

Heber City Corporation
City Council Meeting
12/20/2007

7:00

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on December 20, 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

Excused: 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: Nile Horner, Sean McDonald, Alan L. Higgs, Eric Straddeck, Scott McEuen, Mike Johnston, Brian Balls, Robert Patterson, Kathy Rhoades and Jeff Findarle.

Pledge of Allegiance: Councilmember Jeff Bradshaw
Prayer: Councilmember Vaun Shelton

Minutes: December 6, 2007, Work Meeting
December 6, 2007, Regular Meeting
November 1, 2007, Work Meeting
November 1, 2007, Regular Meeting
October 18, 2007, Work Meeting
October 18, 2007, Regular Meeting
October 4, 2007, Regular Meeting

Councilmember Lange moved to approve the above listed meeting minutes. Councilmember Hokanson made the second. The voting was unanimous in the affirmative.

OPEN PERIOD FOR COMMENTS

Mayor Phillips asked if anyone wanted to address the Council on issues not already on the agenda.

Lance Higgs said he recently asked the Council to consider giving him a discount on cemetery lots. He said he had talked to several of the Council and they seemed in favor. Later on he found out they did not approve that request. So, he felt he had made a mistake by not attending the meeting when it was formally addressed.

Higgs said he worked very hard the 12 years he worked for the City. He did not think he was asking for a free ride. He said in the end he had to resign because of health problems and stress. He said when the new section of the cemetery was being built, they had not decided where the upright stones would be otherwise he would have purchased graves at that time. He said the Council offered the employees a chance to buy lots at the old price and on contract prior to the price of graves going up. He said he was carrying a big load when he worked here; carrying five departments, budgets and managing the crew. He showed some articles about his accomplishments during the years when he worked for the City. He said he felt the City should give him a discount and thought the City could trade him the perpetual care for all the hard work he did for the City when he was an employee. He said it really wasn't the money but the appreciation of his work and civic duty that counted.

APPOINTMENTS

Ivory Homes – Request to consider an amendment to the Mill Road Estates Phase II

Subdivision Plat to rename Crist Road to Grist Mill Road: Councilmember Lange moved to approve the amendment to the Mill Road Estates Phase II Subdivision Plat to rename Crist Road to Grist Mill Road. Councilmember Hokanson made the second. The voting was unanimous in the affirmative. Councilmember Lazenby was excused.

Jeff Findarle – Request for Extension for recording Cottage Lot Subdivision located at approximately 131/133 South 200 West: Findarle explained the surveyor had held him up on the project. He said he had the water to transfer but it took three weeks or so to get that done.

Councilmember Hokanson moved to approve a 60-day extension to record the Jeff Findarle Cottage Lot Subdivision located at approximately 131/133 South 200 East. Councilmember Bradshaw made the second. The voting was unanimous in the affirmative. Councilmember Lazenby was excused.

Scott McEuen – Watts Enterprises / Ranch Landing – Request for Temporary Building Permit Exception as outlined in Section 15.16.030 of the Heber City Municipal Code 15.03.030:

Mayor Phillips declared a conflict and stepped down. Mayor Pro Tempore Lange led the discussion on this issue.

McEuen discussed his request of wanting building permits prior to final acceptance. He said the long and short of this was they wouldn't be able to pave until spring and until that was done, there were some other things they couldn't do. McEuen talked about to what point they were in their construction.

Anderson referred to Mumford's staff report. Anderson said staff discussed this issue today in Agenda Preparation Meeting. He said one of the problems they had was he did not think they could complete the improvements in 30 days as required by 15.16.030 and legal council felt uncomfortable with telling them to go ahead without them being about to comply. However, if the Council wanted staff to work on an ordinance that would help them comply, staff could do that.

McEuen said they were trying to get their first building done and already had a number of people that wanted it. He talked about how they were permanent residents here, they were not going anywhere and not going to leave a project unfinished. He said they would be there six or seven years finishing the project. McEuen felt the City had a “trump card” with the Certificate of Occupancy requirement and he said there was also a bond in place. He said they couldn’t, per the Code, let people move in until the Certificate of Occupancy was in place. McEuen said they had over 60 reservations for the units already and the housing authority was working on qualifying people. He thought they could be moving people in by the middle of June if allowed to proceed.

Anderson said Watts Enterprises had done a lot of development in Midway. However, Midway had different standards than Heber. He suggested if the Council wanted some changes in the ordinance, staff could work on it. He talked about the building code requirement and that Greenhalgh was not excited to be the person that would hold up occupancy. Anderson said Watts had a good reputation in the Valley; however, whatever the City did ordinance wise, it had to apply to everyone.

Councilmember Lange asked for Mumford’s concerns. Mumford said he was not an advocate for this because it made it harder to prohibit people from moving into their home if it was ready. Mumford reviewed the history of different requests. “What you are weighing here, is private and public infrastructure and the public portion can’t be complete until the private infrastructure is done.” He questioned if “we relax the ordinance a little more or force them to wait until spring.” Councilmember Bradshaw wanted to know what changes could be made to the Code. Mumford said 1) only allow if it was a public/private situation; 2) developer could not sell or transfer title of property and had to retain ownership; and 3) not allow occupancy until complete. Mumford said staff needed to keep this “very tight” if changes were made to the ordinance otherwise control would be lost. Mumford suggested the City would have more of these requests because the City had allowed more and more public/private developments. He said each particular situation might be slightly different. He worried that by making changes to the Code with each request, our Code would eventually be too loose and no good to anyone. Then staff would have to go back to a very strict ordinance and start the process over again.

McEuen said he was in agreement with what Mumford said about retaining ownership. Councilmember Bradshaw thought for this particular project, because there were some deed restriction possibilities and public employees getting housing, he would be inclined to talk about it and possibly change the Code. It was suggested postponing until spring made it such that housing would not be ready until fall.

Councilmember Bradshaw made a motion to look at a change to the Code to allow this request. Councilmember Shelton made the second. The voting was unanimous in the affirmative. Councilmember Lazenby was excused.

Anderson suggested the January 3rd meeting might be cancelled as there was only two minor issues to discuss. He said if that were the case, this issue could be placed on an agenda for a short meeting just prior to the Swearing In Ceremonies of the new councilmembers. It was indicated this issue would be put on the next available agenda.

At this time, Mayor Phillips rejoined the councilmembers on the stand and conducted the balance of the meeting.

Summit Engineering – Anderson Annexation – Acceptance/Rejection of an annexation petition for the Anderson Annexation - a 14 acre parcel located adjacent to Valley Hills:

Mayor Phillips reviewed the petition. He said it was within the City's annexation boundaries and that staff was recommending acceptance.

Councilmember Hokanson moved to accept the annexation petition for the Anderson Annexation located adjacent to Valley Hills and forward it to Planning Commission for further study.

Councilmember Shelton made the second. Councilmember Hokanson asked about water pressure. Anderson said the Planning Commission would address that as they studied the request. He said he did see this as an opportunity to address the 4 1-acre lots in the area. Mumford said this might give the City a chance to bring more water pressure to all of Valley Hills.

Councilmember Lange talked about a stub out in the area. An overhead was shown. Brian Balls, Summit Engineering, addressed the concept plan. He agreed with Mumford that this could be a significant benefit to the City as far a water pressure. Councilmember Bradshaw asked about the home on the end. Balls indicated the annexation petition included it. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was excused.

Wheeler Subdivision Phase II - Plat Amendment to Lots 96, 97, 108, 109, 120, 121, 134, 135, 148, 149, 164, 173, 174, 179 and 180: Anderson said this request was based on an error. He said the contractor put in a 5' sidewalk on the one side of the street instead of 4' and had encroached 1' into the lots. He explained the lots were all still under the ownership of the developer so no public hearing had to be held.

Councilmember Hokanson moved to approve the request to amend the Wheeler Subdivision Phase II Plat by amending lots 96, 97, 108, 109, 120, 121, 134, 135, 148, 149, 164, 173, 174, 179 and 189. Councilmember Bradshaw made the second. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby was excused.

Nile Horner – Request for Water and Sewer Services for Property Located at 1520 South Highway 40:

Mayor Phillips referred to the materials provided to the Council in the packet which gave them a history of the issue. Horner explained there were three businesses at the location referred to that shared a well. He said he did not have water pressure and was "desperate for water and sewer." Horner said when the area was annexed, it created an island as far as services were concerned. He said at the time, they owned the majority of the area being annexed and they didn't really care if they were annexed into Heber City or stayed in Daniels. When the annexation went before the Planning Commission, they were told they would be able to get water and sewer. He said again, at that time, they didn't have that concern and did not oppose the annexation. He continued that when Daniels decided they would be a township, at some point in time it was determined it would be better to take the water down Daniels Road and out to the airport instead of Highway 40. He talked about the City participation in the line to go to Cooks' office building. He asked the City to forgive impact fees and hook up fees and allow him to hook onto water and sewer because he planned to bring the line from Daniels Road to his business at his own expense. He said he would like to install an 8" water line for fire protection which could serve all the businesses in the area. Horner pointed out on the overhead his plan and how he would place that line and how it would be brought down. Discussion about the placement of a meter. Mumford said there were three things to work with: 1) the City didn't allow water meters on fire services; 2) the City required meters to be on the property line; and 3) the line crossed two parcels. Mumford said the City didn't allow a line to cross one parcel to get to another parcel. More discussion about getting reimbursement for the line if another business were to connect. Mumford pointed out this request as presented would benefit only private use.

Councilmember Lange asked whether it would be better to continue that line down the front (Highway 40). Mumford said absolutely that was the right thing to do—that would comply with policy, it was shorter, it was cheaper and there would be the possibility of getting reimbursed by other development when that occurred. Horner said he had talked to Kyle Peterson, the owner of the convenience store in the area, and he was not interested in hooking on at this time. Discussion that Horner would have to run two water lines, one for service and one for fire flow. Additional discussion about size of lines and what size would be required and necessary. Discussion about running the line clear to Highway 40. Mumford thought that would be an awkward situation if/when sticking a meter on someone's private line.

Councilmember Shelton said the placement of the meter was important and having the meter in someone's yard was not City policy.

Councilmember Lange talked about the junction at Highways 189 and 40 and asked how big the line was. Mumford thought 10" or 12". Water pressure was discussed. There was discussion about Horner subdividing his property in the future. Horner said he had no current plans for that but as long as he was going to pay for it, he would put it in the best shot he had. Councilmember Lange discussed the sewer line and what would happen if the land was developed. Mumford talked about the Boyer project and putting in a sewer line that would take pressure off the current lines.

Mayor Phillips summarized the request: There is a way to run the water line by changing the plat, to waive impact fees actually meant the City paid them, and Horner would run the lines and asked for participation from the City. Horner said he would appreciate some participation from the City. Anderson said the Council had a challenge in that this would be participating in and benefiting a private line, it would be spending public dollars for a private line and what the City did with the Cooks benefited the City as a whole as the line was a public line. Discussion about who all benefited from that line. (Cooks, Action Motor Sports, Larry Bauer) Discussion about why the Council participated at that time. Anderson said from the minute entry, it appeared Cooks were expanding their building, they needed to meet code, and the Council did not want to waive fire protection. He said that absent fire protection, Cooks could not get a building permit. Anderson referred to a similar request as Horner's from Gary Beveloqua and which the Council had denied. Horner said he had been in the City for 10 ½ years, been paying taxes and not received any services. Anderson explained taxes did not go towards water and sewer services.

Councilmember Lange said the line needed to stay on Highway 40. Councilmember Hokanson said she could see the need but she couldn't see any reason why the City should pay. She continued she did not see why public money should pay for private property and development. Horner said he was not asking the City to pay for it but only asking for the same consideration the City gave to Cooks.

Councilmember Lange asked about the City getting reimbursed from a line they put in. Anderson talked about the Stewart situation years ago and that legal counsel advised that the City could only get reimbursement though connection fees, etc.

Councilmember Shelton said he was opposed to the City participating in a private line. He, too, felt the line needed to be along Highway 40. He said the policy was the party wanting service had to go to the source. Discussion about who would benefit if the line was extended along Highway 40. Discussion about the Turner property. Councilmember Bradshaw talked about the

Turner property and the potential of a commercial development there at some point. The Council seemed to agree again that it would be better to run a line along Highway 40. Mayor Phillips asked Mumford what a potential cost would be. Mumford thought \$60,000 to \$100,000.

Horner said because of the discussion tonight he felt he would get more concessions as a developer than as an individual land owner. Mayor Phillips disagreed and said a developer would not be asking the City to contribute. Horner talked about Red Ledges and how the City was participating to help with a road.

Horner said that in talking to Mumford the one thing still needing to be discussed further was the placement of the meter. Mumford said the sizing of the line was more important than where the meter was placed but said he wanted the meter along Daniels Road. Mumford talked about an easement being necessary if the line went on private property in case the one lot sold. Horner said he had no problem with putting a meter on Daniels Road.

Additional discussion about why the City participated in the line along Highway 40 when Cooks needed additional fire protection. Mumford said in the seven years he had been here, the City had always required a developer to go to the source. Anderson asked Horner who made the promise that services would be provided at no cost. Horner said it was Paul Royall and the Planning Commission, Ray Hult and Noel Cook as a result of the Ray Hult Annexation.

Councilmember Lange said he still wanted the line brought down Highway 40. Horner indicated it would cost the City more money that way and it would be a cheaper route for him and the City to do the line as he requested.

Councilmember Bradshaw said from a health standpoint he had concerns about those other businesses operating on the well. Based on Horner's comments, he said he was not sure it was adequate. He wondered if there was anything the City could do to make sure they were getting adequate water for the kind of facility they had. Anderson said it wouldn't be popular to ask the Health Department to go there and they made a determination it was not adequate or in compliance. Councilmember Bradshaw said if the well was not in compliance, it was problem waiting to happen.

Councilmember Lange wanted to table this issue until there was discussion with legal counsel to determine the legality of participating and if the Turner well was operating as it should. Councilmember Bradshaw agreed and felt if the Council had more information, the right decision could be made. Mayor Phillips wanted to talk to Mark Smedley first before contacting the Health Department. Councilmember Shelton said there was a difference in helping in a line that only served one and a line that served many others. Councilmember Bradshaw said he would be more interested in helping if the line went down Highway 40. Councilmember Lange said he wanted the line to go down Highway 40.

Additional discussion about just a 2" line for fire protection and/or a larger line to benefit additional business and services. Discussion about a private fire hydrant. Mumford said it really needed to be a public fire hydrant that the City maintained and placed in the City right-of-way.

Councilmember Lange moved to table this request and seek legal counsel on the two issues discussed—whether the City could legally contribute to the line and investigation of the Turner well. Councilmember Bradshaw made the second. Voting AYE: Terry Wm. Lange and Jeffery

Bradshaw. Voting NAY: Vaun Shelton and Elizabeth Hokanson. Mayor Phillips voted AYE to break the tie. The request was tabled.

ACTION ITEMS

Review and/or Approve Airport Manager Job Description: Anderson indicated the Council approved hiring an airport manager for 20 hours a week during the budget process. He said per the Personnel Policy, the job description had to be approved by the City Council. He said, too, the job description incorporated the comments from the Airport Advisory Board members.

Councilmember Shelton moved to approve the Airport Manager job description. Councilmember Bradshaw made the second. The voting was unanimous in the affirmative. Councilmember Lazenby was excused.

Anderson said today the proposals for the new city office building were received and said Mumford would like to do a review as a board and then set up interviews. Mumford asked if the Council was O.K. with staff putting together a short list and then in January do interviews. He indicated the Council was welcome to participate in the short list process, if they wanted. He said the short listing would probably take place the first week in January and possibly January 31st for formal interviews. Mayor Phillips suggested that on January 7th the proposals be distributed after which a decision could be made as to a short list. Mumford said he would get some information together and after the Swearing In Ceremony for the new councilmembers, he would provide that to the Council. After they had a chance to review that, he would schedule interviews.

At 9:20 Councilmember Hokanson moved to go into Closed Session to review minutes and discuss personnel. Councilmember Lange made the second. The voting was unanimous in the affirmative. Councilmember Lazenby was excused. Those going into Closed Session: Mayor David Phillips; Councilmembers Lange, Shelton, Bradshaw and Hokanson; City Manager Mark Anderson and City Recorder Paulette Thurber.

At 9:45 p.m. the Council returned to Regular Session and adjourned the Heber City Council meeting of December 20, 2007.

Paulette Thurber, City Recorder