

Heber City Corporation
City Council Meeting
08/19/2010
6:30 p.m.

WORK MEETING

The Council of Heber City, Wasatch County, Utah, met in **Work Meeting** on August 19, 2010, in the City Council Chambers in Heber City, Utah.

Present:	Mayor	David R. Phillips
	Council Members	Eric Straddeck Nile Horner Robert Patterson Alan McDonald Benny Mergist

Also Present:	City Manager	Mark K. Anderson
	City Recorder	Paulette Thurber
	City Engineer	Bart Mumford
	City Planning Dept.	Tony Kohler
	Chief of Police	Ed Rhoades

Others Present: Troy Ostler-CIVCO Engineering, John Clarkson-UDOT, and Bret Reynolds-CIVCO.

Utah League of Cities and Towns Convention – September 15-17, 2010: Mayor Phillips reminded the Council of this convention.

Discuss Special Meeting with the City Council and Planning Commission to Review the Update of the Heber City Capital Facilities Plan – Suggested Date September 30, 2010:

Mayor Phillips reminded the Council of this special joint meeting. September 30, 6:30 p.m., was suggested as a day to meet since that was a fifth Thursday.

Troy Ostler, Civco Engineering – Discuss Center Street Change Order Request: Mumford said the physical work on Center Street was over and the contractor had put in a request for additional monies in regard to the delays, etc. Mumford said the last few weeks he had been evaluating the claim. He explained there was a claims process which went through UDOT and he and CIVCO had been working with them. The contractor said he would pursue this as far as he needed to. He summarized the basic details in a memo. Mumford indicated he had asked CIVCO employees and John Clarkson from UDOT to attend the meeting to help answer any questions

the Council might have. Mumford said there were two components to this issue--extra materials and then the delay and inefficiencies. It was indicated CIVCO had gone through and analyzed the portion for extra work. They felt \$83,000 was justifiable. On the delay side the contractor claimed \$136,000 and Mumford thought, on a reasonable basis, possibly \$23,000 was justifiable which showed quite a gap between the two amounts. It was indicated the contractor said he would negotiate and call it good at \$150,000 but that was still almost a \$50,000 difference. The third column was what he believed would happen if the contractor pursued the UDOT claims process.

Councilman McDonald asked about the extra work. Ostler explained the extra work was work above and beyond but it was within the scope of work. Discussion about the claim, what UDOT and CIVCO would approve, etc. Ostler explained if they couldn't come to an agreement with the contract, then it would be up to UDOT to make a decision. Ostler discussed the process through UDOT starting with the Region Office in Orem and with the ultimate being a court action. Mumford said once it went to the UDOT process, it would be out of the hands of the City and the City would have to accept what UDOT determined. Ostler said the numbers presented were their best guess but could not determine what UDOT would decide. He continued he had talked extensively with the contractor about the delays. One thing that happened was the project didn't finish in one construction year but went forward into another one. Another major issue was the Qwest delay and it was pointed out that \$101,000 was directed to them because they were supposed to be finished in March and did not finish until July. However, there was no way to hold Qwest accountable. The other delays associated with water lines, etc., amounted to only about \$15,000. Anderson said the City had a meeting with Qwest to talk about this but he was not optimistic about reimbursement. Ostler reviewed other costs included in the \$136,000. \$2,000-HL&P; \$19,000-Heber Water; \$4,800-Miscellaneous water leaks; \$3,500-Questar; and \$4,500-other miscellaneous. Ostler said there was no dispute that there was extra work. The question was on the dollar amount of the delays.

Mumford said he was comfortable with the materials amount; however, it was hard to put a dollar amount on delays. Councilman Horner asked if CIVCO had insurance to cover them if they had to pay any monies due to some fault of theirs. Ostler said yes, but in order for their insurance to pay, it would have to be proved that CIVCO had done something wrong. He said they had meetings every week with the utility companies and a commitment they would get their work done that week. He said they had done everything they could do and felt they had gone above and beyond. He said the utility companies fell through. Councilman Horner asked if the City was obligated to use Qwest or could the City have gotten someone else since they were delaying the project. Ostler said Qwest was not paid anything. He continued if the City had tried to get someone else to work on the Qwest lines, in his experience the City would have had Qwest's attorney right in the middle of the issue. Mumford said he had looked through the ordinance and did not think there was anything else the City could do. Ostler said Qwest would not commit to any contract that had a finalized date.

Mayor Phillips asked what Mumford's recommendation would be. Mumford said he did not like it but he thought they were entitled to \$136,000 and for \$18,000 he did not think it was worth the risk to go through the UDOT claims process. Mayor Phillips asked Clarkson, UDOT, to share experiences he had had. Clarkson indicated they had historically had problems with utility companies and reiterated the utility companies wouldn't sign any contract if it had final dates listed. He indicated they had held up many projects. He said they were very powerful. He suspected negotiating to a lower number was to keep from the hassle of additional paper work. Clarkson said UDOT's recommendation in the informal meeting was if the City was in a position to negotiate to a lower number it would be in the best interest to go with the contractors least amount. Councilman McDonald was comfortable with the \$155,000. Councilman Straddeck said UDOT did not have any incentives because it was not their money it would be Heber's. He suggested the City take care of it at \$155,000, and include in the agreement that it releases all other claims against the City, the contractor walk away and did not come back for this particular project. Councilman McDonald said he needed to be paid for the work he had done. He thought the Council should refine the contractor process. Councilman Horner said it was obvious he had an issue that caused him to pull off the project. Clarkson said he thought the contractor had bit off more than he could do. Councilman Horner felt there was justification in paying the \$155,000.

Review Proposed Letter to Residents on Center Street regarding Pressurized Irrigation

issues: It was indicated Mayor Phillips and Anderson had put together a letter for Council review but had not gotten much feedback or clear direction. Anderson asked for any changes the Council wanted. Councilman Mergist agreed with Anderson, based on previous discussion, that this was a complicated issue. Anderson suggested one of the issues was who paid for the pipe in the ground. Councilman Horner said he did not want to let people use the system until rates had been determined. He wanted to cut off the water and say no sprinklers this year. Mayor Phillips said the main concern should be cross connection issues. Mumford said Public Works had to go door-to-door and check if anyone had connected without inspection. Mumford suggested the City let the residents use the system until the policy was worked out because of yards and landscaping issues. There was discussion about additional language in the letter in relation to cross connection, getting permits, and locking boxes by a certain date. Councilman Mergist wanted the current rate schedule spelled out in the letter and no charges until next May since there was only two months left to water.

Discuss BYU Survey on Alternative Work Schedule: Anderson explained that the City had been approached by BYU. He had agreed to have the employees do the survey. Then the Council would get information after.

Councilman Horner wanted to know if the City had received a bill yet from HL&P for power to the park to accommodate the Farmers Market. Councilman Horner said the City might get a bill

and might not. Anderson said the City would probably get a bill for the cost of the parts which was approximately \$1,500.

Mayor Phillips said if one Councilmember wanted to do something, the rest of the Council had to be polled and then a vote taken. Councilman Horner said he did not give the go ahead on this and that Troy Klungervik took it upon himself to do the work. Mayor Phillips said he had gotten a different story from the power company. Mayor Phillips cautioned the Council to not authorize anything on their own but to make sure every issue went before the entire Council for approval.

Discuss Pricing for Hangar Row Hangers #12 and #21: There was no discussion on this issue.

Reports from Other Boards: Councilman Mergist said the Weed Board wanted Mark Rounds to attend the next meeting which meeting was always held on the 1st Tuesday of the month.

Discussion about who owned Noble Vista. Anderson said it was John Robert Hicken. It was indicated there had been complaints about debris on that property and the storage of concrete. Anderson said Tony Kohler had been working on the problem.

As the time was 7:00 the Work Meeting of the Heber City Council for 08/19/2010 adjourned.

Paulette Thurber, City Recorder