

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, November 19, 2015.

The following actions were made during the meeting:

**Councilman Jacobsen motioned to approve Ordinance 15-09: An Ordinance Establishing Temporary Land Use Regulations Prohibiting the Receipt, Processing, and Approval of All Applications for Zoning, Re-Zoning, Subdivision Approvals, and Annexations in Nibley City and to waive the first reading, preparing the City Council to make a final vote. Councilman Hellstern seconded the motion. The motion passed unanimously 4-0. Councilwoman Beus was in favor. Councilman Bernhardt was in favor. Councilman Hellstern was in favor, and Councilman Jacobsen was in favor.**

**Councilman Jacobsen motioned to adopt the Nibley City Stormwater Master Plan as presented. Councilman Bernhardt seconded the motion. The motion passed unanimously 4-0; with Councilman Jacobsen, Councilman Bernhardt, Councilwoman Beus, and Councilman Hellstern all in favor.**

**Councilman Hellstern motioned to adopt the canvas of the Nibley City 2015 General Election. Councilwoman Beus seconded the motion. The motion passed unanimously 4-0; with Councilman Hellstern, Councilwoman Beus, Councilman Jacobsen, and Councilman Bernhardt all in favor.**

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#### OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Deputy City Recorder Cheryl Bodily

#### **Call to Order**

Mayor Shaun Dustin called the Thursday, November 19, 2015, Nibley City Council meeting to order at 6:34 p.m. Those in attendance included Mayor Shaun Dustin, Councilman Larry Jacobsen, Councilwoman Kathryn Beus, Councilman Ron Hellstern, and Councilman Thomas Bernhardt. Mr. Justin Maughn, the Nibley City Public Works Director was also in attendance. Councilman Bryan Hansen was not present at the meeting.

#### **Approval of agenda; and approval of the November 5, 2015 meeting minutes**

Councilman Bernhardt made a motion to approve the minutes from the last meeting and the evening's agenda. Councilman Hellstern seconded the motion. The motion passed 3-1; with Councilman Bernhardt, Councilman Hellstern, and Councilman Jacobsen all in favor. Councilwoman Beus abstained from voting because she was absent from the previous meeting.

#### **Park Committee Presentation Regarding Heritage Park West Expansion**

Mayor Dustin said the City Council had previously put together a preliminary idea of what could be done with the land to satisfy the funding requirements. Since then some unique environmental factors had come to light so the City Council appointed a committee with Councilman Hellstern as the Chair and that committee was here to present documentation, requirements, and options.

Councilman Hellstern introduced himself as an environmental educator, and former NCAA athlete and coach. He also introduced Becky Yeager, Nibley resident and Wildlife Biologist, Nate Norman, Nibley Resident and Environmental Consultant who specialized in wetlands, and Rob Davis a graphic designer.

Mr. Norman discussed the jurisdictional wetlands in the Heritage Park West area. His presented and discussed areas that created a good area for prime mitigation and projects for the wetlands.

Ms. Yeagar presented her credentials she had a Masters in Biology and was formally a Senior Wildlife Biologist for a consulting firm. She discussed the three perspectives which she had studied for the Heritage Park West area; preservation, (the diminishing singing Western Meadowlark, Fireflies, and preventing light infiltration); recreation (watchable wildlife) that would diversify Nibley's parks including a nature trail; and educational opportunities that included teachers in Nibley.

Mr. Rob Davis a professional graphic designer and art and graphic design teacher at Thomas Edison Charter School spoke next. He designed 3 maps that presented alternatives for Heritage Park West. The first alternative was soccer field intensive, the second was less sport field intensive, and the third was nature intensive. He summarized each map.

Councilman Hellstern discussed Nibley's certification with the National Wildlife Federation as a wildlife habitat. He noted the perceived desire of most of Nibley's citizens to have open space. Councilman Hellstern discussed the historic Elkhorn Ranch settlement and read from several studies regarding the growth in Cache Valley and a Cache Valley trail system. Councilman Hellstern said the committee suggested the City Council use that least active alternative and maintain the park as a nature park and remain as natural as possible.

Councilman Bernhardt asked about the intent of the trails; if they were intended to be cement trails or natural wood chip type. Councilman Hellstern said they would need to be ADA compliant but wouldn't affect the wetlands or be high maintenance; they were proposed a boardwalk bridge over the wetland area. Councilman Hellstern said they had tried to stick with a trail that was only on the peripheral. He discussed the proposed observation deck.

Councilwoman Beus thanked committee for the volunteer work they had put in. She asked about the depth of the deepest part of the wetlands. She was concerned about

liability. Councilman Hellstern said it was very shallow and marshy. Mr. Norman discussed that they could excavate some of the upper areas to create ponds and shared the liability issues they had addressed.

Mayor Dustin recognized Scout Troop 379 and asked them their opinion of the park options. Chase Peterson said he felt they could clear out the park area and felt that the nature park was the best idea. Adam Grey liked the nature park idea and the one with the one big soccer field. He said when they were playing sports they could enjoy it.

Councilman Jacobsen disclosed that he was Becky Yeager's husband. He asked if the City Council could get versions of the maps that had been presented which had a key describing what the colored areas represented or delineated. Councilman Jacobsen asked if there was someone else that had rights to the water. Councilman Hellstern said that Mr. Zook had told him that there was a canal company that had some rights. Councilman Jacobsen said that moving forward they needed to ensure they worked with any body that might have rights to any water on that land. Councilman Jacobsen asked for a wetlands delineation map to be made available. Councilman Jacobsen asked for a line on the map that said "don't mess around with anything inside here except for fear of screwing up the fireflies." He asked if that was too subjective. Ms. Yeager said she didn't feel there was enough science support. Councilman Jacobsen noted that the area had been grazed and the possibility that grazing had kept the weeds down. Mr. Norman said it would require maintenance. Councilman Jacobsen felt they had the opportunity to maintain this type of park with some volunteer efforts. Mr. Rod Elwood, Nibley's Parks Director agreed that this type of park would need a very different type of maintenance than the typical Nibley park. Councilman Jacobsen asked what they would do to keep the Cache Mosquito Abatement District from spraying in this park area. Councilman Hellstern said there was a type of fish that could possible take care of the mosquito population naturally. Councilman Jacobsen and Councilman Bernhardt discussed the conditions that would need to be necessary in order to have a no-spray zone.

Councilwoman Beus asked to hear Rod Elwood's opinion. Mr. Elwood said he had more questions than answers and discussed how the area was typically maintained. He asked for time to consider his answer and present it to the City Council at a later date. The meeting discussion turned to park maintenance costs. Mayor Dustin described the where some of the funding for the park would be coming from.

Mayor Dustin asked if the alternatives that had been presented would be compliant with the Counties requirements for utilization of the property. Councilman Hellstern said he had checked with the National Park Service compliance and all three alternatives where compliant with their lengthy handbook.

Mayor Dustin said he would be asking the City Council to take these options under consideration and make a recommendation to trigger an amendment to the current parks master plan. He said he and city staff had decided to finish the general plan

update procedure and then move to the Parks Master Plan. He said their decision would get the will of the City Council into the Parks Master Plan. Councilman Jacobsen addressed whether the City Council would make a recommendation without holding a public hearing. Mayor Dustin asked the City Council consider this option and to address it during the City Council reports at the end of the meeting.

**Discussion and Consideration of Ordinance 15-09—An Ordinance Establishing Temporary Land Use Regulations Prohibiting the Receipt, Processing, and Approval of All Applications for Zoning, Re-Zoning, Subdivision Approvals, and Annexations in Nibley City**

Mayor Dustin said the city was in the middle of their General Plan process and that there would be recommendations put forth in the general plan that would make potential modifications to Nibley's zoning ordinance and annexation plans. He said he didn't want to be stuck looking at two sets of rules should a proposal come before the City Council. Mayor Dustin said the city attorney had looked at and approved this ordinance. Mayor Dustin said this could only run for six months.

Councilman Jacobsen made a motion to approve Ordinance 15-09: An Ordinance Establishing Temporary Land Use Regulations Prohibiting the Receipt, Processing, and Approval of All Applications for Zoning, Re-Zoning, Subdivision Approvals, and Annexations in Nibley City and to waive the first reading, preparing the City Council to make a final vote. Councilman Hellstern seconded the motion.

Councilman Jacobsen asked if Nibley had already started this process when they had made it public knowledge that Nibley was redoing the general plan. He wanted city staff to research if the 6-month "clock" had already started ticking.

Councilwoman Beus asked which ordinances they were anticipating they would need to do. Mayor Dustin said they wanted to align ordinances with the intent of the general plan. Councilman Jacobsen said they should be careful because they were taking away people's property for at most, six months but noted from Ordinance that they could remove the moratorium prior to the six-month time restriction.

Seeing no further comment, Mayor Dustin asked for a vote on the motion.

Councilwoman Beus was in favor. Councilman Bernhardt was in favor. Councilman Hellstern was in favor, and Councilman Jacobsen was in favor. The motion passed unanimously 4-0.

**Presentation, Discussion and Consideration of the Nibley City Stormwater Master Plan**

Mr. Maughn introduced Nate Smith, a professional engineer with JUB Engineering.

Mr. Smith presented the Stormwater Master Plan to the City Council and public present.

Nibley City Engineer, Ross Peterson, expressed his thoughts and recommendations on the Stormwater Master Plan.

Councilman Jacobsen made a motion to adopt the Nibley City Stormwater Master Plan as presented. Councilman Bernhardt seconded the motion. The motion passed unanimously 4-0; with Councilman Jacobsen, Councilman Bernhardt, Councilwoman Beus, and Councilman Hellstern all in favor.

### **Presentation and Adoption of the Canvas of the 2015 General Election**

Mayor Dustin read the report of the official results of the Canvas of the Municipal Election held November 3, 2015 in Nibley City.

Councilman Hellstern made a motion to adopt the canvas of the Nibley City 2015 General Election. Councilwoman Beus seconded the motion.

Councilman Jacobsen congratulated Councilman Bernhardt. Mayor Dustin expressed his appreciation to everyone that had “stuck their neck out.”

The motion passed unanimously 4-0; with Councilman Hellstern, Councilwoman Beus, Councilman Jacobsen, and Councilman Bernhardt all in favor.

### **Discussion of potential rules for public comment period at the beginning of Council meetings**

Mayor Dustin read from Resolution 12-01, Nibley City Rules of Procedure and Order, “Resident’s Right to Be Heard.” Mayor Dustin said based on this section of the City Council rules of procedure, he didn’t feel they needed go forward with any formal procedures.

Mayor Dustin referred to the suggestions that had been emailed to him by Councilman Hellstern and Councilman Bernhardt. He also presented his suggested procedure.

### **RULES for PUBLIC COMMENT SESSION at City Council (1st Draft edition)**

#### **Ron Hellstern & Tom Bernhardt**

1. People wishing to speak must pre-register on a form in the City Office, or at the back table before 6:20pm on the day of the City Council meeting.
2. Speaker must identify themselves by name and address on the registration form and verbally prior to speaking.
3. Comments/suggestions/requests should be polite and based upon improving the City. The Mayor may dismiss speakers whose discussion items do not pertain to City issues.
4. No personal attacks-slander-libel will be permitted. The Mayor may dismiss any speaker who violates this policy.
5. Complaints about Ordinance enforcement and violations should be reported to City Staff and/or Law Enforcement.

6. Council members/Mayor/City Staff are not required to respond to any comments.
7. Noteworthy comments “might” be placed on a future City Council agenda.
8. 15-minutes total time for open-microphone for each City Council session.
9. 3-minute maximum speaking time for each person. (We could extend that if five speakers do not register).
10. Violation of any of the rules may eliminate that person from future speaking opportunities.

Points for Mayor and Council Discussion:

- A. An option might be to allow this format only on the first City Council meeting each month.
- B. Holding an open-microphone period to allow comments on any city-related subject can possibly go astray, but we then risk the complaints that the Council doesn’t want to hear from citizens.
- C. We may also wish to consider a trial run for a selected time period of so many months, but again may risk a poor reputation if we decide to cancel it for future Council meetings.
- D. It has been suggested that the Mayor welcome, acknowledge, and thank the speakers/organizations prior to their comments.
- E. Three minutes allows the speaker time to present their comments without feeling rushed.
- F. This venue allows for face-to-face discussions of different sides of an issue.
- G. Case studies show citizens want to be involved in the early stages of planning.
- H. A weakness to this is that sometimes the most vocal & intense opinions, or those with an economic stake, might be the only ones to speak. But that opportunity should still be granted.
- I. This would be a new format for gathering information from citizens and their neighborhoods.

**Mayor’s suggested procedure:**

This item, including statement of the rules, will be posted as Item 2 on each agenda after approval of the minutes

Public Comment (3 minutes per person, 15 minute maximum, no extensions)

1. Public input is invited at all Nibley City Council meetings.
2. Verbal comments shall be limited to 5 minutes per person. At the conclusion of 5 minutes, the floor will be given to the next person requesting time per the rules
3. Submission of written comments prior to meeting time is encouraged.
4. Comments will be taken in order that they are placed on the sign in sheet at the Recorder’s desk.
5. The sign in sheet will be made available 15 minutes prior to commencement of the meeting
6. If time remains after all signed in comments have been received, the microphone will be opened for additional comments until the 15 minute

period has elapsed or no comments are forthcoming as determined by the presiding officer

7. Any public comments will be recorded in the minutes of the meeting; commenters shall provide their names for the record

Mayor Dustin asked if it was the City Council intent to add this concept on future agendas. Councilman Jacobsen said he was in favor of the concept but had a concern that if they adopted a period of public comment that they were flirting with improper notice; he said they ran a bigger risk if the Council engaged in discussion. Councilman Jacobsen referred to #6. of the presented rules which said "Council members/Mayor/City Staff are not required to respond to any comments." He said it might be that "they are not allowed to respond." He feared that if the council didn't respond to the public's comments that they might cause more frustration. Mayor Dustin suggested that they lay out the terms of the period of comment in the agenda; he said they would need to be simple and short enough to be included on the agenda, and that they should have something regarding State code and that the City Council may not respond to comment made during the City Council meeting. Councilman Jacobsen felt it would be fair for the person conducting the meeting to reiterate these terms. He said this should be scripted out.

Ms. Drinkard said they could handle this with grace and dignity by making it clear from the beginning that they would not be making public policy from the bench; that they would take their suggestions and put them on a future agenda or to give to city staff to study and bring back to them. She said they would be taking names and could inform a person when the issue they had brought forth was being discussed. She suggested anything was worth trying on a trial basis; in the interest of transparency.

Councilman Hellstern directed the City Council to some of the provisions he had written in his "Rules for Public Comment Session" which would prohibit citizens from making complaints that should be taken to city staff or law enforcement. He also noted that nothing would be voted on.

Mayor Dustin said if the City Council decided to include this item on the agenda then he intended for it to stay on the agenda at least until the end of his term; or if they had absolutely no public comment for a six-month period.

Councilman Bernhardt felt in the long-term that this would be a worthwhile experience. He discussed his interactions with citizens who were seeking the opportunity to be heard by the City Council. Mayor Dustin said he would take the responsibility of writing a friendly introduction to the public comment period. Mayor Dustin said he intended to work from Councilman Hellstern and Councilman Bernhardt's draft with the exception of dropping item 7 from their list. Councilman Hellstern discussed allowing extra time for a person speaking for a group.

The City Council decided to allow a public comment period for four (4) people for three (3) minutes. The City Council decided to strike item 3 from the procedures proposed by Councilman Hellstern and Councilman Bernhardt. Councilman Jacobsen said he wanted to see the actual words that would be on the agenda. The City Council discussed a trial period and decided on a six-month trial period. Mayor Dustin said he intended to have this item on the agenda until there was a new Mayor. Mayor Dustin said he would work on the wording and have it on the next agenda for the City Council's discussion and recommendation.

### **Council and Staff Reports**

Mayor Dustin reported on the first meeting of the sewer rate committee. He said Mayor Peterson was the chair of the rate committee and the vice-chair was the public works director from Smithfield.

Mayor Dustin reported on the assessment of what Hyrum's sewer plant was worth.

Councilwoman Beus reported on a question from a citizen about streetlights.

Councilman Jacobsen said he would be out of town for the December 17 meeting.

Mr. Maughn reported on construction of the water line by Scott Farm working south to the well and other construction updates for the new well.

Ms. Maughn reminded the City Council to come to City Hall on Monday, November 25 between 2:00 and 3:00 to pick up their Thanksgiving turkey.

Mr. Maughn reminded the City Council to discuss a public hearing for "Firefly" Park. The City Council discussed Councilman Hellstern's availability. The City Council decided to schedule a special City Council meeting for December 12 to hold a public hearing to address opening the parks master plan at 2:00 p.m. at a school or church because City Hall was unavailable.

Mayor Dustin adjourned the meeting at 9:45 p.m.

Attest: \_\_\_\_\_  
Deputy City Recorder