

Heber City Corporation
City Council Meeting
September 1, 2011

6:00 p.m.

WORK MEETING

The Council of Heber City, Wasatch County, Utah, met in **Work Meeting** on September 1, 2011, in the City Council Chambers in Heber City, Utah.

Present: Mayor David R. Phillips

Council Members Eric Straddeck
Nile Horner
Robert Patterson
Alan McDonald
Benny Mergist

Also Present: City Manager Mark K. Anderson
Deputy City Recorder Michelle Kellogg
City Engineer Bart Mumford
Planning Director Tony Kohler
Police Department Sgt. James Moore

Others Attending: Erik Rowland, Larry Newhall, David Hartmann, John Manee, Mark Rounds, Rachel Crane, Amanda Jones, Mike Johnston, David Remington, Daniel Mauer, and others whose names were not legible.

Mayor Phillips opened the meeting and referred to the agenda.

Rachel Crane and Amanda Jones – Presentation/Invitation – Heber Valley Civil War

Weekend – Soldier Hollow: Rachel Crane passed out a flyer for this event which was going to be held September 30th - October 2nd. She stated their organization received a grant to help with advertising and with the quilt show. It was indicated that this would be a free event, and Jones explained Friday was school day, where 11th graders and 8th graders (these grades study U.S. History) would attend. Saturday would be a repeat of Friday, but with longer demonstrations, and would be opened to the public. Sunday would include a non-denominational church service. Council Member Straddeck asked how individuals could donate. It was indicated a trust was set up at AM Bank and donations could be dropped off there.

Mayor Phillips asked Anderson to inform the Council about a grant the City had recently received. Anderson indicated ULCT gave the City a \$6,700 grant for fulfilling safe driver and manhole check requirements. He stated next year the City would qualify for another \$6,000.

AutoZone – Lot Split/Small Subdivision – Located at approximately 801 South Main

Street: Council Member Mergist asked why a fourth auto parts store was needed in Heber City. He thought if AutoZone opened for business, the two locally owned auto parts stores would go out of business. Kohler stated the Planning Commission requested new street lighting, new

sidewalk, and that the utilities be put underground as conditions for approval. Council Member McDonald asked if any variances were made for that parcel. Kohler indicated there had been none. Council Member Horner asked who owned the property now, and it was indicated Paulene Bethers was the owner and the one responsible for requesting the lot split. Kohler indicated the nursery next door to the parcel understood what was happening and would have to accommodate them if AutoZone came in. Council Member Horner asked how many feet would be left in the remaining space for another business to locate. It was determined 98 feet would remain. Kohler felt that would be an undesirable lot but indicated the Planning Commission thought differently. He stated the Taco Bell restaurant lot across the street was about 98 feet so it was do-able. Mayor Phillips said there was commercial zoning on Main Street so the City had to accommodate new businesses. Council Member Horner asked if AutoZone could still build the subdivision if the split was not allowed. Kohler stated it was still possible to build and lease the whole parcel. The Council agreed to move this item to the next regular meeting agenda.

Armstrong Consultants/Summit Engineering – Discuss Snow Removal Equipment (SRE)

Building Change Orders: David Hartmann with Armstrong Consultants wanted to update the Council on finalizing the SRE building project. He introduced the others in attendance from Armstrong Consultants, as well as Mike Johnston, who was acting as the architect on this project. He wanted to talk about the process for change orders. Hartman indicated the FAA grant was set up with some contingencies to receiving the grant. He was pleased that this project would come in under budget, and indicated the building should be completed next week. He further stated that the change orders totaled 2% of total project cost which was very low compared to other projects, and stated the normal percentage for change orders was 5%.

Hartman indicated there had been problems with the utilities. Council Member McDonald asked what triggered the change orders and if they were on the spec sheet. Johnston stated the reason for a change order was because something happened that was not anticipated. He explained when a low bid contract was awarded, the awardee would not do anything above and beyond the required work. Council Member McDonald stated these things were not bid on because they were not on the spec sheet. He thought it wasn't the contractor's mistake but an engineering mistake. Johnston stated the problem was the electrical meter was missed on Armstrong's side and Johnston's side, but it was still necessary. Council Members McDonald and Horner were under the opinion that Armstrong and Johnston made a comprehensive bid, and it was unfair to other bidders for them to get the project and then charge for change orders. Council Member Horner stated a change order was for an unforeseen change, but water, sewer, and hardware were necessary items, not unforeseen circumstances. Johnston stated that in this industry, change orders were standard.

Mayor Phillips asked what the next bid up was for this project, and it was thought the difference was approximately \$20,000 higher. John Manee, Armstrong Consultants, stated other change orders included an unmarked waterline. When it was found, it was sagging, so they put in extra gravel to stabilize it. Council Member Mergist asked about the insulation problem. Johnston said superior weather barrier was installed but it was not the right type for this building because the building would not be able to breathe. So the option chosen was to leave it on and install the proper insulation so moisture would not be able to move through the walls. Council Member Mergist stated it was the principle of forgetting to add the hardware for a door that made him not want to approve this change order.

Hartmann talked about the removal of the prime coat on the parking lot. Council Member McDonald asked if there were any more unforeseen items that may need to have a change order. Council Member Mergist stated since the project received a \$4,480 credit for the prime coat explained by Hartmann, the City would be in the black even with the current change order.

It was indicated since there was no gas line in the road, the gas connections would be hooked up to the Lloyd building.

Council Member Horner asked how much the engineering costs were. It was determined \$65,000 in engineering costs and \$20,000 for inspections. The building cost \$509,000 of which the City paid 5%, or \$25,000. He clarified that even with the prime coat credit, the City would pay more than the original contract price. Hartman stated the local match change was less than \$500.

Mayor Phillips stated if the next bid up was \$20,000 higher, this difference meant nothing. The bid would have still been awarded as it stood now. Council Member Horner preferred that Armstrong Consultants and Summit Engineering would pay that difference.

Council Members Mergist, Patterson and Straddeck were in favor of paying the change order. Mayor Phillips stated if the industry standard was 5% in change orders, then 2% in change orders for this project was great work.

Council Member Mergist asked who would tear down the old building. Anderson stated he would look into getting a grant to tear it down. Council Member Mergist asked if the City couldn't get a front end loader to tear it down. It was indicated a grant would be looked for first.

Review Draft Ordinance 2011-12 – An Ordinance Amending Chapter 18.108.100, Flood Protection, of the Heber City Municipal Code and Adopting Chapter 18.109, Flood Damage Preventing Ordinance, of the Heber City Municipal Code: It was explained that FEMA requested this Ordinance to be adopted by the City, and indicated if the community wanted flood insurance, the City had to adopt it. Mumford was designated as the flood plan administrator. Kohler stated this Ordinance had been provided by the State.

There was concern over re-designated flood zones. Council Member Horner stated it was his understanding that was all that was needed in order for people to get flood insurance. Mumford indicated because of FEMA, everyone could now get flood insurance. Council Member Horner said he had tried to get it in the past, but couldn't because he didn't live in a flood zone. Mumford said now those in a flood zone could get flood insurance but they would pay a higher premium. Council Member Horner asked why this Ordinance was needed. Mumford indicated the City had to be a member of the FEMA flood insurance program before it could become eligible to receive flood insurance. To be a member, this Ordinance had to be adopted. This item was moved to the next work meeting agenda.

Ordinance 2011-13 – Review Heber City Code Section 2.14, City Manager: Council Member McDonald stated since a finance director was being hired, this ordinance would be kept intact except for a few changes. He wanted to take out the city manager form of government since in Utah there was no city manager form of government. He made some comments on the other strikeouts and additions in the Ordinance. Mayor Phillips explained that Section 2.14.040(j) was in the Ordinance so there would be unity of command. Council Member McDonald was in favor of striking that clause because it would give more freedom of communication between the

employees and the Council. Anderson said one problem he could foresee would be having complaints come to the City Council rather than to the supervisor, which would result in chaos. He indicated the complaints and other issues would ultimately have to be resolved with the supervisor. Council Members McDonald and Horner stated the Council could direct policy with (j) omitted.

Council Member Patterson wanted to leave (j) in and also (d). He felt the finance director should be under the City Manager, just as other department heads were. Council Member Straddeck stated as he read through the original ordinance, he only wanted to make changes if they were needed. He thought under Section 2.14.040, that only the “manager form of government” language should be removed. Also, the part added underneath the first strikeout, “under the direction and control of the Mayor and City Council,” caused Council Member Straddeck concern because the City Manager needed to have guidelines. If he was under the direction of the Council, they could change or set at will those guidelines at various times. He also thought the removal of (j) was a back door way of allowing the Council to run the employees, and he was against that.

Referring to (e), Council Member Straddeck stated this would remove the City Manager as the purchasing agent and would also remove him as the budget officer. He asked Smedley if this change in scope would give Mayor Phillips the right to vote. Smedley stated it was his opinion the Mayor could be involved in the debate, but it did not warrant him the right to vote. Council Member Straddeck asked how (j) would facilitate interaction. Council Member Mergist indicated when he worked in Public Works, a Councilman had told him what to do and how to work. He also felt he could not speak to anybody on the Council without retaliation from his supervisor. Council Member Mergist stated he was not necessarily in favor of taking out (j), but he didn't want a City Manager at all. Instead, he preferred having a Council and strong Mayor.

Anderson referred to when Council Member Mergist asked for overtime records for Public Works employees in response to an employee's complaint. If (j) was struck, more employees would be calling the Council and not communicating with their supervisors. Council Member McDonald stated he was specifically told by the City Manager not to talk with employees and waste City resources, and for that reason, he was in favor of striking (j). Discussion. Anderson said the protocol for employees with complaints would be to go to their supervisors, then if needed, the City Manager.

Council Member Horner stated the current form of government was a strong Council, weak Mayor form of government, and any change to that would take a vote from the public. Council Member McDonald stated the Heber City Code never stated what form of Council we had. Council Member Horner indicated Heber was grandfathered in 2006. Smedley stated that was not accurate, and clarified the State law had power to change what form of government a City was labeled. He asserted Heber City was a six member Council.

Council Member Mergist asked to continue this item for further consideration of (j). He asked if Councilmen were forbidden to consult with fellow Councilmen to discuss issues. Mayor Phillips stated if one called another one to solicit support, it would not be illegal. But if there was a quorum (3), it would be illegal to discuss any issue. Also, if some Council members were called but not others, it would look wrong. Council Member Horner asked if Mayor Phillips could talk with two Councilmen legally since he wouldn't vote. It was indicated he could.

Discuss Date for a Presentation on the Compensation Study: Anderson stated one hour should be allocated for this presentation. Mayor Phillips suggested scheduling the presentation at 5:00 p.m. on October 6th. Council Member Mergist requested the information prior to the presentation so the Council could review the material.

Discuss Section 9.22.020 of the Heber City Municipal Code – Disturbing the Peace: Anderson stated according to the City Code, government events were exempt from noise control. Council Member Horner asked if the code enforcement would apply if it wasn't a County sanctioned event. It was determined that Anderson would talk with the County to get further clarification.

Discuss purchase of a bridge for Muirfield Park: Rounds passed out a map and stated he wanted the bridge built in last year's budget, but due to the circumstances, it was pushed to this year's budget. He indicated a bridge had been requested over the canal, but it would need to be wide enough and strong enough to hold maintenance vehicles. It was determined it would cost approximately \$12,000-\$17,000. Rounds asked if the Council wanted to bypass bids and start construction immediately to save time. The Council was in favor of receiving bids. Mumford stated if it was bid out, different proposals could be sent so the City would get exactly what it expected. Mayor Phillips asked Rounds for his recommendation. Rounds indicated he preferred a bridge built of concrete with sides, and stated if wood was used, there would be a lot more maintenance required. Mumford was directed to send out proposals.

With no further business, the meeting was adjourned.

Michelle Kellogg, Deputy City Recorder