

The Meeting of the Nibley City Council held at Nibley City Hall, 455 W. 3200 S. Nibley, Utah, on Thursday, November 6, 2014.

The following actions were made during the meeting:

Councilmember Hansen motioned to approve the consideration of a Revised Final Plat for Phase 3 of the Maple View Estates Conservation Subdivision.

Councilmember Beus seconded the motion. The motion failed 3-2; with Councilmember Hansen and Councilmember Beus in favor. Councilmember Jacobsen, Councilmember Cook, and Councilmember Whittaker were opposed.

Councilmember Jacobsen motioned to approve the Final Plat for Phase 1 of the River Meadows Estates Subdivision located at approximately 3700 South 250 East. Councilmember Whittaker seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Beus, Councilmember Cook, and Councilmember Hansen all in favor.

Councilmember Jacobsen nominated Councilmember Hansen to act as Mayor Pro-Tempore for November 12-20, 2014 during the Mayor Dustin's absence. Councilmember Whittaker seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Cook, Councilmember Beus, and Councilmember Hansen all in favor.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Assistant City Recorder Cheryl Bodily

Mayor Shaun Dustin called the Thursday, November 6, 2014 Nibley City Council meeting to order at 6:30 p.m. Those in attendance included Mayor Shaun Dustin, Councilmember Carrie Cook, Councilmember Kathryn Beus, Councilmember Larry Jacobsen, Councilmember Amber Whitaker, and Councilmember Bryan Hansen. Miss Phippen, the City Planner, Justin Maughn, the Nibley City Public Works Director, and Stephen Nielsen, the Nibley City Treasurer, were also in attendance. City Manager, David Zook, was excused from the meeting.

Call to order; approval of agenda; and approval of the October 15, 2014 regular and executive session meeting minutes

Mayor Dustin asked the City Council to edit the meeting order; moving item 5 (Discussion Regarding City Financial Report) before item 2 (Discussion and Consideration of a Revised Final Plat for Phase 3 of the Maple View Estates Conservation Subdivision) on the agenda.

Councilmember Jacobsen made a motion to approve the regular meeting minutes of October 16, 2014, the executive session meeting minutes of October 16, 2014, and the evening's agenda with the changes described. Councilmember Whittaker seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen,

Councilmember Whittaker, Councilmember Cook, Councilmember Jacobsen, and Councilmember Hansen all in favor.

Discussion Regarding City Financial Report

Mayor Dustin described the first question regarding the Municipal Building Authority. He said the \$600,000 balance was the total asset value or realized asset value and was not actually a cash balance. Mayor Dustin addressed the lack of sales tax revenue shown in August. He said the city actually received a disbursement from the State and that disbursement didn't come monthly. At the point the financial report was printed the city hadn't received the sales tax disbursement from the state. Stephen Nelson, Nibley City Treasurer, described the two month lag time then accounting for sales tax in the Nibley City budget.

Discussion and Consideration of a Revised Final Plat for Phase 3 of the Maple View Estates Conservation Subdivision

Kim Datwyler, representing Neighborhood Non-Profit Housing Corporation, was present at the meeting. Miss Phippen projected the proposed revised final plat for Phase 3 of the Maple View Estates Conservation Subdivision and described the changes before the City Council for consideration. This would consist of pulling a small amount of conservation land and a small amount of another residential lot to make another residential building lot.

Miss Phippen displayed the numbers associated with the revision to the subdivision:

Original Plat

Project Size: 35.19 acres

Net Project Space (less R-O-W): 25.57 acres

Open Space Average: 6.41 acres (25% Net Project Space)

Density Bonus (per ord.): 25%

Original # Lots (R-2 zoning): 56-63 (depending on layout)

Allowed Lots (w/density bonus): 60-79

Proposed Building Lots: 78

Average Lot Size: 10.536

Proposed Revised Plat

Project Size: 35.19 acres

Net Project Space (less R-O-W): 25.57

Open Space Average: 6.24 acres (24.4% Net Project Space)

Density Bonus (per ord.): 25%

Original # Lots (R-2 zoning): 56-63 (depending on layout)

Allowed Lots (w/density bonus): 60-79

Proposed Building Lots: 79

Average Lot Size: reduces by 40 sq. ft.

Miss Phippen said Nibley's Ordinance regarding density bonuses didn't give ranges of percentage of open space and said the revised plat dropped them below 25% open space.

Miss Phippen said it was her opinion that they were far more than 20% and just under 25% and should be given the benefit of the ordinance and the revision should be granted felt. She felt the numbers justified giving the applicant an additional building lot.

Kim Datwyler said if the City Council wanted to continue have conservation easement subdivisions then they ought to work with Neighborhood Nonprofit Housing Corporation (NNHC) as an example so that other developers would want to take advantage of this subdivision ordinance. Ms. Datwyler felt the additional building lot wouldn't detract from the open space along the road and explained the benefits of adding the additional building lot; including serving another family with a home. She said the benefits far outweighed the less than 1% difference in the density bonus.

Councilmember Jacobsen explained why quarter acre subdivisions in land rezoned Agriculture to R-2 or R2A was not possible unless it was done with the conservation overlay process. Councilmember Jacobsen said he realized it was a minor change but expressed that he was serious about the conservation overlay and the conservation process. He said the 24.4% conservation open space was not enough. Mayor Dustin and Councilmember Jacobsen discussed following the spirit of the law and the letter of the law. Councilmember Whittaker said she agreed with Councilmember Jacobsen when referring to the 25% density bonus.

Councilmember Hansen said he felt inclined to follow the spirit of the law and felt the open space was close enough.

Councilmember Hansen made a motion to approve the consideration of a Revised Final Plat for Phase 3 of the Maple View Estates Conservation Subdivision. Councilmember Beus seconded the motion.

Councilmember Beus felt the small change was justifiable. Councilmember Hansen agreed that Neighborhood Nonprofit Housing Corporation (NNHC) was their first "guinea pig" and felt they should learn from this process.

Mayor Dustin said he was concerned that they were trying to toughen up and set standards but that every time they granted an exception it became that much easier to go a little bit further. Councilmember Hansen expressed that the City Council had made it very apparent that they didn't want multi-family housing in Nibley and he felt the Neighborhood Nonprofit Housing Corporation was their version of low-income housing. Councilmember Jacobsen said they had been willing and cooperative with Neighborhood Nonprofit Housing Corporation (NNHC) and had encouraged the program. He described how they had cooperated with NNHC. He said this was not a vote about affordable housing but was a vote on whether they followed the letter of the law.

Seeing no further discussion, Mayor Dustin called for a vote. Councilmember Cook said no, Councilmember Hansen said yes, Councilmember Whittaker said no, Councilmember Jacobsen said he was opposed, and Councilmember Beus said yes.

The motion failed 3-2; with Councilmember Hansen and Councilmember Beus in favor. Councilmember Jacobsen, Councilmember Cook, and Councilmember Whittaker were opposed.

Mayor Dustin said the consideration for revision of the final plat was denied and asked Miss Phippen to see a proposal to the conservation subdivision ordinance that clearly stated the ranges for density bonuses.

Discussion and Consideration of a Request to Amend the Final Plat for Phase 2 of the Stonebridge Cluster Subdivision

The developer was not present at the meeting. Miss Phippen requested they continue the discussion until the proponent was present.

Councilmember Jacobsen made a motion to suspend the agenda to move to Discussion and Consideration of a Final Plat for Phase 1 of the River Meadows Estates Subdivision located at approximately 3700 South 250 East to the end of the agenda to allow the developer time to be present at the meeting. Councilmember Cook seconded the motion. General consent was given by the City Council.

Discussion and Consideration of a Final Plat for Phase 1 of the River Meadows Estates Subdivision located at approximately 3700 South 250 East

Miss Phippen reviewed the changes required by the City Council when this subdivision was first considered and said the right-of-way had been expanded out to a 60 ft. right-of-way. Councilmember Jacobsen clarified that there was no flood plain on the plat. Miss Phippen said the developer had included notations on the plat that the shaded areas had been removed from the flood plain. Miss Phippen summarized the engineer's minor notes regarding the plat. Miss Phippen discussed the required frontage and said the subdivision met the requirements and standards necessary for final plat approval.

Councilmember Jacobsen made a motion to approve the Final Plat for Phase 1 of the River Meadows Estates Subdivision located at approximately 3700 South 250 East. Councilmember Whittaker seconded the motion.

Councilmember Jacobsen said he would love to be doing final approval on the entire subdivision like they had talked about in revising Nibley's subdivision ordinance.

Councilmember Beus was in favor.
Councilmember Jacobsen was in favor.
Councilmember Whittaker was in favor.
Councilmember Hansen was in favor.
Councilmember Cook was in favor.

The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Beus, Councilmember Cook, and Councilmember Hansen all in favor.

Discussion and Consideration of a Request to Amend the Final Plat for Phase 2 of the Stonebridge Cluster Subdivision

Mayor Dustin said his preference was to proceed with this item and stated the reasons he felt they should proceed. There was no objection from the City Council.

Miss Phippen read what had been included in her meeting F.Y.I. regarding the Stonebridge plat amendment request. "You will note looking at the two plats that the developer is bringing in a request for an amended plat which would remove the open space between Lots 50/51 and Lots 108/109. The open space would be absorbed into adjoining lots. He originally requested additional building lots but I told him that wasn't an option." Miss Phippen said when Phase 2 was first recorded, which was just a year ago, the development agreement which was signed at the time included a letter signed by the developer stating that the open space would be maintained by the developer for one year after acceptance by the City and then after that time, would be maintained by the Stonebridge HOA. She said this was a large part of allowing the subdivision to be developed as presented because the City Council was not interested in maintaining small areas of open space. Miss Phippen said the developer now didn't intend on having an HOA and would like to eliminate the open spaces. However, she said it had come to her attention that an HOA was already in place for the entire subdivision because when the original restrictive covenants were recorded for the subdivision the legal description said it was attached and encompassed the entire subdivision. Miss Phippen calculated that the subdivision would require 6.14 acres of open space to be compliant with the ordinance and with the elimination of the open space they would have 6.03 acres of open space which would take them below what was required by ordinance. She also described how the open spaces were intended to tie into other open spaces in future phases of the subdivision.

Miss Phippen summarized meeting minutes that stated an HOA would develop and maintain the open spaces in the subdivision. Miss Phippen said the Planning & Zoning Commission's recommendation was that the amendment not be approved. She also said this was staff's recommendation. Mayor Dustin said he supported staff's recommendation.

Councilmember Jacobsen made a motion to deny the request to amend the final plat for Phase 2 of the Stonebridge Cluster Subdivision. Councilmember Whittaker seconded the motion.

Councilmember Jacobsen thanked the Planning & Zoning Commission for their consideration of this item.

Councilmember Cook was yes, in favor of the denial.

Councilmember Hansen was yes, in favor of the denial.

Councilmember Whittaker was yes, in favor of the denial.

Councilmember Jacobsen was yes, in favor of the denial.

Commissioner Bliesner was yes, in favor of the denial.

The motion passed 5-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Beus, Councilmember Cook, and Councilmember Hansen all in favor.

Councilmember Jacobsen asked about fees for a request to amend or modify a final plat. Miss Phippen said there wasn't a fee in place and said there should be. She said she would like to revisit the fee structure once the revised subdivision ordinance was in place. Councilmember Jacobsen said it took staff time to evaluate these requests and that they needed to be compensated for their time.

Council & Staff Reports

Councilmember Whittaker reported on the Nibley City Veteran's event being held Saturday, November 8 at 7:00. Councilmember Whittaker apologized for missing the previous City Council meeting.

Councilmember Jacobsen reported on the tree board and developing a Nibley City tree management plan which would have to include a tree inventory. Councilmember Jacobsen said the Tree Board would be asking the City Council for their opinion and consideration of a tree inventory process. Miss Phippen discussed her contact with Ben Harris, a certified Master Arborist.

Councilmember Hansen discussed the lack of a Nibley City noise ordinance. Miss Phippen reported on the situation at the Malouf development. Miss Phippen said the Planning & Zoning Commission had started working on a "public peace" ordinance.

Councilmember Hansen asked about Nibley City CVDT representation. Mayor Dustin stated he would work on getting Nibley representation at the CVDT.

Councilmember Beus asked about a recent article that appeared in the Herald Journal about a wastewater agreement. Mayor Dustin said he would have information in his report.

Councilmember Cook reported on the "Santa Clause is Coming to Nibley" celebration being held on December 6. Councilmember Cook asked if they could include working construction hours in the subdivision ordinance. The Council discussed whether that would be the appropriate place to address this. Miss Phippen said that could be addressed without getting too specific.

Mayor Dustin reported on a US 89/91 corridor meeting and asked for the City Council's involvement.

Mayor Dustin reported on the sewer. He said Nibley was pursuing two parallel tracks; one with Hyrum and one with Logan. Mayor Dustin invited the City Council to a meeting on Monday, November 10 at 4:00. He said they would get the results of the sewer study. Mayor Dustin expressed his opinion of Logan's administration of sewer services.

Mayor Dustin reported on the intersection of 3200 and SR 165.

Mayor Dustin reported on having discussions with Miss Phippen on noise. He said he would like to have something to the City Council in January. Miss Phippen said she intended to have noise levels tied to specific hour restrictions instead of noise levels.

Mayor Dustin discussed breed's specific legislation and referred to dog attacks reports out of Salt Lake. He said he had asked Miss Phippen to look in to vicious dog legislation but didn't know when the City Council would see anything on this issue.

Mayor Dustin asked for a report on the general plan update. Miss Phippen said the background work should be finished in the next couple of weeks.

Mayor Dustin reported on the high school and bridge.

Mayor Dustin asked for the City Council to give their input on Council assignments in the next two weeks.

Mayor Dustin reported that he would be out of the country November 12-20 and asked for nominations for a Mayor Pro-Tempore.

Councilmember Jacobsen made a motion to nominate Councilmember Cook to act as Mayor Pro-Tempore. Councilmember Hansen seconded the motion. Councilmember Cook declined the nomination because of conflicts in scheduling.

Councilmember Jacobsen nominated Councilmember Hansen to act as Mayor Pro-Tempore for November 12-20, 2014 during the Mayor Dustin's absence. Councilmember Whittaker seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Cook, Councilmember Beus, and Councilmember Hansen all in favor.

There was general consent to adjourn the meeting at 8:05 p.m.