

Heber City Corporation  
City Council Meeting  
05/24/2007

4:00 p.m.

SPECIAL MEETING

The Council of Heber City, Wasatch County, Utah, met in **Special Meeting** on May 24, 2007, in the City Council Chambers in Heber City, Utah.

Present:	Mayor	David R. Phillips
	Council Members	Terry Wm. Lange Vaun Shelton Shari Lazenby Jeffery Bradshaw Elizabeth Hokanson
Also Present:	City Manager	Mark K. Anderson
	City Recorder	Paulette Thurber
	City Engineer	Bart Mumford
	City Planner	Allen Fawcett

Others Present: Bob Piscitelli, Rick McCloskey, Tyler Frisby, Jeff Kroneberger, Glen Arnell, Mike Johnston, Paul Sims and Glenna Erickson.

Mayor Phillips indicated Councilmember Lazenby would be a little late.

**Ordinance 2007-26 – an Ordinance proposing the amendment of the Heber City Municipal Code – 15.08.030 – Issuance of Building Permits in all Subdivisions:**

Anderson reviewed this issue as it had been discussed in Work Meeting last week. There had been discussion at that time about the request made by Wheeler Park because of their inability to get street poles in a timely manner. It was indicated that was one of the remaining issues that prohibit them from getting final approval. At that meeting, Anderson suggested he would talk with staff to see what could be done to allow some flexibility. As a result of all that discussion, Anderson drafted this proposal with input from Smedley, Mumford, and Greenhalgh. He said the Building Department would rather not be in the middle of this. Anderson said, too, he had met with the developers and understood some of the things that were influencing them. He indicated the developers were saying once they had the ability to get permits, they could close with their two builders and the closing would facilitate them getting bonding and give them the opportunity of finishing the phase II subdivision prior to winter. It was indicated if they were unable to get building permits until completion, that would delay construction of the second phase until Spring. Mumford indicated Ivory Homes would probably make a similar request because Heber Light and Power had not finished their electrical work.

Anderson said staff had tried to draft this amendment with some flexibility but carefully. He suggested though, after thinking about it again, that additional language be inserted that would preclude the developer from selling lots to individuals but rather control the lots until closing so individuals would not be harmed.

Mayor Phillips indicated the proposed ordinance would allow the Council to grant an exception if they found the reasons to be compelling enough to do so. Mayor Phillips reaffirmed that other cities allowed temporary building permits so this was not something new. Anderson suggested it placed more work and took more effort on the part of staff for enforcement if this was adopted.

Mayor Phillips indicated the Council had adopted ordinances before and if they found they didn't work, they would re-word or change them so they did work. He suggested that could be the case with this proposal if the Council found it did not serve the purpose. Councilmember Lange suggested the Council would need to look at each case individually. Mayor Phillips agreed that this should be considered on a case-by-case basis.

Anderson proposed additional language. Developer/builder shall retain title to lots until building completion. Mumford said this proposed ordinance would weaken his leverage but he could accept it if the Council wanted. He liked the language Anderson had just proposed to be added. Councilmember Shelton felt the Council should have the ability to make an exception.

Councilmember Shelton moved to approve Ordinance 2007-26 with the additional language just suggested by Anderson being added. Councilmember Lange made the second. Voting AYE: Terry Wm. Lange, Vaun Shelton, Jeffery Bradshaw and Elizabeth Hokanson. Councilmember Lazenby had not yet arrived.

**Jeff Kroneberger – Requesting Council consideration of building permit issuance exception under Section 15.08.030 of the Heber City Municipal Code:** Anderson referred to the paper provided listing a proposed schedule of completion for the items that were remaining and that there was a walk through scheduled for the project tomorrow. Also in the materials was a letter explaining that the company that the light poles were ordered from was going through a transition in their computer ordering system which had delayed the delivery of the product. This letter was provided in an effort to demonstrate the hardship to this developer.

Councilmember Lange asked how deep the retention basin for the park was. Mumford said six feet. He wondered if they had provided steps to go down into it to accommodate the people that played in it. Mumford said the slopes were such that steps were not necessary.

Kroneberger said the hydro-seed was ½ done today. The poles should be here next week. He indicated they had made a decision today based on the playground equipment being

vandalized. They decided it was not that great of equipment and instead of trying to repair it, they intended to replace it with a \$30,000 set. (the set vandalized was \$7,000) Kroneberger indicated he had talked with Richmond and Desert Point about affordable housing lots. They want to put something in there that matched/blended in with the rest of the project.

Anderson indicated again the Building Department personnel were not excited about this change in the Code. He said, too, that until the City could get another inspector, some plans would have to be sent out for review by an outside contractor.

Councilmember Bradshaw moved to grant building permit issuance exception under 15.08.030 to Wheeler Park Phase 1. Councilmember Shelton made the second. No further discussion. The voting was unanimous in the affirmative. Councilmember Lazenby had not yet arrived.

Glen Arnell, Kroneberger's partner, explained an issue with the Phase II project. He said they go for the loan with Barnes Bank on Wednesday, but couldn't post bond a from them for probably 10 days. Once they have posted the bond, they had everything else in place to be able to record the plat. But, the only way to have the development start was to have inspections and unless the plat was recorded, Horrocks couldn't do inspections. Arnell continued they had a schedule put together to actually have the 138 lots 100% complete and ready to present to the City by about November—but the only way to do that was if they could start next week. So their request to the Council was to grant an approximate two-week window and allow them to go ahead and lay pipe next week and then post the bond and get it recorded within two weeks.

Mumford said normal practice was to not allow the recording of the plat until the bond and paperwork was executed and not allow construction until after the plat was recorded. He explained they were asking for a two week window because they can't get the plat recorded until later.

Anderson said in years past, the City had allowed work to begin before recordation of the plat--Timp Meadows for instance. He felt it was a better situation for the City to have the paperwork complete up front, however. Anderson did not know of any risks the City would take by allowing them to start laying the pipe prior to the plat being recorded. He felt it was the developer that took the risk. Arnell said the construction drawings were close to being finalized. He said they would be willing to put together a letter with pertinent information and have it run through the City Attorney's office.

Mumford indicated the main risk was to other developers that were depending on this infrastructure but that issue did not apply to this situation. Anderson said the more infrastructure in place, the less in bond costs. However, these people would still bond for the entire project.

Councilmember Lazenby arrived.

Mike Johnston felt the bond protected the lot purchasers, not the City, since they couldn't sell lots until the bond was in place and the plat recorded. Anderson indicated if there were deficiencies, the City could go against the bond. Councilmember Shelton felt the Council should go ahead.

Anderson asked if there was something in the Code that specifically said bonding should be in place before construction started. No one was aware of any.

The Council was comfortable in allowing construction to commence before the bond was in place unless there was language in the Code that specifically did not allow it.

At 4:45 p.m., Councilmember Hokanson moved to go into Closed Session. The second was made by Councilmember Bradshaw. Those going into Closed Session: Mayor David Phillips; Councilmembers Lange, Shelton, Lazenby, Bradshaw and Hokanson; City Manager Mark Anderson; City Recorder Paulette Thurber; City Engineer Bart Mumford; City Attorney Mark Smedley.

At 5:48 p.m., the Council returned to regular session.

**Final Plat Approval – Stone Creek Subdivision – a 125 lot subdivision located at approximately 700 North 1300 East and approval of associated Subdivision**

**Agreement:** Mayor Phillips indicated there were some issues still to be resolved before this could be approved. He asked for public comments.

Glenna Erickson indicated she had a lot of concerns--noise, quality of life, landscaping. She wanted to see a retaining wall or something that would deter noise and provide acceptable landscaping. She suggested a berm and a wall with trees on top that would filter the air. She indicated her house was 10' from the property line and other property lots had 30'. She wondered about land being given to them to compensate them being so close to the road. She felt the sound would be intense with just a 10' setback. She suggested traffic would increase to 1300 cars which would affect the noise factor and the pollution. She said it appeared this was where the road would be and she would like to make the best pitch for their quality of life. She indicated if property was going to be given to them, she had different questions than if the property was not given to them. She said they couldn't comply with the law because of where the home sat. She felt it was hard to address because she didn't know what the City was going to offer as a solution. She indicated that if property was given to them, she wanted it recorded on the deed that they could put up a wall that would give them the quality of life they wanted. She asked what the final decision was on the sidewalk. She again stressed she wanted their quality of life ensured, within reason and expressed appreciation to everyone for hearing their concerns. She explained they had requested the letter from their attorney so the Council knew they had concerns. She said again she couldn't address all things because they didn't know what was proposed.

McCloskey discussed the proposed landscaping. He said berming would mitigate the head light issue.

Bob Piscitelli said he wanted to echo the same concerns as Ericksons understanding the impact on him was not as great as the Ericksons. He said they wanted to be able to maintain the extra lot if the area was ever annexed.

McCloskey reviewed the road issue and pointed it out on a map. He indicated Red Ledges was obligated to build the road. He said Stone Creek actually gave additional land so the road was more in the center of Sage Acres Lot #1. He said there would be berming on both sides which would extend behind the Erickson's property. He said also there would be some open space that would be landscaped. He felt the real question was how high the berming could be and said the Ericksons wanted it higher than allowed with a wall support. McCloskey said they had agreed to pay for the landscaping on a certain section. He suggested they work together on the landscaping. Mayor Phillips asked the property owners if they wanted the land deeded to them. It was suggested it be landscaped first and then deeded to property owners. Piscitelli said he was not sure he wanted it to be deeded to him--he did not want the liability. He said, too, he had no ability to water the area because it was too far away from his well. Anderson asked if the Council would even allow Stone Creek to entertain the deeding of property to the property owners and reminded everyone the Council had to approve the landscaping. McCloskey said if they and the property owners couldn't come to an agreement, it would come back to Heber City for decisions.

Discussion about the other issues pending before final could be made as addressed in a letter from Horrocks Engineers.

Paul Sims said the concern expressed on the Jack Johnson's cross section on that road, was that there was not a trail shown on the submitted plan. Discussion about the trail. It was suggested Red Ledges' engineers might have overlooked that. Sims suggested the property owners may prefer a sidewalk rather than a trail. Discussion about snow accumulation and whose responsibility it would be to remove it if it got on the sidewalk.

Erickson said because this would make them a corner lot, they had in the past not had those problems and did not know how some of these issue would affect them. Mumford said he had concerns with sidewalk and narrowing that from the size of a trail. Erickson discussed how the 8' walkway would disturb her quality of life. Discussion about moving the road over a couple feet to allow additional land on the other side which would allow a higher berm. McCloskey said he was willing to work with the property owners and get this worked out. He stressed they wanted to solve that with the neighbors to their (the neighbor's) satisfaction. Mayor Phillips indicated the Council wanted them to work that out with neighbors and Mumford and then come back to Council for final approval on landscaping.

McCloskey said they would like to move forward with approval contingent on this getting worked out with property owners and felt other engineering issues were minor.

Piscitelli talked about 10 years into the future and the road jogging. It was explained this was an integral part of their plan and could not be put off for years.

Anderson referred to the Subdivision Agreement that was presented to the Council. He reviewed the changes from the previous one. Changes to paragraph E and F, and an addition to C. Mumford added language in paragraph D. McCloskey wanted to add some flexibility to paragraph E.

Discussion about retention ponds and detention ponds. Mumford said the City needed an easement to the pond and then that issue would be OK. Discussion about water line placement. Mumford was adamant on the water line going along the road instead of what Stone Creek wanted. (that it goes through the development and they provide the City with an easement) Mumford said, too, the developers were wanting a contribution from the City on the extension of the line over and above the increase in size from 10" to 12". Councilmember Shelton indicated Horrocks Engineers did not recommend approval yet and he would feel more comfortable if everything was in line. Tyler Frisby, Stone Creek Engineer, indicated the letter from Horrocks was from this morning and since then they have met with Mumford to discuss the issues. He believed other than what had been discussed in this meeting, everything had been addressed. He also felt remaining issues could be addressed quickly.

Anderson said Planning Commission had recommended approval. He said he would like this to be more mature than it was but understood the issues with this particular project. He said under normal circumstances, the City would not allow final without everything being done. Mayor Phillips asked Anderson if he, as staff, would suggest approval. Anderson said it made it more complicated for staff doing it this way. Frisby said they had financial issues with loans becoming default and that was a the real issue for them. McCloskey said they were going to work very hard to get these issues resolved so they could start building. They know they are asking for something unusual but, under the circumstances, they were asking. He told the Council they would make sure all engineering issues were addressed.

Councilmember Hokanson asked Mumford if he was comfortable with final approval being conditioned on the issues discussed. Mumford said he would not let the plat be recorded unless everything was complete. He said he would not recommend this process in every instance but was willing to risk this under the circumstances. McCloskey said he did not think the City lost any leverage by granting this conditionally.

Councilmember Hokanson moved to grant final approval to Stone Creek Subdivision conditional upon the engineering requirements being met including easements, the Subdivision Agreement changes being incorporated as discussed, and a resolution of the landscaping issues with the two property owners. Councilmember Lazenby made the second. No further discussion. Voting AYE: Vaun Shelton, Shari Lazenby, Jeffery Bradshaw and Elizabeth Hokanson. Voting NAY: Terry Wm. Lange.

**2007-2008 Budget Discussion and Workshop:** No Discussion because of other meeting commitments.

As the time was 6:50 p.m. and Planning Commission meeting was due to start, the Budget/Special Meeting of the Heber City Council was adjourned.

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Paulette Thurber, City Recorder

Approved 06/07/2007