

**Heber City Corporation
City Council Meeting
May 6, 2010**

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on May 6, 2010, in the City Council Chambers in Heber City, Utah.

Present:	Mayor	David R. Phillips
	Council Members	Nile Horner Robert Patterson Alan McDonald Benny Mergist

Excused:		Eric Straddeck
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Also Present:	City Manager	Mark K. Anderson
	Deputy City Recorder	Michelle Kellogg
	City Engineer	Bart Mumford
	City Planner	Jason Boal
	Chief of Police	Ed Rhoades

Others Present: Judy Milliner, Rita Wills, Peg Sabey, Chris Pedersen, Grace Broadhead, Martin Van Roosendaal, Tom Post, Heidi Post, Rose Price, Cynthia Bradley, Jason Bradley, Fred Schloss, Neil Anderton, Dave Kennamer, Steve Farrell, Trudy Brereton, Tammy Thacker, Amber George, Val Draper, Kathy Day, Kathryn Berg, Jacob Anderson, Danny Thomas, Toni Thomas, Donna Mork, Shirley Lythgoe, Rick Kellogg, Andrew Burton, and others whose names were not legible.

Pledge of Allegiance: Councilman Mergist

Prayer: Councilman McDonald

Minutes: March 4, 2010 Work Meeting	April 1, 2010 Work Meeting
April 15, 2010 Work Meeting	April 24, 2010 Budget Meeting

Mayor Phillips asked the Council if there were comments on the above-mentioned sets of minutes. None were given. Councilman Patterson moved to approve the minutes as written. Councilman Mergist gave the second.

Voting Aye: Councilmen Horner, Patterson, McDonald and Mergist. Councilman Straddeck was excused.

PUBLIC COMMENT

Fred Schloss – Heber City: Schloss passed out a Senior Living pamphlet to the Council. He told the Council he was still concerned about the deer running around in the City, and the City, along with the Fish and Game agency, needed to take action to tranquilize the deer and carry them back to the wilderness. He said they were dangerous to children and if they ran, there could be a major wreck on Main Street. Chief Rhoades indicated the Fish and Game agency had been contacted and the City was told they would not tranquilize them, but instead, shoot them. Councilman Mergist stated there were things that could be put on lawns to deter deer.

Schloss also reemphasized the need for the City Recorder to have a separate office away from the City Manager.

CONSENT AGENDA

Toni T LLC dba The Stew Pot Restaurant – Local Consent for Beer and Wine License - Located at 734 West 100 South, Heber City: Councilman Patterson moved to approve the Consent Agenda for Toni T LLC-The Stew Pot Restaurant for local consent for a beer and wine license, and also Resolution 2010-02, adopting and approving amendments to the Heber Light and Power Company Organization Agreement, as recommended by the company's Power Board. Councilman Mergist seconded the motion. (See below for discussion and vote)

Resolution 2010-02 – Consideration and Decision on Resolution Adopting and Approving Amendments to the Heber Light and Power Company Organization Agreement, as recommended by the Company's Power Board: Councilman McDonald was concerned that the seven member board was changed to a six member board, which would leave a possibility for a tie vote. Mayor Phillips interjected if that happened, a weighted vote would be called for, in which only five members would vote. Councilman McDonald also asked why the County had a vote. He indicated he would prefer having the citizens serve on the Board instead of a County Commission member. Mayor Phillips explained many service customers lived outside city limits, so the Board allowed a representative from those unincorporated areas. He continued that every two years the County Commission changed chairs, and the chair served on this Board. Councilman McDonald asked what Midway's feeling was about the change of the Board, and indicated he was concerned about the percentages of representation. Mayor Phillips commented that the three representatives from Heber City might vote differently. Councilman Horner said he hoped that the Board representatives from Heber City would vote as the Council advised them. He indicated that was one reason why the Council members should report on their board assignments to the Council. Mayor Phillips said the Power Board didn't operate by consensus. Those three representatives would vote how they saw best.

Voting Aye: Councilmen Patterson, McDonald, and Mergist. Voting Nay: Councilman Horner. Councilman Straddeck was excused.

APPOINTMENTS

Judy Milliner, DUP - Request Lot to Build Museum: Milliner thanked the Council for letting her speak tonight. She was here on behalf of DUP. She stated that several members of the Council had come to look at the museum, which was located upstairs in the Social Hall, last year and were favorably impressed, although the display was crowded. When the display was put in the balcony of the Social Hall, it was understood that the location would only be temporary. As president, Milliner indicated it became her mission to get a permanent home for these pioneer artifacts. Many people in the Valley had contacted the DUP with items they would like to donate, but currently there was no room. She felt through fundraisers, the DUP could construct a building, especially if a lot was donated.

Milliner indicated Tony Kohler, City Planner, contacted her last week and gave several helpful suggestions. She mentioned a pioneer log cabin had been offered to DUP, but at this time there was no place for it. She thought one possible location for a museum was the City park on Main Street, which already had parking on the West side. Kohler had told Milliner about land the Boyer Company offered to donate to the City at one time. She thought that might also be a possibility. She also had spoken with Craig Lacey, with the Heber Valley Railroad, and he said there was a piece of land across from the railroad, possibly owned by the County, that might be acquired by the City and used for historic purposes, like a pioneer village. Councilman Mergist asked Mayor Phillips if there were restrictions on putting something like this in a city park, such as the Wheeler Park or Muirfield. Milliner indicated the DUP would like it situated as close to Main Street as possible, so it would be visible to the community. Councilman Horner asked how the relationship was between the DUP and the Timpanogos Valley Theatre (TVT), since they shared the building. Milliner said it was strained because the DUP had never been required to pay for the space they used in the past. When the theatre came in, they began to charge DUP rent, in the amount of \$200 per month, because of utilities and because they had storage units for which the theatre had to pay \$200 per month.

Mayor Phillips stated the museum was crowded and hard for elderly patrons to climb stairs in order to view the artifacts. Councilman Horner asked if the DUP could afford to maintain a building. Milliner said DUP had fundraisers every year and also could receive grants. Mayor Phillips said the Council would think about this and would also speak with the County. He suggested Muirfield Park would not be ideal because people would not want to drive through a subdivision to get to a museum. Councilman Mergist stated in the meantime, the DUP was stuck paying \$200 per month. He asked if the City could manage that lease. Anderson said the DUP should help with expenses, but TVT should make the museum more accessible to the public. Councilman Mergist asked if the DUP had plans for a building yet. Milliner said the DUP wanted it to look like a log cabin. She again thanked the Council members for their attention.

Wasatch County – Request a Waiver – Impact Fees – Wasatch County Rodeo Arena: Mayor Phillips asked if there was a dollar figure on these impact fees. Steve Farrell indicated the fee was \$156,000. Mayor Phillips reminded those in attendance of a prior City Council meeting when the County asked the City Council to waive impact fees for the Recreation Center. He thought the Council didn't waive the fees, but instead, never charged the County for the fees. Anderson stated he was not in attendance at that meeting, but he said the County was under the impression there shouldn't be impact fees because it was a recreation facility.

Farrell said the County had no problem with water hookup fees and the other requirements that went along with the rodeo arena, but the County was looking for help with this figure. He felt that when this project was completed, it would be a great revenue builder for the community. Councilman Mergist asked how long the County had hosted the High School Rodeo competition. Farrell said it would be located here for another year with the possibility of extending the contract. Councilman Mergist asked what would happen to the fairgrounds after the arena was built. Farrell indicated no activities would take place there, but it would be held for some future activity spot. Councilman Mergist asked how much money the High School Rodeo brought to the City each year. Farrell responded that it was approximately \$1 million. He also said there was a state gymnastics tournament held at the Recreation Center last week and this weekend was a regional wrestling tournament. He pointed out that many people from those events would eat and sleep in Heber.

Mayor Phillips explained the land was annexed to the City along with the right-of-way for the bypass road, but he was unaware of any agreements that would waive all impact fees. Councilman Mergist asked if the three options of the Council were to waive impact fees, charge impact fees, or reduce impact fees. Anderson cited the legal interpretation of the State Code and said the City Council had the right to waive fees provided it could provide other sources of revenue to fill that gap. Impact fees could also be transferred from an old facility to a new facility. Anderson indicated the State Statute said waiving impact fees was not an option. Farrell said State Statute 11.36.202 would give the Council three options: exempt the facility, credit the County for work done on public facilities, or adjust the fee to any amount that was determined.

Mayor Phillips gave an example of the Fit Stop. The City didn't charge impact fees for a year, and during that time it studied the actual water usage. At the year end, the City charged the impact according to the actual usage.

Councilman Horner stated the Council could charge what they saw fit because the Council had that power and authority. Councilman McDonald suggested the Council needed to look at which funds this money could be taken from if the fees were waived. Councilman Horner said with the statute Farrell quoted, the City did not have to take funds from other sources. Councilman Patterson asked how long the City would keep waiving these fees. He wanted to know what the City would do when repairs were needed on streets, etc. Councilman Horner countered that the sales tax the City would receive for the events which brought people to the Valley every weekend would make up for that. Councilman Patterson was concerned with the cost of the upkeep.

Councilman Mergist said he was confused with the comment of upkeep. Anderson said it related to system capacity: water lines, storage facilities, peak demand on water and sewer systems, impact on the roadway. Upkeep would include all the offsite things that the City would maintain to serve the Event Center and Rodeo Arena. Councilman Mergist said the long-term benefit made him lean toward the zero impact fee. Anderson said historically impact fees were waived for Search and Rescue and the Recreation Center. Mayor Phillips said because of the fact that those were public entities, the City wanted to work with them on fees.

Councilman Horner stated he had talked with many people on impact fees and the mindset was if the fees were charged, taxes would be raised. If the fees were covered only by the City, the City would hold the entire burden, but more sales tax revenue would offset that burden.

Mayor Phillips asked Farrell to have the County Council look at transferring what fees they could from the fairgrounds to the Event Center, and then see what the dollar figure was after that. Farrell said they would be doing work on 650 South and Southfield Road and that would be a benefit for the City.

Mayor Phillips asked if the Council was favorable to the transfer of credits from the fairgrounds to the Event Center. All agreed. Farrell said any consideration the Council could give, he would appreciate it. Jay Price stood and stated when the County land was annexed into the City, it was clear the County would build other buildings in the future. He further stated that part of those discussions included using their building inspectors and using the County standards, etc. Now the County was here to remind the City to honor their agreement. Councilman McDonald asked to see something in writing on that meeting.

Councilman Mergist motioned to continue Wasatch County's request to waive impact fees for the Rodeo Arena. Councilman McDonald seconded the motion.

Voting Aye: Councilmen Horner, Patterson, McDonald, and Mergist. Councilman Straddeck was excused.

Tom Post – Request Release of Bond for two Cottage Lots – 500 South 100 East: Post explained that along with his partner, Davis, they paid a cash bond for those two lots. Now with the down economy, they hadn't been able to do anything to develop those lots. He was requesting that the bond be released and in its stead, put deed restrictions on the property for utility improvements to the lots. He indicated when the lots sold, he would re-bond and finish improving them. Councilman Horner indicated he didn't have a problem releasing the bond. Anderson said that Mumford's staff report stated once a subdivision was platted and a bond issued, there were two options: undo the subdivision, or replace the cash bond with a surety bond. The City was worried that with a deed restriction, if the lots went into foreclosure, the deed restriction could be null and void. Councilman McDonald stated a surety bond would only cost \$500-\$600 which was fairly inexpensive. Discussion on Covenants Running with the land.

Councilman McDonald moved to have Post buy a surety bond before refunding the \$21,000 bond. Councilman Patterson seconded the motion.

Post said he checked with many cities, and those cities had indicated they usually released bonds on lots that had no work done on them. Councilman Horner said by keeping the money or by making him get a surety bond, the City was guaranteeing that the cost would be \$21,000. Mumford stated that was not the case. He said the bond was put in place to insure the improvements would be put in per standard no matter what the cost. He also explained there was a difference between a bond and a deed restriction. A deed restriction would leave the City open to a potential law suit. Mumford said there were many cases where the owner couldn't complete the subdivision. With a bond, the City could help the buyer get into their house. Councilman

Horner thought improvements were on these lots. Mumford listed the water hookups, the sidewalk and the fire hydrant were not installed, as mentioned in his staff report. He again reiterated a bond was much different than a deed restriction. That was why the City had these protections.

Post asserted his attorney said a deed restriction would protect the City. Mayor Phillips said that as Mumford reminded the Council, problems could arise.

Voting Aye: Councilmen Patterson, McDonald, and Mergist. Voting Nay: Councilman Horner. Councilman Straddeck was excused.

Wayne Thacker – Request for Renewal/Extension of Farm Lease Agreement – Property located at approximately 1200 West 900 South: Anderson indicated the difference between this lease and other leased properties was this property didn't include water. Councilman McDonald moved to approve Wayne Thacker's request to renew his farm lease agreement. Councilman Patterson seconded the motion.

Voting Aye: Councilmen Horner, Patterson, McDonald and Mergist. Councilman Straddeck was excused.

ACTION ITEMS

Review Recommendation from the Airport Advisory Board - Select Architect/Engineer for Design of Snow Removal Equipment Building – Heber City Airport/Russ McDonald Field (Continued from 04/15/2010 Meeting): Councilman McDonald requested the proposals from the three different engineering firms that had submitted proposals for the design of the Snow Removal Equipment Building to the Airport Board. Anderson had listed the reasons the Airport Board recommended Summit Engineering in his staff memo. He indicated that Kathryn Berg, Airport Board Chairwoman, was in attendance if Council had any questions. Berg indicated Summit Engineering had many drawings and photos in their presentation. Lythgoe and Bennett had some photos. She indicated all the presentations were good. The Board had a secret ballot and Summit got the bid and Bennett received the next amount of votes. Anderson stated Summit Engineering's time frame was the quickest. Mayor Phillips stated the Council would like to see all the proposals. Anderson said the City could get copies of those proposals but he reminded the Council valuable construction time was being lost. Councilman Horner said the Council should be the one to award bids.

Berg said she understood the Airport Board was only an advisory board and its members were to look at the proposals and recommend its choice. Councilman Horner understood that, but wanted the Council to have the final say. Mayor Phillips asked if the Council wanted to look at the proposals at a special meeting. Councilman Horner said the City was leaving itself open to trouble by asking for presentations without asking for a bid. Berg said the term RFP should be used. Mayor Phillips asked if the Council could review the proposal and give an answer or did the decision have to be made in a Council meeting. Anderson stated he didn't think a meeting needed to be held. Councilman McDonald asked if these costs were in this year's budget or next

year's budget. Anderson said it was in both, and the costs this year would roll over to the next year's budget.

Hangar Lease Language Amendment - Review Proposed Language to Amend the Current Airport Hangar Lease Agreement: Councilman McDonald made a motion to accept the change as it was currently written in the staff memo. Councilman Mergist seconded the motion.

Councilman Horner stated he read the change and wondered why this wording had to be included, and asked if it would tie the City's hands on who a hangar could be leased to. It was indicated the statement would allow the City to lease at the prevailing market rate.

Voting Aye: Councilmen Horner, Patterson, McDonald and Mergist. Councilman Straddeck was excused.

Ordinance 2010-05 – An Ordinance Repealing Section 9.22.060 of the Heber City Municipal Code – Unruly Gatherings (Continued from 04/15/2010 Meeting): Sgt. Bradley indicated he wanted to address some of what had come out of having the ordinance in place. He asked that others speak first in support of the Unruly Gathering Ordinance. Mayor Phillips noted to the Council that a letter had been received today from a therapist and social worker, David Hansen, in support of the current Ordinance.

Andrew Burton - Summit County officer and gang detective, spoke and gave his past credentials. He asserted that what happened in Summit County always bled over to Wasatch County and vice-versa. He also indicated he was on a task force that focused on underage alcohol. He said communities didn't like to say they had a gang problem, but Wasatch and Summit Counties had a gang presence. When does gang presence become a problem? When shootings begin, etc. He said the solution was multifaceted, but a community could look at several options, of which deterrence was one. He had seen in his travels across this country where these ordinances worked. He indicated that through word of mouth, the strictness of enforcement gets around. Every community had an underage drinking problem, and the current Ordinance would deter this as well as gang related activity. Burton had spoken with others around the country and they agreed that these types of ordinances help. Based on his 30 years experience, he believed this Ordinance was in the best interest of this community.

Mayor Phillips asked what his opinion was if the red sign was taken away, could the police still enforce the underage drinking. Burton said compromises could be reasonable, and he could not comment on the effect of the red tag versus no tag, but the stiff penalty portion of the Ordinance was very effective. He reiterated that word of mouth got around which was the effective component in deterrence.

Trudy Brereton – She thanked Council for its attention. She worked at Heber Valley Counseling, working with substance abuse, and indicated prevention was better when implemented at a young age. Part of her job was to talk about boundaries, rules, and consequences when rules were broken to parents and youth. She said it also took a community that provided deterrents to substance abuse. She knew there was concern with wording such as the word "shall", but she really liked the part of the Ordinance that provided a consequence to

those hosting the parties or allowing underage drinking. It put social pressure on the host by having a red tag on their door. The Ordinance targeted those who were allowing these illegal activities to go on.

Amber George here in behalf of Diane Clark – George read a letter written by Diane Clark. Clark worked with a 12-step group. She also volunteered at the prison with ladies with addictions. She was very happy when she heard of the Red Tag Ordinance. Innocent kids could be in those homes where alcohol and other substances were, and through peer pressure, they might begin to use those.

George affirmed that she too, liked the idea of red tag as a tool of embarrassment.

Kathy Day – Day indicated she and Brereton worked in treatment and prevention together. She admired Clark and stated Clark used to be an alcoholic and knew how horrible it was to have an addiction. Substance abuse had always started with alcohol and tobacco. Day received information from Councilman McDonald and she didn't know if the rest of the Council agreed with his comments. She had never seen any laws that covered what the Red Tag Ordinance covered. Burton said the law "contributing of the delinquency of a minor" was intended for those 17 years old or younger and did not cover those ages 18, 19, and 20. Councilman Horner said he thought anything to deter underage drinking was good, but as Burton said, it put a burden on officers. What one neighbor might think was unruly, another person might not. And Councilman Horner didn't want to see those people penalized. Day said some language could be changed to better fit our community. Councilman Horner said from what he had seen, his concerns had not been met. Day said they should get together and work out the problems to everyone's satisfaction, but she felt strongly the Ordinance should not be done away with. She felt this Ordinance would make parents more accountable. Mayor Phillips suggested suspending the Ordinance until these changes and definitions could be worked out. Councilman McDonald thought the flaws outweighed the good points. He suggested doing away with it and starting from the beginning.

Mayor Phillips said the unintended consequences of this Ordinance were the concern of some on the Council. Burton said the red tag would identify locations that were problem areas. Sgt. Bradley stated there was an instance where officers were called to a residence, a juvenile passed out from alcohol, and all the other juveniles ran. Parents said if they'd known this was a problem, they would never have let them come to this home. Councilman Mergist asked if Summit County or any other place in Utah had an ordinance like this one. Sgt. Bradley said Salt Lake City had an ordinance like this. Councilman Mergist indicated he wanted to see an ordinance addressing criminal activity, not any gathering activity.

Councilman Horner stated he was willing to give police another tool, just not this one. Chief Rhoades responded that police responding to complaints was a criminal activity. Officer Tammy Thacker stated she was the one that brought the Red Tag Ordinance to the table. She said the intent of this Ordinance was not understood, and that the purpose was to put a stop to partying the first time it occurred, by having stiff fines for each occurrence. Currently, officers had to return two and three times. She performed CPR on kids and adults who overdosed. The red tag was to let the public know which homes were the offenders. Councilman Horner asked if this

Ordinance only affected criminal activity. Sgt. Bradley and Officer Thacker said yes. Mayor Phillips wanted to know if the police knew the concerns not only of Councilman Horner, but also the rest of the Council. Sgt. Bradley stated revisions had been made, but it did not make it into the Council packet.

Councilman Patterson said he was in full support of the current Ordinance and stated Mark Smedley's opinion that it strengthened the current State and City law. Councilman Mergist said he only wanted to hear from Utah officers and cities concerning Utah youth. Day stated she had sent the Ordinance to the County Sheriff and Jared Rigby. Councilman Horner said to curb this problem the City and County should get together and work on this Ordinance, so it would be in the best interest of everyone Countywide.

Chief Rhoades said he wanted to give a couple facts, since other agencies were looking at the ordinance Heber had in place. The Ordinance was a driving force in facing problems associated with alcohol and drugs. Some facts: in the last five years, Heber had two drive-by shootings, two contracts were put out for other gangs in the last 18 months, and seven known gangs had been identified in the City. Chief Rhoades indicated citizens didn't see the problem because Heber City police would charge them and gang-enhance the charges. Now the gangs went to Summit County to commit their crimes.

Councilman McDonald said he supported Chief Rhoades but he still believed Council should repeal the Ordinance and start over. Mayor Phillips said Council agreed on many things: there were problems, there needed to be solutions, and the Council was comfortable supporting the Police Department. Councilman McDonald expressed appreciation to Day. He stated he would like to form a committee to come up with something all could agree to.

Councilman McDonald moved to repeal Section 9.22.060 of the Heber City Municipal Code – Unruly Gatherings, and replace it with Ordinance 2010-05. Councilman Horner seconded the motion.

Councilman Patterson stated the Council was throwing out the baby, bathwater and tub.

Voting Aye: Councilmen Horner, McDonald and Mergist. Voting Nay: Councilman Patterson. Councilman Straddeck was excused.

Adoption of 2010-2011 Fiscal Year Tentative Budget – Establish the Date a Public Hearing will be held to Adopt the Final Budget (Separately Bound Materials): Anderson said the law stated the tentative budget had to be presented by the first Council meeting in May. Another budget meeting was scheduled for May 20th to continue with revisions. Councilman McDonald asked if money was allocated for selling two hangars next year. Anderson said if they were sold, the money would go to the Enterprise Fund on page 41 of the proposed budget. It was indicated the Capital Fund showed revenue in anticipated reimbursement for the bypass parcels. Councilman Horner asked if there had been a response from the letter sent out asking for offers on the hangars. Anderson indicated the letter had not yet been sent out.

Councilman Horner asked how zoning subdivision fees were estimated receiving more this year when it had been flat in years past. Anderson indicated it was only an estimate and said he hoped development activity would improve. Anderson said he could reduce that figure if the Council was more comfortable with that.

Councilman McDonald said he didn't think this was an accurate balanced budget. Anderson indicated his figures were reasonable. Discussion on sales tax figures historically and projected. Councilman Patterson pointed out these were just estimates. Anderson stated the proposed budget was now prepared. The Council could look at it and express what changes they would like to see at the next budget meeting. Councilman Horner was concerned the City would not receive \$151,000 compensation on the bypass properties from the County. Councilman Horner wanted to see more cuts in anticipation of not realizing that revenue. Anderson asked if that was what the rest of the Council wanted. Councilman Patterson stated further cuts would butcher the City. Councilman McDonald indicated these items could be discussed at length at the next budget meeting.

Councilman Mergist moved to approve the tentative budget for fiscal year 2010-2011. Councilman McDonald seconded the motion.

Councilman McDonald stated it was not approved as-is but would need modifications. Mayor Phillips said everyone understood it was tentative and more changes would be made.

Voting Aye: Councilmen Horner, McDonald, and Mergist. Voting Nay: Councilman Patterson. Councilman Straddeck was excused.

Mayor Phillips indicated the 2010-2011 budget had to be finalized by June 7th because the public had the right to review it 10 days prior to approval. Anderson said if decisions were finalized by June 3rd, he could have the final budget ready for posting on the 7th.

Councilman Patterson moved to set a public hearing for the 2010-2011 budget on June 17, 2010. Councilman Mergist seconded the motion.

Voting Aye: Councilmen Horner, Patterson, McDonald and Mergist. Councilman Straddeck was excused.

DISCUSSION/ACTION ITEMS

Review of Legal Opinion Regarding the Update of the Transportation Capital Facilities Plan and Subsidy of Commercial Impact Fees: Anderson said at the last meeting, the Council discussed the staff report prepared by Mumford regarding feedback given by a legal statement from Jody Burnett which based impact fees on square footage. Council wanted clarification on Burnett's statement. Mumford stated if a commercial entity was given a subsidy, that subsidy would apply to all commercial entities. Anderson said if there was value in attracting businesses, a municipality could offer subsidies only to retail for example, or only to non-retail. Currently, the subsidy was being offered to all non-residential. It applied to all entities including schools.

Councilman McDonald indicated he would like to remove the line from the letter that stated “\$55 per trip. . .” He would like to put a cap on that dollar figure and limit how much subsidy would be given. Councilman Horner agreed.

Mayor Phillips asked if it was the assumption that the Council wanted to keep business alive in Heber. Councilman McDonald said the decision had to be made at some point and new businesses should not feel singled out. Mayor Phillips said in 2004, there weren’t many businesses and this subsidy had actually been carried over since 1994. Mumford said Councilman Lange wanted the subsidy because the City wanted to promote the few little businesses at that time. Mumford thought the thing suspect with this situation was that this shouldn’t be brought up for two more months, unless it was to catch somebody, especially in light of the new commercial development going on. Councilman Horner said he thought the Council had looked at it and then looked at it again. Councilman McDonald said there was a 90 day window if anybody felt targeted. Mumford asked if it was worth it to the Council to do it now versus in two months. Councilman McDonald said he was new to the Council and a new Council made new decisions.

Anderson thought putting a cap on it would be discriminatory since small businesses would receive the benefit but large businesses would be capped. Mumford stated if the Council was doing it for budget reasons, another Walmart would not be coming, so why not do it in two months.

Councilman McDonald moved to scratch out that one line and replace the \$55. Councilman Horner asked Mumford if a specific dollar amount should be set or would an “up to” amount be better. Mumford said staff could come up with some way to modify the fee schedule. Anderson said Council would need to come up with the percent of subsidy and the maximum subsidy. Currently, the City subsidized 45% of commercial impact fees. Mumford said banks with drive thru windows were assessed much more than a storage unit, for example. Discussion of different figures on different businesses.

Councilman Horner suggested a subsidy of 30% up to \$15,000 for street impact fees. Anderson thought that would discriminate by square footage. Mumford said if Burnett was not in favor of this proposal, he would bring it back to the Council. No vote was taken. Councilman Horner stated to do what the City needed to in order to have a public hearing June 3rd.

Mumford also wanted to discuss the Agreement of Understanding the City made with the County when that land was annexed. In the Agreement, the County paid water and sewer impact fees and water rights. It didn’t pay street impact fees because it wasn’t annexed in at the time. After three years, the City assessed the Event Center to see if the figures were different, and the figures came in lower than estimated. Mumford gave credit to the County on the lower usage. Mumford also only charged half of the street impact fees. He said there was no such thing as mitigating the fees to zero or else a facility didn’t exist. Anderson said the Council could give credits, and it could reduce fees but it should be based on studies and figures. Mumford wondered if he should calculate fees under the proposed master plan update and take out fees for land on schools and other public entities and proportion the cost for the remainder of entities. Mayor Phillips asked if

an ordinance could be passed that would state the City wouldn't charge impact fees to government entities.

Anderson said what had been problematic was the County ignored the City's requests as far as the City's planning, parking standards, etc., and the County needed to know the City standards and work together.

With no further business, the meeting was adjourned.

Michelle Kellogg, Deputy City Recorder