

Heber City Corporation
City Council Meeting
01/07/2010
7:00 p.m.

REGULAR MEETING

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

Present: Mayor David R. Phillips

Council Members
Nile Horner
Robert Patterson
Alan McDonald
Benny Mergist

Excused: Eric Straddeck

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

Others Present: Fred Schloss, Jeff Jones, Brad Mackay, Lee Ivie, Kathryn Berg, Gary McDonald, Val Draper, Steve Farrell, Mike Kohler, Brian Balls, Jeff Mabbutt, Mike Johnston, Nadim AbuHaidar, and others whose names were not legible.

Pledge of Allegiance: Mayor Phillips

Prayer: Councilman Patterson

Mayor Phillips excused Councilman Straddeck who was out of town all month on business.

Minutes: 11/19/2009 Work Meeting 11/19/2009 Regular Meeting
12/03/2009 Work Meeting 12/03/2009 Regular Meeting
12/21/2009 Special Meeting

Councilman Patterson moved to approve the City Council Minutes as listed. Councilman McDonald made the second. Voting AYE: Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist. Councilman Straddeck was excused.

OPEN PERIOD FOR PUBLIC COMMENT

Mayor Phillips invited anyone having a need to address the Council on issues not already on the agenda.

Fred Schloss - Resident of Heber and wanted to address two issues with the Council.

1) We have in our City some uninvited guests. We continue to have deer running all over the place. He proposed that there be some discussion with folks that take care of the deer in the mountains and see if they would take some responsibility. He felt they presented dangerous situations in that kids play in the same areas as the wild animals. He said he had eight deer that lived within 100 yards of his front door. He expressed concern that someone would get hurt badly or killed before the matter was looked into. He suggested getting them transported and out to the desert.

2) In December he made a proposal that a public office be made for the City Clerk. He suggested Mr. Anderson be moved to a different location so the Clerk could have a private office and a public office. He did not think that the public should have to discuss issues in her private office, but rather a more public area. He said he had been in many municipal buildings and the clerk always had a private office and a public office to meet with the public. He expressed concern with the open door between Anderson's office and the clerk's office not giving enough privacy. Mayor Phillips asked Thurber, City Recorder, if she felt comfortable closing the door between the offices if someone came in and needed privacy. She indicated she would feel comfortable closing the door. Schloss did not like that solution and said he would continue to touch base on this issue with the Council.

No other comments were received.

ACTION ITEMS

Approval of Center Street Irrigation Extension – Tie-in from 750 East to 1200 East (Tab 1): An overhead of the area was shown. Mumford talked that when this project starts up next spring, the proposal was as shown on the overhead. He said the estimated cost to extend the line would be \$45,000 and was seeking approval for this extension.

Mayor Phillips explained this issue had been discussed during a Work Meeting and the Council had asked it be placed on the Regular Meeting Agenda allowing for a formal motion. Anderson said the proposal included the installation of laterals to serve the houses that front Center Street. He asked what was going to happen on that stretch that runs from 1200 East to the canal that the irrigation company would put in and if there were any provisions for laterals in that contract. Mumford said he had worked with the irrigation company. He showed on the overhead where those laterals would be placed and what line they connected to.

Councilmember Horner said at one time the CUP or WWET had showed some interest in participating and/or putting that line in at their cost. Mumford explained that when that proposal was made, they were anticipating the City building the line all the way down the canal. Then the

City rethought that extension and WWET pulled their money back to pay for their portion of the line.

Councilmember Horner said he was alright with putting this out to bid. Mumford said he would not do the extension if it had to go out to bid with another contractor. He said this was based on Jay Gordon's current bid. Mumford figured the cost to be under \$45,000 but it would depend on footage, etc. He continued this was taking advantage of the current work--otherwise he would not pursue this. Councilman Mergist asked if Mumford foresaw any additional costs. He said they had videoed the sewer which was okay. Questar Gas was replacing their line with the project and the City was replacing water lines. Discussion about the number of water lines in the road. Councilman Horner wanted to know the age of the line. Mumford said he did not anticipate any thing else that needed replaced. Most had been abandoned or replaced.

Councilman Mergist motioned to approve the Center Street Irrigation Extension to tie in from 750 East to 1200 East. Councilman Patterson made the second. Voting AYE: Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist. Councilman Straddeck was excused.

Ordinance 2010-01 – An Ordinance Amending the Heber City Municipal Code – Chapter 18.102 - Affording Housing and Amending Section 17.020.020 – Preliminary Plans

(Continued from 11/05/09 (Tab 2)): Discussion about additional language, in relation to affordable housing lots being transferred, being included in the proposed Ordinance. It was discussed that it had been recommended the additional language be in the subdivision agreements instead of the Code. Anderson said also there had been discussion about additional signature lines on the mylar. He also discussed the Housing Authority take some responsibility in insuring the fees were paid or that the lots were transferred rather than placing that burden on the City since the City was requiring this as a condition for the Housing Authority rather than the City's direct benefit. However, Anderson felt the issue could be accomplished in the subdivision agreement, as well. Councilman Horner agreed it needed to be in the subdivision agreement. But he thought it needed to also be addressed in the Code. Councilman McDonald wanted the requirement clearly stated, wherever it was located—either the subdivision agreement and/or the Code. Anderson said no one was opposed to language being added to the proposed Ordinance if that was what the Council wanted. Mumford encouraged the Council to decide where they wanted the language added and where there would be more leverage--either prior to recording the plat or prior to accepting the subdivision--he thought the most leverage was prior to plat recordation but that was the most difficult for developers—giving them until recording the plat gave them some additional time. He said the Council needed to decide and staff would take care of it. It was discussed that ownership could not be transferred until the plat was recorded. Discussion about concurrent transfer and recordation—recording the plat and immediately dedicate the lots. Kohler said the Affordable Housing Committee recommended, in relation to money, that transfer waited to acceptance. Consequently, he recommended the land dedication be done at the time the plat recorded. He suggested this additional language be attached to Chapter 8.102.030 by creating a number 8.

Councilman Horner moved to send the proposed Ordinance back to planning staff to make changes as discussed and then brought back to Council for discussion/approval. Councilman

McDonald made the second. AYE: Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist. Councilman Straddeck was excused.

Approval of Interlocal Agreement – Wasatch Area Economic Development Agency – Wasatch County, Heber City, Midway City and Jordanelle Special Service District (Tab 7):

County Councilman Mike Kohler addressed this issue. He reviewed that County Councilman Farrell had appeared before the Council and talked about this issue a few weeks earlier. He said the County Council had talked to other entities, as well, refined it and now it was in its final form. County Councilman Kohler reviewed the history of this: In the mid 1990's, the County and City together hired Robyn Pearson. He was required to manage many hats, one of which was to manage the TRT monies and making sure those were used within the law, the management of the Railroad, Economic Development, Affordable Housing, and many other projects. In 2004 Pearson was offered a position by the State. At that time another person was hired and it quickly became obvious that person could not handle all the hats. So it was broken up into different management boards. He continued to review the history of the TRT funds and said from hotels it brought in 3a % tax and of that 3%, 66% had to be spent on activities that generate tourism directly. He reviewed that the Chamber president had been the chairman of the TRT Board and part of the funds had been going to the Chamber to spend toward tourism. Because of the economy the TRT funds diminished and there were not enough funds to support the Chamber staff any longer who had incorporated tourism into their duties. Over a period of a few months, the Chamber staff was also diminished because the County didn't have the funds to support them any longer. He said there was one person at that building now but the County Council had been overseeing the obligations of the TRT funds until this new Board could be set up. He said the intent was for this new group of seven board members to manage the TRT funds and that the chamber president was one of those seven members. Those seven members included: Wasatch County (2 members), Heber City, Midway City, Jordanelle SSD, Tourism Tax Advisory Board chair, and Chamber president. At this time County Councilman Kohler reviewed the projected budget.

County Councilman Steve Farrell then addressed the City Council. He reviewed that in 2005 the Interlocal Agreement for the Wasatch County Economic Development Agency was set up and it called for a five member board. As the County Council looked at this, they felt they needed to put tourism in with economic development. Consequently they wanted to propose an amendment to the Interlocal Agreement that would expand the Board to seven members to include a member of the Chamber as well as the TAD (Tourism Tax Advisory Board) which was required by Statute. County Councilman Farrell discussed Mountainlands Association of Governments involvement, grant monies and reserve monies and the last payment of the year from the entities not being required this fiscal year because of reserve monies. Mayor Phillips pointed out the severability language was the same in both Agreements and this change was mostly expanding the number of members.

Councilman McDonald asked why the County got two votes. County Councilman Farrell said the County was responsible for overseeing the Transient Room Tax funds and they felt that should be represented. Councilman McDonald asked if Daniels, Wallsburg and Charleston had been approached. County Councilman Farrell said those entities had no way to produce tax and that the County representative would represent them. Councilman McDonald had numerous

concerns with references to five members and seven members within the agreement which needed to be corrected.

Discussion about expansion, voting members, non-voting members, promoting Heber Valley, budgets, etc.

Councilman Patterson asked about consideration to reduce the yearly fee for the four entities. County Councilman Farrell indicated the reserve had happened over a five-year period. He would hope the new board would not use the reserve monies for operating budget and keep it as a reserve. More discussion about the projected budget and that the salary for the Community Business Director – “Connector” position would include benefits which were offered through the County.

Councilman Patterson moved to accept the amended Interlocal Agreement for the Wasatch Area Economic Development as presented. Councilman Mergist made the second. Mayor Phillips asked for discussion. Councilman McDonald said he would still like someone to approach Daniels, Wallsburg and Charleston and that there were a lot of things in the Agreement that did not make sense to him. He also did not like the language “among other things” on the second page and said it was too broad of a statement. He wanted to see the second County Seat also be assessed \$25,000.

Voting AYE: Nile Horner, Robert Patterson and Benny Mergist. Voting NAY; Alan McDonald. Councilman Straddeck was excused.

Review Request from Wasatch County Parks and Recreation – Approve Payment of the \$50,000 allocated in the 2008/2009 budget year (Tab 3): Mayor Phillips encouraged questions from the new council members.

County Councilman Val Draper indicated the County Council was trying to put together a program to get the Rec Center finished. He talked about the fund raisers and tax dollars that has gone into the project. He estimated it would take \$1,500,000 to \$2,000,000 to finish. Discussion about fees and generating revenue to pay for the expenses. The goal was for the Rec Center to pay for itself.

Councilman McDonald wondered if it was necessary to push this now since the economic conditions were down. County Councilman Draper said the contract had been issued and they had been very conservative. He understood it was not a great time but, on the other hand, they were paying for the facility, heat, lights, etc., and wanted to use it as much as possible. He said the County Council was trying to put together a program to finish the Rec Center. The question was asked how many phases it would take to complete. County Councilman Draper said he would like to do it in one more stage, but did not know if that would be possible. At the request of Councilman Mergist, County Councilman Draper explained how the Rec Center generated funds.

Councilman Horner moved to disperse the \$50,000 by the end of the month that the City had committed to Wasatch County Parks and Recreation. Councilman Patterson made the second.

No further discussion. Voting AYE: Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist. Councilman Straddeck was excused.

Anderson questioned the County Council about the water rights that needed to be transferred to the City in relation to this project. County Councilman Steve Farrell said they needed to know the amount and said they anticipated working with the City on that issue.

Mayor Phillips said he, the Council, and Anderson would like to set up a meeting with the County Council to discuss Corridor Preservation Fees, and the COG (Council of Governments) which Board dispersed those fees. County Councilman Farrell told the City Council to call and make an appointment. It was indicated after the COG gave approval to disperse the funds, the County Council had to give their okay with that allocation, and then it had to be submitted to the State.

Discuss Airport Fuel Flowage Fees: Kathryn Berg Chair of the Airport Advisory Board addressed the Council. She explained that every five years the Council had the opportunity to look at the fuel flowage fees and change them if they felt it prudent. She said the Advisory Board would like to recommend a change to .05 cents per gallon. It was indicated some members of the Airport Advisory Board were present (Brian Balls and Jeff Mabbett) along with Nadim AbuHaidar, OK3 Air, and Lee Ivie, Airport Manager. Berg said Ivie had called other airports about their fuel flowage fees and that the Board had talked about averages and/or other ways to assess the fee after he obtained the information.

Ivie discussed his primary role as part of the committee was to research four areas: lease extension, fuel flowage fees, landing fees, and hangar leases at airports similar in category to Heber's: Cedar City, Logan, Ogden, and Provo. Currently Heber is collecting .02 cents a gallon. Cedar City collected .04 cents, Logan .04 cents, Ogden/Hinckley .055 cents on commercial activity and .07 cents on other activity and Provo .06 cents. He reviewed that four years ago the City hired a consulting team, Airport Business Solutions. One of the categories they researched was fuel flowage fees--part of their recommendation after research was for Heber to change their rate to .05 cents. It was indicated if the fee was changed to .05 cents, the City would generate an additional \$8,000 in revenue. Ivie suggested Heber's airport was down 25% in landings and take offs.

Brian Balls said Ivie had collected a lot of data, and in relation to where Heber stood, it appeared the City was behind other airports on average. He continued that based on the terms of the lease, he thought this was a good time to look at this.

AbuHaidar said he was confused why this discussion was being held now and in this format. He said that starting this summer, based on mutual desire to amend the lease, there was a desire to come up with something that was good for all parties. He said this was something all parties had wanted to do for the last seven years but it had never come to fruition. Also included in his request was looking at the charge for landing fees. He referred to the letter he had sent to the Council. AbuHaidar talked at length about the lease and the interpretation of the language. Councilman McDonald wondered if he wanted to revise the entire agreement. AbuHaidar said the landing fees, FBO lease rate, FBO lease area and fuel flowage fees was what he wanted

addressed. Councilman McDonald wanted to sit down and look at it together in its entirety, start from scratch, and get a new agreement in place. AbuHaidar said he would sit down with them. He thought if terms were workable from both sides, it would be fine. Councilman Horner wanted to make it better for AbuHaidar and for the City. He said there were a lot of people involved and he wanted the Council to have all the facts. Councilman McDonald wanted the fuel flowage fee to be part of the new contract—he did not want to make piece-meal changes. Councilman McDonald suggested this issue be tabled and work towards a new lease. AbuHaidar indicated, in preparation, he would provide all the materials the Council needed. Councilman McDonald said he wanted to make sure the contract was in compliance with the FAA.

Anderson said the Airport Advisory Board had been working hard to gather information and he thought the only thing remaining to be finalized before the Board made a recommendation for the extension of the lease was what was a fair lease fee for the FBO to pay beyond the current term of the lease which expired in fifteen years. He said the Airport Board saw the value in trying to extend that lease but wanted to make sure the consideration the City gets in return for that extension was fair. Anderson assured the Council members that all packets and minutes that came out to the Advisory Board members also went to the Council--everything had been made available to the Council.

It was indicated the Airport Advisory Board felt the City had the right to re-evaluate the fuel flowage fee regardless of other negotiations there were to take place regarding hangar and/or lease extensions. He said the City did not see those as additional consideration being brought to the table by the FBO—the City by agreement is entitled to those additional revenues by contract and didn't see those as negotiating powers that the FBO had to offer to sweeten the pot—it was something the contract allowed the City to do. He said it would be nice to do that in an agreeable fashion rather than an adversarial fashion. Anderson wanted the Council to understand that the Airport Board had worked hard to gather information that gave apples to apples comparisons to know what was fair. AbuHaidar felt, in looking at the language in the lease, it did not necessarily say what Anderson said--he did not think it was that clear cut.

Councilman Horner asked how competitive AbuHaidar was to other airports on the price of fuel. AbuHaidar said probably .15 cents lower than Salt Lake City on jet fuel. Jeff Mabbett indicated that for the most part Heber was very competitive. He continued that the fuel flowage fee on fuels charged by the City was more of a tax on the fuel that gets used at the airport and if AbuHaidar chose to add that to the cost, it hurt the consumer, but if he absorbed that, it hurt his position.

Kathryn Berg said Brian Balls, Lee Ivie, AbuHaidar and she had met and put a proposal together. It was passed unanimously by the Board. Then they got to looking at it and saw they had not addressed the lease extension or consideration for increase in fees or acreage. She said the annual lease fee which was nominal and they felt it should be raised. However, they did not want to put the FBO in any financial straits—they wanted it to be a win/win situation for the City and the FBO. Because they missed the annual lease fee in their initial research, the Board asked Anderson to talk to Smedley to see if that could be put on hold. On the advice of the attorney, they were told they could continue to work on it. Discussion that there possibly should be an agreement between the FBO and the City that the contract could be extended. AbuHaidar wanted

noted in the record that he was willing to meet with the Council and Airport Board in February and that all those things were open for negotiation.

Councilman McDonald moved to revisit this item (fuel flowage fee) at a later date and also talk with AbuHaidar on the lease. Councilman Mergist made the second. Ivie suggested the committee be included in the negotiations on all four items because they had performed a lot of research and gathered a lot of data on the issues.

The Council will meet with the Airport Advisory Board on the January 19 at 6:30 p.m. and the agenda for February 18 will include AbuHaidar.

Voting AYE: Nile Horner, Robert Patterson, Alan McDonald and Benny Mergist. Councilman Straddeck was absent.

DISCUSSION/ACTION ITEMS

Mayoral Appointments - Appointment of the City Recorder and City Treasurer: It was indicated the State law required that the Mayor appoint qualified persons for City Treasurer and City Recorder after each election. Mayor Phillips recommended that Paulette Thurber be reappointed as the City Recorder and Nioma Duke be reappointed as the City Treasurer.

Councilman Horner moved the recommendation of Mayor Phillips be approved. Councilman Patterson made the second. Voting AYE: Nile Horner, Robert Patterson, Alan McDonald, and Benny Mergist. Councilman Straddeck was excused.

Mayor Board Assignments: City Council, Airport Advisory Board, Board of Appeals, and Planning Commission: Mayor Phillips went over the board assignments. He said if anyone could not serve on the boards as he recommended, they talk to him about it. Councilman Horner wanted to table these recommendations until next meeting and give the Council time to think about them. Mayor Phillips asked if he had concerns about qualifications of those he had asked to serve on the Boards. Councilman Horner said he was not questioning anyone's qualifications but wanted time to digest the assignments a little bit. Councilman McDonald agreed. It was indicated if the board assignment as proposed by Mayor Phillips did not work for some of the Councilmen, they could request changes. Mayor Phillips said he had confidence in the appointments he proposed. Councilmen Horner and McDonald felt they needed time to look at the board positions and the personalities of the Councilmembers to see if what was proposed really fit. Councilman Mergist said he did not have any problems with any of the boards he had been assigned to except Planning Commission. However, he was willing to serve where the Mayor wanted him to serve. He did not want the other Councilmen to have an issue with him on the proposed boards, though.

Councilman Patterson moved to accept the Mayor's assignments as proposed by Mayor Phillips. Councilman McDonald made the second to allow for additional discussion. Councilman Horner did not think two days of thinking about the suggested appointments would change anything, but he did want some time to think about them. Voting AYE: Robert Patterson and Benny Mergist.

Voting NAY: Nile Horner and Alan McDonald. Because of a tie vote Mayor Phillips was required to vote and break the tie. He voted AYE. Motion passed.

CITY COUNCIL BOARD ASSIGNMENT REPORTS

No reports were given.

As there was no other business before the Council, the Regular Meeting of the Heber City Council held on January 7, 2010, adjourned at 10:27 p.m.

Paulette Thurber, City Recorder

Approved 02/04/2010