Heber City Corporation
City Council Meeting
January 7, 2016
4:00 p.m.

WORK MEETING

The Council of Heber City, Wasatch County, Utah, met in **Work Meeting** on January 7, 2016, in the City Council Chambers in Heber City, Utah

I. Call to Order
City Manager Memo

Present:	Mayor Alan McDonald Council Member Jeffery Bradshaw Council Member Heidi Franco Council Member Kelleen Potter Council Member Jeffrey Smith Council Member Ronald Crittenden
Excused:	None
Also Present:	City Manager Mark Anderson City Attorney Mark Smedley City Engineer Bart Mumford City Planner Tony Kohler Chief of Police Dave Booth Senior Accountant, Wesley Bingham City Recorder Michelle Limón

Others in Attendance: James Doolin, Laurie Wynn, Todd Cates, Steve Wilson, Rick McCloskey, Rich Hansen, Paul Berg, Ben Provost, Lavon Provost, Tracy Collett, Blake Allen, Savannah Emmanuel, Tracy Emmanuel, Nick Lopez and others whose names were illegible.

Mayor McDonald welcomed all those in attendance to the meeting. He introduced the Council, and he indicated it was a new Council, and they were excited to work together for the next couple of years. Mayor McDonald went on to introduce Staff as well.

Mayor McDonald reminded the Council on January 23, 2016, at 8:00 a.m. they would have their City Council Strategic Planning meeting, which would be conducted with their senior Staff and Administration. He noted he would give a block of time, approximately eight to ten minutes, to each Council Member. He explained they would have Staff give their presentation first, and then the Council could bring some thoughts together at the end. Mayor McDonald also reminded the Council that January 11, 2016, at 1:30 p.m. was the agenda prep meeting, which was the

deadline for the January 21, 2016 Council agenda. He stated if anyone had any agenda items they would like to get on the January 21, 2016, agenda, please get it in before then.

1. Discussion Regarding Co-Op Agreement for Corridor Preservation Along US-189 From SR-113 to US-40

Co-Op Agreement

Mayor McDonald explained they had an agreement before them that had been worked out with several other Mayors, the County, and UDOT. He noted the Council had an opportunity to look at this almost a year ago; however, there had been some modifications to the agreement. He said it had changed quite a bit. One thing being, now you have to get consent from the County, the other entities, and UDOT to make any changes in the agreement. Mayor McDonald turned the time over to Mr. Bart Mumford.

Mr. Mumford informed the Council the agreement was a Corridor Access or Corridor Preservation Agreement. He explained UDOT entered into these type of agreements with local jurisdictions so as growth occurred, it would not allow a lot of extra accesses. He went on to say the one they have been working on for a number of years, was Highway 189. Mr. Mumford indicated the area they had primarily been working on a lot was Charleston, which was the intersection of 3000 South. He explained one of the things UDOT was trying to get away from was angles, and they are trying to make roads come in more perpendicular to the highway. Mr. Mumford said the basic agreement involved the jurisdictions along 189, Heber City, the County and UDOT. He pointed out the locations as marked, are the only place signals would be allowed to be established.

Mr. Mumford discussed the UDOT categories, which were defined in the agreement. Mr. Mumford explained the agreement had been fine-tuned over the past year. The agreement started out as more of a recommendation; however, it had gotten a little tighter, and you would not be able to deviate from it as they plan the growth that impacted Heber City. He went on to explained, if you do want to deviate from the agreement, the City would have to have UDOT's approval and the other entities as well. It was Mr. Mumford's opinion that it didn't have a huge impact on Heber City right now because most of the areas in Heber City up to Industrial Parkway from the Hub intersection was already established, and it pretty much fits into that category 2 area.

Mr. Mumford addressed the area by the airport. He said the area would not really see any accesses coming in beyond the category 2 if that came into Heber City. He noted there was a small triangular piece on the south side of Beehive Storage; however, they have already worked out their access. Mr. Mumford stated everyone seemed to be onboard, and they would like each Council to approve and sign the agreement, unless there are any other issues or questions.

Mr. Anderson addressed the Council. He noted as a Staff, we had discussed do we ever see a need for traffic light on Industrial Parkway. He stated our feeling was it was not needed; it would be much easier to go to the light at Wal-Mart than to put in another stop light.

Mayor McDonald inquired if any members of the Council had any concerns or questions regarding the agreement. He went on to say it looked good and they would move it on to the next meeting and proceed from there.

Council Member Crittenden said, when you say the other property owner already had something worked out, are you saying there maybe another access for him? Mr. Mumford explained UDOT had a policy where an individual can pay to secure a bigger access; in addition, there are some farm accesses that are grandfathered.

2. Update on Form Based Codes and Branding Process
Staff Memo

Mr. Tony Kohler indicated the City had its open house for the form-base code. He stated that next week, with the Planning Commission, they would have another meeting, which would be scaled back. In addition, they are looking at having a subcommittee meeting the first week in February and another open house in mid-February to the end of February.

Mr. Kohler went on to explain they have a subcommittee working on a housing study and a market study on development right cost by RLCO, which is out of the eastern United States. He noted they have a conference call scheduled with them on January 21, 2016. He stated they should see the results of those studies the first part of February.

Mayor McDonald inquired if the Planning Commission was going to go into more detail regarding how the form-based code worked out in comparison to the old code. Mr. Kohler indicated they probably would not. They would probably focus more on the branding part and the visual preference part then have a more detailed meeting with the form-base codes in February.

Mr. Anderson indicated those of you who provided your e-mail, probably received an e-mail from Thomas Eddington this past week. He thought it would be well if they responded to that e-mail.

Council Member Bradshaw questioned if the subcommittee meetings were open to the public. Mr. Kohler informed the Council they had not advertised them as public meetings. Council Member Bradshaw inquired when they would be. Mr. Kohler said as of right now, all he knew was the first week of February. Council Member Bradshaw pointed out that could be an issue. He indicated he and Council Member Potter were on that committee, and if Council Member Crittenden came too; they would have a quorum. Mr. Kohler stated that was a good point. Mr. Anderson said at that point it became a public meeting, and they would need to advertise it and take minutes. Mr. Kohler explained the intent of the meeting was to be a steering committee meeting - not a public meeting. He said if you want to be there, let us know so we can advertise. He went on to say he would get the Council the time and date of the meeting.

3. Bart Mumford, Review of Draft Sewer Impact Fee Study
Sewer Impact Fee Amendment

Mayor McDonald indicated the Council requested Mr. Mumford to look at the City's Sewer Impact Fee Analysis, and he had a study for the Council.

Mr. Mumford stated as you recall, last summer, as they were moving ahead with the northwest sewer project, the costs came in significantly higher than what was budgeted in our Master Plan Impact Fee Analysis. Therefore, the Council asked that we go back and re-evaluate our costs in our Impact Fee Analysis, update it if necessary, and if necessary, propose a revised sewer impact fee. Mr. Mumford indicated that have completed that analysis, and this is a draft that we are going to submit to the Council for their consideration.

Mr. Mumford said this was just for discussion purposes for today. He explained there was a whole process that they would have to go through before it could be implemented. First, they would have to have a public hearing if the Council adopted it, and then there was a 90-day window before it could become effective.

Mr. Mumford indicated there are a number of components in the analysis. There is the Master Plan, the Facilities Plan, which identifies projects, and then they have to do a cost analysis of all those projects, which, in the end, rolled into the impact fee analysis, which was the actual fees they list and charge the people. Mr. Mumford stated what was included in the packet was a section from the Master Plan, and items that were updated. He noted they went back and updated the population projections from the Governor's Office. In addition, they updated the number of sewer connections - existing and proposed and residential and commercial. He stated the bulk of the Master update and revisions were in the spreadsheets at the end of the study.

Mr. Anderson said we talked that the population number was really the 2014 estimate vs. 2015. He question would that impact the numbers at all. Mr. Mumford said in looking at that, we had a little over 23,000 ERUs, which are residential homes. He noted in the new one, we had 23,020 ERUs, which was insignificant. He explained it was shifting the window forward, but it looked like the trend on the population projection was the same.

Council Member Franco inquired do we do the cost per connection in five-year increments or do we do it throughout the entire improvement plan. Mr. Mumford explained it's over a 20 year period, but the way the impact fee rules are, you have to make sure you spend it within the five year window. Mr. Anderson added you do it in today dollars; however, our ordinance allows that we do it with annual inflation based on the engineering index, which helps with the inflation of the actual cost to do the project.

Mr. Mumford informed the Council when he did the report; he did not have the index for this year. He stated that last year's cost per ERU (Equivalent Residential Unit) was $1,311. This year it went up 2 percent so it was now $1,331. Council Member Franco inquired if it reflected the CPI. Mr. Mumford indicated it was different; it's a construction index that was commonly utilized in the industry. It's the ENR (Engineering News Record) index, which went into effect in January 1, 2016.

Mr. Mumford indicated the things they updated were the populations and the connections. In addition, they took out a couple of projects that had been completed because they don't want to include those in the cost. They looked at the balance of funds available, and then they updated all of the costs for all of the projects to 2015 construction costs; they were 2010 costs. He noted the biggest change was putting in the northwest sewer project, which added in a little over a million dollars.

Council Member Crittenden inquired how the balance reflected against the status of the project he still had to finish. He mentioned that Mr. Mumford said he was a little underfunded a bit. If he were to stop right now, would he have the funding to finish or did he need to catch up.

Mr. Mumford explained they only have one underway as of right now, and if they were to stop right now, they would be about even. He stated they are about halfway done with that project.

Mr. Anderson added, understand we have about 1.3 million dollars in impact fees available for this project; however, the project was closer to 2.5 million dollars so when the project is done you would have to determine if you want to borrow internally or bond for 1 million dollars.

Mr. Mumford pointed out another thing they changed. He noted before when we did this, they assumed a 5 percent bonding rate, but now they had lowered it to a 3 percent rate in this analysis.

Mr. Mumford stated if we did it like they had traditionally done it in the City, which was they spread the fee out throughout the City, no one paid more or less; everyone paid the same. The first spreadsheet showed in the green box the end result, which was $1,887 per ERU to cover all the cost of all the projects and financing that they project for next 20 years.

Council Member Potter questioned what the $1,595 next to the $1,887 was. Mr. Mumford explained he was playing with some numbers, and he noted if some projects were eliminated, it would lower the fee. He explained right now his focus was the number in the green box, which was the $1,887. Council Member Potter said assuming we bonded for the extra million dollars rather than borrowing it internally.

Mr. Mumford said they did an alternative to the first scenario. What would happen if we continued to do all the projects; and because this was an unusual project, that additional cost was over and above what a normal project costs, they just divvied that up and allocated that as an additional extra fee just for that north area north of Smith's. He clarified that it would be basically from Smith's to Coyote Lane. Those individuals in that area would have a special extra fee on top of that. Mr. Mumford stated the number came out so the citywide fee only goes up to $1,687 rather than $1,887; however, the people in the area north of Smith's would pay an extra $650 fee.

Mayor McDonald clarified if the Hutchings property came into the City, it would include them. Mr. Mumford indicated it would include them. Mayor McDonald inquired if they did not come in, would it affect his numbers. Mr. Mumford noted the numbers would go higher if the Hutchings property didn't come in. He stated there were a lot of variables, but for this analysis, they assumed it would be coming in.

Council Member Crittenden inquired if it would affect the new Smith's. Mr. Mumford noted that it would. It was noted they would not be given a rate until they got a building permit.
Council Member Franco questioned, is there no other place in that area that they could hook onto the sewer; it's only for the annexation. There is nothing on that side of town that could hook on to it on as it comes around this way. Mr. Mumford explained there is a little benefit coming to some existing people. In order to build this sewer, we have to take out some existing sewer and tying the existing customers back into the new sewer. It's the only way to build the new sewer. There are some people in that area that would receive some benefit.

Council Member Franco inquired if there was any potential new development on this side that could tie into the new sewer line. Council Member Bradshaw indicated he thought there were some empty lots in the area and some development could happen. Mr. Mumford explained that was the only thing that could happen. If there were some infill lots that go in, but it would be very small. In addition, if there were some other existing customers.

Council Member Franco said if there could be potential new development that could tie into it outside the annexation area, if the Council decided to do two tiers, the new development areas should be included in it as well.

Mr. Mumford noted there would have already been a line available that they could have connected to, so he didn't think they should be assessed the extra fee. Mr. Mumford said with that in mind, there was some concern when you start to break up and segregate people to charge different impact fees to as opposed to a blanket fee across the City. There was some concern there might be problems with having two fees. He informed the Council they had spoken to Jody Burnett regarding that, and they could do it legally; however, it's more of an administrative headache to do it that way. He went on to say it's more complicated to track and report to the State.

Mr. Anderson added, it may create some challenges for us as we are waiting for growth in that particular area of town to pay down any debt we may have. It may not be sufficient depending on how fast growth occurs to reduce the debt as fast as we would like it to be.

Mr. Mumford stated from Staff's perspective our recommendation would be to keep it a citywide fee; however, that's up for the Council's consideration.

Council Member Crittenden inquired if the project anticipated growth clear up to Coyote Lane. Mr. Mumford indicated it did. Council Member Crittenden questioned if there was anything to preclude allowing annexation with an impact payment even if they are not in the City. Mr. Mumford indicated the City could do that, the County does it with their Special Service Districts. Mr. Anderson stated, historically we have required people to annex into the City to receive services.

Council Member Franco stated she liked the two tier approach; she felt it was more of a user fee approach where it was being specific for who was using it. However, she had to weigh down on the side of ease of administration so she would prefer just the one fee for the whole City. Mr. Anderson said he agreed with Council Member Franco. He too would like to see the area that

was getting the benefit pay proportionately. However, as he had spoken with Jody Burnett, his feelings have waned some based on administration and having to keep those monies segregated and what can be utilized for debt service. He went on to say his biggest concern was having the funds in future years to pay down whatever they end up borrowing. Council Member Franco inquired when they would do this again - in another two or five years.

Mr. Mumford explained they usually try to do a Master Plan update, which ripples through the impact fees, every five to six years. Therefore, they are due in about another two years, but they can do it at any time as long as they follow the proper process.

Mayor McDonald inquired what the rest of the Council's opinion was regarding the impact fee's analysis. Did they prefer the flat fee or the two-tier approach?

Council Member Crittenden state he would like to see those that needed it pay for it. However, he agreed with Council Member Franco, he didn't want to have administration have the problem. He stated we don't need to decide tonight, but he would like Mr. Anderson to think more about how it could be done.

Council Member Potter indicated her initial inclination was also to do the two-tier. She too would like to know how much of a burden it was on Administration - was it unreasonable; was it not huge. It seemed fairer to make the people in that area pay a little more.

Council Member Smith said he would go with the two-tier system on the face, but administratively it seemed like it might be a problem. He went on to say his other question was if they did the two-tier system, and growth was slow, slower than anticipated, would there be some sort of a plan in order to pay ourselves back without the growth coming in.

Council Member Bradshaw questioned, when the next project that comes a long, and if there was unanticipated costs, and we think we should charge a higher impact for them, are we going to end up with a three tier system? Who knows where it would go. He thought they would be walking into some type of administrative trap that he would rather not go into.

4. Update Regarding the HAWK Pedestrian Signal
Main Street Diagram

Mr. Mumford informed the Council that since he had updated the Council last, he had been in some meetings with UDOT. In previous meetings, he had indicated they were going to do bulb-outs in the HAWK area, and after looking at some of the maintenance concerns, primarily in the winter, the recommendation is to now to stripe the area as a bulb out so people don't park there. He stated I think you will get a similar affect with safety. He went on to say it really reduced the maintenance problem. Mr. Mumford wanted to make the Council aware when they don't see that bulb-out, what happened.

Council Member Franco pointed out they were going to put a pole out in that area. She questioned if they were going to put the pole in the sidewalk. Mr. Mumford indicated they were not. The pole would be in the park strip.

Council Member Franco expressed her frustration that that project had not been competed as of yet. She stated they promised it would be completed last year, and now they are putting us off for months. She went on to say she came close to hitting someone at the 100 North crosswalk because it was dark and there was no lighting. She inquired when it would be completed. Mr. Mumford stated he thought it would be completed by March. They have a process, and they are moving ahead. He went on to say we are getting a great benefit. This is a couple hundred thousand dollars to do all this.

Council Member Smith questioned what the plan was when the snow plow came through and blocked the area, would it be cleaned up. Mr. Mumford indicated the city would plow their portion, and Karl Malone would have to plow their portion because they are the property owner.

5. Review Draft RFQ for Airport Planning & Engineering Consulting Services
Draft RFQ

Mayor McDonald indicated that the Airport Board had put an RFQ together for airport planning and engineering consulting services. He turned the time over to Mr. Anderson.

Mr. Anderson informed the Council that approximately every five years the FAA asked the City to go through a consultant selection process; which is qualification based selection. We are not asking at this point and time for them to propose fees; we are only asking for those firms to submit their qualifications for consideration at this time. He stated that fees are determined on a project by project basis.

Mr. Anderson indicated that Terry Loboschefshy put the RFQ together. It was taken to the Airport Advisory Board, and they requested one change on how the rating and ranking would go as far as how the different areas were weighted. They requested that the interest shown be reduced to 5 percent in qualifications and experience be increased to 30 percent. The Airport Board was recommending approval of the RFQ, and we wanted to make sure the Council saw the RFQ before it was sent out to qualified consultants and advertised.

Mr. Anderson noted in addition, we have some time to discuss who would participate on the selection committee. He indicated the FAA required the City to select a planning consultant and an engineering consultant. He noted they can be the same consultant; however, they do not have to be the same. Mr. Anderson informed the Council there was a proposed timeframe once it was approved. The RFQ would need to go out in the next couple of days, and they would need to be back in February. Then they would select those consultants they would want to present.

Discussion followed regarding the selection committee. Mr. Anderson indicated in the past the selection committee had comprised of members of the City Council, the Airport Advisory Board, and himself. He indicated those on the committee were those who wanted to participate and had the time. It was indicated the RFQ said consultants would not be able to contact members of the selection committee, and it was thought if they included members of the Airport Board, they had already been contacted. It was pointed out that it may be after they are selected to the committee, that consultants may not contact them.

Mr. Anderson inquired if the Council was comfortable with administration sending the RFQ out. They didn't have to determine who was on the selection committee today; they could determine that at another time.

Council Member Franco indicated she brought this up at an Airport Board meeting, and she wanted to know what the prices would be. She went on to say someone assured her that the prices for the consultants for the projects would be covered by the FAA grants. She inquired if the FAA had any guidelines or maximum rates. Mr. Anderson explained when they enter into those kinds of projects, he consults with the FAA and talk about the proposed fee to determine if the costs are appropriate.

Council Member Crittenden said it seemed to him they wanted to have qualified people. He would like to see in the proposal the consultants' hourly rate and how many hours it would take them to do a project, and then FAA could see if that was reasonable. Mr. Anderson stated in regards to the RFQ process that the FAA followed, he did not know if requesting hourly rates was in harmony with the qualifications based selection. He went on to say, admittedly I am not too nervous about it knowing there are checks and balances, and we only pay 4.685 percent of the fee as a City. In addition, we only use them on FAA projects. He stated he could inquire if it were permissible. Council Member Crittenden said would you please; even if it was a non-binding part of the review.

Council Member Crittenden said if we are going to look at the possibility of separate engineering and planning, which it seemed to him they should wait to see who came forward. It seemed to him the criteria and the proposal might be different one from another, and he would think they should have two different RFQs - one for the planning and one for the engineering. He noted if one firm was the best at both services, certainly they could choose them; however, he felt if they sent out one RFQ for both services, they may get the best blend but not the best engineering or the best planning. Mr. Anderson explained it was his anticipation that they would evaluate them on both services that were offered. Council Member Crittenden clarified they could submit to be just one or the other. Mr. Anderson indicated absolutely.

6. Review Proposed Fourth Amendment to the Inter-local Agreement Regarding the Red Ledges Property

Stone Creek E-Mail

Amendment to Inter-local Agreement

Mayor McDonald indicated they had an inter-local agreement with Red Ledges before them, which had some amendments. He turned the time of to Mr. Anderson to discuss the amendments and Staff's recommendations.

Mr. Anderson stated please understand this has been an iterative process. He explained that he, Mr. Mumford, Mr. Smedley, and Mr. Cates had been talking for about a week, and looking at different versions. He thought for the most part, Staff was comfortable with putting this before the Council in that they felt like the road does not need to be constructed immediately if it's the Council's goal to tie the easements and the road extension, which was expressed at the last meeting. Mr. Anderson pointed out that the areas that Mr. Cates indicated Red Ledges would not

readily agree to, which were highlighted in yellow. He believed the biggest issue was shown in Exhibit C, which described a small parcel of land between Stone Creek and the bypass right-of-way. Mr. Anderson indicated that it had always been the anticipation that Stone Creek Development would tie into this roadway; however, there is a 40-foot section of property that lies between the Stone Creek boundary and roadway. We would like to see a commitment to dedicate that as right-of-way once the bypass road was complete so there was no question as to whether or not Stone Creek would have the right to tie into that bypass.

Mr. Anderson stated I don't know how big this issue was between the one-foot vs. two-foot for the rough grade. He noted that Red Ledges probably thinks they have already done a lot of the work when they put in the sewer line.

Mayor McDonald asked Mr. Anderson to give a brief of the agreement for the record. Mr. Anderson explained this agreement gave an extension until 2021, which was five years. He indicated as they have talked about it as Staff, they think the traffic demands, going a five-year period, were acceptable. Red Ledges initially requested a four-year review and then decide at that point in time whether or not it was needed. However, we would rather see it constructed. We also added a provision that said they had to start by June 2021 to show they are in compliance.

In exchange, we get the easement that would allow us to put in the utilities that would serve Stone Creek, Valley Hills, and Valley Heights. In addition, it would dedicate the entire roadway, but there would on be an utility easement for the portion between Lake Creek Road and the first access point.

Council Member Franco stated that was the sticking point. They are willing to dedicate the 66-foot wide strip all the way around for the road or the utilities, but they are not willing to dedicate that little box there at the Chimney Rock connection as a road easement. Mr. Anderson said he did not want to put words into Mr. Cates mouth, but that was what Red Ledges initially offered, and the City had asked for more.

Council Member Franco stated giving what Red Ledges was offering right now and if this were accepted, that would mean that Stone Creek would be able to go onto the 66-foot easement, and they would be able to construct that froth with, and there would not be any contention or frustration on that 66-foot wide piece except for the little box. Mr. Anderson said not to his knowledge. Red Ledges has no issue with offering the easement with the construction of the waterline, which is Exhibit C. However, they have indicated they are not in a position to commit to dedicate that as public right-of-way once the road is connected.

Council Member Franco inquired, was that not already agreed to by previous agreements that, that would be road easement not just utility easement. Mr. Anderson said I think it had always been anticipated; but is it specifically stated, I think that is argumentative. Council Member Franco questioned what Mr. Mumford's opinion was regarding that.

Mr. Mumford stated it was his opinion that it was the plan from day one. Council Member Franco said that was her thinking. It was the plan from day one to provide that connectivity as part of their Road Master Plan.

Council Member Crittenden questioned if the easement for utilities would only go up to where Stone Creek could access them or would they go all the way around. Mr. Cates indicated the way it was written right now, it's written as a road easement.

Council Member Franco stated we seem to have a debate about whether that little box right at the Chimney Rock bypass should be just utilities or whether we should stick to our Master Plan and make that a road utility easement as part of this condition.

Mayor McDonald clarified originally the 40-feet was not in the original agreement to dedicate to the City. Mr. Cates indicated that little area, even though he believed it was anticipated in the beginning as Mr. Mumford mention, was not in any of the agreements that it would be dedicated over. Mr. Cates stated there had been some issues since that time that had created some problems.

Council Member Franco, said because of those issues and because we have new City Council members, and because she would really like more information on this herself, she would like to propose to the Council that we set aside another work meeting agenda item, hopefully very soon in the future, where they bring Doug Smith in from County and they just thoroughly review the originally development agreement, as well as all these updates, and we see exactly what you are saying vs. what Mr. Mumford was saying vs. what the words say. And then another thing, the City might consider here, was we might need to get more legal advice ourselves past what Mr. Smedley has already offered on this. I think it might be very prudent for us as City Council to hire an expert lawyer in land use and these type of development agreements to read and give an independent, objective view as to what they are saying, what Mr. Mumford was saying, what Stone Creek was saying so we know exactly the history, and what has brought us all to this point.

Mayor McDonald indicated that was a thought they would look at; however, they would give Mr. Cates an opportunity to speak for a few minutes.

Mr. Cates indicated he would be happy to address these issues now and help with any questions even from the beginning. Mr. Cates said from their perspective, when they started the discussion of the easement and the extension of the bypass road; they thought they could go ahead and sign an easement right away. His understanding was the City needed the easement right away, and it was very time sensitive, so he offered that. In addition, he thought they could work out an amendment to the inter-local to take care of all of those issues at the same time. Mr. Cates indicated the proposed language to the amendment was a utility easement that would provide the ability to put in a water line at any time; in addition to, any other utilities in that roadway.

Mr. Cates explained there were multiple drafts, and in the drafts it was requested by Staff for a roadway easement instead of a utility easement. He stated he was open to the idea originally; however, the problem he had with that was more threats of litigation from the Stone Creek Development. He explained, once they received those treats and those threats went into writing, they started to take those threats very seriously. Mr. Cates indicated their attorneys said with that information, they felt they couldn't grant anything to Stone Creek until there was some resolution from their side. Mr. Cates informed the Council they had been in litigation before, and they don't want to go there again. They had talks with Stone Creek before, and they did not hear back from

them for months. He went on to say they mentioned they would like to sit down again and talk, however, given the tension, he told them not right now. Mr. Cates indicated they were still very open to working with Stone Creek and coming to a resolution with some of the issues they have with them. Rich Hansen addressed Mr. Cates, and inquired if Mr. Cates would like to meet next week here in the Heber City Municipal building. Mr. Cates said, sure, they would be happy to do that.

Mr. Cates stated he did not feel like it made sense to hold off on anything. He felt like they needed to move ahead and get things taken care of. He continued, I do feel like where this piece of land was not in writing with any agreement they had with Stone Creek, nor is it in writing in the inter-local agreement or any of its amendments, and a lot of people assumed it would be included; however, he thought Stone Creek needed to come and work it out with them.

Mr. Cates indicated originally the easement was going to sit right on the property line of Stone Creek; however, when we were negotiating an agreement with them, they asked for Red Ledges to move the road off of their property line so there could be room for landscaping or a berm.

Council Member Franco inquired what agreement that was and when it occurred. Mr. Cates indicated the agreement was in 2007, and it was an agreement between Stone Creek and Red Ledges. Council Member Franco questioned if she could get a copy of said agreement. Mr. Cates indicated, yes; and the City may already have the agreement. Council Member Franco asked Mr. Mumford if the City agreed to the amendment to the agreement as well; or was it an internal agreement between the two parties, and we did not realize it happened. Mr. Cates explained that was agreed to in the inter-local agreement. The inter-local agreement gave a centerline of the bypass road.

Mayor McDonald suggested to the Council that he thought when there were agreements between two independent entities; he did not really want to get involved. He went on to say he thought it was fine to look at the agreements, but not offer any suggestions beyond what was necessary.

Mr. Cates agreed with Mayor McDonald. He said I did not think the City wanted to take on any liability in that situation. In addition, he did not think the City was in the business of getting easements from developers for other developers. He added when they were going through the process of the inter-local agreement, they had to go to Stone Creek to get an easement for the northern boundary and buy half a lot.

Mr. Cates said our recommendation would be to move ahead with the agreement as it was with the portions stricken, which would allow the public access to go through the small piece of land. He stated we can grant the utility easement in that piece, which would allow for a waterline right away. In addition, as requested by Staff we changed the remaining bypass easement to a roadway easement. He reiterated that he would like for the Council to let Red Ledges and Stone Creek negotiation on any other of the items that are still in question; they are private matters between developers.

Council Member Potter inquired about the one-foot/two-foot issue. Mr. Cates stated he was not too concerned with the one-foot/two-foot issue. He thought they were pretty close to that grade.

Mr. Cates explained from Lake Creek Road, he might have to bring in a lot of fill, and it would be much easier for them to bring in the fill from off the road. He said his preference would be a 2-foot grade for now, and he did not think it was a big issue for the City.

Council Member Franco stated she was really concerned about a five year delay, which was a total of 13 years of delay on the bypass road, which was critical to her for a beltway. She said she could not agree to another five years; it's way excessive. Council Member Franco indicated she did not know how the rest of the Council felt; however, she was not willing to budge on another five years.

Mr. Cates said he could see Council Member Franco's concerns; however, none of the other portions are going to be done in five years. He said in looking at the Bassett property, and what's happening there, it would not get going for another four to five years to get there portion completed. The City's portion would not get completed for quite some time.

Council Member Franco stated I understand; I can see that you are not seeing the vision that we are working very hard to implement. She continued, for us to work toward those plans, and not put in your piece, we are shooting ourselves in the foot. Council Member Franco pointed out we already have massive delays on Main Street at certain times of the day. What we are trying to do with the zoning codes and TDR program, it's only going to increase traffic and density in the downtown. She went on to say we are working very hard to get things done before the moratorium time period is up, and we are putting our money where our mouth is.

Mr. Cates indicated he could understand those statements; however, all of those items, such as downtown development, would not be impacted by this road. He pointed out that almost everything they had been discussed was about east County traffic. He noted that they only have over 100 homes built, and over the next five years, they would only build approximately 30 homes per year. He indicated about 75 percent of their homes built are second homes. When you talked about traffic from Red Ledges, it's extremely minor.

Council Member Franco disagreed, and expressed her concerns regarding the traffic. She noted the traffic from the east part of town would utilize the bypass road.

Mayor McDonald reference the agreement. He asked Council Member Franco, if they took out the extension part, are you okay with the rest of the agreement - what City Staff had put together?

Council Member Franco stated that was why she would like to get some legal advice as to what the original agreement said. She noted maybe it was not as critical since there was the second access on the north end, and no one was disputing that. However, to her the timeline, the five years, was not acceptable.

Council Member Bradshaw questioned what the timeline should be. Council Member Franco indicated she thought it should be two to three years. Council Member Bradshaw inquired do you think the rest of the bypass would be built in two to three years. Council Member Franco

said, no, but we have to go forward. Council Member Bradshaw stated, you expect them to spend their money and build a road in two or three years that goes nowhere?
Council Member Franco expressed her concerns regarding the bypass road. She added that they have already warned Bassett-Ritchie that when their road gets over 800-feet, they will have to complete the entire road. She continued, she did not want to keep on delaying and delaying the bypass.

Mayor McDonald inquired what Council Member Bradshaw thought regarding the agreements in the proposal. Council Member Bradshaw indicated he was willing to go along with the proposal they had. He said he didn't think the one-foot/two-foot issue mattered. Mayor McDonald questioned what he thought about the 40-foot piece of property. Council Member Bradshaw indicated that he thought he agreed with Mr. Cates. It's a matter between those two developers; I think they should come to an agreement.

Mayor McDonald inquired what Council Member Smith thought regarding the proposal. Council Member Smith said I would leave it as it. He stated, I believe the 40-foot piece is certainly an issue between two developers; although, it is important for the City to have connectivity through there. He went on to say he would like to have a little more feeling of what would happen in the future. Other than that, he did not have any issues with the proposal.

Council Member Potter indicated she had a different prospective than Council Member Franco. She stated she could not see an advantage to having a road that is parallel to Mill road - taking people from Center Street to the same point on top of Mill Road. She indicated that she did not have a problem with the five years, or perhaps they could add a trigger if the lower part was developed. She did not see why they both couldn't be doing it at the same time if the lower part was triggered, which would trigger an earlier date. She noted as far as living there and seeing the traffic, she did not see how it would make a difference. She did not think people would take the bypass instead of Mill Road. Council Member Potter indicated as far as the 40 feet, she would like to see the developers work it out, but she hasn't heard from the other side or Staff as to why it would be crucial for them to get involved. She thought they needed to avoid those situations if possible.

Council Member Crittenden said, unless there is something in writing, and it deals with land, and it was said verbally, it does not count for anything legally. He went on to say he was a little concerned that it wouldn't be an issue if the road was going of the east edge of Stone Creek and the west edge of Red Ledges, there wouldn't be this issue. He went on to say the inter-local involved the City, the County, and Red Ledges. He stated as far as a right away, I don't think they have one whether it was understood or not. He said I do think it's a matter between the two unless someone can point to a legal obligation. Therefore, I think you leave it to them to work it out.

Council Member Crittenden went on to say he was thinking along the lines of what Council Member Potter said, if the other part of the bypass was going to be finished, he thought there should be something that within 6-months of it being finished, they have to finish it as well. I would hate to see a connection come the other way and the other not be started. I would like to

be a little more assured it was going to happen, if the other part was finished, I think Red Ledges needed to do their portion.

Council Member Franco said, would the Council please put some teeth into this fourth agreement, when the Bassett portion goes over to 550 East, that within the year, the bypass road had to be built whether it is two years, three years or five years.

Council Member Crittenden indicated they could say it had to be done no later than five years or no later than 6 months after the assured date of the other portion.

Council Member Potter inquired if Mr. Cates thought his directors would be agreeable to the trigger. Mr. Cates indicated he would not be surprised if they were. He would need to talk to them. Mr. Cates indicated that he would need to know a little bit more about the Master Plan and Bassett-Ritchie. He went on to say, if they are going to start in a year that would be very tough from their perspective. He inquired if there was a timeframe for when the road would come through for the Bassett Ritchie.

Mayor McDonald said it was in phases. It could be a year or it could be ten years.

Council Member Franco pointed out that everyone thought that of Salt Lake City and the 215 belt route. She indicated that this particular road, the bypass road, would be Heber City's belt route road. She went on to say it is so critical that it was not delayed unnecessarily. The bypass was going to be needed for quality of life. She indicated that no one would want to drive though blocks of residential roads if they don't have it; it would be a mess.

Mayor McDonald indicated his feeling of the Council was 2019 was still acceptable with the condition if the other road proceeds faster, you may have to move that deadline up a little bit. In addition, the 40-foot is between the two developers and not the City, and it should not be included in the agreement. Council Member Franco stated we don't have any legal advice on that; we need to verify that.

Mr. Bart Mumford indicated it goes back when this began, and they had many residents upset because they were funneling traffic up Mill Road, and the promise was made that it would help alleviate that so they did not have to bare that burden. In addition, it kind of tied in with the 40-foot piece. The City's core planning was to have connectivity. We don't build roads and not tie public roads into them. He stated in this case, it's been planned that way from day one. We would also have that connection. Mr. Mumford said it was not acceptable to give up that connection. He went on to say I think we do have a stake in that. It's going to be our road, and we can't tie into it? He indicated we don't do that; that's wrong. Mr. Mumford's advice to the Council was to not eliminate that access; you need that eastern access. Stone Creek would utilize that access. He indicated that yes, they have legal issues between themselves. He thought they needed to require it however they chose to work it out.

Council Member Franco said, would the Council please consider that some of these delays on the road were given because of economic conditions and that was perfectly understandable and there

would be more economic condition in the future. They were at historic lows now. She stated if we put this off another five years, it was very likely it would be delayed again.

Mr. Cates indicated he did not really see that from their side of things. He pointed out that 2010 was their low point and that was the lowest real estate down turn since the depression. He stated our intent was, and we feel the road is a great benefit. He went on to say I think there was a worry and a concern that it will not happen and, it's going to happen. We are going to build the road.

Mr. Cates indicated that he thought the 40 foot-connection piece was important; however, he still believed it was not a City issue. He stated these are businesses that need to deal with each other, and he did not think it was the City place to get involved. He thought it was not something to put on Red Ledges that could impact them from a legal standpoint. He asked that the Council be very cognizance of that.

Mayor McDonald indicated that he would like to close the agenda item. He inquired what information this Council needed from Staff to continue the item.

Council Member Crittenden said he felt like he could support this; I would like to see the connectivity. He went on to say, if you could work in a trigger, I'm fine with the five years as long as there is trigger that within 6-months they would proceed and get it done. He indicated that he did not need the connectivity; however, he would like to see it.

Council Member Potter indicated as far as more information, she wouldn't mind a little more analysis on the 40 feet and the legal implication as far as the City getting involved.

Council Member Smith noted that he would like to see the trigger on the green part. He added that there need to be some connectivity; there needed to be something there. He agreed with Council Member Potter. They needed more information on the 40 feet. He didn't want to say no to it.

Council Member Bradshaw said he thought the trigger was good. In addition, he thought the 40 feet was the developer's issue.

Council Member Franco indicated that the five years was too long; and the trigger was very important on the green portion. In addition, they need some legal advice on the 40-foot piece - whether it's in the agreement already or not.

7. Review Draft Ordinance Regarding the Planning Commission's Modified Recommendation for Amendment to Heber City Municipal Code Section 18.42 MURCZ Mixed-Use Residential Commercial Zone

MURCZ Amendments

8. Discussion Regarding the Vacating of Lot 2 of the Valley Station Subdivision and Lot 2 of the Liberty Station Subdivision

Staff Memo and Draft Ordinance

Staff Memo

9. Discussion Regarding Vertical Land LLC's Request for Subdivision Final Approval for The District at Valley Station Subdivision Plat A and Plat B at approximately 1000 South 300 West

Subdivision Agreement

Site Plans

The following three agenda items were discussed at once.

Mr. Tony Kohler reminded the Council that they sent this amendment of the Code back to the Planning Commission, and the Planning Commission recommended adding what was in yellow, which was "and/or provide a building or other screening structure as determined by the Planning Commission".

Mr. Kohler noted with the development that is being proposed, the builder was proposing to build carports; however, they would look like garages from the back. In addition, there would be a ten-foot strip, which would have landscaping that would deter people from wanting to be back there.

Mr. Kohler addressed the Vacating of Lot 2 of Valley Station and Lot 2 of Liberty Station. He explained anytime a lot was vacated, the City Council had to approve it by Ordinance.

Finally, Mr. Kohler addressed the Final Approval of the District at Valley Station Subdivision. He informed the Council that it had a subdivision agreement and a site plan, which had three residential units on top. In addition, it had a home owners association with restrictive covenants to ensure maintenance and cleanliness.

Council Member Smith indicated that he knew there was some issues with the adjoining neighbors, He inquired if that was worked out. It was indicated that it was worked out. Mr. Sweat came to the Planning Commission meeting, and Mr. Doolin said he thought Mr. Sweat was okay with it.

Council Member Franco referred to item number 9. She asked Mr. Kohler if they wanted the buffer zone to contain non-friendly plants - plants which would deter people. Mr. Kohler indicated they could work that into the Ordinance.

With no further business to come before the Council at this time, the Council concluded its Work Meeting at approximately 8:10 p.m.

10. Other Items as Needed

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Michelle Limon, City Recorder

DRAFT