

1 Heber City Corporation  
2 City Council Meeting  
3 November 20, 2008

4  
5 7:00 p.m.

6  
7 REGULAR MEETING

8  
9 The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on November 20,  
10 2008, in the City Council Chambers in Heber City, Utah.

11 Excused: Mayor David R. Phillips

12  
13 Present: Council Members Jeffery Bradshaw  
14 Elizabeth Hokanson  
15 Eric Straddeck  
16 Nile Horner  
17 Robert Patterson

18  
19 Also Present: City Manager Mark K. Anderson  
20 City Recorder Paulette Thurber  
21 City Engineer Bart Mumford  
22 City Planner Allen Fawcett  
23 Chief of Police Ed Rhoades

24  
25 Others Present: Norm Eiting, Brian Jacobson, Mike Thurber, Mike Johnston, Tish Dahmen, Paul  
26 Kennard, Eleanor Nelsen, Walker Royall, Koen Hyde, Josh Daniels, Hayden Walker, Case  
27 Jensen, Ben Hill, Jared Jensen, Aidon Jensen, Daniel Thacker, Coleston Arve, Steve Daniels,  
28 Greg Ogden, Sheila Johnston, Dave Johnson, DeAnna Lloyd, Jared Yeates, Chris Lundahl, Matt  
29 Yeates, Josh Yeates, DeLynn Yeates, Brad Lyle, Wes Greenhalgh, Wayne Buell and Scott  
30 Holbrook.

31  
32 Mayor ProTempore Bradshaw asked if anyone wanted to offer a prayer or a thought. There was  
33 no interest.

34  
35 Pledge of Allegiance: Councilmember Nile Horner

36 Prayer: Councilmember Robert Patterson

37  
38 Minutes: October 2, 2008, Work Meeting Minutes

39 October 2, 2008, Regular Meeting Minutes

40 October 16, 2008, Work Meeting Minutes

41 October 16, 2008, Regular Meeting Minutes

42 October 30, 2008, Work Meeting Minutes

43 October 30, 2008, Special Meeting Minutes

44

1 Councilmember Patterson moved to accept the above listed minutes. Councilmember Straddeck  
2 made the second. No discussion. Voting AYE: Councilmembers Bradshaw, Hokanson,  
3 Straddeck, Horner and Patterson.

4  
5 The Scouts from Scout Troop 1053 of the Timp Meadows Ward were in attendance. It was  
6 indicated they were working on passing their Citizenship in the Community Merit Badge. They  
7 introduced themselves.

8  
9 ***OPEN PERIOD FOR PUBLIC COMMENTS***

10  
11 Mayor ProTempore Bradshaw asked anyone wanting to address the Council on things not  
12 already on the Agenda to do so.

13  
14 Chris Lundahl. – Lundahl indicated he owned about 1 ½ acres of land and wanted to put horses  
15 on the property. He said his neighbor had horses on his property and he wanted to be able to do  
16 the same. The property lies just north of the Heber City Cemetery and the lots not accessible by  
17 road. An overhead of the area was shown. It was indicated there was a house and barns on the  
18 property now. Mayor Pro Tempore Bradshaw said there were ordinances on the books now in  
19 relation to this request. He reviewed that Ordinance. Anderson indicated he had talked with  
20 Lundahl the other day and explained the Ordinance to him. It was indicated there were horses on  
21 that property some years ago but had not been for a number of years. It was indicated the  
22 property was currently zoned R-1 and putting horses on the property was not a permitted use  
23 because the grandfathered use had been lost based on the fact there had not been any animals on  
24 the property for at least 1 ½ years. Anderson said the Ordinance outlines that if the use was  
25 discontinued for a year, the right was lost. Anderson said one of the reasons Lundahl had called  
26 him was the property was landlocked and he wanted to use the cemetery property for access.  
27 That was why this had come up. Lundahl said the neighbor on the north had given permission to  
28 him from his property.

29  
30 Councilmember Straddeck reviewed the Ordinance for clarification. The only way horses could  
31 be permitted on the property was if the zoning was changed or the Ordinance was changed.  
32 Lundahl said he wanted the Council to do whatever was necessary in order for him to have his  
33 horses there. It was explained he would need to go to the Planning Commission for an ordinance  
34 and/or zone change. Discussion about development of the property in the future.

35  
36 Councilmember Straddeck explained the Council could not break the City's own laws. However,  
37 if Lundahl wanted to request a change, the request would have to go to the Planning Commission  
38 first. The Council recommended he go to the planning office to start the process.

39  
40 **CONSENT AGENDA**

41  
42 **Approval of Holiday Schedule for 2009:**

43  
44 **Approval – Project Application and Grant Agreement for State Aid in the Development of**  
45 **Public Airports – Crack Seal Airport Pavements (from runway to front of hangars):**

1 Councilmember Hokanson moved to approve the items on the Consent Agenda. Councilmember  
2 Patterson made the second. There was no discussion. Voting AYE: Councilmembers Bradshaw,  
3 Hokanson, Straddeck, Horner and Patterson.

4  
5 **Greg Ogden – Audit Report – 2007-2008 Fiscal Year (Separately Bound Materials):** Ogden  
6 said he appreciated the opportunity to present the results of the audit.

7  
8 Referring to the Management Letter, Ogden said again this year the General Fund balance was in  
9 excess of what was allowed by the State—about \$93,000 over. Mayor Pro Tempore Bradshaw  
10 suggested the state of the economy would take care of that excess.

11  
12 Ogden said his second concern was impact fees which had to be paid within six years. He  
13 indicated storm drain impact fees had been held for nine years. He said the City needed to look at  
14 storm drain plans and make sure there were areas to use those. Mayor Pro Tempore Bradshaw  
15 asked about the Center Street project and using those there. Anderson said a small portion would  
16 be used on that Project but the real plan was, when the County acquires the Cowley property, the  
17 City would work with the County for a storm drain basin on that property.

18  
19 Ogden said a new requirement by the State this year was that when any employee was on any  
20 kind of absence, notification needed to be sent to the Retirement Office of when that absence  
21 started and when it ended.

22  
23 Ogden said there were two properties sold by the City that had not been removed from the City's  
24 books which required an adjusting entry.

25  
26 Ogden then reviewed the Financial Statements. He pointed out it was his responsibility to audit  
27 the statements and make an opinion that they were accurate. He discussed the different reports.  
28 He discussed the difference in the Services Departments versus the Enterprise Funds.

29  
30 Ogden said Heber City was the only City that he audited that had more growth this year than last  
31 year.

32  
33 Ogden emphasized the City needed to plan to spend impact fee funds on street and water and not  
34 go over the six year period. He suggested, though, that if the projects that were listed for the  
35 future actually happened, it would take care of most of the funds. Anderson said the project on  
36 Midway Lane, the bid on the hospital well upgrade and the project on Highway 189 would take  
37 care of some of those funds. He said the storm drain was really the only one that there might be  
38 problems with.

39  
40 Ogden emphasized that Heber City was in great shape--better than the other cities he worked  
41 with. He said he appreciated the staff and the hard work they do and that Anderson reviewed and  
42 made sure the schedules were accurate.

43  
44 Anderson said Ogden was accurate in his assessment of staff and that the City had a great staff  
45 that was the backbone of the audit. He said Lynsee North was new to us this year but did a very

1 good job. Cathy Riley, who did a lot of the work last year, was now working in the Engineering  
2 Department but helped with the training of North. He said the rest of the staff was very good.

3  
4 **Sheila Johnston – J.R. Smith Elementary Safety Committee – Report of Traffic Changes**  
5 **(Tab 2)**

6 Johnston said it was hard to believe it had been six months since they had been before  
7 the Council asking for changes in the traffic pattern at JR Smith. She said she had praises for the  
8 Police Department as there had not been a day that an officer had not been there to help.  
9 Johnston said the changes have helped so much. She said that once kids are out of school, they  
10 could process all of them in 10 or 12 minutes. She said they did put out a survey and received  
11 about 300 back with an 80% positive feedback. She said the new plan had definitely improved  
12 the safety and this had all been a positive experience. Pictures were shown on the overhead.

13 The Council expressed appreciation to her and the Committee for their involvement with this and  
14 all the hard work they put into it.

15  
16 **Millstream Properties LLC – Appeal – Forfeiture of Bond – Property located at 1995**  
17 **North Callaway Drive (Tab 3):**

18 Brad Lyle explained they had built a spec home in Cove  
19 Estates. The year before, in conjunction with Ritchies, they built a home for the Parade of  
20 Homes. That home sold this year and they had all the furniture from that home when it sold, so  
21 they moved it into the spec house they just finished. He said when they called for an inspection,  
22 they were told about the rules. So the bond was forfeited. He discussed the new Ordinance the  
23 Council had adopted and asked the Council to consider giving back their \$1,000.

24 Councilmember Hokanson asked if he thought this was administered unfairly. Lyle said no, they  
25 were just not aware. Mayor Pro Tempore Bradshaw referred to the paper work they signed that  
26 made them aware of the rules. Lyle felt there should be some consideration now because people  
27 are staging houses to try and sell houses.

28  
29 Councilmember Straddeck moved to deny the request to refund the bond to Millstream  
30 Properties. Councilmember Hokanson made the second. Mayor Pro Tempore Bradshaw ask for  
31 discussion. There was none. Voting AYE: Councilmembers Bradshaw, Hokanson, Straddeck,  
32 Horner and Patterson.

33  
34 Councilmember Straddeck asked that the form also include the word “staging” since this was the  
35 second time they had had a request because of staging. Greenhalgh said it was unfortunate they  
36 did not call because there were some things the inspector did allow to be in the home and still get  
37 a final inspection, such as carpet and paint.

38  
39 **Ordinance 2008-28 – An Ordinance Amending the Zoning of Certain Property, located**  
40 **north of the Muirfiled Park from A-2 Agricultural Zone to R-2 Residential Zone – Five**  
41 **acres of property located at approximately 750 North 100 West (Tab 4):**

42 Mayor Pro  
43 Tempore Bradshaw reviewed the history. He pointed out that on the north end of town on the  
44 west side, property was annexed a year or so ago. As part of that annexation, the City required  
45 the Yeates to provide some property for a possible future bypass road. They would develop the  
46 rest of the property. On August 14 of this year, the Yeates people went to the Planning  
Commission with their proposed Elmbridge project and proposed some higher density on the

1 residential piece and some commercial development on another piece. The Planning Commission  
2 turned the proposal down. The Yeates group then came before the City Council on September 4  
3 and discussed the project. The Council also turned down the proposal but suggested they make  
4 some adjustments and go back to the Planning Commission. They went back to the Planning  
5 Commission with some changes. A Public Hearing was held. The project was still turned down  
6 by the Planning Commission with a vote of five opposed and two approvals. Consequently, the  
7 Yeates people are before the City Council tonight to look at the current proposal.

8  
9 Anderson said the Yeates group had two issues before the Council with the first issue relating to  
10 a zone change of five acres of property from Agricultural-2 (A-2) to Residential-2 (R-2).  
11 Depending on what the Council decided on the first issue, the second issue may or may not be  
12 heard.

13  
14 Josh Yeates introduced himself as owner and developer and also legal counsel for Compass  
15 Holdings.

16  
17 An overhead was shown of the area in which the request for a zone change related. Josh Yeates  
18 indicated the reason the property was zoned A-2 was to show permanent open space. He said  
19 they had always known the road would be there so their intent had always been to get a rezone to  
20 change the A-2 to R-2. Council was referred to materials in their packet. Pictures were shown of  
21 the initial proposal from three years ago which even then showed the property as open space.

22  
23 Anderson said the issue the Yeates had was that the COSZ overlay required 10 acres of land to  
24 qualify and what they had now for residential was  $\frac{1}{2}$  acre short. He said their intent had always  
25 been to transfer development rights, and they need  $\frac{1}{2}$  acre more in order to have the required 10  
26 acres. The reason for the rezone then would give them 72 units instead of 84 units. Josh Yeates  
27 said their initial desire was for R-3 which would give more density but during the annexation it  
28 was zoned R-2 and A-2.

29  
30 DeLynn Yeates said the five acres put in A-2 instead of R-2 was because the planners wanted the  
31 area to be perpetually open space. Fawcett had told them they still should be able to get the  
32 benefit for the five acres and that had always been the discussion with the City. When the legal  
33 description was drawn, they were short by  $\frac{1}{2}$  acre. He said that because they did not get R-3 as  
34 initially requested, they had to reduce the density. Slides were shown of before proposals and  
35 after proposals, where the road had been taken out and more green space added, and where there  
36 was added a trail that connected into City trail and also reduced parking.

37  
38 Josh Yeates discussed the work meeting with the Planning Commission and said direction was  
39 given to them and they made the changes as requested. (lowering of units and lowering of  
40 density) with the two-story buildings that were more in line with what already existed. They  
41 went back to Planning Commission after the work meeting and got denied again. He said they  
42 still felt they could make this work.

43  
44 Josh Yeates said they believed this was an esthetically sound project, met the City's needs, met  
45 the requirements of the City and still a viable project for them.

1 Mike Thurber, Planning Commission, said the changes they made incorporated everything the  
2 Planning Commission had asked of them.

3  
4 Councilmember Straddeck asked if the line for the commercial zone boundary had been ½ acre  
5 the other way in some direction would they be having the discussion about rezoning. Anderson  
6 said they would have the minimum acreage to get COSZ but they would be limited to 50 units if  
7 the A-2 property was not used in the calculations. Councilmember Horner wanted clarification  
8 on how many units would be allowed and also wanted discussion about access. The access points  
9 were pointed out on the overhead. Discussion about the small drive area that was intended to  
10 eventually connect when the area was developed and that would possibly be one of the  
11 connections into the development. It was pointed out there were already two accesses, which was  
12 required, and this other one would give them three. It was pointed out the Annexation Agreement  
13 locked them into no development on the area now A-2. Mayor Pro Tempore Bradshaw  
14 suggested, if this was rezoned, it opened up the possibility of them asking for COSZ.  
15 Councilmember Straddeck asked when was the right time to talk about traffic and the other  
16 concerns Councilmember Patterson had. Fawcett said, if they got the COSZ, they would work  
17 through staff and the Planning Commission for concept plans, etc., and that there would be a lot  
18 of time to work on this.

19  
20 Councilmember Horner clarified that by granting this request, it gave them the chance to work  
21 on a development using the COSZ regulations.

22  
23 Fawcett said there were other issues to work out, such as ground water, circulation, etc.

24  
25 Mayor Pro Tempore Bradshaw asked Mumford if there was anything they were proposing that  
26 did not seem feasible from a preliminary basis. Mumford said the simple answer was no--they  
27 could engineer around anything, but they did need some other information. He said the sewer  
28 problems addressed previously had been solved. Mumford said they were not ready for concept  
29 and couldn't make any determination until he knew what the zoning was going to be. Mayor Pro  
30 Tempore Bradshaw indicated he was very interested in the commercial part of this development.  
31 He felt the hotel was a necessity for our community for attracting tourism and would fit in very  
32 well with what was wanted in Heber City. He said his feeling was, in order to get that and to get  
33 the bypass road property, there had to be some give and take and he did not think they could do  
34 this without both the residential and commercial aspects of the plan. Councilmember Straddeck  
35 indicated that from the zoning perspective, he had no issue with that change. Councilmember  
36 Hokanson said the Council had to weigh out the need for the bypass, the retail and the hotel  
37 which were very important to the City. However, with that comes a higher density product. She  
38 did not see any other reason to do the COSZ—"but this is a powerful reason" she said. She felt  
39 the petitioners had gone to a lot of trouble to do what the Planning Commission suggested. She  
40 indicated she still had not made up her mind. Councilmember Patterson suggested there was no  
41 transition zone between this project and the existing residential area and, other than the bypass  
42 road, he did not like this project. He said he knew the City needed the bypass road, but he did not  
43 like the density of this project. Councilmember Horner said he had not totally made up his mind,  
44 either. He suggested the City had been without the commercial for years and that the bypass road  
45 would not be built tomorrow. He said he understood they had invested a lot of time and money

1 into this and appreciated that they dropped the housing units from 84 to 72. One thing he wanted  
2 was to hear from the audience.

3  
4 Wayne Buell indicated that as he had looked at the development, there were positive and  
5 negatives aspects of it. He questioned why the City wanted this in the City instead of letting the  
6 County take care of the bypass road. He said he understood and could see there was going to be  
7 development. One problem he had, though, was the ingress and egress for his property. He said  
8 he had 12 or so cars in and out of there a day for his business and as he looked at the  
9 development and thought about the amount of frontage, it was perplexing to him how they could  
10 get all that along the road. Buell expressed concern with having to give up some of his property.  
11 He said the proposed bypass was so far north now and might move further north and take some  
12 of his property. Buell indicated there had been standing water in one section of that area all year.  
13 He suggested the Council go into Muirfield and look at foundations and see how that  
14 development had settled. He said maybe it could be engineered but the soil was a problem.

15  
16 Councilmember Horner talked about the Southfield road area, the annexation in the area, and  
17 how the bypass road had affected the property owners in that area. He said he still had concerns  
18 that the bypass road location had not been finalized and said that needed to be done first.

19  
20 Josh Yeates said they had dealt with these issues every time they had been before the Council  
21 which was why they had studies done. He indicated Buell had brought up these things at every  
22 meeting, even in annexation. Yeates indicated they had nothing to do with the placement of the  
23 road but they had a professional study done on the road and they had approached Buell, visited  
24 with him, and tried to purchase some of his property. Buell had declined. Josh Yeates suggested  
25 the City had favored Buell all along and said this entire issue was getting to be very emotional.

26  
27 Mike Johnston indicated that as an engineer he was quite well aware of the master planning and  
28 the way the City was growing. He said this was a very important corner and corridor for Heber  
29 City and this had been identified as the best placement for the road. He suggested this would  
30 allow connection across the road and to the Red Ledges bypass. He said that if Heber City quit  
31 growing today, traffic still had to be dealt with. He said this bypass needed to happen and get  
32 traffic off Main Street and it had to happen on this property. He said it was critical to get the road  
33 and if it was getting handed to the City for free, it seemed there was some fairness to give them  
34 some consideration for density. He thought this was a very good transition.

35  
36 Mayor Pro Tempore Bradshaw asked the Council to consider and think about all the land the  
37 City had acquired for the bypass. He felt this was a wonderful opportunity to start getting land on  
38 the northern side.

39  
40 Councilmember Straddeck moved to approve Ordinance 2008-28, an Ordinance Amending the  
41 Zoning of Certain Property, located north of the Muirfield Park from A-2 Agricultural Zone to  
42 R-2 Residential Zone – Five acres of property located at approximately 750 North 100 West.  
43 Mayor Pro Tempore Bradshaw made the second. Councilmember Hokanson asked about the  
44 density. Anderson said Kohler did an estimate up to 58 with all being zoned R-2. He explained if  
45 they couldn't get COSZ, they couldn't get the transfer rights. Councilmember Straddeck  
46 suggested if the Council did this, the City got this chunk of land that would always be open and

1 the bypass. In return the developer got to develop 72 units in this area. He felt confident that the  
2 development could be worked through and be something the City could be happy with. Voting  
3 AYE: Councilmembers Bradshaw, Hokanson and Straddeck. Voting NAY: Councilmembers  
4 Horner and Patterson. Motion passed.

5  
6 **Ordinance 2008-29 – An Ordinance Amending the Zone Boundaries of the Heber City**  
7 **Zoning Map by applying the COSZ Overlay Zone to a certain 14.431 acre parcel of land**  
8 **and applying said COSZ Zone over the existing Residential (R-2) where property is located**  
9 **– The property is located at approximately 750 North 100 West (Tab 4):** Mike Johnston said

10 granting a COSZ did not give them density but rather it gave them the clustering option. “All  
11 the cards are in the Planning Commission’s hands” he said. Anderson said some of the concern  
12 might be that granting them COSZ would grant the proposed plan they had before the Council  
13 tonight, but it did not. Fawcett agreed they would have to go back to the Planning Commission  
14 for more work. He also said their engineer had said each of their buildings would have to be  
15 evaluated separately. Councilmember Hokanson said she was concerned if the COSZ was passed  
16 the City lost leverage and asked if they had to be granted the maximum density. She asked what  
17 was the ability to oversee this project. Anderson said they were limited to 72 units because of  
18 acreage. DeLynn Yeates said the Council could say in their motion the density would have to be  
19 72 units. Discussion about residents per acre.

20  
21 Councilmember Straddeck said he was O.K. with the concept but until he saw the data, he would  
22 not support any kind of development until he was satisfied.

23  
24 Josh Yeates said he had worked with staff for a long time and he was aware the City wanted to  
25 protect themselves. The fact is the Ordinance is written such that the COSZ had to be granted  
26 first, then concept, then preliminary, then final. It had to go in those steps.

27  
28 Anderson suggested Yeates would probably take this concept as presented tonight to the Council  
29 to the Planning Commission if COSZ was granted. Then the traffic, soils, etc., would be  
30 discussed.

31  
32 Councilmember Straddeck moved to approve Ordinance 2008-29, an Ordinance Amending the  
33 Zone Boundaries of the Heber City Zoning Map by applying the COSZ Overlay Zone to a  
34 certain 14.431 acre parcel of land and applying said COSZ Zone over the existing Residential  
35 (R-2) where property is located – The property is located at approximately 750 North 100 West.  
36 Councilmember Bradshaw made the second. No further discussion. Voting AYE:  
37 Councilmembers Bradshaw, Hokanson and Straddeck. Voting NAY: Councilmembers Horner  
38 and Patterson. Motion passed.

39  
40 **Employee Christmas Gift Certificates (Tab 5):** Anderson referred to the information included  
41 in the Council which showed financial history in relation to the Certificates. He referred to his  
42 staff report as well.

43  
44 Councilmember Hokanson suggested leaving the amount the same for another year. Discussion.  
45

1 Councilmember Hokanson moved to approve giving gift certificates to the employees and leave  
2 the amounts the same as 2007. Councilmember Patterson made the second. (Full Time  
3 Employees and City Council \$350; Planning Commission \$300; Part Time \$250; Airport  
4 Advisory Board, Board of Appeals and Miscellaneous \$175) Voting AYE: Councilmembers  
5 Bradshaw, Hokanson, Straddeck, Horner and Patterson.  
6

7 As there was no further business, the regular meeting of the Heber City Council adjourned.  
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Paulette Thurber, City Recorder

Draft