

1 Heber City Corporation
2 City Council Meeting
3 01/20/2011

4
5 7:00 p.m.

6
7 REGULAR MEETING

8
9 The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on January 20, 2011, in the
10 City Council Chambers in Heber City, Utah.

11
12 Present: Mayor David R. Phillips
13
14 Council Members Eric Straddeck
15 Nile Horner
16 Robert Patterson
17 Alan McDonald
18 Benny Mergist
19
20 Also Present: City Manager Mark K. Anderson
21 City Recorder Paulette Thurber
22 City Planner Tony Kohler
23 Chief of Police Ed Rhoades
24 City Attorney Mark Smedley
25

26 Others Present: Kathy Kemp, JoAnn Romero, Kraig Powell, Jenene Hodges, Martin Van Roosendaal,
27 Morry Van Roosendaal, John Higgins, Andy Powell, Wyatt Fitzgerald, Ian Lowell, Aaron McIntosh,
28 Macey McIntosh, Jason Williams, Scott Burnett, Todd Hunter, Tom McIntosh, Larry Fagot, Alexander
29 Speake, Shane Ellsworth, Bryant Brisk, Dick Beveridge, Paul Berg, Nick Beveridge and others whose
30 names were not legible.

31
32 Pledge of Allegiance: Councilman Nile Horner
33 Prayer: Councilman Eric Straddeck
34

35 Minutes: 12/16/2010 Work Meeting – 12/16/2010 Regular Meeting
36

37 Councilman Patterson moved to approve the Work Meeting and Regular Meeting minutes of December
38 16, 2010. Councilman McDonald made the second. However, Councilman McDonald asked the
39 Recorder to check the wording on page 8 of 12 line 26 and 27 of the Regular Minutes. Voting AYE: Nile
40 Horner, Robert Patterson, and Alan McDonald. Voting NAY: Eric Straddeck (he was absent during that
41 meeting) and Benny Mergist.
42

1 Mayor Phillips welcomed the Boy Scouts in attendance. They introduced themselves, gave their rank and
2 troop.

3
4 OPEN PERIOD FOR PUBLIC COMMENT
5

6 Mayor Phillips invited anyone interested to approach the Council with issues other than what was on the
7 formal agenda.

8
9 Utah House Representative Kraig Powell – Powell indicated he had been trying to visit the public entities
10 throughout his District. He wanted to let people know he was trying to listen to voices and especially
11 voices that served on Boards such as this Council. He said there was a long piece of Utah Code called the
12 Utah Municipal Code that he was sensitive to—especially changes to that and how changes would affect
13 the cities and towns in Utah. He said he was always willing to listen.

14
15 Powell indicated the State budget situation, as a whole, was difficult and that for the third year in a row
16 there would be significant cuts in programs even though the State was seeing a rebound in revenue. He
17 said the revenue for the period of July 2011-June 2012 would be \$250,000,000 more than the previous
18 fiscal year. However, in order to get through the last few years, the State had depended on one-time funds,
19 such as stimulus monies which were no longer coming to the states, and some of the rainy day fund had
20 been used. He said that fund had started at \$500,000,000 but it was down to about \$200,000,000 and the
21 Legislature didn't like to have it get below that. So despite the rebound, the Legislature was looking at 7%
22 to 10% cuts and were facing some serious decisions. Powell said he was committed to listening about
23 good ways to use the citizens' money and a more efficient use of it. He said he was available and he so
24 much appreciated when people talked with him. He indicated the best way to contact him was via e-mail.

25
26 Powell said he would be proposing a Bill that related to City Councils and others in like positions. The
27 Bill related to the exchange of e-mails or other electronic text and if that exchange violated the Open
28 Meetings Act. He said that because City Council Members were volunteers and had regular jobs and it
29 was important to do their jobs efficiently, the Bill would provide that any type of exchange like that did
30 not violate Open Meeting laws. He said, though, the trade off was they would be subject to GRAMA.

31
32 Mayor Phillips thanked Representative Powell for his visit.

33
34 Kathy Kemp – Requesting a change on a duplex property. Kemp indicated she had made many calls
35 before this meeting and everyone had been kind and she appreciated the help of staff. She said she wanted
36 to change the status of a duplex property to a twin home property. She said she had had the duplex on the
37 market for six months and there was one person that wanted to buy one half. She indicated that Kohler
38 had done some research and the building did have a firewall. She said, too, that she knew the Council was
39 not approving anymore twin homes. It was indicated this building had been built in 1998 and was on a
40 quarter acre lot. She asked the Council what the feelings of the Council were and if they would consider
41 the request if she pursued it. Councilman Straddeck said Kemp's first step was with the Planning
42 Commission. Kohler said in 2002 the City removed the standard for twin homes from the Code. So her
43 question was if the Council would consider an amendment to the Code to allow the duplex to be split.

1 Councilman Straddeck asked Kohler if the correct process was to go to the Planning Commission. Kohler
2 said yes. Mayor Phillips suggested this request then was skirting the process. Kohler said Mrs. Kemp did
3 not want to go through the three month process of the Planning Commission if the Council was not
4 interested. The Council indicated they wanted her to go through the Planning Commission process.
5 Kemp thanked the Council for their time and said she appreciated them.
6

7 CONSENT AGENDA AND/OR PUBLIC HEARING
8

9 **Resolution 2011-02 – A Resolution Amending the Council’s Board or Committee Compensation**
10 **Policy of Heber City (Amending Resolution 2010-07 and Resolution 2010-09):**
11 **Mayoral Appointment – Heber City Representative and Member – Wasatch County Health Board:**
12

13 Anderson said there was an amended Resolution in tonight’s materials that had slightly different language
14 than what was sent out in the packet. He said the changes had come about because of a conversation
15 between Councilman McDonald and City Attorney Smedley. Anderson then added some language
16 dealing with how the money would be put into the General Fund Account.
17

18 Councilman McDonald moved to approve the Consent Agenda by approving the revised Resolution
19 2011-02 with an effective date of November 1, 2011, and approve Phil Lyons as the Mayoral appointment
20 to the Wasatch County Health Board. Voting AYE: Nile Horner, Robert Patterson, and Alan McDonald.
21 Voting NAY Eric Straddeck and Benny Mergist.
22

23 APPOINTMENT
24

25 **John Higgins – UDOT Region III – Daniel Connector Alignment:** Mayor Phillips thanked Higgins for
26 being in attendance. Higgins said he wanted to talk about the project that involved the Daniels Road
27 connector and also about some work on US Highway 189. He said the proposal he would discuss
28 alleviated congestion and promoted safety. He said, too, the project would move fast, that it was a Federal
29 Aid project and not one-time federal funding as discussed by Representative Powell, and there was no
30 worry about the funding being cut. It was indicated there would be an Environmental Hearing on
31 February 9 in the Heber City Council Chambers. Higgins said they wanted to turn dirt on this project in
32 June of 2011. An overhead of the area was shown which showed the connection between WalMart,
33 Daniels Road and the School District yard. In discussing US Highway 189, Higgins said they were
34 looking to acquire the right-of-way that would allow two lanes in each direction, shoulders and a middle
35 lane. He talked about standards and the design. He said the design allowed for flexibility when the bypass
36 road moved forward. Councilman Straddeck asked if this alignment took into consideration the
37 connection onto Highway 40 at some time. Higgins said it gave the City flexibility. Councilman Horner
38 indicated the Council appreciated UDOT’s desire to give the City flexibility. Higgins said the existing
39 Daniel connector closer to the HUB would be a right-in, right-out—they were not going to block access—
40 people would be able to turn South from that road. Higgins continued that the design as shown on the
41 overhead would move the left turn away from the HUB intersection for those vehicles going to the Provo
42 area and there would be a signal at the WalMart intersection from the very start. He said they would be
43 looking at the HUB intersection to see what could be done to improve that. He said for sure something

1 would be done with the median curb. He said they were looking at it but there were no plans at this point.
2 Mayor Phillips suggested consideration had to be given to emergency vehicles and their movement.
3 Councilman McDonald asked if the School District property would be considered in the environmental
4 study. Higgins said yes. He said UDOT needed to sit down and talk with the School District. He indicated
5 right-of-ways took some time but they would be talking to the School District. He said they had already
6 met with Weatherall. It was indicated Raylyn Kohler was the other property owner they needed to talk to.
7 Higgins said he had been working with Mumford and that UDOT would be working with the School
8 District for their property--the City would not have to—but said again there could be some right-of-way
9 preclusion that might make that part of the project go along slower--it depended on how amiable the
10 property owners were but that they would work as quickly as possible. In summary, the US 40/189 HUB
11 intersection would be looked at. They would be looking at 5 lanes from the HUB intersection all the way
12 to the knob east of the Charleston turnoff.

13
14 Councilman Patterson asked about FAA issues. Anderson said he had talked with Bob Clegg of the URS
15 and Armstrong Consulting and they did not anticipate any issues. However, the FAA had to be kept in the
16 loop so they could review the plans, etc. Higgins said they would be doing that.

17
18 Other anticipated improvements was resurfacing and if there was enough money, some passing lanes in
19 between Wallsburg and the Charleston cutoff and doing some other maintenance. He said that way out on
20 the wish list was bringing the divided highway from Deer Creek to the Wallsburg turnoff.

21
22 Councilman Mergist asked if dirt was turned in June, when would people be driving on it. Higgins said if
23 everything fell in place and they started in June he thought it would be September or October for US
24 Highway 189 but that it might be longer for the Daniel depending on the right-of-way issues and the
25 cooperation of the property owners.

26
27 Mayor Phillips expressed appreciation to Higgins and what he was doing and doing the fast track.

28
29 Councilman Straddeck asked about access for those people along the road. Higgins said they were trying
30 to minimize access. It was shown on the overhead how that access would happen.

31
32 **Scott Burnett and Jason Williams – Zions Investment Services Group – Presentation on Cash**

33 **Management Services:** Jason Williams introduced himself and Scott Burnett and said they had had prior
34 discussions with Mark Anderson. He gave a brief background of their group and then talked about
35 alternative investment options the City had available based on the Utah Money Management Act. He said
36 after those options were looked into, they would look at the City's criteria and make some
37 recommendations and answer questions.

38
39 It was indicated the Zions Investment Services Group had three investment categories, based on the Utah
40 Money Management Act, available for taxpayer monies (City and County, etc.). 1) Certified Depository
41 (lists of banks), 2) Certified list that typically larger cities and counties that handle investments on their
42 own, 3) certified investment advisor list where cities can pursue investments under the Act. He said they
43 had five portfolio managers and they had been managing other city's money for five years as well as

1 managing funds for some large corporations. In terms of the Act and the recommendation for Heber City,
2 they had looked at criteria and talked with Mark Anderson. He referred to the copies of his materials.

3
4 Williams talked about layering liquidity and monies that would be available for longer than 90 days. He
5 said they created a portfolio for each municipality they worked with and it would have different maturity
6 times and laddered so the funds would be available over time. He said they did a really good job in
7 planning those layers and suggested there would be additional interest earned. Williams discussed the
8 recommended portfolio for Heber City and said what they could pledge was they would work very hard to
9 reach the benchmark projected for Heber. It was summarized they would structure investments for
10 different and longer maturing rates resulting in bigger payback on interest. He said the trade off for higher
11 interest rates was the City would have to trade some liquidity.

12
13 Councilman Horner asked about the shortest maturity. Anderson said, looking at their proposal, five
14 months and about 3 1/2 years for the longest period. Burnett discussed the term laddering when
15 Councilman Horner expressed concern with tying up money for 3 1/2 years. Williams said yes, in small
16 increments but there would be other investment periods that were not as long. Councilman Horner asked
17 about a penalty if the City needed their money and drew it out. Williams said for this to make sense for
18 the City there needed to be a very high degree of confidence that the City would carry the balance month
19 after month. He said if the City opened up the investment, they would have to sell the security associated
20 with that back into the market.

21
22 Councilman McDonald asked about the amount of money they typically managed. They set it at about
23 \$5,000,000 but could work with a minimum of \$3,000,000. Anderson said the City had \$12,000,000 in
24 the State Pool. Councilman Horner asked if the City could put impact fees in there. Anderson said yes.

25
26 Anderson said some of the Utah Treasurers' Association members seemed to think this would work.
27 However, they were a bit nervous to veer off the beaten path. Anderson thought the City could make
28 several thousand dollars more in interest with this investment. Councilman McDonald expressed interest
29 in the proposal. Councilman Patterson said he was unsure. Williams said they had taken a very
30 conservative approach with Heber in their proposal. Councilman Horner said he was nervous about this.
31 He said he wanted to see a breakdown of the \$12,000,000 in the State Pool--what could be spent and what
32 could not. Anderson said he could provide that. Councilman Horner's other concern was the amount of
33 additional money that could be made and tying the money up for three years. He indicated he was not
34 totally against it but wanted to plan ahead. Anderson reviewed his staff report and the issues he had
35 identified. Councilman Straddeck said that conceptually he had no problem with the plan. He expressed a
36 need to answer the questions Anderson had as well as Councilman Horner's. In response to the one
37 concern, if the City had this available money, was it going to sit in the State Pool anyway? He thought
38 there needed to be some additional discussions. Councilman Horner said he was still concerned with tying
39 money up for 3 1/2 years. Councilman Mergist said he did not think 2011 was the year to shuffle money
40 around. He did not think interest was going to rise in the near future. He said lenders were not lending,
41 people were not buying homes, and people were not investing. He thought there would be another drop
42 before there was a rise in interest rates. He said he would not want to invest. Councilman Patterson said
43 he was not into this stuff and was not sure.

1 Mayor Phillips reviewed the Council's comments and their different concerns and thoughts.
2 Anderson said the Council, if interested, needed to ask the questions about the amount of time to tie up
3 money and the amount of money, yield of interest, etc. He suggested there was money to be made but
4 there were tradeoffs.

5
6 Councilman Horner said he was leaning more against this proposal than for the proposal. He felt the City
7 had too many things to do, like pressurized irrigation, that needed to be looked at.

8 Councilman Straddeck said he did not intend to make a decision tonight. Neither did Councilman
9 Patterson. Anderson suggested looking at this issue during budget meetings.

10
11 Williams summarized. He said they helped cities get their investments right. Councilman Straddeck said
12 there were formulas that went into this that were a lot smarter than the individual person could determine.
13 He thought discussing this during the budget process was worthwhile.

14
15 **Paul Berg – Berg Engineering – Requesting a one-year extension for the Meadows at South Field**
16 **Subdivision – Property located at approximately 1200 South and Southfield Road:**

17 Mayor Phillips asked the Council for questions/concerns. Councilman McDonald asked if the agreement would have to
18 be updated/changed. Kohler said there were a couple changes that had come to light in the last week or
19 so; one being in regard to Cowboy Village. He said as part of the annexation agreement the City asked
20 the developer to build a road stub (shown on the overhead). Since the County owned the property to the
21 north, they would probably ask that the road stub not be built. The second issue was with lots 1-4 and
22 shifting them for a bigger back yard with the intent being for the transition from the subdivision to the
23 Cowboy Village to be more compatible.

24
25 Councilman McDonald discussed the open/public trails and asked who would maintain them. Berg said
26 the trails were put in based on the Open Space Ordinance. Councilman McDonald wanted that part of the
27 agreement clarified so there were no misunderstandings. Councilman McDonald also said the affordable
28 housing fee-in-lieu policy had been changed and now had to be paid up front. He suggested, too, the
29 fencing clause should be looked at as well. Kohler said the fencing clause was to allow for the most
30 attractive and consistent fencing. Berg said that language was so the fencing would be the same when
31 driving down the bypass road and it would also be a homeowners' agreement. Councilman McDonald
32 mentioned there might be a high ground water area. He expressed concern that the City would be
33 responsible if a high-water issue developed in the area. Berg understood his concern and said they could
34 put a note on the plat that all testing had been done but did not know if what Councilman McDonald was
35 suggesting, as far as coming back onto the City, would go very far. Councilman McDonald wanted
36 something that said the City would be held harmless if property owners got flooded. Councilman Horner
37 asked if the developer could be required to install sump pumps. Kohler said if the test showed high
38 ground water it might be possible; however, the test did not show that.

39
40 Mayor Phillips said the Code that allowed the Council to give an extension did not mention applying
41 conditions to the extension—either grant the extension or don't grant the extension. Anderson said the
42 Council was not obligated to grant an extension, but he thought the Council could stipulate conditions.
43 Councilman McDonald said again the agreement needed to be updated. Councilman Straddeck suggested

1 this issue be continued to allow time to look at the agreement and then the Council could consider the
2 extension. Anderson said as long as the City could prove the tests had been done, he did not think the City
3 could be held liable for flood damage.

4
5 Councilman Straddeck moved to continue this issue to give more time to work through amendments to
6 the agreement and the wording of the extension. Councilman McDonald made the second. The following
7 were issues to look at: ground water, easement for sewer to gravity flow, affordable housing, trails, and
8 changes to standard specifications. Voting AYE: Eric Straddeck, Nile Horner, Robert Patterson, Alan
9 McDonald and Benny Mergist.

10
11 ACTION ITEMS

12
13 **Resolution 2011-03 – Adoption of Red Flag Rules/Regulations:** Anderson said the federal government
14 was concerned with identity theft with people that offered credit. Because the City did that, adoption of a
15 resolution was a requirement of federal statute. He said this was similar to the policy adopted by Heber
16 Light and Power.

17
18 Councilman Straddeck moved to approve Resolution 2011-03. Councilman Patterson made the second.
19 Voting AYE: Eric Straddeck, Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist.

20
21 At 8:50 p.m. Councilman Straddeck moved to go into Closed Session to discuss pending litigation.
22 Councilman Patterson made the second. Voting AYE: Eric Straddeck, Nile Horner, Robert Patterson,
23 Alan McDonald and Benny Mergist. Those going into Closed Session: Mayor Phillips, Councilmen
24 Straddeck, Horner, Patterson, McDonald and Mergist; City Manager Mark Anderson, City Attorney Mark
25 Smedley, and City Recorder Paulette Thurber.

26
27 The Council returned to Regular Session at 9:21 p.m.

28
29 DISCUSSION/ACTION ITEMS

30
31 **Discussion – Council Priorities:** No Discussion.

32
33 Mayor Phillips asked if the Anderson would put together a spreadsheet showing how the City's money
34 was distributed within the different funds and where any was invested.

35
36 As there was no further business, the Heber City Council regular meeting held on January 20, 2011,
37 adjourned.

38
39
40
41
42 _____
43 Paulette Thurber, City Recorder