

Heber City Corporation
City Council Meeting

September 4, 2008

7:00 p.m.
REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on September 4, 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
	Deputy Recorder	Michelle Kellogg

Others Present: K. Delyn Yeates, Josh Yeates, Matt Yeates, Jared Yeates, Darryl Glissmeyer, Byron Bunker, Kendall Crittenden, Joe Giles, Peggy Giles, Mike Thurber, Lori Ann Nichol, Ross Nichol, Brigham Ashton, Anthony Kohler, Wayne Buell, Kathy Buell, Mike Johnston, Kevin Scholz, Devin Bagley, Kieth Rawlings, Miles Kohler, Bradly Mathis, and Phoebe Mathis

Pledge of Allegiance: Robert Patterson

Prayer: Brigham Ashton

Minutes: June 5, 2008, Regular Meeting Minutes
June 19, 2008, Regular Meeting Minutes
August 7, 2008, Work Meeting Minutes
August 7, 2008, Regular Meeting Minutes

Councilmember Hokanson moved to approve the minutes. Councilmember Straddeck seconded the motion. Voting Aye: Council members Bradshaw, Hokanson, Horner, Patterson, and Straddeck.

OPEN PERIOD FOR PUBLIC COMMENT

No comments were given.

PUBLIC HEARING

Ordinance 2008-20 – An Ordinance considering the Nichol Annexation – A 15.07 acre parcel of land located between approximately 950 and 1200 South on the west side

Southfield Road: Public Hearing Notice was read by the Deputy Recorder. Mayor Phillips disagreed with the public hearing notice as it read a land size of 16.57 acres. It was indicated a piece was withheld from annexation so the total land now would be 15.07 acres.

Joe Giles pointed out that a small section was included without approval. Ross Nichol offered that the change was because of the bypass road. Originally the bypass road would have gone through the middle of Randy's house. Kendall Crittenden asked where the bypass came through.

The diagram presented by Jason Boal showed the concept plan of the subdivision proposed in the annexation. Giles said the last meeting he attended showed the bypass going differently. Nichol said all maps showed that the bypass road cut his property in half. Anderson explained this drawing was the most recent drawing. There was some discussion on the exhibit and the location of the bypass. Giles said his property would be worthless if the bypass goes through there. Councilmember Straddeck said the City had the alignment of this area since late February or early March. The Council Meeting then would have had this alignment in the last meeting also. Councilmember Horner said the Council hadn't set anything in stone but was waiting for studies on both sides of the road and on the north and south ends of town. The Council didn't vote because it was an information meeting. Crittenden said we needed to be careful because of this major intersection. We don't want to shut any doors on locations for this.

Mayor Phillips explained the City locked in this region for the bypass. The Council has talked about this for six months. This plan was good because it met all the radius curves and was in line with requirements. The petitioners were aware that a right-of-way needed to be dedicated as a condition of annexation. He asked if the right-of-way was in line with the road that will lead up to it. Mumford said yes. The developers were being consistent with the latest concept plan.

Councilmember Horner said the concept has never been signed off on and he suggested to nail it down before the City approved the annexation. We might not have the best section and we don't have specific measurements. Crittenden said because the City approved Boyer's project and the road development, it locked in where the bypass would go. Mayor Phillips said the road wasn't because of Boyer. Boyer said they would work around the intersection construction. There was more discussion on the bypass. Councilmember Horner stated that he felt if this annexation was passed without first having the bypass firmly in place, the Council would tie everyone's hands as to where that road would be.

Mayor Phillips asked Anderson if a legal description was made for the bypass yet. Anderson said no. Councilmember Straddeck asked about the south side study and if it took in this

particular area. Crittenden commented that the group that did this study also did a study on the four intersections. We needed to establish the intersection footprints. They stated possible footprints were needed off Highway 40, across Midway Lane, across 1200 South that would continue along the railroad and curve around and then head east if we ever finish that piece which comes down to Highway 40 at that point. Then the other intersection was where Southfield Road would intersect with Highway 189. They have been commissioned to work on the south route that goes from Highway 40 and hooks up on Highway 189. There was more discussion on the studies. Councilmember Straddeck asked when those studies are done, are monies going to be appropriated for more studies. Crittenden said the monies come from the Council of Mayors in the County.

Anderson pointed to the diagrams and explained that before the subdivision could receive final approval, we would have to identify the 100 foot right-of-way. Mayor Phillips clarified that unless there would be a change at 1200 South, the right-of-way is in the general area. Anderson said we needed to think of three things. First, where is the land we own to the north of it. Second, what are we proposing to use as the connection to Highway 189 which has been 1200 West. Third, how do we cross the railroad right-of-way and 1200 South in the best manner. The study for this intersection is done. There was no wiggle room. Councilmember Horner named all the organizations that haven't signed off on this yet. It also cuts the Giles property in half. Anderson said his thought was that the previous discussion focused more on Highway 40. He didn't think UDOT would ever sign off on the bypass. Nichol's understanding was that UDOT had signed off on the bypass. He knew he had a delay while they waited for UDOT approval.

Mayor Phillips asked if Giles was comfortable having his property cut in half. He said no but what could he do about it. Nichol didn't think the property would be cut in half and Giles agreed. Mumford clarified that this was as close as it would get to the City on the east. He referred to the diagram and said if there is wiggle room it would be further west and then it wouldn't affect this annexation at all. Councilmember Straddeck wanted to see the aerial map of the future road. Councilmember Horner said the road could go exactly where it is shown but his problem was that it hasn't been approved. Mike Thurber said no construction would go on near the bypass so the subdivision could be approved. The Planning Commission looked carefully at the proposed subdivision in relation to the bypass. Councilmember Straddeck clarified on the map where the bypass needed to go. Mayor Phillips said until we could get the blessings of UDOT we needed to preserve open space to get the bypass. Peggy Giles asked what the truck drivers think when they have to stop anyway. Mayor Phillips said locals will also use the road and he'd like to see it required for truckers to use it. Mumford pointed out that most stop signs would be eliminated on the bypass. Johnston said a bridge would go above the railroad so no stop sign would be needed. There has to be a big enough curve so trucks don't need to slow down. This concept of the bypass was "the" way and there was no other way unless we change the current roads. Johnston has done major research on this.

Councilmember Straddeck inquired of the four intersections that were studied, what was the overall plan that came out. Mumford stated that we got the report. Councilmember Bradshaw said they were going to study the footprints. Councilmember Straddeck asked if further studies were to be done. Mumford said the purpose of the studies were for future development and if roadways were adequate. It's become more evident that we needed to solidify this and get buy

in. The City should at least identify what was needed in the development. Councilmember Bradshaw said the Council wanted some engineering studies on Midway Lane and sign off with the City. Crittenden said it might be the best route, but look at the wetlands now. Councilmember Straddeck didn't want to approve an annexation that limits us but he didn't want to hold up the annexation if we have all the information. He asked if more information is needed. Councilmember Horner clarified Councilmember Straddeck's question by asking what was the next step and what was the plan. He said if citizens and organizations pass off then he could proceed.

Delyn Yeates said he was involved with the bypass on north end but the City should be prepared to buy land from the owners or if the City didn't have the money, accept annexations and make easements for a right-of-way. Mayor Phillips asked if this was the game plan the County was proceeding with. He stated this intersection was in line with what the County Council has approved. He inquired if the City was still within the same limits that the County was looking at. Glissmeyer said at the bypass meeting, the owners on the south end didn't speak up and so they lost their chance. Peggy Giles said two different people wanted to buy the Giles property then changed their minds after the bypass plans came out because they didn't know where the road would be. Councilmember Straddeck said to ask RPO to look at the report and based on findings, decide where it will be. Then take it to the land owners and move forward. Then the Council could look at approving this annexation. It shouldn't take four to six months.

Mayor Phillips closed the public meeting. Councilmember Patterson said he agreed with Councilmember Horner. He asked what the legal ramifications were concerning the sewer farm. It was indicated the sewer district knew about the bypass. Crittenden said it was Federal Government land and there would need to be some mitigation concerning the sewer farm. Councilmember Straddeck moved to continue the annexation to allow the RPO to look at it and have a public discussion on the intersection. Councilmember Horner seconded the motion. Councilmember Hokanson wanted to know what would be discussed at RPO. She asked if the meeting should include this parcel in the discussion and bring in the sewer district. Councilmember Bradshaw said after all these meetings, this annexation would be delayed for at least six months.

Voting Aye: Council members Bradshaw, Hokanson, Horner, Patterson, and Straddeck.

Anderson was asked to clarify which portion needed a public discussion because it was indicated that it would be mostly the sewer farm property.

Mayor Phillips stated that the City needed to go to UDOT. Crittenden said it would serve us all. Mayor Phillips said each annexation brings a lot to the community. Councilmember Straddeck asked who sets the agenda for RPO. It was indicated the Sean Seager prepared the agendas. Mumford said RPO technical committee would need to meet. Councilmember Horner asked to be informed of the meeting time. Mayor Phillips asked if the Council could be sent a reminder email.

APPOINTMENT

Jeff Burgner – Discuss Requirement for Sidewalk to be installed at 300 West 200 South for the Totten Subdivision: Councilmember Hokanson motioned to continue. Councilmember Patterson seconded the motion. Voting Aye: Council members Bradshaw, Hokanson, Horner, Patterson, and Straddeck.

Joshua Yeates – Request for COSZ Zoning on property located on the North entrance into town (4.36 acres located at the North Boundary on the West side of Main Street and 17.48 acres located at approximately 100 West 700 North): Joshua Yeates approached the Council. He gave a brief history and overview of where his group has been. When the Council brought his land into the City, this was the location the City was looking at for the bypass on the north end of town. In working with staff, he knew this was where the bypass was going. He referred to a diagram on the wall. The bypass took a lot of land. His building plan was to locate the planned hotel in between the bypass so as to form a natural barrier. He worked with staff and they suggested to give 11 of his acres to the City for the bypass and he wanted an overlay zone in return. He proposed these concept plans as shown on the diagrams. Like staff recommended, he now has the pool, clubhouse, play area, and parking as they requested. This can't be done in an R-2 Zone but could be done in a Clustered Open Space Zone. These concepts are very popular in Utah County. There are many amenities. The next section is R-3 and on the other side a small neighborhood. The video he wanted to show would demonstrate how nice a product this is. He then proceeded to show the video. Yeates formally requested approval for the COSZ Zone. He asked if the Council rejected this request, to please give suggestions and recommendations.

Kevin Scholz addressed the Council. He was the architect of this project and has an office in Provo. He looked at the townhouse type but it took up so much area. This type maximizes green space. It would have a 60 to 70 foot buffer to the residential area to the south. The impact of the buildings was beneficial because there would be a commercial area on Highway 40. The commercial area would screen these condominium units behind it. The commercial area buffers the high density area from Highway 40 and the high density is a buffer between the commercial area to the low density area. The bypass will be noisy. The taller buildings will also buffer the noise. The architecture of this type is stone and stucco. The commercial buildings may include a Hampton Suites hotel, a restaurant, and a Sears outlet. The condos were 12 plex buildings and were very nice. It was also affordable. They won't settle for something less in quality.

Councilmember Horner asked about the height requirement COSZ allowed and was told 35 feet. Mayor Phillips asked without COSZ how many units could be built. Yeates stated that there would be zero units built without the zone change. Chief Rhoades wanted to know how wide the streets were. Scholz said a full city right-of-way. Mayor Phillips questioned Yeates' comment that the high density units equaled the number of units he could build in an R-2 zone. He asked if it included the property given to the City. It was indicated the property contains 17 acres, which equals 87 homes. COSZ Zoning gives 84 units and that is what Yeates would like since he is giving up 11 acres to the City for the bypass.

Kathy Buell understood the North Fields has 20 acres zoning and requires a perk test. Buell stated all people see as they are coming into town is fields and Muirfield which is a mess. Now Yeates wanted more high density. She asked if a development shouldn't be more feathered and gradual than high density. Jared Yeates said it's hard to imagine but there will be so much noise from trucks and this area would be a buffer to that. He thought it would be a great addition to the City.

Councilmember Bradshaw asked about the businesses in the commercial and if it was a sure thing. Yeates said there was a marriage between the whole development and it was a cooperative venture.

Councilmember Straddeck said Yeates was here because Planning Commission denied his plan and the Councilman wanted to know the reasons. Scholz said the Planning Commission hadn't seen these current upgrades. They thought if the Council said it was doable then they could go back to Planning Commission and ask for suggestions. But if we go back without a nod, Scholz said, he wouldn't be in the loop. Councilmember Straddeck explained that Yeates has to go to Planning Commission first and follow the appropriate steps.

Councilmember Horner said not to count the acres that were given to the City. Yeates explained the history. Councilmember Hokanson said the City never guaranteed COSZ in return for bypass land. Mayor Phillips read from the minutes to refresh everyone's memory on the Yeates' prior appearances.

Yeates said some sentiment was betrayed in the last Planning Commission because they didn't want the bypass road and said to let the City deal with it. He wondered if there was bad or ill will. Councilmember Horner said not to pull the wool over the Council's eyes. He asked with R-2 zoning, how much density would there be. Anderson said 38 units without right-of-ways. If right-of-ways were included, probably 30 units. Mayor Phillips discussed the bypass. He asked if all 11 acres were needed for the bypass. Mayor Phillips wanted to clarify if the City had asked Yeates to give that 11 acres to the City. Yeates explained the land layout. Anderson explained that no development could take place on the north of the bypass because the City didn't want driveways going out onto the bypass. That is the reason why the City wanted that land left as open space. Councilmember Horner said he didn't know if he wanted the land for the City other than the actual bypass road. Mayor Phillips asked if townhouses could be built there under R-2. Anderson said they would still need the COSZ overlay.

Mayor Phillips asked why they came to the Council after the Planning Commission denied them. They responded that they had to come to the Council at some point anyway to which Mayor Phillips told them that they were overriding the system and procedures. They wanted some form of approval or recommendation for COSZ Zoning before they returned to the Planning Commission.

Kohler said the Planning Commission provided a negative recommendation for the COSZ Zone. Yeates was now asking City Council to recommend COSZ. Kohler explained that the Council could approve the zone change and then a public hearing could be set at the Planning Commission meeting. If the Planning Commission approved Yeates plan and then sent it to the

City Council, then the Council has less ability to change the plan. Staff said the City has the most leverage to change the site plan now.

Councilmember Straddeck was not satisfied that the Planning Commission did not make a recommendation. Councilmember Patterson said it was rejected because of high density residential, roads, height of buildings, and that it was not a good transition to Clover Meadows Subdivision. Mayor Phillips said it was a lot of density for that area. Councilmember Horner again asked how many units could be built on that land and was told 30 or so without COSZ and 84 if COSZ was granted.

Wayne Buell said Councilmember Bradshaw and Councilmember Hokanson were at the City Council meeting when the Yeates first requested apartments. He didn't have a problem with developers if it was what the citizens wanted. He wanted to know if everyone was aware of that. Councilmember Hokanson said she was here before Yeates. She approved the COSZ Zone only because she wanted to see affordable housing by the library. The Wasatch County Authority teamed up and put money with it. She hesitated in approving the zone for this very reason. We have to decide if we want this or not. She thought applying the Clustered Open Space Zone was something they shouldn't just grant for any reason. It had to be a very good reason.

Yeates said they could not put 30 homes on 7 acres and give the other 11 acres to the City. It wouldn't work financially. Yeates asked if this 11 acre gift to the City was worthy of any density bonus. Councilmember Hokanson said perhaps. But they would have to rediscover and reevaluate. Councilmember Straddeck asked Rawlings what the feel was from the Planning Commission. He also wanted to know if they went back to Planning Commission and asked for changes, what would be most important. Rawlings said the wetlands and traffic from other subdivisions were major factors.

Councilmember Straddeck asked if this might pass if density remained the same but the other factors changed. Thurber said the public didn't know about the meetings, and they were concerned about the narrow roads. Those comments were coming from the public, not the Planning Commission. Density was biggest portion of the public concern. Mayor Phillips asked if there was any other configuration of 84 units that would be approved by the Planning Commission. Thurber reaffirmed that density was the biggest issue. The Planning Commission will do what you tell us to. Boal said there were several Commission members that said this did not meet the plan. Thurber said this wouldn't be the last time somebody wanted the COSZ Zone.

Councilmember Bradshaw said he wasn't excited about the residential but he wanted the commercial and bypass. He asked Yeates if commercial alone was not profitable enough. Yeates said one or another alone couldn't afford the utilities and infrastructure. Councilmember Straddeck wanted to know if the roads were adequate for traffic. Mumford said he was not at that point yet. Councilmember Bradshaw said he was really interested in the commercial. That would be a great benefit to the community. Residential is in a slow down now anyway.

Jared Yeates again talked about sharing the costs with the commercial. He also chose these units because of the market now. They would sell for under \$200K. Councilmember Bradshaw stated that buying that land for the bypass would cost the City dearly. He was not sure what would be

best. Councilmember Horner asked them to lower density and go back to the Planning Commission. Councilmember Straddeck said Councilmember Horner thought 84 units was too high but he would consider less. Councilmember Horner said the Planning Commission was the one that rejected the high density. He was trying to give them more suggestions. Scholz said they were compliant with the City Code. Councilmember Hokanson said the housing needed to be looked at again because they didn't like the current levels. So even though it's compliant now it's not going to fly.

Mayor Phillips said the request tonight is for a wink, nod, or anything. Planning Commission owed it to people to give reasons. Councilmember Hokanson told Yeates to take a hint from the public when they make their comments. Councilmember Straddeck liked the plan presented tonight. Councilmember Hokanson motioned to deny request. Councilmember Patterson seconded the motion. Councilmember Straddeck asked if they could go back to Planning Commission with something else. He was told they could. Councilmember Hokanson said it was not working for the Council. Yeates asked if COSZ was denied, could he ask for it again. Councilmember Patterson suggested that Yeates look at a transition zone. He was still concerned about the ground water there.

Voting Aye: Council members Bradshaw, Hokanson, Horner and Patterson. Voting Nay: Councilmember Straddeck.

ACTION ITEMS

Ordinance 2008-17 – An Ordinance Amending Section 12.20.170 – Right of Way Landscaping (continued from 8/7/08 and 8/17/08 meetings): Bradshaw motioned to adopt the ordinance. The motion died for lack of a second. Mayor Phillips asked what the Council wanted to do. Councilmember Horner said staff was really close but there was a lot in the ordinance that shouldn't be there. Councilmember Horner said kids will be kids and they might get hurt. Safety and visibility was the issue. Kohler made suggestions. Councilmember Straddeck said we shouldn't be telling residents what they can or cannot put in. Councilmember Bradshaw asked if the City had a public nuisance ordinance and if so why should the City have this ordinance. Boal confirmed there was a nuisance ordinance. Councilmember Horner said to have an ordinance that required something besides dirt. Boal said he could write something that stated park strips should be landscaped and maintained and no specifics beyond that. Councilmember Hokanson said we needed more specifics because the park strips could look really bad. Councilmember Patterson agreed.

Kohler said behind Latimer's Hardware, the owner would like to asphalt the park strip. Chief Rhoades agreed that hard surfaces should not be allowed. Many utilities are under the park strips. If owners are allowed to put any size rock it would affect snow plows. Councilmember Straddeck asked if we could take out the size of 1" and 3" but required that it had to be level with sidewalk. Anderson said if you put a period after ground cover in paragraph A, that would take care of everything. If you wanted bark, that would also be a viable option. Councilmember Horner asked what is wrong with asphalt. Chief Rhoades said asphalt drives the cost of the repair of utilities up. If you allow blacktop, residents would park on it.

Councilmember Hokanson asked about grass. Requiring ground cover level with the sidewalk would make grass restricted. It was indicated the purpose was only for loose items that spill out. Councilmember Straddeck suggested inserting a period after gravel. Mayor Phillips asked Boal to bring list of all suggestions next time.

Councilmember Hokanson motioned to continue. Councilmember Straddeck seconded the motion. Voting Aye: Council members Bradshaw, Hokanson, Horner, Patterson, and Straddeck.

Award of Bid – Water Line Project – 300 West (300 South to 200 North) and 600 East (Center Street to 400 North): Anderson said we bid out 2 projects and only have budgeted for one. Mumford suggested 3 ways to accomplish it. Anderson explained the consequences if the City funded the whole project. Councilmember Hokanson asked what was the risk. Anderson said the City has not historically had many emergency events, but there could be an unforeseen event that would arise. Councilmember Straddeck verified the prices and the cost advantages of doing both projects simultaneously.

Mumford said the 600 East project was the most important and was budgeted for. One option was to drop the 300 West project and do only what was budgeted for. We could take advantage of hungry contractors and save \$90,000. Or, the third option was compromise and just do some work on 300 West. Mumford said any option is acceptable. Councilmember Straddeck asked where the City got the money and Mumford said from the water fund. Mayor Phillips said in 6 months or 1 year it is possible that price would be cheaper. Mumford said it was always a possibility. He asked Anderson how much money was available. Anderson said half a million. Councilmember Straddeck said asked where the reserve should be. Mumford said he would be more conservative the next couple of years. Anderson said one thing is the Center Street project which needed secondary irrigation. The reserve would then be \$250,000. Anderson broke down the figures from the engineering report.

Mumford said the Center Street project would begin Spring 2009. It may be competing with equipment in the budget. It was a concern for Mumford and Steve Tozier. Anderson said improvements we're making to the hospital would come from impact fees so that wouldn't compete. Councilmember Patterson asked how many blocks were affected. Mumford said 9. Councilmember Straddeck asked if the economy impacts how much we have in the water fund. Anderson responded that he did not think so.

Councilmember Horner had a concern that there was not one local bidder on this project. JD Gordon has put more pipe in this system and knows the pipe in the City. It's a big red flag in his eyes. Mumford said sometimes we get local bidders and sometimes we don't. They have more lucrative work now. Councilmember Horner asked these locals why they didn't bid and was told because they were tired of working with the City, especially because of the requirements of inspectors. It's not worth their time. They said the City didn't take their suggestions on how to fix the problem. Mumford said contractors do say that a lot. They would try to get away with quick fixes and cut costs. These particular locals don't complain to Mumford and don't need to be checked on as much. Councilmember Horner suggested we do the 600 East project and rebid the other one next spring when the work would actually be done. We don't know what the price

will be then. Mumford suggested the bid should be held off until next fiscal year because spring brings higher prices. Councilmember Horner disagreed

Councilmember Bradshaw motioned to accept the 600 East project and hold off on 300 West. Councilmember Horner seconded the motion. Voting Aye: Council members Bradshaw, Hokanson, Horner, Patterson, and Straddeck.

Councilmember Horner asked about the Center Street budget. Mumford said he would divide up the budget as it gets closer.

DISCUSSION/ACTION ITEMS

Set Public Hearing to consider Ordinance 2008-21 – An Ordinance considering the Blue Ox Development – A 4.58 acre parcel located at approximately 700 North on the east side of Highway 40: Councilmember Bradshaw motioned for a Public Hearing September 18, 2008. Councilmember Patterson seconded the motion. Voting Aye: Council members Bradshaw, Hokanson, Horner, Patterson, and Straddeck.

CITY COUNCIL BOARD ASSIGNMENT REPORTS:

Wasatch City/County Health Department – 4th Tuesday
Heber Light and Power – 4th Wednesday
Heber City Planning Commission – 4th Thursday
Historic Preservation – As Needed

No reports were given. Meeting was adjourned at 11:00 p.m.

Michelle Kellogg, Deputy City Recorder