

1 Heber City Corporation
2 City Council Meeting
3 01/15/2009

4
5 7:00 p.m. REGULAR MEETING
6

7 The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on January 15,
8 2009, in the City Council Chambers in Heber City, Utah.
9

10 Present: Mayor David R. Phillips
11
12 Council Members Jeffery Bradshaw
13 Elizabeth Hokanson
14 Eric Straddeck
15 Nile Horner
16 Robert Patterson
17
18 Also Present: City Manager Mark K. Anderson
19 City Recorder Paulette Thurber
20 City Engineer Bart Mumford
21 City Planner Anthony Kohler
22 Chief of Police Ed Rhoades
23

24 Others Present: Chuck Warren, Helen Warren, Brendon Hyde, Steve White, Keith Johansen,
25 Blaik Baird, Kristine Nichols, Russell Morgan, Jenny Williams, Ann Horner, Jenifer Kelson,
26 Scott Smith, Eric Johnson, Neil Morkel, Tracy Emmanuel, John D. Emmanuel, Mike Thurber,
27 Randy Birch, Brigham M. Ashton, Glenda Straddeck, John Olch, and others whose names were
28 not legible.
29

30 Pledge of Allegiance: Councilmember Jeffery Bradshaw
31 Prayer: Councilmember Elizabeth Hokanson
32

33 Minutes: December 18, 2008, Regular Meeting
34 Councilmember Hokanson moved to approve the December 18, 2008, Regular Meeting minutes.
35 Councilmember Bradshaw made the second. Voting AYE: Councilmembers Bradshaw,
36 Hokanson, Straddeck, Horner and Patterson.
37

38 **OPEN PERIOD FOR PUBLIC COMMENT**
39

40 Mayor Phillips invited anyone who wanted to address the Council on any item not already on the
41 agenda to do that now.
42

43 Tracy Emmanuel asked to address the Council about a community food co-op, bringing it to
44 Heber City, and using the gym area of the Police Department for distribution of food. She said
45 she and Jodi Medlock had approached Chief Rhoades, Mark Anderson and Councilmember
46 Horner about possibly using the Police Department building once a month for a couple hours.
47 She indicated the cost of the food was very reasonable and, in this economy, that was a necessity.
48 Chief Rhoades said the gym was an area in the building used for training and other City
49 functions. Some of the concerns he expressed were about security issues, no public restrooms in
50 the building, and janitorial services. Tracy said the people would only be in the building for five

1 minutes when picking up their orders. She said Jodi had committed to be in the building as an
2 employee and if she couldn't for some reason, John Emmanuel, a City employee, would go with
3 Tracy and be the employee on duty. Tracy said she and Jodi would pick up the food in Salt Lake
4 City and bring it back to Heber. She said that way people would not have to drive to Park City
5 for their food pickup as they do now. Tracy talked about the co-op concept.

6
7 Councilmember Hokanson wanted this as a discussion item on the regular agenda. Chief
8 Rhoades said he had had dozens of people ask to use the gym and up to now, the City had never
9 allowed that. He said a couple years ago the Council had agreed to allow the use if there was a
10 person there to oversee. He again expressed concern with security, particularly with the
11 "evidence room" being near by. He suggested, if one organization was allowed to use the
12 building, there would be many other requests.

13 14 APPOINTMENTS

15
16 **Wasatch County School District – Discussion in regard to Impact Fees for the new high**
17 **school:** Mayor Phillips welcomed the School District representatives. Keith Johansen introduced
18 the members of the School Board attending with him: Ann Horner, Kristine Nichols, Blaik Baird
19 and Jenifer Kelson.

20
21 Councilmember Horner declared a conflict of interest and recused himself from voting on this
22 matter because his wife was currently the president of the School Board. Councilmember
23 Patterson also declared a conflict of interest. He said he worked for the School District as did his
24 wife.

25
26 Johansen said he appreciated the opportunity to address the Council, appreciated the effort that
27 had gone into this issue already, and appreciated that the fees were lower than they had been
28 originally because of that effort. He said the School District valued their relationship with the
29 City.

30
31 Johansen explained the new high school was currently being built and the District had already
32 spent, in infrastructure costs, well over 2 million dollars. He said they had John Robson, Fabian
33 Attorneys at Law, review City Ordinance and State Statues and it was the opinion of their legal
34 counsel that the City could reduce impact fees based on unusual circumstances. He suggested
35 that closing an old building and opening a new building was an unusual circumstance. He said
36 they recognized the City was under stressful financial times right now but pointed out the
37 District was in similar circumstances because of State funding cutbacks. Johansen passed out a
38 letter from Mr. Robson and then read from it discussing the three ideas that Mr. Robson felt
39 allowed the City Council to waive the fees. He said they knew the assessment fees varied State
40 wide and it was obvious there was not a consensus of opinion. He encouraged the City Council
41 and School Board to continue dialogue but to remember the School District had already spent a
42 considerable amount of money on infrastructure. At this time he and the School Board asked the
43 Council to waive the fees or reduce them substantially.

44
45 Mumford said this was a tough issue that the City dealt with on every new business or building
46 that came to town. He explained the purpose of impact fees was to pay for upsizing of services,
47 etc., as the City grew. He reviewed the process and said growth was paying for the cost of
48 services the City would ensure. He said there were four types of impact: storm water, water,
49 sewer and streets--in this case the storm water did not apply as storm water would be retained on
50 site. He said, too, the District had requested credit from their existing building, which had been

1 given. He said the fees originally would be about \$450,000 but by transferring credit from their
2 old building, it brought the figure down to \$172,000. In bringing the credit over, it eliminated
3 the water impact fee. The balance now was about \$14,000 on sewer plus the cost of the street
4 impact. Mumford explained impact fees were primarily figured on square footage and traffic
5 studies.

6
7 Councilmember Straddeck questioned the attorney's opinion that there would be no new impact
8 as the building was double the size and there would be growth. Discussion about the maximum
9 growth of student numbers.

10
11 Discussion about the formulas used to figure impact fees. Mumford said the formula used was
12 specific to high schools and he was using the median through all the studies. Councilmember
13 Straddeck said he did a lot of analysis and did not think square footage was a good driver. He
14 thought it should be the number of students. Mumford discussed the problems with determining
15 impact based on number of students and said there were a lot of variables when not using the
16 National Standard. Mayor Phillips asked Mumford to look at the number of students. Mumford
17 said there would have to be traffic study done and refined studies because he did not have the
18 ability to do that with the information and tools he had. Councilmember Hokanson said she
19 wished there was no costs for anything; however, that was not the case. One of the sticking
20 points for her was that there was an impact even though there was the same number of students
21 being transferred. She continued, the fees were not a fee for fun or to get money from someone,
22 but rather for services. It was suggested there was no impact fee paid 45 years ago when the
23 original high school was built. Councilmember Hokanson explained that if the fees were waived
24 for the school, the fees still have to be paid from somewhere.

25
26 Blake Baird indicated the District was facing budget cuts, too...staff, teachers and aids. He said
27 they would be cutting instead of increasing and would, at some point, have less impact from the
28 new school as that of the old school. He did not feel they were increasing impact now, because
29 they were moving the same number of students into the new school from the old school. He
30 suggested there may be more impact in the future, but not now.

31
32 Ann Horner indicated the District had upsized the water and sewer lines and built the roads per
33 City standards and had paid for that already. Mumford said that as far as upsizing, they had to
34 extend outside water to the project and roads had to be built and extended. However, he said
35 there was available reimbursement associated to any upsizing, they were only responsible for
36 their requirements, and the City would reimburse them for upsizing. Another possible
37 reimbursement, he said, was if anyone connected to the lines they installed because of
38 development, the City would collect and then reimburse the School District. Mumford explained
39 growth paid for impact so existing residents didn't have to pay—"The costs don't just
40 evaporate," he said.

41
42 Councilmember Horner said his opinion was that there was no impact right now because they
43 were moving the same amount of students from one school to another. He said impact fees were
44 for new growth, but there was no new growth or impact here. He discussed the increase in taxes
45 and suggested impact fees would constitute double taxation. Councilmember Bradshaw said
46 Heber City was going to get 175 more students because of moving the extra half of the fifth
47 grade so there definitely was a new impact on Heber City.

48
49 Mayor Phillips, referring to the attorney's letter, asked Anderson to address the Code. Anderson
50 referred to Utah State Code and read from it. He said Mark Smedley, City Attorney, and Robson

1 had been discussing this issue for a couple days. He said the State Code outlined that the City
2 Ordinance had to have a provision in it to waive fees and it currently did not have that provision.
3 He said that the Council had the ability to adjust the fee; but to waive the fee, the City would
4 have to make provisions for them to be paid some other way. He continued that one of the
5 reasons impact fees were made available to cities, was the legislature realized without that
6 adequate infrastructure, growth would be stifled. Councilmember Bradshaw wondered if
7 somehow classroom size in the old building could be compared to that of the new building.
8 “Would that be a reasonable method in determining the impact?” he asked. Mumford felt a
9 professional traffic engineer might be able to determine a different number. Mayor Phillips
10 suggested staff needed to do some additional work on the City Ordinance in relation to impact
11 fees. Mumford said the expertise to get something other than what he had come up with by
12 National Standards might be better. He discussed the previous suggestion of double taxation and
13 said the impact from residential was already being taken into consideration.

14
15 Chief Rhoades suggested there definitely would be impact from law enforcement point of view.
16 When the land was annexed, it increased the responsibility of law enforcement. He talked about
17 the increase in snow plowing and more area to patrol.

18
19 Mayor Phillips suggested this had been a good conversation and he appreciated the
20 respectfulness of everyone. He talked about where the conversation was between the two
21 attorneys and about the language in the law.

22
23 The Council wanted to hear directly from Mark Smedley and his response to the letter from
24 Robson. Councilmember Straddeck said in his mind there was impact but he was not confident
25 the number was a true impact number. He apologized for any comment made earlier that might
26 be offensive to the School Board.

27
28 Councilmember Hokanson said the Council was trying hard to work with the School District.
29 She wanted, as did the rest of the Council, to work on this further.

30
31 8:30 – 5 minute break

32
33 **Brendon Hyde – Eagle Scout Project – Food Donations for A/C Shelter:** It was indicated
34 Brendon had been in attendance at the first of the meeting, stayed for about an hour, but was now
35 gone. It was indicated the food at the shelter now would last approximately three months. This
36 project was similar to the one approved for Sean Spiva about a year ago. The Council approved
37 this project based on the need for food at the Shelter.

38
39 **Helen and Chuck Warren – Discussion in relation to Farmer’s Market being cancelled**
40 **during the week of the Wasatch County Fair Days:** Chuck Warren said they had been asked
41 by the County Council to not hold Farmer’s Market during the Wasatch County Fair. They were
42 asked last year but because the request had come in so late, they were not able to cancel their
43 entertainment, etc. The question he asked was why shut down during Fair Days. He said both he
44 and Helen were involved with other things during the Fair as well as the Market. He said as far
45 as the Fair, they co-chaired the food department this year. He talked about the many other things
46 they participated in during Fair Days. He suggested people could support both the Market and
47 the Fair. He said only two livestock weigh ins and the talent show coincided with the Market and
48 suggested it was different clientele that attended the two events. Warren indicated they had asked
49 some of the people attending the Market last year about any possible conflict and all felt there
50 was none. He said as far as the vendors, it would be very hard to shut down for a week and the

1 farmer vendors would really be hurt as they harvest the night before. Warren said they had
2 worked very hard to get the vendors they had now. He said when the market first started, they
3 had about 10 vendors and now they had 70 or 80. He indicated there were other markets that
4 would like Heber's vendors. He said they surveyed the vendors last year, as well, and none felt
5 there was a conflict and in fact, several vendors supported both events. He pointed out this was
6 peak season, when the crops were ready. Again Warren said he felt Heber City was large
7 enough to handle both events and asked the Council to continue to support the Market during this
8 week.

9
10 Councilmember Bradshaw asked if they saw any difference in the numbers in the crowd that day
11 during the fair. Warren said yes he saw a difference, there were more people. Councilmember
12 Bradshaw said he was in favor of holding the Market during the Fair. Councilmember Hokanson
13 agreed. Warren suggested if we as a market was committed to the vendors, they were committed
14 to this Market. Councilmember Patterson felt the Market augmented the Fair. He did not think it
15 affected the talent show negatively.

16
17 The Council indicated they wanted to continue the Market consistently on Thursday nights.

18
19 Anderson said the Warrens had done a very good job and had worked very hard in behalf of
20 Heber City with the Farmer's Market.

21
22 **Russell Morgan – Request to change/expand his Business License Status from Tavern to**
23 **Private Club – Location: 1320 South Daniel Road:** Randy Birch, Attorney, addressed the
24 Council. He said Morgan was looking for an opportunity to expand from a beer bar to a private
25 club. He pointed out Chief Rhoades had indicated in a staff report that there had been no
26 problems at the location. An overhead was shown of the location and the new roadways that
27 would be built based on the Boyer Project.

28
29 Councilmember Bradshaw moved to approve the Private Club License for the Russell Morgan
30 business located at 1320 South Daniel Road. Councilmember Horner made the second. No
31 discussion. Voting AYE: Councilmembers Bradshaw, Hokanson, Horner and Patterson. Voting
32 NAY: Councilmember Straddeck.

33
34 **Steve White – Request to extend the recordation of the Center Pointe Subdivision for a**
35 **one-year period – Located at approximately 800 East Center:** Councilmember Hokanson
36 approved the request to extend the recordation of the Center Pointe Subdivision for a one-year
37 period. Councilmember Bradshaw made the second. No discussion. Voting Aye:
38 Councilmembers Bradshaw, Hokanson, Straddeck, Horner and Patterson.

39
40 Steve White asked to address the Council on impact fees. He said he had four houses in Heber
41 that have not sold. So the City had about \$89,000 in impact fees that was not being utilized
42 because the houses were empty. White encouraged the Council to charge impact fees to the
43 School District.

44
45 White explained this project had been acquired from Nelson Carter a year ago and was asking
46 the City for forbearance for the next few months. Anderson explained to him this would only
47 give him until March 2009 to record since the subdivision was originally approved in March
48 2007.

1 **Neil Morkel – Heber Gateway Plaza Commercial Development – Application for Special**

2 **Assessment District:** Morkel talked about using the Special Assessment District tool with this
3 particular development. He said it was like all the stars being in line because everyone benefited.
4 He suggested the Municipal Bond Market was more stable at this time. An overhead of the area
5 was shown. Morkel reviewed the overhead and the way it would be affected by a Special
6 Assessment District. He discussed the continuation of the road through the development and
7 suggested good traffic continuation was vital. He said the Assessment would also include the
8 widening of 1200 South. He indicated there were people from IHC Real Estate and Bond
9 Counsel attending tonight to answer questions from the Council.

10
11 Mayor Phillips referred to the letter from IHC. Discussion about the road being “required by
12 law” or not as written in the letter from IHC. Anderson said he had talked with Tom Uriona and
13 that IHC was open for additional discussion.

14
15 Anderson talked that the roadways in the Gateway Plaza Phase 1 were private and Phase 2 had
16 been approved like that, as well. A Special Assessment District would not allow for private roads
17 so, if approved, the plat would have to be amended. Mumford explained the private roads in the
18 first phase were narrower than those proposed in this new proposal by Morkel. To make them
19 public, they would have to be larger.

20
21 Anderson said in recent conversations with Zions Public Finance, there was not a lot of demand
22 for this type of debt. There would have to be some due diligence that there would be financing
23 available. Anderson said there should be something unique to the development in order for the
24 City to participate. Otherwise all development would want to go this route. Discussion about the
25 transportation elements of this plan and the benefit to the City, hospital and others. Eric
26 Johnson, Bond Counsel, discussed the purpose of a Special Assessment District. Anderson
27 explained the billing and collection process with the 1200 South Special Improvement District.

28
29 Councilmember Horner said he was against this because the City might want to do a Special
30 Improvement District on the bypass road. Anderson explained the City was not responsible for
31 payment, but just lent their name on the bond and that the property owners were still the
32 responsible parties for payment. Johnson talked about the law requiring a 3 to 1 ratio on value.
33 He thought there would be multiple values to that with this land. Councilmember Horner
34 expressed concern with the City’s ability to get additional bonds if they entered into this
35 agreement. Johnson said the City’s capacity to bond would not be affected by this.

36
37 Mayor Phillips talked about the two phases. Uriona, IHC Real Estate, discussed 500 East and an
38 agreement that was made between the IHC and Heber City and that at such time the City deemed
39 the road to be necessary, they would honor that commitment. He said they needed to understand
40 the ramifications of this project to the hospital but were willing to “come to the table and talk
41 about it.” He said they were not opposed to the idea, they just wanted to understand the full
42 effect on them.

43
44 Johnson said the Council would first have to adopt a Resolution that outlined the estimate of the
45 project. Appraisals would then be gotten. Then an independent financial analysis would have to
46 be done. He said those things were required by law. After that the Council would decide to create
47 the SID or not.

48
49 John Olch, a property owner in the area, indicated he had talked with others about this concept
50 and he was in favor of the City creating the SID. Uriona said they were pretty neutral because

1 the hospital had good access now; however, on the other side of the coin, they wanted to be a
2 good neighbor. Mayor Phillips felt this might be a benefit and have advantages, but appreciated
3 Councilmember Horner's concern and wanted to make sure the City planned appropriately.
4 Morkel said the Baptist Church was substandard, did not meet the needs of its congregation any
5 more, and they were in agreement with this plan. Councilmember Hokanson was in favor of this
6 with the tying in of Airport Road and 500 East. She felt the impact would benefit the future of
7 Heber City in development and traffic flow and fit in with the bypass and everything else the
8 City was trying to do right now in that area. Uriona said IHC was looking to expand and that is
9 why they purchased the Clyde property. He said they were comfortable with the road alignment
10 as shown on the overhead.

11
12 Anderson indicated if the Council was interested, they needed to have Mr. Johnson outline the
13 steps, initiate the appraisals, and determine if the ratios could be met and the City would need to
14 proceed with the amendment to the Subdivision. Anderson continued there needed to be ongoing
15 conversation with IHC to make sure the proposal made sense to them. He said again there was
16 language in the letter from IHC that gave him concern but felt it could be worked through.

17
18 Mayor Phillips asked what the likelihood was that phase 3 would not happen. He thought that
19 would be important to the decision. Councilmember Straddeck said he was not convinced this
20 was in the best interest of the City. He did not see why the pink area, referring to the overhead,
21 would be part of the SID. Councilmember Horner indicated he had a lot of concerns. Mayor
22 Phillips discussed the possible benefit to the City and that this would speed up the development
23 and the roads in this area. Councilmember Horner said he was in favor of speeding up the bypass
24 road.

25
26 Councilmember Hokanson moved to continue this issue so the Council could get more
27 information and work out details with IHC. Anderson indicated the Planning Commission and
28 City Council would need to amend the plat and the developer needed to proceed with that first.
29 Then IHC had to get some level of comfort as to their obligation to make sure they were on
30 board. Anderson suggested that from staff perspective, if the connection could not be made to SR
31 40, it might not be as worthwhile to the City. He asked if Council wanted a roadmap from Bond
32 Counsel. Councilmember Patterson made the second. No further discussion. Voting AYE:
33 Councilmembers Bradshaw, Hokanson, Straddeck, Horner and Patterson.

34
35 Anderson asked if making the Planning Commission aware that the Council was interested in
36 this was the direction they were going or was there a need to learn more about the bond situation
37 and then send more direction to the Planning Commission. Councilmember Bradshaw wanted to
38 see a roadmap from the Bond Counsel first.

39
40 John Olch asked to speak. He said the bond process for him would greatly accelerate the time
41 table on the next phase and that the second phase provided the vehicle for the third phase. He felt
42 that without the bond, that process would be greatly slowed down. He felt that if the City felt
43 there was a benefit, the bond concept provided a vehicle to make this viable; but, minus the
44 bond, the blue area (referring to the overhead) would not happen and the pink area would be
45 dramatically slowed. Councilmember Horner said he wanted to discuss this among the Council.
46 Anderson again asked the Council if they wanted a roadmap for a timeline and the legal process.
47 It was indicated yes. Eric Johnson said he would provide that.

48
49 **ACTION ITEMS**

1 **Approval – Amended Annexation Agreement – Blue Ox Annexation located at**
2 **approximately 700 North on the East side of Highway 40:** Councilmember Bradshaw moved
3 to approve the amended Annexation Agreement for the Blue Ox Annexation located at
4 approximately 700 North on the East side of Highway 40. Councilmember Straddeck made the
5 second. Voting AYE: Councilmembers Bradshaw, Hokanson, Straddeck, and Patterson. Voting
6 NAY: Councilmember Horner.

7
8 **Appointment/Reappointment to the following Boards:**

9 Planning Commission 6-year term (Kieth Rawlings 2009)
10 Planning Commission 6-year term (Mark Webb 2009)
11 Board of Appeals 5-year term (George Bennett 2009)
12 Airport Advisory Board 4-year term (Norm Eiting 2009)
13 Airport Advisory Board 4-year term (Kathryn Berg 2009)
14 Airport Advisory Board (David Remington 2011) remaining two years of Remington
15 term

16
17 Mayor Phillips recommended reappointment of Kieth Rawlings, Mark Webb, George Bennett,
18 Norm Eiting and Kathryn Berg to the above listed Boards/Commissions.

19
20 Discussion about the same people serving over and over and if new names should be considered
21 by the Council. Anderson explained these appointments were Mayoral appointments with
22 ratification by the Council.

23
24 Councilmember Hokanson moved to reappoint those names listed based on Mayor Phillips’
25 recommendation. Councilmember Patterson made the second. No further discussion. Voting
26 AYE: Councilmembers Bradshaw, Hokanson, Straddeck, and Patterson. Voting NAY:
27 Councilmember Horner.

28
29 It was suggested an invitation be put in the City Newsletter asking for interest from anyone that
30 would want to serve on the Airport Advisory Board to fill the seat of David Remington. Mayor
31 Phillips also encouraged the Council to provide names to him if they knew of anyone having the
32 desire to serve Heber City in some capacity.

33
34 **CITY COUNCIL BOARD ASSIGNMENT REPORTS**

35
36 Wasatch County Housing Authority – 1st Wednesday
37 Wasatch County Weed Board – 1st Wednesday
38 Heber City Planning Commission – 2nd Thursday
39 Wasatch City/County Health Department – 4th Tuesday
40 Heber Light and Power – 4th Wednesday
41 Heber City Planning Commission – 4th Thursday
42 Historic Preservation – As Needed

43
44 No reports were given.

45
46 As there was no further business to conduct, the Regular Meeting of the Heber City Council held
47 on January 15, 2009, was adjourned at 11:05 p.m.

48
49
50

Paulette Thurber, City Recorder