

Heber City Corporation
City Council Meeting
07/21/2011

6:10 P.M.

WORK MEETING

The Council of Heber City, Wasatch County, Utah, met in **Work Meeting** on July 21, 2011, in the City Council Chambers located at 75 North Main Street in Heber City, Utah.

Present: Mayor David R. Phillips
Council Members Eric Straddeck
Nile Horner
Alan McDonald
Benny Mergist

Excused: Robert Patterson
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: Mark Rounds, Sandy Noonan, Erik Rowland, David Remington, Adrienne Ferustron, Jeffery M. Bradshaw, Cathy Newhall, Tracy Taylor, Doug Kennamer and Tish Dahmen.

Park Usage Policy: Anderson said Council had asked staff to develop rules and regulations for normal usage of the Park--not necessarily a special event which policy was adopted a week or so ago. He said that Kohler had gotten together with Rounds and they had come up with these various proposed rules and regulations that related to the Main Street Park and pavilion. He suggested this was a list that could be given out to people when they reserved the Park. Mayor Phillips asked where the \$100 came from which was raised from \$30. Councilman McDonald suggested \$50 for the pavilion and \$50 for clean up. Staff felt the \$100 was a more accurate fee that covered the costs to clean it and get it ready. Councilman Straddeck was okay with the \$100 and felt it was reflective of the amount of effort it took to maintain the park. Councilman McDonald and Councilman Horner were fine with keeping the fee at \$30. It was suggested to

add under letter O “with the exception of City sponsored public events”. Councilman Straddeck suggested changing “may be returned” to “will be returned” in #4. He also questioned #3 and thought it should be reworded to make for better English. He asked if the language in #3 (All motor vehicles are prohibited from landscaped areas, ATV’s, snowmobiles, 3 & 4-wheelers, motorcycles and horses are prohibited from all park areas) meant all motor vehicles, ATV’s etc. were prohibited in all park areas? He thought that wording was redundant because it was actually stating the same regulation twice in the same sentence. He suggested it read “All motor vehicles, ATV’s, snowmobiles, 3 & 4-wheelers, motorcycles and horses are prohibited from all park areas.” Rounds suggested these rules should regulate the entire park not just the landscaped areas and all parks within the City not just Main Street Park unless authorized by the City. Councilman McDonald wanted additional language in letter K: “If you fail to perform adequate cleanup or damage occurred to City facilities or property, you will be billed for the full cost, recovery rate plus overhead to clean up and repair.” He suggested \$50 might not cover the clean-up/repair costs. He also questioned if the \$1,000,000 Hold-Harmless Agreement applied to this. He thought the Waiver Agreement should apply but not the \$1,000,000 insurance. He also talked about noise and wanted something in the regulations about that. He questioned why there was nothing in the proposed document about no alcohol being allowed in the park. Mayor Phillips agreed that should be spelled out. The Council wanted language added no alcohol allowed under letter E. Councilman McDonald also wanted to look at application fees being paid in full before applications were approved. Councilman Horner asked if the City was obligated to provide a smoking area. Anderson said smoking was prohibited in public places per State law. Mayor Phillips asked Chief Rhoades how the park situation had been during the summer so far. Chief Rhoades said the last two weeks there had been a fight at Farmers Market and complaints about dogs but for the most part, things had gone smoothly. He said it was a great Park and people used it heavily. Councilman Horner asked about an issue with an ATV in Muirfield Park. The person involved thought the area was in the County and Rounds got a copy of the plat for her so it was proved that area was in the City.

Amendment to Article I of the Personnel Policy – Section 1.3, Personnel Committee:

Anderson said this change was based on a recommendation from the Personnel Policy Committee. It was felt this change would make for better representation from all departments. He indicated it reduced the At-Will employees to 1 from 2. Councilman McDonald said this distributed the votes and said he felt comfortable with this proposed policy. He said the committee also wanted to keep 2 Council persons on the Committee. Councilman McDonald recommended this item be moved to the next regular City Council meeting for approval.

Amendment to Article I, XI, and XII of the Personnel Policy – Sections 1-5, Definitions, Section 11-3, Procedures and Section 12 Grievance Board:

Anderson reviewed the recommended changes to this Policy--one of which was changed so the Appeals Board was a member of the Bar Association instead of the Council. He said the time frames associated with

an appeal also changed. Councilman McDonald said he was comfortable with these suggested changes even though he wanted to make additional changes as time permitted. He indicated most of the Personnel Policy Committee's concerns were about the five day time frames and some wanted it changed to ten days. He indicated the Committee would meet again in August. Chief Rhoades indicated he had talked with some of the employees and they had concerns with just one person stepping in from the outside and not knowing the rules and regulations. Councilman Straddeck said that was a concern of his, as well. He thought by having more than one person on the Board it safeguarded the integrity of the process. He felt the City took a risk for problems with only a one-person Appeals Board. Councilman McDonald said the one-person Appeal Board was not the final step because a person could go to the City Council after that and that was a five-member Board. Chief Rhoades indicated the other concern of the employees he talked with was that one person from the outside would not understand the workings of the Company. Councilman Straddeck felt that especially since termination was the issue that there was a need for more than one person looking at the facts. He agreed they should be outside the City but thought the Appeal Board should be more than one person. He thought three would be a good number. Councilman McDonald suggested there was still the safety net of the City Council.

Councilman Straddeck said six months was too long to drag something out--not that it would but it could. Councilman McDonald felt when talking about a person's career, the five-day increments needed to be changed. He said he would support a one-person Appeal Board. Councilman Horner supported a one-person Appeal Board, as well, but did have some concerns with that. He suggested it would ultimately fall on the City Council anyway. Councilman Mergist said he was okay with a one-person Appeal Board. Anderson said staff would bring this forward and onto a regular meeting agenda.

Amendment to Article XIII of the Personnel Policy – Section 13.26, Insurance: Anderson talked about the proposed changes and said comments in red were from Anderson and blue were from the City's health insurance broker to make sure language was consistent with COBRA law. Anderson explained that when this was first developed, the City had insurance coverage with PEHP who allowed continuation of insurance; however, the City's current provider did not allow that. The significant thing was the City had the ability to pay the equivalent of a single premium through the health insurance for coverage for the 18-month COBRA period; beyond that, the City did not have that ability to keep a person on the plan. He continued this language would provide for payment direct to the employee.

Councilman McDonald suggested the City could not charge an administration fee. So the cost could not be 102%. He wanted the language to read "when you lose coverage" only and not give specifics. He wanted to have a person from Select Health provide the exact language. He suggested that if a person lost coverage that particular language would then allow COBRA. Councilman McDonald did not like the word "entitled" and thought "eligible" was a better word.

Anderson said our agent felt strongly that “entitled” was the right word. Councilman McDonald indicated he wanted Anderson to sit down with an account coordinator from Select Health first. Anderson was instructed to contact Select Health and bring this issue back to the Council.

Discussion on Utility Fee Calculations: Anderson said that some time ago there had been discussion about a new fee which would cover the cost of storm drain maintenance, retention ponds, flood control, canal maintenance, street sweeping, etc. He said the City had been required to develop a new Storm Water Protection Plan and the Council had concerns about imposing fees on non-residential users and the question was how did the City come up with something equitable. It was indicated that Mumford and Anderson had talked with Matt Millis after the meeting in which he made a presentation. Anderson referred to the letter from Millis and said Millis was offering to calculate fees from both the cash-based revenue requirement analysis and the utility-based revenue requirement analysis methods. Councilman McDonald said he would not mind looking at both analyses but he would like to see another company other than Zions to do the study. Councilman Mergist wondered why we did not look at two or three companies instead of just Zions. Anderson said he thought the City was more inclined to work with someone local rather than someone out of Michigan. He suggested in the state of Utah, Millis had more experience than anyone. Anderson said from staff perspective, staff didn't have the expertise or formal training but could get data to whoever did the study. Anderson said he would like to engage someone with more experience, but if the Council wanted to put out an RFP, that was fine. Councilman Horner said he was dead set against the fee. Mumford said the proposed fee had been discussed for many years--it was recommended in 2003, but never implemented. He suggested the purpose was to provide a revenue source for maintenance, improvement, etc., related to storm water. He suggested this had previously been a low priority issue and anything that happened was paid out of the General Fund.

Councilman Mergist asked if the federal government was coming down on us about water quality. Discussion about a committee that was working to preserve water quality. Mumford said the State was going to pay more attention to Heber in the future because once a population of 10,000 was met, the government scrutinized more carefully. His approach then was to see if the City could do something voluntarily which showed the City was complying and moving forward in the right direction. He suggested if the City actually had to get a permit, there would be a lot of things the City would have to do and documenting and reporting on, as well. Councilman Horner said that just because the City charged a fee did not mean the City was being proactive. Mumford said the first step was to identify in the Master Plan, that had basic criteria outlined, that the City was implementing and moving forward. Councilman Horner said there were impact fees that could be used and questioned what benefit a subdivision had that had already paid for a storm drain system. He wondered how charging a fee kept the City in compliance. Mumford said it would pay for maintenance for ponds, ditches, canals, storm drain pipes and it would pay for a storm water management plan which was not in place yet. Mumford

said property owners were responsible for private areas but it would cover the maintenance of public areas. Mayor Phillips said the services had to be paid for somehow. Mumford asked the Council how they intended to continue paying for maintenance without charging a fee. Anderson said that Millis had indicated there were community-wide things that needed taken care of and would even benefit a property owner or business owner that had a self-contained system. Mumford said as things moved to water quality, street sweeping was an element of that. He said it wasn't just maintenance but also it was for changes to the system and upgrades. Mumford indicated the amount of runoff was increasing with growth which increased pollution. The City couldn't just keep dumping into the canals without increasing the possibly of damaging pristine water. Councilman Straddeck said the Council had had this discussion already and thought the purpose of the topic was to decide what route the Council was going to take. He asked if the Council wanted to have someone help set the rate or not or did the Council want to send out an RFP? Mayor Phillips agreed and said the Council decided to set the fee and now needed to move forward. Councilman McDonald felt Councilman Horner had some good points. He thought businesses that had a contained system should be given a credit. Anderson said even with on-site retention there were rates to charge for the discharge into the City's system. He thought there should be a third party brought in and the Council could craft equitable options. Councilman McDonald did not feel good about a cash study instead of utility based study. Anderson said the challenge right now was in the tentative budget which anticipated the adoption of a fee and all the costs would move into that utility fund and the Storm Drain Fund would be eliminated out of the General Fund. He said the longer the Council waited to collect these funds, the more of a deficit there would be in the fund. Councilman Straddeck suggested, in order to move this forward, if the Council could go back to Zions and ask for all three studies and also get one from the company Councilman McDonald wanted. Mumford felt he had direction and would bring this back to a future meeting.

County Fair Parade: The Council was interested in being in the County Fair Parade. Councilman Mergist suggested he might be able to get a 4-wheeler from his employer for the Council to use for the parade.

Discuss Public Hearing to Vacate a portion of a Roadway in the Paul King Plat A

Subdivision: Kohler said this was in the Broadhead Estates Subdivision. An overhead was shown. He asked the Council to set a public hearing for next meeting to abandon that public land as it was no longer needed. Kohler did not think there was any reason to not vacate and said the City owned the land so the City had to hold the public hearing. The Council was okay with setting the public hearing.

Discussion – Activa Plaza 2nd Amended Condominium Plat: It was indicated the Planning Commission recommended that the request to add more units in the Active Plaza be approved. The request related to the front area and would make four units into 14 units. Mayor Phillips

asked if there was plenty of parking. Kohler said yes. Councilman Horner asked about restroom and fire protection. Kohler indicated they were covered. The Council was okay with moving this item to a regular meeting agenda.

Discuss Cancellation of August 4 City Council Meeting: Because of the Wasatch County Fair Days, the August 4, 2011, City Council meeting was cancelled in order for the Council to participate in the Fair.

Discuss Muirfield Park Walking Trail: Mumford said he wanted to have discussion with the Council in relation to the installation of the trail at Muirfield. He said staff was proceeding with that trail per the Master Plan; however, there had been a lot of concern from the neighbors. He reviewed that in 2004 the City hired a consultant and developed a Master Plan and built the first phase of that and this past year one of the things budgeted for was some trails in that park and Rounds had started the work. An overhead was shown where a bridge was to be built and the trails outlined. Mumford continued that as part of that it was determined the City needed an access for the maintenance of the park. One of the things originally contemplated and looked at was the public easement along the canal. He pointed out on the overhead a lot owned by the HOA and so the boundaries of the HOA as part of the development was not included in the HOA. He said the HOA in that development had been involved in the access meetings. Mumford indicated that when Rounds started his work, that started a lot of discussion among the members of the HOA and some that were not part of that HOA. He thought it was those serviced by the lift station who were part of the HOA. He said some people wanted a trail and some didn't. He said, too, there were things promised to some homeowners about that area and some people paid more money for their lots than others because of the undeveloped land. Mumford said staff had stopped work down there for now. A plat was shown and Mumford pointed out what homes were not participants in the HOA. Some pictures of the subdivision and proposed park area were also shown on the overhead. Mumford said some of the homeowners were concerned about the trail being too close to their fences. Rounds said when he cut the trail he did it a little differently than the artist rendering. He did not want a straight line trail--he wanted a meandering trail so it would be closer to some properties than other properties. Mayor Phillips asked those in attendance for this issue if the concern was that the trail was too close to their homes or was it just a trail issue. One person commented that everyone she had talked with did not oppose a trail; however, most of them were not living there when the park was approved nor was the master plan being followed. She expressed concern that when she came home for lunch there was someone with a grader right behind her fence. She was under the impression that her property went 7' beyond her fence. Mayor Phillips asked if the fence was in place when she bought the property. She said yes and the reason was so there was room to maintain the fence easily. One woman indicated she paid \$5,000 more for her lot because she was told there was a 99-year lease on the property and that property would not be developed during that time frame. However, even with the lease, the City was supposed to maintain the area. Councilman Mergist asked who told them it would not

be developed. She indicated Hamlet Homes. He asked if that was language in the deed or contract. What was told to her was that Fred Clark originally owned the land and he had a deal with the City to not develop for 99 years. Mayor Phillips said the land was owned by the City and would not be developed with homes; however, that did not mean a trail wouldn't be built on the public property. Anderson said there was language on the plat that said no road would be built on the property. At one time there was discussion about a bypass road but there cannot be a road built on that open space. Councilman Horner asked who put the fences up. It was indicated that each homeowner put up their own fence and all wanted the fence to match. Discussion about fence placement. It was indicated there were some lots with survey markings and some without. Councilman Mergist asked if the placement of the fences 7' inside the property line was voluntary or not. The president of the HOA said there was no requirement to place the fence 7' inside the fence line. Sandy Noonan said the City built a park on the end of 250 North and it was a total disaster because the City was not maintaining it. Councilman Horner said we were trying to make this a nice viable park and trying to make it so people could enjoy it.

Councilman Mergist asked if Rounds had the area surveyed before he started and/or should that be done. Mumford said there was no survey and that Rounds started his work assuming that the fence was on the property line. The President of the HOA said the primary concern he was hearing was the proximity of the trail to property lines and safety issues. Some of the property owners did not have fences and questioned who would monitor the safety. Another thing was access. He indicated Mumford had been working well with all of them. However, there was still concern about congestion and traffic and the members of the HOA would like the opportunity to talk to the Council about access and parking. Councilman Mergist said access was a concern of his, as well. Councilman McDonald suggested the HOA come to the Council with one list of concerns rather than a number of people talking about the same issue. Councilman Mergist said there were other developments with trails through them (Cobblestone) but expressed concern with security in that development. Mumford summarized: 1) the majority of people would be supportive if the trail was further away; 2) permanent or temporary access per the HOA; and 3) did the Council want a more formal meeting. Mayor Phillips asked if the Council wanted to involve the Planning Commission. Councilman Horner said no it was summer and he did not want to stall this. He expressed a need to work this out so everyone was comfortable. As far as access, he would like to see access but eliminate parking. Mumford discussed parking in the area of the trail access and problems for those living in the development. Councilman Mergist said that was an either/or situation. He recommended moving the trail off a few feet from the property line and lineup with the shrubbery. As far as the access, make it a maintenance access only. Mumford asked if the Council wanted additional input from the residents. Councilman McDonald said come to Council at a work meeting and come with recommendations and take 10 minutes. Noonan asked if this would have the same rules and regulations as other City parks. Council said yes. The HOA president said several years ago there was a letter sent to residents that addressed thistle. Consequently, some people did encroach on City property. He said they

were trying to control thistle by encroaching onto City property. Rounds said once the bridge was in he would not need access—he just needed the access now to cut the trail and put footings in for the new bridge. Mayor Phillips wanted to look at the plan when this development was made to see about easements. Chief Rhoades said that as far as police protection they wanted to keep the access in addition to the bridge. He said, too, shrubs were not conducive to safety. Rounds said there was no irrigation there so bushes were not feasible unless the homeowners wanted to water them.

Review Proposed Crosswalk location on 600 South in the Hat Creek Subdivision: Mumford said he needed to make a decision on the crosswalk. He said the primary purpose for this crosswalk was a temporary crossing for a period of time until the development in the area was complete at which time the developer would be responsible for a crosswalk. Two locations were shown on an overhead. Mumford proposed a non-school crosswalk at 620 East. Councilman Mergist wanted to see crosswalk signs. Councilman Horner had concern that children wouldn't use the crosswalk. If you put a sign up then drivers would not be paying as much attention when 80% of the children wouldn't use that crosswalk but would cross at 680 East. Mayor Phillips said he thought the Council needed to re-address the issue of where it was going to be placed. Councilman Horner wondered why the City didn't pull the bond and put that sidewalk in. Mumford said the City was in the process of working with the developers who were trying to finish the subdivision. Councilman Mergist suggested more teeth needed to be put in the agreements made with developers. Mumford said threatening was not going to work and pulling a bond in four weeks was not going to work. The Council wanted to spend the \$5,000 it would cost to get the sidewalk and crosswalk in place.

Request for Out-of-State Training: Chief Rhoades said that generally every other year he went to the National Chiefs of Police conference; however, this year it was in Chicago. He said this year he opted not to go and would like to go to Las Vegas for training instead which would cost about \$1700 for two people. The Council approved that training.

Approval of Volunteer: Anderson explained that Jr. Richardson was a retired County worker and wanted to volunteer some time. He thought Richardson might be able to mow the airport. The Council was okay with this volunteer work. Anderson said he had talked to the City's insurance company and Richardson would be covered. Councilman Mergist recommended Rounds do some safety training with Richardson first.

City Recorder: It was determined that letter F would be left in as proposed and letters K, L, and M would be taken out. This item would move to the next regularly scheduled meeting.

City Treasurer: Did not address.

Finance Director: Did not address.

City Manager: Did not address.

As there was no further business on the July 21, 2011 Work Meeting, the meeting was adjourned.

Paulette Thurber, City Recorder

Approved 10/06/2011