

Heber City Corporation
City Council Meeting
11/19/2009

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on November 19, 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	Jason Bradley

Others Present: Benny Mergist, Alan McDonald, Fred Schloss, Steve Farrell, Greg Ogden, David Johnson, Ross Nichol, LuAnn Nichol, Brian Balls, Wes Greenhalgh, Mike Johnston, Mike Thurber, and Richard Boulter.

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

Minutes: 10/21/2009 Special Meeting
10/15/2009 Regular Meeting

Councilmember Bradshaw moved the minutes of the 10/15/2009 Regular Meeting and the 10/21/2009 Special Meeting be approved as presented. Councilmember Hokanson made the second. No discussion. The voting was unanimous in the affirmative.

Canvass of the Recount Vote for the General Election held November 3, 2009: Mayor Phillips read the final numbers from the recount vote between Elizabeth Hokanson and Benny Mergist. The total votes for each candidate are as follows:

Mayor	David R. Phillips	823
	Paul F. Royall	520

City Council Member	Jeffery M. Bradshaw	558	
	Elizabeth Hokanson	624	
	Alan Wayne McDonald	831	
	Benny Mergist		631

Recognition of Officer Thad Fitzsimmons (Tab 1): Mayor Phillips recounted the incident in which Officer Fitzsimmons responded to an emergency call to the Wasatch County High School. He continued that Officer Fitzsimmons revived a teacher who had experienced cardiac arrest. The Council expressed appreciation to Officer Fitzsimmons for his quick response, clear thinking, and the fact he saved the teacher's life.

OPEN PERIOD FOR PUBLIC COMMENT

Fred Schloss - Resident of Heber City. Schloss said it had been interesting to follow the election. He congratulated those that won and thanked those that had served and said he appreciated their efforts.

He said that as things were being reviewed on a City level, he had the opportunity of visiting several city offices and wanted to make some suggestions about physical locations of the Heber City office personnel before going into next year. He thought Thurber's office should have more privacy and have the City Manager's office down the hall or away from everything else. He said he would like to see the part-time position girl moved and possibly have the manager's office not in the main office but rather down the hall. He suggested the public would like to have more privacy when talking with Thurber and not have it so public.

Greg Ogden, CPA – Presentation of FY 2008-09 Financial Audit Report (Separate Cover): Ogden indicated he would be making a Financial Audit presentation. He said he appreciated the opportunity to meet with the Council and hoped everyone had the chance to look through the Financial Statements and Management Letter he had made available prior to the meeting.

Ogden referred to his Management Letter and said there was one State Compliance Finding from this year's audit which dealt with Storm Drain and Sewer Impact Fees which had to be spent within six years of collection. He said the State Legislature was getting more strict on that issue and there were a couple that had been held for longer than the six year. He recommended the Council find some way to spend those fees but said, too, he understood there were projects in mind for those funds but wanted the Council to be aware those monies needed to be spent in order to be in compliance. Anderson commented the City not only have projects in mind but projects in the process based on improvements being made now with the Center Street Project.

Ogden continued the next two findings were internal control deficiencies. He said because he assisted the City in drafting the financial findings, that had to be listed as a deficiency. He said the second finding was a depreciation posting to a wrong account. He suggested that staff look through those types of items closely and make certain all adjusting entries were posted by the end of the year and in the correct account.

Ogden then discussed the Financial Statements. Page 1 outlined the responsibility for financial statements being the City's and that his responsibility was for auditing them. He discussed his opinion and said the financial statement did fairly represent the financial and business-type

activities of Heber City. He then discussed and reviewed Page 13 and 14. He said this was a new schedule this year which showed department-by-department expenditures. He indicated that Heber City was one of the few cities he audited that still had impact fees coming in. He said the State allowed 5 to 18 percent in unreserved General Funds and Heber City actually met that criteria this year, where in the past Heber had not because of a higher percentage of surplus. Page 19: All departments were under-spent, which was a State requirement that the State paid close attention to. He commended the City for making sure it was under budget in every department and in compliance with State law. Page 21: This represented business-type activities—sewer, water, airport hangar sales, etc. The first 2 columns, water and sewer, had a loss. He cautioned the Council to keep in mind, track for the future, watch closely, and make sure the operating revenues cover the operating expenses. He said last year showed a loss also, but two years before that the City was O.K. He said to watch that year-to-year as it was an indication of needing to raise fees.

Anderson referred to page 21, column 4, Airport hangar sales. He said the City had received a lot of criticism on this issue. However, this showed, in real numbers, the operating income off of the three hangars sales and that the City still had a net profit even after some transfers of money for airport manager and other infrastructure. There was discussion about the revenue generated at the airport. Discussion, too, about having to keep airport funds at the airport. It was suggested the Council should look at the possibility of using airport revenues towards other funds.

Mayor Phillips asked Ogden how Heber compared to other cities. Ogden said Heber was one of the few cities still having growth. He said that several of the cities he audited were in tough financial shape. However, Heber City was in a positive situation to a very high dollar amount.

Ogden said he appreciated working with this staff and that they did a very good job. He told the Council they were lucky to have a CPA as the City Manager. He saw that as a definite benefit to the City. Ogden encouraged the Council to call him with any questions at any time.

Councilmember Straddeck indicated he wanted a breakdown of the expenses on page 19 and which were capital expenses and which were operating expenses. Anderson said he would get that for him.

Steve Farrell, Wasatch County Council–Presentation on the Proposed Reorganization of the Economic Development Committee and Tourism Board: Steve Farrell, Wasatch County Council, represented the Economic Development Committee. He said he was before the Council to propose and seek approval for a change to the Economic Development Board. He said currently there was a five-member board and the proposal was to expand to a seven-member board, taking in the tourism portion of what the Chamber had been doing. He explained the Chamber had been acting as the marketing tool for the County. He said that with the downturn of the economy, the TRT fund was down 56% from last year. He said that did not mean all tourism had stopped in the County, but it had been hard for motels, etc., to pay their TRT monies. So what he was proposing was to put the tourism aspect under the Economic Development Board and add the Chamber as a seat on that Board. The proposal then would be two seats from the County, 1 seat from Heber City, 1 seat from Midway City, 1 seat from Jordanelle, a Tourism Tax Advisory Board member, and the Chamber. He continued they wanted the entities to continue with the contributions to the Board, as in the past, with the County paying as a member, the cities paying as a member, and Jordanelle paying as a member. He said they wanted to hire a

Community Business Director (Connector) which person would coordinate activities and have all stake holders going in the same direction. Farrell reviewed the flow chart. He said they were looking to start out with limited staff--one individual until revenue picked up. This person would be the head of the economic development engine in the County. From that they would break it down into two parts: economic development—going out for new businesses and retaining the business already here—and special events coordinator—someone who would go out and get events that would benefit the community, including the business community.

Richard Boulter – Boulter talked about the Tourism Tax Advisory Board which was set up based on State Statute. He reviewed the makeup of that Board. He suggested that in the past there had not been great communication between the entities, businesses, etc., and the hope was to rectify that with this new organization. He said they wanted every business owner to be a member of Chamber, without a fee to be a member, and suggested the possibility of raising business license fees to help support that. He said the new connector person would be on the Board and would share all events to all businesses. He said they still wanted Heber City to stay on board as a contributor. Councilmember Patterson asked about the Chamber of Commerce and funding. It was explained the Chamber would not receive funds directly but through the proposed Heber Valley Business Development Bureau of which they were a part.

County Councilmember Farrell said he wanted to kick this off the first of the year, if possible. Mayor Phillips asked if they were looking at a new agreement or an amendment to the old agreement. County Councilmember Farrell thought an amendment to the original agreement would suffice. Anderson told the Council that Paul Kennard had returned some funds to the City (funds the City had contributed this last year) so he wanted to know when they would expect a contribution to the new program. County Councilmember Farrell indicated next fiscal year.

Discussion about the flow chart and who would hold what positions. It was explained there was no one in any position right now. The one position to be hired at this time would be the Connector position and anyone interested, including people from the old Chamber organization, would have to apply. Additional discussion about the role of the Chamber of Commerce in this new organization.

Anderson asked if any work had been done to project expenses and revenues with this model. It was indicated that County Manager Mike Davis had projected approximately \$300,000 in TRT monies next year and with the contributions from entities about \$400,000. Anderson said he was also interested in the expense side of the equation and how monies would be spent.

Mayor Phillips asked the Council their feelings on the proposal. Councilmember Straddeck asked if the presentation that was going to be presented (but couldn't because of lack of equipment) could be sent to them so the Council could review and study the issue more. It was indicated the PowerPoint would be e-mailed to Anderson and he would forward it to the Council. Councilmember Straddeck said it was a great idea to open up the Chamber to all businesses. Mayor Phillips agreed.

Mayor Phillips asked for a draft amendment to the Interlocal Agreement for review. It appeared the Council was in favor of the concept presented.

Ordinance 2009-15 – An Ordinance considering the Nichol Annexation – A 15.07 acre parcel of land located between approximately 950 and 1200 South on the west side of Southfield Road (Continued from previous meetings) (Tab 2): Councilmember Horner indicated this issue had been tabled at a previous meeting until such time as the entities could meet with UDOT. Since that had not happened, he asked why this was before the Council now. Anderson answered that based on polling of the Council at last meeting, it was put on this meeting's agenda.

Anderson pointed out that in September Councilmember Straddeck moved to continue this issue until the City had met with UDOT. Councilmember Bradshaw said his understanding was that the Council had come to the conclusion that the design was not going to change the course of the bypass so there was no need to wait on the annexation until that meeting was held with UDOT. He said he did not see any reason to wait. Brian Balls indicated his understanding of the motion was to talk to Wasatch County, figure out alignments, and then bring that information back to the City Council. Councilmember Horner said the motion was when the City met with UDOT. Mayor Phillips said that at the last Council meeting there were three members that wanted the issue back on the agenda. Also Mr. Nichol had made it clear to the Council that, in terms of donating right-of-way, he would only consider that until March 2010. Councilmember Horner still wanted to wait until the entities had met with UDOT. Councilmember Patterson felt the same as Councilmember Bradshaw--he did not see any reason to wait any longer for UDOT as far as this annexation. Councilmember Horner said he felt Nichol would have more/better use of his ground without annexation if UDOT said there was no way they were going to build the road. Councilmember Straddeck questioned if the Council did get an answer from UDOT about the road alignment and participation in the costs from them, would it change anyone's mind about annexation. Councilmember Horner again said he wanted to know what UDOT would say before he voted.

Councilmember Bradshaw moved to adopt Ordinance 2009-15, an Ordinance considering the Nichol Annexation – a 15.07 acre parcel of land located between approximately 950 and 1200 South on the west side of Southfield Road, subject to the Annexation Agreement. Councilmember Hokanson made the second. Discussion about options a or b dedication and that it made no difference in which was used.

Brian Balls reviewed the annexation map and indicated the Randall Giles property was included in the annexation, as well as Peter Burnson. However, the Joe Giles property was not included. It was indicated at some point a portion of the bypass road would be on the Joe Giles property. Mayor Phillips suggested that was another piece of the link and would be considered at another time. Nichol said Joe Giles had approached him about purchasing some of his property. Consequently, there might be other options available. Councilmember Horner asked about density and if they had to have this density to make the project work. Balls said what was proposed was less than the standard for R-3. Councilmember Horner wanted to know if they would go less. Balls said he doubted it but the developer was not present to answer that question.

Mayor Phillips called for the vote. Voting AYE: Councilmembers Bradshaw, Hokanson, and Patterson. Voting NAY: Councilmembers Straddeck and Horner. The motion passed.

Ordinance 2009-21 – An Ordinance Amending the Heber City Municipal Code – Chapter 15.08.080 – Building Permit Issuance and Occupancy Requirements/Construction Site Maintenance, Safety and Sanitation (Tab 3):

Mayor Phillips suggested one of the best provisions in the proposed ordinance was keeping building materials and other stuff off the street. Councilmember Straddeck asked why this only applied to residential construction sites and not commercial construction sites and wondered if the City already had something in the code for commercial sites. Wes Greenhalgh, Building Official, said, in most cases, commercial construction sites were more organized and, too, there were less commercial sites. He said, too, that commercial sites had more area involved giving more space for storage. He said the major complaints came from residential sites.

Mayor Phillips wondered, because of what Councilmember Straddeck brought up, if there should also be a commercial ordinance drafted. Mumford indicated that commercial sites had storm drains in their plans and that minimized the debris issue. He also said that commercial development had not been a significant issue.

Councilmember Straddeck asked about letter “C” of the proposed Ordinance. He said using wood, metal or rubber ramps did not exclude storm drain problems and wondered if the language should be more specific. Discussion. Greenhalgh suggested this was tidier and less likely to get ruined by snow plow, etc. It was suggested that gravel could easily create problems with storm drains.

Councilmember Straddeck had concern with overnight parking as outlined in letter “B”. He felt that could lead to considerable fuel costs for workers. It was indicated this requirement came from Chief Rhoades and the Police Department. Mayor Phillips felt there was a safety factor involved, especially if trailers without reflector lights were left parked. Councilmember Horner suggested if all construction materials were placed on the lot, there might not be enough room for a construction trailer. Anderson said these were things the Building Department would enforce which were separate from nuisances which were enforced by Code Enforcement or the Police Department.

Councilmember Hokanson moved to adopt Ordinance 2009-21, an Ordinance amending Chapter 15.08.089 of the Heber City Municipal Code, Building Permit Issuance and Occupancy Requirements/Construction Site Maintenance, Safety and Sanitation. Councilmember Bradshaw made the second.

Mike Johnston, Summit Engineering, suggested some additional language to the Ordinance, if the Council was willing to listen. First he said he was thrilled that the City was addressing the issue. However, he felt the Ordinance did not address all the problems, especially the silt that ran down the drains to the ponds. The Ordinance did address debris fencing, which he thought was good. He suggested the concrete guys put their refuse on the neighbor’s lot which caused a problem and needed addressed. The biggest problem, he felt, was not the debris fence but the silt fence and it needed to be put on the downhill side because of the constant mud and debris. He suggested an erosion-control plan be addressed which could be as simple as putting a silt fence in place. He also wanted a gravel entrance which would eliminate mud and debris on the street.

Johnston brought and showed the Council the Park City Construction Mitigation Plan which the contractor had to sign recognizing his responsibility. Johnston suggested if the Council was going to address the problem, they needed to address the whole issue.

Councilmember Hokanson asked Greenhalgh if he was or was not in favor of the issues Johnston brought up. Greenhalgh felt as long as the Council was paying for the enforcement, he would be O.K. with it. Johnston said he would suggest a fine if the Ordinance was not conformed to which would help with any enforcement costs. Johnston said the proposed ordinance was good, but he wanted to make it real good. He suggested the port-a-potty be behind the sidewalk and not the curb--it should not be on City property. Johnston suggested if there were no penalties, no one would care. Councilmember Straddeck said he also had in his notes that he wanted fees/fines.

It was felt the following three things should be added to the Ordinance. 1) Port-a-potty behind sidewalk; 2) Fines; and 3) an Erosion control plan.

Benny Mergist, incoming Councilmember, said as he had read the proposed Ordinance this past week and agreed with it. He suggested, however, there were some lots in Valley Hills in which there was no place to park. He recommended Councilmember Bradshaw amend his motion and strike out the no-overnight parking language. Johnston felt that any vehicle that could be on the street, should be allowed to be. Sgt. Bradley said the law allowed a vehicle to be on the street for 72 hours if it was licensed.

Councilmember Bradshaw withdrew his motion. Councilmember Hokanson withdrew her second to the motion.

Councilmember Bradshaw moved that the ordinance needed more work, including an erosion-control plan, and then the Council could reconsider it on December 3rd or when it was ready. He wanted the issues brought up by Johnston to be considered by staff and incorporated into a new proposed ordinance. Councilmember Hokanson made the second. There was no further discussion. Voting AYE: Councilmembers Bradshaw, Hokanson, Straddeck, Horner and Patterson.

As there was no further business, the regularly scheduled meeting of the Heber City Council held on November 19, 2009, adjourned.

Paulette Thurber, City Recorder