

Heber City Corporation
City Council Meeting
January 21, 2016
6:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on January 21, 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 Engineer Bart Mumford
City Planner Tony Kohler
Chief of Police Dave Booth
City Recorder Michelle Limón

Others in Attendance: Darryl Glissmeyer, Brian Balls, Brenda Nagle, Chris Shurian, Mark Smedley, Tracy Taylor, Ed Parkson, Todd Cates, Rick McCloskey, Rich Hansen, Darren Tuddenham, Paul Berg, James Doolin, Brenda Wilcox, Ann Hoffman, Andrew Hoffman, Craig Romrell and others whose names were illegible.

Mayor McDonald called the meeting to order and welcomed everyone. He acknowledged that all Council Members were present, and he thanked Staff for all that they do.

II. **Pledge of Allegiance: Mayor Alan McDonald**

III. **Prayer/Thought: By Invitation (Default Council Member Kelleen Potter)**

IV. **Minutes for Approval: December 3, 2015 Work Meeting and December 3, 2015 Regular Meeting**

December 3, 2015 Work Meeting
December 3, 2015 Regular Meeting

Council Member Bradshaw moved to approve the December 3, 2015 Work Meeting and Regular Meeting minutes. Council Member Smith made the second. Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

V. Open Period for Public Comments

There was no public comment at this time.

1. Rancho Market - Request for Approval for an Off-Premise Beer License at 434 North Main Street Off-Premise Beer License

Council Member Potter moved to approve the Request for Approval for an Off-Premise Beer License at 434 North Main Street. Council Member Bradshaw made the second. Voting Aye: Council Member Bradshaw, Potter, and Smith. Abstaining: Council Member Franco and Crittenden. The motion passed three votes in favor to two.

2. Public Hearing – Resolution No. 2016-03 - A Resolution Amending the 2015-2016 Capital Projects Fund Budget Resolution No. 2016-03

Mr. Anderson indicated the City had been contemplating the purchase of some land to protect the Runway Protection Zone on the eastern end of the Airport. However, first the City needed to amend its budget. He noted that the amendment would appropriate an additional \$382,000 out of the Capital Projects fund, and it would use the 1 million dollars for the public works building expansion project to complete that purchase with the understanding the money would be reimbursed from FAA and UDOT.

Tracy Taylor - Heber City

Ms. Taylor indicated her question was in regards to the transfer of funds, did the City have a written offer that had been accepted. Mr. Anderson explained the Council had a written agreement, which was the last agenda item.

Ms. Taylor said she thought it was appropriate to bring this up; we have been listening to the Council for three or four months, and not once did she hear any discussion, not once did she hear how this could happen at the City. She noted that she was a real estate broker, and she did not hear about this. Ms. Taylor indicated that no one noticed the zoning was the way it was zoned. She stated that she looked at this 1.3 million dollars as a costly mistake. There was no other way to look at this, and as a tax payer; she did not want this to happen again.

Ms. Taylor inquired who was responsible for this. She wanted to know that the Council had a really tough, hard conversation about this. She stated with you voting to buy this property, it never should have happen. Ms. Taylor indicated the City had plenty of time to notice, and the City had people on Staff to notice it was for sale. Ms. Taylor indicated, we as tax payers, want to know who was in charge of this. In addition, there was a vacant piece of property across the street for sale. She inquired if the Council was that concerned about that safety.

Ms. Taylor pointed out if someone made this mistake in the private sector, there would be some action taken. She reiterated she would like to know who was responsible. She would like to hear some accountability for a 1.3 million dollar mistake.

Mayor McDonald closed the public hearing.

Council Member Franco stated they had asked the same questions. She went on to say there are some avigation easements on the property. As of right now there is a dentist that wanted to build on the property across the street. Council Member Franco indicated to her, it was a safety issue. She went on to say she wished they could divide the property. She noted the closest part to the airport, should be in the RPZ zone. Council Member Franco stated maybe in the future, they could work with the FAA because she would prefer to keep as much of the property in the tax base, but it is a safety issue.

Council Member Potter said we did ask how this could happen, and we questioned could this happen again. She stated it was her thought that it could not happen again from their discussions.

Mr. Anderson pointed out there is some possibility that some of the Wagstaff property, that is currently agricultural, was in the RPZ zone. He went on to say the FAA was fine with the bus garage. In addition, they are fine with storage sheds on the property in question; they were not objected to the City utilizing the building for storage as long as it wasn't an office space.

Council Member Crittenden stated, wasn't it true, if they (the FAA) buy it, they control it. To sell the property would be problematic.

Council Member Potter questioned how this could have happened. She inquired who was monitoring it and what if something else changed. Mr. Anderson noted that he and the airport board watch those types of things.

Council Member Crittenden said he wished it had been changed sooner. He questioned do we not want to purchase more restrictive easements. Mr. Anderson explained if it was a zone change, no money had to be compensated; however, if it was a more restrictive easement, the City would have to compensate the property owner.

Council Member Franco indicated that she would like to consider splitting the land. She was sure they could sell it. Council Member Potter pointed out that she thought the FAA had a different agenda. Mayor McDonald stated that he liked the idea of utilizing the buildings for storage.

It was inquired if anyone else was interested in selling off half of the property. Mr. Anderson suggested they could explore the idea; however, they should keep in mind they would have to refund the money to FAA. In addition, there are access issues.

Council Member Crittenden stated I do not intend to support this. He went on to say it was not a prohibited use, and it was legally approved. He said it was still \$73,000 whether the FAA was putting money in or not.

Council Member Potter moved to approve Resolution No. 2016-03 - A Resolution Amending the 2015-2016 Capital Projects Fund Budget. Council Member Smith made the second. Voting Aye: Council Member Bradshaw, Franco, Potter, and Smith. Voting Nay: Council Member Crittenden. The motion passed with four votes in favor to one.

3. [Approve Co-Op Agreement for Corridor Preservation Along US-189 From SR-113 to US-40](#)
[Corridor Preservation Agreement](#)

Mayor McDonald indicated that they had a Co-Op agreement that had been put together over the past few years between the County, Midway, Charleston, and Heber City protecting the corridor along US 189. He noted it had been before the Council a couple of times.

Council Member Crittenden moved to approve the Co-Op Agreement for Corridor Preservation Along US-189 From SR-113 to US-40. Council Member Franco made the second. Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

4. [Approve Fourth Amendment to the Inter-local Agreement Regarding the Red Ledges Property](#)
[Heber City Staff's Recommendation - Fourth Amendment](#)
[Red Ledges Proposal - Fourth Amendment](#)

Todd Cates was present at the meeting to present his proposal for the fourth amendment regarding the Red Ledges property. Mr. Cates indicated that as of their last meeting, his instructions were to add in a trigger point, which was based off the completion of the bypass road of the Bassett-Ritchie property. Mr. Cates said internally, they were unsure about that; and they came to grips with that. However, then they thought it really wasn't an extension if Bassett-Ritchie developed quicker. Therefore, they put in a "not to begin date before three years", which gave them some time to budget.

Mr. Cates noted he would like to touch on three points that could help them today. He stated, first of all, he would like to address the extension itself. He said they don't feel there was any negative impact. The traffic has not increased since we began in 2005 so there is no significant change. Mr. Cates went on to say, as a reminder, the bypass road was a benefit to the east County building out. He pointed out the east County had not built out, and even if we look at a three year minimum, if the Bassett- Ritchie built out, or if we even doubled or tripled the traffic, it would not have a great impact on the City, or Red Ledges.

Mr. Cates indicated the second thing he wanted to discuss was the easement for the bypass and Stone Creek. He stated it needed to be handled between Red Ledges and Stone Creek. He said it does not have an impact on the City or the neighbors. Mr. Cates went on to say the access easement was purely for Stone Creek. Mr. Cates stated in this case it does not benefit anyone

except the residents that lived in Stone Creek. He pointed out where they were required to obtain an easement from Stone Creek; they should be required to work out their easement with Red Ledges. They feel like they can work it out with Stone Creek.

Mr. Cates third point was for the City to step in and negotiate for another business was not just and fair. This was a private property rights issue. He felt if the City needed it for traffic, it should be worked out. Mr. Cates indicated I want to assure you that Red Ledges is committed to constructing the bypass road. We will put it in, when the right time comes.

Council Member Crittenden said we have two agreements, and Mr. Cates talked about the connectivity opposed to the other agreement. He inquired if nothing was done tonight or at all, are you ready to live up to the original agreement of October 2016. Mr. Cates indicated that they have not prepared for that date as of yet, we would have to look and see how we would meet that. Mr. Cates noted that was why they are here trying to be a partner with the City.

Council Member Crittenden questioned if in deed, you are not prepared, once you start the road, how long would it take to construct the road? Mr. Cates said it would take about six months - depending on timing and snow. He explained they don't have any water or sewer to put in place. They just have to put in storm drainpipe, curb and asphalt. Council Member Crittenden indicated that he had a real concern that the road be done when the rest of the road was done; however, he felt real strong that when the Bassett-Ritchie piece was completed, Red Ledges' piece needed to be constructed as well. He went on to say, I know you want time to plan. He suggested that Red Ledges take the money from when they were supposed to do it now, and save it for then. He thought there would be a considerable lead time.

Council Member Crittenden stated I do appreciate you talking about the trigger. In addition, he knew the City had some issues; however, he does not want to get in the middle of Red Ledges' entanglements.

Council Member Crittenden stated he was going to propose an amendment to the fourth amendment, which was in the packet. He read the following amendment:

"NOW THEREFORE, the City, County, Twin Creeks and Red Ledges hereby agree as follows:

1. Extended Completion Date for the Bypass Road and Connection Road: Subject to the potential specific **pre-triggering event defined in subparagraph 1.1**, in which case the completion date shall be that indicated in 1.1. sooner, the Parties agree that the completion date for construction of the bypass Road and the connection road is hereby extended through October 31, 2019~~21~~. The city agrees to assess the then current desire for the bypass and Connection Road, and related issues, and reconsider further extensions on a year by year basis in February or March of 2019 and each year thereafter (allowing for construction season to finish by whatever October 3st date is finally given, without extension). ree

1.1 In the event that the Bassett-Ritchie development, located west of Red Ledges, is required to commence and finish finishes physical construction of its section of the Bypass road prior to October 31, 2021, then Red Ledges shall commence and finish physical construction of the Bypass road and the Connection Road on the same timetable as that required of the ~~within six~~

~~(6) months of the finish date for the Bassett Basset-Ritchie connection road project. Said Bassett-Ritchie section of the bypass Road shall originate at approximately 900 North Highway 40 in Heber City, and run eastward to 550 East. In no case however shall Red Ledges begin their portion of the Bypass Road before June 1, 2019.~~

1.2 The parties specifically agree that failure on the part of Red Ledges to initiate and finish on site, physical construction of said Bypass Road and Connection Road by the pre-triggering date on 1.1 above or by October 31 of 2019 or subsequent granted extensions, June 1, 2021, shall constitute a breach of the Interlocal Agreement and this Amendment. Red Ledges further agrees that if this breach occurs the city could chose to withhold any further phase approvals, until the agreed physical construction of said Bypass Road and Connection Road has been completed.

2. Bypass Road and Water Line Easement: Simultaneous with the execution ~~Within 7 business days of the execution of this Amendment,~~ Red ledges will record the 66-foot easement attached as Exhibit A hereto for the benefit of the City. The easement shall be granted for the purpose of a roadway and laying underground utilities, and other underground and surface facilities related to public roads and utilities. Use of said easement shall not obligate the City to construct any utilities, particularly those required for the function of the road when it is constructed; i.e. storm drain. Said utilities shall be constructed and installed within the alignment described on the draft plat, incorporated and mad a part of this agreement, as Exhibit B here in, and the draft construction drawings prepared by Jack Johnson Company, dated June 10, 2008, which are subject to change. ~~Easement shall tie to Red Ledges west property line to provide connectivity to the property to the west in two locations as shown for future access.~~ In addition, Red Ledges shall grant the City a public road and utility easement for the property between the Bypass Road and Red Ledges' western property line at the point where the Chimney Rock Road will connect with the Bypass Road, attached as Exhibit C herein.

3. Grading and Access: Should Heber city or an authorized developer move forward with any utilities needed within the easement before construction of the Bypass Road an Connection Road begins, Red Ledges agrees to rough grade those portions of the road needed for said utilities, within one two foot of the finished grade centerline shown on the draft construction drawings prepared by Jack Johnson Company, dated June 10, 2008.

4. Road Right-Of-Way Dedication: Upon completing of the Bypass Road and Connection Road, a plat describing the 66-foot road right-of-way underling the roadway shall be dedicated by Red Ledges to Heber City.

Council Member Crittenden stated that was what he was proposing as a motion to the amendment. Council Member Franco seconded the motion.

Discussion followed regarding the motion.

Council Member Franco asked Council Member Crittenden to explain his amendment. Council Member Crittenden indicated that the Amendment really only addressed two paragraphs. He was just saying when Bassett-Ritchie finished, they, Red Ledges, had six months to start, and it never said when they have to finish. He went on to say if we allow them to start six months after

they finish, and give them a year or two to finish, at that point, they would be able to be up and running. He noted the other part gave Red Ledges until 2019 to come back before the Council, and it would give them another year, and another year, and another year to come back each year. He said at that point, maybe they could take out the trigger.

Council Member Potter pointed out that Bassett-Ritchie was the trigger. She said if they never trigger, the City would allow them indefinite extensions. Council Member Franco stated I do not want indefinite extensions. She went on to say, we are giving an incentive to Bassett-Ritchie not to develop.

Council Member Crittenden pointed out it seemed to him they had an agreement with Mr. Cates - why build a road that wasn't needed; in addition, it also gave the City the flexibility. He went on to say, if there isn't a trigger, they could allow an extension each year.

It was mentioned that the agreement could say in 2019, the City could require Red Ledges to do a traffic study. Council Member Crittenden asked, why ask Red Ledges to do a road to nowhere if it was not needed. Council Member Potter said she did agree with that. And she felt it was important to have the lower portion of the road in first.

Council Member Crittenden pointed out the road to nowhere was a concern to many. He added this time, Red Ledges had not funded the timeline in October 2016. He felt like he tried to incorporate comments, which he heard from everyone.

Mr. Cates indicated his biggest concern was if Bassett-Ritchie installed their portion of the Bypass Road all this year; it would put him in a real pinch. He stated his request would be to keep the three-year minimum. Council Member Smith inquired if Mr. Cates thought the rest was acceptable. Mr. Cates indicated he did; however he would like to read it. It was questioned how long it would take Mr. Cates to take it before his group.

Mr. Cates stated he thought he could have an answer back to the Council in 10 to 15 minutes if the Council could place a hold on the motion. It was questioned if City Staff should look at this agreement as well.

Council Member Crittenden stated we have a motion on the table with a second. He said, when it comes off the table, you can do whatever you want to do; however, I am not going to amend it.

Motion: Council Member Franco, moved to table the Fourth Amendment for Red Ledges for another meeting. Council Member Potter seconded the motion.

Discussion followed regarding the motion. Council Member Bradshaw indicated he would like to get some more information. Council Member Crittenden indicated there was no reason to take the item off the table; he said other City Staff could weigh in.

Rich Hansen and Rick McCloskey were present at the meeting to represent Stone Creek. Mr. McCloskey stated I'm not sure how to proceed with how this discussion has proceeded. He noted that Stone Creek had been left out of these discussions in regards to who benefits and who

does not. Mr. McCloskey gave a brief history of Stone Creek. He said, in 2007, they had a project that had been approved by the Planning Commission, and then they were preparing to go to the City Council in the early spring of 2007. At that time, the City and Red Ledges approached them to help them with a bypass road. He indicated that they agreed after some weeks of discussion to throw that plan away, and they came up with another plan. He informed the Council the only access into their development was off of the bypass road, which was mutually agreed upon by all parties.

Mr. McCloskey stated the 2015 plat was always intended and expected to connect to their development. He went on to say it had not been brought up and pointed out the easement had never been granted. He went on to say we do agree the City had every right to ask for that easement.

Mr. McCloskey pointed out Red Ledges had been given a 13-year extension, and the City should be given a few things in return. Mr. McCloskey stated the other thing they are interested in was for the home owners of Stone Creek, which was what they call the bottom of Mill Road, and was going to be their main entrance. That main access point was eliminated. He noted they have approval to do Phase 1, and they would like the City to require that 250-foot section of the road to be built.

Mr. McCloskey said Stone Creek had agreed to landscape that portion. He noted it would be their intent to funnel all of their construction and sales traffic through that road. Mr. McCloskey stated they were asking for the 200-foot piece of road, which was 4% of the road, to be built as part of the extension. He informed the Council that Stone Creek offered to finance that, and they have not accepted it. He stated they are trying to make it work for everyone's sake. In addition, it also helped the City establish that the road would be built.

Council Member Smith clarified that Stone Creek was proposing that Red Ledges construct the 200-foot portion of the connection to Stone Creek. Mr. McCloskey indicated that was correct. They would build it, and Red Ledges would reimburse them over time.

Council Member Franco inquired if Mr. Cates had heard of this proposal. Mr. Cates indicated he had, and they gave them a counter proposal, which was rejected. They are currently waiting for their counter proposal. Council Member Franco stated I would suggest if he gives you a proposal, you respond if they come to a Work Meeting. Mr. Cates indicated it was a private matter.

Mr. Anderson said I thought you had an agreement with Red Ledges to construct that piece, and now they are saying the original agreements are invalid. Mr. McCloskey said they just wanted the connection piece; they agreed with the Council. The entire road does not need to be built right now.

Brenda Wilcox was present at the meeting; she purchased the Erikson's home. She informed the Council they have separate agreements to landscape their property on the edge of the property. She wanted to know when the property would be landscaped. Mr. McCloskey indicated they would do it when they built the road, which they would like to do this year.

Tracy Taylor - Heber City

Ms. Taylor indicated she was speaking for herself; and she was glad the Council tabled the agenda item tonight. She would like the City Attorney to look at anything before the Council passed anything. In addition, she was concerned when there are two property owners that are disagreeing.

Ms. Taylor indicated that she didn't get a chance to read the new language. She inquired if anyone thought about a clause that if this contract exists past this developer and goes to the next developer would it be enforced. She questioned was there language in these agreements that survived these developments. Finally, does Wasatch County know anything about this?

Call the Question: Voting Aye: Council Member Bradshaw, Franco, Potter, and Smith. Voting Nay: Council Member Crittenden. The motion passed with four votes in favor to one.

5. [Approve Resolution 2016-04 - A Resolution Regarding the Compensation for Service on the Heber Light & Power Board of Directors](#)
[Resolution No. 2016-04](#)
[Heber Light & Power Budget](#)
[State Code Reference](#)

Mayor McDonald indicated that the State Legislature changed the codes, which Heber Light and Power was a part of, in which the company itself must include in the budget any compensation paid to its board members. Heber City had a Chairman and two representatives on that board. He went on to say in the resolution; it talked about the amounts paid to each member. Mayor McDonald indicated the Board Chairman's stipend was \$7,295 and each representative's stipend was \$5,703.84, which money was paid to Heber City Corporation. Council Member Franco requested the Heber Light and Power Board to pay down the OPED liability.

Council Member Bradshaw moved to approve Resolution 2016-04 - A Resolution Regarding the Compensation for Service on the Heber Light & Power Board of Directors. Council Member Smith made the second. Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

6. [Approve Ordinance No. 2016-1, an Ordinance Amending Section 18.42.100 I, Residential Transition, of the Heber City Municipal Code Regarding Mixed-Use Residential Commercial Zone \(MURCZ\)](#)
[Ordinance No. 2016-1](#)
7. [Approve Ordinance No. 2016-2, an Ordinance Vacating Lot 2 of the Valley Station Subdivision and Lot 2 of the Liberty Station Subdivision](#)
[Ordinance No. 2016-2](#)
8. [Final Approval for the District at Valley Station Subdivision Plat A and Plat B at Approximately 1000 South 300 West, Vertical Land LLC](#)
[Staff Memo](#)

[Valley Station Subdivision Site Plan](#)
[Valley Station Subdivision Agreement](#)

Mr. Kohler informed the Council he had three agenda items that all pertained one to another. He noted there was an Ordinance, which amended the Mixed Use Zone; a subdivision plat, with the accompanying subdivision agreement; and a vacation of lot 2.

Council Member Franco moved to add agenda items 6, 7, and 8 together into one item. Council Member Potter seconded the motion. The motion passed unanimously.

Council Member Franco addressed item number 8; she inquired if it was a transition area. She could not tell if the yellow part was included or not. Mr. Kohler indicated it was included. Council Member Franco questioned what happened to the shrubs behind the garage. It was noted there is not a lot of light, and they were concerned about that. Therefore, they spoke with Mr. Smedley, and that was the language they came up with.

Council Member Franco asked Chief Booth for his opinion regarding the matter. Chief Booth indicated they like bushes and trees; however, they liked everything trimmed and kept low to the ground. He said keeping that in mind; no bushes would be the best. He went on to say for areas with a window, they do recommend thorny bushes. It was noted the back of the wall, the garage wall, sits 3-feet off the wall, and there is a 10-foot separation. It was thought it would be tough to conceal oneself back behind the garage area.

Council Member Franco moved to approve Ordinance No. 2016-1, an Ordinance Amending Section 18.42.100 I, Residential Transition, of the Heber City Municipal Code Regarding Mixed-Use Residential Commercial Zone (MURCZ); Ordinance No. 2016-2, an Ordinance Vacating Lot 2 of the Valley Station Subdivision and Lot 2 of the Liberty Station Subdivision; and Final Approval for the District at Valley Station Subdivision Plat A and Plat B at Approximately 1000 South 300 West, Vertical Land LLC. Council Member Bradshaw made the second. Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

9. [Approve Contract to Purchase 2.93 Acres of Land on Heber Parkway from Maverik Corporation](#)

Mr. Anderson informed the Council they had a purchase agreement before them to purchase property, which they discussed earlier in the meeting. It had been reviewed by the FAA and the City's legal counsel, and they have no issues with it. The FAA is not opposed to the terms or price as mentioned in the agreement.

Mr. Anderson indicated that Maverick had been very accommodating to work with. He knew it was not their preference, but they understand the safety concerns.

Council Member Franco inquired what the special warranty agreement was. Mr. Anderson explained it was a special deed that Maverick liked to provide for any parcels they are associated with. They are saying we are selling you this property; however, you are prohibited from selling it for 40 years to any of our competition. He noted that the City had not objection to that.

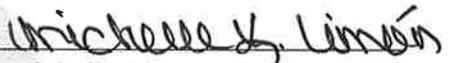
Council Member Smith moved to approve the contract to purchase the 2.93 acres of land on the Heber Parkway from Maverick Corporation. Council Member Potter made the second.

Discussion followed regarding the motion. Mr. Anderson indicated that Maverick does not currently have possession the property, and it would be subject to them acquiring the property, which we would expect to happen next week.

Amended Motion: Council Member Smith amended his motion to add, with the condition that Maverick does owns the property. Council Member Potter made the second to the amendment. Voting Aye: Council Member Bradshaw, Franco, Potter, and Smith. Voting Nay: Council Member Crittenden. The motion passed with four votes in favor to one.

10. Closed Meeting as Needed

With no further business to come before the Council at this time, the Regular Meeting recessed at 7:45 p.m. in favor of reconvening into the Council Work Meeting.


Michelle Limon, City Recorder