

Heber City Corporation
City Council Meeting
07/07/2011
7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on July 7, 2011, in the City Council Chambers located at 75 North Main Street in Heber City, Utah.

Present: Mayor David R. Phillips

Council Members Nile Horner
Robert Patterson
Alan McDonald
Benny Mergist

Excused: Eric Straddeck

Also Present: City Manager Mark K. Anderson
City Recorder Paulette Thurber
City Engineer Bart Mumford
City Planner Tony Kohler
Chief of Police Ed Rhoades

Others Present:

Pledge of Allegiance: Councilman Benny Mergist

Prayer: Councilman Nile Horner

Mayor Phillips excused Councilman Straddeck who was out of town.

Minutes: 05/05/2011 Regular Meeting

Councilman McDonald moved to approve the minutes of the 05/05/2011 Regular City Council Meeting. Councilman Patterson made the second. Voting AYE: Nile Horner, Robert Patterson Alan McDonald and Benny Mergist. Councilman Straddeck was excused.

OPEN PERIOD FOR PUBLIC COMMENT

No comments were received.

ACTION ITEMS

Ordinance 2011-07 – An Ordinance Vacating Lot 16 of Valley Station and Replacing it with the Liberty Station Subdivision (2-lot Subdivision approved by City Council on November 18, 2010):

Anderson said the County had asked that the City formally vacate lot 16 in the Valley Station Subdivision which was replaced by Liberty Station Subdivision. He said the Council had already approved the Subdivision. Councilman McDonald had concerns about there not being a separate development agreement for this one break out. Mumford indicated Boyer was still obligated for the development agreement which was all encompassing. Councilman Horner had the same concerns as Councilman McDonald. He felt there should be something in writing that specified Liberty was as obligated as Boyer. Mumford said the agreement was with the land. Anderson said this was a lot within a subdivision and not any different than the Wal Mart Subdivision and Chase Bank having a lot in the subdivision. The only difference was Cowboy Partners wanted it under the name of Liberty Station. Councilman Horner said since the Council changed the subdivision by vacating the lot, they needed something in writing that made Cowboy Partners responsible. Mumford said the development agreement outlined obligations pertaining to the subdivision. He said the key was having the development agreement recorded so it would place everyone on notice of the obligations of the developer. Councilman McDonald wanted Cowboy Partners to read the original agreement and sign that they understood it and had knowledge of it. Councilman Horner wanted Cowboy Partners to sign something obligating them to the original agreement before he would vote on this Ordinance. Councilman McDonald agreed with Councilman Horner.

Councilman McDonald moved to approve Ordinance 2011-07, an Ordinance vacating Lot 16 of Valley Station and replacing it with the Liberty Station Subdivision on condition there was a signed agreement that Liberty understood the original obligations set for Valley Station and would abide by them. Councilman Patterson made the second.

Voting AYE: Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist. Councilman Straddeck was excused.

DISCUSSION/ACTION ITEMS

Approval – Heber City Park Usage Policy and Indemnification: Councilman McDonald asked if there was an Ordinance now that specified no alcohol in the Park. Anderson said alcohol was prohibited in the park unless there was a special permit for a beer garden type activity obtained. Councilman Horner felt this proposed policy made it appear liquor could be

sold or served and suggested this might appear as a conflict. Anderson said any request would require local consent from the Council. Chief Rhoades indicated that was based on State law. He reviewed the time the Harley Davidson Bikers rode through town and had asked for permission for a beer garden in the Park. Discussion about different times when exceptions were allowed. Chief Rhoades also talked about the law saying bars were not allowed within 1,000 feet of schools. He indicated the Council could waive that regulation but a public hearing would have to be held first. He suggested there were exceptions to all rules and that the Council as a board could do that but he could not nor could Anderson. Council Mergist read Item 4 from the proposed policy under Prohibited Activities which outlined alcohol being prohibited unless approved by the City. Councilman Horner said he was fine with having a special permit process. Councilman McDonald said he did not mind giving special permits in some circumstances. Discussion about an officer being in the area during such events. Anderson suggested those holding events could request and pay the wages for an officer to be there or that could be a condition of the local consent request.

Mayor Phillips asked if Anderson would give some background. Anderson said it was felt by staff that eventually the City would get a request to use the public park for events/fundraisers and staff felt standards should be in place prior to any request on how to deal with potential liability on public property in case someone was injured while attending one of those events.

Councilman Mergist asked if the \$30 fee gave exclusive use of the entire park. Anderson said in the past exclusive use had not been given because the playground equipment area had been left out. Discussion about the rental of the pavilion being incorporated into the park policy. Council wanted to add a provision for the pavilion and specific playground rule stating playground equipment was not being reserved.

Councilman McDonald suggested some fundraising, beneficial to the community, could be allowed by the Council. Councilman Mergist said he wanted the option to waive the fees. Mayor Phillips suggested this document gave the Council a starting point in which to work and could make changes as needed.

Councilman McDonald felt that there should be a 30-day period in which all licenses were in place. Anderson referred to the language in the policy under Application Required referring to submitting an application four weeks prior to the event date. Councilman McDonald said he would favor not just starting the process four weeks ahead but to have everything in place 30 days before the event.

Councilman Mergist had concerns about checklists / walkthroughs. Councilman Mergist said he worked for one of the biggest campgrounds in the West and they do a walkthrough each and

every day. He continued that before people were allowed to leave, an inspection was done and if there were damages, they were accounted for.

Councilman McDonald had language he wanted added about covering the cost of damage, etc. Council wanted to make sure, because this was scheduled in advance, there would be a Park's employee on call to make sure the cleanup was done and no damage had occurred. Discussion about time frames. Chief Rhoades said he felt 10:00 p.m. was the latest an event should take place. He said there were neighbors in the area and that was the courteous thing to do. He indicated that CERT people were used for the Concerts in the Park on Thursday nights. Discussion about dogs in the park. Chief Rhoades suggested two reasons for dogs not being allowed: 1) feces and people stepping in that and 2) food was being served. Mark Smedley said there had been those that stated their dogs were on the sidewalk and not in the park. It was indicated because of the food, dogs could not be allowed on the sidewalks either. Smedley said there had also been discussion about bikes. It was felt during the market kids should not be traveling through the Park on their bikes. Councilman McDonald said he felt this Policy should be implemented.

Councilman Mergist moved to implement this Policy with changes as discussed. Councilman Patterson made the second. Voting AYE: Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist. Councilman Straddeck was excused.

Award Contract – 650 South Storm Drain Project: Mumford reviewed the staff report he had provided in the packet. An overhead of the area was shown. Discussion that there needed to be an outlet in the pond owned by Riddles. Mumford explained he was trying to take advantage of the County widening the road. It was indicated bids were opened last week and Mumford had checked out the low bidder's materials which was BD Bush Excavation. He indicated they had done a lot of pipe work and had experience in this type of work. He said, too, he had checked references and had gotten no bad reports. Mumford said they were a very small company and their expenses were less because of less crew. He said he was anticipating it would take 60 days to complete the project. It was indicated the City had a liquidated damages policy in place if the work took over 60 days. Discussion. Anderson was asked to make contact with Mike Davis on Monday about any right-of-way issues. Mumford indicated the City did not need Cowley's property for this project. Anderson indicated he would have discussions with Wasatch County about this work being done and not interfering with the negotiating efforts between Wasatch County and the Cowleys.

Councilman Patterson moved to give conditional approval to award the contract for the 650 South Storm Drain Project to BD Bush Excavation upon talking with Wasatch County about right-of-way issues and not interfering with the Cowley property negotiations. Councilman

Mergist made the second. No further discussion. Voting AYE: Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist. Councilman Straddeck was excused.

At 8:40 p.m. Councilman Mergist moved to go into Closed Session to discuss personnel. Councilman Horner made the second. Voting AYE: Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist. Councilman Straddeck was excused.

At 8:58 p.m. the Council returned to open session and adjourned the regularly scheduled Heber City Council meeting.

Paulette Thurber, City Recorder

Approved 10/06/2011