

Heber City Corporation
City Council Meeting
01/17/2008

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on January 17, 2008, in the City Council Chambers in Heber City, Utah.

Present:	Mayor	David R. Phillips
	Council Members	Jeffery Bradshaw Elizabeth Hokanson Eric Straddeck Robert Patterson
Excused:		Nile Horner
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: Tuck Lowe, Delynn Roeback, Maralee Burns, Renard Richter, Tony Furness, Wayne Hicken, Lance Higgs, Mark Rounds, Joe Dunbeck, Chuck Richins, Scott McEuen, Mike Thurber and others whose names were not legible.

Pledge of Allegiance: Councilmember Elizabeth Hokanson
Prayer: Councilmember Eric Straddeck

Mayor Phillips welcomed those in attendance. He excused Councilmember Nile Horner as he was out of the State.

OPEN PERIOD FOR PUBLIC COMMENT

Delynn Roeback, Rocky Mountain Power, said that as a courtesy to Heber City, he wanted to make the Council aware of an action Rocky Mountain Power would be taking. He said they had been in meetings with Heber Light and Power for over a year regarding disputed areas of service and to date they had not been able to come to an agreement. He said at this time they intended to proceed with a complaint to the Utah Public Service Commission to help resolve the issue.

CONSENT AGENDA

Local Consent, Class A Beer License – CK Management LLC dba Circle K – 595 South Main Street: Councilmember Hokanson moved to approve the Consent Agenda allowing for a Class A Beer License to CK Management LLC dba Circle K at 595 South Main Street. Councilmember Patterson made the second. The voting was unanimous in the affirmative. Councilmember Horner was absent.

APPOINTMENTS

Lance Higgs – Requesting a Discount on the purchase of Cemetery Lots in Recognition of Past Service to Heber City: Mayor Phillips gave a brief background to the new Councilmembers and said Higgs had worked for the City for several years as the Director of the Public Works Department. At a meeting a month ago, Higgs presented some documents about his accomplishments when he worked for the City. It was indicated that when Higgs was employed with the City as the Public Works Director, the City had a smaller staff, less equipment, and a tighter budget. It was indicated Higgs had asked for a discount on graves in the amount of \$350 or the approximate perpetual care cost.

Higgs said this came about with the death of his daughter and that it had been hard for him to accept her suicide. He said she was an accomplished person. Higgs said he had put off buying plots for his family because at the time, the City was in the process of expanding the cemetery and there was a dispute as to where the upright section was going to be and he wanted in that section. Higgs pointed out that when the City raised the price of graves, the current employees were offered the old price on the graves and the City would carry the contract over a period of time. Higgs said when his daughter died, he bought 10 graves for his family. He said he considered what the City did for the other employees was a discount and he felt he deserved the same consideration. Higgs said he talked to Councilmember Lange and had been assured of a discount. However, when the issue came before Council, they denied the request. He said he was disappointed in that decision. Higgs indicated it wasn't so much the money but a thank you for the good job he did that he really wanted. He felt he was treated inconsiderately by employees and City staff. He said he was not asking for something for nothing. He did not feel he got credit where credit was due.

Mayor Phillips said there was good news as an individual had stepped forward and wanted to give Higgs the \$350. Mayor Phillips asked the Council if they would approve having a plaque made up in recognition of the service Higgs had given the City.

Councilmember Bradshaw made a motion to have a plaque made for Higgs. Councilmember Hokanson made the second. The voting was unanimous in the affirmative. Councilmember Horner was excused. It was indicated in a few weeks, Higgs would be invited back to a meeting to recognize him and give him the plaque.

Ivory Development – Subdivision Final Approval – Mill Road Estates Phase III – A 45 Lot Subdivision located at approximately 400 South Mill Road: Brad Mackey represented Ivory Development. He said this was the last phase of Mill Road Estates Subdivision and they had

been working on this for a year and a half to get to this point. Mayor Phillips talked about the HOA, being glad for that being put into place which would then ensure getting the sidewalk snow cleared for the children walking to school.

Anderson indicated the Council had proposed language in their materials for an additional paragraph (P) to be added to the Subdivision Agreement.

Councilmember Hokanson asked about the FEMA issues along the canal. Mackay said those issues had all been resolved. Councilmember Straddeck asked about the plans for landscaping on the sides of the canal. Mackey said, per the approved plans, Ivory Homes would do the landscaping but that the State had to approve that landscaping which would be native plants and grasses. Anderson said the Council was aware of an ordinance the Planning Commission was looking at that would change the setbacks and allow for a four or five foot strip along the sides of the channel. This would give more right-of-way to provide more safety and aesthetics along the canal. Anderson asked Mackay if the Council did adopt an ordinance as discussed, would Ivory Homes be willing to re-plat the subdivision. Mackey said yes. An overhead was shown of the current proposal and the proposal with additional landscaping. There was discussion about the channel, the depth, the capacity, flooding, etc.

Mayor Phillips asked about the Easement Agreement and if approval needed to be based on that. Discussion about that Agreement between Hicken, Ivory Homes and Heber City and that Hicken wanted to revoke the easement. Anderson said he had looked closely at the Agreement and believed there was a valid easement in effect. Hicken maintained the Easement Agreement was signed in 2005 and the notary public did not actually see him sign the document which would make it invalid. Hicken said his attorney was looking at the easement, the issue of the notary public and was in the process of writing a letter. Hicken said he gave that easement based on his ability to develop his property. However, when he tried to buy some land from the City, the cost was prohibitive and excessive. He then thought he would put in a cul-de-sac on the property but the City wouldn't allow that because it was longer than 800'. So he decided if he couldn't develop, he would revoke the easement. He asked why he should grant an easement across his property when he couldn't do anything with it. Discussion about putting in a box culvert, the expense of that and not being able to afford to develop. Mayor Phillips discussed the easement problem and questioned if that issue needed to be resolved before approving the subdivision. Anderson suggested if the Council approved this, they should do it based on the easement being worked out.

Councilmember Straddeck asked about the channel and if there would be a fence. It was indicated yes. Discussion about the height. Councilmember Straddeck asked if staff felt that was safe and providing the safety the City needed. Anderson said there was discussion among planning staff about 3' or 4' fences and visibility. Mackay said the intention was to match what was already in the subdivision. Discussion about the safety of a vinyl fence and that there would be a curb, as well. Mumford said from the engineering side, the reason he recommended the fence was to give something to remind the drivers of the channel. He said it was not meant to keep kids out but to give a visual delineation. He continued he didn't want a big barrier, because people had to get in there to keep it cleaned out and looking nice--it was more for motorists to a visual

aid. Mumford said, too, most of the year that channel was dry but during spring run-off, it might have one foot of water.

Councilmember Hokanson discussed the problem of the set backs. She said she calculated it out and if the City gave 10% it would mean the City would be giving them 1100 square feet; yet to accomplish the additional setback along the canal, they only needed 400 square feet. She felt if the Council was going to grant a set back, it needed to be in conjunction with the need for the canal and not any extra. Discussion.

Discussion about the sidewalk along Mill Road. Mumford said anything not meeting current specifications would be replaced.

Mumford said he and Mackay talked right before the meeting about an easement versus a dedication to the City. Mackay said the lots along the canal were large lots and he would be O.K. with a dedication.

Discussion about sewer flow from the different lots. Discussion about a provision in the subdivision agreement not allowing driveways onto 820 East for lots 310, 318, 323, 324, 334, and 335.

Hicken discussed another issue relating to the Lake Creek Canal and Wasatch Canal and that being redlined and nothing being done about it. Mackay clarified there was an existing 48" pipe (Lake Creek Canal) that went under the Wasatch Canal now and the City had asked Ivory Homes to remove that pipe and put a box culvert in. Mumford said the engineering drawings would be revised to take care of that issue.

Councilmember Hokanson moved to grant Subdivision Final Approval to Mill Road Estates Phase 3 and the Subdivision Agreement as presented plus adding a paragraph "P" as proposed by Planning Staff to the Agreement. The approval of the subdivision was conditioned on all engineering issues being resolved, and with the understanding if the easement agreement between Hicken, Ivory Homes and Heber City turned out to not be binding, the developer would not be able to sell the lots, dedication of the land to the City along the canal rather than an easement and lots 310, 318, 232, 324, 334 and 335 not having driveways exiting onto 820 East. Councilmember Straddeck made the second. The voting was unanimous in the affirmative. Councilmember Horner was absent.

Renard Richter – Developer of Sherman’s Landing Subdivision – Discussion regarding proposed Sewer Easement that would allow the Elimination of a Sewer Pump Lift Station:

Mumford reviewed this issue by saying that when approved, the sewer at Sherman’s Landing and The Meadows at Southfield would be serviced by a lift station and pumped to 1200 West. He said originally they wanted to run the sewer line to Midway Lane but they were not able to make that work. He said the lift station would be maintained by the HOAs of the subdivisions. Since that time, Richter had visited with Ernie Giles and they had come to a tentative understanding of a sewer easement on Giles’ property allowing for gravity flow rather than the lift station. Consequently, the request tonight was to modify the agreement to eliminate the lift station and gravity flow the sewer. He discussed the concerns about sewer lines out of the City limits and

also this was the bypass area. He questioned if a gravity flow line would create lots of growth in the area. However, as far as maintenance, Mumford said to get rid of a lift station was a positive to him. Discussion about the type of homes being built depending on pump station or regular line. Mumford said the ground water was still being studied but was a different issue.

Renard Richter, owner of Sherm's Landing, indicated the greatest challenge was that he was trying to move forward as economically as possible. He said he had issues with putting in a lift station if a gravity line could be placed. He said it only made sense to him to install a gravity flow line, if possible.

Richter indicated he had talked with Giles and they had come to an understanding. He said Giles didn't care where the sewer line was placed but that Giles did not want to give up his Special Service District (SSD) and if he had to, he would not allow the easement. Mayor Phillips discussed the issue with the sewer line in Daniels and how much it cost the developer to go through Daniels. He expressed concern with the sewer line being out of the City limits. There was discussion about the number of hook ups Giles had approved on the SSD.

Additional discussion about the concerns of Giles and Richter, the agreements in place for the Giles SSD and co-mingling, the outfall line, number of connections, metering, commercial development in the area, the placement of lines, density, zoning, costs, etc.

Anderson suggested the Council should ask Richter and Giles to put together an agreement and bring it back to the Council to look at. Discussion about what should be put into an agreement.

Richter and Giles went into the conference room to work on an agreement. After a period of time, they came back into the Council Chambers with an agreement. The Council discussed the issues they proposed. Concern expressed about the number of connections proposed. There was lengthy discussion about the number of connections and capacity restriction based on the City's need from other approved subdivisions.

Jason Boal reminded the Council they did not have to approve this at all because the subdivision had already been approved with a lift station.

Councilmember Hokanson had had a tooth extracted earlier in the day and said she was in too much pain to stay around for much more debate. She said she wanted to continue this issue or just go with a lift station. Councilmember Straddeck seemed to agree. Councilmember Bradshaw said there were a lot of unknowns and did not know if he could make a decision or not. He said he had more faith in lift stations than he used to but natural flow was preferable in any case. He indicated if it wasn't going to create problems with capacity in the line, he would say go through the Giles' property. Councilmember Straddeck said he was not prepared to say yes to something he did not fully understand. Councilmember Patterson agreed and said he did not feel he was ready to make a decision and felt the decision for a lift station should stand. He suggested, too, that Giles wanted more benefit than what the City wanted to give him. Mumford said he was comfortable with 35 units. It was pointed out Summit Engineering had engineered the line to accommodate Sherman's Landing, the Meadows and Giles. Discussion about laying two lines and keeping the systems separate.

Richter discussed Giles' 40 acres with 30 connections west of the bypass at a rate/charge of 150% of normal. He said if ever the zoning allowed for more than anything beyond that, they would have to be on a separate meter.

Councilmember Straddeck moved that the Council agreed in principal to the sewer line through the Ernie Giles property in lieu of a pump station with a limit of 30 connections west of the bypass at a rate of 150% of the average. The proposal was subject to final review of the wording in an agreement between Richter and Giles which was to be brought back to the Council at the next meeting. Included in the motion was that the Special Service District was to remain intact. Councilmember Bradshaw made the second. The voting was unanimous in the affirmative. Councilmember Hokanson had left at approximately 11:00 p.m. due to illness. Councilmember Horner was excused.

ACTION ITEMS

Review Ordinance 2008-03 - An Ordinance Amending Section 10.16.040 – Parking during Snow Cleanup Periods : Councilmember Straddeck moved to continue this issue to a future meeting because of the lateness of the hour. Councilmember Patterson made the second. Voting AYE: Jeffery Bradshaw, Eric Straddeck and Robert Patterson. Councilmember Hokanson had left the meeting due to illness. Councilmember Horner was excused. Motion passed.

Ordinance 2008-02 - A separate ordinance to allow for building permits on developments other than regular subdivisions (Per City Council meeting of 01/07/2008): Mayor Phillips reviewed that two weeks ago the Council denied an ordinance amendment to 15.08.030, Building Permit Issuance and Occupancy Requirements, and had asked staff to work towards a different ordinance that would better address the concerns of the Council expressed that evening. He indicated Mumford had put together the new proposed ordinance. Anderson suggested there were other developments that would be coming before the Council wanting permits before infrastructure was in place. Mayor Phillips said one key concern that had driven this issue was concerns with developers that sold off lots and not having the development finished. Councilmember Straddeck referred to the new proposed ordinance Section 15.08.035 (private subdivisions) and that changes proposed last Council meeting, including items such as assurance that occupancy would not happen and developer not releasing lots, were not included and wondered why. Mumford explained the proposed ordinance reviewed at last meeting was an ordinance geared for a specific situation. This ordinance was more generic. Mumford said he had to put in something for leverage and if occupancy was taken out, the bond had to be put in place. He emphasized this ordinance would not change anything for regular subdivisions. Councilmember Hokanson suggested this would be something the Council would want to reevaluate in a few months. Anderson said if the Council didn't like the way this ordinance worked, he would go back to the Building Department having the leverage.

Number 2 of 15.08.035. was discussed. Mumford explained this language was placed in the ordinance to give the City a catchall and the ability to have some control. Councilmember Straddeck asked about the last sentence in 15.08.035. Anderson said Boyer would be the only mixed-use subdivision. Concern expressed that a developer would say their development was a commercial use and only have to comply with fire protection.

Number 4 of 15.08.035 was discussed. McEeun had concerns with the four-month criteria and wanted six months. Councilmember Hokanson agreed that should be extended to six.

Councilmember Bradshaw moved to adopt Ordinance 2008-02 as presented but change 15.08.035 #4 to read six (6) months instead of four (4) months. Councilmember Patterson made the second. Councilmember Hokanson wanted to also add the City Council had authority to extend that time, if necessary. Councilmember Bradshaw amended the motion to add that language. Councilmember Patterson accepted that amendment. Councilmember Straddeck said if the bond was the leverage, was there really a need for six months extension. Mumford explained if the subdivision was not completed within six months, the bond was forfeited.

Additional language agreed to: "This provision may be extended by the City Council based on extenuating circumstances determined by the City Council. Voting AYE: Jeffery Bradshaw, Elizabeth Hokanson, Eric Straddeck, and Robert Patterson. Councilmember Horner was excused.

Review Proposed Short List - Cemetery Building Addition: Anderson said Mumford, Rounds, Councilmember Horner and he had met and reviewed the short list for the cemetery building addition. Their recommendation to the Council was to interview Ellsworth Construction and Double P. The Council indicated they were O.K. with that recommendation. It was indicated any and all the Councilmembers were welcome to participate in those interviews, if they so desired. Otherwise those four mentioned would do the interviews and make a decision to be presented to the Council.

DISCUSSION/ACTION ITEMS

Discussion – Hiring of a Justice Court Judge: Anderson said that as indicated in his staff report, Stevan Ridge had accepted full time employment in Utah County but wanted to help in the transition from his appointment as the Heber City Justice Court Judge to another person. Anderson said there would be some training available in April for new judges. He explained this was an appointment made by Mayor Phillips with the consent of the Council. Anderson asked what preference the Council wanted as far as advertising and interviewing. He suggested someone should be hired by March so that person could take the training in April. Anderson talked about the proposed new law before the Utah State Legislature which would make all Justice Court Judges full-time judges paid by the State. Councilmember Straddeck indicated he wanted to go beyond just advertising in the Wasatch Wave. He wanted advertisement in the major newspapers as well as the Wave. It was also suggested the job bank with the Utah League of Cities and Towns be used. It was felt an application period into mid-February was appropriate.

Appointment – Alternate Member to the Planning Commission: Mayor Phillips recommend Mike Thurber to serve as an alternate member of the Planning Commission. He said Thurber was qualified and willing to serve. He also recommended Craig Hansen be reappointed to the Planning Commission.

Appointment – Members to the Airport Advisory Board: Mayor Phillips recommended Brian Balls be reappointed to the Airport Advisory Board.

Appointment – Members to the Board of Adjustment: Mayor Phillips recommended Lee Logston be appointed to the Board of Adjustment.

Councilmember Straddeck asked about the procedure for these appointments and suggested he would like to have a biography or some information on the people the Mayor was recommending for appointments. He said he wanted to be informed on those recommended prior to voting. Mayor Phillips indicated the next names he submitted he would provide information to the Council prior to the meeting.

Councilmember Bradshaw moved to approve the three appointments as recommended by Mayor Phillips. Councilmember Patterson made the second. No further discussion. The voting was unanimous in the affirmative. Councilmember Horner was excused.

At 11:50 p.m. the Regular Meeting of the Heber City Council held on January 17, 2008, was adjourned.

Paulette Thurber, City Recorder

Approved 02/21/2008