

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, August 20, 2015.

The following actions were made during the meeting:

Councilman Jacobsen made a motion to approve Ordinance 15-07, An Ordinance regarding Animal Control Regulations in Nibley City as presented by the Nibley City Planning and Zoning Commission and including the red lines added by the Mayor. Councilman Hellstern seconded the motion.

Councilman Hellstern made a motion to amend to strike “within a calendar year” from page 6-F. of Ordinance 15-07. Councilman Jacobsen seconded the motion. The motion passed unanimously 5-0; with Councilman Hellstern, Councilman Jacobsen, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Hellstern made a motion to amend page 10-L. of Ordinance 15-07 to read “In the event that a minor is the owner or caretaker of a dangerous animal, the parent or guardian of that minor shall be responsible for compliance with the specifications of this ordinance for the care and housing of the animal and shall also be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the animal.” Councilman Jacobsen seconded the motion. The motion passed unanimously 5-0; with Councilman Hellstern, Councilman Jacobsen, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Hellstern made a motion to amend to strike “hoofed” from Ordinance 15-07, page 14; Section L. Councilman Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilman Hellstern, Councilman Bernhardt, Councilman Hansen, Councilman Jacobsen, and Councilwoman Beus all in favor.

The amended ordinance passed unanimously, 5-0. Councilman Jacobsen was in favor. Councilman Hellstern was in favor. Councilman Bernhardt was in favor. Councilman Hansen was in favor, and Councilwoman Beus was in favor.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Deputy City Recorder Cheryl Bodily

Call to Order

Mayor Shaun Dustin called the Thursday, August 20, 2015, Nibley City Council meeting to order at 6:32 p.m. Those in attendance included Mayor Shaun Dustin, Councilman Bryan Hansen, Councilman Larry Jacobsen, Councilwoman Kathryn

Beus, Councilman Ron Hellstern, and Councilman Thomas Bernhardt. Ms. Shari Phippen, Nibley City Planner and Justin Maughn, Nibley City Public Works Director, were also in attendance.

Approval of agenda; and approval of the August 6, 2015 meeting minutes

Councilman Jacobsen made a motion to approve the minutes with his proposed changes; he proposed to edit page 5 line 40 to read, "Councilman Jacobsen said he would also like an answer as to how the city managed to create such a large number of legally non-conforming lots in the southern half of the Quarter Circle development and he urged the Council to remedy this situation." Councilwoman Beus seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilwoman Beus, Councilman Hansen, Councilman Hellstern, and Councilman Bernhardt all in favor.

Councilman Jacobsen made a motion to approve the evening's agenda. Councilman Hellstern seconded the motion. The motion passed unanimously 5-0; with Councilman Jacobsen, Councilman Hellstern, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Discussion and consideration of Ordinance 15-07, An Ordinance regarding Animal Control Regulations in Nibley City (Second Reading)

Ms. Phippen summarized the background discussion of Ordinance 15-07. She said in the 2014 legislative session, a bill was passed that prohibited cities from enacting breed-specific legislation, unless the animal is generally accepted as a wild animal. Because there was still concern about the propensity of certain animals to vicious behavior, the Planning Commission was asked to prepare an ordinance for the City Council's review concerning animals and specifically vicious animals. Ms. Phippen said a few of the major points of the ordinance were that a process was in place whereby an animal, regardless of type, may be designated as dangerous by the Justice Court. The Justice Court, after an animal has been designated as dangerous, may order that the animal be put down, be sold, or that the owner places signs and structures on the property where the animal is housed so that the public is warned of a dangerous animal. Ms. Phippen said there was also a prohibition put in place against owning wild animals or any animal that had been bred with a wild animal. Ms. Phippen discussed the technical changes that had been made to make the ordinance comply with Nibley's current practice. Ms. Phippen said dog licenses would no longer renew every year, but would be tied to the length of the rabies vaccination. Ms. Phippen said if the City Council chose to leave this in the ordinance then it would require passing a resolution adjusting the licensing fees to reflect the change, but that resolution will be prepared at a later date so that city staff could decide what the new fee would be and she anticipated the new fee wouldn't take effect until January of the following year.

Ms. Phippen said the city's prosecutor had reviewed the ordinance and had no concerns about his ability to prosecute the ordinance as written. She said the ordinance had also been reviewed by Nibley's animal control officer and they had no

concerns with their ability to enforce the ordinance. She also said the City attorney was given the ordinance for review and comment but she hadn't to date received his comments. She said she didn't anticipate any problems from the City Attorney's review of the Ordinance.

Mayor Dustin said the proposed ordinance was the ordinance presented by city staff and the Planning and Zoning Commission with the inclusion of red line comments that were his suggested revisions.

Councilman Jacobsen made a motion to approve Ordinance 15-07, An Ordinance regarding Animal Control Regulations in Nibley City as presented by the Nibley City Planning and Zoning Commission and including the red lines added by the Mayor. Councilman Hellstern seconded the motion.

Councilman Hellstern questioned page 3 and whether the wording "county" should be added to the wording "impounded". Councilman Hellstern asked if they needed to clarify that wording to make it understood that County was involved as well as the city. Ms. Phippen said if an animal wasn't claimed within the city's allotted time they weren't sent to the county; they were moved to the Humane Society or Four Paws.

Councilman Hellstern questioned page 6F. "Newly Acquired Dogs". He asked if they needed to specify "within a calendar year." Mayor Dustin agreed with Councilman Hellstern and felt the phrase would be simpler without that wording.

Councilman Hellstern made a motion to amend to strike "within a calendar year" from page 6-F. of Ordinance 15-07. Councilman Jacobsen seconded the motion. The motion passed unanimously 5-0; with Councilman Hellstern, Councilman Jacobsen, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Hellstern noted a "typo" in the ordinance. Mayor Dustin asked for general consent from the City Council that as typos were noted that they just accept those revisions. The City Council gave general consent.

Councilman Hellstern asked for clarification on page 10-L.

"In the event that a minor is the owner or caretaker of a dangerous animal, the parent or guardian of that minor shall be responsible for compliance with the specifications of this section for the care and housing of the animal and shall also be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the animal."

Councilman Hellstern made a motion to amend page 10-L. of Ordinance 15-07 to read "In the event that a minor is the owner or caretaker of a dangerous animal, the parent or guardian of that minor shall be responsible for compliance with the specifications of this ordinance for the care and housing of the animal and shall also be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the animal." Councilman Jacobsen

seconded the motion. The motion passed unanimously 5-0; with Councilman Hellstern, Councilman Jacobsen, Councilman Hansen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Councilman Hellstern questioned page 11-5-10 “Animals At Large” and asked if other animals were included or if it was being exclusive.

“No cattle, horses, mules, sheep, goats or swine shall be allowed to run at large or to be herded, picketed or staked out upon any street, sidewalk or other public place within the limits of the city, and all such animals so found may be impounded. Nothing herein contained shall be so construed as to prevent any person from driving cows, horses, mules or other animals from outside the city limits to any enclosure within the city limits or from any enclosure in the city to a place outside the city or from one enclosure to another within limits of the city.”

Councilman Hellstern asked if they were being too exclusive. Ms. Phippen said she was not sure they should make it broad enough to include all animals and said the primary purpose of the section was to prohibit herding sheep and goats through the city. She suggested they changed the wording from “cattle, horses, mules, sheep, goats or swine” to “livestock” and change the section title to Livestock. Councilman Hellstern also felt the section was contradictory when using the wording “herding” and “driving”. He felt they were prohibiting in one sentence and allowing the same thing in another sentence. The City Council discussed this with 4 of 5 agreeing with the current wording.

Councilman Hellstern read from page 14, section A. of proposed ordinance 15-07.

“Unlawful: It shall be unlawful for the owner or person having charge, care, custody or control of any animal to allow such animal to attack, chase or worry any person, any domestic animal, any species of hoofed protected wildlife or domestic fowl. "Worry" as used in this section, shall mean to harass by tearing, snapping, chasing, biting, shaking with the teeth or other similar threatening actions.”

Councilman Hellstern was concerned that this section wasn't inclusive of protected wildlife such as game birds, turkey, or pheasants.

Councilman Hellstern made a motion to amend to strike “hoofed” from Ordinance 15-07, page 14; Section L. Councilman Bernhardt seconded the motion. The motion passed unanimously 5-0; with Councilman Hellstern, Councilman Bernhardt, Councilman Hansen, Councilman Jacobsen, and Councilwoman Beus all in favor.

Councilman Jacobsen referred to the 8-6-15 meeting minutes “Ms. Phippen said she was approached by the Mayor about strengthening the city's recourse when there were problems with nuisance animals” and asked if Mayor Dustin felt the ordinance accomplished what he set out to do. Mayor Dustin gave the background on why he had asked for the ordinance and said this allowed the justice court judge to designate an animal as a dangerous animal. The city had recourse and had the ability to designate an animal as being dangerous and after that designation, and if there were a second, incident the judge had the authority to order euthanize or

whichever remedy he deemed appropriate. He said it also protected the rights of responsible owners and protected the people that lived around dangerous animals and effectively gave them two strikes.

Mayor Dustin asked for further discussion and seeing none called for a vote on the amended motion:

Councilman Jacobsen was in favor. Councilman Hellstern was in favor. Councilman Bernhardt was in favor. Councilman Hansen was in favor, and Councilwoman Beus was in favor. The ordinance passed unanimously, 5-0.

Council and Staff Reports

Councilman Hellstern reported on his discussion with Josh Rugnar about the regional trail coordinator and linking trails with Nibley City.

Mayor Dustin addressed Councilman Hellstern questions about wastewater and an article that appeared in the Herald Journal.

Councilman Bernhardt asked about providing information to Nibley's citizens showing how the city's budget works; how taxes are collected and used.

Councilman Hansen asked about a CMAQ trail funding, a potential trail, and a possible trailhead.

Mr. Maughn summarized Congestion Mitigation Air Quality (CMAQ) funding and the projects they typically funded. He said to be eligible for this funding a trail needed to be a transportation trail and couldn't only be used for recreation. He described the regional trail by the high school that had been proposed in the letter to the CMAQ. Mr. Maughn asked the City Council how hard they wanted Nibley to push for the grant considering they would have to expend some money with an engineer in order to put together a good grant proposal. The City Council, Ms. Phippen and Mr. Maughn discussed locations, logistics, and design considerations for a trail. Councilman Jacobsen felt it was worth considering the grant in order to get Nibley residents and students to the high school in Millville. Mr. Maughn asked the City Council to keep in mind that this grant was a 6% grant match. Councilman Hansen said he felt the City Council's "pulse" was that they wanted to move forward with pursuing the CMAQ grant.

Ms. Phippen gave the City Council a map she had prepared of the legally non-conforming lots in the east part of Nibley City based on lot size. She felt the biggest reason for this was that the subdivisions were approved in the early 1970's but nothing was built on those lots for some time. Ms. Phippen discussed development along SR 165. Ms. Phippen said she could look into what recourse the city had to remedy the situation. Mayor Dustin asked if the City Council was interested in a specific proposal from the Planning and Zoning Commission for resolution of this issue? Councilman Jacobsen said he felt that when they had property that was 100%

of the land was already developed to a higher density than what was called for that they had two options: enforce the ordinance and live by the legally non-conforming lot restrictions, or they at least go back and fix the zone. The City Council felt they should give direction to the Planning and Zoning Commission to look at the legally non-conforming lot and make a recommendation.

Ms. Phippen told the City Council that the second scheduled meeting in September was scheduled during the annual League of Cities and Towns Conference and said they would need to discuss whether they would hold a second City Council meeting in September.

Mayor Dustin said he would be miss the first City Council meeting in September and would be out of town for two weeks so a Mayor Pro Tempore would need to be appointed. Mayor Dustin gave the approximate dates he would be out of town.

Mayor Dustin reported on wastewater. He had nothing further to report on the Logan agreement. He said they were getting an appraisal on the Hyrum facility under three different methods.

Councilman Hansen asked for permission to clean up after the City Council meeting on September 3.

General consent was given to adjourn the meeting at 8:57 p.m.

Attest: _____
Deputy City Recorder