

Heber City Corporation  
City Council Meeting  
11/15/2007

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on November 15, 2007, in the City Council Chambers in Heber City, Utah.

Present:	Mayor	David R. Phillips
	Council Members	Terry Wm. Lange Vaun Shelton Jeffery Bradshaw Elizabeth Hokanson
Absent:		Shari Lazenby
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: Britte Kirsch, Lee Bellows, Judy Bellows, Robert Patterson, Kathy Day, Cydnee Diamond, Anna Dance, Paul Sims, Fred Schloss, Steve Gibson, Brad Graham, Irene Hastings, Greg Odgen, Nile Horner, Mitchell Burns, Eric Straddeck, Michael Thurber, Kenna Jones, Cory Hobbs, James Dahl, Annie McMullen, Paul Kennard, Scott Dansie, Wes Greenhalgh, Jeff Wade, Matthew Heimburger, Tara Lundberg, Dave Lundberg, Jack Walkenharst, Fred Hayes, Lisa Wade and others whose names were not legible.

Pledge of Allegiance: Mayor David Phillips  
Prayer: Councilmember Terry Wm. Lange

Minutes: September 6, 2007, Regular Meeting

Councilmember Lange moved to approve the September 6, 2007, minutes of the Heber City Council Meeting. Councilmember Bradshaw made the second. No discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

OPEN PERIOD FOR PUBLIC COMMENT

Mayor Phillips invited anyone interested to address the Council on issues not already on the agenda.

Fred Schloss – Schloss expressed concerns and had questions in regard to the new City Office Building. 1) Are you anticipating using the old Central School site. 2) Are you going to destroy some of the old building to build the new building. Anderson said yes the City purchased the Central School site with the idea of constructing the new building there. Part of the plan would include demolition of

the old building. He said it was anticipated the police would remain in the old building until the new one was built. Schloss wondered about public hearings for neighbors to make comments. Mumford said there were provisions for public meetings and public hearings during the process.

## PUBLIC HEARING

**Public Hearing – Children’s Justice Center – Request for Funding:** It was indicated the Children’s Justice Center had approached the Council a few meetings ago regarding funding and a Public Hearing was scheduled because this request was outside the approved budget for fiscal year 2007-2008. The City Recorder read the notice of Public Hearing. Mayor Phillips opened the Public Hearing and invited anyone that wanted to make comments to do so. He reviewed that the request was for help with utility bills, etc.

Annie McMullen said she was part of the group that addressed the Council earlier and would like to ask for a donation of \$5,000. She indicated there were 171 cases seen at the Center from October to October last year. She talked about other funding from the State and Wasatch County. She said, too, that Park City donated \$5,000 because the Center was the Center for Summit and Wasatch County. She indicated Summit County donated \$12,000. She indicated the Friends Group, of which she was a part, do fund raising for the Center and had donated \$7,800 this year which covered a short fall. She encouraged support and said every dollar helped. She said many youth had been abused and this was a safe place to provide help for them.

Mike Thurber indicated the Cowboy Poetry Event collected over \$2,000 for the CJC during the Sunday Church Service. He encouraged the Council to at least match that, if not more.

Mayor Phillips closed the Public Hearing and asked for comments from the Council.

Councilmember Hokanson asked if the utility coverage was \$2,500. Kenna Jones said they were asking for \$2,500 for utilities and \$2,500 for general supplies coverage. She said they would be approaching the Councils of Charleston Town and Midway City in the near future. The question was asked if they had talked with Heber Light and Power. McMullen said they were wanting to be on the 28<sup>th</sup> agenda of the HL&P Board. Councilmember Hokanson said for herself, it was not a question whether the City would fund, it was just a matter of how much. She questioned if the discussion with HL&P should affect the decision the Council made. Anderson said if HL&P donated, it might reduce what the City would donate. Mayor Phillips said that might be the City’s concept, but he felt the CJC really wanted the whole \$5,000. The entire Council agreed this Center was an asset to the community. McMullen pointed out the Center was not for profit and that whatever money came in was spent at the Center and also used for education. Councilmember Lange wanted to come up with the money in conjunction with HL&P. Councilmember Shelton said he would like to see the cash donation rather than an unknown figure like utilities that varied.

Councilmember Bradshaw moved to contribute to the Children’s Justice Center \$5,000 from the City’s current fiscal year. Councilmember Hokanson made the second. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

## APPOINTMENTS

**Greg Ogden – 2006-2007 Fiscal Year Audit Report:** Ogden indicated he appreciated the opportunity to present the results of the audit. He referred to and reviewed his Opinion Letter and discussed the Findings, Recommendations, and Responses.

He then referred to page 13 of the Financial Statements which indicated Heber City was in good shape. He discussed the money available that was not reserved for another use. He said there was 5.5 million dollars available for use. Anderson pointed out that of that 5.5 million dollars, some was surplus funds for operating of the water and sewer systems.

Ogden referred to Page 16 which showed the City had more dollars in the General Fund than the State allowed. He said the State wanted municipalities to spend their money.

Ogden discussed Page 20 which showed the General Fund revenue and expenditures. He indicated the only Department to show overspending was the Airport. In total, however, the City under spent by \$461,000. He commended management and department heads for working within the budget and not overspending.

Ogden then discussed Page 38 which showed long term debt. He said the City only had three bonds outstanding and for a city of this size, that was remarkable to have that few bonds. He said the City had very little debt and was being responsible with the citizen's money. Anderson said the one bond was not the City's responsibility to pay, it was the benefitted property owners on 1200 South.

Page 44, which outlined the schedule of impact fees, was discussed. Ogden said one of the problems in the City was that it needed to spend the storm drain impact fee. He said cities are required to spend impact fees within six years. He indicated the storm drains and sewer fees overlap seven and eight years. "You need to find ways to spend that money," he said. He referred to the bottom half of page which showed projects that should eliminate the overage.

Ogden said he appreciated the staff, especially Mark Anderson and Cathy Riley. He said the City had an excellent staff on the financial end of things. He said this audit had the fewest adjusting entries he had ever had with any audit and that Anderson was already working on the eight new steps that come into effect next year.

Mayor Phillips expressed appreciation to Anderson and staff. Anderson said we had good staff and he also appreciated the department heads for being mindful of their budget.

**Jeff Wade - Mountainland One Stop - Requesting a plat amendment for property located at approximately 1175 South Main Street:** An overhead of the proposed plat was shown. Then the existing plat was compared. Anderson reviewed the reason for the amendment and said the new plat would allow for a car wash. It was indicated some of the existing improvements overlap onto the current lot configuration.

It was indicated there were only two property owners involved and both had signed the petition so no public hearing was required.

Councilmember Lange moved to approve the request based on the approval of the engineer and engineering issues being met. Councilmember Hokanson made the second. Mumford said during the commercial approval process, it would be necessary to make sure the utilities were on the lots they should be.

The voting on the motion was unanimous. Councilmember Lazenby was absent.

**Tara Lundberg – 1598 Calloway – Request to refund a \$1,000 deposit:** The Lundbergs expressed appreciation to the Council for their time. Mr. Lundberg indicated they had looked at the information

the Council had received in their packet. He said he and his wife, in making the request, wanted to give more insight than their letter provided. He said they moved here from Salt Lake City. He indicated he did this as an owner-builder and had learned a lot with this experience. He talked about selling their home in Salt Lake in September and began building in June. He said they started looking for storage units immediately and from September through January could not find a storage unit available in Heber, Kamas, or Park City. Nor did they find anything close to their home in Salt Lake. So when they did sell in January, they moved in with in-laws in Charleston and put as much as they could with them. They put the rest of their belonging in the garage of the new home but made sure there was a three foot walkway all the way around.

Lundberg discussed Greenhalgh's report and indicated they did not get permission to put storage in the garage. He said there was wording throughout the Code about occupancy and if one looked that word up in the dictionary, it was defined as residency. He said until they actually moved in, they never resided and they never spent a night there. He indicated he was building after his full time job. He said he did not think he had stepped outside the guidelines and rules. He admitted, though, he did not read all the paperwork as closely as he should have. He said they did not anticipate this to happen and asked the Council to look at the intent and said he did not think they abused the situation.

Councilmember Shelton said there was an agreement entered into that one needs to honor. He talked about human occupation versus material occupation. Lundberg said he respected that but he thought someone that was a normal builder would understand that but someone like him did not. Councilmember Hokanson said she understood their situation. She referred to the form that Lundberg signed about forfeiture of the bond. Lundberg agreed it was in black and white but he suggested that everyone initials and signs documents that they don't read thoroughly. Councilmember Bradshaw asked Greenhalgh for his comments. Greenhalgh said the policy and documents were clear and the definition of occupancy was based on the building code.

Councilmember Shelton moved to deny the request for a refund of the \$1,000 deposit. Councilmember Hokanson made the second. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

Mayor explained to the Lundbergs this decision was consistent with what the Council had done in the past.

**Jack Walkenhorst – All West Communications – Cable TV Franchise Agreement:** It was explained that in the packet of information distributed this evening, there was a new redline/strike document that legal council had reviewed. Mayor Phillips asked for questions and comments.

Anderson said this was an agreement that was similar to the agreement with Comcast who bought from AT & T who purchased TCI. He explained the purpose of the franchise agreement. Mayor Phillips explained this was mostly a boilerplate agreement but there needed to be changes such as the name of recorder and the county designation.

Councilmember Hokanson moved to approve the Cable TV Franchise Agreement with All West Communications with the noted changes. Councilmember Shelton made the second. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

**Rick McClosky/Paul Sims – Request to Phase the Stone Creek Development:** Mumford indicated he needed to preface this discussion with the fact that since the time this issue was put on the agenda, it

had been decided it was not ready for approval. However, since it was on the agenda, comment and discussion could take place.

Paul Sims indicated they had been working with staff and adjacent property owners and would like to be on the agenda for the first meeting in December. Mayor Phillips said phasing was not an unusual request. Anderson said the original master plan concept was approved based on three phases. So it would have to be determined what improvements would be associated with what phase and particularly since they now wanted four phases. Sims said he felt each phase needed to stand alone.

#### ACTION ITEMS

**Ordinance 2007-39 - James Dahl, Stanley Consultants, Requesting an Amendment to the General Plan Map for the Trent Mehlhoff parcel located south of 2000 South Mill Road to change the zoning from Technology Park to Manufactured Business Park:** Mayor Phillips reviewed that as the Council was amending the General Plan, it was agreed, based on a presentation by Mr. Dahl, that a parcel on 2000 South Mill Road should be looked at again by the Planning Commission. Kohler discussed the overhead maps and the differences in the area originally designated as corporate medical park and residential. He pointed out, too, that the General Plan had recently been changed with this specific part being tabled for more discussion at the Planning Commission level. He indicated the Planning Commission sent back a recommendation to keep 20% as Business and Manufacturing Park and 80% low density residential. He said the petitioner wanted his property to be consistent with the Phil Glass property. Kohler said there were pros and cons to the issue—economic development versus compatibility with neighboring properties. Mayor Phillips asked, then, if it was the recommendation of staff to have the entire parcel R-1, Low Density Residential rather than a small split between residential and Manufacturing and Business Park. Kohler discussed possible roadways and said residential was more consistent based on the way the Phil Glass property was planned. Anderson pointed out that making smaller parcels made it harder to build something that would meet the Manufacturing and Business Park Ordinance and expressed concern that it would be difficult to have a functioning Park based on the acreage. Councilmember Bradshaw, referring to the map, asked about the acreage of the blue area and the hatched area. It was indicated the blue (proposed Manufacturing and Business Park) was 84 acres and the hatched area (possible additional Manufacturing and Business Park) was about three acres.

James Dahl, Stanley Consultants, represented the property owner. He agreed with both Kohler and Anderson's comments. He said the owner's desire was for his entire parcel to be Low Density Residential. He felt keeping it residential would be more in line with the surrounding areas.

Councilmember Bradshaw said it did not make sense to take two parcels and divide it into different uses and since they were only talking about three acres, he did not feel it was necessary to make the use on this three acres Manufacturing and Business Park.

Councilmember Bradshaw moved to approve Ordinance 2007-39, amending the General Plan Map of Heber City which currently showed an area to be Technology Park to Manufacturing and Business Park (blue area on the attached map) excluding the three acres of Trent Mehlhoff which would remain low density residential. (blue hatched area on the attached map) Councilmember Hokanson made the second. Voting AYE: Terry Wm. Lange, Vaun Shelton, Jeffery Bradshaw, and Elizabeth Hokanson. Councilmember Lazenby was absent.

**Ordinance 2007- 40 - An Ordinance adding 15.08.015 to the Heber City Municipal Code dealing with Acceptance of Applications for Permits:** Mayor Phillips briefly reviewed the history of this

proposed Ordinance and indicated it was putting in place something discussed a month ago with Watts Enterprises. Anderson explained the ordinance allowed for early building permit review subject to a deposit, the subdivision being to a certain point and no other permits waiting for review.

Councilmember Hokanson moved to adopt Ordinance 2007-40, an Ordinance adding 15.08.015 to the Heber City Municipal Code. Councilmember Bradshaw made the second. No discussion. Voting AYE: Terry Wm. Lange, Vaun Shelton, Jeffery Bradshaw and Elizabeth Hokanson. Councilmember Lazenby was absent.

## DISCUSSION/ACTION ITEMS

**Review Proposed First Amendment to the Interlocal Agreement Establishing the Wasatch Area Economic Development Agency (Sales Tax Revenue Sharing):** Kennard had Chief Rhoades pass out additional information. He indicated one of the things he signed on to do when he started as Economic Director was to do research on the issue of Sales Tax Revenue Sharing. He indicated a draft agreement had been presented to the entities and Resolutions passed in support. Once that happened, they formed a committee. He indicated that group met a couple times a month for a few months and they came up with some changes that all members of the group agreed to. It was then taken to the attorneys for final review. The agreement before the Council tonight was the result of that work. Kennard said he felt good about what was presented tonight.

Kennard referred to the brochure he had presented and said it was still the goal of the Economic Development Agency to put into place Regional Planning and Revenue Sharing. He liked the idea, suggested by Heber City, that any revenue sharing would go to a particular project. Kennard referred to the Bonneville Research Study and their calculations on revenue sharing for a regional store that was 60,000 feet or more.

Mayor Phillips asked and Kennard discussed the possibility of a big box store in North Village. He said any group interested would probably go to Dan Matthew's group first to determine availability of water and sewer. He said he personally felt that was not a good location and would rather keep these things in town. Mayor Phillips said he was a proponent of Regional Planning and did not understand anything being built in North Village. It was indicated if there was going to be growth, it should be placed in the best location. Mayor Phillips asked if they, a big box store in North Village, would participate in Revenue Sharing. Kennard said they were working on that now.

Anderson pointed out that to complicate things, there were two new cities before the County Council. He said he would want those cities involved in this issue, as well. He said he wanted to see the Council have more information on possible revenue from WalMart before they made a decision. Councilmember Bradshaw felt there would be better information for the Council in the near future and they would have a better idea as to what decision to make. He felt it was in the best interest of the City to continue this issue until they had the information they needed to make a good decision. Councilmember Bradshaw said he generally was for this concept and wanted cooperation amongst the entities.

Councilmember Bradshaw moved to continue this issue until such time the Council had more information to make a good decision. Councilmember Shelton made the second. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

Kennard indicated Midway City was the only one to sign this proposal thus far. He said Wasatch County had not signed yet but that he was meeting with them on the 28<sup>th</sup>.

**Robyn Pearson and Fred Hayes - Utah State Parks - Requesting financial assistance for plowing roads/parking lots near Strawberry Reservoir:** Fred Hayes indicated he was here on assignment from the Utah State Parks and Recreation Division. He referred to a letter from Mary Tullius, Director, requesting funds to help with snow removal. He indicated when the parking lots were built, the Forest Service entered into an agreement with a company to remove the snow. Two years ago, they left the valley which left the responsibility of maintaining the lots to the Forest Service and the Forest Service did not have the financial means to do that. Hayes said the parking lots were used by fishermen, snow mobilers, and cross country skiers. He said they were now trying to put together sufficient funds to keep the lots plowed and provide good services to winter recreation enthusiasts.

Hayes indicated they were requesting \$10,000 to help with plowing and said Pearson was going to ask the County for \$10,000, as well. He said the total budget was \$50,000 as they would be hiring someone and leasing equipment. Hayes said he had \$30,000 in snow mobile funds dedicated to that, the Division of Wildlife had \$10,000 in fisherman access funds, and they were looking for another \$20,000 from the City and County.

Councilmember Bradshaw discussed the fact that if Wasatch County funds were used and the City also made a contribution then, in his mind, the City residents were paying more than their share. He felt the place to go was Wasatch County to get the \$20,000.

Anderson referred to the earlier public hearing held for the CJC and said as this was also something that had not been budgeted for, a public hearing would have to be held for this, as well, if the Council was interested in contributing funds. He said, too, based on Utah Code, it would have to be shown how the City benefited from the contribution. He felt that if the City looked solely for the benefit based on the people that travel through the City to go cross country skiing, it would be hard to justify.

Councilmember Hokanson said she could not justify plowing the parking lots in Strawberry as being a benefit to Heber City. Councilmember Shelton did not feel this was a responsibility of Heber City and felt it a duplication in spending of City residents' money if the City and County both contributed.

Councilmember Lange moved to deny the request of the Utah State Parks for funding to help with the costs of plowing roads and parking lots near Strawberry Reservoir. Councilmember Bradshaw made the second. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

**Discuss Agreement with WWET Inc. and Review Billing:** Anderson said included in the packet tonight was a recent financial statement provided by WWET. He said he did not know what month it pertained to. He discussed the billing, how it was broken down and the markup of that billing. Anderson indicated the Council had had conversation about having this service as a part of our budget and having some say in how the budget was spent. It was suggested the Council needed to be more involved with the City funds spent in this regard. Anderson emphasized a budget needed to be created for this part of City service and costs and it needed to be approved by the Council. Mayor Phillips also expressed concern that the decision process for this service had not included the City Council. Anderson said these projects needed to be part of the City's capital budget and funds because the improvements become Heber's in the end. "We need to track the improvements which become part of Heber's infrastructure."

Mayor Phillips said WWET needed to understand the Council needed the opportunity to decide how the City's money was spent. Councilmember Lange pointed out the City was the only share holder. He

said he did not understand how WWET was organized and run. Councilmember Bradshaw indicated they had an annual meeting coming up and said Wasatch Irrigation was the board until they had their first annual meeting. Mayor Phillips said the Council needed to vote the City's shares and control its own destiny. He questioned how it would be determined what part of the bill was paid. Mayor Phillips wanted to sit down with WWET and come to an understanding. Councilmember Shelton said he had tried to get this corrected and been unsuccessful. "What is occurring there should not occur and we need to correct the situation," he said. He didn't think setting down with them would solve the issue. He said to send them a check for \$21,410.97 and that the City needed this issue corrected before it went any further with WWET. Councilmember Shelton said the City should be opening the bids and not WWET. Anderson felt the City should be involved in the whole bid process and this money expenditure be outlined in the City budget.

Councilmember Shelton moved to pay \$21,410.97 to WWET. Councilmember Hokanson made the second.. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

It was indicated Anderson would send the check with an accompanying letter.

**Discuss Employee Christmas Bonus:** The Council discussed what was given to employees last year. The following was suggested for this year:

Board of Adjustment/Farmers Market helper/Airport Advisory Board - \$175.00

Planning Commission - \$300.00

Part-time Employees – \$250.00

Full-time Employees / City Council \$350.00

Councilmember Hokanson moved the employees and boards be given a Christmas bonus as outlined above. Councilmember Lange made the second. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was absent.

As there was no further business, the November 15, 2007, Heber City Council meeting adjourned.

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Paulette Thurber, City Recorder