

Heber City Corporation  
City Council Meeting  
06/21/2007

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on June 21, 2007, in the City Council Chambers in Heber City, Utah.

Excused:	Mayor	David R. Phillips
Present:	Council Members	Terry Wm. Lange Vaun Shelton Jeffery Bradshaw Elizabeth Hokanson
Excused:		Shari Lazenby
Also Present:	City Manager City Recorder City Engineer City Planner Chief of Police	Mark K. Anderson Paulette Thurber Bart Mumford Allen Fawcett Ed Rhoades

Others Present: Kieth Rawlings, Annie Bruehl, Wendy McKnight, Rhoda McKnight, Robert McKnight, George Webb, Clarice Webb, Jay D. King, Darlene K. London, Kim Brown, Shelton Taylor, Brent Overson, Kristie Overson, Paul Schneider, Beth Ann Schneider, Wayne Foy, Robert John Hicken, Landon Bonner, Blake Allen, Jill Cowley, Bobbie Jo Probst, Laurie Wynn, Russ Witt, Scot Davis, Kathryn Rhoades, Cathy Witt and others who did not sign in or whose names were not legible.

Pledge of Allegiance: Councilmember Elizabeth Hokanson  
Prayer: Councilmember Vaun Shelton

Minutes: June 7, 2007, Work Meeting Minutes  
June 7, 2007, Regular Meeting Minutes  
March 15, 2007, Regular Meeting Minutes

Councilmember Bradshaw indicated the following correction: Page 1 of 6 – line 47 -June 7, 2007, Regular Meeting Minutes – the word indicted should be indicated.

Councilmember Bradshaw moved to approve the minutes of the June 7, 2007, Work Meeting Minutes, June 7, 2007, Regular Meeting Minutes, and the March 15, 2007, Regular Meeting Minutes with the one correction as outlined. Councilmember Shelton made the second. The voting was unanimous in the affirmative.

## OPEN PERIOD FOR PUBLIC COMMENT

Mayor Pro Tempore Lange asked for comments from anyone on issues that were not already on the agenda. There were no comments.

## MAYOR'S INSTANT AWARD

**Recognition of Heber City Employee Robert McKnight:** Robert McKnight was recognized for his service to the City. Mayor Pro Tempore Lange expressed his appreciation to McKnight for all the work he had done over the years. He said he planned to work for probably another three years.

## PUBLIC HEARING

**Public Hearing – Adoption of the 2007-2008 Fiscal Year Budget and amendments, as necessary, to the 2006-2007 budget to allow for additional revenue and expenses:** Mayor Pro Tempore opened the Public Hearing and asked Anderson to review the information he had prepared. Anderson said he had spent a lot of time with staff and Council to prepare this budget. He presented a few graphs with the overhead projector. He talked about rising housing costs and the issue of being able to house and retain employees which was a major concern of the Council. He indicated the last time Heber City had a property tax increase was in 1991. A summary slide was shown of General Fund revenue and expenses and Anderson indicated he typically budgeted conservatively on revenue and expenses. A pie chart was shown that outlined revenue sources. A bar graph was shown of the same information. A slide was then shown of how the revenue was expended and another slide was shown on how the resources were allocated by department.

A copy of the budget was provided to the Council as well as a listing of capital items that had been approved. A new wage scale was provided in the packet of information given out prior to meeting and Anderson asked that be adopted along with the budget. He said the wage scale showed a 3.24 % increase.

Anderson indicated that last night the Council had been provided those items that were proposed for amendment to the current budget.

Mayor Pro Tempore closed the Public Hearing.

Councilmember Hokanson moved to adopt the 2007-2008 Fiscal Year Budget as well as approve the amendments to the 2006-2007 Fiscal Year Budget along with the new wage compensation scale. Councilmember Bradshaw made the second. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

Mayor Pro Tempore Lange commended Anderson for preparing another difficult budget.

Mayor Pro Tempore Lange asked the people in the audience if the cost of insurance was important to them. Most indicated yes. He talked about the increase in cost to prescriptions.

Anderson gave credit to staff and Cathy Riley who helped put the budget together. He said it was a team effort to get the budget prepared.

**Public Hearing – Ordinance 2007-27 – An Ordinance granting the annexation of 109.23 acres of land located along Daniels Road and Airport Road known as the Daniels/Airport Road Annexation:**

The Public Hearing Notice was read by the City Recorder. Tony Kohler reviewed the boundaries of this proposed annexation. Anderson asked Kohler to go through the Annexation Analysis, which he did. He showed a map on the overhead projector of the City's Future Land Use Plan. He indicated several people had been in the office this week asking about the residential component of the Plan. He pointed that out on the overhead and said Foy, Landon, and Anderson parcels would be residential. He showed another slide of the City's Zoning Map with this potential annexation included. He reviewed there were no ground water issues.

It was pointed out the Simpson property had been purchased by HOG Excavating. A concept plan of their development was shown. Kohler showed a slide which showed future development possibilities on the other properties. Kohler indicated there was sewer and water lines in the general vicinity, as well as fire hydrants. He pointed out the Airport Overlay Zone of the County and that there were some restrictions on that pertaining to height.

Kohler indicated the Planning Commission had recommended moving forward on this annexation. However, he suggested, because of ownership changes, the property along Daniels Road be thought about again as far as zoning. Anderson said he had conversations with property owners that wanted industrial on their entire property rather than dividing it into industrial and residential.

Mayor Pro Tempore Lange asked for comment from the public.

Darlene London - Daniels Road – London indicated their property was one of the 1-acre parcels that was zoned R-1 and I-1. She indicated that when there was a double zoning on the property, a property owner could not get a loan on it. She wanted to see their piece all one zone.

Mayor Pro Tempore Lange recalled that at one time people wanted the zoning divided. Anderson said when the City was looking at the Master Plan of this area, Lynn and Peggy Sulser came in and asked for the double zoning and that was one of the reasons it was zoned that way. It was indicated the Sulser's didn't live in that area anymore.

Wayne Foy - Foy indicated he did not understand why the banks would not issue a loan on an R-1/I-1 piece of property. Mrs. London said the banks didn't want to do that now. She talked about a caretaker's home on the industrial piece. Foy said his concern was he owned the majority of the frontage in the residential portion and wanted to be the major decision maker. Anderson said if the Council annexed this, it would come in as the Master Plan dictated. Then, if the property owners wanted a zone change, they would have to make that known and go through the process of changing it.

There was no other public comments and the Council had no further questions or comments.

Councilmember Hokanson moved to approve Ordinance 2007-27, an Ordinance granting the annexation of 109.23 acres of land known as the Daniels/Airport Annexation and the associated Annexation Agreement. Councilmember Shelton made the second. No further discussion. Voting AYE: Terry Wm. Lange, Vaun Shelton, Jeffery Bradshaw and Elizabeth Hokanson. Councilmember Lazenby was absent.

## APPOINTMENTS

**Beth Schneider – Proposal for a Second Airport Museum:** Anderson reviewed the presentation Schneider had given at the last meeting and said she was given direction to meet with the Airport Advisory Board and to get direction from them. He said she met with them on Tuesday and the basic recommendation of the Board was that they wanted a change in the location. A map with a new proposed location was shown. It was felt this proposal would give them better access and they could share parking with the rest of the airport. Anderson indicated the motion of the Airport Board was that they wanted the financing of this project to be more mature before a final decision was made.

Schneider said she liked the new plan that the Airport Board suggested. She said she was waiting for the financial outcome. She said she appreciated the Council taking a road trip and looking at the area and also appreciated the support of the Airport Board.

Discussion about the popularity of airport/aircraft museums. Discussion about the open hours of the facility. Schneider said this new facility, if approved, would be open seven days a week and all day.

Anderson suggested there was some concern about the viability of this project long term. Councilmember Bradshaw said Nampa, Idaho, had a nice airport museum that he had spent time in and there were quite a few people there when he was. He asked if this facility would be along the lines of the Nampa facility. Schneider said yes and that the idea was for it to be a full-time museum.

## ACTION ITEMS

**Summit Engineering – Final Subdivision Approval - Swift Creek Subdivision – Located at approximately 900 South 820 East:** Brent Overson addressed the Council for the applicant. He said they had been working on this for 1 ½ years. He reviewed the location of this property and how it was positioned in conjunction with other subdivisions in the area. He said all the properties on the perimeter of this development had been approved so the infrastructure would all be in place. He said as a group they were extending the sewer line. Mayor Pro Tempore Lange asked for comments from City Engineer Mumford.

Mumford said the subdivision was essentially ready to go but that there was a couple things that needed to be changed on the plat regarding the pond. He asked the applicant if he was going to bond for all the sewer and have outside agreements with the other property owners. Overson said it wasn't signed yet, but a draft agreement was being worked on. He talked about property they were dedicating to the City along the canal as was Aspen Point. He said there would be a trail constructed along the canal and they would be constructing a bridge over the canal. It was indicated the trail was an 8' wide asphalt trail. Councilmember Hokanson asked about the affordable housing strategy for this project. Overson said it would be a cash.

Overson indicated he had a few suggested changes to the Agreement:

- 1) Paragraph #3 – This would be a dedication of land to the City and the word easement should not be used.
- 2) Paragraph #4 - The cul-de-sac was not going to be built but the road extended. Mumford said that couldn't happen because of not enough road area. Overson said they had worked with the property owners involved in that area and had temporary easements to build the road and

improve those two lots. He asked the Council to work with them on this issue. Mumford said on the final plat they will outline whatever temporary turnaround area was needed and the necessary language to address this issue.

3) #5B - He felt the document should read "The storm water detention and secondary access" shall be completed instead of "The Aspen Point Subdivision" shall be completed. Mumford said this issue had come up on several subdivisions that were interrelated. He said the City did not partially except a subdivision. He discussed the problems associated with accepting either the whole subdivision or a piece of it. He said the City had not in the past given final approval until the whole subdivision was complete. He asked if the City wanted to break up a subdivision piece by piece to accommodate the adjacent subdivision. Overson said this was not a deal breaker for them but they were hanging in the middle waiting for the other projects. Mumford wanted to keep the process the same way the practice had been and keep the subdivision whole rather than piecemeal for completion. He said if a hardship was experienced by the developer because of it, they could approach the Council with that. Councilmember Shelton agreed with Mumford and wanted to keep the subdivision whole for completion.

4) Paragraph #10 – Overson said he didn't want to work out a plan with the Wasatch County Weed Control Board. Councilmember Shelton indicated the developers couldn't avoid working with the Weed Board any more as they (the Weed Board) had to sign off on the subdivisions now. Mumford explained this was a new provision the Council adopted last month. However, he indicated to the Council that Majestic and Noble Vista were exempt from this requirement because their agreements had already been approved. Councilmember Shelton indicated he was on the Weed Board and there definitely was a problem with weeds. He reiterated the Weed Board wanted to have a weed plan before the plat was signed. Councilmember Shelton told Overson to get in touch with Bert Webster and have him make an inspection. Anderson indicated, the developer would be responsible for weed control until ownership changed. Mumford said he had a form that the developer had to sign in relation to this issue.

Mayor Pro Tempore Lange suggested delaying approval of this subdivision. Anderson felt, unless Council had specific issues, staff could modify the Agreement to be in line with the discussion of the Council. Overson said he would comply with #10 as he did not know it was a new policy.

Councilmember Bradshaw moved to give final subdivision approval to the Swift Creek Subdivision located at approximately 900 South 820 East subject to language changes in paragraph three and four as discussed. Councilmember Shelton made the second. The voting was unanimous in the affirmative.

**Landon Bonner – Subdivision Final Approval – Silver Ridge Subdivision – 500 East 309 South:** It was indicated Stacey Searle, MCM Engineering, was not able to attend tonight.

Jay King asked the Council when they were going to respond to the certified letter he sent to them. Anderson read the last paragraph which asked for an answer before giving final approval. Since it had not been considered for approval yet, the Council had not responded. King asked why the City Planner and the Planning Commission were not implementing the codes as currently written. Discussion about setbacks. King said the road was too close to his house. Bonner said the King house was 6' from the road and he had given them 14' to help out. He said the road was curved somewhat and yet aligned with the intersection. Discussion about road widths. Mumford talked about easements and right-of -ways.

Mayor Pro Tempore Lange asked Kohler and Mumford if they wanted to move forward. Anderson felt the real issue was if the Council was willing to create a non-conforming use because of the setback. Mayor Pro Tempore asked if this was a decision for the City Council or if it should go to the Board of Adjustment. Anderson said the Council had the right to proceed based on similar issues on 1050 East. He said discussions had been held with David Church and it had been determined this was not a taking. They Kings still had the same rights today as they did in the past.

King asked, if approved, for a detailed map showing the distance of the roads and sidewalks from their property line and his house, a letter detailing why the Council made the decision they did, and a copy of the Heber City Municipal Code pertaining to agricultural land.

Mayor Pro Tempore Lange recommended this issue go back to the Planning Commission for consideration of Kings concerns. Tony Kohler said approval of this subdivision would make the King home grandfathered--legal but non-conforming. Anderson said the issue was the benefit by creating eight more lots and the necessity of alignment with 300 South versus the impact to the King property. King said this would have an impact on his kid and his horses.

Mumford said the developer had to work hard to get the intersection up to code. If it was moved, they could not develop. King felt that issue should have been looked at this prior to development. Mayor Pro Tempore Lange talked about the phrase "buyer beware." King agreed. Mayor Pro Tempore Lange wanted the City Attorney to look at Kings questions. Bonner said they had worked with Mumford and done everything the City had asked them to do and everything the Code required. He said he understood Kings concerns but they had worked with him and would be putting in a fence for him. Again he said they had satisfied everything they had been asked to do. He did not think going back to the Planning Commission would solve anything.

King felt it was the obligation of the Planning Commission to deny this request and suggested they should not have changed the zone. Anderson said the zoning on this had been changed in the last 6 or 8 months.

Eleanor Nelson asked if the house was going to be demolished. Bonner said the house was not listed on the Historic Registry. Bonner said it would be more expensive to bring the house to code than move it. Nelson said she knew it was not on the register, but it was an historic home built in the 1890s. Anderson read the last paragraph from Fawcett's staff report which gave the opinion of Planning Staff that this home should not be considered historic. Bonner said when he talked to the people from the National Historic Registry, they told him because the kitchen had been added on it would take away the historic issue. Councilmember Hokanson felt it would not hurt to run this by the Historic Preservation Committee and get their input on it. Mayor Pro Tempore Lange wanted an opinion from the City Attorney on the set back issue.

Councilmember Bradshaw moved to continue this request until the Council could get an opinion from Mark Smedley on the setback issue and get an opinion from the Historic Preservation Committee as to the historical value of the home. Councilmember Hokanson made the second. Bonner indicated that if the house had to stay, he would be willing to do that. Councilmember Shelton asked if Bonner had been to the Weed Board yet. Bonner said that issue was outlined in the Subdivision Agreement and they would conform to that. Discussion about the changing of the zone. Mayor Pro Tempore called for the vote. The voting on the motion to continue was unanimous. Councilmember Lazenby was absent.

Mayor Pro tempore Lange wanted any additional opinions and comments to be given to Mr. King.

**Russ Witt – Subdivision Final Approval for Last Stand Subdivision – 988 South 600 West:**

Witt explained when he originally bought the property, he went to Planning Commission for a eleven-lot subdivision as he had a purchase contract agreement with Daleys for a section of their property on which he was going to build a cottage home. He said the Daleys were having a hard time getting everything in order with their bank to sell that portion of their lot. If they were able to get everything in order, however, he would still built the affordable lot but if not, he would pay the fee in lieu.

Anderson said staff was uncomfortable with staff allowing the 10-lot subdivision since the Council had approved an 11-lot subdivision. He suggested allowing Witt some time to determine what direction he would take—either the 11-lot subdivision with an affordable lot or a 10-lot subdivision with payment in lieu of the affordable housing element.

Councilmember Bradshaw moved to allow a 10-lot subdivision; but, if Witt could acquire the 11th lot within a year, he provide the affordable housing instead of the money. Councilmember Hokanson made the second. The voting was unanimous in the affirmative. Councilmember Lazenby was excused.

**Consideration of Ordinance 2007-28 -An Ordinance amending 9.22.020 – Disturbing the Peace:** Mayor Pro Tempore Lange asked Chief Rhoades to address the Council on this issue. Chief Rhoades indicated he had looked at the request to change the hours allowing machinery and equipment work to cease at an earlier time and also had looked at the policy in different cities relating to this issue. He felt a 9:00 p.m. or 10:00 p.m. time was not unreasonable but that 7:00 p.m. was unreasonable, especially with all the construction going on in the spring/summer/fall months. He proposed the current law not be changed.

Councilmember Shelton moved to deny Ordinance 2007-28, an Ordinance amending 9.22.020, Disturbing the Peace. Councilmember Bradshaw made the second. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

Mayor Pro Tempore Lange indicated he drove around and listened and looked and observed what the community was doing. He also talked with other neighbors in the area and they seemed to want to keep the time as currently outlined in the Code.

## **DISCUSSION/ACTION ITEMS**

**Approval of Biennial Report on Affordable Housing per Section 10-9a-408 of the Utah State Code:** Anderson said the City had received a letter from the State requesting an update. The planning staff had made that report initially and would recommend the housing element be updated as it was out dated. Councilmember Shelton agreed an update was overdue. Councilmember Shelton felt the \$28,000 in lieu of housing was inadequate. Councilmember Hokanson asked what was being done with the lots set aside for affordable housing. Anderson indicated that was an issue that needed to be addressed. Anderson said Russ Watts was trying hard to keep his project affordable and had asked for a meeting with the Housing Authority. Anderson said he had some sample ordinances from Jackson Hole, Wyoming, that he wanted to present to the Housing Authority for review. Anderson said Park City had found, and he agreed, land was needed more than money. He felt land that could be kept for future use would be better

than cash. Councilmember Hokanson agreed. She asked where the houses that had been approved were being built. Anderson said they had not been built because the City had to come up with a strategy for building those that would architecturally blend in with the rest of the subdivision. He said the City needed to allocate more resources to that issue.

Mike Kohler talked about the Housing Authority and its history. He said developers go for the buyoff because it was much cheaper. He said the County was probably going to change their ordinance so it would be difficult to buy out and would mostly require being built in the subdivision. Kohler was the current plan wasn't adequate and needed to be redone. Councilmember Shelton agreed.

Councilmember Bradshaw said he felt Watts had come up with a good plan. His plan was to deed restrict so the price could not go up more than the inflation rate. He said he did not know the legality of it, but thought it was worth looking at. Anderson said that had been done in other places.

Councilmember Hokanson moved to approve the Biennial Report on Affordable Housing and with that direct the Planning Commission to update the Moderate Housing Plan. Mayor Pro Tempore Lange made the second. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

**Approve Fence Line Agreement with Merrill Development:** Anderson reviewed the issues and discussion with Merrill's legal counsel regarding the fence line and boundary agreement. He said the City Attorney, Mark Smedley, had put together the new boundary line agreement. Anderson referred to the e-mail from the Federal Aviation Administration and said it had been provided to Merrill's attorney but he had not heard back from them. Because of that, he assumed they approved. Anderson recommended approval of the Fence Line Agreement with Merrill Development.

Councilmember Bradshaw felt he had a conflict of interest regarding this issue as Merrills were clients of his.

Councilmember Shelton moved to approve the Fence Line Agreement as proposed as a resolution to the Merrill issue. Councilmember Hokanson made the second. Voting AYE: Terry Wm. Lange, Vaun Shelton, and Elizabeth Hokanson. Councilmember Bradshaw abstained from voting. Councilmember Lazenby was absent.

**Resolution 2007-005 – A Resolution Expressing Support for a Bypass Corridor on the west side of Heber City:** Anderson said during the last Interlocal Meeting it was suggested Heber City needed to adopt a Resolution in support of a bypass corridor. He provided a copy of the County's Resolution and a similar but modified version for the City to adopt. Allen Fawcett expressed concerns with the accompanying map and said if the City adopted the Resolution, there needed to be some flexibility because of the three plans that were out there. Mike Kohler said both plans, as shown on the overhead, were similar. He suggested adopting a Resolution only took the issue to the next step to have meetings with UDOT. He said there would need to be a lot of modifications but that the City and County needed to be unified before going to UDOT. Mike Kohler felt, as long as the map was "general", it could be tweaked as necessary.

Councilmember Bradshaw moved to approve Resolution of 2007-05. Councilmember Shelton made the second. Voting AYE: Terry Wm. Lange, Vaun Shelton, Jeffery Bradshaw and Elizabeth Hokanson. Councilmember Lazenby was absent.

Mayor Pro Tempore Lange indicated he wanted to discuss with the Army Corp of Engineers the wetlands in the area and if the bypass corridor would have to be moved. Mike Kohler said there definitely had to be some coalition.

Mike Kohler suggested he take the two Resolutions and letters to UDOT and set up a meeting between them, Wasatch County and Heber City. Anderson asked about the delineation study on the Yeates property. Tony Kohler indicated he did not have any updated information. Mike Kohler said UDOT would need updated studies, too, and could probably use the study done for the Yeates.

Anderson suggested to Mike Kohler that the City and County formally put a committee together to administer the Corridor Preservation Fees. Mike Kohler said he would do his best to get that started.

Because of the Open Space Meeting prior to the Regular Meeting and no Work Meeting being held, the following three issues were briefly discussed.

Anderson provided a draft letter signed by Mayor Phillips regarding a skatepark. He asked if the Council was willing to approve that letter. They did.

It was indicated Al Yardley had been hired as the Animal Control Technician. It was pointed out he was the father of Ryan Yardley but there would not be direct interaction between them as far as working relations.

The Council indicated they were interested in participating in the Wasatch County Fair Days Parade.

At 9:03 p.m. the June 21, 2007, Regular Meeting of the Heber City Council adjourned.

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Paulette Thurber, City Recorder