

Heber City Corporation
City Council Meeting

July 15, 2010

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on July 15, 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: Council Member Eric Straddeck

Also Present: City Manager Mark K. Anderson
Deputy City Recorder Michelle Kellogg
City Engineer Bart Mumford
City Planner Tony Kohler
Chief of Police Ed Rhoades

Others Present: Luke Peterson, Kent Shelton, Mike Thurber, Devin Bagley, John Emmanuel, Jacob Anderson, Rance Echols, Monica Echols, Greg Adamson, Jaime Hudgen, Mitchel Burns, Todd Cates, Brian Lee, Paul Berg and others whose names were not legible.

Pledge of Allegiance: Mayor Phillips

Prayer: Councilman Patterson

Minutes: Councilman McDonald moved to approve the minutes for March 16, 2010 Budget Meeting, May 20, 2010 Budget Meeting, June 3, 2010 Regular Meeting and June 3, 2010 Work Meeting. Councilman Patterson seconded the motion.

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

Mayor Phillips recognized four Public Works employees for their efforts in keeping homes in the City from flooding. On Sunday, June 6, 2010, Jacob Anderson, Devin Bagley, Rance Echols, and John Emmanuel were called to Mill Road Estates Subdivision and other areas to help with the overflowing canals. Anderson and Emmanuel were in chest-high cold water, digging out debris to keep the water from flooding the neighboring homes. Bagley and Echols were sandbagging

the area. These employees went from location to location where flooding was occurring and worked all night (7:30 p.m.-5:30 a.m.) to keep the majority of homes safe. Mayor Phillips and the Council presented them each with a \$25 check and a photo was taken for the newspaper.

PUBLIC COMMENT

Mike Thurber, Heber City, approached the Council and indicated other cities had the audio recordings of the City Council meetings on the internet. He knew the City Recorder was getting several GRAMA requests for audio recordings, and he felt time would be saved if the audio recordings of the City Council meetings were put on the website as podcasts. Councilman McDonald asked Anderson if that could be done and was told it was a simple process. Mayor Phillips asked for the Council's thoughts. All were in favor. Councilman McDonald asked Tony Kohler to put the podcasts online by next week. Mayor Phillips also asked if the City Council minutes could be put online. It was indicated they were currently online. Anderson stated the audio recordings could be uploaded in segments. Councilman Mergist requested that Closed Session meetings be recorded on a separate device.

Thurber also expressed concern on the parking for Main Street businesses. He requested that City staff or the Planning Commission figure out a way to accommodate business' parking requirements. Mayor Phillips stated the ordinance could be tweaked, but indicated there was no land for parking behind many of the businesses. He had no problem with people parking two blocks away and walking. He said the parking requirement, which was based on square footage, could be changed to reflect how much of the building was used by the public. Councilman McDonald said more access needed to be made available. Councilman Patterson suggested talking with Heber Light and Power about sharing its parking with the surrounding businesses. Mayor Phillips asked Thurber to go to the Planning Commission and ask them to think outside the box. Kohler stated the Planning Department was coming up with some options.

CONSENT AGENDA

Local Consent requested by John Kenworthy – Transfer of Restaurant Beer License – 139 North Main Street (Current location of Spicy Lady): Councilman Patterson moved to approve the transfer of the restaurant beer license at 139 North Main Street to John Kenworthy. Councilman McDonald seconded the motion. Councilman McDonald suggested giving the business a copy of the rules concerning alcohol.

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

APPOINTMENTS

Mitchel Burns – Red Ledges Subdivision – Approval of Final Plat – Phase 1E:

Councilman McDonald pointed out the Housing Authority had not received payments from Red Ledges for its affordable housing obligation. Burns stated he would talk with Gary McDonald about that payment. Burns said he would pay the fees before recording the plat.

Councilman Patterson moved to approve the final plat of Phase 1E, Red Ledges Subdivision, contingent that Red Ledges was current on all affordable housing payments. Councilman Mergist

seconded the motion. Councilman Horner asked how many more affordable housing payments of \$25,000 per month Red Ledges was obligated to pay. Cates indicated there were approximately ten more payments until the obligation would be met.

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

Jeff Findarle – Request for Refund – SideWalk Cash Bond – Property located at 136 South/144 South and 200 West (Continued from the June 17, 2010 meeting): Mumford stated the condition of the adjacent sidewalks was bad but they were there. Kohler said out of fairness, Findarle should be here to plead his case.

Councilman Patterson moved to continue this item until Mr. Findarle could be present. Councilman Mergist seconded the motion.

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

Brian Lee – Discuss Availability of City Owned Land in the Heber City Manufacturing & Business Park: Lee stated there were 2.6 acres of City-owned land in the industrial park he was interested in purchasing. Two years ago, he wanted to purchase that land in order to expand parking for Activa Plaza and the County Recreation Center. Now a business, MIRO Industries, wanted to move their manufacturing facility to Heber and use that space to build its 30,000 square foot plant. This company would be employing 30-40 individuals. Lee was here to request that the City sell the land to the business and retain the right to the rest of the parcel for parking retention. Lee suggested if the Council was uncomfortable about selling the other two thirds of the property, he would like to have a first right of refusal built into the contract.

It was indicated the County Council was considering building a pool which would be attached to the Recreation Center. That addition would mean more parking space requirements for that area. A map was displayed and different areas were shown where the business would like to build and where the Recreation Center was located including the potential pool area.

Mayor Phillips asked if there would be sufficient parking for the pool. Lee stated there would not be sufficient parking. There were currently 65 parking spots that would be eliminated, and with a pool addition, 95 parking spots would be needed. Lee indicated with the proposed plan, this business would come in and parking would be rearranged so the pool and the business could be accommodated. Lee's main concern was if the planned pool didn't materialize, he would like the business to get the first right of refusal on that additional space for future expansion. Councilman Mergist asked how many parking spots the business would need. It was indicated they needed 20 spots.

Lee reiterated that this business would buy the whole parcel if the City was willing, but option two was asking the City to sell only part of the parcel for the manufacturing facility and wait to see if the pool was approved. If that plan did not materialize, this business would have the opportunity to buy the remaining parcel of land.

Anderson said a public hearing would have to be held. Councilman Horner asked what the impact would be to the neighbors. It was indicated storage sheds blocked that piece of land from the residential area.

Mayor Phillips asked what Lee proposed. Lee stated option one would be to sell the 2.6 acres to MIRO Industries. Option two would be to sell one third of the parcel for a building and give MIRO Industries a first right of refusal for the remaining two thirds of the parcel, if it became available at a future date. MIRO Industries wanted to move to Heber by August of next year. It needed a decision in order to get funding by winter.

Anderson said parking was the issue for the pool plus the parking demands of the business. Lee indicated there were now over 500 parking spots at the Recreation Center. Councilman McDonald said he wasn't opposed to selling the property, but didn't want the stipulations attached. Anderson said historically, the City had the position of selling land knowing a building would be built. In this case, the City would lose control as soon as it sold.

Mayor Phillips asserted that another factor was if the pool was built elsewhere, two businesses could be built there or one business could expand. Anderson stated this had been proposed before and the City wanted to see a significant sized building for that size parcel. Discussion.

Lee stated if the whole parcel could be purchased, Lee would be a co-purchaser and would hold the extra space for the parking. Anderson said the City had an agreement with Weyandt, another property owner, which stated if he didn't do anything with the property by a certain time, the City had the right to purchase it back for the same price it was sold for.

Mayor Phillips asked about a public hearing. Anderson stated the City would need the terms established to present to the public. It was indicated MIRO Industries needed to have a specific place determined by the end of the year. Councilman Horner stated the City should give its blessing to Lee that the City would move forward if everything could be worked out. Councilman Mergist said he understood that MIRO Industries wanted the whole piece.

Mayor Phillips asked Lee to work with Anderson in putting together an agreement. Anderson proposed that MIRO Industries and Lee meet with the Planning Department on setbacks, estimate the parking needs, and also make sure the use was compatible. It was indicated the Council would have to determine a price for the land. Lee stated that MIRO Industries was a national company, and salespeople from all over the country would come to Heber and use the hotels during their training. Mayor Phillips thanked Lee for finding a good business to bring to the City.

Paul Berg – Spring Creek Commercial Park – Lot 2 Plat Amendment – Approval of Commercial Condominium: Berg stated the development was on 100 South in Heber. This unit was owned by Brian Winegar. Winegar wanted to split the building ownership into two units so he and Lee could each control and sell their units. Mayor Phillips asked if there would be separate utility boxes. Berg said there were not separate utility boxes; but in condominiums the association could share utility expenses. He stated this was the only building in the project that

would be separate, and indicated the request came about because it was easier to acquire financing.

Councilman McDonald moved to approve the commercial condominium for Spring Creek Commercial Park, Lot 2 Plat Amendment. Councilman Mergist seconded the motion.

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

ACTION ITEMS

Resolution 2010-04 – A Resolution Adopting a Certified Tax Rate for Fiscal Year 2010-

2011: Anderson said the rate was higher because all the property values dropped dramatically. When values decreased, the rate had to increase to bring in the same revenue. Councilman McDonald asked if the rate would increase if homes continued to decline. Anderson stated they would indeed increase in that case. He indicated property values had declined 20 % in the recent years.

Councilman Mergist moved to adopt Resolution 2010-04 – A Resolution Adopting a Certified Tax Rate for Fiscal Year 2010-2011. Councilman Patterson seconded the motion.

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

Approval – Update of Heber City’s Consolidated Plan: Anderson stated the City was asked by Mountainlands Association of Governments (MAG) to provide a list of projects that would happen in the next year, and things the City would like to see happen in the next five to ten years.

Councilman McDonald asked about the Daniels connector road, and indicated he wanted to see it higher on the list. The sheet the Council was given listed this project in third place. Anderson said it was third because the two items higher were already approved and funded. He indicated he sent an email to the Council on the UDOT study and scoping on that intersection which was being held in Orem on August 5th. Councilman McDonald stated in talking with Shawn Seager of MAG, the City did not have to wait for that study before proceeding forward on this project. He wanted to work with MAG so contracts could be drawn up to acquire the necessary pieces of land there. Anderson indicated the City was still trying to get the Council of Governments organized and meeting so the City could determine and prioritize the spending of the corridor preservation funds. He indicated the City could issue bonds for the project based on the future collection of those fees, but needed that group to prioritize the land acquisition with those funds. Mayor Phillips stated Seager emailed him and said he needed direction from the Mayor, not the City Council. He asked if that was the direction the Council wanted him to take. Councilman Horner asked what scope of work the Council would want Seager to do. It was indicated the scope would include land acquisition, road work, connections, etc. Councilman McDonald preferred that the City tell Seager to get started or the project would continue to just sit. Councilman McDonald thought UDOT wouldn’t sign on to the project unless the City started doing something.

Mayor Phillips asked Anderson if the RPO could get started on this. Anderson stated the City had not budgeted to fund the RPO this year. Mumford said the RPO group went along with the Interlocal meeting. Since the Interlocal group hadn't met in a while, the RPO hadn't met either. Mumford stated that the RPO could get financial participation from other entities on this project if they were willing to participate, but if not, the City would need to take control. The RPO was more of a coordinating group. The City could also use Mountainlands (MAG) to help on this project. Mayor Phillips stated he would contact Seager and find out how much money would be needed. Anderson explained the City was also waiting for the Capital Facilities Plan to see if the City might have more funds from impact fees that it would be able to use. Mumford said UDOT would look at incorporating part of Daniels Road under its scope of work. Councilman Horner said if that was part of the project, the City could get money from UDOT as well. It was indicated it would be advantageous to go to the UDOT event. Seager could also persuade UDOT that this was the best way to go. According to Anderson, the UDOT study would take six months. Mayor Phillips asked if the projects listed were CDBG eligible. Anderson said he would hope that some were. Anderson's biggest concerns on the list were the Police Station and the Valley Hills retaining wall. Councilman McDonald stated there was no money for a Police Station but the Valley Hills Park was a safety hazard and should be fixed. Councilman Mergist asked if the City had to rebuild the tennis courts or could the land be reclaimed and a park put in elsewhere. Anderson said the project was not budgeted but he could divert money to the General Fund if the Council so directed.

Councilman Horner indicated the seepage from the retaining wall had stopped. Mumford agreed. Councilman Horner stated that area was an eyesore for property owners and something needed to be done. Mumford suggested the tennis courts might not be a big issue anymore because the Recreation Center now had tennis courts and the high school was going to re-do its courts.

Anderson stated he would put this item on the agenda for the next meeting. Mumford stated it was a very expensive project because of rebuilding the tennis courts. If those courts were replaced with grass, barbeque grills, or a trail, it would significantly reduce the cost. Councilman McDonald wanted to put the Valley Hills Park on the short-term list.

Councilman McDonald motioned to move the Valley Hills Park and tennis courts to the short-term list to fix the safety issues. Councilman Patterson seconded the motion.

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

DISCUSSION/ACTION ITEMS

Discuss Draft Ordinance Adopting Section 15.05.010 – Status Verification System for Physical Performance of Service Contracts: Councilman McDonald stated the purpose of the ordinance was to verify the employees and service contractors of the City were U.S. citizens. Mumford expressed he was comfortable with the wording of the ordinance. Mumford said his department checks each contractor the City used and also the contractors had to verify their employees.

Anderson stated he would prefer the reference to the State Code number instead of using the senate bill number in the ordinance. Anderson suggested changing **15.05.010(B)(2)(a)** and **15.05.010(B)(2)(c)** of the ordinance to include the reference State Code 63G-11-103 and strike SB81. All agreed. Councilman McDonald also wanted the City Code referenced in **15.05.010(A)**.

Councilman McDonald moved to approve the draft ordinance adopting Section 15.05.010 of the Municipal Code – Status Verification System for Physical Performance of Service Contracts with changes noted. Councilman McDonald asked if this had to go to a public hearing. It was indicated it did not. Councilman Mergist seconded the motion.

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

Discuss Draft Ordinance Amending Sections 2.04.010, 2.08.010, 2.08.030 and 2.12.060 – Municipal Government, General Duties, Mayor Pro Tem – Filling of Vacancy, Presiding Officer, Compensation, Powers and Duties and Compensation: Councilman McDonald wanted to update the current Code for Mayor and update the definition of the form of government in Heber. Currently the Code didn't re-identify what type of government there was in the City. Councilman Horner wanted to know what type of government the City had. Anderson stated the City had a six member Council form of government. He said a Council/Mayor form of government would need an election to form that. Councilman Mergist stated he was told by David Church, attorney for ULCT, that Heber had a five-member Council, a weak Mayor and a City Manager. Mayor Phillips said in 1998 the City hired a City Manager. The Mayor then delegated some of his administrative authority to the City Manager. Councilman McDonald wanted the City Council specified as being a Mayor and five-member Council. He wanted it stated that the City Manager was not part of the government. He wanted the sentence about the two separate but equal branches of **02.04.010(A)** struck from the current Code since that was not part of the current government. Mayor Phillips stated the City Manager was part of government just by the fact that the City had one, but he was not part of the governing body. Councilman McDonald stated he was following the State Code.

Councilman McDonald stated that **Section 2.08.010(A)** stated if the State Code changed, the City would automatically update the City Code to mirror the State Code.

Section 2.08.010(B), in speaking of mayoral duties, indicated the mayoral powers. Mayor Phillips read the State Code concerning the mayoral duties, and indicated a change in mayoral powers would require all five Council members agreeing or the Mayor would vote and three Council members would have to agree with the Mayor.

Mayor Phillips stated the State Code was referenced in different parts of the City Code. Currently, the Mayor delegated the CEO power of the City to the City Manager. Anderson clarified if that power was delegated, the power couldn't be shown in both places (as a mayoral power and as a city manager power). One or the other had the power.

Councilman Patterson had a problem with **2.08.010(C)** with City Council running the departments. He stated the City Council didn't know how to run the City departments. Anderson explained in 1998, when the powers were changed, many of these items were transferred to the City Manager.

Councilman Mergist asked about **2.08.010(C)(7)**, pardoning for violations of City Code. It was indicated the Mayor could pardon someone for not mowing their lawn for example, but not for something such as criminal activity.

There were no comments on Paragraph **2.08.010(E)**.

2.08.010(F) - Councilman McDonald wanted to rotate the board assignments so the Council members would know about all aspects of the City. Councilman Patterson didn't approve of that. Councilman Mergist was in favor. Mayor Phillips was against that idea. He knew each member had different strengths and what board each could benefit. He thought there could be some rotation, but not every six months.

2.08.020 (A) refusal to act. In rare cases, a Mayor could halt government and this provision would protect the City against that.

2.08.030(C) Anderson indicated Mayor Phillips also appointed the Chief of Police and Justice Court Judge, but then the judge would be elected to retain that position. Discussion on the new process for selection of the Justice Court Judge. Anderson said the City had 14 applicants for this position. A committee would interview eight of those and then they would nominate three to five of those interviewed to Mayor Phillips.

Section 2.08.070 - Under compensation, it was proposed to add the salary of Mayor and Council. Councilman Patterson and Anderson wanted to strike the exact dollar amount and add "changed from time to time" to replace it.

Discussion – Cancellation of the August 5th City Council Meeting due to Fair Days

Celebrations: Councilman Mergist excused himself at 9:30 p.m. The Council agreed to cancel the City Council meeting August 5th. Anderson stated he would like to hold a Work Meeting to discuss water rates between now and the next City Council Meeting on August 19th

With no further business, the meeting was adjourned.

Michelle Kellogg, Deputy City Recorder