Heber City Corporation
City Council Meeting

August 21, 2008
7:00

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on August 21, 2008, in the City Council Chambers in Heber City, Utah.

Present:	Mayor	David R. Phillips
	Council Members	Jeffery Bradshaw Elizabeth Hokanson Eric Straddeck Nile Horner Robert Patterson
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: Kathryn Rhoades, Aaron Robertson, Tony Kohler, Mike Thurber, Brian Balls, Wayne Foy, Brad Mackay, Brigham Ashton, Mark E. Anderson, and Josh Anderson.

Pledge of Allegiance:	Councilmember Nile Horner
Prayer/Thought	Councilmember Robert Patterson
Minutes:	05/15/2008 Regular Meeting 06/03/2008 Special Meeting

Councilmember Bradshaw moved to approve the minutes of the May 15, 2008, Regular Meeting and the June 3, 2008, Special Meeting. Councilmember Patterson made the second. There was no discussion. Voting Aye: Councilmembers Bradshaw, Hokanson, Straddeck, Patterson, and Horner.

OPEN PERIOD FOR PUBLIC COMMENT

Mayor Phillips invited anyone who desired to address the Council on issues not already on the Agenda. No comments were received.

Approved 10/30/08

APPOINTMENTS

Ivory Homes – Request phasing of Mill Road Estates Phase III into two phases (Phase III and Phase IV) – Property located at approximately 400 South between 700 and 1200 East Approval of open space alterations to the stream and adjoining building lots front and rear setbacks to 25 feet along stream and 400 South: Mayor Phillips said the Council had reviewed this request from the packet information provided but asked Anderson to give a synopsis. Anderson referred to Tony Kohler.

Kohler indicated both phases would have 400 South going through them and the proposal was to put the Lake Creek Channel down the center of the road. An overhead was shown. He said approval had been granted for the Channel. Kohler continued that at the time of Phase 3 approval, the City was also considering an open space ordinance which allowed the lot sizes to be cut down to allow more open space along streams and major roads. It also allowed the City Council to reduce the front and rear setbacks so as to enhance the open space feature. He indicated Ivory Homes was proposing that both the front and rear setbacks of the lots that front the Channel be reduced from 30' to 25'. In exchange, they would provide an additional 4' of right-of-way along the canal on both sides of the street and landscape with ground cover and trees. He said this request changed the lot size from 110 feet to 106 feet and moved the extra 4' over to the Channel.

Councilmember Hokanson asked how this proposal was different from what they proposed in the Spring which the Council declined--it appeared to be the same. Kohler said it was basically the same. Discussion about their original request and the correspondence and e-mails that had taken place over the last few months between the Planning Department and Ivory Homes.

Anderson asked what the recommendation from the City Council was when it approved Phase 3, which had not yet been recorded. Kohler talked about the Planning Commission recommendation which was that Phase 3 be approved without the open space with 72' right-of-way and having the stream in the middle—no open space and no setback reduction. However, the Planning Commission also indicated they were working on a new ordinance and, if adopted, wanted Ivory Homes to implement the new plan. Kohler indicated the new plan was adopted without the open space. The difference with the plan presented now was the right-of-way went from 72' to 80', the lots shrunk by 4' and they were asking for the reduced setback that was in the ordinance now.

Brad Mackay, representing Ivory Homes, reviewed the approval of Mill Road Phase 3. His said his goal now was to split it into two phases because of the slower economy. A plat was shown of the original Phase 3 and the proposed change into two phases. He said he was trying to work with planning staff to get a product they wanted.

Councilmember Hokanson discussed the idea of Ivory not putting landscaping in along the Channel. She felt there were not that many people that wanted to buy a home with a fence and a channel, and a drop off and it seemed to her that it would be in the best interest of Ivory Homes to landscape that area. Kohler said the Planning Commission felt strongly that the landscaping should be implemented. Councilmember Hokanson felt this was one more time that Ivory Homes

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had taken advantage and was gouging everyone by putting the biggest houses they could and not trying to work with the City in what would be the best for the City. She said she appreciated what staff had done with this but not what Ivory had done.

Councilmember Straddeck indicated there was a lot of development that had been moth balled or slowed down and the site was ugly. His concern was with Phase 4 and it fronting Mill Road, a major traffic area. Mackay said Mill Road would already be improved but the area for homes would be a field just like it is now because they were not putting in the roads. Mumford said staff had allowed them to realign the canal and they put in the improvement to get the Mill Road issue cleaned up. They did that as a favor to the City by putting in those improvements before the Subdivision went forward. Mayor Phillips expressed appreciated to Mackay and Ivory Homes for working with the City on the Mill Road issue which allowed for a safer area for the school children to walk to school

Councilmember Horner said this seemed simple but he did have some concerns. There was more discussion about weeds on empty lots. Mackay indicated Ivory Homes had said they would keep the weeds under control. Councilmember Hokanson said all the lots there now were covered with weeds and they had not done a good job with weed control so far. Councilmember Horner agreed. He said if this issue was approved tonight, he wanted strict requirements put in place to keep the area from being an eye sore. He continued he was in favor of the 4' along the canal but if they didn't commit to keeping the weeds down, he would not be in favor of phasing.

Councilmember Straddeck said the Council was dissatisfied with the snow removal along the sidewalk last year and that the City finally had to take care of it. He said he was fine with the change to the setbacks and could go either way with the 4 feet along the canal.

Anderson said the Council had two new plats before them which were different than originally approved in that they included the additional 4' landscaping and the request for 5' setbacks. If this was not approved by the Council, Ivory Homes would go with Phase 3 as already approved. Anderson suggested this development and the Boldav Annexation was what prompted the open space enhancement issue. There was clarification and more discussion pertaining to setbacks and frontages.

Mark Eden Anderson, a member of the audience, said it sounded like the Council was looking at Ivory Homes as the bad guy—remember they are businessmen. He's offering to give you 4' of landscaped next to the canal—the Council would be crazy to not give him what he wants.

Councilmember Horner was fine with having a bigger home on the lot but had concerns with the house being closer to the canal. He said the driveway would be shorter so more cars would be parked in the road. Tony Kohler talked about big trucks, their length, and the bed hanging over onto the sidewalk. He compared this development to Heber Landing which had no park strip, just 50' of frontage and 25' setbacks. He said the ordinance would not allow for shorter than 25 feet setbacks. Councilmember Bradshaw commented he had a daughter that lived in a home with 25' setbacks and he did not see anything wrong with them. He did not think it was an issue he would be against.

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Councilmember Straddeck moved to approve the phasing request and split Phase 3 into two phases, with the 25' setbacks and the 4' landscaping on the canal, conditioned upon getting some wording into an agreement about weed control in the Subdivision Agreement. Councilmember Bradshaw made the second. Mayor Phillips asked for discussion. The Council also wanted to include in the Subdivision Agreement the standard paragraph about a weed control plan in place and approved by the Weed Control Board. Prior to plat recordation, a copy of the plan approved by Weed Board must be submitted to the City.

Councilmember Straddeck said the standard weed control language seemed wimpy to him. It did not say what happened if they didn't comply. Mumford said the reason for that was the City had not hired someone to take on the enforcement of the Weed Board and should maybe consider that to be budgeted for at some time. Kohler said it was unfair to say the City had not done its job in enforcing the weed problem because his department had. He said the City needed to get more sophisticated about weed control. Anderson suggested the nuisance ordinance addressed the issue, as well.

Voting Aye: Councilmembers Bradshaw, Hokanson, Straddeck, Patterson, and Horner.

Ordinance 2008-18 - Amendment to the Official Zoning Map of Heber City - Requesting a Zone Change from R-1 Residential to I-1 Industrial – Property located on the northwest corner of Airport Road and Daniels Road at approximately 1840 South Daniels Road:
Anderson pointed out the proposed changes on an overhead map. He said if the current house area was rezoned, it would become a non-conforming use and Mr. Foy did not want the house to become non-conforming. If it were zoned Industrial and the house became non-conforming, it would mean they could not add on to the house. Kohler clarified that in case of an act of God the house was destroyed, they could rebuild exactly to its original size, it had to be done in a year and had to meet the current code. Anderson, referring to the overhead, said the reason the map showed the stretch of R-1 now was because the Council had responded to a request from Lynn and Peggy Sulser who lived in the home at the time the Master Plan was adopted for that area. Anderson said that from staff perspective, it was desired that the entire parcel to be zoned Industrial. The request was only on the Foy property.

Councilmember Horner said he had no problem with leaving the one section R-1. Councilmember Straddeck said if the Council was looking at the area as industrial, and that was what was wanted, it would be counter-productive to allow this area to stay R-1. Anderson explained "non-conforming use" was really a use the City wanted to phase out at some time — it would not be compatible long term.

Councilmember Hokanson talked about the Master Plan which showed the area as industrial.

Councilmember Hokanson motioned to approve Ordinance 2008-18 – an Amendment to the Official Zoning Map of Heber City, making a zone change from R-1 Residential to I-1 Industrial for property as described in Exhibit A (boundary description) and B (illustration) of the Ordinance. Councilmember Horner made the second.

Voting Aye: Councilmembers Bradshaw, Hokanson, Straddeck, Patterson, and Horner.

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Ordinance 2008 – 19 - Amendment to the Future Land Use Map of the General Plan for property located at approximately 750 North Highway 40 - From Highway a Commercial Land Use to a Planned Community (PC) Land Use North of the property and from a Planned Community Land Use to a Highway Commercial Land Use along the Eastern portion of the property: Anderson said there were two pieces of land that the Planning Commission had recommended for a change in zoning. An overhead was shown and Anderson pointed out the requested change. Kohler said the recommendation of the Planning Commission made sense to him and it made sense to line up the boundaries. There was discussion about how much acreage was commercial now and how much would be added.

Councilmember Patterson moved to approve Ordinance 2008-19, an Amendment to the Future Land Use Map of the General Plan for property located at approximately 750 North Highway 40 from a Highway Commercial Land Use to a Planned Community Land Use north of the property and from a Planned Community Land Use to a Highway Commercial Land Use along the eastern portion of the property as set forth in Exhibit A (boundary description) and B (illustration) attached to the Ordinance. Councilmember Bradshaw made the second. There was no further discussion.

Voting Aye: Councilmembers Bradshaw, Hokanson, Straddeck, Patterson, and Horner.

There was some discussion about setting a public hearing for the annexation. Councilmember Straddeck said he wanted all the ducks in a row before setting the hearing.

ACTION ITEMS

Ordinance 2008-17 – An Ordinance Amending Section 12.20.170 – Right-of-Way Landscaping (Continued from the August 7, 2008, meeting): Tony Kohler showed pictures on the overhead and discussed alternatives to grass in the right-of-way. The pictures included large boulders, bark, small gravel, etc. Kohler said he personally wanted to see more street trees. He also wanted the planter strip to be consistent with the overall landscaping instead of being an afterthought. It was indicated the planter strip was actually owned by the City so some rocks/planting posed a liability to the City.

Councilmember Hokanson asked about the supply of secondary water. It was discussed that it came from the Jordanelle Reservoir. Mumford said the City had the water rights for the water and so far they had been able to supply those rights. Mumford said one anticipated concern was peaking issues but that was a facilities issue not a supply issue.

There was additional discussion about enforcement of any code adopted for landscaping. Mayor Phillips said he could envision enforcement being a big problem.

Anderson said staff focused on safety and aesthetics. Mumford said he preferred either grass or pavers. Councilmember Straddeck said he liked grass more than rocks but that rocks were some people's preference. He was uncomfortable telling people the City did not like the look of certain things. Mayor Phillips suggested it was hard to know where to draw the line.

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Councilmember Horner agreed with Councilmember Straddeck and said people were individualists. He said he had a hard time being a dictator saying residents had to have something or could not have something. Councilmember Bradshaw's concern was safety and he did not think the bigger rocks were safe and suggested most people could not walk across the bigger rocks without falling. Mumford said that was why he liked pavers and said if people didn't want grass, they should put in pavers. He said the smaller gravel got into the street and so did bark and the bigger rocks were a safety issue. He said pavers were expensive, but in his opinion, were better. Councilmember Horner agreed but did not want to dictate. Councilmember Patterson felt there needed to be guidelines – people had to take pride in their neighborhoods and suggested some people would never do anything if not forced. Councilmember Straddeck said that regardless of what was put down, it needed to be maintained—it had to be clear of weeds. Councilmember Hokanson stated that she did not want to be a Nazi either, but wanted to have some rules because the streetscape was so important to the community. Councilmember Horner felt as long as it was maintained and the weeds were taken care of, it should not matter what the landscaping was--it should be the individual's choice.

Mayor Phillips felt the ordinance as presented was good. Councilmember Straddeck said that he did not like B1, B2 or B3. Councilmember Horner suggested that whatever was in the park strip should be easily maintained. He said it was more difficult to mow the planter strip if there were trees in it. Councilmember Straddeck and Councilmember Horner agreed that the biggest issue was that something would be planted and the weeds would be maintained. Councilmember Straddeck did not subscribe to the idea of large rocks being dangerous. He asked how long it had been since someone complained to the City about them.

Brian Balls suggested potential safety hazards could be identified and listed as not being allowed and the rest of it could be left to the individual's choice. He reiterated the park strip was a public right-of-way and City owned. Anderson suggested it was a lot easier to sell safety to the public than dictate what was allowed and what was not.

Kohler discussed the issue of enforcement again. He agreed with Councilmembers Horner and Straddeck to keep the weeds down and put something in the park strip.

The summary of the discussion was not favorable for the ordinance as proposed. It was agreed something needed to be done to keep the weeds out and the area maintained.

Councilmember Straddeck moved to continue this issue to the next meeting. Councilmember Horner made the second. Voting Aye: Councilmembers Bradshaw, Hokanson, Straddeck, Patterson, and Horner.

DISCUSSION/ACTION ITEMS

Set Public Hearing – Ordinance 2008-20 - Consideration of the Nichols Annexation – a 16.57 acre parcel of ground located west of Southfield Road and south of the Sherm Giles' Annexation: Councilmember Straddeck moved to set a public hearing for September 4, 2008, to consider Ordinance 2008-20, the proposed Nichols Annexation – a 16.57 acre parcel of ground

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located west of Southfield Road and south of the Sherm Giles' Annexation. Councilmember Horner made the second. There was no discussion.

Voting Aye: Councilmembers Bradshaw, Hokanson, Straddeck, Patterson, and Horner.

Discuss Airport Hangar Marketing Plan: Anderson reviewed the proposed purchase agreement that was provided to the Council prior to the meeting. He apologized that it was not provided sooner but Mark Smedley had computer problems this week. He said he wanted to make sure the Council was supportive of this agreement. He reviewed that document which incorporated recommendations of the Airport Board. He indicated he had placed a Notice for Bid in yesterday's paper for excavation for the hangars, electrical and paving. He said his biggest concern was to get the asphalt down before winter.

Councilmember Straddeck asked about provisions for making modifications. Anderson said the City would hire their own sub-contractor. Mayor Phillips pointed out the outside appearance would be the same as what was currently at the airport. He said the buyers would get a basic package and if they wanted changes, they would be responsible; however it had to conform to the International Building Code.

Councilmember Horner had concerns with the City being the general contractor. Anderson said he had that same thing expressed by Mel McQuarrie who said the City did not understand what might arise from being the general contractor. There was discussion about whether the City being the general contractor was in the best interest of the City.

Councilmember Bradshaw stated the more the City did on the hangars the more money that would be saved. He said there would probably be more risk for the City, but also the potential for a much greater profit. Councilmember Horner said he had a problem with the profit issue. The City was a non-profit organization and should not be competing with the general public.

Anderson said there probably were some things that had not been anticipated and the City would learn a lot through this process. The proposal was to build eight hangars and there were still 37 more to go, hopefully next year. He said maybe the Council would want to tweak the program next spring based on what would be learned in the next few months.

Councilmember Horner questioned if it was even legal for the City to act as the general contractor. Anderson indicated he had asked Wes Greenhalgh that very question and Greenhalgh said yes based on International Building Code. Councilmember Horner said this program would put the City in a competing sector and, in his mind, the City should not be doing this.

Mayor Phillips said the money the City saved was not going into anyone's pocket--it was just saving the cost. He asked Councilmember Horner if he wanted legal counsel to look into this. Anderson said the Federal Aviation Administration was favorable to the idea that the City would be the general contractor. Anderson said they had a high opinion of this airport, consider it a jewel and wanted the Heber City to keep it current with the demand of the community. Councilmember Horner argued the City was in the competing sector and should not be.

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Anderson said Mark Smedley drafted this agreement after talking to several other city attorneys. He said, too, the Federal Aviation Administration did not have any concerns in the plan. He thought the City was on solid ground and said this agreement was consistent with what the Airport Advisory Board recommended. Anderson said he would call Cedar City to see how they handled their new hangars.

Mayor Phillips suggested the City was trying to save money by being the general contractor but respected Councilmember Horner's concerns. Councilmember Horner said this was providing services to a select few who did not live in the community.

Anderson said those same people that wanted to be the general contractor would be the sub-contractors and the City would still be hiring people. The only thing they would not get was the difference in being the general and being a sub-contractor. Anderson said the general contractor fee was basically paying the wages of the airport manager. Mayor Phillips said Anderson was spending 10 hours out of 40 hours on airport issues. The City needed an airport manager.

Councilmember Bradshaw said he did not think there were many general contractors that would be qualified to build a hangar because it is commercial work. He said, too, out of all those hangars built, 90% would come from outside the Valley. Discussion about contractors that had bid on recent commercial buildings in town. Anderson said he was sure there would be some problems during the process but this initial process would either encourage the City to continue as the general on future buildings or not.

Councilmember Bradshaw moved to accept the Reversinary Hangar Purchase Agreement as prepared by the City Attorney and provided to the Council tonight. Councilmember Hokanson made the second. Anderson was asked to call around to some airports the same size as Heber's to see if anyone had experience being a general contractor.

Voting Aye: Councilmembers Bradshaw, Hokanson, and Straddeck. Voting Nay: Councilmembers Patterson and Horner.

CITY COUNCIL BOARD ASSIGNMENTS – REPORT

Heber City Planning Commission – 2nd Thursday
Heber Valley Special Service District – 3rd Wednesday
Historic Preservation – As Needed

No reports were given.

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Paulette Thurber, Heber City Recorder

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