

Heber City Corporation  
City Council Meeting  
September 17, 2009

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on September 17, 2009, 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
	Police Department	Sgt. Jason Bradley

Others Present: Benny Mergist, Fred Schloss, Paul Berg, Brian Balls, Rose Nichol, Kendall Crittenden, Laren Gertsch, Steve Farrell, Mike Kohler, Kip Bangerter and Val Draper.

Pledge of Allegiance: Councilmember Eric Straddeck  
Prayer: Councilmember Nile Horner

Minutes: 08/20/2009 Regular Meeting  
07/02/2009 Regular Meeting  
07/02/2009 Work Meeting

Councilmember Patterson moved to approve the Regular Meetings of the Heber City Council held on July 2, 2009 and August 20, 2009, and the Work Meeting of July 2, 2009. Councilmember Bradshaw made the second. The voting was unanimous in the affirmative.

***OPEN PERIOD FOR PUBLIC COMMENT***

Mayor Phillips invited anyone who wanted, to address the Council on issues not already on the agenda.

Fred Schloss commented that Comcast no longer brought KBYU into this valley. Channel 11 only had the Spoken Word and comics. He said he and his son had been trying to unscramble the

issue. He did not know who dealt with Comcast, but he wanted someone from the City to look into this and see why KBYU was no longer available.

The second item he wanted to discuss was the Social Hall Building. “You folks are out of order in dealing with the theater group for the building next door. That building belongs to the Senior Citizens,” he said. “After about 20 years of harassment, it is time to come back to the Social Hall and it cannot go to the theater group,” referring to a contract with the Church which did not allow that. He said he had Terry Lange and Tish Dahmen on his team and “We are taking the seniors back to this Social Hall.” He said he was not open for discussion. He said the City had not fulfilled their obligation to the seniors. Mayor Phillips read from the warranty deed which stated the property should be used for the general public and not for any private or commercial enterprise. Mayor Phillips thought using the building for public plays and DUP was indeed general public. Schloss said he had a copy of the original lease document. Schloss said he just wanted the Council to be aware that the seniors were moving back into the Social Hall Building. Mr. Schloss then left the meeting.

Anderson said, for the benefit of the Council, the only thing he could think of that Schloss might be referring to was the lease agreement entered into between Heber City and Wasatch County in 1983, which was a lease of the Social Hall for the purpose of it being used as a Senior Center. However, the deed restrictions placed on the City by the LDS Church is found in the document that Mayor Phillips had read from.

Mayor Phillips said he felt the Council was in line with what they were doing. County Councilmember Kendall Crittenden said Schloss was not a member of the Senior Citizens Board and Schloss was not representing them. County Councilmember Crittenden assured the City Council that the seniors were not coming back to the Social Hall Building.

**Wasatch Citizen Corp – Authorization for Bank Signature Card:** Anderson explained the Wasatch Citizen Corp had to have a governmental entity sponsor them and that was the only obligation the City had. He said the Corporation had changed officers and needed to have authorization from the City to change signatures on their bank account.

Sgt. Bradley explained that in order for them to keep their charter, they had to have a governmental entity sponsor them. That was how Heber City Corporation got involved. He clarified that none of the grant money was available to the City.

Anderson said the CERT (Citizens Emergency Response Team) was tied in with Wasatch Citizen Corporation and that was why they had come to the City for sponsorship. Sgt. Bradley said he did not think there was more than \$1,000 in their account now and did not think any future grant monies would be more than one or two thousand dollars.

Councilmember Horner said he had a hard time being affiliated with them if the City didn't look at their books. Sgt. Bradley again said the City did not oversee their grant money. Mayor Phillips explained they only needed a body politic for grants. Sgt. Bradley indicated he met with them monthly and also they had their own bylaws.

Mayor Phillips asked if there was any liability to the City. Sgt. Bradley said he did not think so because the money was not the City's. Anderson suggested the Council could ask for an accounting if they felt more comfortable.

Councilmember Hokanson moved to approve the authorization to change the names on the bank checking account signature cards. Councilmember Patterson made the second. Voting AYE: Councilmembers Bradshaw, Hokanson and Patterson. Voting NAY: Councilmembers Straddeck and Horner.

It was discussed that the Council wanted an accounting from them and Councilmember Straddeck wanted to know the rules behind this kind of issue as he thought there was a probably a statute involved with this. Sgt. Bradley said he would send the bylaws, statutes, etc., to Anderson so he could distribute those to the Council. The Council also wanted the group to come in and give an overview of their services. Sgt. Bradley said he would make arrangements for that.

**Wasatch County Council – Discussion – Bypass Road:** The County Council was in attendance to ask for City Council support to go to UDOT united on a proposal for an overpass in the area of Southfield Road and Highway 113.

County Councilmember Mike Kohler talked about the Swiss Days event that just took place in Midway and how the traffic was backed up for 3 ½ miles. He discussed the additional traffic on Southfield Road based on future building for events and activities at the Event Center and surrounding area. He said they wanted the City to go with them to UDOT and fight for this proposal.

County Councilmember Crittenden indicated this had been worked on for a long time with numerous meetings with the City being involved in most of them. He said they felt they had the cleanest route planned now. He said they felt the bypass did not work by having just a stop sign or light. He suggested if the governmental entities didn't say now what they wanted (an overpass) it would never be considered or approved. He said they would appreciate the support of the City.

Councilmember Straddeck said the Council received an opinion letter from Paul Berg, Berg Engineering and one of the points brought out that caught his attention was the one where he discussed the right-of-way needed in the overpass area and that the grades needed for an overpass would basically not work with their development. He said the route the County proposed was similar to what he had drawn out one evening but there were good questions raised in the letter from Berg. County Councilmember Kohler said he respected Bergs concerns; however, they had not seen his comments or had time to study them.

Councilmember Bradshaw said his concern was the City had property given to them with annexation and if the City agreed to the County's design, the City would have to purchase additional land. He stressed there were some monetary issues the City had to consider. County Councilmember Jay Price suggested if the cost of purchasing land was looked at, either way there were costs. Councilmember Bradshaw said he did not know the differences but understood there would be costs both ways.

Councilmember Horner said Paul Berg's client had 10 acres that would be impacted and Laren Gertsch had 100 acres. Mayor Phillips suggested this route would affect one property owner more than another either way. But he felt sure Main Street was going to fail. He said he was in favor of a flyover; however, he had other concerns, as well.

Mayor Phillips agreed the City and County had to go to UDOT united. "We have to go in there and tell them what we want," he said. He asked, though, if they should go in with one plan or two. He personally preferred going in with one plan. It was felt if a stop light was installed, it would be there forever.

Discussion that there would be a lot of activity around the Event Center and that area would be a very busy part of town. Councilmember Bradshaw suggested the Council should give the County Council a vote of support tonight for a flyover.

County Councilmember Jay Price said State Senator Van Tassel was chairing the transportation committee now and felt that beneficial for Wasatch County. Councilmember Patterson said he did not care what anyone said, but a bypass was not going to take people/traffic off Main Street, including the trucks. Mayor Phillips talked about, in the future, this new route being the US highway and the City taking over Main Street.

Councilmember Hokanson felt it would work best if there was an overpass and agreed the City Council needed to go united with the County to UDOT. Councilmember Bradshaw suggested the Council tonight agree with the concept of an overpass tonight and work later on the exact location.

Paul Berg said he wanted to see an overpass further away from the County ball fields. Councilmember Patterson agreed and talked about the safety issue of so much traffic around those fields. Additional discussion about Paul Berg's design and recommendation.

County Councilmember Price said the County Council only wanted support on the concept of an overpass. Councilmember Bradshaw said he had no problem with that.

There was a suggestion to discuss the Nichols property. County Councilmember Mike Kohler said their main concern was they didn't want to box off Southfield Road. Two overheads were shown. Discussion about those proposed roads and what might be the best choice and would impact Nichols the least. Mumford said he did not think this particular issue effected the Nichol annexation. Mayor Phillips said this was an important link. The County Councilmembers indicated they did not have any objection to the Nichol annexation but did have concern with Southfield Road.

Councilmember Patterson said he was in support of getting as many transportation corridors as possible. Councilmember Horner agreed with the route the County proposed and agreed the City Council and the County Council needed to be united when going to UDOT. However, he said they needed to go with a total, complete design. He thought the design near the Nichol property needed to have some discussion and more thought put into it. He suggested there needed to be a way between Highways 189 and 40 before anyone could be united. Councilmember Horner suggested the entities needed to be focused and not drag their feet but get this worked out.

County Councilmember Crittenden said he agreed on the first leg of the route on the overhead shown. Councilmember Straddeck said he did not think the route between 40 and 189 should be built if there was the possibility the truckers would not use it. He said there was no justification in building that road if it was anticipated there would be little traffic on it. Mumford indicated there had to be a connector road for future development. He said this would be a phased project and it could possibly be a future bypass or a future local road.

Councilmember Hokanson moved to support the County on the bypass overpass the County Council presented to the City Council tonight. Councilmember Bradshaw made the second. Councilmember Patterson asked who would be presenting this to UDOT. County Councilmember Kohler said the County Councilmembers, the Heber City Councilmembers, and Midway City Councilmembers. Councilmember Patterson also wanted to bring up the subject of widening US189 all the way to the dam. The voting on the motion was unanimous in the affirmative.

**The Cove at Valley Hills Park – Retention Pond – Discuss proposed Cost Sharing to**

**Repair:** Mumford reviewed the Council’s direction last meeting which was to negotiate with the developer. He had done that and felt now the Council had two options--either participate with the developer 50/50 and proceed this fall or bring someone else in later to do the work. If the Council wanted to proceed now, the developer would do their half by supplying the materials for the project and the City would use Mark Rounds and his crew to redo the landscaping. The second option was the City could take a monetary amount from the developer and then at some point the City would do the work. The contractor would be HOG. Discussion about the three bidders: Witt, O’Driscall and HOG. Mumford’s recommendation was to go with the first option.

Councilmember Straddeck moved to enter into an agreement with the developer and proceed now. Mumford indicated he wanted to get this done before winter and thought it might take two or three weeks. Anderson asked if this was to be funded out of monies from the Capital Facilities Fund. The Council said yes. The voting on the motion was unanimous in the affirmative.

**Discussion/Review – Wasatch Irrigation Proposed Articles of Incorporation and Bylaw**

**Amendment:** The proposed document had been reviewed prior to the meeting by all Councilmembers as well as Mark Smedley, City Attorney.

Councilmember Hokanson asked what the choices were for the Council. Councilmember Bradshaw said, in his opinion, the Wasatch Irrigation Board was trying to minimize the City’s input. Councilmember Straddeck indicated he wanted to see a redline/strikeout copy so he could study the changes. Councilmember Bradshaw indicated he wanted the City to have two representatives on the Board.

Mayor Phillips reviewed his conversation with Claude Hicken. One of the issues discussed was how did an entity represent an individual share holder. Councilmember Bradshaw said when you add up all the entities that had no say, it was more than 50%. What they proposed was to give Heber City one director and if they wanted to, the City would be a different class of stock. He said they were also proposing different assessments to different classes of stock. He pointed out another inconsistency was that all the people on the Board currently were never legally elected.

Mayor Phillips suggested the City Attorney write a letter to the person preparing the proposed document and communicate the City's concerns. He said he did not like the idea of "class" of stock.

Mumford said his understanding in reading the document was that there could be different rates and if the City didn't have more representation on the Board, they would have no say. Mayor Phillips felt that creating a system where all stock holders were not created equal was unfair and that the City should have the same advantage as everyone else. Councilmember Straddeck felt it would be a waste of time to respond with the things that were causing the Council heartburn. He said the Council just needed to send a letter absolutely rejecting the proposed amendment. He suggested Heber City send its own proposal back to them. It was suggested their plan was to give agriculture user control. Councilmember Bradshaw wanted and suggested the City Attorney and their attorney work together on the issue and that the City Attorney be educated as to what the Council would accept prior to their working together.

Mayor Phillips summarized the three issues he felt were on the table. 1) Having a quorum; 2) Voting shares by proxy; and 3) Whether the board members should be a stock holders. He felt solving those three issues would solve the City's concerns.

Councilmember Horner said he was fine with two representatives from Heber City. Councilmember Bradshaw felt that was fair. Councilmember Horner suggested a certain percentage of shares allowed for one representative from the City and if there was more than a certain percentage, than a second representative. Discussion about representation of those people who had ditch irrigation shares.

Councilmember Horner said he was in favor of sending a letter which stated the City Council rejected the proposed amendments; and, in the meantime, work on a proposal the City would approve.

It was decided Anderson, Councilmember Bradshaw and Councilmember Horner would meet with Mark Smedley, City Attorney, to discuss this issue--possibly Monday at 4:00 p.m.

**Resolution 2009-06 – A Resolution to Participate in the Healthy Community Awards**

**Program:** Councilmember Hokanson moved to approve Resolution 2009-06, a Resolution to participate in the Healthy Community Awards Program. Councilmember Patterson made the second. No discussion. Voting AYE: Councilmembers Bradshaw, Hokanson, Straddeck, Horner and Patterson.

As there was no further business, the Regular Meeting of the Heber City Council held on September 18, 2009, adjourned at 9:40 p.m.

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Paulette Thurber, City Recorder