

Heber City Corporation
City Council Meeting
01/05/2006

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on 01/05/2006, in the City Council Chambers in Heber City, Utah.

Present: Mayor David R. Phillips
Council Members Terry Wm. Lange
Vaun Shelton
Shari Lazenby
Jeffery Bradshaw
Elizabeth Hokanson

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

Others Present: Rick Kellogg, Kristi Redmon, Teresa Redmon, Brenda Gillimore, Jesus Javier, Norm Eiting, Cameron Bain, Wes Johnson, Dustin DeWall, Ryan Probst, Robbie Carlile, Dave Fee, Megan Fee, Amber Ford, Tyler Stiveur, Sam Matthews, Craig Anderson, John Besendorfer, Jr. Besendorfer, Phillip Proctor, Pam Thompson, Dave Thompson, David Peterson, Amber Peterson, Kendall Crittenden, Morgan Lawrence, Tracy Taylor, Paul Shelton, Devin McKrola, Kendall Cowley, John Schiess, Mike Thurber, Traci Roundy, Dennis Schindler, Clyde Muir, Ryan Farr, Dynna Carlile, Jed Powell, Wayne Hicken, Scott Bassett, Kathleen Jacobson, DeVaughn Guymon, Bryon Horner, Trent Boren, Jeff Winterton, Joan Winterton, Elliott Phillips, Glen Hicken and others whose names were not legible.

Mayor Phillips asked if anyone would like to offer a thought in lieu of a prayer or offer a prayer. No one responded.

Pledge of Allegiance: Jeffery Bradshaw
Prayer: Vaun Shelton

Minutes: December 15, 2005, Work Meeting
December 15, 2005, Regular Meeting

Councilmember Lange moved to accept the December 15, 2005, Work and Regular Meeting Minutes as presented. Councilmember Shelton made the second. No discussion. The voting was unanimous in the affirmative.

1 OPEN PERIOD FOR PUBLIC COMMENT

2
3 Kendall Cowley – Presenting a Point of View. He referred to a newspaper article dated
4 December 29, 2005, entitled “All together now – Unified Police Department.” One reason he did
5 not like Heber when he first moved here was because the weather was too cold for farmland. He
6 soon realized the beauty of Heber, however. His main gripe now is that for the past 20 years, his
7 definition of rural was different. He said there was no such animal as rural. “If you want rural, go
8 to Duchesne” he said. He read the newspaper article which article voiced a favorable opinion on
9 merging public services, particularly public safety. The article pointed out that local officials
10 compare themselves with others their same size. He did not feel that was a wise idea as each
11 entity is individually unique. He asked, “Why can’t some of the services be consolidated? Why
12 not start with the police department and part of the public works departments. If the valley
13 becomes wall-to-wall housing, this is a further argument for consolidation,” was his opinion.
14

15 CONSENT AGENDA

16
17 Mayor Phillips explained the Consent Agenda could be accepted as a whole or items taken out
18 individually and discussed, if necessary.
19

20 An overhead was shown of the newly adopted Airport Layout Plan.
21

22 **Approve FAA Grant Applications for Federal and State Aid to relocate the Taxiway at the**
23 **Heber City Airport – Russ McDonald Field:**
24

25 **Approve FAA Grant Applications to construct Taxilanes to Hangar Area, Access Gates**
26 **and Security Fencing:**
27

28 **Approve 2006 DBE (Disadvantaged Business Enterprise) Program for Heber City Airport-**
29 **Russ McDonald Field:**
30

31 **Approval of UDOT Aeronautics - Project Application and Grant Agreement – Crack Seal,**
32 **Fog Seal and Paint Runway and Apron:**
33

34 Councilmember Lazenby moved to approve the Consent Agenda items. Councilmember Shelton
35 made the second. No further discussion. The voting was unanimous in the affirmative.
36

37 PUBLIC HEARING

38
39 **Pressurized Irrigation – Solicitation of Public Comment – City Wide Installation:** The
40 Public Hearing Notice was read by the City Recorder, Paulette Thurber. Mayor Phillips
41 explained the purpose of the Hearing was to get comments and questions from the public on the
42 proposed city-wide installation of pressurized irrigation. Wes Johnson, Horrocks Engineering,
43 congratulated Mayor Phillips and Councilmembers Bradshaw and Hokanson on their election.

1 He then gave an overview of the proposed project. Johnson said they were in the process of
2 making application to the federal government for funding for up to 65% of the funds for the
3 proposed project which they felt to be a very worthy project. One of the concerns expressed has
4 been that this is a done deal, “You have already made up your minds so why ask for public
5 comment now,” had been a comment he had heard. He thought it important to have the Hearing
6 because of the number of people affected. He indicated he wouldn’t have many answers at this
7 meeting because “this is not a done deal”—but rather a proposal. He explained the meeting was
8 not for the design, but rather to gather information in order to fill out an application and study
9 that goes before the Conservancy District to see if the City is eligible for the funding. He again
10 explained this Hearing was to get public input to get the public’s concerns and ideas with respect
11 to applying for the funding. Johnson pointed out on an overhead the areas in the study area and
12 areas outside the study area. Those outside the area already had pressurized irrigation, he
13 explained. He introduced his staff and indicated the comments and concerns would be recorded
14 by one of his staff.
15

16 Mayor Phillips opened the Public Comment part of the Hearing.
17

18 Someone asked Johnson to review and explain the project. He said the idea was to provide
19 pressurized irrigation to the “old city” area. He explained Heber currently had one system in this
20 area. Culinary water used for both indoor and outdoor watering. At the current time, the water
21 being treated for indoor usage is the same water used for outside watering. He explained that the
22 requirement on culinary water mandated by State and Federal governments made it better to have
23 a system that was specifically for outdoor water use.
24

25 Kendall Crittenden – Where is the plan to deliver to each lot. What share will property owners
26 have and what will people do that have water shares compared to those that don’t. Johnson said
27 there would be a turnout to the property line. However, caution would have to be taken to not
28 contaminate the culinary water. Johnson discussed the possibilities for those people that had
29 water shares and those that didn’t but said that question wouldn’t be answered tonight.
30 Crittenden also asked about the culinary water billing that paid for the culinary system. Mayor
31 Phillips said that issue had been discussed in the Council and the answer had not been resolved.
32

33 Kendall Cowley – Would the outside water usage be metered? Johnson said his recommendation
34 would not be to meter every home as that would add millions of dollars to the cost. He said there
35 could possibly be meters at different locations to monitor leakage, etc. Cowley said because of
36 the large blocks in “old Heber” he did not think pressurized irrigation would work. He
37 questioned what would happen to the water table. He said “I can tell you right now, it is going to
38 go down. You will lower the water table.” Johnson said installing pipe actually saved water.
39

40 Norm Eiting – He understood all subdivision created after 1990 had pressurized irrigation already
41 and asked if there was a fee structure already established. “Are you looking at the same pricing
42 and structure that is already in place for those subdivisions?” Johnson said those subdivisions
43 were not a part of the study. Eiting said most generally those subdivision that had the
44 infrastructure already was paid for when they bought their lot. His concern was with the cost of
45 the new infrastructure that would have to be installed. He hoped that him paying his taxes “for all
46 these years” would be considered when decisions about a cost for the homeowner were made.

1 Johnson said to be fair, they would have to have 3,000 different billing scenarios, which was not
2 possible.

3
4 Mayor Phillips read the questions brought up by the City Engineer in his staff report and
5 indicated those would be looked at, as well: 1) How is the City going to fund the local portion of
6 the grant? 2) Will new subdivisions that have already paid for their secondary system be required
7 to subsidize secondary costs in central Heber? 3) What will happen to the existing ditch system
8 once the secondary system is installed? 4) Where will the City get the water rights to operate the
9 expanded secondary system? 5) Will the City be digging up the new streets they paved two years
10 ago? 6) Is the City going to install curb, gutter, and a storm drain system? 7) Will there be a
11 connection fee?

12
13 Val Draper – Questioned the cost per home and how the drain system would be maintained. He
14 questioned how much watering a person could do. He also wondered where the connection
15 would be and how would the City proportion water to each resident. He said he had a personal
16 water share which was private property and wondered if it had to be turned over to the City. He
17 indicated new subdivisions utilize the drainage system in old Heber and asked how that was
18 subsidized. Johnson did not apologize for not having answers to all the questions and said that
19 was the purpose of the Hearing.

20
21 Cowley - “What percentage of the people that have pressurized irrigation actually use it or do
22 they still use the culinary water?” It was felt that those that had it, used it. Cowley referenced
23 people he knew that were on the system and all their trees died.

24
25 Johnson said in other communities a base fee was charged that was as economical as possible.
26 He indicated if the public chose to use the water treated by the City, they were going to pay extra
27 because water from the reservoirs needed to be used. Mayor Phillips said one of the questions
28 that had to be addressed was if the residents had to use the secondary water.

29
30 Dave McFee - Conceptually he agreed with pressurized irrigation—“there is some value.”
31 However, he wondered what that value was. Johnson said again this issue was not a done deal.
32 The study would be submitted but that prior to submitting the study, there would be another
33 public hearing where there would be answers to all these questions. Johnson assured those in
34 attendance that no Council would assess their users \$120 a month. “That is not going to happen”
35 he said. Anderson said the perceived value was the Federal Government would not give Heber
36 City the funds unless the City showed they were conserving water and making it available for
37 other uses. The City had to show there is conservation of the water. He said it would cost the
38 City more money. “You can’t maintain two systems, construct and pay for at least 35% of a
39 system, and acquire water rights to deliver adequate water to those hooked onto secondary water
40 that don’t have rights currently without costing more money,” he said. He pointed out that where
41 the savings come from was long term. He explained a secondary system eliminated the necessity
42 of building new storage tanks, obtaining new sources of water and the well head protection areas
43 that were necessary to make sure there was no contamination introduced into those aquifers. “Its
44 looking long term. Its going to be pay me now or pay me later, but if you wait, its going to cost
45 you more is the real concept here,” he said. Johnson agreed and said when the study was done,

1 customers wouldn't find a cheaper water bill. Johnson again talked about the culinary water
2 stored in the tanks being used for outside usage.

3
4 Mike Thurber differed in his opinion in that he did not think it would be more costly. He said he
5 was on both systems and it didn't cost him more. He thought having everyone on it would
6 actually bring the cost down. Anderson said Thurber's circumstance was somewhat different
7 since Thurber paid for his infrastructure with the purchase of his home. "These people don't have
8 that same circumstance," Anderson said.

9
10 Johnson said generally speaking people were skeptical but when going back to those
11 communities several years later, the communities were very glad to be on the system. He said he
12 had the system at his home and it was costing him about \$45 more a year now but that in
13 another few years, it will be cheaper.

14
15 Elliott Phillips – What about safeguarding against cross contamination. Mumford said the City
16 already had procedures in place to protect against that and penalties in place for not following the
17 procedures.

18
19 Mayor Phillips closed the Public Hearing at 7:50. Johnson encouraged people to write their
20 concerns down on the paper provided and submit them to Horrocks Engineering.

21
22 Councilmember Shelton said, "If you think pressurized irrigation is going to be all dead trees,
23 don't believe it. No one is stopping someone from watering their trees." Councilmember Lange
24 indicated he hated tearing up the City streets time and time again for different projects. He
25 remembered that when Mayor Wright was in office an application was submitted to the CUP.
26 They were ready to grant it to the City but then it was remembered the City didn't have a storm
27 drain system in place yet. He said that had to be in place whether the City had a pressurized
28 system or not--it is flood protection. He said the project would be expensive and still might not
29 be the answer to all problems. He felt the culinary water system was being subsidized and there
30 were some changes that needed to be made—undersized pipes, etc. Councilmember Lange
31 reviewed the history of the initial pressurized irrigation system in new developments. He said the
32 City forgot to install turnouts and had spent a considerable amount to correct that. He said the
33 City had also spent money to insure the system didn't leak and that meters were not installed.

34
35 Mayor Phillips thanked Johnson for the presentation and the audience for their comments. He
36 indicated he appreciated the public forum where opinions could be shared. He said this helped
37 the Council make educated decisions

38 39 APPOINTMENTS

40
41 **Blake Allen – Subdivision - Lot Split Approval for Cottage Homes – Property located at**
42 **approximately 500 West 300 South:** An overhead of the property was shown. It was indicated
43 this request had already been approved by the Planning Commission. It was pointed out the lot
44 size and setbacks had been met. Allen said he would answer any questions the Council might
45 have.

1 Councilmember Lange moved to accept the recommendation of the Planning Commission and
2 approve the subdivision/lot split on property located at approximately 500 West 300 South.
3 Councilmember Lazenby made the second. Anderson asked for clarification on sidewalks and
4 deed restriction. Blake indicated the curb would be deed restricted but he would be installing the
5 sidewalk. The voting was unanimous in the affirmative.
6

7 **Pam and Dave Thompson – Park City Helitours – Approval of SSO Agreement to provide**
8 **Scenic Rides and Chartered Helicopter Services at the Heber City Airport:** Mr. and Mrs.

9 Thompspon appeared before the Council to seek approval for an SSO (Special Service Operator)
10 Agreement to operate a chartered and scenic ride helicopter business at the Heber City Airport.
11 Mayor Phillips asked about insurance coverage. Mrs. Thompson indicated they had reviewed the
12 standards of the current airport and there was not a category for their purpose. She said their
13 aircraft was valued at \$500,000 where others are valued at \$10,000,000. Anderson recommended
14 they meet with legal counsel to determine the insurance issue and the motion be contingent on
15 that being worked out. Mr. Thompson discussed his flying history/experience. He indicated the
16 plan is to take off and land on the runway. He said they had talked with EMS people and come
17 up with the same channel frequency so they could talk to them and not cause problems with
18 them. Councilmember Lange wanted to know which EMS and what kind of aircraft they had.
19 Discussion. Anderson indicated he had sent the Thompspons a copy of the Agreement as drafted
20 by Mark Smedley. They indicated they did not have any questions in relation to it.
21 Councilmember Hokanson asked if they understood the language in paragraph two. They said
22 yes.
23

24 Councilmember Lange moved to approve the SSO Agreement with Anderson and legal counsel
25 making sure there was appropriate insurance coverage. Councilmember Shelton made the
26 second. The voting was unanimous in the affirmative.
27

28 **DeVaughn Guymon – Appeal on Deed Restriction on property located at approximately**

29 **600 South 200 West:** Mayor Phillips gave some history of the parcel and the process they had
30 gone through to subdivide it. In June of 2001, they came to Council to split the lot. The minutes
31 of that meeting had been provided to the Council in their packet. In July 2001, they attended a
32 meeting where there was discussion about deed restriction and curb and gutter. Mayor Phillips
33 made a comment at that time, as reflected in the minutes, that whatever the Council did should
34 be from that point forward. Mumford said after Council discussion that evening, the direction
35 was given to the Planning Commission that all subdivision would have deed restriction, if
36 appropriate. He indicated the next day the deed restriction was made on this property. Guymon
37 made the comment that day that he did not feel they should be affected by the new policy. It was
38 discussed that the City had installed curb and gutter in the area during their city-wide
39 improvement of roads. It was pointed out there had been a lot of deed restrictions put in place
40 since that meeting in July, 2001, and even before but there had not been any consistency before
41 the July, 2001, meeting. It was pointed out the thing that had caused hard feelings with the
42 Besendorfor family was they felt the requirement to install curb, gutter, and sidewalk came after
43 the fact rather than at the time they got approval for their subdivision and twin homes. They felt
44 there should be some consideration from the City on the invoice sent to them for \$4,900. Mayor
45 Phillips felt the City had been consistent with their requirement since the meeting in July, 2001.
46 Mayor Phillips and Mumford tried to put together additional history based on their recollection

1 of the events. Councilmember Lange indicated he had been supportive of putting the road in on
2 200 West. Anderson said the City paid for the road, not Besendorfors but that John
3 (Besendorfor) paid for his share of the sidewalk. Anderson discussed the fact the City had put
4 into place deed restrictions but he could not find anywhere in the minutes that the City had put
5 this group on notice that they had to sign a deed restriction. Guymon said the reason they signed
6 the Site Improvement Agreement document was because they could not get a building permit
7 until they did so. Guyman indicated he had met with Mark Smedley, the City Attorney, and it
8 was agreed the issue needed to be resolved by the City Council. Guymon, speaking for the
9 family, indicated they were willing to split the cost with the City.

10
11 Councilmember Shelton moved to split in half the cost of the \$4,900 with the Guymons.
12 Councilmember Lange made the second. The voting was unanimous in the affirmative.

13 ACTION ITEMS

14 **Resolution 2006-01 – Authorizing Signing of Checks and Transfer of Funds:**

15
16 Councilmember Lange moved to approve Resolution 2006-01. Councilmember Bradshaw made
17 the second. Voting AYE: Terry Wm. Lange, Vaun Shelton, Shari Lazenby, Jeffery Bradshaw
18 and Elizabeth Hokanson.
19

20 **Scheduling of Public Hearing regarding Application for Transportation Enhancement**

21 **Monies for Improvements to SR-113 (100 South):** An overhead depicting a pencil rendition of
22 the proposed project was shown. Anderson indicated the City had applied for funding for this
23 project twice before. He felt the project would be approved this time.
24

25
26 Councilmember Lazenby moved to set the hearing for the next meeting (Jan 19). Councilmember
27 Bradshaw made the second. No further discussion. All aye except Councilmember Hokanson
28 who had stepped out of the room during this discussion.
29

30 At this time a five-minute break was taken.
31

32 DISCUSSION/ACTION ITEMS

33
34 **Mayor Phillips – City Council Assignments:** Mayor Phillips indicated he had taken
35 painstaking effort to put the right people with the right job. The following were his suggested
36 assignments:

37 He indicated he would take all positions formerly held by Lynn Adams

38 Airport Board – David Phillips

39 Animal Control Board – Jeffery Bradshaw

40 Chamber of Commerce Representative – David Phillips

41 Grievance Committee – Terry Wm. Lange, Jeffery Bradshaw and Elizabeth Hokanson as
42 alternate

43 Health Board – Shari Lazenby

44 Historic Preservation Board – Shari Lazenby

45 Heber Light and Power Board – Terry Wm. Lange and Vaun Shelton

46 Industrial Park Board – Terry Wm. Lange

- 1 Parks/Recreation Board – Shari Lazenby
- 2 Personnel Committee – Vaun Shelton and Elizabeth Hokanson
- 3 Planning Commission – Jeffery Bradshaw
- 4 Sewer Board – David Phillips, Vaun Shelton, and Elizabeth Hokanson
- 5 WEDO – not currently functioning – reevaluate when new economic director was hired
- 6 Wasatch County Housing Authority – Vaun Shelton and Sherman Christen from the Planning
- 7 Commission
- 8 Wasatch Irrigation – Vaun Shelton and Terry Wm. Lange
- 9

10 Councilmember Lange made the motion to approve the assignments of the Councilmembers as
11 recommended by Mayor Phillips. Councilmember Lazenby made the second. The voting was
12 unanimous in the affirmative.

13
14 **Discussion in regard to Information Dissemination:** Mayor Phillips indicated he wanted to get
15 opinions from the Council on a few issues and make some clarification for his own purposes. He
16 indicated Sgt. Jason Bradley was the information specialist for the Police Department so that
17 issues involving them, whether print media, radio or television, were referred to him. Chief
18 Rhoades indicated he and Sgt. Bradley spoke for the Department as they had both been through
19 training for public information in law enforcement issues. Mayor Phillips felt the City Manager
20 should be the primary point of contact for the City. However, if there was an issue that was not a
21 day-to-day issue, it should go to the Mayor. Councilmember Shelton supported Mayor Phillips in
22 that thinking. Councilmember Lazenby disagreed and said if Mayor Phillips was not available
23 during the day and someone came to her, she saw no need to involve Anderson. “If there is no
24 need to involve him, I am not going to involve him—there is no reason to,” she said. Mayor
25 Phillips wanted to clarify Councilmember Lazenby was talking about media. He clarified to her
26 that he was talking about media coming to us with questions, not the radio show.
27 Councilmember Lazenby said that if the media came to her, there was no reason why she
28 couldn’t comment as long as she made comments as her opinion and not those of the Council.
29 “You have every right to give your opinion,” she said. “That is censorship, and I won’t support
30 it,” she continued. Mayor Phillips said no one was trying to censor anyone. What he was trying
31 to do was have a collective effort to say who the “go to” person was, whether it was an
32 emergency, a media inquiry, or otherwise. Councilmember Hokanson felt it should be left to the
33 discretion of each Councilmember. “If something is happening in a certain department, let Mark
34 take it,” she said, and continued that if the media came to her with a question, such as what do
35 you think about big box or something like that, she would say what she thought. She indicated
36 she was not going to say anything official about things that were going on in the City and be the
37 spokesman for the City. Mayor Phillips said, “That is what I’m getting at—I’m not talking about
38 taking away anybody’s opinion. If the media asks your opinion on something, you give your
39 opinion. I’m not suggesting that you can’t talk or shouldn’t talk to the media. I’m suggesting that
40 if they say ‘What’s Heber City’s position on this,’ do you feel comfortable speaking for the City
41 Council?” Councilmember Hokanson responded, “Probably not.” She continued she was not sure
42 of her answer because she was not 100% decided on this issue yet. Councilmember Lange said,
43 “I would never speak for this Council unless appointed to speak for this Council. I would give
44 my opinion--not to the newspaper, not T.V., not to be misquoted 95% of the time. Because they
45 are not going to let you see the article before they put it in the paper. Personally, I would not do
46 that and would recommend again that you think very long and hard about saying the City has

1 made this decision or this decision if it is not passed in the minutes.” Councilmember Bradshaw
2 said, “As far as talking to the media or anybody like that, I would refer, I believe I would defer to
3 the City Manager as far as what the City’s policy is. I guess I have been involved in government
4 too long to know that-I’ve been in too many meetings to see that usually people are misquoted.
5 Usually it causes problems. If someone comes to me and has a concern, I’m sure I’d listen to
6 their concerns and try to advise them as to where to go to get their answers. But as Terry said, if
7 they want to know what the official position of the City Council is, and the Council has voted on
8 something, talk to the City Council.” Councilmember Lazenby said she would also give her
9 opinion but would never say she was the official spokesperson for the City. She said she was
10 only one out of five and would never say she was the official spokesperson. Mayor Phillips said
11 that was a better way to start the discussion. He indicated his concern was not that someone on
12 the Council answered a question. He commented that everyone had opinions and everyone was
13 entitled to share opinions. The issue he was looking at was the Council’s opinion on something
14 and/or the City’s position. He said it was difficult to speak for the Council unless they had voted
15 on the issue. Either talk to the rest of the Council and get their opinions or refer the issue to the
16 City Manager as he was the public information officer or spokesperson for the City. He did not
17 think Anderson was going to “stick his neck out” or he wouldn’t recommend he be the “go to”
18 person. If Anderson wasn’t available, they should go to the Mayor as most Mayors speak for
19 their cities. Mayor Phillips said “When you use the term censorship, Shari, that’s not what I’m
20 getting at.” “We’ll get to that later,” she said. “I’m not getting at censorship—yes we will get to
21 that a little later as I would like the Council to share their opinions on that, too,” Mayor Phillips
22 said. He recommended there be an understanding among the Council that if they are sharing
23 their opinion on a subject with the media, make sure it is clarified whose opinion it is. But if you
24 need to refer to someone to speak for the City because you are uncomfortable or it is out of your
25 depth or its an area you don’t want to discuss, refer it to either Mark Anderson or the Mayor. He
26 said that would take a lot of pressure off of the Councilmembers and keep people out of a bad
27 positions. Mayor Phillips asked the Council if they felt comfortable with that and would adopt
28 that as their policy. Councilmember Lange indicated he felt very comfortable with that. He added
29 that it had not been his experience to not be able to get a hold of Mayor Phillips at work during
30 the day unless he was in a meeting. However, if he left a message, he always got a call back. He
31 felt Mayor Phillips was very accessible. Mayor Phillips asked the Council if they wanted a
32 motion on the issue or just wanted to have an understanding of the policy. Councilmember
33 Hokanson felt it should be unofficial so as not to get into free speech legal problems. Mayor
34 Phillips said now you have a tool. If you don’t feel comfortable with an issue, refer them to the
35 City Manager or Mayor.

36
37 Mayor Phillips asked Councilmember Lazenby about the radio station. He explained that the
38 concerns that had been expressed were that when Councilmember Lazenby goes on the radio
39 each week, she was representing the City. “The City Council can’t, I don’t believe, tell you to
40 not go on the radio. But there is a fine line when you get on and talk about City business.” “Well,
41 let me tell you,” Councilmember Lazenby said, “As I was asked to be on, it was not as I
42 represented the Heber City Council and I have never said I represent them and I have never said I
43 am giving their view. I always express that it is my opinion—this is my opinion—this is my
44 view—I am one out of five. I, too, have a letter from the Attorney General, also from Dave
45 Church, which specified I can have a radio show and you guys cannot, as a Council, or the
46 Mayor, or the City Manager, stop that from human speech act as long as I do so, as long as

1 whatever is said is in open meeting—if they were here, they would have heard it. So any
2 information that I give that is in an open meeting it is plausible to give any of those words or any
3 vote that anyone gave or a comment made as long as it is backed up by the minutes and it was
4 said in an open meeting. And it is also an open mic given to everybody else that has been asked
5 if you would come on—it is an open mic policy for you. I will tell you the one thing I find
6 valuable about it, is that it is my opinion, its my view, and I'll take stand on it and I will never
7 change it because I know people are listening to it—they know exactly where I stand on it.”
8 Councilmember Lazenby indicated she had heard people had threatened the radio station. “That
9 is inexcusable,” she said, “and if I hear of these people threatening them again, you will be
10 hearing from the Attorney General or Dave Church, again because I have a letter. You are not
11 my boss, nor is the Council—the public is my boss and they are your boss and that is who I
12 answer to. I don't answer to you guys. So if you are going to try and take me off, you are going
13 to have a fight on your hands.” Mayor Phillips responded, “ No, I think Shari, I started off by
14 saying I don't think the City Council can take you off, nor would they try to take you off the
15 radio.” “They've tried and if you want to say you haven't, I'd watch what you say because I have
16 documentation of letters you've written, I have documentation of certain people that have visited
17 the radio station and talked to them, and when they have been given threats. And if you would
18 like for me to go public with that, I will. So, I'd watch it. I'm not going to sit around and let you
19 guys play games with me,” Councilmember Lazenby responded. Mayor Phillips cautioned
20 Councilmember Lazenby to not make allegations against the employees of the City threatening
21 the radio station unless there were facts. He continued if there were facts, they should be brought
22 to the Council's attention because “we are not in the extortion business.” Mayor Phillips asked
23 Councilmember Lazenby if she, during her time on the radio, made it clear at the time that her
24 views represented herself and not the City Council. She indicated “yes.” Mayor Phillips
25 indicated that if she made it clear the opinions expressed were her own and not the Council's, it
26 would be O.K., because people have the right to their opinion. “It's a fine line when you are on
27 there,” Mayor Phillips said, but felt they had invited her to be on the radio because she was a
28 councilmember. Councilmember Lazenby indicated they had opened it up to anybody else so if
29 anyone wanted to go on and state their views, they would be more than happy to have them on
30 there. Mayor Phillips said, “If you get on there and represent the City, its not fair to the Mayor or
31 the City Council. I think you would have to agree with that. If I'm on there representing the City,
32 I shouldn't be. If you are representing yourself, that's a different issue.” “Its only as myself,”
33 Councilmember Lazenby responded. Mayor Phillips asked for comments from the Council.
34 Councilmember Lazenby, “Anyone want to share and publicly do it to me rather than do it
35 behind my back.” Councilmember Lange, “I would be careful of that.” Councilmember Lazenby,
36 “No, I want to hear, Terry.” Councilmember Lange, “If its not in the minutes—you approached
37 me about some things that you asked me about another member in town and I told you I had not
38 heard that. Tonight you just made a threat that makes it very uncomfortable to share information
39 with you in some respects. Because it doesn't stop with you if you take it to the newspaper, or
40 you take it to the radio station, you take it to the T.V. station. I hope that is only inexperience in
41 you. As you prepare and meet with these media type people that you realize that integrity is not
42 always there.” Councilmember Bradshaw indicated he had never listened to the program. He
43 indicated he was on it once as a candidate, but was too nervous to remember what he said or if
44 Councilmember Lazenby had made comments about the Council as a whole. He did not
45 remember having the impression that Councilmember Lazenby had spoken for the Council.
46 Councilmember Hokanson indicated she had nothing to say about it. She said she did not have a

1 City Council opinion about Councilmember Lazenby being on the radio. “My personal opinion
2 is, I wouldn’t do it—I wouldn’t do it on a weekly basis just—not really because of all the legality
3 things or freedom of speech, but its a very polarizing thing. People get all these opinions about
4 you and it flames emotions and it gets all these people stacked against you and all these people
5 stacked for you—I just wouldn’t do it politically myself. That’s me. You have a right to do and if
6 you want to do it, then that’s fine but as mentioned, you don’t represent the City Council when
7 you do so. Just be careful of us. Not in a threat way, but in an ‘we’d appreciate that’ way. Be
8 sensitive to the rest of us. It might come across that we’re representing someone else and I
9 wouldn’t want that to happen. But if you want to do it, its O.K.” Mayor Phillips indicated he
10 had never heard Councilmember Lazenby on the radio but a lot of people had told him they had
11 and wondered why she was talking for the City. He assured Councilmember Lazenby this was
12 not personal. He would bring this up if it was one of the other members of the Council. He felt
13 uncomfortable with anyone going on the radio and speaking for the Council, of which he was a
14 member-he would rather speak for himself. He suggested Councilmember Lazenby would rather
15 speak for herself and not have someone else do it for her. “If you are giving your opinion, I
16 would suggest you be careful and make sure you use the disclaimer and make sure you are
17 giving your opinion and not the Council’s opinion,” was his advise. He indicated he would
18 defend as strongly as anyone the right to have an opinion. Councilmember Shelton, “ I have
19 already declared myself. I am well satisfied to have the Mayor and Mark speak concerning the
20 City business.” He said the doors to the City Council meeting were wide open and if people
21 wanted to come and see what goes on with the City, they are more than welcome. He indicated
22 he would not be on the radio station. “If you want to be, more power to you,” he said. Anderson
23 indicated he had heard Councilmember Lazenby on the radio one time. “I know we are trying to
24 build an organization and a community and I felt like some of the comments I heard and had
25 been reported to be heard you say were polarizing. There is a fair amount of criticism that staff
26 has received on the radio and I would love to have the opportunity to visit with the Council on
27 those issues in a closed session where it is appropriate.” “Keep in mind we are trying to build a
28 community and not put this person against that person.” He agreed with Councilmember
29 Hokanson that there had been people that had been polarized by comments that had been made.
30 The best example of that was some of the comments former Mayor Adams made about the Big
31 Box Committee. He said that group was very upset about the remarks made as it wasn’t
32 constructive to the process. Councilmember Lazenby pointed out Mayor Adams was the Mayor
33 at the time and was speaking for the City. She was speaking for herself but had been given
34 wrong information and later made the correction. She said she apologized to the Big Box
35 Committee because she had been given wrong information. She said Mayor Adams was held
36 accountable for his comments and he apologized. “But I will tell you,” Councilmember Lazenby
37 continued, “you are the master of your own words so when it goes out, you are held accountable
38 to it. And when it goes out, you don’t know who is listening, you don’t know who is going on,
39 but when you get it as hearsay, its got somebody else’s spin on it. Cause I know for a fact of a
40 conversation and this is hearsay to me, someone who I gave you a very positive comment about
41 you and your accounting skills and everything with the audit and he came and told you about that
42 and you said I had heard different things that she had said and he said no this is what was said
43 and I appreciate him clarifying for me because you got it as hearsay and he heard it first hand.”
44 Councilmember Lazenby talked about different times things that were said were misconstrued.
45 She indicated again she had a letter from the Attorney General and Dave Church telling her what
she could say and what she couldn’t say and she followed those guidelines. Mayor Phillips

1 indicated people perceive what they want to perceive. He wanted the Council to respect one
2 another. He felt that if Councilmember Lazenby was making the effort to say her comments were
3 her opinion and not the Council's, there wasn't any more he could ask.
4

5 Councilmember Lazenby asked if it was said in a meeting this week that employees, if they had a
6 comment or question, should go to Anderson or the Mayor only and not the City Council.

7 Mayor Phillips said that was not said but rather the talk in the meeting was follow the chain of
8 command and if satisfaction was not found there was the grievance process. Councilmember

9 Lazenby asked if someone were to talk to a City Councilmember, if they would be reprimanded.

10 Mayor Phillips said it was not a reprimandable offense.
11

12 It was pointed out that within the last two weeks legal counsel had determined who had what
13 authority over the City Manager—that being the City Council and not just the Mayor. Mayor
14 Phillips indicated the City Council and Mayor were the governing body—the Mayor is included.
15 Councilmember Lazenby reiterated that the public was her boss. It was discussed that the
16 governing body were the ones to hire, fire, or discipline the City Manager. Councilmember
17 Lange wanted to make a remark to the general public as well as to the Council. He discussed that
18 the County Manager ran the County and said Anderson did run the City, but did it with the
19 advice and consent of the City Council and Mayor. He indicated that the form of government
20 chosen after Mayor Adams was elected was not an easy choice, “it was a heart tugging type of
21 meeting that we held to change the form of government.” He advised the new Councilmembers
22 to read the bylaws and City's procedures and be familiar with them. He said the Council needed
23 to be familiar with the responsibilities of the City Manager. “The Mayor does not have the right
24 to fire, appoint, or choose somebody without the consent of the City Council,” he said.
25

26 **Mayor Phillips – Board Assignments (Planning Commission, Board of Adjustment, Airport**
27 **Board, Historic Preservation, Industrial Park):** Councilmember Hokanson asked if discussion
28 could be held on the issue of the Council person being a voting member of the Planning
29 Commission instead of just the liaison. Councilmember Lange felt being on the Planning
30 Commission was the greatest training ground for City Council members that there ever was and
31 said he would not want to sit in the audience if he were a member of it. Mayor Phillips indicated
32 that if the City Council person was a voting member, that would make eight people which would
33 create a problem during a tie vote. He questioned if the chairperson should not vote. It was
34 discussed the bylaws would need to be looked at. It was decided this issue would be on the next
35 City Council agenda for further discussion.
36

37 Mayor Phillips suggested Sherm Christen be reappointed to the Planning Commission and
38 Robert Patterson be appointed to the Planning Commission to take the place of Elizabeth
39 Hokanson. Councilmember Lazenby suggested that Patterson be appointed as the alternate with
40 Craig Hansen being the regular member. Discussion that Hansen was always prepared and
41 usually went above and beyond in his study of the issues. Councilmember Lange agreed. Mayor
42 Phillips indicated that would be his recommendation if the Council was comfortable with that.
43 Councilmember Lange moved to appoint Craig Hansen as a regular member of the Planning
44 Commission. Councilmember Shelton made the second. The voting was unanimous in the
45 affirmative.
46

1 Fawcett said the bylaws were the Planning Commission's bylaws and they should be consulted
2 about any amendments. It was suggested the Council amend the City Code and ask the Planning
3 Commission to amend their bylaws to comply. Councilmember Hokanson suggested they needed
4 to include in their bylaws that training from the League was required within one year. Mike
5 Thurber indicated that when he had training for the Planning Commission, it was strongly
6 suggested a City Council member not be a voting member, but rather a liaison to the City
7 Council. He talked that the perception of the public was that the City Council was running the
8 Planning Commission when there was a voting member of the Council on the Commission.
9 Councilmember Lange indicated he had discussed the issue with Dave Church who was O.K.
10 with the Council person being a voting member. Councilmember Hokanson indicated she had
11 discussed the issue with Mark Smedley and his preference was to have a City Council person on
12 the Commission as a voting member. Fawcett suggested the Council look at State statute for
13 answers.
14

15 Mayor Phillips talked about the future and how critical the future was for Heber City. He said he
16 considered the Planning Commission one of the vital parts of the City. If a member was not able
17 to attend regularly, they needed to be dismissed by the Planning Commission. If the Planning
18 Commission did not step up and do that, he would try and see that they were dismissed. He said
19 he planned to send a letter to the Planning Commission and thank them for their hard work and
20 let them know he understood how critical their role was for the City and other feelings such as
21 attendance and training.
22

23 Mayor Phillips recommended that Mike Johnston be reappointed to the Board of Adjustment and
24 Paul Royall III be appointed to take the place of Jeffery Bradshaw.
25

26 Councilmember Hokanson moved to accept the recommendation of Mayor Phillips to reappoint
27 Mike Johnston to the Board and Adjustment and Paul Royall III as a new member to take the
28 place of Jeff Bradshaw. Councilmember Lange made the second. The voting was unanimous in
29 the affirmative.
30

31 Mayor Phillips indicated he would be prepared next meeting to appoint persons to the Airport
32 Board. Councilmember Lazenby suggested Dave Robinson. The Council felt good about that.
33 She also suggested Beth Schneider as a member.
34

35 Councilmember Bradshaw moved to appoint Dave Robinson to the Airport Board to replace
36 Nelson Carter. Councilmember Lange made the second. No further discussion. The voting was
37 unanimous in the affirmative.
38

39 Mayor Phillips indicated he would also be prepared to appoint members to the Historic
40 Preservation Board at next meeting.
41

42 **Review Offer to Purchase land from Heber City:** Anderson indicated he had had an offer to
43 buy land from the City that had not been advertised for sale. (old sewer farm) Mayor Phillips felt
44 if land come available for sale, the City needed to make it known to the public and let the people
45 interested in it have a change to buy and the fact that someone turned in a offer first did not give
46 anyone privilege. It was indicated the person making the offer was aware of the process

1 municipalities had to follow. Anderson said the Council had talked in the past about disposing of
2 this property as well as the old public works building property. Anderson indicated the issue
3 needed to go to the Planning Commission to let them know the City Council was interested in
4 disposing of the property. Mayor Phillips asked this issue be put on a future agenda.

5
6 Councilmember Lange indicated someone had approached him wanting to buy a piece of ground
7 that was landlocked and unable to get sewer to it because of the lack of frontage.

8
9 It was discussed that if the City decided to declare property surplus, the correct process had to be
10 followed.

11
12 Anderson said someone had approached him today about buying land in the airport area that the
13 City Council had previously said they didn't want to sell. That person would probably be writing
14 a letter to the Council in the near future.

15
16 It was indicated the Council wanted to address this issue in two weeks on a Work Meeting
17 Agenda as well as at the retreat.

18
19 Councilmember Shelton moved to not accept the offer to purchase property as the City had no
20 land for purchase at this time. Councilmember Lange made the second. No further discussion.
21 The voting was unanimous in the affirmative.

22
23 COUNCIL/BOARD ASSIGNMENTS – REPORTS

24
25 No reports were given.

26
27 CLOSED SESSION

28 At 9:38 p.m., Councilmember Lange moved to go into Closed Session to discuss personnel and
29 pending litigation pursuant to Section 52-4-4 of the Utah State Code. Those going into Closed
30 Session: Mayor Phillips; Councilmembers Lange, Shelton, Lazenby, Bradshaw and Hokanson;
31 City Manager Mark Anderson; and City Recorder Paulette Thurber.

32
33 At 11:20 p.m., the Council returned to Open Session.

OTHER ITEMS AS NECESSARY

As there was no further business, the Heber City Council Meeting of January 5, 2006, adjourned.

Paulette Thurber, City Recorder