

Heber City Corporation
City Council Meeting
August 17, 2006

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on August 17, 2006, in the City Council Chambers in Heber City, Utah.

Present: Mayor David R. Phillips
Council Members Terry Wm. Lange
Vaun Shelton
Shari Lazenby
Jeffery Bradshaw
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: Tyler Frisby, Brad Sweet, Scott Fernald, James Soderburg, K. Delyn Yeates, Matt Yeates, Jared Yeates, Bryce Waters, Josh Yeates, Michael Watts, Justin Heppler, D. Heppler, Paul Sims, Joe Dunbeck, Alice Fortie, Tom Post, Heidi Post, Annie Bruehl, Bryan Mahoney, Bryson Mahoney, Tony Kohler, Brad Mackey, Kendall Crittenden, Lisa Burkemo, Shelton Taylor, and Kieth Rawlings

Pledge of Allegiance: Councilmember Jeff Bradshaw
Prayer: Councilmember Vaun Shelton

Minutes: July 20, 2006, Work Meeting
July 20, 2006, Regular Meeting

Councilmember Lazenby moved to approve the Work Meeting and Regular Meeting minutes of the July 20, 2006. Councilmember Bradshaw made the second. No further discussion. The voting was unanimous in the affirmative.

OPEN PERIOD FOR PUBLIC COMMENT

Mayor Phillips invited anyone wishing to discuss issues with the Council that were not already on the agenda to do so. Mike Watts thanked the Mayor, City Council, Heber City Corporation, the Commemorative Air Force, Wasatch Aero Services and all the volunteers who helped to make the Heber Valley Air Show a great event. He said the family of Burnice Watts were delighted when they found out he had been nominated to be honored at the Air Show this year. He said it was very much appreciated by all the family members and went a long way in dealing with his passing. He thanked everyone again for honoring him in such a way.

CONSENT AGENDA

Approve FAA Grant Award - Taxi Lane and Fencing Construction at the Heber City Airport:

Grant Local Consent - Canton City Restaurant – Transfer of Liquor License to new location at 281 North Main Street:

Adoption - Resolution 2006-12 – A Resolution Adopting an Instant Award Recognition Policy :

Adoption – Resolution 2006-13 – A Resolution Expressing Support for the Construction of a new high school:

Approval - Interlocal Cooperation Agreement – Summit County and Heber City Corporation – Summit County SWAT Team:

Approval – Proposed Amendments to the Heber City Personnel Policy:

Anderson indicated that this afternoon he had communication with the Federal Aviation Administration and they had identified sources of money and would now do the entire project. Consequently, he expected a new grant for the balance of the project to be ready for approval by next meeting.

Councilmember Hokanson moved to approve the items on the Consent Agenda. Councilmember Lazenby made the second. The voting was unanimous in the affirmative.

APPOINTMENTS

St Lawrence Catholic Church Seeking Local Consent for a Single Event Permit for Beer/Alcohol Sales: Joe Dunbeck, representing the St. Lawrence Catholic Church, said he didn't have anything to add to Tony Kohler's staff report and/or staff work.

Councilmember Hokanson moved to grant Local Consent for a Single Event Permit to the Catholic Church for beer/alcohol sells. Councilmember Bradshaw made the second. No discussion. The voting was unanimous in the affirmative.

Dunbeck thanked Tony Kohler and Karen Tozier for helping him put the paperwork together and also helping him get through this process.

Tom and Heidi Post – Lot Split/Small Lot Subdivision – Located at approximately 332 West Center Street: Alice Fortie indicated she had property next to this property and was very much opposed to this subdivision of property. She did not feel they had enough room. She indicated Tom (Post) wouldn't even be living there, "so who knows who will be living there." She referred to the letters from her son and from Lisa Burkemo. Fortie indicated Post had already started tearing down buildings and questioned if the decision had already been made prior to this meeting. Mayor Phillips said it had not been decided yet as the City Council made the final decision and that it was legal to tear down buildings on property.

It was indicated that Lisa Burkemo had been told this item would probably not be discussed until about 7:30 p.m.; because Burkemo was not yet in attendance, the Council deferred this until that time.

Back to this issue at 7:23 p.m.

Burkemo expressed appreciation to the Council for waiting until she could participate in the discussion. She referred to her letter and said it had also been given to the newspaper. She discussed the smaller cottage homes being built. She indicated the plan was to clean up the empty lots, not divide the larger lots to accommodate the cottage homes. She felt that what was proposed on the Post property was against what the initial plan was created for.

Tom Post indicated his proposal had already been approved by the Planning Commission and the Board of Adjustment. He said also they didn't plan to tear down the existing home. Councilmember Lazenby asked if the ordinance didn't state that anything that was torn down had to be replaced the same size. He again said they weren't tearing down the home, but were only tearing down the outbuildings.

Mayor Phillips reviewed the recommendations of the Planning Commission and the Board of Adjustment. He indicated the Board of Adjustment had recommended the ordinance be readdressed so it was more clear and easier to understand. Councilmember Hokanson agreed the Cottage Home Ordinance needed to be revisited. She said she understood the feelings and input of Burkemo, referred to her letter, and agreed with parts of it. She also encouraged review of the Cottage Home Ordinance. She suggested the Design Criteria Committee might look at this even though that Committee was designed to look at commercial issues. Councilmember Lange, too, wanted to make sure lots weren't being split as discussed by Burkemo. He talked about the home that was removed where the new Chinese restaurant was being built. He wanted the issue revisited, also. He did indicate, though, there were some circumstances where a lot had been split and it was an improvement. Councilmember Lazenby indicated she had issues when something was taken down in the historical area. She agreed with Councilmember Hokanson's comments. She commented that this particular lot had a lot of land and it was a beautiful area. She also felt the Ordinance needed to be revisited. She reviewed the intent of the Cottage Home Ordinance and that it was not to split existing lots but for infill. She said she wanted the Ordinance tightened up.

Mayor Phillips reviewed all comments and asked the Council to consider all things when making the decision. It was suggested a design standard might be implemented for cottage homes that were built next to nicer, historical homes.

Alice Fortie said she did not approve of this even if it was approved by the Council.

Councilmember Lazenby moved to approve the request of Tom and Heidi Post, at the same time, visit the Cottage Home Ordinance and add criteria to it based on the discussion tonight. Councilmember Hokanson made the second. No further discussion. The voting was unanimous in the affirmative.

Summit Engineering- Final Subdivision Approval – Heber Meadows LLC – Located at approximately 1200 East 2800 South (corner of Mill Road and Highway 40 (formerly known as the SLI Properties): Mayor Phillips reviewed the recommendation of the Planning Commission which conditioned the approval upon abandoning the Timp View Drive Cul-de-sac. Anderson pointed out on the overhead map the location of that cul-de-sac and explained that the

cul-de-sac was part of Daniel Town. He indicated when the subdivision was going through the design phase, the developer had designed the lots such that they backed into that cul-de-sac; the property owners there found that objectionable. As a compromise, Daniel Town agreed to go through the process of abandoning that road right-of-way and offering it for sale to the developers with the understanding they would amend the lot descriptions to include that road right-of-way. He continued by explaining the process the developer had to go through to get that land part of the lots for the development. (Daniel had to disincorporate the property and Heber had to amend its Annexation Policy Plan and annex it before it could be made a part of the lots. He continued this would take public hearings by both entities.) Anderson referred to the subdivision agreement and said it should only be approved subject to the conditions laid out for the cul-de-sac.

Councilmember Lazenby asked Councilmember Bradshaw, who serves on the Planning Commission, about the Planning Commission discussion on the cul-de-sac. Councilmember Bradshaw indicated several Daniel people attended the meeting and they were in favor of dissolving the cul-de-sac as they objected to the smaller lots abutting up to their property.

Anderson again explained Daniel had to hold a public hearing to abandon the public right-of-way. They could then sell it to the developers. Heber City would have to go through its public process, as well.

Councilmember Lazenby moved to approve the Heber Meadows Subdivision located at approximately 1200 East 2800 South subject to the following conditions: 1) Daniel Town hold a public hearing for the purpose of abandoning a public right-of-way 2) Daniel Town selling the property to the developers 3) the developer then have Heber City amend its Annexation Policy Plan 4) the developer file an annexation petition which had to be accepted 5) Heber City go through a subdivision plat amendment which would allow that property to be included in the lots. Councilmember Bradshaw made the second on the motion. Mumford said to be aware that before the developers could record the plat, there were off-site utilities they have to get. Anderson said the developer had to obtain water and sewer easements through the U.S. Forest Service, Mill Stream property, and property owned by Vaun Shelton, as well. Discussion that the agreements must outline all these conditions. Mayor Phillips asked for the vote on the motion. The voting was unanimous in the affirmative.

Paul Sims – Stone Creek Subdivision – Planned Community Zone Master Plan Approval – Property located at approximately 700 North 1300 East: Anderson explained because this fell within the PC Zone, it had to come to the City Council for approval. However, after that process, it might change slightly in the engineering review process. Mayor Phillips indicated this item was for approval of the master plan of the development.

Councilmember Lange's main concern was roads and transportation. He said he was not in favor of smaller roads and would never be in favor. He said the PC Zone was developed for helping development in difficult terrain and he was not changing his mind about narrow roads. He wanted the Councilmembers to visit some areas with smaller roads and think serious about the impact of narrow roads. Mayor Phillips indicated the City had a recommendation from engineering for 32' roads as well as a recommendation from Planning Commission for private roads. (It was indicated that was in error and should read public roads)

Councilmember Hokanson asked about a restriction of how long blocks could be. Mumford said cul-de-sacs could be 800' deep. Additional discussion about the length of blocks. Councilmember

Hokanson and Councilmember Lange stressed caution with this and to move forward slowly. Councilmember Hokanson said 26' or 28' asphalt was too narrow and there were too many cul-de-sacs in the proposal. She personally wanted some changes and did not like the design of roads being long and winding. She felt some of the streets should be cut through with intersections. She asked if these homes were targeted for second homes. A person in the audience shook his head no.

James Soderberg indicated he had many concerns - some relating to safety. He indicated he lived on the border of this development. He also had issues with the average lot size versus the bordering property. He said the lots were considerably smaller than the property it bordered. He had concern with the detention pond for rainwater, as well. He said the area was completely surrounded by a canal. He speculated all the runoff water couldn't go into the pond and asked how the City would get excess water into the canal. He expressed concern with mosquitoes - How long before someone dies here with West Nile Virus he questioned and asked if the City was going to take on that responsibility. He asked what was the goal of the open space requirement and if it was to have more open space in the City, to maintain the rural feel of the community, or was open space to really have open space. He expressed concern with the consistency of the clay soil and the associated problems with runoff water. He expressed concern with home owners associations and said, time after time, home owners associations break down because of funds not being available. He questioned who was going to enforce off-street parking as proposed. He had concerns with 2/3 of the community living in one area. He had concerns with traffic flow and where they would be coming out of the development and the stop sign that they all would have to use. He did not like the walking areas because of the maintenance. He felt this plan was to make as much money as possible for the developer and asked the Council to reconsider the PC Zone.

Fawcett felt it was important to point out what the item on the agenda was Master Plan approval and not subdivision approval. He said this was part of the master plan element that was part of the PC Zone. He said there were good reasons the PC Zone was where it was and they couldn't necessarily be built with grid lines. He said the reason these things were addressed in the master plan was to protect the environment and provide for the uniqueness of the area. He asked the Council to keep that in mind when evaluating this issue. He continued these were sensitive environmental areas and the master plan provided real strong guidance.

Tyler Frisby and Paul Sims introduced themselves and indicated they were the designers and engineers of this project. Frisby indicated they had submitted a concept plan 1 ½ years ago similar to what was on the board. Since that time the City had completed the PC Zone. He said they took the PC Zone Code and put this project together based on it.

Frisby indicated that to accommodate open space, they came up with the concept of restricted uses. He said also they wanted the roads to remain narrower to keep a park-like look. He said they initially were going with private roads but had rethought that. He did feel narrower roads were better for a community feeling in the project. He pointed out the Planning Commission had made some specific recommendations as road widths and curb were discussed at length in that meeting. He said the Planning Commission recommended high back curbs, public roads and a 28-foot wide pavement. He reviewed that the PC Zone ordinance allowed for narrower road widths. Frisby said they were willing to get opinions of this body about road widths. However, he explained, if road widths were increased, the park strip was effected which reduced open space which forced them to make the lots smaller. Frisby said this particular site had a lot of terrain that they were working with.

Councilmember Shelton wanted to know if they had met with the CUP. Frisby indicated yes. He said they did a flood hazard study which was included in the plans. He said there would be berming in places to keep drainage away from homes.

Frisby said they looked at traffic distribution and traffic flow. He felt the majority of traffic would be egressing / ingressing at different roads based on the traffic study.

Mayor Phillips asked Fawcett if the Council passed this master plan for this PC Community, how much control did the Council have for change. Fawcett said, if approved tonight and in the future change was wanted, they would have to go back to the Planning Commission with a new plan. He said that process provided for stability for the City. He said it was a little painful for developers, but necessary for the City. Mumford said one of his big concerns was how much he might be locked in because they hadn't completed detailed engineering yet. It was agreed some tweaking could be done but this concept was basically what they would get.

Councilmember Lazenby had concerns with the egress intersection and the hill. She compared her street and the traffic flow off of it. She felt the streets needed to be wider. She referred to the Muirfield development which was supposed to be off-street parking and said it didn't work. She was concerned for safety reasons. Kohler pointed out Muirfield had a 20' setback and this development had 30' setbacks. Mumford thought there would be some traffic on the side streets but most of the traffic would be on the main roads. He said he had less concern with this development than the one next to it. Fawcett pointed out the surrounding areas were already developed and there was no place for through roads. He said they were constrained with this configuration because of the existing homes-putting a grid on it wouldn't work. He said again the reason for this design was steep gullies and other terrain. He suggested requiring other roads would require the developers to build million dollar bridges.

Councilmember Hokanson questioned whether this should be in the PC Zone or if it should be zoned differently. Frisby said one of the reasons was the terrain. Anderson said when the City annexed this and did the master planning, this piece was part of the McNaughton property. He said when the developer first came to the Planning Commission, they wanted traditional zoning. Because of unique terrain in the area, it was determined to be included in the PC Zone. He said, too, density wise the City was better off with this zoning as there would be more lots with R-14 or traditional zoning. Frisby said part of the concept was to do something environmentally friendly rather than going opposite the terrain. Fawcett indicated the lots themselves were worth more in this configuration than with traditional lots.

Councilmember Bradshaw indicated he had already sat through extended hearings with the Planning Commission on this issue. He felt this development overall was real good. He said he did not see the problems that some of the adjacent home owners saw and felt a good number of their concerns were already addressed. He said narrower roads might make it more difficult for public vehicles; however, it also slowed down traffic. Overall he said he had a good feeling about the project.

Councilmember Lange indicated this was the first PC Zone this Council had seen. He said the City had made some serious mistakes in past developments. He expressed concern with steepness of roads in other areas of town. He also had concerns with the length of roads in subdivisions that border this development as well as 4-way stops. He had concerns with traffic speed, even on the slopes. Councilmember Lange commended the engineers for what they were

trying to do but did not think the long skinny green areas called open space was really open space. He said he did not like cul-de-sacs, either.

Mayor Phillips referred to the development agreement and asked if the developers had reviewed that and agreed. Mumford indicated he had come up with some additional language today to be included in that agreement. Anderson explained they had met with the developers earlier in the day and made some suggested changes to the agreement. Discussion about adhering with the recommendation of the Planning Commission. Councilmember Lange asked if the changes were changes necessary because of engineering. Mumford said they would happen with the subdivision process. The Planning Commission would recommend approval based on and including engineering recommendations. Mayor Phillips felt comfortable this wouldn't be passed until all staff and Planning Commission issues had been addressed.

Frisby addressed the issue of working through the process. He said they had worked with Mumford already and made the commitment again to work with him on any issues that were brought up. He said their intent was to meet the ordinance to the letter.

Councilmember Lazenby felt the Council should be proactive and look at wider roads and future needs. She said she wanted 30' roads. Councilmember Hokanson agreed. Councilmember Hokanson asked if some things could be binding to the home owners association. It was said yes, they could be binding. Frisby suggested most cities typically have a maintenance agreement. He discussed funding of home owners associations. Anderson indicated the next step would be to enter into a subdivision agreement which would define this to one more level and would also define accountability.

Councilmember Lazenby moved to not approve the Stone Creek Planned Community Zone Master Plan until the Council could see a plan with 30' roads. Councilmember Lange made the second. Councilmember Hokanson would like to see if there could not be 30 houses in a row on the street or at least address that issue. Mumford asked how she would propose to do that. Would it be by removing lots or what? Councilmember Lazenby amended her motion to include the number of homes in a right-of-way. Anderson said the motion would send this back to the Planning Commission for reevaluation.

Frisby said they looked at scenario after scenario and they could bring in the drawings to show the Council, if they wanted. He said this was the way to do it. Other designs would split up open space and would require re-grading the whole area to make road connections. He said it was almost impossible to do that and maintain the 40% open space. Councilmember Hokanson was satisfied with his explanation and now understood the layout plan. Frisby said it was like a jigsaw puzzle that had to fit together. Frisby said they would be working on design deficiency, as far as detention and drainage, in the area. Discussion about perk testing and study of the soil.

Councilmember Lazenby withdrew her motion.

Councilmember Lazenby moved to approve the Stone Creek Planned Community Zone master Plan with 30' roads widths and to require entering into a subdivision agreement. Councilmember Bradshaw made the second. No further discussion. The voting was unanimous in the affirmative.

Ivory Homes – Final Subdivision Approval – Mill Road Estates Phase II - Property located at approximately 400 South Mill Road (south of Mill Road Estates Phase I): Mumford said he had reviewed the plans and they were ready to go. He had also reviewed the Subdivision

Agreement which dealt with reimbursement of the sidewalk. He said that Agreement was straightforward as they had made this phase so it was outside the Lake Creek Channel. Mumford indicated he did not have any concerns with the recommendation of the Planning Commission.

Councilmember Lazenby moved to give final subdivision approval for the Mill Road Estates Subdivision – Phase II. Councilmember Hokanson made the second. Further discussion about the FEMA Flood Plain. Mumford explained there was a line designated on the plat and the developer could not build on those until the issues with FEMA were resolved. It was discussed that there were two lots in the FEMA Flood Plain of which one was an affordable housing lot. Brad Mackey indicated he had all the agreements signed and a check for reimbursement of sidewalk. The voting was unanimous in the affirmative.

Joshua Yeates – Presentation of an Annexation Petition known as the Elmbridge Annexation – 21.84 Acres of ground located at approximately 100 West 700 North: A different map was presented which had been requested by the City Recorder as the one included in the initial packet was not a recordable map. Mayor Phillips reminded the Council of the previous meeting when this property had been discussed. Anderson said the developers were taking a risk with this concept as it was not in harmony with the City’s current zoning. He said it would have to go through the zone change process or an overlay approval in order to put in apartments. Discussion about the bypass road and possible differences to the transition onto the main road.

Councilmember Hokanson moved to forward the petition for annexation to the Planning Commission for further study. Councilmember Lazenby made the second. Discussion about a roadway connecting this project with the Muirfield Park. The Council asked that possibility be considered. The voting was unanimous in the affirmative.

Ed Kren – Requesting Financial Assistance from Heber City to Install a Fire Hydrant on 100 North Main - Property located at approximately 137 North Main Street: This issue was postponed to next meeting.

ACTION ITEMS

Executive Hangar Construction – Review/Approval of recommendation from the Airport Advisory Board (Continued from July 6 and July 20 meetings): Anderson indicated that on two different occasions this issue had been to the Council for consideration. He said Mel McQuarrie had some concern with awarding this bid to someone other than himself. Anderson reviewed the City Council had asked for legal council to review the documents that related to the development of the hangars. He referred to the letter also from the attorneys of McQuarrie asking to delay awarding the bid for 30 days.

Anderson indicated Heber City legal council did not feel there were any guaranteed rights or obligations to Mr. McQuarrie. At the same time he and legal council felt, if McQuarries’ attorney thought there was documentation that outlined they have some right, Heber City should evaluate that before entering into an agreement with someone else.

Anderson said he and Smedley recommend the City allow seven or fourteen days for the City to assess the validity of McQuarries’ assertions; if there were no significant risks to the City, then the City could move forward with the recommendation of the Airport Advisory Board. Mayor

Phillips pointed out if there was anything that McQuarrie had coming from Heber City, he would get it.

Councilmember Shelton moved to delay awarding the bid on the executive hangar for 14 days. Mayor Phillips questioned the Council that if McQuarrie had no rights from the City, were they comfortable going ahead with awarding the bid to Watts. Councilmember Lange wanted to wait and bring back findings to the next meeting. Discussion about how this should proceed. Anderson discussed the Questar's gas line easement in the building area. Councilmember Lange made the second to the motion. The voting was unanimous in the affirmative.

Ordinance 2006-17 – Amendments to Chapter 18.76 – Landscaping: Councilmember Bradshaw moved to adopt Ordinance 2006-17, amendments to Chapter 18.76, Landscaping. Councilmember Lazenby made the second. Councilmember Hokanson asked if the City previously had a time requirement to put in landscaping. It was indicated, yes, 18 months. She stressed pursuing some of the offenders now that the City had a Code Enforcement Officer.

Chief Rhoades said the Code Enforcement Officer enters into an agreement with the property owner. He gives them 15 days before a compliance citation goes to a citation. However, a citation could go to court if not taken care of timely.

Mayor Phillips asked for a vote on the motion. The voting was unanimous in the affirmative.

Councilmember Lange discussed Main Street and the need for the property owners, including the Chamber of Commerce, to clean their lots.

Mayor Phillips instructed the Council to let Anderson know if they had any Code enforcement issues that needed addressed

Councilmember Shelton discussed the use of fire hydrants without a meter. (basically stealing water from the City) Mumford reviewed the process of those that do it right.

Discussion - Development of County property under County Standards: Mayor Phillips suggested the Council take the materials home that Anderson had given them to read and study. Anderson referred to the documents and pointed out some of the high points of those documents in which the County said they would annex the property. He indicated there was a good paper trail that showed the County agreed to annex. He said it was concerning to him that now the County had filed a protest to the annexation of the Newton property. Anderson explained the protest that had been submitted by the County should have been submitted, but did not appear to have been sent, to the Boundary Commission. He said also they had to schedule a Boundary Commission meeting as well as notice the meeting. He said they were not going to meet the time guidelines mandated by the State of Utah.

Mayor Phillips suggested the City could have an overlay zone that allowed certain things. He said, though, impact fees were a different story.

Councilmember Hokanson moved the City and County officials get together again and talk. She felt it crucial the City tell the County how the City Council felt. Councilmember Lange made the second and suggested the attorneys for the entities needed to attend the meeting, as well. The voting was unanimous in the affirmative.

CITY COUNCIL BOARD ASSIGNMENTS

Wasatch County Housing Authority – 1st Wednesday – **Shelton**
Heber City Planning Commission – 2nd Thursday – **Bradshaw**
Wasatch City/County Health Department – 3rd Tuesday – **Lazenby**
Heber Valley Special Service District – 3rd Wednesday – **Phillips, Shelton, Hokanson**
Heber Light and Power – 4th Wednesday – **Phillips, Lange, Shelton**
Heber City Planning Commission – 4th Thursday – **Bradshaw**
Historic Preservation – **Lazenby**

No reports were given.

As there was no other business, the August 17, 2006, Regular Meeting of the Heber City Council adjourned.

Paulette Thurber, City Recorder