

1 Heber City Corporation
2 City Council Meeting
3 12/18/08

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 December 18,
10 2008, in the City Council Chambers in Heber City, Utah.

11
12 Present: Mayor David R. Phillips
13
14 Council Members Jeffery Bradshaw
15 Elizabeth Hokanson
16 Eric Straddeck
17 Nile Horner
18 Robert Patterson

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

25
26 Others Present: Shayla McDonald, Heath Murdock, Kristen Clark, Wes Greenhalgh, Brian Balls,
27 Fred Schloss and Martin Van Roosendaal

28
29 Pledge of Allegiance: Mayor David Phillips

30 Prayer/Thought: Councilmember Jeffery Bradshaw

31
32 **OPEN PERIOD FOR PUBLIC COMMENT**

33 No comments were received.

34
35 **MINUTES**

36 November 20, 2008, Work Meeting November 20, 2008, Regular Meeting
37 December 4, 2008, Work Meeting December 4, 2008, Regular Meeting

1 Councilmember Patterson moved to approve the Work Meeting Minutes of November 20 and
2 December 4, 2008, and the Regular Meeting Minutes of November 20 and December 4, 2008.
3 Councilmember Bradshaw made the second.

4
5 Voting AYE: Councilmembers Jeffery Bradshaw, Elizabeth Hokanson, Eric Straddeck, Nile
6 Horner and Robert Patterson.

7
8 **CONSENT AGENDA**

9 **Approval – Farm Lease Agreement with Austin Bingham – Property owned by Heber City**
10 **and known as the Critchfield property.** Councilmember Hokanson moved to approve the
11 Consent Agenda with the one item of a Farm Lease Agreement with Austin Bingham.
12 Councilmember Patterson made the second. No discussion.

13
14 Voting AYE: Councilmembers Jeffery Bradshaw, Elizabeth Hokanson, Eric Straddeck, Nile
15 Horner and Robert Patterson.

16
17 **ACTION ITEMS**

18 **Request for a 1-year extension for Recordation – Schmittel Subdivision – Property located**
19 **at 287 East 400 South:** Councilmember Straddeck asked if the Code specified any particular
20 reasons for extensions. Anderson said he did not have a Code in front of him but the reason for
21 this particular request was because of the current economy and market. He said that Schmittel
22 felt it was necessary to extend. Mayor Phillips referred to Schmittel’s letter and formal request.

23
24 Councilmember Bradshaw voted to approve the request to extend the recordation of the
25 Schmittel Subdivision for one year. Councilmember Patterson made the second. No discussion.

26
27 Voting AYE: Councilmembers Jeffery Bradshaw, Elizabeth Hokanson, Eric Straddeck, Nile
28 Horner and Robert Patterson.

29
30 **Request for a 1-year extension for Recordation – Sherm’s Landing – Property located**
31 **between 650 South and 850 South on Southfield Road:** Anderson said the issue with this
32 particular request was getting a resolution from Ernie Giles on where the sewer line would be
33 placed. Mumford said they were very close to having this issue resolved.

34
35 Councilmember Hokanson moved to approve the request for a 1-year extension to record the
36 Sherm’s Landing Subdivision. Councilmember Bradshaw made the second. No discussion.

37
38 Voting AYE: Councilmembers Jeffery Bradshaw, Elizabeth Hokanson, Eric Straddeck, Nile
39 Horner and Robert Patterson.

1 Councilmember Straddeck asked if there was an issue since it was past the original one-year to
2 record. Anderson referred to a similar request and referred to a letter from Mark Smedley.
3 Councilmember Patterson asked what would happen if it wasn't approved. Anderson said it
4 would have to start over from the beginning with Planning Commission, etc. He said it would
5 probably go quickly through the process, but did not think staff wanted to go through approval
6 process again.

7
8 **DISCUSSION / ACTION ITEMS**

9
10 **Discussion on the Building and Improvement Full and Final Completion Bond:** Wes
11 Greenhalgh addressed the Council. He said he did not think there was anything wrong with how
12 the City administered the Final Completion Bond now. However, he said the City had had a few
13 bond forfeitures. He indicated he was here to answer any questions the Council might have. He
14 explained a bond was a deterrent and said the way the bond worked may seem a little broken but
15 he did not know what to do differently. He said he thought the contractors would complain about
16 this when first initiated, but they did not. He talked that this could be either a deterrent to them or
17 a bonus. He said he and Jim Smedley had had discussions about this initially and could not
18 figure out how to get this to the person that was buying the home. Mayor Phillips asked if the
19 contractor generally provided the bond. Greenhalgh said yes. Mayor Phillips asked if there was
20 any one thing that stood out more than the other when it resulted in a forfeiture. Greenhalgh said
21 he could do his job if the house was empty. Mayor Phillips talked about the issues of safety and
22 security and asked why the inspectors went ahead and did the inspection if there was a problem-
23 "why don't you just not do the inspection" he asked. He said, however, he did not want the
24 public to feel the City was trying to make money. Greenhalgh said they could do that, but it
25 required more time. He said the last house he had that passed the 60 days, he filed a non-
26 compliance against today. He indicated some people didn't care if their house had a final
27 inspection or not. Discussion about what occupancy meant. Greenhalgh said his opinion was
28 use. Discussion about other municipality's policies. Greenhalgh said about 10% forfeit their
29 bond. Greenhalgh said it would be easier to just not do the inspection and file a non-compliance.

30
31 Anderson indicated he had visited with Mark Smedley about this issue yesterday and Mark
32 Smedley said he had visited with Jim Smedley about the ordinance and the thinking behind it
33 when it was originally created. Jim Smedley wasn't intending that occupancy be as strict as we
34 had been classifying it as. Anderson said he looked to Mark Smedley for advice about the
35 penalty that was imposed being consistent with the impact to the City. Mark Smedley felt the
36 City was on the edge in that regard.

37
38 Councilmember Hokanson clarified with Greenhalgh that if the City were to say anything on
39 premise would lead to no inspection would actually lead people to not get a final. Greenhalgh

1 said it was an education process but yes, that would be what would happen. He said he had tried
2 to fix the problem with the bond, but still people claim they didn't know.

3
4 Councilmember Horner said he could see both sides. He thought it would help us if Greenhalgh
5 used a judgment call. Greenhalgh said he was more of a black and white person than others were.
6 He said it was clearly written and it should not be ignored. He told the Council he had been in
7 some sticky situations that made his skin crawl and he did not want to get into a courtroom
8 situation.

9
10 Councilmember Straddeck asked about how the inspection was requested. Greenhalgh said
11 generally a phone call. Councilmember Straddeck suggested when they call for the inspection,
12 why not educate them right then and tell them they cannot have anything in the house.
13 Councilmembers Hokanson and Patterson pointed out this was already on the check list.
14 Councilmember Straddeck suggested when they talk to them at the time of request, make sure
15 they know the house has to be empty or an inspection will not be made. Councilmember Horner
16 said there still needed to be some judgment call at the time of inspection. He said there is a gray
17 line there and Greenhalgh might be leaning too far one way.

18
19 Greenhalgh suggested there was no need for a cash bond if the City took the stand of refusing to
20 do the inspection when they call and they indicated there was something in the house.
21 Councilmember Horner said calling it a bond, forfeiting it and then doing the work anyway was
22 wrong. He suggested that maybe the word "bond" should be changed.

23
24 Councilmember Hokanson felt that until she heard a better way, this was the best way to handle
25 this process. When they call, however, she felt telling them they couldn't have anything on the
26 premise was a good idea.

27
28 Councilmember Horner's said he would like to talk to Mark Smedley first before making a
29 decision. Anderson suggested it would be wise for Greenhalgh and him to set down with
30 Smedley and talk with Dave Church, as well. He thought maybe it should be softened up a bit.
31 He did not want to put the City in a situation of law suits. Councilmember Patterson said he was
32 also in favor of some flexibility.

33
34 Councilmember Straddeck said he was in favor of staying black and white. He said he did not
35 agree with the \$1,000 bond process as it currently was administered. He suggested the
36 punishment fit the crime and just don't do the inspection. He suggested the final inspection
37 request be in written form with questions and requirements. Councilmember Straddeck said
38 leave the \$1,000 in place and when the inspectors go to do an inspection and it didn't happen,
39 that be time the 60-day period started. After that period then, they would lose their \$1,000.

1 Anderson said he would talk with Smedley about these suggestions. Councilmember Bradshaw
2 said he sided with Greenhalgh but that maybe he should be more lenient.

3
4 Fawcett reported on the County Council meeting on rezoning of the Southfields area. He
5 indicated the Planning Commission had attended one of the meetings when that was a discussion
6 item and had made some suggested based on the City's desires. He said, too, the County
7 Commission had discussed the issue at a meeting with our City Council and others. The final
8 decision had been postponed until last night. An overhead was shown. Fawcett pointed out where
9 the County Council had changed zoning to 5-acre parcels and where they had kept 20-acre
10 parcels. Fawcett felt what they had ultimately decided was good.

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12 As there was no other business to conduct, the regular meeting of the Heber City Council
13 adjourned at 8:00 p.m.

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Paulette Thurber, City Recorder