

Heber City Corporation
City Council Meeting
October 7, 2010

6:30 p.m.

WORK MEETING

The Council of Heber City, Wasatch County, Utah, met in **Work Meeting** on October 7, 2010, in the City Council Chambers in Heber City, Utah.

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| Present: | Council Members | Eric Straddeck Nile Horner Robert Patterson Alan McDonald Benny Mergist |
| Excused: | Mayor | David Phillips |
| Also Present: | Deputy City Recorder City Engineer City Planner Police Department | Michelle Kellogg Bart Mumford Tony Kohler Chief Ed Rhoades |

Mayor Pro Tempore Straddeck opened the meeting and excused Mayor Phillips.

Discussion relating to a letter from Morgan Murdock – Use of an airport hangar for storage of books (during October and November) and other materials until such time as they can be sent to the Pacific Islands of Fiji and Samoa: Councilman McDonald indicated the Airport Bylaws stated no additional items could be in the hangars for storage purposes. Councilman Horner thought the letter indicated the books were currently being stored there, and wondered if there was another space the Council could allow for this use. Mayor Pro Tempore Straddeck stated Councilman McDonald was correct concerning the Bylaws, but he didn't know if there was a general requirement. It was indicated hangars were used for other purposes, but Mayor Pro Tempore Straddeck stated he didn't want to set a precedent of letting just anyone use them for any reason. The Airport Bylaws stated that only aircraft items could be in the hangars. Councilman Horner didn't want to break the Bylaws. Chief Rhoades indicated law enforcement used a hangar for undercover vehicles at one time. Mayor Pro Tempore Straddeck stated the Council needed to find out the Code concerning hangar usage. Kohler asked if the policy was prohibited, would the Council uphold the policy. It was indicated policy would be upheld.

Jason Bradley/Chief Rhoades – Discussion relating to a Spice Ordinance: Sgt. Bradley thanked the Council for their time. He wanted to give the Council an update on an ordinance being drafted which would prohibit Spice, a synthetic Marijuana. He had talked with Wasatch County and wanted to use its ordinance as a model in drafting one for Heber City. The ordinance would prohibit the usage, sales, and making of the drug. Councilman McDonald stated he

appreciated that the police were working with the County in drafting this Ordinance. He asked if Sgt. Bradley had researched what other counties were doing with regard to this drug. It was indicated other ordinances were looked at and portions of those were used in drafting this one. Councilman Mergist said he would support the City as they worked with the County, but would also support them if they drafted this alone. Chief Rhoades stated he mirrored part of Ogden City's ordinance, which included all the chemicals prohibited for this drug. He indicated some claimed this drug was synthetic Marijuana but some maintained the drug was synthetic LSD. He indicated Spice was in the community and it was an ugly drug. He also hoped in the next legislative session it might be made illegal in the State, but there was no time to waste. Councilman McDonald asked for a copy of the proposed Ordinance. Councilman Horner indicated he was in favor of this and appreciated the Police Department for its efforts.

Jason Bradley/Chief Rhoades – Discussion relating to their copier needs: Sgt. Bradley stated the current copy machine at the Police Department, which was purchased in 2003, was dying. There was currently a maintenance contract on the copier, but service calls were being made twice a month to keep it functioning. He thought the best option would be to lease a machine from OCE, and indicated OCE had a state purchasing contract for copy machines. The cost to lease a copy machine with this company would be \$1,894.92 for a 16 month lease. Les Olsen Company was also considered but its copy machine would be more expensive to lease and/or purchase, and their maintenance plan was more expensive as well. With OCE, an outright purchase would be \$6,628. Councilman Horner asked what the current maintenance expense was on the copy machine at the Police Department. It was indicated the cost for the maintenance plan was \$395.00 per year. Councilman Horner asked Sgt. Bradley to bring two bids for the Council to consider. Councilman Mergist stated he was in favor of having a lease versus purchasing a new machine since they went obsolete every few years. Mayor Pro Tempore Straddeck asked Sgt. Bradley if he could send the two bids he received to the Council.

Chief Rhoades stated OCE had delivered a copy machine to the Department for a two week "tryout" period. The Council agreed for the Police Department to proceed with leasing a copy machine from OCE.

Mark Rounds – Discussion in relation to a family wanting to build a mausoleum at the Cemetery: Mark Rounds asked if the Council had a chance to read his staff report regarding this issue. Pictures were displayed on an overhead of different types of mausoleums, and Rounds explained a family's request to put up large headstones and individual headstones in a mausoleum. Rounds did not recommend one be erected in the regular Cemetery location, but indicated it would look nice in specifically designated areas either to the North or East. Councilman Mergist was in favor of this and indicated it would add to the beauty of the Cemetery. Rounds thought that the City Code should be amended to include the materials required, the cost, and that any changes or additions had to have City approval.

Councilman Mergist asked if the City had considered a mausoleum for cremations. Rounds stated there would be an initial cost to the City, but thought enough money would be earned through sales to pay for a consecutive mausoleum. Rounds stated this particular family would like to have a mausoleum in place by Memorial Day.

Mayor Pro Tempore Straddeck stated he would like to see a proposed ordinance, including what landscape changes Rounds would put in, etc. He also would prefer to not tell the family it was approved at this time, but for Rounds to proceed with the study of this issue. Councilman Mergist indicated in the mausoleums he had seen, sidewalks were required to surround them.

Councilman Horner asked if there were any other cemeteries in Utah containing mausoleums. Rounds indicated if there were, they weren't prevalent. Councilman Horner thought if this was the only one, he might not be in favor of it, and wanted more information on cemeteries with mausoleums. Councilman Mergist asked how many vaults the family had in mind for their proposed mausoleum. Rounds said in discussing this with the family, they indicated 24 grave sites would be needed.

Councilman Horner thought public input would be necessary. Rounds stated he didn't want the Cemetery to turn into "who's got the best." Martin VanRoosendaal, a member of the audience, stated the Mount Olivet Cemetery had many mausoleums. Mayor Pro Tempore Straddeck stated the next step was gathering information to bring back to the Council.

Mark Rounds – Discussion in relation to trees: Mark Rounds stated there were 180 trees that were donated to the City over the last three years. The Parks Department had approximately 60 left to be planted, and Rounds thought they would die if not planted soon. He contacted the County and they were interested in buying 18-20 for \$50 each, which would cover the cost the City paid for shipping. It was suggested to line the perimeter of the Cemetery with the trees or sell them to the public. Rounds indicated the public couldn't put them in the back of a pickup truck as each weighed approximately 700 pounds.

Kohler indicated staff could go to each household in close proximity to the Cemetery to see if the residents would have a problem with trees being planted there. Councilman Horner was in favor of the County buying some of the trees and planting the rest around the Cemetery.

After some discussion, the Council agreed to sell the trees to the County for \$50 each, and plant five around the City Hall.

Suzanne Hansen - Discussion in relation to the Business License for temporary and/or seasonal vendors: Suzanne Hansen stated there were four different types of vendors. Historically, the vendors were few, but in the last two years, these vendors had increased and many didn't want to follow the City Code in relation to obtaining a valid license. She explained the different types of licenses available to vendors. Motorized Street Vendors included those with food for immediate consumption. Solicitors had to have a badge as they went door to door selling their products or services. Hansen indicated most of those who applied for Temporary and Seasonal Licenses were good about following the Code. Hansen indicated there were a number of vendors who didn't pay their taxes.

Kohler asked if the Council was satisfied with these temporary businesses they saw parked up and down Main Street and going through their neighborhoods. Councilman McDonald stated this problem needed to be addressed.

Hansen gave an example of a vendor trying to skirt the law. Smedley had ultimately told the vendor he would have to go to the City Council for approval or denial concerning the vendor's interpretation of the City Code. Councilman McDonald asked Hansen to give the Council a copy of the Business License Code with her proposed changes that would clarify the law and help her in her job duties.

The Council agreed to shut down this particular vendor on the basis of not paying his back taxes, not being within the Code boundaries of being a motorized street vendor, and that he didn't meet some of the required qualifications as set in the Code concerning frozen foods for immediate consumption.

Discussion in regard to amending Section 2.12.010 Powers and Duties (Title amended to General City Council); Adopting Sections 2.12.015 Powers and Duties; Amending Chapter 2.14 of the Municipal Code – City Manager (Proposed ordinance from Councilman Councilman McDonald): Councilman McDonald asked if the Council had any changes to the proposed Ordinance. Mayor Pro Tempore Straddeck asked for the basis of drafting this Ordinance. Councilman McDonald stated in the City Code, there were less than three lines concerning the responsibilities of the Council. Therefore, he was trying to update and clarify the City Code so it conformed to the State Code, which contained a list of the powers, duties, and functions of city councils. He wanted to adopt those powers into the City Code.

Smedley explained on the proposed Ordinance, there was new material right out of the State Code on the Council's powers and duties. But there were also different colored items that were added or clarified for the proposed Ordinance that were not from the State Code or the City Code.

Mayor Pro Tempore Straddeck stated he would never vote for this proposed Ordinance with Section 2.12.015(A)(7) included, which stated the Council members, including the Mayor, would oversee one or more departments of the City. He thought the Council's duties should be to set policy and give direction but not be involved in day-to-day operations. He also felt the departments should be run by the professional department heads, not the members of the Council. Councilman Horner indicated the proposed Ordinance would give the Council the authority and responsibility to see that the departments were run correctly and delegate that authority through the City Manager, who would report back to the Council. Mayor Pro Tempore Straddeck responded that if that happened, the City would be in trouble and explained that with so many people to report to, meaning five different heads, with no cohesion and vision, things would begin to splinter. Councilman Horner stated in 2006, the City did away with this form of government, but historically, each Council member had supervised a department. He pointed out that now with Mark Anderson's accident making him unable to work, nobody could give the departments any direction because nobody else had the authority.

Councilman McDonald stated in 1998, the Mayor was stripped of all power, thus having no power over the departments. When asked, Smedley was not positive, but said it was a concern. Councilman Horner thought Smedley's viewpoint kept changing depending on who he spoke with. Smedley defended himself, saying his memorandum to the Council was quite clear on where he stood. Smedley further indicated with regard to Anderson not working, staff could call

him at home with questions or direction. Councilman Horner stated there was no way Anderson could run the City in his condition at this time, and because of the current Code, nobody could tell the department heads which jobs they should do.

Smedley asked if the government form changed to the Council members being over the departments and a Council member had an accident, would that scenario be any different than the current situation with the City Manager. Councilman Horner indicated the Council would have the authority to delegate that responsibility to the City Manager or whoever they deemed to carry it out. Councilman Horner felt with the current Code, the Council had no authority to appoint another to take over when somebody was out of commission. Using this situation as an example, he stated the Council did not have the power to appoint an interim supervisor. This proposed Ordinance would give the Council power to appoint somebody without having to vote.

Councilman McDonald stated the City needed better checks and balances and wanted to see a Director of Finance in addition to a City Manager. Councilman Patterson indicated this issue had come up five months ago, long before Mark Anderson had his accident. He stated the Mayor's vote was a checks and balance.

Tracy Taylor, a member of the audience, stated there were two different forms of government that could be chosen. But if one person had all the power, that was considered a dictatorship, and she didn't approve of having one man overseeing the government with all the power and not being accountable to the public. The people voted for the City Council, not the City Manager, and the people wanted the elected officials to oversee the City. Mayor Pro Tempore Straddeck believed that was incorrect because the City Manager did not have the power to make whatever decisions he wanted. The Council was responsible to give him direction on the objective, but they didn't oversee each step of how to get there.

Councilman Horner asked Mayor Pro Tempore Straddeck if he remembered when Anderson would not follow the direction of the Council. Mayor Pro Tempore Straddeck indicated he remembered that situation but indicated Anderson referred to the current Code as his reason for noncompliance, and Mayor Pro Tempore Straddeck further stated that was not a reason for him to say he wanted to be the head of a department. Councilman Horner indicated this proposed Ordinance was one way to get rid of this problem. This proposed Ordinance would spell out what authority the Council would have. Then when the majority of the Council voted on an issue, they would know it would be carried out.

Suzanne Hansen stated in the nine and a half years of employment with Heber City, she had gone to Anderson over several issues and she indicated he never made a decision without first going to the Council. But she emphasized that Anderson's job included putting out a lot of fires so the Council wouldn't have to deal with them. Councilman Horner indicated that Anderson did a lot of good, and said he wasn't saying anything bad about Anderson. Taylor stated she was only talking about the power structure and how that structure appeared to the voters. Councilman Patterson asserted that Taylor had just called Anderson a dictator. Mayor Pro Tempore Straddeck asked if the City should go to having a fulltime Mayor as the executive officer. Councilman Mergist wanted that and indicated he would do whatever it took during his four years in office to accomplish doing away with the City Manager position and going to a fulltime Mayor form of

government; and paying him whatever it took. Heated discussion ensued over different forms of government.

With no further business, the meeting was adjourned.

Michelle Kellogg, Deputy City Recorder