

1 A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South,
2 Nibley, Utah, on Thursday, December 1, 2016.

3
4 The following actions were made during the meeting:

5
6 **Councilmember Hansen motioned to approve the agreement for the Ridgeline**
7 **trail with Millville City. Councilmember Ramirez seconded the motion. The**
8 **motion passed unanimously 5-0; with Councilmember Hansen,**
9 **Councilmember Ramirez, Councilmember Jacobsen, Councilwoman Beus, and**
10 **Councilmember Bernhardt all in favor.**

11
12 **Councilmember Jacobsen motioned to advance Ordinance 16-06: An update to**
13 **the Nibley City Fence Code to second reading. Councilwoman Beus seconded**
14 **the motion. The motion passed unanimously 5-0; with Councilmember**
15 **Jacobsen, Councilwoman Beus, Councilmember Hansen, Councilmember**
16 **Bernhardt, and Councilmember Ramirez all in favor.**

17
18 **Councilmember Jacobsen motioned that the north half of parcel 03-192-000,**
19 **adjacent to the Summerfield Place subdivision, be given to the developer in**
20 **consideration of the extra area that will be dedicated to the city in association**
21 **with the east-west trail on the back end of the proposed subdivision at 2700**
22 **South 1000 West. Councilmember Bernhardt seconded the motion. The**
23 **motion passed unanimously 5-0; with Councilmember Jacobsen,**
24 **Councilmember Bernhardt, Councilmember Hansen, Councilwoman Beus and**
25 **Councilmember Ramirez all in favor.**

26
27 **Councilmember Jacobsen motioned that Nibley City would split the cost of**
28 **\$45,750 with the subdivision developer (Kelly Loosle) for landscape and east-**
29 **west trail on the back end of the proposed subdivision at 2700 South 1000.**
30 **Councilmember Bernhardt seconded the motion. The motion passed**
31 **unanimously 5-0; with Councilmember Jacobsen, Councilmember Bernhardt,**
32 **Councilmember Hansen, Councilwoman Beus, and Councilmember Ramirez all**
33 **in favor.**

34
35 **Councilmember Bernhardt motioned to approve the final plat for Phase 1 of**
36 **Summerfield Place, a 28-lot subdivision located at approximately 2700 South**
37 **1000 West; applicant, Kelly Loosle. Councilwoman Beus seconded the motion.**
38 **The motion passed unanimously 5-0; with Councilmember Bernhardt,**
39 **Councilwoman Beus, Councilmember Hansen, Councilmember Jacobsen, and**
40 **Councilmember Ramirez all in favor.**

41
42 **Councilwoman Beus motioned to approve the preliminary plat for the**
43 **Cottonwoods at Hollow Rd, a 17-lot conservation residential subdivision**
44 **located at approximately 4030 hollow Road; applicant, Jim Johnson, with the**
45 **following conditions:**

46

- 1 • That the Nibley City Transpiration Master Plan is changed to match the
- 2 proposed road;
- 3 • That Nibley City code is changed to allow swale and curbing instead of
- 4 gutter and curbing; and
- 5 • That the appeal that has been filed against the subdivision is denied.

6
7 **Councilmember Ramirez seconded the motion. The motion passed 4-1; with**
8 **Councilwoman Beus, Councilmember Ramirez, Councilmember Hansen, and**
9 **Councilmember Jacobsen all in favor. Councilmember Hansen abstained from**
10 **the vote.**

11
12
13 **OFFICIAL MINUTES OF THE MEETING**
14 Minutes were taken by Deputy City Recorder Cheryl Bodily

15
16 **Opening Ceremonies**

17 Councilmember Tim Ramirez led the City Council and public present in the Pledge of
18 Allegiance.

19
20 **Call to Order**

21 Mayor Shaun Dustin called the Thursday, December 1, 2016, Nibley City Council
22 meeting to order at 6:30 p.m. Those in attendance included Mayor Shaun Dustin,
23 Councilman Bryan Hansen, Councilmember Larry Jacobsen, Councilman Thomas
24 Bernhardt, and Councilmember Tim Ramirez. Mr. David Zook, Nibley City Manager,
25 Stephen Nelson, Nibley City Planner, and Justin Maughn, Nibley City Public Works
26 Director were also in attendance.

27
28 **Approval of agenda; and approval of the November 17, 2016 meeting minutes**

29 Councilmember Bernhardt made a motion to approve the previous meeting
30 minutes. Councilmember Jacobsen seconded the motion. The motion passed
31 unanimously 4-0; with Councilmember Bernhardt, Councilmember Jacobsen,
32 Councilmember Hansen, and Councilmember Ramirez all in favor.

33
34 **Public Comment Period**

35 Mayor Dustin gave directions pertaining the public comment period and noted there
36 were no names on the public comment sign-in sheet. He asked if the public present
37 had any comments. None of the public present had a comment.

38
39 Councilwoman Beus arrived at 6:34 p.m.

40
41 **Discussion and Consideration of the Ridgeline Trail Agreement**

42 Mr. Zook reminded the City Council that Nibley City had filed a joint grant
43 application with Millville City for Congestion Mitigation Air Quality funds to
44 construct a trail on the east side of the Blacksmith Fork River near the new
45 Ridgeline High School in early 2016. Nibley City was awarded \$372,000 in grant

1 funds to construct the trail. Mr. Zook described that the trail was currently in the
2 design phase and construction was expected to begin the summer of 2017 but prior
3 to construction it was necessary for Nibley and Millville to enter into an agreement
4 to address several aspects of the trail's construction and maintenance. Mr. Zook said
5 Nibley staff, with review by the city attorney, had prepared an agreement between
6 both cities that would address several aspects of trail construction and management
7 after the trail was constructed. He said the agreement would allow the trail to be
8 constructed in Millville's right-of-way and designated which city was responsible for
9 maintenance of which portions of the trail after it was constructed. Mr. Zook said the
10 agreement also defined how the trail would be landscaped and defined allowable
11 uses on the trail. Mr. Zook said the landscaping plan was for a natural landscape and
12 was also being designed for allowable uses such as bicycling. He said this would be a
13 shared use trail between pedestrians and bicyclists. Mr. Zook said Millville's City
14 Council had been given the same agreement to review.

15
16 Councilmember Bernhardt said he believed the agreement was that Nibley would
17 maintain the trail in Nibley and Millville would maintain the property in Millville. He
18 said the agreement didn't read this way. Mr. Zook said Nibley was responsible for
19 the trail on Nibley's property, which led to some confusion because Nibley owned
20 property in Millville. Councilmember Bernhardt read from the agreement:

21
22 *"NIBLEY shall own, operate and maintain the portion of the trail that is located within*
23 *NIBLEY City limits, as well as the portions of the trail that are located on NIBLEY City-*
24 *owned property within MILLVILLE's City limits."*

25
26 Mr. Zook said Nibley City intended to maintain the property because Nibley owned
27 the property. Councilmember Ramirez asked if the trail would be plowed during the
28 winter. Mr. Zook said if the trail was a design that was plow able then it would be
29 plowed and said he assumed they would plow the entire trail because it didn't make
30 much sense to stop with such a short distance left on Millville property.

31 Councilmember Hansen said he was curious about the preliminary design. Mr. Zook
32 said he would send the preliminary design to the City Council.

33
34 Councilmember Hansen made a motion to approve the agreement for the Ridgeline
35 trail with Millville City. Councilmember Ramirez seconded the motion. The motion
36 passed unanimously 5-0; with Councilmember Hansen, Councilmember Ramirez,
37 Councilmember Jacobsen, Councilwoman Beus, and Councilmember Bernhardt all in
38 favor.

39
40 **Public hearing regarding an update to the Nibley City Fence Ordinance**
41 Mayor Dustin summarized previous discussion by the City Council, Planning and
42 Zoning Commission, and city staff regarding the update to the Nibley City Fence
43 Ordinance with the primary concern being fences along pedestrian right-of-way. Mr.
44 Nelson described the changes that had been proposed in the Nibley City fence
45 ordinance. He highlighted and described the changes in section A & C.

46

1 *"A. Fence: No fence, wall or other similar structure or landscaping element shall*
2 *be erected or maintained in any front yard setback area to a height in excess of*
3 *four feet (4'); nor shall any fence, wall or other similar structure or landscaping*
4 *element be erected or maintained in any side or rear yard to a height in excess*
5 *of seven feet (7') for an opaque fence (eighty percent (80%) or more opaque),*
6 *e.g., solid wood, and eight feet (8') for a non-opaque (less than twenty percent*
7 *(20%) opaque) fence, e.g., chain-link, subject to the limitations identified herein*
8 *for fences bordering Public Trails, Public Walkways and Public Easements for*
9 *nonmotorized vehicles (collectively Public Trails hereafter). Public Trails*
10 *located in Public Parks are excluded from the fence regulations, conditions and*
11 *provisions of Section C of this Ordinance. Under all circumstances, no structure*
12 *or landscaping element may interfere with property address identification.*
13 *Landscaping elements exclude varieties of trees approved by the City Planner*
14 *or Planning Department. Any conflicts between this Chapter and Chapter 10-*
15 *11-1 shall be governed by the more restrictive or limiting provision. . . ."*
16

17 Mr. Nelson noted that public trail locating in public pars were excluded from the
18 fence regulations of section C because there were a lot of public parks with private
19 properties up against the park and he and Planning and Zoning Commission didn't
20 feel this situation presented the same safety concern as properties abutting a
21 pedestrian right-of-way. Mr. Nelson talked through section C. of the proposed
22 ordinance.

23
24 *"C. Fencing or landscaping elements along Public Trails: All fences or landscaping*
25 *elements adjacent to Public Trails, shall be limited to the following:*

- 26 1. *Fencing or landscaping elements that may exceed four feet (4') but not be*
27 *more than eight feet (8') in height:*
28 a. *Post and rail fencing;*
29 b. *Field fencing;*
30 c. *High-tension wire fencing; and*
31 d. *Any other fencing or landscaping elements not exceeding twenty*
32 *percent (20%) opaque.*
33 2. *Fencing or landscaping elements that may not exceed four feet (4') in*
34 *height:*
35 a. *Chain-link fencing;*
36 b. *Hedges or other shrubbery; and*
37 c. *Any other fencing or landscaping elements exceeding twenty percent*
38 *(20%) opaque.*
39 3. *Fencing or landscaping elements may be combined so long as nonpermitted*
40 *elements do not exceed four feet (4') in height.*
41 4. *All heights under this subsection shall be determined based upon the*
42 *centerline of the Public Trail.*
43 5. *Nothing in this subsection shall be interpreted to limit the height of fences*
44 *or landscaping elements that are adjacent to a street as identified in*
45 *subpart (E) below."*
46

1 Mr. Nelson explained that some of Mayor Dustin’s initial changes had not been
2 addressed in the proposed ordinance were what to do with corner lots. He said
3 there had been confusion on corner lots and how the ordinance would apply. He
4 said the Planning and Zoning Commission had asked for more research regarding
5 balancing people’s rights to fence their property and public safety.

6
7 Mayor Dustin gave direction to the public present and opened the public hearing at
8 6:48 p.m.

9
10 Seeing no comments, Mayor Dustin closed the public hearing at 6:48 p.m.

11
12 **Discussion and consideration of Ordinance 16-06: An update to the Nibley City**
13 **Fence Code (First Reading)**

14 Councilmember Jacobsen questioned section C and asked if they had a definition of
15 what a public trail was. He felt the ordinance needed clarification of exactly what it
16 was they were talking about. Councilmember Jacobsen said the concerns with
17 corner lots were interesting and encouraged the City Council to think about safety,
18 public property rights, and additionally the neighbor next door to the corner lot. He
19 said a fence built out the streetscape for the lot next to the corner lot.

20 Councilmember Jacobsen said they also needed to be careful to not take to much
21 property from a side lot. He said he had no solution and Mayor Dustin stated that
22 this is why the changed had been taken out of the proposed ordinance. Mayor
23 Dustin said he thought the corner fence regulation might be a question of consistent
24 enforcement and not of the regulations of the ordinance. Councilmember Jacobsen
25 encouraged the City Council to review the definition of a front yard setback and a
26 front yard. He said this helped him to interpret the ordinance. Mayor Dustin told the
27 City Council that he and Mr. Nelson would work out what they felt was a good,
28 consistent interpretation of the current code and then if the City Council didn’t like
29 the interpretation they could change the ordinance. Councilmember Ramirez asked
30 if this would exempt already build fences. Mr. Zook said current fences would be
31 “grandfathered” in. Mayor Dustin said this was a safety issue and would like to see it
32 resolved quickly. He asked the City Council to consider the ordinance and to take
33 pictures of concerns or fencing options that they liked for their next Council
34 meeting. The Council reviewed some of the fencing pictures that had been provided
35 in their box. Councilmember Jacobsen asked for a “changes tracked” copy of the
36 proposed ordinance which Mr. Nelson said he would make available.

37
38 Councilmember Jacobsen made a motion to advance Ordinance 16-06: An update to
39 the Nibley City Fence Code to second reading. Councilwoman Beus seconded the
40 motion. The motion passed unanimously 5-0; with Councilmember Jacobsen,
41 Councilwoman Beus, Councilmember Hansen, Councilmember Bernhardt, and
42 Councilmember Ramirez all in favor.

43
44 **Discussion and consideration of a final plat for Phase 1 of Summerfield Place,**
45 **a 28-lot subdivision located at approximately 2700 S 1000 W. (Applicant:**
46 **Kelly Loosle)**

1 Mr. Kelly Loosle was present at the meeting.

2
3 Mayor Dustin said this was the subdivision that had sparked the discussion about
4 fences. He made the City Council that they were starting the practice of bringing the
5 development agreement in with the subdivision so they could both be reviewed. He
6 noted the City Council had never given specific direction in arranging the land swap
7 between the city and the developer to accommodate the trail the City Council had
8 requested. Mayor Dustin said city staff had suggested the property to be dealt with
9 as a land swap instead of the sale of property.

10
11 Mr. Nelson summarized the specifications of the proposed subdivision noting that
12 the subdivision met with the provision outlined in Nibley's subdivision ordinance.
13 Mr. Nelson said city staff needed further clarification about the proposed pedestrian
14 right-of-way trail that would run east to west along the south end of the subdivision.
15 Mr. Nelson reminded the City Council that part of the agreement for the trail was
16 that the City agreed to pay for 50% of the landscaping and development of this trail.
17 Mr. Nelson said the developer had brought some proposed ideas including the cost
18 of development for each plan and would present these to the City Council. One plan
19 included ideas that had been discussed by the Council but the cost was more than
20 what was originally discussed. Mr. Nelson said staff was seeking the Council's
21 feedback before and plat agreements were signed and were looking for something
22 that would be low maintenance in the future, affordable, and pretty.

23
24 Mr. Nelson said staff also needed clarification on what the Council's expectations
25 were for the city owned land that would be used for a portion of the right-of-way
26 trail. He said they had interpreted that the city would give the developer a portion of
27 the city owned land to help the developer put in a 28th lot. The developer would
28 then put in the trail, paying 50% of it, and dedicating it to the City afterwards. He
29 said Nibley Staff felt this was a fair trade because the developer had lost developable
30 space because of the Council's request. Mr. Nelson said the proposed subdivision
31 trail would meet Nibley City code under 11-5-5-E. and said that phase under 11-1-8-
32 C. required that

33
34 *"When such improvements are approved as part of the subdivision approval,*
35 *they shall be phased in proportion, based on percentage of the total value of the*
36 *amenities in the subdivision, to the total number of lots in the subdivision, per*
37 *phase."*

38
39 Mr. Nelson said this meant that when a subdivision was put in the amenities had to
40 be included as a proportion of the subdivision phasing, which meant the developer
41 had agreed to put in the entire south end trail as part of the first phase. Mr. Nelson
42 said staff needed clear direction if the City Council intended the land would be
43 traded and swapped or if the land would need to be purchase and feedback of what
44 type of landscaping was wanted for the trail development. Mr. Zook asked the City
45 Council to make a separate motion regarding the property transfer. He said city staff
46 would put the City Council's directions in the development agreement.

1
2 Councilmember Jacobsen made a motion that the north half of parcel 03-192-000,
3 adjacent to the Summerfield Place subdivision, be given to the developer in
4 consideration of the extra area that will be dedicated to the city in association with
5 the east-west trail on the back end of the proposed subdivision at 2700 South 1000
6 West. Councilmember Bernhardt seconded the motion. The motion passed
7 unanimously 5-0; with Councilmember Jacobsen, Councilmember Bernhardt,
8 Councilmember Hansen, Councilwoman Beus and Councilmember Ramirez all in
9 favor.

10
11 Mr. Loosle presented two options for trail development/landscaping and the costs
12 associated with each option; one with sod and a sprinkler system (\$45,000) and the
13 other with an extensive plan that included landscaping, plants and shrubs
14 (\$78,000). Mr. Loosle said he wanted to do the sod option. Mr. Maughn said Cache
15 Landmark had been instructed to mimic what was in the medians on 800 West and
16 3200 South on the more extensive, xeriscaping option. The Mayor, City
17 Council, and Mr. Maughn discussed the pros and cons of each option. Mayor Dustin
18 asked if Mr. Maughn had a recommendation. Mr. Maughn said a beautiful city and a
19 trail that people would want to walk down was important to Public Works. He said
20 they would take the direction of what the City Council wanted them to do and
21 discussed variables in maintenance costs and said the City would need to be willing
22 to pay for what the Council asked for. Councilwoman Beus stated she like the
23 xeriscaping option and the Council discussed the maintenance variables of each
24 option. The City Council debated a scaled back version of the xeriscape option.

25
26 Councilmember Jacobsen made a motion that Nibley City would split the cost of \$45,
27 750 (\$12,000 sidewalk/\$33, 750 landscaping) with the subdivision developer (Kelly
28 Loosle) for landscape and east-west trail on the back end of the proposed
29 subdivision at 2700 South 1000. Councilmember Bernhardt seconded the motion.
30 The motion passed unanimously 5-0; with Councilmember Jacobsen,
31 Councilmember Bernhardt, Councilmember Hansen, Councilwoman Beus, and
32 Councilmember Ramirez all in favor.

33
34 Councilmember Jacobsen directed City staff to move somewhere between the two
35 plans that had been presented. He asked for the trail to be a little bit natural.
36 Councilmember Jacobsen said that he appreciated that the proponent had worked
37 with the city on the trail. He said it was a good thing. Mr. Maughn asked the City
38 Council to keep the trail discussion in mind when working on the Parks and Trails
39 Master plan. He said he would prefer to not have this discussion every time a trail
40 came up. He would like to have trail-planning put into the Parks and Trails Master
41 Plan.

42
43 Councilmember Bernhardt made a motion to approve the final plat for Phase 1 of
44 Summerfield Place, a 28-lot subdivision located at approximately 2700 South 1000
45 West; applicant, Kelly Loosle. Councilwoman Beus seconded the motion. The motion
46 passed unanimously 5-0; with Councilmember Bernhardt, Councilwoman Beus,

1 Councilmember Hansen, Councilmember Jacobsen, and Councilmember Ramirez all
2 in favor.

3
4 **Discussion and consideration of a preliminary plat for the The Cottonwoods at**
5 **Hollow Rd, a 17-lot conservation residential subdivision located at**
6 **approximately 4030 hollow Road (Applicant: Jim Johnson)**

7 Mr. Nelson described that nothing on the plat had changed from the plat that was
8 presented to the City Council two weeks previously when they had indicated that
9 they like the plat as presented based on the conditions that he Road Master Plan
10 would be changed and changing the subdivision street section to allow for swales.

11 Mr. Nelson described the process city staff was going through to accommodate these
12 conditions and said both items were slated to be included on the next Planning and
13 Zoning Commission meeting agenda.

14
15 Mr. Nelson described that an appeal had been filed regarding the subdivision on
16 whether the Planning and Zoning Commission needed to hold a second public
17 hearing because changes were made to the plat after the first public hearing. Mr.
18 Nelson said Nibley's attorney had offered an opinion of why he felt the appeal
19 should be denied and summarized the city attorney's notes. He said they could move
20 forward with the plat conditionally based on denial of the appeal.

21
22 Mr. Johnson asked for clarification on the trail access at the end of the subdivision
23 cul-de-sac. He needed indication of where the cul-de-sac measurement was from.
24 Mayor Dustin said the intent was that it was measured along the sidewalk so both
25 legs of the cul-de-sac would be counted. Mayor Dustin agreed with Mr. Johnson that
26 the ordinance was not clear. Mr. Johnson, Mayor Dustin, Councilmember Jacobsen,
27 Mr. Zook, discussed the public hearing process that the appeal that had been filed
28 against the subdivision. Mr. Johnson guaranteed that conservancy lot 5 would be
29 sold and associated with and attached to one of the subdivision building lots. He said
30 this was included in the development agreement.

31
32 Councilwoman Beus made a motion to approve the preliminary plat for the
33 Cottonwoods at Hollow Rd, a 17-lot conservation residential subdivision located at
34 approximately 4030 hollow Road; applicant, Jim Johnson, with the following
35 conditions:

- 36
37 • That the Nibley City Transpiration Master Plan is changed to match the
38 proposed road;
39 • That Nibley City code is changed to allow swale and curbing instead of gutter
40 and curbing; and
41 • That the appeal that has been filed against the subdivision is denied.

42
43 Councilmember Ramirez seconded the motion. The motion passed 4-1; with
44 Councilwoman Beus, Councilmember Ramirez, Councilmember Hansen, and

1 Councilmember Jacobsen all in favor. Councilmember Hansen abstained from the
2 vote.

3
4 **Council and Staff Reports**

5 Councilmember Ramirez commended the public works department for their work
6 during the most current Nibley City snowstorm.

7
8 Councilmember Bernhardt said he would like to see members of the Planning and
9 Zoning Commission, city staff, or City Council not pushing for a certain subdivision.
10 He said there sometimes appeared to be conflicts of interest. Mayor Dustin, the City
11 Council, and Mr. Zook debated ethics and conflicts of interest.

12
13 Mayor Dustin reported on his interactions with Nibley’s engineering services. Mayor
14 Dustin said he would like to revisit Nibley’s contract with current engineering
15 services.

16
17 Mr. Zook reported on a trail development requirement with Neighborhood Non-
18 Profit housing and involving the LDS Church.

19
20 Mr. Zook described the proposed trail system at SR 165 and Riverhawk Drive.

21
22 Mr. Zook directed the City Council to the notifications they had received on their
23 desk about events in Nibley City; the Snowman Building contest, Holiday Open
24 House, Holiday Decorating Contest, and Live Nativity.

25
26 Mr. Zook asked for a City Council member to sit on the review committee for 3200
27 South/SR 165 realignment proposals. Councilmember Bernhardt volunteered to sit
28 on the review committee.

29
30 Mr. Zook said that Nibley’s Tree City application had been submitted.

31
32 There was general consent to adjourn the meeting at 8:55 p.m.
33
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44

45 Attest: _____
46 Deputy City Recorder