

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, November 17, 2016.

The following actions were made during the meeting:

**Councilmember Hansen motioned to accept Nibley's annual audit report of the year ending June 2016. Councilwoman Beus seconded the motion. The motion passed unanimously 5-0; with Councilmember Hansen, Councilwoman Beus, Councilmember Jacobsen, Councilmember Bernhardt and Councilmember Ramirez all in favor.**

**Councilmember Ramirez made a motion to honor the request proposed by Ridgeline High school and adopt Resolution 16-10, which named a portion of 2600 South "Riverhawk Drive" and waived the second reading of the Resolution. Councilwoman Beus seconded the motion. The motion passed unanimously 5-0; with Councilmember Ramirez, Councilwoman Beus, Councilmember Hansen, Councilmember Jacobsen, and Councilmember Bernhardt all in favor.**

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#### OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Deputy City Recorder Cheryl Bodily

#### **Opening Ceremonies**

Mayor Pro Tempore Larry Jacobsen called the Thursday, November 17, 2016, Nibley City Council meeting to order at 6:32 p.m.

Mayor Pro Tem Jacobsen commented on the recent election process. He offered hope in realizing this was not the first time the country had a divisive campaign or a divisive country. He described the election of Thomas Jefferson versus John Adams. He quoted from Thomas Jefferson's inaugural address.

*"But every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans, we are all Federalists."*

Mayor Pro Tem Jacobsen asked the meeting members to stand and say the Pledge of Allegiance and pledge allegiance to the United States of America united as a country. Mayor Pro Tem Jacobsen led the meeting in the Pledge of Allegiance.

#### **Call to Order**

Mayor Pro Tempore Larry Jacobsen asked for role call. Those in attendance included Councilmember Larry Jacobsen, Councilmember Bryan Hansen, Councilwoman Kathryn Beus, Councilman Thomas Bernhardt, and Councilmember Tim Ramirez.

Mr. David Zook, Nibley City Manager, Stephen Nelson, Nibley City Planner, and Justin Maughn, Nibley City Public Works Director were also in attendance.

**Approval of agenda; and approval of the November 3, 2016 meeting minutes**

Councilmember Bernhardt made a motion to approve the previous meeting minutes and the evening's agenda as outlined. Councilmember Ramirez seconded the motion.

Mayor Pro Tem Jacobsen presented an amendment to the previous meeting minutes.

Mayor Pro Tem Jacobsen made a motion to amend the minutes as Councilmember he had proposed. Councilmember Hansen seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Hansen, Councilwoman Beus, Councilmember Bernhardt, and Councilmember Ramirez all in favor.

The amended motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Ramirez, Councilmember Hansen, Councilmember Jacobsen, and Councilwoman Beus all in favor.

**Public Comment Period**

Mayor Pro Tem Jacobsen gave direction to the public present and opened the public comment period at 6:38 p.m.

Amanda James, a resident of Hollow Road presented the changes to the Cottonwoods subdivision that she felt were positive. She discussed that she felt the walking trail wasn't necessary to accomplish what the city wanted as far as linking neighborhoods. She said it was her opinion that it didn't make sense for the city to take on maintenance of this walking trail.

Tony Strelech said he also wanted to talk about the Cottonwoods subdivision. He described that growth was a normal part of the process. He said that Cache Valley didn't seem to fit what seemed to be national trends. Mr. Strelech said he felt fortunate that Nibley City was the largest in land area in Cache County and he said growth was wonderful. Mr. Strelech described his historic recollection of 2 acre zoning on Hollow Road. He thought the people of Hollow Road had an issue with the number of lots being presented and the conservation plan. Mr. Strelech stated his perceived benefits of a conservation plan; the developer can put more lots in and the conservation of land. He gave his thought on the proposed walking path.

Gary Murray, an adjacent property owner on Hollow Road read from an article written by the Nibley City Newsletter.

*"When developers do come to Nibley, we encourage them to build conservation subdivisions that set aside open space (again, at no cost to the citizens of Nibley) . . ."*

He said he had read from the minutes of the previous minutes and discussion of the cost of maintaining the open space. Mr. Murray said Nibley citizens would be footing the bill to maintain the open space. Mr. Murray again quoted from the Nibley Newsletter:

*“Without proper action, the things that we value will disappear little by little. But with proper commitment and creativity, we can preserve and protect these things. I think we are getting there—little by little.”*

He said this didn’t fit what Hollow Road needed to be. He said he was opposed to the conservation easement and said all the chopped up pieces meant nothing and were good for nothing to the homeowners and people of Hollow Road. Mr. Murray said they needed open space to be open space and not the way it was planned in the current subdivision.

Mayor Pro Tem Jacobsen closed the public comment period at 6:49 p.m.

### **Presentation of the Annual Audit**

Mr. Zook introduced Matt Regen, an independent auditor representing Nibley City who was present at the meeting.

Mr. Regen presented his auditing findings of Nibley City for fiscal year ended June 30, 2016. He reviewed definitions, financial highlights, general fund revenues, general fund operations, capital fund operations, capital projects fund, water fund operations, sewer fund operations, storm water fund operations, and citywide investments in capital assets.

“In my opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of Nibley City as of June 30, 2016.

Mr. Regen gave his auditor’s opinion on compliance & internal control and said he didn’t identify any deficiencies in internal control that he considered to be material weaknesses. He said the results of his test disclosed no instances of noncompliance or other matters that were required to be reported.

Mr. Regen stated his findings and report on state compliance. He summarized what was included in compliance requirements. He stated that it was his opinion that Nibley City complied with State requirements.

Mr. Regen discussed the city’s use of impact fees and said the city had a great schedule for using impact fees within the six-year period. Mr. Zook reported on Nibley’s current use of sewer, stormwater, park, and road impact fees. Mr. Zook reported that Mr. Regen always gave suggestions of how the city could improve. He said this year he had given some good suggestions of how they could manage the City’s credit card account and the security of Nibley’s money.

Councilwoman Beus asked if Mr. Regen had found any departments that had overspent. Mr. Regen directed the Council to a budgetary comparison schedule and said it reflected that there weren't any departments that had overspent for general fund activities. Mr. Zook described the budgetary process they City understood and described that they tried to maintain a cushion. Councilwoman Beus asked if there were any projected revenues that were significantly shorter than what had been projected. Mr. Regen directed the City Council to miscellaneous revenues and said more had been anticipated and that intergovernmental revenues weren't quite as high as the city had thought. Mr. Zook noted that most of the other revenues had brought in much more than was anticipated. He described that they tried to budget a little more on expenditures and did the opposite on revenue and this built the cushion for the city's budget. Councilmember Hansen asked about the percentage of funds that could be kept on the books at the end of the year. Mr. Regen said the City was within the 25% cushion; any excess needed to go to the Capital Projects Fund. Mr. Regen said the city was able to move enough to the Capital Projects Fund to be in compliance.

Councilmember Hansen made a motion to accept Nibley's annual audit report of the year ending June 2016. Councilwoman Beus seconded the motion. The motion passed unanimously 5-0; with Councilmember Hansen, Councilwoman Beus, Councilmember Jacobsen, Councilmember Bernhardt and Councilmember Ramirez all in favor.

#### **Discussion and Consideration of Resolution 16-10—A Resolution Adding a Name to a Portion of 2600 South Street in Nibley (First Reading)**

Mr. Zook presented background information about the addition of the new high school that was accessed and connected by 2600 South. Mr. Zook said the high school had asked that 2066 South be renamed after the school or their mascot in order to improve the ability of drivers to find the school, as well as to create community spirit and show support for the school. He said new signage would be added to the mast arms showing above the intersection that would show both names. The road would retain its legal name as 2600 South. Mr. Zook said the school had suggested the name Riverhawk Drive with Ridgeline Drive as an alternative. The Council expressed some dislike of the suggested name.

Councilmember Bernhardt said he appreciated where the school was coming from but had the concern that they missed out on some of the city's elementary schools. Mayor Pro Tem Jacobsen noted this was because elementary schools didn't have athletic teams. Mr. Zook said the main reason given by the principal was for people coming out of town. He thought it would give direction to people coming to sporting events. Mayor Pro Tem Jacobsen described that he had "googled" Riverhawk and described the results he had found.

Councilmember Ramirez made a motion to honor the request proposed by Ridgeline High school and adopt Resolution 16-10, which named a portion of 2600 South

“Riverhawk Drive” and waived the second reading of the Resolution. Councilwoman Beus seconded the motion.

Mr. Zook clarified that the name would apply to the portion of the road extending from SR 165 to Nibley City’s eastern border.

The motion passed unanimously 5-0; with Councilmember Ramirez, Councilwoman Beus, Councilmember Hansen, Councilmember Jacobsen, and Councilmember Bernhardt all in favor.

**A workshop to review changes to a preliminary plat for The Cottonwoods at Hollow Road, a 19-lot conservation residential subdivision located at approximately 4030 Hollow Road (Applicant: Jim Johnson)**

Mr. Jim Johnson was present at the meeting.

Mr. Nelson described the numbers and density of the subdivision that had changed within the plat but still met with the conservation subdivision code. He noted that that proposal had gone from 19 lots to 17 lots and that all lots in the subdivision met the requirements set forth in the conservation subdivision ordinance. Mr. Nelson highlighted that city staff had recommended not taking ownership of any of the conservation space and currently the open space was slated to be owned by private property owners; he said this included the trail and described that the trail would only service the subdivision. Mr. Nelson reminded the City Council that they had asked the developer to seek out an opinion from the Utah Department of Transportation. Mr. Nelson said the developer had received a letter, which had been included in the agenda item report and summarized the letter:

*“Based off of our discussion, it appears that these items are not related to your proposed development that will be approximately 2/10ths of a mile from the SR-165 & Hollow Road Junction. At this time, we do not have any issues on the matter. (emphasis added for this report) In the event things change and you need to work within the UDOT Right-of-Way, the proper permits will be required.”*

Mr. Nelson said the subdivision fell out of the UDOT right-of-way. Councilmember Bernhardt asked if this information from UDOT needed to be notarized and asked if email correspondence was sufficient. Mr. Zook said it was not a requirement to be notarized but that he could take measures to ensure the information came from UDOT and offered to do so. Mr. Nelson discussed the change of the right-of-way along Hollow Road which now had sidewalks added which was required by city code because of the zoning in the area. Mr. Nelson discussed the proposed use of swales for stormwater issues. He said swales were a low-impact development technique, which was currently being encouraged by the State government. He said city staff approved of the use of swales but said Nibley City code (11-5-5) required the installation of sidewalk curb and gutter in residential developments outside Rural estate and Agricultural zones. He said it was city staff’s desire to changed Nibley City code to allow swale standards and approval of the subdivision would

need to be based on the adoption of pertinent code by Nibley City. The Council continued to discuss the proposed subdivision trail, the development of sidewalk along Hollow Road, and the use of swales versus curb and gutter.

Mayor Pro Tem Jacobsen discussed how it had been interpreted that the waiver wording included in the conservation subdivision could not apply or be exercised to allow for swales as opposed to curb and gutter. He said he agreed with the Nibley staff's interpretation. Mayor Pro Tem Jacobsen said he believed a cross section standard for swales needed to be included in Nibley's ordinance. He said there was always the alternative to stick with the ordinance in place. Mr. Maugh described that there would be a lot of engineering and design that would need to go into the background of swale design and said there would be places in Nibley where it just wouldn't work. He said he felt changing the ordinance could be done fairly quickly but that the standards for all of Nibley City would take some time and research. He said the standard in these circumstances could be done quicker but there was a lot to do in this realm.

Mr. Nelson said the next item had to deal with the road connection to 250 East on the master road plan. He said city staff still held the same opinion. There were some concerns with continuing the road as listed on the master plan opposed to how it was being proposed the current development. Mr. Nelson described that there was a water line that dead-ended on 250 East that was planned to connect through with the road master plan. He said Mr. Johnson had agreed to put in a waterline to connect to the northeast portion of the property. Mr. Nelson said the Council had also asked for a right-of-way dedicated to the city to ensure the roadway would go through. He said the desired roadway had been added to the plat and when the remainder parcel was developed the roadway would be put in. Mr. Nelson said staff was asking if this proposal satisfied the City Council and if they could move forward with amending the Nibley City Master Road plan to show the road connecting through the property.

Mr. Nelson said Mr. Johnson had brought City code 11-4-1-E.4-5. to the city's attention:

*" 4. Approval Or Disapproval By City Council: The City Council shall, within thirty (30) days after receiving the preliminary plan with recommendations from the Planning Commission, approve, approve with conditions, or disapprove the preliminary plan. A representative of the Planning Commission shall meet with the City Council to discuss and clarify the Planning Commission's position. The final conditions of approval or reasons for disapproval shall be stated in writing to the subdivider.*

*5. Plats not acted upon within the above time frames shall be deemed to have been approved. A plat shall be deemed to be acted upon if it is approved, denied, approved with conditions, continued for further review or tabled."*

Mr. Nelson said the matter had been brought to the city attorney, who had expressed that because the city held a public hearing and because clear direction was given that the city had met the requirement of acting on the application. Mayor Pro Tem Jacobsen requested that the attorney's comment be given in writing.

Mr. Johnson reported on the actions the City Council had given at the previous City Council meeting and said he was working to try to come to a conclusion on this subdivision. Mr. Johnson said he had tried to contact Mr. Player about the traffic study that was done and had been unsuccessful and hadn't been able to address Mr. Player's questions. Mr. Johnson said he had contacted UDOT, who had indicated they would be happy to send a letter to the city. Mr. Johnson said he had not been able to speak directly with the Swenson family about the property contiguous with the proposed property. Mr. Johnson stated he had not been retained by the Swenson family to develop their property. Mr. Johnson described his reasoning in moving toward the swale issue. He also described the changes he had made to the subdivision design and open space. Mr. Johnson said he had come to the conclusion that individuals would own the open space. Mr. Johnson stated that he was of the mind that the trail connecting the cul-de-sac would go in.

Mr. Zook asked the City Council if they were "OK" with the proposed road alignment? He described staff's interpretation of what should be changed on the Transportation Master plan and said staff felt they could a parallel track of changing the master plan but not necessarily requiring it before the subdivision was approved. Mayor Pro Tem Jacobsen said he felt they should have the roads master plan modified before final subdivision plat approval. He said they could connect a contingency on the preliminary plat that the change to the Transportation Plan would be a requirement of final approval. Mr. Zook described the placement of the road on the concept plan. He asked if the road met the intent of what was presented on the transportation master plan? Mayor Pro Tem Jacobsen said he couldn't come up with a reason that the proposed road wouldn't work. He said his opinion was that the proposed road alignment would work. Councilmember Ramirez said he felt the proposed road was "sixes". Councilmember Bernhardt, Councilwoman Beus, and Councilmember Hansen were all nodding that they approved of the proposed road alignment.

Mayor Pro Tem Jacobsen discussed the walking path and said he felt comfortable that the path would be exclusively for the use of the development and should be owned and maintained by the homeowner's association. Councilmember Hansen stated that he liked the trail at the end of the cul-de-sac and Mayor Pro Tem Jacobsen agreed. Councilmember Hansen said he was not sure he was in favor of the trail wrapping all the way around the subdivision because he didn't know that there was anything visually appealing along the walking path. Mayor Pro Tem Jacobsen said he was in favor of the trail, which he felt it was an amenity but wouldn't "die on the hill." Councilmember Ramirez said he was in favor of the easement through the cul-de-sac but said walking trail needed to connect to something else to make sense to him. Councilmember Ramirez stated he was not strong on the trail around the

subdivision. Councilmember Bernhardt said he was in strong favor of the trail and described that the trail would give property owners in the subdivision a place to walk. He said it added a lot to the subdivision. Councilwoman Beus felt the trail was cool but wouldn't fight anyone on it. Commissioner Johnson said he would leave the trail easement in and either the city or the development would have the option of developing the trail. He said the easement for the water line was in the same place. The City Council decided the easement through the cul-de-sac should be in place with five feet of sidewalk and 7.5 feet of grass on each side. The City Council discussed what the easement through the cul-de-sac connected to.

Mr. Johnson described that the Burr family had approached him about purchasing a flag lot and incorporating it into the proposed subdivision. He described how it would be possible and provided a drawing that incorporation the lot and said he had told the family that it probably wouldn't happen. He said this lot would put another driveway onto Hollow Road. Mr. Johnson said he had promised he would present this option to the City Council but was not in favor because he had bent over backward to put the conservation space along Hollow Road. Mayor Pro Tem Jacobsen said he had a problem with incorporating the lot because the conservation space along Hollow Road was lost and the conservation space was then put someone's backyard. Councilmember Ramirez said he was also opposed and the remainder of the City Council indicated by body language that they were also opposed.

Mr. Johnson asked about the sidewalk along the front of the development; he said he was happy to put the sidewalk or provide escrow. He asked if the City Council had waiver capabilities to not have sidewalks in that area. Mayor Pro Tem Jacobsen described that the Council only had this ability in the Rural Estate zone. He described if there was a canal then the sidewalk would need to run along the side of the canal and not adjacent to the road and could be a safety issue. Councilmember Hansen suggested a small walking bridge. Mayor Pro Tem Jacobsen said this would be a great Eagle Scout project. The City Council debated having the money for the sidewalk in escrow. Mr. Zook described his thoughts against putting the money in escrow and felt the sidewalk should be put in. Mayor Pro Tem Jacobsen and Councilmember Ramirez directed Mr. Johnson to put the sidewalk in. Mr. Maughn expressed that he would have to put some thought into putting a sidewalk between curb, gutter and canal.

Mayor Pro Tem Jacobsen presented an argument in favor of the conservation subdivision.

Councilmember Bernhardt asked if there was anything that needed to be tracked with Gary Player. He said he was not looking to delay the process but wanted to be sure of what the process was. Mr. Zook said he would look into this.



A picture of a model of the proposed subdivision.

### **Council and Staff Reports**

Councilwoman Beus reported on her experiences at the Parks and Recreation Open House and the modification of Nibley's annexation plan.

Councilmember Hansen asked if any decision had been made about a water themed Heritage Days. Councilmember Hansen said Ron Bliesner had expressed some interest in being involved.

Councilmember Ramirez asked Mayor Pro Tem Jacobsen about wires dangling under the at 2600 South. Mayor Pro Tem Jacobsen said they were not live and described their purpose. He said the project needed to get finished and it wasn't the city's job to finish it. Mr. Maughn said they were only waiting for the meter box to show up in order to provide power.

Mr. Zook showed the City Council a picture of the Los Angeles River and discussed that this was, on a much larger scale, what they had with Nibley's gutters. He compared drainage using swales versus channels.

Mr. Zook reported that Nibley City would be giving out turkeys on Monday, November 21 at 4:00 p.m. as was traditionally done and asked the City Council to come pick up their turkey and to possibly help hand turkey's out.

Mr. Zook asked the City Council to save the date for Nibley's annual holiday party on December 15 at 6:00 p.m. at the David B. Haight Alumni Center.

Mr. Zook reported on the Nibley Parks and Recreation open house.

Mr. Zook updated the City Council on the hiring process for Nibley's new City Treasurer.

Mr. Zook reminded the City Council that the winter parking ordinance had gone into effect.

Mayor Pro Tem Jacobsen reported on his experiences at the Parks and Recreation open house.

Mayor Pro Tem Jacobsen reported on the most recent Muffins with the Mayor.

There was general consent to adjourn the meeting at 9:18 p.m.

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