

Heber City Corporation  
City Council Meeting  
July 19, 2007

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on July 19, 2007, in the City Council Chambers in Heber City, Utah.

Excused:	Mayor	David R. Phillips
Present:	Council Members	Terry Wm. Lange Vaun Shelton Shari Lazenby Jeffery Bradshaw Elizabeth Hokanson
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: Perry Rose, Ron Davis, Ryan Davis, Paul Berg, Daylene Stich, Irene Hastings, Brad Graham, Scot Lythgoe, Travis Thomas, Landon Bonner, Neil Anderton, Jai Wurfbain, Jay King, David Franter, Brian Lee, Mike Thurber, Shelton Taylor, Eric Straddeck, Bobbie Jo Probst, Paul King, Eric Goodliffe, Any Bedingfield, Carl Berg, John Call, Sean Lazenby, Keith Rawlings, and others whose name were not legible.

Pledge of Allegiance: Mayor Pro Tempore Terry Wm. Lange  
Prayer: Councilmember Shari Lazenby

Mayor Phillips was excused as he was out of the state.

Minutes: July 5, 2007, Work Meeting  
July 5, 2007, Regular Meeting  
June 21, 2007, Regular Meeting

Councilmember Bradshaw had two changes. June 21, 2007, Regular Minutes: Page 1, Line 41 – “indicted” should be “indicated” and Page 2, Line 6 – “Instand” should be “Instant”. Councilmember Bradshaw moved to approve the July 5, 2007, Work Meeting and Regular Meeting minutes and the June 21, 2007, Regular Meeting minutes with noted changes. Councilmember Lazenby made the second. The voting was unanimous in the affirmative.

Mayor Pro Tempore Lange said he would excuse himself from voting unless there was a tie vote on an issue even though he had the right to vote as Mayor Pro Tempore.

## OPEN PERIOD FOR PUBLIC COMMENT

No comments were received.

## CONSENT AGENDA

### **Jai Wurfbain / Daniel Eaton – The Spicy Lady – Restaurant License – 139 North Main**

**Street:** Wurfbain indicated he owned the Spicy Lady at 139 North Main Street located next to Dominos and Nitro Pak. He said they had comfort food from around the world and, at the present time, were serving breakfast and lunch. He said they would be serving dinner in two or three weeks. He thought they would start serving dinner even before the liquor license would be available. Discussion that the renovation of the building was very nice.

Councilmember Hokanson moved to approve the Restaurant Liquor License. Councilmember Bradshaw made the second. The voting was unanimous in the affirmative.

**Resolution 2007-07 Adoption of the Certified Tax Rate:** Anderson said the County had provided the proposed tax rate. He said that a combination of growth and the increase in valuation of homes had driven the rate down.

Councilmember Bradshaw moved to adopt Resolution 2007-07, Adoption of the Certified Tax Rate. Councilmember Shelton made the second Voting AYE: Vaun Shelton, Shari Lazenby, Jeffery Bradshaw and Elizabeth Hokanson.

## PUBLIC HEARING

**Public Hearing – Ordinance 2007-29 – An Ordinance annexing .18 acres of property located at the northeast quarter of Section 17, Township 4 South, Range 5 East, (975 East 2810 South - Daniels) which was previously located in the Giles Subdivision at the north end of Timp View Drive and known as the Heber Meadows Annexation:** The Public Hearing notice was read by the City Recorder.

Anderson indicated this request was for the cul-de-sac in Daniels that had been discussed in many previous meetings. He said there initially was a plan to connect a road through the area but property owners were concerned with that. Consequently, the .18 acres was sold to the Heber Meadows Subdivision developer. He indicated Daniels Town had de-annexed the property. Mayor Pro Tempore Lange asked for public comments. No comments were received. He explained this was basically a housekeeping item. Mayor Pro Tempore Lange closed the Public Hearing.

Councilmember Lazenby moved to approve Ordinance 2007-29, an Ordinance annexing .18 acres of property located at the northeast quarter of Section 17, Township 4 South, Range 5 East, at approximately 97 East 2810 South formerly located in the Giles Subdivision at the north end of Timp View Drive in Daniels Town. Councilmember Hokanson made the second. Voting AYE: Vaun Shelton, Shari Lazenby, Jeffery Bradshaw and Elizabeth Hokanson.

## APPOINTMENTS

**Heber Meadows Estates Subdivision – Plat Amendment and Lot Split/Small Lot Subdivision – 975 East 2810 South – Formerly in the Giles Subdivision at the north end of Timp View Drive in Daniels Town:** An overhead was shown of the area showing the incorporation of the area into the Heber Meadows Subdivision. It was pointed out two new lots were created and incorporated into that subdivision as a result of the annexation.

Shelton Taylor, Summit Engineering, reviewed the amendment and said it added lot 27 and also lot 39 which became their affordable housing density lot and that the plat went from 52 to 54 lots. He said this was accomplished by narrowing some lots to accommodate the two new lots. Taylor said all issues and problems had been addressed and they had worked hard with everyone involved to get this ready for final approval. There were no public comments or questions from the Council.

Councilmember Lazenby moved to approve the plat amendment and lot split/small lot subdivision at 975 East 2810 South. Councilmember Bradshaw made the second. Voting AYE: Vaun Shelton, Shari Lazenby, Jeffery Bradshaw and Elizabeth Hokanson.

**Landon Bonner – Silver Ridge Subdivision - Final Approval for an 8-lot (or 9-lot) Subdivision – 500 East 309 South - Continued from 06/21/07 and 07/05/07 City Council**

**Meetings:** Anderson reviewed that during last City Council meeting, there had been discussion about this subdivision. He said since that meeting, Fawcett had found some guidelines on criteria for determining historic value of homes and he had also visited with communities that use criteria. Anderson had also met with staff to see what changes would have to take place on an eight-lot versus a nine-lot subdivision.

Bonner provided a new plat showing an 8-lot subdivision. Anderson said it would be the intent of the developer to remove the existing house. It was stated that based on the guidelines Fawcett had provided, the house would not meet the guidelines for historic value. Anderson indicated Jay King had met with Smedley and a new memo had been provided by Smedley as a result of that meeting. Anderson felt it boiled down to whether the cottage lots were valuable to the City or not. Nonetheless, it had been made clear by the developer the house would be removed. Anderson said he understood Bonner would prefer the 9-lot subdivision over the 8-lot. Bonner said he had been talking with Jennifer Kohler. He said if the 9-lot subdivision was approved, they wanted to keep the lot for the City to be used in the Affordable Housing Program.

Mayor Pro Tempore Lange referred to Smedley's memo. Anderson reviewed that memo.

Jay King spoke to the Council and said he felt Heber City had denied him due process. He again stated, as he did in last meeting, the City Council had not answered his letter they received on May 25, 2007. It was again pointed out his request for an answer was based on final approval. He asked why there had been a lack of notification to development that affected his property. King said he had talked to the City Attorney about a compromise and he wanted the Council to consider that compromise. He suggested that compromise was "squashed" by someone. King again expressed concern with the lack of notification and asked why he did not receive written notification of the meetings since this issue involved his property. Fawcett said as far as notification, there was a notice board placed on the property. He said, too, he had hand delivered a letter to King which was above what Code required. Fawcett said he had followed all LUDMA rules.

King said he understood it was up to the Council to give final approval or disapproval. He said if it was approved, he wanted those things he requested in his letter in 10 days. He said he also wanted the minutes from the meeting between the City Attorney and City Manager. Mayor Pro Tempore Lange told King he would need to ask for those things through a GRAMA request to the City Recorder

Councilmember Lazenby asked about the compromise. Anderson said he had not talked to Smedley about that compromise. Discussion about the dimensions on the plat map. Councilmember Lazenby referred to the updated memo from Smedley and his recommendation. Bonner explained the way the road showed on the map was where it had to be to make the subdivision work. Councilmember Bradshaw asked for clarification of the cottage lot and that being deed restricted for the affordable housing. Councilmember Hokanson asked if that program was mature and in place. She did not think it had reached that point. Anderson said a proposal had been drafted but wasn't finalized yet. Councilmember Hokanson suggested it could not be binding at this point. Anderson felt it would be reasonable to put a timeframe on the issue to establishing those standards.

Councilmember Hokanson felt the City would be better off with an 8-lot subdivision since the criteria for affordable housing was not mature. Anderson asked, if the Council did approve an 8-lot subdivision, would they allow Bonner to come back at a later time to get approval for an affordable housing lot after that criteria was mature. The Council seemed favorable to that.

Councilmember Bradshaw moved to grant final approval as an 8-lot subdivision and leave open the possibility for deed restriction on an affordable housing lot and the Council be willing to consider that at a later time. Councilmember Hokanson made the second. Voting AYE: Vaun Shelton, Shari Lazenby, Jeffery Bradshaw and Elizabeth Hokanson.

**Eric Goodliffe - Blue Grouse Commercial/Heber City Gateway Plaza – Subdivision Final Approval – 1301 South Highway 40:** Anderson referred to the revised subdivision agreement as presented tonight with a few minor changes. He indicated the revised agreement had been reviewed by Planning and Engineering staff as well as himself and said staff did not have any issues with the changes.

The project attorney represented the issue. A handout showing the architectural design of the project was distributed. The guidelines for the HOA were reviewed as well as the CC&R's. It was stated this project was being built environmentally friendly.

Mumford said he had been working intensely with these people and there had been a lot of challenges particularly by the Arby's property with the canal and storm water channel/flood channel. He said they had had to deal with moving the flood channel with the biggest issues being how to make the canal work. Mumford said with the changes the developer did to relocate the channel, it would make it possible to rectify any additional flood/storm drain problems when there was additional development. Mumford said the canal would be concrete lined with railing on it. He said there would still be a problem in retaining water until there was additional development. Mumford continued that this issue had been brainstormed with Wasatch County, Horrocks Engineers, his department, the developers and the irrigation company. He said it would be better now than it was but it would still have water retainage until future development. It was pointed out there was a need to make sure the agreement addressed the engineering comments that had been placed on the drawings. Mumford said also, they still needed the approval letter from the irrigation company. It was indicated the roads would be private but easements for the

utilities would be in place—the City would be responsible for utilities but the development would maintain the roads. Additional discussion about traffic impact.

Fawcett talked about design criteria and that the developer had met those criteria. He said the development had some of their own requirements but they would meet the City's requirements, as well.

Councilmember Bradshaw moved to grant Subdivision Final Approval on Blue Grouse Heber City Gateway Plaza along with the Subdivision Agreement and Covenant Running with the Land as long as they conform to engineering and irrigation requirements. Councilmember Lazenby made the second. No further discussion. The voting was unanimous in the affirmative.

**Mark Davis/Ron Davis – Lot Split / Small lot Subdivision - 485 South 100 East:**

Anderson reviewed the location of this property. He pointed out there was an existing house on the property. He said this group had been before Planning Commission and shown how they can meet the requirements of zoning by leaving the home on the property but would prefer a different configuration and would prefer to remove the house. Anderson referred to the inspection done by DBI and the summary of that inspection. Anderson said this house fell into the same category as the other home talked about on the Bonner property and would not fall under the historical criteria. There were no questions from the Council.

Councilmember Lazenby moved to approve the lot split/small lot subdivision on 485 South and 100 East and approve the demolition of the home because of mold and approve the site plan that showed house 1 and 2 being the same size. Councilmember Hokanson made the second. Voting AYE: Vaun Shelton, Shari Lazenby, Jeffery Bradshaw and Elizabeth Hokanson.

**Mel McQuarrie – Coyote Development, LLC - Lot Split/Small Lot Subdivision - Lot 17 and Lot 18 – Phase 1B of The Cove at Valley Hills:** There was no representation from Coyote Development. However, Mumford said with the hand written notes incorporated onto the plat, the issues was resolved.

Councilmember Bradshaw moved to approve the lot split/small lot subdivision of Phase 1B of the Cove at Valley Hills, lot 17 and 18 with the plat as presented tonight with hand written notes per the City Engineer, Bart Mumford. Councilmember Shelton made the second. The voting was unanimous in the affirmative.

**BCAST Media – Plat Amendment - Broadhead Estates Phase I – Lot 19 – Removing the western frontage and adding property to the southern (rear) portion of the lot at approximately 200 South 550 East:** Mumford explained that in development, the owners quit claimed property-for-property without going through the subdivision process. This request, then, was to correct that. He said in that quit claim process, a sewer situation was created and that before recording, the developers would have to create a new sewer service for the area taken off the original lot.

Anderson pointed out the land proposed to be taken off lot 19 had been incorporated into the land that would be discussed on the next agenda item.

Councilmember Lazenby moved to approve the plat amendment to the Broadhead Estates Phase I, Lot 19, and before recording the plat, a new sewer lateral be installed to the home on the east lot. Councilmember Hokanson made the second. The voting was unanimous in the affirmative.

**Paul King – Final Approval – Small Lot Subdivision Plat B – 520 East 200 South:** An overhead was shown of the area. An additional paper map was provided by Mark Anderson which had an easement outlined on it. Mayor Pro Tempore Lange asked if staff had any issues with this request. Fawcett and Mumford so no. Anderson said this lot was being approved under 18.12.200 and he had some concern with how that Section of the Code was being interpreted. He indicated he had discussed the issue with Tony Kohler and then referred to an email he had sent out with an attachment from David Church, legal counsel with the League.

Fawcett said Anderson's concern of a flag lot was real but that this request did conform to the Code. He suggested maybe the Code should be changed in the future. He said this developer was not proposing to do a flag lot here. Discussion about a re-zone. More discussion that the Code was vague and probably should be looked at.

Anderson said if the Council did not feel this was an abuse of the Code, they could approve it and then give direction to the Planning Commission to look at the vagueness of the Code.

Councilmember Hokanson moved to send this issue to the Board of Adjustment for clarification of the Code. Councilmember Lazenby made the second. Voting AYE: Vaun Shelton, Shari Lazenby and Elizabeth Hokanson. Voting NAY: Jeffery Bradshaw. The motion carried.

**Development Corporation LLC - Final Approval – Broadhead Estates Subdivision Phase II and Approval of the associated Subdivision Agreement – 750 East and Center Street:**

Shelton Taylor, Summit Engineering, represented Development Corporation. He indicated they were requesting final approval on Phase II, Broadhead Estates Subdivision. Taylor indicated they had been working with staff very "strenuously" for quite some time and only had one outstanding issue that needed to be addressed--they need to obtain an easement. He pointed that easement out on the overhead. He said they had tried to contact the landowner but have been unsuccessful thus far. Taylor said they had come up with solutions to the storm drain issues and the sewer issues were put to bed. He said they had worked with the State on the well protection zone issues and that was also taken care of. He said they were asking for conditional approval based on acquiring the easement.

Mumford said Taylor was correct but they still needed to get the irrigation company approval on this. He said Summit had worked closely with the irrigation company, but they still needed to get that letter of approval. Mumford explained the issue with the well protection zone was complicated and they had to go through several hoops to get that addressed with the State. Mayor Pro Tempore Lange asked if Mumford was comfortable with the outcome. He said yes.

Councilmember Lazenby moved to grant final approval to the Broadhead Estates Subdivision Phase II with staff working closely with them on the easement issue and subject to the subdivision agreement as presented. Councilmember Shelton made the second. No further discussion. The voting was unanimous in the affirmative.

## ACTION ITEMS

**Mrs. Call's Chocolate – Request to extend Purchase Agreement to Purchase Land located in the Heber City Industrial Park at approximately 1000 South and 300 West:** Anderson indicated the Council had entered into an agreement with these people several months ago. He said the financial institution they were working through wanted more financial history. As a result, they were not able to meet the conditions of a building by July. Consequently, they were asking if they could have an extension to the terms of the Agreement. He said his last conversation today with them was they thought they could have everything in place by April of next year and start construction by June. He said the request was to extend the Agreement to June 2008.

Councilmember Hokanson moved to extend the existing Agreement with Mrs. Calls Candy to June 1, 2008. Councilmember Bradshaw made the second. Councilmember Shelton asked about the price of the lot and wondered if it should be increased again simply because the value of the land would increase with passage of time. Discussion about the selling price as documented in the Agreement. No further discussion. Voting AYE: Vaun Shelton, Shari Lazenby, Jeffery Bradshaw and Elizabeth Hokanson.

**Ordinance 2007-31 – An Ordinance amending the Heber City Municipal Code - Sections 18.48.020 and 18.48.030 to permit Fitness, Recreation and Event Centers, Regulate Concession Signs, and removing Retail Sales as a Prohibited Use:** Councilmember Lazenby said Eleanor Nelsen created this ordinance after she had taken a lot of time to study the issue. Councilmember Lazenby thanked Mrs. Nelsen for the work she had put into the resulting ordinance.

Anderson said this specifically listed fitness, recreation, and event centers and regulated the signage of such and allowed an ancillary use of retail sales. Fawcett explained this proposal eliminated and clarified the existing ordinances so there was not doubt or questions on what was allowed and what was not.

Councilmember Lazenby moved to approve Ordinance 2007-31, an Ordinance amending the Heber City Municipal Code – Sections 18.48.020 and 18.48.030 to permit Fitness, Recreation and Event Centers, Regulate Concession Signs, and removing Retail Sales as a Prohibited Use. Councilmember Bradshaw made the second. No further discussion. Voting AYE: Vaun Shelton, Shari Lazenby, Jeffery Bradshaw and Elizabeth Hokanson.

**Review request from Wasatch County to grant tentative approval for the creation of condominium project at the Bear Creek Building and authorize payment of up to \$50,000 for utility assistance for a County Recreation Center subject to plan being approved by participating entities of how utility costs are to be allocated:** Anderson addressed the condominiumization of this area. He said the County wanted to make sure the City was comfortable going down that road and wanted to get approval from the Council. It was stated the County had not met all the requirements yet, to finalize the building purchase, but they wanted to make sure the City was in favor.

Anderson said the other issue, in visiting with Mike Davis, was the City sent a letter to the County about their willingness to participation in the operational costs of the building. There was no formal motion, only discussion. So Davis was wanting a formal motion so the County felt comfortable with moving forward. Anderson said if the Council was comfortable, he would

indicate to the County that the City Council would be OK with condominimization subject to them meeting the City requirements and the City would participate up to \$50,000 with the agreement that other entities participate, as well.

Councilmember Lazenby asked if the City had received a letter from Davis wanting waiver of sewer and water fees. Anderson said he had heard something about that but had no formal letter. He said, however, during budget meetings the issue was discussed and the City's position was firm and a letter had been sent explaining the City's position. He said the Council approved that letter and it had been mailed.

Councilmember Lazenby did not feel the City residents were paying twice if the water and sewer fees were waived. She said the City needed to step up and do something. Councilmember Lange said the question really was to what extent the City would participate.

Neil Anderton, Wasatch County Council, said the County officials had made a big commitment and had "stepped up." He said they wanted the support of the City. Anderson asked if the request was to not charge water, sewer and electrical charges and have the City pay for the gas? He said Mayor Phillips felt strongly the providing for electricity needed to be addressed by the Power Board. Councilmember Lazenby was strong in her opinion that the City needed to step up and make a commitment. Mayor Pro Tempore Lange indicated the Council could only commit for one budget year at a time. Councilmember Shelton agreed and said he opposed any open-ended agreement. He was supportive of the letter the City sent to the County. He felt \$50,000 was stepping up and was above and beyond.

Councilmember Shelton moved to stand behind the letter that was sent to Wasatch County and approve the condominimization of the project. He continued his motion was to comply with the letter that was sent and the conditions in it. He said he did not feel the fees to the Sewer District could just be walked away from but that they had to be made up somewhere. Councilmember Hokanson made the second. Councilmember Lazenby indicated she supported the motion but did not support the letter. Voting AYE: Vaun Shelton, Shari Lazenby, Jeffery Bradshaw and Elizabeth Hokanson.

Brian Balls, Summit Engineering, wanted to know if sewer impact fees had been paid when the building was expanded. He asked if there were fees, could they apply those to this new building. Mumford said we would give credit for what was now exists. It was agreed they would only be charged for any increase in fixtures.

### **COUNCIL BOARD REPORTS**

Heber City Planning Commission – 2<sup>nd</sup> Thursday –**Bradshaw**  
Heber Valley Special Service District – 3<sup>rd</sup> Wednesday – **Phillips, Shelton, Hokanson**  
Historic Preservation – **Lazenby**

No reports were given.

At 9:20 the July 19, 2007, regular meeting of the Heber City Council adjourned.

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Paulette Thurber, City Recorder