

Heber City Corporation
City Council Meeting
June 18, 2009

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on June 18, 2009, in the City Council Chambers in Heber City, Utah.

Present:	Mayor	David R. Phillips
	Council Members	Jeffery Bradshaw Eric Straddeck Nile Horner Robert Patterson
Excused:		Elizabeth Hokanson
Also Present:	City Manager	Mark K. Anderson
	City Recorder	Paulette Thurber
	City Engineer	Bart Mumford
	City Planner	Allen Fawcett
	Chief of Police	Ed Rhoades

Others Present: Brian Balls, L. Ann Nichol, Ross Nichol, Martin Van Roosendaal, Paul Berg, Fred Schloss, Spencer Straddeck, Sebastian Acovmedo, Collin Linford, Nick Piscitelli, Mike Folkman, Josh Yeates, Delyn Yeates, Jared Yeates, Gary McDonald, Andy Bedingfield, Mike Thurber and Glinda Straddeck.

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

Mayor Phillips asked the Boy Scouts to introduce themselves and state their rank and troop number.

OPEN PERIOD FOR PUBLIC COMMENTS

Fred Schloss presented the Council with the June issue of a senior's periodical published in Utah County. He then stated he wanted the Council to know there was great unhappiness in the community about what happened at the cemetery over the Memorial Holiday. He said he had watched and took pictures of all the beautiful flowers left at the cemetery over Memorial Day. He indicated there was a gigantic theft the night before the cemetery was going to be cleared. He alleged a van with a Hispanic woman and three young children picked up many of the expensive decorations. However, the point he was unhappy about was the clearing of the cemetery. He said

the cemetery looked beautiful and it should not be cleared of the decorations so quickly. He indicated he had contacted two Councilmembers about not cleaning the cemetery so soon—thousands of plants in their most beautiful time. He said he also talked to Anderson and was waiting to hear from either the Councilmembers or Anderson when he went up to the cemetery on the Monday following the Holiday and saw the cemetery crew discarding the plants into a dumpster. He indicated he had also talked to the cemetery sexton who told him his instructions were to remove the plants on Monday. Schloss talked about the celebrated Memorial Day versus the actual Memorial Day. He said, too, he did not get treated very well by the City employees. (He said he got cat calls and some other signs) He expressed concern with the expense that people go to for their cemetery decorations only to have them disposed of in a few days. He said there were people that felt violated and many people were unhappy. He said he had talked to other people and also the City Attorney, and it was felt that maybe the City owed the citizens “something”.

Mayor Phillips explained the policy as outlined in the City Code. He said if the Council wanted to change the policy, they could address that. He said, however, the public was notified well in advance and a sign had been posted at the cemetery for many years as to the clean up periods. He explained, too, the City recognized Memorial Day as outlined by the federal government. Schloss said the fact was he was told nothing would be done until the Council could get back to him and when he went up on Monday, the crew had gone ahead and cleaned up. Schloss said the issue was not over. Mayor Phillips said even with the threat of a law suit, there was nothing that could be done because of policy; but, if the Council wanted to change the policy, that could be done by putting the issue on a future agenda. Schloss said “we will pursue this and other things”.

He complimented the people that had finally gotten the front of the City Office Building looking good. Unfortunately, he said it did not look good during the Memorial Day weekend.

Chief Rhoades said the Police Department had gone after the theft issue aggressively but they did not have any clues at this time. He indicated Officer Thacker had written a letter and there was an award of \$100 offered for any input on the issue.

Mayor Phillips expressed his appreciation for the beautiful cemetery. Schloss said he appreciated the opportunity to express his comments.

PUBLIC HEARING

Public Hearing – Resolution 2009-04 – Adoption of the 2009-2010 Fiscal Year Budget and Opening of the 2008-2009 Fiscal Year Budget to allow for additional revenues and

expenditures: The Public Hearing notice was read by the City Recorder. Anderson covered some of the highlights in the Manager’s Message and indicated the total budget was over eleven million dollars inclusive of the following: General Fund, Water Fund, Sewer Fund, Airport Hanger Fund, Capital Improvement Fund, Internal Service Fund, Perpetual Care Fund and Debt Service Fund. Anderson discussed the State’s allowable minimum balance in the General Fund surplus account was 5% with a maximum amount of 18%. The City’s un-appropriated surplus at this time was \$320,583 which was 5.26%. He indicated surplus funds needed to be appropriated

to balance this budget. He indicated there had been a 14% reduction in sales tax from the 2007-2008 Fiscal Year.

Anderson talked about the significant expenditure this year in relation to the election and said there would probably be a Primary Election, which would be held in September, and the General Election in November. Anderson indicated the Certified Tax Rate had not been received from Wasatch County yet and would have to be adopted at a later date but normally should be adopted with the budget. He continued by discussing future projects which affected the proposed budget: the anticipated tennis court repair, snow removal building/manager's office at the Airport (Federal Grant monies with a 5% match from Heber City), Center Street widening, play ground equipment in Mill Road Estates Park, maintenance items in the water fund, complete the installation of the 36" outfall line that runs from 1200 West to the Sewer Plant (sewer fund). Anderson talked about the newly created hangar fund and said the budget anticipated that two of the five remaining hangars would be sold in this budget year, and the purchase of a stainless steel salt spreader.

Anderson continued there were no salary increases or cost of living increases budgeted. He explained the City had a 9% increase in health insurance costs this year which the City had agreed to absorb the employee's portion of that premium increase based on no salary increases. He said the City was, this year, offering a high deductible insurance plan with a health savings plan.

Anderson explained that in back of the budget booklet he had incorporated the Consolidated Fee Schedule and that until this year, it had not been included in budget document. He reviewed some increase to fees, mainly in the Cemetery and Planning and Engineering sections. Also in tonight's packet, Jason Boal was asking the Council to consider the adoption of a \$35 fee for owner-occupied accessory apartments. Boal said the owner-occupied accessory apartment was a Conditional Use and the \$35 fee would cover staff's time to administer that. Anderson referred to the memo that Boal had included in the packet.

Anderson said he wanted it to be very clear that a considerable amount of surplus funds had been consumed this year and there was a considerable amount proposed to be consumed next year. He suggested, absent significant changes in the economy and development, the City would feel pressure to reduce services, reduce staff, increase taxes, and consider an increase in water and sewer rates. He said this was the most difficult budget he had had to prepare.

Mayor Phillips opened the Public Hearing and invited anyone in the audience to make comments if they wanted.

Fred Schloss said he was a senior citizen and resident of Heber. He indicated he lived next to the Police Department and found he was "well watched" from there. He said he had gotten a notice that he parked his boat on an area that was designated as curb, gutter and sidewalk. However, that area was an empty lot and there was no curb, gutter or sidewalk. He said he was "put out" with that notice.

Schloss asked when this budget was advertised. Paulette Thurber indicated it was noticed in the Wasatch Wave June 10 and 17, 2009. Schloss said he did not think that was enough time and asked the Council to postpone the adoption of it until later because there were a lot of people that wanted to look through it and review it. Anderson said the State Statute required seven days public notice. Schloss asked again the Council not pass the proposed budget tonight.

Anderson said for Council information the State Statute required the budget to be adopted by June 22. Councilmember Straddeck said the Council had had four to six meetings working on this budget and it had been noticed. He informed Schloss that for future years, the City's budget process started in March. Schloss said he needed to take a look at past minutes to satisfy that statement but to say the budget was ready for adoption tonight was not right.

Mike Thurber commended the Council for getting this budget to the point it was now. He said he had been to five of those meetings and admired the Council for the work they had put into the budget up to this point.

There were no further comments. Mayor Phillips closed the Public Hearing and turned to the Council for comments and input and said also the 2008 – 2009 fiscal year budget had to be opened to approve additional revenue and expenses.

Councilmember Horner said he had a couple issues from the last meeting when the Council talked about fire fees and those additional fees that had not been listed before but had been getting charged. He said his assumption was that there were no new fees. He asked about where those fees were in last year's budget and fee schedule. It was explained the fee schedule had not been included in the budget booklet last year. He asked why the fee schedule was included with the budget this year. Anderson said the fee schedule was something that should be updated once a year and it did support the budget; consequently he felt it should be included in the budget document. Councilmember Straddeck said his understanding was that the newly listed fees were correcting a deficiency in the Fee Schedule. Additional discussion about the fees listed under Fire Prevention. Anderson suggested, if the Council was uncomfortable with the fees in the Schedule, they needed to modify them. Councilmember Horner wanted to see record of when the fees were voted upon and passed. He also wanted to see a record of when the fees were charged. Anderson explained the fees may not have been formally passed by the City Council but, because these fees were something that had been charged to the City by other companies, the City had to pass the fees on. He said the City had not always had someone qualified to do those inspections and had to rely on outside contractors to do them and the suggested fees were what the City had been charged. He suggested the Council might want to pass the budget now and give an additional 30-day period to look over the Fee Schedule.

Councilmember Straddeck asked if it was required to enact fees by ordinance. Councilmember Bradshaw read from the Code and that the building fees were adopted per the ICC Building Codes. Councilmember Straddeck felt that if the fees needed to be enacted by ordinance, then this needed to come back and be adopted by ordinance. However, if not required, the Council needed to fix the remission of some fees now—"If we can rectify a deficiency, we need to do it now." Mayor Phillips recommended the Fee Schedule be taken out of the budget document tonight and have an additional meeting in relation to them. Councilmember Straddeck suggested

that if the Council didn't adopt them tonight, no new fees should be charged until they were adopted.

Councilmember Horner's other concern was in relation to putting sidewalk on the south side of Center Street. He indicated he would like to have sidewalk on both sides. He felt that since the project was coming in under budget, consideration should be given to installing the sidewalk on both sides. He recalled that during the public meeting, there were requests from the public for that. Anderson said the Council had to consider how to prioritize the transportation tax and road impact monies. He said the City had the Daniels Road connection and possibly 500 East from 600 South to the School to consider in the coming years. He said it was a matter of prioritizing and understanding the needs and pick the ones most important. Councilmember Horner said the work on Center Street was happening now and it would be cheaper to install the additional sidewalk now rather than later. Councilmember Bradshaw indicated UDOT was administrating the funds on the Center Street project and the City would have to talk with them about it. He said he was not against looking at that but did not feel the necessity to put it in this budget right now. The Council wanted to address this at another time by putting it on a future agenda.

Councilmember Horner suggested if there was a possibility of raising fees in the future, then maybe the Council ought to cut back this budget and not adopt it tonight. Mayor Phillips reviewed that a number of issues were discussed during budget meetings including raising fees, property taxes, reducing services or reducing the number of employees.

Councilmember Bradshaw moved to approve the budget as presented excluding the entire Fee Schedule. Councilmember Straddeck made the second. Mayor Phillips asked for questions or discussion on the motion. Councilmember Straddeck asked if the Fee Schedule was removed if that meant the City was operating on the current fee schedule. It was indicated yes. Voting AYE: Councilmember Bradshaw, Councilmember Straddeck and Councilmember Patterson. Voting NAY: Councilmember Horner. Councilmember Hokanson was excused. The motion passed.

Amending the 2008-2009 budget: Anderson indicated this would create an Enterprise Fund for the hangar project and reflect this year's activities and would pull these funds out of the Airport Capital Projects Fund. He continued it would also recognize some excess principal payments that were paid early. (1200 South Bond)

Councilmember Patterson moved to reopen the 2008-2009 fiscal year budget to allow for additional revenues and expenditures and create an Enterprise Fund for the hangar project. Councilmember Bradshaw made the second. Voting AYE: Councilmembers Bradshaw, Straddeck, and Patterson. Voting Nay: Councilmember Horner. Councilmember Hokanson was excused. The motion passed.

APPOINTMENTS

Josh Yeates – Elmbridge LLC – Final Subdivision Plat Approval for a 76-Unit Development in a Clustered Open Space Zone (COSZ) – Located at approximately 700 North 100 West: Anderson indicated in the packet materials provided tonight there was a letter

from the Wasatch County Housing Authority suggesting that they prefer that the City have Elmbriage pay a fee-in-lieu instead of allowing a rent reduction as recommended by the Planning Commission and that the fee be paid prior to final acceptance of the public improvement within the development. Anderson said the Yeates were mindful of that request and he thought that was acceptable to them.

Anderson suggested one challenge with this project was the way the City's process was structured. It did not address what was being proposed in the development where there were units that would likely be rented initially but potentially converted to ownership in the future. He said the City's Code was not real clear on how to deal with that potential. The other thing, he said, was that the Planning Commission was recommending they be allowed 76 units as consideration for them to be able to generate additional revenue to cover their affordable housing contribution.

Boal said what was recommended from the Planning Commission was that for five (5) years, seven (7) units be reduced and then at the time the units were converted for sale, the fee being paid at that time. (The fee would still be paid, but not up front) He said the project had changed quite a bit since the Council had seen it. An overhead was shown and Boal reviewed that. The 750 North road would be a public road and would connect to Highway 40 as well as provide access to the City park. He said a trail would be built that would tie into the Master Trail Plan and Park. Boal pointed out on the overhead the buildings that would be three story and those that would be two story buildings which provided a transition to the neighborhood. He said the developer would build a fence and there would be a landscaping strip along the south of the road.

Councilmember Bradshaw said the Housing Authority had concern that there were apartments in Heber that rented for less and wondered if \$950 made sense. He asked if rather than agreeing to lower rent and get involved with not being able to rent the units, it would be better to get the money up front. Boal explained the problem was that the current Ordinance required they provide 10% at 80% AMI which would be \$1,200. However, the Code did not specify how to handle a "for rent" product rather than a "for sale" product.

Gary McDonald reviewed the letter he had provided and suggested that was their recommendation even though it was not in line with what the Planning Commission had recommended as far as the affordable housing obligation. He suggested if the project was able to charge full market rent, he would say go for it; but, if the Council decided to grant a bonus density of four units, that should make them whole. McDonald reviewed other projects in the valley and their vacancy rate.

Councilmember Horner expressed concern with waiting five years to get the City's money because developments changed hands. McDonald said he did not want to be involved with the collection process. He said he was hoping that the proposal of having the funds paid prior to final acceptance of development improvements would not over burden the developer up front.

Delyn Yeates indicated Councilmember Bradshaw's comments were prudent and they would be willing to pay the full amount in lieu. He said the thing that concerned them was timing and the possibility of putting undue pressure on the developer. Yeates indicated that paying the fees at

the time of pulling a building permit would mean they would have their financing in place. Anderson said the final acceptance of the improvement was what the City needed before building permits were issued. Councilmember Horner wondered if all the building permits would be pulled at the same time. Yeates said it depended on the bank.

Yeates said with respect to water rights, they had hired a professional to determine if what the City was charging was correct. He said this person, McKrola and Mumford had met and it was felt there was some justification in some changes. Because of that research and discussion, a letter had been written asking for consideration of that research. Mumford had indicated he wanted to deal with that research at the time he updated his Water Master Plan and would present it to the Council at that time.

Yeates indicated he had not yet read the Development Agreement as they had just received it tonight. However, with regard to impact fees, they felt they were very steep. Anderson said as the City updated the different master plans, Mumford would evaluate the issues in the coming months as he started that process this fall. He said there may or may not be some benefit to the Yeates development. Councilmember Straddeck did not want to proceed with this tonight. He thought the Council would be going around in circles because they did not have all the information. Yeates said he wanted to see the Council approve this tonight as they wanted to move forward in the hopes they would find the additional water they needed or the requirement would be reduced or a combination of both.

Councilmember Straddeck asked Anderson what the Council was actually voting on. Anderson said it would be approval of the Development Agreement but no subdivision issues at all. Councilmember Horner did not think the Council could pass the Development Agreement and then change the water requirements. He thought if the Council voted on it today, it locked them in. Anderson said if this was approved tonight and there were changes in methodology in what water rights were required, before they recorded the plat, they would be eligible to receive any adjustment which might be to their benefit or to their detriment. He said they would be subject to whatever methodology was in place at the time they recorded the plat.

Councilmember Bradshaw moved to approve the Development Agreement and Covenant of Land subject to changes enumerated by Anderson. Councilmember Straddeck made the second. Councilmember Horner asked about talking with UDOT. Brian Balls said they were already working with UDOT but that the access was actually being requested by the City. He explained they had made initial contact with UDOT, but UDOT wanted the request to come from Heber City. The voting was unanimous in the affirmative. Councilmember Hokanson was excused.

Ordinance 2009-08 – Ranch Landing – Consideration to amend the General Plan from Highway Commercial Landuse to High Density residential Landuse – Properties located at approximately 1100 South and 600 East: Councilmember Straddeck asked for clarification.

Anderson said from the beginning there had been discussion that this parcel would be used by the Wasatch County Housing Authority for the building of a senior center. He said the City should not be caught off guard with the request. Boal said there was an assisted living center that had been approved. The reason this was before the Council now was because the process was not

clear. Staff wanted this on the agenda so the landuse designation on this small parcel (.78 acre) could be changed.

Councilmember Straddeck asked if, with the addition of apartments and increase in density, staff had considered the one access point to this entire area. Boal said there was an access, but he did not have the master plan for that tonight but said when the Center was completed, there would be two paved accesses--when built it would meet the parking density.

Councilmember Straddeck moved to approve Ordinance 2009-08, an amendment to the General Plan from Highway Commercial Landuse to High Density Residential Landuse for property located at approximately 1100 South and 600 East and Ordinance 2009-09, an amendment to the Official Heber City Zone Map from C-2 Commercial Zone to R-3 Residential Zone for the same property. Councilmember Patterson made the second. No further discussion. Voting AYE: Jeff Bradshaw, Eric Straddeck, Nile Horner and Robert Patterson. Councilmember Hokanson was excused.

Ordinance 2009-09 – Ranch Landing – Consideration to amend the Official Heber City Zone Map from C-2 Commercial Zone to R-3 Residential Zone – Properties located at approximately 1100 South and 600 East: See discussion and motion on previous agenda item.

Watts Enterprises – Lot Split/ Small Lot Subdivision – Ranch Landing Plat “B” also known as Assisted Living Center – Property located at the northeast corner of 500 East and 1200 South: Paul Berg discussed the Master Plan. An overhead was shown.

Councilmember Straddeck moved to approve the Ranch Landing Plat B lot split/small lot subdivision subject to the Subdivision Agreement. Councilmember Patterson made the second. No discussion. The voting was unanimous in the affirmative.

DISCUSSION/ACTION ITEMS

Code Enforcement Challenges – Administrative Citation vs. Criminal Citation:

Councilmember Bradshaw asked to continue this issue to the next meeting.

Councilmember Straddeck asked if the proposed procedure was followed, was one step being removed from the process. Chief Rhoades said yes and clarified the process.

Councilmember Bradshaw moved to continue the Code Enforcement Challenges issue. Councilmember Patterson made the second. No discussion. The voting was unanimous in the affirmative.

As there was no further business, the meeting was adjourned.

Paulette Thurber, City Recorder