

Heber City Corporation  
City Council Meeting

October 16, 2008

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on October 16, 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
Excused:		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: Chris Goode, Amanda Wright, McKell Oldham, Austin Baxter, Blake Allen, Kraig Powell, Paul Kennard, Spencer Park, Brie Ferry, Nathan Shepherd, Isaac Robertson, Dale Stewart, Bryce Stewart and Paul Berg.

Pledge of Allegiance: Councilmember Elizabeth Hokanson  
Prayer: Councilmember Eric Straddeck

Minutes: June 16, 2008, Special Meeting  
June 24, 2008, Special Meeting  
July 3, 2008, Regular Meeting  
July 17, 2008, Regular Meeting

Councilmember Bradshaw moved to approve the listed minutes as written. Councilmember Hokanson made the second. Voting Aye: Councilmembers Bradshaw, Hokanson, Straddeck and Horner. Councilmember Patterson was excused.

## ***OPEN PERIOD FOR PUBLIC COMMENT***

**Kraig Powell:** Powell indicated he was a candidate for the State Legislature, House of Representatives. He said he had been attended many meetings throughout this Legislative District the last few months to let public officials know he was very concerned with what was happening in the District. He said, too, that attending those meetings helped him know what was happening in the District. He wanted to take a few minutes and let the Council know he was very concerned with the issues that affect our cities. He pointed out he served as the City Attorney for Midway City so he had a certain perspective. He indicated people often criticized the number of attorneys in the Legislature. In the Utah House of Representatives, there were only four attorneys out of 75 members. He said there were not a lot of city representatives in the legislature and he thought he could bring some balance. He said many laws they would pass would have a direct impact on the cities of Utah and Heber City took directives from these State laws. Powell said he would be a representative of the local people.

In March, when he declared himself a candidate, he read a lot of articles about special interest groups. Without a lot of forethought he decided to not accept campaign financial help from special interest groups. Now, with the ethics investigations going on, he felt that was a good decision and said he was going to continue with that position. Powell said he appreciated the Council listening to him and if he was elected, he would be willing to listen to the Council and their concerns.

## ***PUBLIC HEARING***

**Public Hearing: Consideration of potential projects for which funding may be applied under the CDBG Small Cities Program for Program Year 2009 (Tab 1 ):** Mayor Phillips read the prepared language required before the Hearing was opened. He explained that public hearings were held for two main reasons. In some situations, they were required by law. In other situations they were held to allow people to make comments. The Public Hearing notice was read by City Recorder, Paulette Thurber.

Mayor Phillips continued to discuss the criteria needed to obtain a CDBG grant. He talked about what kinds of projects had been done in the past. Mayor Phillips opened the public comment portion of the meeting. There were no comments. The Public Hearing was closed. Mayor Phillips asked the Council for comments on projects. Councilmember Straddeck questioned who distributed the funds. Anderson said Mountainland Association of Governments. He continued that the State received money from the Federal Government. They in turn gave it to the Association of Governments for distribution. Councilmember Straddeck asked if they distributed some money for specific projects. Anderson said yes. Anderson said the City would identify a project it would want money for. MAG would then determine if that project met the criteria. The City, in most instances, would have to do surveys to determine if it would support low to moderate income areas. Once a project was identified, the City would have to go door to door to get the information needed and evaluate that information to see if it met the criteria. Anderson said years ago, the entire City met the low to moderate income level. Now, it was not the case.

Councilmember Straddeck said his preference was a sidewalk from Highway 189 to Heber Landing. Anderson said that area was mostly vacant and likely ineligible. There was discussion about the Center Street Sidewalk Project.

Anderson said the process was to hold two public hearings. The first one was to discuss and determine a project. The second one would be to discuss the actual project in a Public Hearing setting. Anderson said the public also had the right to suggest projects for possible funding. Councilmember Bradshaw wondered if the Council should have a short list by the next meeting. Anderson said the Council could make that short list and then staff could come back with more information about whether it was felt the project would meet the income criteria.

Councilmember Horner wanted to put a short list together and then get more specific and down to the point on what they wanted to go after. He wanted to meet on projects before next meeting. It was decided to put this issue on the Work Meeting Agenda. Councilmember Hokanson said she would be looking for more information on the high priority projects. Anderson said Boal put together the criteria MAG looked at when awarding a grant.

### ***APPOINTMENTS***

**Brie Ferry – EPIC Engineering – Survey Results – Industrial Park Master Plan – 38.5 acres of land owned by Heber City near the Heber City Airport: (Tab 2):** Mayor Phillips talked about Ferry meeting with the Council a couple weeks ago. Ferry thanked the Council for having her and Paul Kennard back. She referred to the information in the survey that was included in the Council's packet. An overhead was shown on a proposed layout for the property and asked for feedback from the Council on the layout. She indicated there were 17 lots ranging from one acre to approximately three acres and they were designed to be able to combine two lots, and also to allow for 2400 South. She proposed the development of the property abutted the 16' strip of property the City already owned.

Councilmember Straddeck asked if she talked to Daniel Town. Ferry said she did not talk to them about the specific stub out locations but did talk in general about an industrial area.

Ferry indicated the survey results were the same as last time but now she had a bigger response. She said the highest percentage points went to aviation training. She reviewed the survey results. There was discussion about who was surveyed. She reviewed the graphs that were included in the packet.

Mayor Phillips asked how they came up with the layout. She said this was determined in the kick-off meeting with planning staff, Anderson and Paul Kennard's group. Mayor Phillips pointed out they did a good job tying in with the access points.

Anderson asked Ferry to do more investigation on tying into a road that the City had in rough grade form right now. Anderson discussed the two properties next to lots 4, 5 and 6, that they were land locked and the property owners would need to work with Heber City to do any kind of development. He showed how this proposal would give the City one more roadway. Anderson said for the development of the sewer, the City might have to live with a pump lift station.

Councilmember Hokanson asked why the City was doing this right now. She went to the RPO Meeting on Tuesday and one thing discussed was road alignment from Boyer to Daniels and other possibilities for roads. She suggested the City was putting the cart before the horse with this project. She wondered if the City should hang onto the land until it became obvious what should be done with it. Anderson explained that a grant was obtained from EDCU and this property was listed as a “Sure Site.” He indicated there was no obligation to develop in this manner; but, if the City did something with the land in the future, this would provide an idea of utilities and transportation plans. Also, if the City had an interested buyer, the survey would give more information to help facilitate that. He indicated this all would be on a time frame that was favorable to the Council. He suggested this process only provided some preliminary work.

Kennard indicated he was the one driving the study and the primary reason was the lack of commercial space in the Valley. He suggested there was light commercial and industrial areas but no real commercial space and as he looked around the Valley, he couldn’t see any “shovel ready” property. He suggested the appealing thing with this property was that the City owns it. Kennard indicated that since this initial site, the City had acquired another Sure Site near the hospital. He said another Site was being looked at in Midway. He suggested that from an economic development viewpoint, it would be critical to have these properties and these types of details. There was discussion about other properties in Daniels and the County that might qualify for listing as a Sure Site. It was thought the City could get some “synergy” working with them to make this a bigger piece. Discussion about a piece of property that had been acquired with FAA funds.

**Spencer Park – Park Engineering – Final Approval – David Fields Commercial**

**Subdivision – Property located at approximately 300 South Main Street (Tab 3):** Spencer Park discussed this property and indicated he wanted to change the layout a little based on the plat maps provided. He said this would create a third lot. An overhead was shown. Councilmember Hokanson said she did not see anything controversial in his request.

Councilmember Hokanson moved to approve the David Fields Commercial Subdivision final plat approval. Councilmember Bradshaw made the second. Councilmember Straddeck asked what was being done to shield this project from the residential lot that was to the west. It was indicated the Planning Commission required a landscape buffer. Park said there were a lot of trees along the border. They did remove some shrubs but no trees were removed. Fawcett said this was very compatible with the residential around it.

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

**Paul Berg – Berg Engineering – Request 1 – year extension for recordation of the Meadows at South Field Subdivision per 17.16.010 (I) of the Heber City Municipal Code (Tab 8):**

Paul Berg indicated the Meadows at South Fields had been approved by this Council about a year ago but the plat had not been recorded. He said he was asking for a one-year extension based on the economy. Discussion about why the one-year extension could be allowed.

Councilmember Bradshaw moved to grant the one-year extension. Councilmember Hokanson made the second. No discussion.

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

### *ACTION ITEMS*

**Set Public Hearing – Ordinance 2008-26 – An Ordinance Annexing Property known as the Monroe Annexation located at approximately 1300 South and Highway 189 on the east and west side of Industrial Parkway, Heber City, Wasatch County, State of Utah (Tab 4):**

Anderson indicated a draft Annexation Agreement was in the Council's packet tonight. However, staff was having ongoing discussions with Boyer regarding some changes they would like. Some changes to the Agreement were for clarity purposes but some were changes the Boyer people wanted. He suggested the City still may have some arm wrestling to do but the Council would ultimately make the final decisions.

Councilmember Straddeck moved to set a public hearing for Ordinance 2008-26, an Ordinance annexing property known as the Monroe Annexation located at approximately 1300 South and Highway 189 for the next meeting. Councilmember Bradshaw made the second. Councilmember Hokanson asked if the Council would be meeting on November 6<sup>th</sup> because of Cowboy Poetry. Discussion that the next meeting may be a special meeting on October 30 rather than the regular meeting on November 6. Councilmember Horner expressed concern with the road that was being built in this project in which part of it was not yet in the City Limits.

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

**Review of Bids received for Airport Hangars and authorization of Staff to enter into a Reversionary Purchase Agreement with the eight highest bidders: (Tab 5):**

Anderson said he had included in the packet an additional contract that was faxed to him today. This gentleman's father and father-in-law had both passed away and consequently he had been out of town and did not get the information timely. Anderson said he had talked to several people and there was still interest out there; however, the economy had not been a friend to this project. He indicated the Airport Advisory Board recommended to the Council that the cost to the two bidders be reduced to the \$325,000, and then try and sell the rest of the 5 hangars for that same price. He suggested another option was leasing. Mr. Stewart, a member of audience and one of the bidders, expressed concern that the City might reduce the hangar price lower than \$325,000 to future bidders. Anderson said this had not been as easy as he had hoped.

Councilmember Straddeck felt the City should keep the bid price up and if the hangars needed to be leased, a price point could be found for that. Mayor Phillips suggested the economy would change eventually but that the City needed to try and market these. Anderson said one thing that complicated things was the third bid which had not been received timely. Mayor Phillips suggested having a re-bid but not sale any hangars at the \$325,000 price.

Stewart said he was stunned that when the City had eight hangars and only received two bids, the Council would consider raising the price. He worried that subsequent people would have a more advantageous price. He continued that given the lack of interest, he worried about the money he was willing to give. He suggested that if the rules didn't change, he was O.K.; but, if the Council lowered the price, it would make his hangar worthless. He indicated he wanted the same lease as what the Council might offer in the future. He again expressed concerns that the ground rules might change.

Anderson said he was looking for authorization from the Council to complete the three contracts. Mayor Phillips wanted to authorize the two and wanted to have the third one re-bid if the City went through the re-bidding process. Anderson talked about the recommendation of the Airport Board to have an across-the-board-price of \$325,000. Councilmember Bradshaw felt the City should set the price at \$325,000 and accept the three bids. Councilmember Horner said he had been against this venture from the beginning and agreed with Councilmember Bradshaw to sell at \$325,000 and get it over with.

Councilmember Bradshaw moved to accept the two timely bids, revise the price to \$325,000, accept the third bid at \$325,000 and list the rest for \$325,000. Councilmember Horner made the second to the motion. There was no further discussion.

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

**Ordinance 2008-27 – An Ordinance adopting Section 15.080-070 of the Heber City Municipal Code – Bond Forfeiture Appeals (Tab 6):**

Councilmember Straddeck, referring to the proposed Ordinance, said in paragraph A2 he did not feel the time frame should be 60 days. He felt better with a 30 day time frame. In paragraph B, he wondered about the 180 days for weather and suggested it should read "up to 180 days." Anderson talked about infrastructure and the weather related problems in winter conditions. Mayor Phillips asked about the 70% and said he thought, if the Council was going to refund the bond, they might as well give the whole bond back.

Councilmember Hokanson said her intention for wanting an ordinance change was to make it easier on the Council. She felt this proposed language would make it such that the Council saw these type of things all the time. She asked if the Council had to be the appeals board. Councilmember Horner felt the Council had lost the sight of the intent of this whole process. He agreed with Councilmember Hokanson in that he did not want to see more of these. He felt there needed to be more leeway given. He was in agreement that there was a place for this type of regulation, but felt there needed to be some flexibility. Councilmember Hokanson said the law now protected the City and the inspector against liability and this was not just about getting more money for the City. Councilmember Horner again said some flexibility was needed.

Councilmember Straddeck said he was of the same mindset as Councilmember Horner during the campaign, but now that he has been on the Council, he knew what the responsibility and liability of the City was. He suggested it was interesting to see how one could change their minds

after being on the Council for a while and seeing how things were really done. Councilmember Horner talked about what people's opinion was for occupancy and the differences of opinion.

Mayor Phillips said the Code would still stipulate no occupancy but the proposed Ordinance only gave an appeals process that the Council did not have to grant. Councilmember Bradshaw said the Council couldn't ask staff to be the appeal board because people need to be appealing to the body that set the rules.

Anderson said there were two appeals coming up that he was aware of. He said one thing he struggled with was how to come up with a rhyme or reason on which appeals would be granted and which wouldn't. Councilmember Horner suggested some judgment needed to be used. Mayor Phillips pointed out there was nothing in the Code that gave discretion. Chief Rhoades suggested that Wes Greenhalgh was not discriminating against anyone with the way the Code was currently written. He continued that if the letter of the law was kept, there was no chance of discriminating. Councilmember Hokanson said years ago she had talked with a building inspector that said, "No good deed goes unpunished. It always came back to bite." Tony Kohler suggested that if the Council opened up a gray area like Chief Rhoades said, more appeals would be made.

Blake Allen said as a builder, he felt there should be some field judgment but that the Council needed to leave the Code as written. Councilmember Straddeck said what was on the table was the ability to appeal.

Councilmember Straddeck moved to approve 2008-27, an Ordinance adopting Section 15.080-070 of the Heber City Municipal Code – Bond Forfeiture Appeals, with changes in paragraph A2 being made as well as changes to paragraph B. Councilmember Bradshaw made the second to the motion. No further discussion. (Paragraph A2: All appeals must be made within 30 days of the Building Inspector's notice of bond forfeiture. Paragraph B: .....may extend the 60 day deadline for completion "up" to 180 days. Requests for extensions must be .....)

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

### ***DISCUSSION/ACTION ITEMS***

**Approve Boundary Line Agreement – Utah Department of Transportation (UDOT) and Heber City – Clarifying and Establishing the Fence Line between their respective properties for the Heber City Public Works Department facility (Tab 9):** Anderson said UDOT would like the City to sign the Boundary Line Agreement as presented recognizing the fence as being the boundary line.

Councilmember Hokanson moved to approve the Boundary Line Agreement between UDOT and Heber City as presented. Councilmember Horner made the second to the motion. No discussion.

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

***CITY COUNCIL BOARD ASSIGNMENTS REPORTS***

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

No reports were given.

At 9:15 the City Council Meeting held on October 16, 2008, was adjourned

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Paulette Thurber, Heber City Recorder

Approved 11/20/2008