the applicants if they were aware that they would need to connect to the public sewer. Mrs. Jones said they were and at the time were given a bid of \$15,000 which had since gone up \$10,000. Mayor Knight said he had a similar lot and

discussed his history with connecting to the public sewer. Mayor Knight said his biggest concern was the proximity of the lot to the river. Councilmember Hansen discussed his history of connecting to the sewer. He asked if the applicants had contacted adjacent property owners to see if they could connect at a shorter distance. Mr. Jones said they had discussions with neighbors and the neighbors had required a contingency involving another neighbor. Councilmember Whittaker asked if the applicants were aware that the sewer connection was from the property line and not from their home. Mrs. Jones said they were not aware and noted the discrepancy in the Nibley City code. Councilmember Jacobsen said when there were discrepant codes then the strictest code enforced. The City Council asked Mr. Saunders about the sewer accessibility, slope, and feasibility on Hollow Road in the Mr. and Mrs. Jones' area. Councilmember Cook was concerned with feasibility due to a mechanical factor. Councilmember Whittaker said taking out financial distress and distance she could not consider this an extraordinary circumstance. Councilmember Hansen asked if working through neighbors would be a cost savings. Mrs. Jones said it would be by about 500 feet. The City Council suggested they try to work with adjacent property owners about connecting and Councilmember Hansen offered to help plead their case to the neighbors.

Councilmember Jacobsen made a motion to deny the request for an exception to connect to the public sewer for 4204 S. Hollow Road. Councilmember Whittaker seconded the motion.

Councilmember Whittaker told the applicants that they needed to show a study showing a mechanical factor that would make it impossible to run a sewer line to their home, then she could consider this request.

The motion passed 4-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Hansen, and Councilmember Cook all in favor.

Council Reports

Mayor Knight discussed a park on Hollow Road. He had a request from the Blacksmith Fork Wildlife Committee to develop it into a nature park. They would design interpretive trails, trees, plants, etc. but would need water. Councilmember Jacobsen said the city had water rights to the property. Mayor Knight said they needed to be working with public works on design and planning for this park. Councilmember Jacobsen said he was in favor of this, especially for this type of use.

Mayor Knight noted items that had been brought to his attention to be but on the agenda; a Historic Preservation ordinance, and Bird Protection Zone. He reviewed the process for having items put on the agenda and held discussion with the City Council. Mayor Knight said Councilmember Cook had proposed they do a Bird Protection Zone in Nibley City which stemmed from some pheasants that were shot last year. Mayor Knight said he was reluctant to put any restrictions on hunting. He thought they needed to be judicious and leave the ability to hunt on your own acreage. Mayor Knight read the email submitted by Councilmember Cook. After further discussion, the City Council agreed to discuss a proposed ordinance that would prohibit hunting on city property.

Mr. Zook updated Councilmember Jacobsen about a presentation on the restoration of Blacksmith Fork River.

Councilmember Whittaker discussed the Federal Government furlough. She expressed her gratitude for Nibley and for her country.

Staff Reports

Mr. Zook reported on a new intern that he had brought in to the office, Rex Sheilds, and summarized his background.

Mr. Zook updated the City Council on the City Treasurer posting. He said it was being re-advertised and he had received a couple of applications.

Mr. Zook summarized a couple of handouts that he had given the City Council. One was from the Child and Family Support Center and the other was about land use training.

Stephen Nelson updated the City Council on the status of a broken water meter scanner. He said all the reads they had gotten were accurate.

Adjourn into Executive Session

Councilmember Whittaker made a motion to adjourn to executive session to discuss the Purchase of Real Property Pursuant to Utah Code 52-4-205. Councilmember Hansen seconded the motion. The motion passed unanimously 4-0; with Councilmember Whittaker, Councilmember Hansen, Councilmember Jacobsen, and Councilmember Cook all in favor.

The meeting adjourned to executive session at 9:18.

The meeting returned from executive session at 10:15.

The meeting was adjourned at 10:15 p.m.