

Heber City Corporation
City Council Meeting
03/18/2010

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on March 18, 2010, in the City Council Chambers in Heber City, Utah.

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

Excused: Mayor David Phillips

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

Others Present: Jim O'Neill, Donald G. Miller, Stefanie Grady, Cathy King, Korrie Hauff, Trielle Gritten, Jim Pennington, Spencer Pennington, Andrew Wilson, Tucker Glaze, Rebecca Palmer (Deseret News), Mike Thurber, Christie Erickson, Susan Ure, Brent Kelly, Mary Kelly, Robert Laird, Gordon Hancock, Lewis Garfield, Bob Underwood, Mitchel Burns, Virginia Otteson, Gary Otteson, Tyler Snyder, Ken Snyder, Tom Whitaker, Linda Whitaker, Julie Givens, Camilla Krogus, Joan Doran, Linda K. Stice, Lauren King, Kirsten Diehrich, Sausha Seus, Carsten Petersen, Josh Hancock, Colton Wynne, Glinda Straddeck and others whose names were not legible.

Pledge of Allegiance: Councilman Robert Patterson
Prayer: Councilman Nile Horner

Councilman Patterson welcomed those in attendance. He excused Mayor Phillips as he was ill and had asked to be excused. He indicated Councilman Straddeck would be a little late but should arrive at approximately 7:30 p.m.

Minutes: Councilman Mergist moved to wait for approval on the minutes until the Council had more time to review them. Councilman McDonald made the second. Voting AYE: Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist. Councilman Straddeck had not yet arrived.

Chief Rhoades indicated his Department had written a grant for about \$7,500. He said they had one radar trailer and this grant went towards another one. He said the cost of a new radar trailer was about \$10,000 so they found a used one for \$6,800. He said the trailer was outside if the Council wanted to see it and said, too, they already had requests for its use.

OPEN PERIOD FOR PUBLIC COMMENT

No comments were received.

Councilman Patterson welcomed the Boy Scouts and asked them to introduce themselves. A student from Mr. Wheatley's government class was also welcomed and was introduced.

Robert Laird – Wasatch Chevy – Summer Car Show: Laird talked about the car show they held each summer. He presented a "Thank You" plaque and a check in the amount of \$500 to the Council and expressed appreciation to Heber City for allowing the opportunity to hold their show in Heber each year. Laird requested the use of the Main Street Park again this year on June 26th. The Council thanked them for holding a good show each year.

Councilman McDonald suggested the Council implement an "Employee of the Month" Program. Anderson said there was a program in place already where Mayor Phillips recognized an employee for going above and beyond. He said the Mayor and Council were very conscientious of the good work the employees do.

Tom Whitaker/Mary Kelley – Cowboy Poetry (Tab 1): Whitaker expressed appreciation for the opportunity to give a recap of last's year's event and what was coming this year. He said they had a successful year attendance wise, energy wise, and show wise but did lose \$35,000. He explained that Zions Bank usually donated \$35,000 towards the Show but they only gave \$10,000 last year; however, they had a commitment of \$40,000 or so this up-coming year. He said they were very excited about their kick-off at Abravanel Hall with the Utah Symphony. He said personally he thought that was a very big deal. Whitaker said he knew these were very tough economic times for the City. Programs were distributed from last year's show and he said he felt they had taken them to the next level and they planned to do a similar one this year.

Whitaker said this show was more than a Gathering because what they had put together was unique from anything else that had been put together. He said that all the entertainers have said this Gathering was the best in the world. He respectively requested the same funding from the City as they received last year and suggested if Energy Solutions and Zions came through, the request next year would be less. Whitaker said the Gathering had a lot of volunteers that spent a huge amount of time. He suggested that at some time the Council had to decide what they wanted to do in the future with this event. He said he was committed this year for a gathering, but didn't know about future years. He emphasized this was Heber's Gathering to everyone outside this valley and again said the Council had to decide what they wanted to do with "your Gathering."

Mary Kelly referred to and read a letter received from a lady in New York that ran a radio show. She said everyone that made contact with them expressed their appreciation for the quality of this particular Gathering. Whitaker presented the souvenir poster for the up-coming year drawn by a Provo artist.

Councilman Patterson said he had the privilege of sitting next to Baxter Black, the greatest poet in the world. Councilman Horner said the Gathering got better every year and he thoroughly enjoyed it. Councilman McDonald said he supported every event that came into the valley; however, he suggested the Council was in the middle of the budget process right now, had a shortfall, and couldn't make a decision tonight. Councilman Horner said he did not know yet, recognized they needed to know soon, but said the Council was working diligently to get this year's budget balanced. He said he was totally in favor of supporting Cowboy Poetry but could not commit to an amount right now. Councilman Mergist suggested it would be financially irresponsible of the Council to make a commitment tonight. Whitaker said he knew there was a formula that showed what this Gathering generated for the City and thought it was four times the amount the City gave. Councilman Horner said he appreciated their work in getting new sponsors and said the City did need to decide who was going to take ownership of this in the future. He suggested the current committee (Whitaker and his staff) couldn't leave until they were dead. Whitaker said the County had expressed interest if the City did not want to take it on. Councilman Patterson said he did not want to let it go.

Stefanie Grady/Annica Burns – Friends of Animals – Euthanasia of Animals (Tab 2): Cathy King spoke in behalf of Friends of Animals (instead of Annica Burns) and said she wanted to go over a few things their Organization did. She referred to a packet which was distributed. She said they joined forces with Summit County in 2004 and their policy was “no kill” for any healthy, adoptable animal and they had been very successful. She said they adopted out about 800 animals a year and had been taking animals from Heber City since 2004. She said they encouraged spay and neuter and indicated it made more sense to keep them healthy and adopt them out and it saved money in the long run.

Councilman Straddeck arrived at this point in the meeting.

King said they had an education program to teach people to be responsible animal owners. The program taught children so that generation would grow up with knowledge and information and being responsible. In turn, they educated their parents. She said her Organization also worked with veterans--it helped a veteran, living in a shelter, to get out and return to a normal life. King continued that the path most shelters were taking was to adopt and not put down healthy animals and suggested the gas chamber was outdated. She said that several people had committed to keeping a fund in place (up to \$2,500) for a 10-year period but they needed an agreement in place to do that. She said they couldn't keep doing what they were doing here without full cooperation from the community.

Councilman Mergist said he had some questions in relation to vicious animals and feral cats and said he wanted the Animal Control Board to meet on this. (He indicated he was a member of that Board) Councilman Mergist said he wanted to meet with the Friends of Animals people and others and talk about stress to the animal. Councilman McDonald asked what Dr. Erickson's

opinion was on this issue. King said pretty much everyone was going to a shot method rather than the gas chamber method to put an animal down.

Stefanie Grady indicated she was on the board of Friends of Animals. She discussed fund raising. She talked about the start of the program at Heber and said they now had an employee at the Shelter. She indicated that employee was an employee of Friends of Animals and she was the reason this Program had been successful in Heber. She said that support in the community had been amazing and she expected it to continue to grow.

Discussion about TNR (Trap-Neuter-Release), a program for feral cats. It was indicated they had been working with Dr. Erickson to provide low cost spay and neuter and shots. It was indicated feral cats were a big problem in the valley. She said volunteer hours had gone from 22 hours to 95 hours which did not include TNR hours. She discussed the amount of dollars their Organization spent in the Heber Valley as well as the number of animals adopted. She said, to her knowledge, there had not been an animal euthanized since they took over the Program.

Councilman Patterson asked how much they proposed to cost each year. She said \$35,000. King said she was not asking the Council for this money—it would come from the community.

Councilman Mergist said he had had several conversations with Officer Hatch and he now had a lot of information to study. He suggested before the Council approved an agreement, they needed to have the opinion of the Animal Control Board. He suggested, though, the Shelter was doing well. He wanted to see the Board get together in the next two weeks and give them all the information they had gotten from Chief Rhoades and from Friends of Animals. Councilman Mergist said Officer Hatch had valid concerns, he was commendable, he was compassionate and he loved animals. He continued Officer Hatch wanted to do what was safe for his staff and the volunteers of Friends of Animals.

Chief Rhoades said when they entered into an agreement with Friends of Animals, he was hesitant. He felt it was a good move. However, there were some problems that needed to be ironed out. He wanted to make sure when the shelter was supposed to be open, it was open, when it was supposed to be closed, it was closed, and not open during hours when it didn't need to be. He referred to an agreement that had been presented about the first of the week. He said a copy had been given to the attorney who wanted some time to look it over—the attorney had some concerns as did the Chief. He said the agreement needed to go to the Board, the Animal Control Officers, and the Council--some things needed to be ironed out. He indicated doing euthanasia by injection was not the only acceptable method and said he knew this because of conversations he had had with Dr. Erickson--there were times when the carbon monoxide chamber was the way to go. He referred to comments provided to the Council with information and opinions on the issue--injection was good, but it was not the only answer. He said he was not here to argue but had talked with a number of other shelters and some that did euthanasia by injections would like to change. He said, too, the biggest turnover in animal control officers was due to euthanasia by injection. Chief Rhoades read an article about upper respiratory infections and said the City couldn't afford to have that spread in the shelter. He said Heber's Animal Control Officers cared about the animals but the last thing they wanted to do was have contaminations. Councilman Mergist said there had been some issues since this Program had started in Heber that needed to

be taken care of before an agreement was signed. He thought, as Chief Rhoades did, that this arrangement could be worked out and be a good thing; however, he didn't think it would happen in a few days because both sides of the issue had to be evaluated and the Council had to have all the information.

Chief Rhoades said in his opinion Heber's shelter had been a no-kill shelter for years. He said the Officers hold the animals and try hard to get them adopted. However, if an officer spent 30 days trying to adopt out that animal and couldn't, then it was not adoptable. Chief Rhoades referred to two model policies in the materials he had presented--he proposed the first one as being the better of the two.

Anderson asked King if their proposal was to pay for the doctor to euthanize. She said they would have a fund set up for that.

Discussion about the danger/non danger of a carbon monoxide chamber. Chief Rhoades said it was not an explosive--so the one time back East when there was an explosion, it was because of other problems.

Justin Hatch said he and Rodrick received a six hour training last week on injection. The dog they had at the training went into 15 minutes of seizures. Everyone there was in shock. He said he preferred euthanasia by gas and if his dogs needed to be put down, he wanted euthanasia by gas.

Councilman Straddeck suggested there were three things that needed to take place. Smedley had to review the proposed agreement, the Animal Control Board needed to meet, and then Chief Rhoades had a list of concerns that needed to be considered. He said he was guessing the Friends of Animals people would be asked back for final consideration of the agreement after other issues had been ironed out. He thought everyone wanted to work this out.

Julie Givens said upper respiratory was curable with antibiotics. The volunteers from Friends of Animals took care of that all the time. She said there were a lot of people that come to her and have been impressed with Heber's shelter and having it open and convenient for people.

Sausha Seus (her father being Doug Seus). Seus said she basically was hearing issues go round and round. She said Friends of Animals had come into the community on their own dime and provided a safe and humane way for animals to be adopted, had open hours at the Shelter, making it available for people to come and adopt. She said she would be willing to volunteer a day a week of her time to evaluate whatever might be considered a vicious animal as she had expertise in that field--she was a dog trainer. She wanted to know who was on the Board and wanted the public to have knowledge when the meetings were going to take place. She stressed to everyone to keep in mind the Jews. She indicated another person had recently been brought in to help with fundraising. She said the gas chamber had been deemed inhumane. It was even inhumane for prisoners. She said the animals were innocent and how could the gas chamber be humane for animals and not people. It was indicated Midway City and Heber City had a representative on the Animal Control Board, Chief Rhoades, Sheriff Todd Bonner and the

Animal Control Officers as well as a representative of Wasatch County (Kendall Crittenden). Chief Rhoades said he did believe that gas chambers had been outlawed for prisoners.

Councilman Mergist was excused at 8:30 for a family item.

Ordinance 2010-04 – An Ordinance amending Section 2.48.010 Created Membership and Terms of Office of the Heber City Municipal Code in relation to the Planning Commission (Tab 3): Councilman McDonald said that it appeared to him that Title 18 had the duties and powers of the Planning Commission listed and he wanted them moved to Title 2 so as not to be in two places in the Code. Anderson said the proposed Ordinance accomplished what Councilman McDonald wanted without taking it out of Title 18. Anderson said the intent was similar but there were some differences in the language Councilman McDonald had proposed in an earlier meeting. Councilman McDonald said he was comfortable with this Ordinance.

Councilman McDonald moved to adopt Ordinance 2010-04. Councilman Straddeck made the second. Voting AYE: Eric Straddeck, Nile Horner, Robert Patterson, and Alan McDonald. Councilman Mergist had temporarily left the meeting.

Discussion – Unruly Gathering Code (Tab 4): Councilman McDonald said he had concerns with some of the language in the Code in relation to Unruly Gatherings. He said he had taken a copy of the Code to people that had been involved with juvenile courts and also some police officers and was making some suggestions because of the input he had gotten. He personally thought the Code was poorly written and especially had concern with the word “shall.” He said he also had concerns with the civil penalty. He continued the City did not have authority over juveniles--the State had jurisdiction over minors. He asked if this Code was to target under-aged drinking and indicated the State of Utah was coming up with their own ordinance to cover that.

Councilman Horner said he had had concerns with the ordinance when it was first proposed. He said he thought the intent was good but suggested the City already had rules and regulations in place to enforce the law and empower the officers to do whatever they needed to. He thought this Code left enforcement too broad and too open. He said he wanted to do away with it as written and start over, if necessary. Councilman McDonald said the concept came because of targeting gangs and college students. He thought the intent was good but also felt the law needed to be removed from books.

Councilman Straddeck said this was a great ordinance. He would much rather use shame as a deterrent than jail. As far as it being too broad in terms of being unruly, the City could run the risk of handcuffing the officers with the ability to do their job if it was removed. He continued that if all that was worried about was underage drinking or drugs, and that was written into it, that was what it would become. He suggested that it was impossible to write in every possible thing that was of concern. He said that following State and City law, as well as relying on the judgment of the officer, was what officers were paid for. He felt that the language of any ordinance/law could be looked at and ways found to abuse it. He reviewed the initial discussion on this ordinance and indicated Chief Rhoades was very clear in his understanding of what the Council wanted. Consequently, he wanted the ordinance to remain in place so the police could do their job.

Councilman Horner suggested this ordinance was trying to target certain things. He felt the Council should do away with it because it didn't give the police less power by doing away with it and also did not give them anymore power--all it did was give the police power to tag a house. He suggested if people were breaking the law, they couldn't be shamed into keeping the law. Councilman Straddeck suggested then, why not leave the law in place. Councilman Patterson said that was his question, too. Councilman Horner felt the law left the options too open and broad. Councilman Horner talked about the vicious dog ticket he got and said it was the officer's word against his. He said he got handcuffs slapped on him and hauled off to jail. Councilman Patterson indicated the ordinance was pretty specific and felt it was a good one. He said, too, he appreciated the comments from City Attorney, Mark Smedley, which had been included in their packet of information.

Chief Rhoades said he was not going to site a juvenile because he was not the owner of the residence, the citation would go to the proper courts and any appeal would be a civil case. Councilman McDonald referred to language in Smedley's memo. Smedley said what he was referring to was State Statute not City's ordinance. Chief Rhoades suggested Unruly Gathering Ordinance gave the Police Department the "putty to keep the windows tight." He thought his officers had shown a lot of discretion in the two times it had been enforced. He suggested this law be fine tuned and not thrown out. Councilman McDonald said again he did not want to keep it. Councilman Straddeck said he had no problem with fine tuning, but he would not support a motion to take it off the books. The Council indicated they wanted to continue this until all Council members were present.

Councilman Mergist rejoined the Council at 9:02.

Councilman Mergist indicated he was uncomfortable with voting on the Unruling Gathering Ordinance repeal at this time as he had missed most of the discussion.

Councilman McDonald moved to continue this issue, as well as the next item on the agenda, for another night. Councilman Horner indicated he had asked to put this on the agenda. However, with the budget taking so much time, he wanted to do more study on this before he presented and made a decision. Councilman Mergist made the second. Voting AYE: Eric Straddeck, Nile Horner, Alan McDonald and Benny Mergist. Voting NAY: Robert Patterson

McDonald said he recommended if a remodel was under \$10,000 there be no permit fee. Horner thought we should look at how to stimulate the economy. It might come back to us 10 fold in property taxes. Anderson said if the Council wanted to make a decision, it would have to be an agenda item.

Discussion – Subsidy – Commercial Road Impact Fees (Tab 5): This item was continued. See above motion.

BOARD REPORTS

No Reports were given.

At 9:00 Councilman Councilman Mergist moved to go into Closed Session to discuss personnel. Councilman Straddeck made the second. Those going into Closed Session: Councilmen Straddeck, Horner, Patterson, McDonald and Mergist; City Manager Mark Anderson, City Recorder Paulette Thurber, and Police Chief Ed Rhoades (part of the meeting).

At 9:32 the Council returned to open meeting and adjourned.

Paulette Thurber, City Recorder