

1 Heber City Corporation
2 City Council Meeting
3 June 2, 2011
4 6:00 p.m.

5
6 WORK MEETING
7

8 The Council of Heber City, Wasatch County, Utah, met in **Work Meeting** on 06/02/2011 in the
9 City Council Chambers located at 75 North Main Street in Heber City, Utah.

10
11 Present: Council Members Eric Straddeck
12 Nile Horner
13 Robert Patterson
14 Alan McDonald

15
16 Excused: Mayor David Phillips
17 Councilman Benny Mergist

18
19 Also Present: City Manager Mark K. Anderson
20 City Recorder Paulette Thurber
21 City Engineer Bart Mumford
22 City Planner Tony Kohler
23 Chief of Police Ed Rhoades
24

25 Others Present: J. Mark Smedley, Jerry Duke, and Scott Murdock.

26
27 Mayor Pro Tempore Straddeck excused Mayor Phillips as he was out of town and Councilman
28 Mergist because of sickness.

29
30 **Item 1: Discuss Request from Wasatch County Council to waive Impact Fees for new**
31 **development at the Event Center:** It was indicated that the Wasatch County Council would be
32 before the City Council on July 16 to ask for a waiver on the impact fees for new development at
33 the Event Center. Councilman McDonald felt the County should be able to fund their impact
34 fees. Anderson said their philosophy was if they could waive those monies they could do some
35 other things with that money. Councilman McDonald referred to the original agreement and said
36 they should comply. Mayor Pro Tempore Straddeck asked the Council their opinions regarding
37 keeping to the original agreement: Councilman McDonald yes; Councilman Horner waive;
38 Councilman Patterson yes; and Mayor Pro Tempore Straddeck yes. Councilman McDonald
39 emphasized the fees the Council waived had to be funded from somewhere. Mayor Pro Tempore
40 Straddeck indicated the Council should not kid themselves because by mitigating or waiving the

1 fees did not make the money disappear—someone still had to pay. Mumford said their thought
2 was that they were building these facilities and this would bring all kinds of revenue into the City
3 and that the City would realize a profit eventually. He said that using their logic the sales tax
4 could be put into the General Fund and take care of the impact fees. Anderson talked about 3%
5 TRRT and restaurant tax.

6
7 Councilman Horner wanted to know what impact there really was as far as sewer. Councilman
8 McDonald wanted to know why they wanted to change the agreement since they had agreed to it
9 and signed it.

10
11 **Item 2: Review Councilman McDonald's changes to the Heber City Personnel Policy –**

12 **Grievance/Appeal Board makeup:** Councilman Straddeck said there were two components to
13 this: 1) the grievance form and 2) the policy itself. Councilman McDonald said he detailed out
14 what the steps and procedures were for a grievance with the first step being informal by working
15 with the supervisor. He reviewed the rest of the steps saying the form on the second page could
16 be used to mark off the conclusion and on the bottom of each page was a step checklist. On steps
17 2, 3, and 4, there was a place provided for management's response, the response of the person
18 filing the grievance and a Repeat Conclusion Choices area. He thought the forms would give
19 employee easier direction.

20
21 Councilman Patterson asked what was wrong with just having them give a letter and felt the
22 proposed process was cumbersome. He suggested they would have a manual an inch thick before
23 they got to the Council. Councilman McDonald said this just gave anyone filing a grievance an
24 outline to follow. Councilman Patterson wanted it simplified. Councilman McDonald said the
25 majority of companies that allowed grievances had a formal form to fill out. Again Councilman
26 Patterson said he just wanted a letter. Mayor Tempore Straddeck felt the form was a good idea
27 and that having a vehicle to track the process was good. However, there were some changes he
28 wanted to make. He thought, too, there was a way to stream line this process and felt parts of it
29 were confusing—he wanted to make it non-intimidating and did not want to discourage someone
30 from filing a grievance because of all the paper work. Mayor Tempore Straddeck said he was
31 willing to meet with Councilman McDonald and work this out together. Councilman McDonald
32 said he was open for suggestions. Mayor Tempore Straddeck also wanted staff to provide their
33 suggestions since they would be managing this. Councilman McDonald indicated he wanted to
34 make the process as easy as possible.

35
36 Councilman Patterson felt the proposal stretched the number of days out too far. Councilman
37 McDonald wanted enough time for the employee to work out the issue. He felt the 30-day
38 window was important. Councilman Patterson felt it should not take longer than 30 days for the
39 whole process. Councilman McDonald said the other part of the policy he wanted changed was
40 the time frame for each step and said he wanted issues to be resolved on the lower end, if

1 possible. Mayor Tempore Straddeck asked if the employee committee had met on this. Anderson
2 said no. Councilman Straddeck said the employee committee should meet on this and give their
3 feedback. He also thought 30 days was too long of a time frame. Councilman Straddeck said if
4 that committee had to meet without him, to go ahead and said as far as the form, he wanted input
5 from staff. He said, too, if any Councilman had suggestions he and Councilman McDonald
6 wanted those. Councilman Horner said he liked the idea of a form and said he thought 30 days
7 was a good amount of time. He said the five days between steps made it such that people would
8 rush and with 30 days, issues might get resolved. He said he wanted to make the process easy as
9 well. He continued he wanted the policy written simply and have a form ready to be filled out.
10 The form needed to be stated in the policy. Councilman Horner agreed; however, he too felt the
11 Personnel Policy Committee needed to review Councilman McDonald's proposal.

12
13 Mayor Tempore Straddeck said the second part was the policy itself. He suggested some
14 definition changes. Councilman McDonald said on procedures the conflict of interest needed to
15 be described. There was nothing on defamation or malicious or frivolous allegations. Also
16 confidentiality needed to be defined. On the step 1 procedure he tried to outline it so the situation
17 could be talked out first. If that did not resolve the issue, proceed to the next step. He suggested
18 changes in wording in some of the other steps. In step 4, it gave the Council the option to have an
19 outside person work on the grievance. Councilman Horner asked on step 4 what the thoughts
20 were about coming to the City Council. Councilman McDonald reviewed how he thought that
21 should work.

22
23 Anderson wanted clarification. Did the Council want incorporated into the Personnel Policy what
24 Councilman McDonald was recommending or taken to the Personnel Committee for feedback
25 first. Councilman McDonald wanted it taken to the Committee first. Anderson said some
26 discussion here was ideas and not exact language. Anderson said he would assemble the group
27 and have Councilman McDonald present. Councilman Straddeck said he had some questions.
28 He said the main idea was covered in 11.4 and it belonged in 11.4 and not 11.2. He also
29 suggested some of the definitions needed to be worked on--he questioned #1 and #6 and #9.
30 In regard to 11.3, Councilman Straddeck did not think what was proposed was needed. He said a
31 lot was redundant or not really applicable to the process. He felt what was decided to put in the
32 Policy should be in a separate section. He agreed that the issue should try and be resolved
33 informally, but that was outside of what the Council was talking about in terms of a grievance
34 policy. Councilman Straddeck suggested talking with the supervisor, the City Manager, an HR
35 person was all still informal. He would like to see this strictly grievance procedures and said he
36 would not even put in informal procedures. Councilman Horner said in a way he agreed with
37 Mayor Tempore Straddeck. However, this process might deter people from filing a formal
38 grievance if they knew they had to rehash what they might have already tried informally.

39

1 Councilman Straddeck said the one constant he felt strongly about was that because the City
2 Council was the final decision makers, the City Council should not be involved in the process
3 until such time it that came to them. He did not trust this Council or future councils not to get
4 involved. The process had to happen and ultimately if the employee did go all the way to the
5 Council, the Council then got all the materials. He did not want the Council involved every step
6 of the way. Councilman McDonald said as he proposed it, they would only know how the
7 process was proceeding but would not get involved. Councilman Straddeck said it was the City
8 Manager and department heads that managed the process; then if the employee wasn't satisfied,
9 it would go to Council. Councilman Patterson said he did not want information until such time as
10 the Council was contacted for an appeal. Councilman McDonald said he wanted to be aware of
11 any grievance filed and the steps that were taking place. Councilman Horner said it should be
12 mandatory that the Council knew when a grievance was filed. Not necessarily be involved but
13 wanted to know if one was filed. He did not want to be involved in the decision making until it
14 actually came to the Council.

15
16 Anderson was asked to set up a meeting with the Personnel Policy Committee. Councilman
17 Straddeck said he would be in town the next two weeks--not next week but the week after that.
18 Smedley said he did like the form that allowed for documentation and checklists. He wanted to
19 preserve the difference and have a process for termination and a process for grievance. He did
20 not know if a little more time was bad. However, he said to give some time at the bottom end for
21 additional time, as well. Then streamline it. He took comments so he could incorporate them into
22 a final document.

23
24 **Item 3: Review changes proposed by Councilman McDonald in relation to Contracted Law**
25 **Enforcement Services:**

26 Councilman Straddeck said he read over the proposed secondary
27 employment agreement and suggested it was missing something. He said he thought if someone
28 wanted to contract with the officers through shift rotation it would be through the City and the
29 City would take care of payment. Consequently, to him everything in this proposal was
30 irrelevant. Councilman Horner said as far as he was concerned the police could have secondary
31 employment and do what they wanted because that was different from contracting work through
32 the City. Councilman Horner thought by Utah State law for a police officer to go and work as
33 secondary employment as a security officer, the City had to have a policy in place to do that. He
34 suggested this proposal put things in place if the officers wanted to go out and work as a security
35 officer—this would cover the bases. Smedley said he talked with Layton City attorney and
36 deputy attorney who both sat in on the senate hearing with Perry Rose. Single officers can go out
37 and work as security on their own. In order to do that (the law changed in May 2011) they had to
38 have three things: 1) Permission of the Chief of Police, 2) written authorization on how they had
39 to be paid, 3) and indemnification (in some cases). That was just part of the law. The other part
40 dealt with situations such as the train, car show, or RAGNAR who wanted officers to act as
security officers, an agreement had to be entered into. Councilman Horner asked for clarification.

1 He said his understanding was police officers could not act as security officers—he did not think
2 that was legal. Smedley said it was legal but there needed to be in an agreement in place. He
3 continued they could not hire a police department for just security work but they were hired as
4 peace officers which included security. He said the contracting party could not restrict what the
5 officers could do. If they wanted to restrict what the officer could do, they couldn't hire them.
6 Councilman McDonald argued the point pertaining to being employed by a security company.
7 He said, too, he wanted to totally separate the two functions. Smedley thought that was a good
8 way to handle the issue. Smedley gave an example of a police being a bouncer. The officer could
9 not wear their uniform, couldn't use property of the city, they needed approval of the Chief. He
10 again referred to the new law. Chief Rhoades gave a copy of the Police Department's policy
11 which had been approved June 16, 2010. Smedley said he talked with the Attorney General that
12 worked with DOPL and it was said, based on the new law, police officers had to meet the three
13 conditions he talked about earlier and there were no circumstances where a police officer had to
14 obtain an additional independent licensure from the State when working as security officers. It
15 was explained to him that officers that had gone through POST and had that training were
16 recognized by DOPL and the attorney general's office as exceeding any licensure requirements.
17 Councilman McDonald said he agreed they did not have to get another license but they did have
18 to be licensed by someone from the security company who had a license. Councilman Straddeck
19 questioned how one could provide peace officer services without being in uniform. Chief
20 Rhoades said that in some instances it was better and one didn't want the officers to be in
21 uniform.

22
23 Chief Rhoades handed out a secondary employment agreement that was part of his policy. He
24 said his officers signed one of these every year and they were required to notify him if there were
25 any changes to it. Councilman Horner asked when this had been put in place. Chief Rhoades said
26 Jim Smedley helped him put that in place--probably 1999. He said he had the opportunity to
27 approve or deny an officer to work secondary employment depending on how that would affect
28 his regular work schedule with the department and the officer's ability to do his job. Chief
29 Rhoades talked about the contract/agreement. He said he didn't have the authority to go to the
30 secondary work employer and request information. The only person he had authority over was
31 the employee that was going to work a secondary job. Discussion about whether the employee or
32 the employer had to get the proof about the secondary employer being licensed and who would
33 pay the taxes. Smedley said it was not the responsibility of the employer of the employee
34 seeking secondary employment to get proof.

35
36 The second form Chief Rhoades handed out was not the original as he had changed #8 and #9
37 which originally read the employee would be paid and this new form said the City would be paid
38 and then pay the employee. He also suggested an hourly rate for the vehicle in #9. Chief Rhoades
39 talked about the \$50 for vehicle which would be broken down to \$6.25/hr. He wanted to raise
40 that to an hourly fee of \$8 or \$10/hr. since the \$6.25 did not cover other equipment used or even

1 cover the cost of gasoline. He did not think \$10 was an unreasonable fee for equipment. Chief
2 Rhoades changed the name as well so it was clear as to what the agreement was and not confused
3 with any other agreement. Councilman McDonald said this was almost line for line with his
4 proposal. Chief Rhoades agreed it was similar. Councilman Horner had questions about legality
5 because of overtime issues. He did not think the City could dictate what the officers got paid.
6 Discussion about whether the Council had determined what part of the \$60 would be paid to the
7 officers. Councilman Horner did not think it had been decided. Some Councilmembers said it
8 had been decided. Chief Rhoades said he wanted the Council to look at this form and get back to
9 him this week with comments. He talked about the language in Councilman McDonald's
10 proposal that needed to be changed based on State law. Anderson said, addressing Councilman
11 Horner's concern, that from a legal standpoint the City had to follow the Fair Labor Standards
12 Act and police officers had to work 171 hours before overtime was paid. He said the average
13 wage, excluding the Lieutenant and Chief, with benefits was somewhere about \$39 per hour. So
14 it had been agreed to charge \$60 and give the officer \$50. Councilman Straddeck said that was
15 what he understood as did Councilman Patterson. Councilman Horner did not recall that
16 conversation and did not want to pay overtime until they had reached an overtime limit. Chief
17 Rhoades said that if officers were paid at straight time he would not be able to fill the jobs.
18 Councilman Horner suggested if the City agreed to provide the service, they were scheduled, and
19 if they did not show up, that would be insubordination. Chief Rhoades said he did not have
20 enough officers to take them off regular shift; he did have enough officers to work their off-duty
21 time. Councilman Straddeck said this discussion was about a special event. The City should not
22 enter into an agreement and then force an officer to work an overtime shift for a special event.
23 Normally a special event was paid by someone else. He said the Council had talked about paying
24 special events at \$50. Councilman Horner said he wanted to listen to the tape. Discussion about
25 the 171 hour period before overtime was paid to police officers. Three of the Council Members
26 (Straddeck, Patterson and McDonald) agreed to \$50 per hour for the officer. Councilman
27 McDonald wanted to continue this item so he could meet with Chief Rhoades for further
28 discussion. The Council agreed to continue this item to next meeting.

29
30 **Item 4: Mill Road Estates – Phase 4 – Subdivision Final Approval:** Councilman McDonald
31 wondered if the HOA was in place. Kohler said yes. Councilman McDonald said he wanted to
32 make sure Mumford and Kohler were verifying and making sure they were complying. Kohler
33 said the one change the Planning Commission had asked for was the developer build a 4' chain
34 link vinyl coated fence. Councilman McDonald asked about sump pumps. Mumford said
35 originally FEMA had a flood plain through that area. He said this developer had already
36 complied with FEMA's requirements. Councilman McDonald expressed concern with flooding
37 because of high water table. Mumford said that was not a FEMA issue but there would be a note
38 on the plat which would state all homes had to have foundation drains and sump pumps. It would
39 be printed right on the plat the potential for high ground water. Ivory Homes was very aware and
40 would build up the ground. Councilman McDonald wanted to know who would make sure Ivory

1 complied. Mumford said the City was not responsible for ground water but it was an extra
2 precaution to put a note on the plat. Ivory said they would make homeowners aware, too, besides
3 having language on the plat. Anderson said he thought Greenhalgh would say it was not required
4 in the Building Code and unless he had specific direction to check for it, he would not normally
5 do so. Discussion about the word “shall”. Councilman Horner said if the City put a requirement
6 on the developer or homeowner, it was up to the City to inspect and make sure they followed
7 through. Mumford indicated staff would instruct what was required and do their best to inspect;
8 but if someone wanted to get around those requirements, that was possible. Councilman
9 Straddeck wanted Anderson to check with Smedley about this legal question. Mumford said this
10 area would not be designated in the flood plain on the new FEMA updated maps. Councilman
11 Horner questioned if ground water was regulated by FEMA. He was sure the lots in the southeast
12 corner against the canal were in a designated ground water area. Mumford said there was no
13 designated ground water area. However, people in the area had had problems with ground water
14 and that was why there were notes on the plats and the developer was building up the elevations.
15 Councilman Straddeck asked Mumford and Kohler to check about a ground water policy.
16 Councilman McDonald said he would call the insurance association and ask that question.
17 Councilman Horner expressed concern with basements in the area. Mumford said that was one
18 thing the Council could do—prohibit basements. Kohler said in his opinion, if the Council was
19 going to ask a developer to take precautions, it had to be related to the risk. Councilman Horner
20 said the developer would build, leave, and then it would be the Council to take any heat.
21 Mumford said to the best of their ability they had made the necessary precautions and taken
22 reasonable steps; but, if the Council wanted to not allow basements, that was up to the Council.
23 Councilman Horner said no basements on at least three (3) lots. Kohler said it would be hard to
24 determine what lots. He suggested either no basements or basements and take precautionary
25 steps. Councilman Horner wanted to make sure there were sump pumps placed. Mumford said
26 the City’s responsibility was to put them on notice and after that the responsibility was on the
27 developer. The Council indicated they were okay putting this item on the next regular agenda.
28 They felt it was the City’s obligation to see that pumps were installed.

29
30 **Item 5: Review Draft Memorandum of Understanding between Wasatch County, Heber**
31 **City and Wasatch Area Economic Development Regarding Assistance to the Heber City**
32 **Cowboy Poetry Festival:** Anderson said County Councilman Capson came by today expressing
33 concern whether Cowboy Poetry had enough time to finalize the Memorandum of
34 Understanding. It was determined to put it on the agenda for June 16. Councilman Horner
35 thought the intent was the Councils would pick up any overage. Councilman Horner wanted the
36 question asked what happened if the loss was more than \$60,000.

Additional Discussion Items

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2
3 **Discuss 30 mph speed limit on Center Street:** It was indicated Councilman Straddeck had
4 asked for this to be discussed. Chief Rhoades said his Department had two radar trailers. The
5 data showed the 95th percentile at 36 mph and the 85th percentile at 29 mph between 10:30 a.m.
6 and 5:00 p.m. which was the slowest part of the day. He said this only measured 82 cars which
7 was not a real broad measurement. He had instructed his people to have the radar trailer there a
8 lot in the next two weeks and would bring information back to Council next meeting. He said he
9 would also get crash information from Main Street to 1400 East. Mumford discussed how speed
10 was typically determined and said also residents had been very vocal about the speed not being
11 over 25 mph. He said too, that Mayor Phillips had made a commitment to residents to not have a
12 speed limit over 25mph on that road. Councilman Straddeck said this road was to be an arterial
13 collector. Mumford suggested this was a political decision. Councilman Straddeck asked if there
14 was an interest in raising the speed limit. Discussion that the intent of collector roads was to
15 move traffic at higher speeds and to collect traffic. Chief Rhoades again indicated he would get
16 additional data for Council review.
17

18 **Discuss 200 East Center School Crossing:** Mumford said this item was tied to Center Street.
19 He and Chief Rhoades reviewed this after they had gotten a request for an official school
20 crossing. They had run the numbers and felt that it would qualify. He said he and Chief Rhoades
21 had been working with the school council. Mumford talked about the three levels of crosswalks.
22 This one would qualify for the middle category of school crossing signs and painting but no
23 lights. The Council was okay with this crossing. Mumford said 600 South and Hatcreek
24 Subdivision needed to be looked at--still looking at it but thinking it would be just crossing lines.
25 Discussion where a crosswalk should be placed. He said depending on where it was placed,
26 ADA accessibility on both sides might be required and that would be more expensive. Mumford
27 said he would proceed with the crossing on Center Street and would do some additional research
28 and talk with traffic experts on the 600 South and Hatcreek Subdivision issue and come back to
29 Council next meeting.
30

31 **Review Request from Tina Ballif to waive vendor fees in relation to the Wasatch Wrestling**
32 **Boosters Fund Raiser held at Southfield Park:** Anderson said Ballif had inquired about using
33 the Main Street Park for this event (Wasatch Wrestling Boosters Fund Raiser) but it had not been
34 approved. Chief Rhoades said his officers were stretched on Memorial Day weekend. Anderson
35 said this was one of the reasons that drove staff to come up with a park policy. It was indicated
36 Kohler and Hansen had worked on this policy. Ballif felt their event was similar to Farmers
37 Market; however, staff did not feel this was an event compatible with the Park. Anderson said
38 some people felt the park was public property and they could do whatever they wanted. He said
39 that event ended up at the Southfield Park. It was indicated the fees being discussed were \$25 per

1 vendor. Anderson said people did not have any idea what the requirements were in the City or on
2 City property. He said he wanted to protect the integrity of City property.
3 Councilman Straddeck said the real question was do we waive the fees. Councilman Horner was
4 okay as was Councilman McDonald. Councilman Horner said it was important to educate the
5 boosters about the permit. Council okay with waiving the fees.

6
7 **Discuss date for a Public Hearing to consider a Property Tax Increase:** Anderson indicated a
8 Public Hearing had to be held and that the State noticing requirements had to be met. He
9 indicated that by August 17 the City had to have a balanced budget and because the regular
10 meeting fell on August 18, a special meeting would have to be held. It was suggested the Public
11 Hearing be set for August 9. Anderson said he would get a schedule prepared as far as noticing,
12 etc.

13
14 **Discuss UDOT's SR113 Road Improvement Project and potential improvement to the City**
15 **Water System:** Mumford said UDOT was repaving SR113 starting from Heber Main Street and
16 going through Midway City. He said they would be replacing curb and gutter, as well, but not
17 sidewalks. Mumford said he had been working with them about replacing drains underneath the
18 road as the City had several leaks from the main line to the meter. Consequently, he was
19 wondering about replacing the water line, as well. He said UDOT would give the City a window
20 of time and not do that 5-block area in Heber until next spring. Mumford said he would like to
21 replace the line and the services. Anderson felt this was something that could wait. Mumford
22 discussed the condition of the line and suggested it would be nice to get the valves in now. Since
23 UDOT was digging up the road anyway, he thought now was the time to act. Mumford said the
24 only other thing more critical was the Broadhead Tank Lid but the timing was right for the water
25 line. He suggested the project include going from a 6" line to an 8" line and putting in valves.
26 Councilman McDonald felt this should be done now. Mumford said he had talked with John
27 Clarkson earlier in the day. He indicated he would check and determine if the City and UDOT
28 could work in conjunction with each other. Councilman Patterson said "Do it once and do it
29 right." Councilman Horner agreed and encouraged Mumford to do everything he could to work
30 with UDOT's time frame. Councilman McDonald felt the work should be done this fall.
31 Councilman Straddeck wanted to move forward, as well. Councilman Horner wanted to consider
32 another engineering consultant. Mumford indicated that would take a 2-month period of time.
33 The Council agreed the entire project (valves, line replacement and upgrade) should be done.

34
35 Mumford said he started advertising for road maintenance and had a pre-bid meeting next week.
36 Bids would be opened on the 15th and if everything went smoothly, he would bring forth the
37 awarding of that bid at next meeting.

38
39 Councilman Mergist indicated he had sent an e-mail around about Wasatch Irrigation asking how
40 the Council was going to respond to the \$40,000 fee. Councilman Horner said his

1 recommendation was to get the City’s water shares out of WETINC Water Company.
2 Councilman Patterson agreed.
3 Anderson indicated Kevin Arnold had asked if he could mow some of the area west of the
4 property he was leasing (bail and swath) and indicated the City had allowed that in the past.
5 Discussion that the area was located behind Hangar Row. He said that in order to get to the area
6 he wanted to mow, Arnold would have to go onto the airport. However, it did save the City
7 having to mow it. The Council was okay with that request.

8
9 Anderson indicated the agreement the City had with Wasatch County School District was that
10 the impact from the old school had transferred to the new school. Consequently, he questioned
11 how to handle WalMart using that building as a recruiting station. Council said to ignore it.

12
13 *Future Items*

- 14
15 Approval of FAA Grant Agreement for Runway Painting, Etc.
16 Awarding of Runway Painting, etc. – Bid
17 Awarding of 300 West Waterline Replacement Bid

18
19 As there was no further Work Meeting agenda items, the meeting was adjourned.

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Approved 10/06/2011

Paulette Thurber, City Recorder