

1 Heber City Corporation
2 City Council Meeting

3
4 September 18, 2008

5
6 7:00 p.m.

7
8 REGULAR MEETING

9
10 The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on September 18,
11 2008, in the City Council Chambers in Heber City, Utah.

12
13 Present: Mayor David R. Phillips
14
15 Council Members Jeffery Bradshaw
16 Elizabeth Hokanson
17 Eric Straddeck
18 Nile Horner
19 Robert Patterson

20
21 Also Present: City Manager Mark K. Anderson
22 City Recorder Paulette Thurber
23 City Engineer Bart Mumford
24 City Planner Allen Fawcett
25 Chief of Police Ed Rhoades

26
27 Others Present: Mike Thurber, Brian Balls, Aaron Robertson, Brigham Ashton, Jeff Burgner,
28 Brie Ferry, Kent, Paul Berg, Mike Osborn, Paul Kennard, Tony Kohler, Wade Kelson

29
30 Pledge of Allegiance: Mayor David Phillips
31 Prayer/Thought Councilmember Jeff Bradshaw

32
33 Minutes: July 3, 2008, Work Meeting
34 July 17, 2008, Work Meeting
35 August 21, 2008, Work Meeting
36 September 4, 2008, Work Meeting

37
38 Councilmember Straddeck moved to approve the Work Meeting minutes of July 3, July 17,
39 August 21, and September 4, 2008 meetings. Councilmember Bradshaw made the second.
40 There was no discussion. Voting Aye: Councilmembers Bradshaw, Hokanson, Straddeck,
41 Horner and Patterson.

42
43
44 **OPEN PERIOD FOR PUBLIC COMMENT**

45
46 **Mike Thurber:** Thurber indicated that when his subdivision, Country Meadow Estates, was
47 going through concept approval, Francis Smith Engineering and CME Development were willing
48 to culvert the ditch that runs through the Subdivision. When it got to the City Council, the
49 culvert was nixed. Pictures were shown of the ditch. Thurber said there were rodents,

1 mosquitoes, snakes, etc., in that ditch and that created a lot of problems because it is only used in
2 the winter. Consequently the water pools and it is now a breeding ground for insects. Thurber
3 said the City came through a couple summers ago and cleaned the ditch—they did not clear the
4 weeds, but did clean the ditch. Thurber asked, as a homeowner, who was responsible for cutting
5 the weeds down and taking care of the rest of the ditch and who was supposed to maintain it.
6

7 Anderson said the City had an agreement with Spring Creek to keep the ditches maintained for
8 the purpose of the flows. He was not mindful of any canal company that had taken on the
9 responsibility of mowing weeds along the bank but would only clean out the bottom of the canal
10 so they flow freely. Thurber said because there was no water running in the summer, the weeds
11 grow into the ditch so it does impede the ditch when the runoff starts in the winter. Mumford
12 said Spring Creek always maintained the City should not be dumping into the ditch;
13 consequently the agreement was put into place.
14

15 Pictures were shown on the overhead screen. Councilmember Bradshaw indicated the Canal
16 Company sprayed for thistle, etc. along the main canal, but this was not the main canal that
17 delivered the irrigation water. Anderson indicated that this canal used to deliver irrigation water
18 but since the CUP Project, it is all delivered in the summer time with pressurized irrigation. The
19 only reason there is water in it in the winter is for stock water purposes. Councilmember Horner
20 said he thought it was the City's responsibility to keep the ditch clean since the City had entered
21 into an agreement with the Canal Company. Mayor Phillips wanted Anderson to have the City
22 Attorney look at the Agreement. Councilmember Straddeck indicated the home owners did
23 weed control on the west side of the canal on 1300 East.
24

25 The Council said they would see if they could come up with an answer for him.
26

27 **PUBLIC HEARING**

28
29 **Ordinance 2008-21 – An Ordinance considering the Blue Ox Annexation – A 4.58 acre**
30 **parcel located at approximately 700 North on the east side of Highway 40:** The Public
31 Hearing Notice was read by the City Recorder. Mayor Phillips opened the Public Hearing for
32 anyone to address the Council on this issue. There were no comments. The Public Hearing was
33 closed and Mayor Phillips asked for comments from the Council.
34

35 Councilmember Straddeck moved to accept Ordinance 2008-21, the Blue Ox Annexation.
36 Councilmember Patterson made the second. Anderson asked for clarification if the approval
37 included the Annexation Agreement. The motion and second were amended to approve and
38 include the Annexation Agreement. Mayor Phillips asked for other discussion.
39

40 Mumford said one thing the Council needed to be aware of was that staff was not sure how the
41 City would serve water and sewer to this parcel. He said the Engineering Department had done a
42 lot of work the last few weeks on the entire area east of Highway 40 and it appeared the City
43 would have to build a new sewer line for the whole area. However, for this small piece,
44 Mumford did not know yet how that would fit in or if the City would have to do something
45 temporary. He pointed out this was just the annexation stage, not the subdivision stage where
46 there was much more detailed involved ahead of time. He said the petitioner was aware of this
47 issue but he wanted the Council to be aware of it, too.
48

1 Councilmember Straddeck said the Council certainly did need to be aware of this issue and that
2 there was nothing in the staff reports that made the Council aware of this beforehand. He said he
3 wanted all the facts in front of them prior to the meeting. Councilmember Bradshaw and
4 Councilmember Patterson felt that it had been discussed at some point. Anderson stated that
5 Brian Balls had asked for this to be scheduled earlier and because the City did not yet know
6 about how it would be sewered so the Council chose to wait for extra time to set a public hearing
7 in order to give more time for this issue. Anderson said the City knew it could service the parcel
8 but more studies needed to be done which would include the PCMU Zone property to the north.
9 Councilmember Straddeck asked if these issues were usually worked out prior to an annexation.
10 Mumford said normally he had a conceptual idea. He said because the City increased the usage
11 with the PCMU Zone, it made a big difference and he had to re-do the models. This had all
12 happened recently and he had not gotten the new models done yet. Councilmember Patterson
13 asked if it could be hooked into Smiths and Kings right now. Mumford said that had to be
14 explored but right now there was nothing they could hook into adjacent to their property,
15 although there was the capacity to do so. Mumford said he crafted a paragraph in the Annexation
16 Agreement which stated the developer would continue to cooperate until the City had time to
17 figure out how to service that area. That language was in Paragraph 10 of the Annexation
18 Agreement.

19
20 Brigham Ashton, developer, said they had reviewed the Agreement, understood they had to
21 develop consistent with the City's needs, and overall, they were prepared to move forward with
22 some minor changes.

23
24 Councilmember Straddeck suggested the City would lose negotiating leverage with the
25 developer if this was not worked out prior to final annexation. Ashton said they were not
26 concerned about facilitating the sewer--they had no concerns with helping out there. However,
27 he said they couldn't take the burden from the whole area but they knew they would have to take
28 their portion. He said if there was some kind of buyback agreement they would do that and
29 upsize or whatever. He said they were open to suggestions and wanted to help facilitate the
30 sewer line.

31
32 Anderson said the concept he and Mumford discussed was that the City would put in a line that
33 would be large enough to accommodate the future growth of the area and pay for any upsizing
34 beyond what their development required. As other development came on from that point
35 forward, the City would work with them to make sure there was adequate capacity. He said the
36 may use impact fees to oversize whatever system improvement were needed to get it to Midway
37 Lane.

38
39 Councilmember Horner said it was the City's responsibility to provide services once a parcel of
40 land was annexed. Not knowing how the City would do that made it hard for him to support this
41 Annexation. Once this parcel was annexed into the City, then the City would be obligated. He
42 asked Mumford if there was any idea of the cost to the City to build a line from their property to
43 Midway Lane. Mumford said the best estimate from the knowledge he had was \$700,000 to
44 \$800,000 for the sewer line if there wasn't any right-of-way acquisition. He said there was
45 enough capacity in the existing line for this parcel but he had to figure out how to tie them in.
46 Discussion about where they might have to tie in. Mumford did not think they would have to go
47 clear to Muirfield. Brian Balls said the closest Muirfield connection run down hill. He talked
48 about a small injector pump into the gravity line. From strictly a gravity issue it would be easier
49 to go through the Swena property. He had talked with the Swena people and they understood

1 this annexation was coming. Getting a right-of-way from them would not be a problem,
2 according to Balls. He continued this was something that had been talked about in DRC and
3 with staff for quite a while. It was just getting the details worked out about where it would go
4 that had to be finished. He talked about all the development in the area having to participate with
5 this line and discussed different scenarios. He indicated he and Mumford had discussed three
6 different temporary solutions-two of which were gravity and one was pump.

7
8 Ashton said even in a temporary solution, they wanted to get going as soon as possible. He said
9 there was not a concern for them in working with Mumford as far as what was coming down the
10 line. They would put the upsize in and be reimbursed later. Councilmember Horner said it was
11 hard for him when the City didn't know exactly where this would be placed on their ground.
12 Mumford said that would be determined before the subdivision was approved. Balls talked
13 about a trunk line paralleling the highway. Balls said he did not think it had been the City's
14 position that the City would provide the utilities. Balls said, too, the other annexation groups
15 anticipated working with Blue Ox.

16
17 Anderson said he and Mumford had discussed this concept a fair amount and policy was, on a
18 trunk line that served off-site, impact fees were typically used for payment. He said if the City
19 found itself, based on the PCMU, in a situation where all impact fees had been spent on the
20 connection across Highway 40, through the Boyer Project, and the new outfall line on Midway
21 Lane, he thought the City could enter into an agreement with the developer of the Ritchie
22 properties asking them to front some of those impact fee that would pay for what the City would
23 normally pay for with impact fees it had in its position. He continued that he and Mumford had
24 looked at the numbers based on what they thought the outfall line upsizing would be versus the
25 anticipated impact fees coming off the project and the impact fees would be in excess of what the
26 connection would be.

27
28 Aaron Robertson said this was the time for the City to negotiate. He thought from their
29 perspective, based on conversations with the Planning Commission and previously with the City
30 Council, the main issue is not where the sewer connects but rather the main issue is placement of
31 buildings, creating a transition from their property to the PCMU Zone and some of the other
32 requirement the City was asking above and beyond what was normally required. He suggested
33 how the sewer connected would come during the development and at that time, if it wasn't
34 feasible to do it, they would wait for other developments to come forward.

35
36 Councilmember Straddeck said the bottom line was he did not feel comfortable moving forward
37 when he knew in the future the City would have something that needed to happen. He did not
38 want to do something now that would prohibit something in the future or if there would be
39 additional cost. He said that if staff was saying they didn't have a clear picture, he had a concern
40 with it. Councilmember Hokanson asked Mumford what he meant when he said "if we don't
41 have a right-of-way acquisition". Ashton said some of what they had done in Lehi at
42 Thanksgiving Point, the City needed utilities to the area, so they put in the utilities and they had
43 some buyback agreements in place. He said they were not adverse to something like that. He
44 said it would help move the project forward if they could go ahead even with the unknown.

45
46 Mumford discussed the overhead that was displayed and suggested ways to sewer the area to
47 Midway Lane. Because of growth and zone changes to the area, Mumford said the project might
48 have to be a City project and that staff would be working on this for the next two months. He
49 wanted to continue to work with these people though knowing, if the annexation was granted and

1 they wanted to move forward, it would be a temporary solution. Mumford talked about trying to
2 integrate as much of their temporary solution into the permanent solution. He discussed
3 paragraphs nine and ten of the Annexation Agreement which stated the developer had to go to
4 the source and acquire whatever they had to to service their project. Mayor Phillips said at the
5 point they didn't work with the City, they didn't develop. Mumford said it was feasible to
6 initially have a temporary solution and then work together on the permanent solution.

7
8 Councilmember Hokanson said this was the time when the City had leverage and what happened
9 if the solution wasn't figured out for ten years? She did not think paragraph 10 was tight enough
10 and needed to be more specific. Mumford said in the Subdivision Agreement that would be
11 spelled out exactly what they would do and what their participation would be. However, at
12 subdivision stage, the City couldn't be as generous in what they wanted to ask for as at the
13 annexation stage.

14
15 Councilmember Straddeck questioned if the Council normally knew what was needed before the
16 annexation. Anderson said that was the ideal, but staff was comfortable enough with the
17 Annexation Agreement and that engineering would come up with a solution that would meet the
18 needs of the City without compromising the City's position at this point in time.

19
20 Councilmember Horner wanted to know if Mumford could tell the Council how they would
21 sewer if the rest of the area did not get annexed and developed. Mumford said not right at the
22 moment, but it could be done. Fawcett asked if he could give an analysis. Mumford said in two
23 or three months, he would have enough of the picture that he could integrate their development
24 with the rest of the area. Mumford suggested a paragraph be added to the Annexation Agreement
25 that they could not proceed with final approval on their development until answers for the whole
26 area was known. At this point Fawcett drew a diagram on the white board and discussed the
27 overall picture.

28
29 Councilmember Straddeck amended his motion to add the following suggestions 1) prior to any
30 development the City would have answers on sewer (size and placement) for the entire area. 2)
31 language inserted into the Agreement that the City had the option to enter into an agreement for
32 upsizing. Anderson said historically, when the developer puts in their line they are responsible
33 for the first 10" and the City pay for any incremental upgrade or if the developer fronts the
34 monies, the City would, as impact fees become available, pay back to the developer those monies
35 owed. Councilmember Straddeck wanted in the agreement that the City had the option of the
36 developer fronting the cost with a reimbursement agreement.

37
38 Anderson suggested the language read "prior to final development approval, the sewer alignment
39 and size that served the area had to be identified." Councilmember Straddeck said he wanted the
40 alignment of lines and size of line for this development known prior to development. Mumford
41 said as long as there was a paragraph included in the Annexation Agreement that they were
42 obligated before they got their final development approval to incorporate whatever the City
43 needed for an overall solution, that gave the engineering time to work it all out and make sure the
44 City was protected and not something that would increase the cost to the City.

45
46 Anderson made some suggestions for new paragraphs to be added into the agreement based on
47 discussion. One paragraph would be added that stated that prior to final development approval,
48 the City approve the sewer alignment and sizing. He also suggested that a paragraph be added
49 that stated they would have to go to a source that gravity flowed or else get approval from the

1 City Council. A reimbursement agreement was also talked about and language was to be added
2 to the Agreement. Another addition to the Agreement would state that no subdivision plat would
3 be recorded until answers were known for the whole area. Mumford said the alignment and size
4 should be specific. The alignment and size for a permanent solution may be different from what
5 they do internally. Brian Balls reviewed different scenarios for timelines on development in the
6 area depending on who developed first.

7
8 Ashton wanted clarification on paragraph 4 of the Agreement. There was discussion about using
9 some different language regarding access to the highway so it did not appear that Elmbridge had
10 control of the placement of that access. Balls said UDOT would have the most say in the
11 placement of 700 North.

12
13 There was no other discussion. Councilmember Straddeck wanted the decisions made in the
14 discussion be incorporated into the motion. Councilmember Patterson concurred as the second to
15 the motion.

16
17 The voting on the motion was as follows: Voting Aye: Councilmembers Bradshaw, Hokanson,
18 Straddeck, Horner and Patterson.

19
20 ***APPOINTMENTS***

21
22 **Wade Kelson – Boldavs –Subdivision final Approval for Center Creek Estates – Phase 1 –**
23 **located on Mill Road between 1200 South and approximately 1500 South and on 1200**
24 **South between approximately 800 East and 1200 East:** Councilmember Horner asked if the
25 existing house on lot nine would be accessed from a cul-de-sac. The developer said they would
26 give the buyer the option to front the cul-de-sac or Mill Road. Paul Berg indicated in the
27 Subdivision Agreement it was written that the two existing homes keep their existing accesses;
28 however, they configured lot nine such that if the homeowner wanted access off a cul-de-sac,
29 that would be possible. The trail system would work either way, either going over one driveway
30 or two.

31
32 Mayor Phillips asked if there was a fence was around the subdivision. Berg referred to the
33 Subdivision Agreement about the fence being consistent with color and materials. Tony Kohler
34 said as drafted in the Agreement now, the individual property owners would put up their own
35 fence but the CCR's dictated what materials could be used. There was some discussion that
36 some property owners might not put up a fence. Kohler talked about the landscaping plan--the
37 number of trees, lawn in the planter strip and on berms, native grasses. He said when the trees
38 matured, there would be a feeling of driving through a forest. He felt their CCR's had this aspect
39 covered well. Kohler passed out the Housing Authority Approval Agreement and suggested that
40 if the Council approved the Subdivision tonight, the Development Agreement outline the
41 developer would comply with the Housing Authority Approval Agreement that he had just
42 presented to the Council rather than what was dictated in the Subdivision Agreement as currently
43 written.

44
45 Councilmember Hokanson had some concerns with the park and said she did not like tot lots.
46 Kohler said one of the unique open space things being done now besides the park was when the
47 whole development was finished there would be a trail all around as well as a public trail around
48 the creek. It was indicated this was a private park in that it was owned by and would be

1 maintained by the HOA. Paul Berg said this was a step forward for Heber City in that this was
2 the first subdivision under the new Open Space Ordinance.

3
4 Councilmember Bradshaw moved to approve the Center Creek Estates Subdivision Phase 1
5 subject to the recommendations of the Planning Commission, the Wasatch County Housing
6 Authority letter and the Subdivision Agreement. Councilmember Patterson made the second.
7 There was no further discussion.

8
9 Voting Aye: Councilmembers Bradshaw, Hokanson, Straddeck, Horner and Patterson.

10
11 **Brie Ferry – Epic Engineering – Industrial Park Master Plan:** Mayor Phillips said the
12 purpose of this was for the Council to determine what would work best on the property owned by
13 the City out by the Airport. Councilmember Straddeck asked when the Council decided to do
14 this. Anderson said he did not know if this had been before the Council prior to tonight. He
15 indicated Paul Kennard had applied for a grant several months ago for this and the grant deadline
16 was for the end of this month. He said this was bid out the first of August and in the informative
17 stages now to bring the Council up-to-date.

18
19 Mayor Phillips said this was the time to throw out ideas and have discussions--this was the time
20 to decide what they wanted to do with this land. Councilmember Bradshaw indicated the
21 Council had heard from Kennard last year about a Sure Site and the idea for a grant. Anderson
22 suggested the more information we could make available to potential purchasers the better
23 chance the City had to sell those spots.

24
25 Brie Ferry said part of the master plan was to evaluate the site characteristics, look at
26 surrounding ownership, utilities and the cost to extend utilities to the development, and look at
27 the challenges the property faced as well as the benefits of the property. She explained that part
28 of the master plan was to put out a survey to local developers and retailers. The survey is also
29 meant to solicit feedback from the local officials. She said she was trying to nail down the most
30 viable usages of the property. Ferry said one benefit was its location by the airport and also
31 because it was served well by Highway 40 and Highway 189. She talked that those Highways
32 had great access to the site. Ferry and Anderson discussed the accesses. Ferry talked about a
33 16.5' easement the City owned. Anderson said it was a fee title ownership rather than an
34 easement.

35
36 Ferry talked about the survey results she had gotten back from realtors and developers. She
37 indicated she had also talked with Robert Hicken, R.J. Enterprises. His conversation with her
38 was that he wanted to be proactive in planning the area and would be willing to negotiate the
39 placement of the road. He did not say if improving the road would be a benefit or not, but he did
40 not think it would be a detriment. He said, too, he was very willing to discuss with Heber City
41 what would be mutually beneficial. Ferry said they had also talked with Daniels Town and
42 discussed the possibility of including industrial into that area. She said Daniels would be
43 interested in some industrial in their area which would be beneficial to their economic
44 development, but they didn't have much funding. Anderson said they did not have services
45 either. Ferry summarized that the property did face some challenges because of the County strip
46 of land and also a lot of Daniel abutting it.

47
48 Councilmember Straddeck suggested the Council keep in mind the alignment of the bypass as
49 this area was being master planned. Mayor Phillips encouraged the Council to take the lead on

1 this bypass as it pertained to 189 and the Boyer Development. He said the City needed to take
2 the lead in discussions and invite Wasatch County, the RPO, and MAG because it was the future
3 of the City.

4
5 Paul Kennard discussed the property location, the value of the property, the road alignment, etc.
6 He felt this was a valuable piece of property. He indicated the grant was a matching grant he had
7 gotten through the Economic Development Corporation and they were paying half the price for
8 the master plan study. Mayor Phillips felt this property was a value to the City now and would
9 continue to be in the future.

10
11 There was additional discussion about expanding the survey in order to get additional feedback.

12
13 **Jeff Burgner – Discuss Requirement for Sidewalks to be Installed at 300 West 200 South:**

14 Mayor Phillips invited Burgner to address the Council. Burgner said he had talked with Boal and
15 Anderson about his issue. He said he purchased the house on 210 South 300 West about 1 ½
16 years ago. The lot had already been divided when he made that purchase and there was a
17 requirement for sidewalks to be installed by the contractor building the cottage home next to
18 him. He said he was opposed to the sidewalk—not necessarily the sidewalk but wanted to see the
19 City go about installing them in a different way. He thought having a continuous run of sidewalk
20 was the way to install instead of piece meal. Boal discussed with the Council the encroachment
21 issues on this property. Discussion about how the neighbors felt about the sidewalk. They
22 understood it was the developer’s responsibility. Anderson said in the staff report the preference
23 would be that the City would have deed restrictions instead of funds and then when it was time to
24 do the sidewalks, the City could require the owner to put the sidewalk in at the time the City
25 deemed it necessary. That way there would be no record keeping as far as money being
26 deposited and then used later. Discussion about the Statute of Limitations and that Smedley had
27 determined there was no time limit.

28
29 Burgner said if he was required to do it and a bond had to be issued, he would have to pay twice.

30
31 **Charles Davidson – 67 West 300 South – Request to Partner with the City to improve the**

32 **Roadway in front of his home:** He said all he wanted was a sidewalk. He said he would pay
33 for the sidewalk if the City would bring the oil to the curb. Mayor Phillips asked him if he
34 would put in the curb and gutter and sidewalk if the City would put in asphalt. Davidson said he
35 only had \$3,800 to spend.

36
37 Councilmember Straddeck asked what the City was doing to the east and west. Councilmember
38 Horner said to the east there was sidewalk, curb and gutter being installed.

39 Mumford said there was a project called David Fields. They were putting in angle parking and
40 curb, gutter and sidewalk. Mumford continued listen to tape.

41
42 Anderson said as the City put in additional curb and gutter it would need to have a place for the
43 storm water it collected. The City would have to participate in the cost of the sump. Mumford
44 said he would have to determine what

45 Impact fees could not be used as it was not growth related.

46 Discussion about sump placement and cost.

47 Anderson said one of the biggest challenges was orchestrating all the projects so they all would
48 work in a timely manner.

49 Councilmember Straddeck said he felt we needed to require Mark Miller to do his parcel as well.

1 Anderson said the City had the legal right to ask Miller to put that in.
2 Councilmember Hokanson questioned what the point of deed restricting properties was if the
3 City was not going to require it when the time was right.
4
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9

10 **ACTION ITEMS**

11
12 **Ordinance 2008-24 – An Ordinance repealing Chapter 18.66, Accessory Apartment**
13 **Overlay Zone and to consider Adoption of Chapter 18.108.110, Owner Occupied Accessory**
14 **Apartments: Approval of Updated Consolidated Plan**
15

16 **DISCUSSION ITEMS**

17
18 **Discussion - Amending the Heber City Municipal Code in relation to allowing or not**
19 **allowing chickens in the R-2 Zone per request of the Cook children – Discuss Section**
20 **18.56.020 – Pasturing of animals):**
21

22 **CITY COUNCIL BOARD ASSIGNMENT REPORTS**

23
24 Heber City Planning Commission – 2nd Thursday
25 Heber Valley Special Service District – 3rd Wednesday
26 Historic Preservation – As Needed
27

28 No reports were given.
29

30 As there was no further business the September 18, 2008, regularly scheduled Heber City
31 Council Meeting adjourned.
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35
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Paulette Thurber, Heber City Recorder