

Heber City Corporation
City Council Meeting
February 4, 2016
6:30

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on February 4, 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 Planner Tony Kohler
Chief of Police Dave Booth
City Recorder Michelle Limón

Others in Attendance: Dave Hansen, Mark Davis, April Davis, Paul Boyer, Craig Keyser, Camm Haner, Kendall Crittenden, Francis Harrison, Terry Shoemaker, Laurie Wynn, Ron Phillips, Randall Probst, Brian Balls, Paul Berg, Shad Sorenson, Mike Johnston, Dennis Jensen, Chuck Zuercher, Todd Cates, Avan Robertson, Ed Parkinson, John Ferris, Robert Montgomery, Dan Lowe, Ryan Starks, Rick McCloskey, Rich Hansen, and others whose names were illegible.

Mayor McDonald welcomed everyone to the Regular Council meeting of Heber City. He acknowledged that all Council members were in attendance with the exception of Council Member Franco who was participating in the meeting via telecommunication - Skype. Mayor McDonald introduced Staff, and indicated that he appreciated everything Staff did in preparation of the meeting.

II. Pledge of Allegiance: Council Member Jeffrey Smith

III. Prayer/Thought: By Invitation (Default Council Member Heidi Franco). Council Member Crittenden gave the prayer.

IV. Minutes for Approval: January 7, 2016 Work Meeting and Regular Meeting
January 7, 2016 Work Meeting Minutes

Council Member Franco made a correction to the minutes; she indicated there was a typo on the Work Meeting Minutes of January 7, 2016. She referenced Page 10, Line 33 and indicated the word forthwith was misspelled.

Council Member Smith moved to approve the January 7, 2016, Work Meeting Minutes as amended. Council Member Potter made the second. Voting Aye: Council Members Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

V. Open Period for Public Comments

Ed Parkinson – Heber City

Mr. Parkinson inquired if the public waited for a particular item on the agenda prior to giving input. He noted that during the previous meeting, the item for Red Ledges was presented, and Ron Crittenden offered a motion, prior to public comment. He wanted to make sure there was no motion before the public had an opportunity to discuss the item.

1. Mayor's Award, Recognizing Officer T.C. Thomas for Outstanding Service Letter From Chief Booth

Chief Booth invited Officer Thomas to come to the front. He went on to say this last December, he gave Officer Thomas a phone call, and Officer Thomas had indicated that it had been busy. Therefore, he told him to go home and enjoy his evening.

Chief Booth explained shortly after that, Officer Thomas received a 911 call regarding a woman in distress. Officer Thomas responded to the call, and what he found was a very intoxicated male, on the front porch, trying to break into the residence. The man was armed with a knife, and he confronted Officer Thomas, and asked that Officer Thomas take his life. Officer Thomas protected himself with his firearm and waited for backup - trying to deescalate the situation in the mean time.

When backup arrived, he engaged in an altercation, and Officer Thomas was struck in the head. Chief Booth noted we have had several incidents where deadly force could have been utilized, but it has not been utilized. Our Officers have utilized their words and do their best to deescalate situations.

Chief Booth stated he would like to recognize Officer Thomas in front of his family; we are proud to have him as a son of Heber City. With that, I present him to you for a bonus for a job well done.

2. Public Hearing - Ordinance 2016-5, an Ordinance Amending the Consolidated Fee Schedule Appendix "A" Associated With the Incorporated Sewer Impact Fee Analysis, Title 3.15 Heber City Municipal Code, Revenue and Finance Engineering Staff Report - Sewer Impact Fee Amendment Ordinance 2016-5

Mr. Mumford addressed the Council; he noted that the item was about amending the City's sewer impact fee. It's a primer for every couple of years. He indicated that every couple of years the City updated its Facilities Master Plan. He explained out of that plan, they identify facilities that have to be updated due to growth. He noted as a part of that, they take into account what the cost of the utilities would be and break it down by population so existing residents are not paying for the growth.

The last time they did an analysis was in 2010-2011. Mr. Mumford explained that last fall, they began working on a project on the northwest part of town, and they realized it would be a much larger project

than anticipated. He stated in looking at that, they realized they wouldn't have enough sewer impact fees. That was when the Council asked him to look at an update to the sewer impact fee.

Mr. Mumford indicated when you go through all the factors, the new fee was \$1,887 per ERU. The current fee is \$1,337 per ERU, which is about a \$550 increase to insure they have enough money for these projects.

Mayor McDonald turned the time over to the public for public comments.

Tracy Taylor - Heber City

Ms. Taylor clarified the increased fees were for future building permits; it was not assessing current residents. Mr. Mumford indicated that the new fee would start in 90 days for future permits only.

Mayor McDonald closed the public hearing and turned the time over to the Council for their remarks. There were no comments made by the City Council.

Council Member Bradshaw moved to approve Ordinance 2016-5, an Ordinance Amending the Consolidated Fee Schedule Appendix "A" Associated with the Incorporated Sewer Impact Fee Analysis, Title 3.15 Heber City Municipal Code, Revenue and Finance. Council Member Smith made the second. Voting Aye: Council Member Bradshaw, Franco Potter, Smith, and Crittenden. The motion passed unanimously.

3. Renewal of Timpanogos Valley Theatre Social Hall Lease Agreement Social Hall Lease Agreement

Mr. Anderson informed the Council the lease agreement with Timpanogos Valley Theatre renewed every two years. Council Member Franco inquired what the City's current cost on half the Questar bills was. Mr. Anderson estimated that they were \$3,000-4,000 year. Timpanogos Valley Theatre submitted the bills to the City every quarter. Courtney Lane, Timpanogos Valley Theatre, indicated that their most recent bill was \$1,000-1,500 a month for 4 months out of the year and \$60-80 a month for the other months.

Mr. Anderson informed Ms. Lane there was another opportunity to apply for a CLG grant right now to be able to come up with some proposed grants for their building, which was a \$20,000 grant and the match was a 50/50 grant. It was inquired if the City could apply for the grant. Mr. Anderson indicated they could, and he thought they should take advantage of it.

Council Member Franco moved to approve the Renewal of Timpanogos Valley Theatre Social Hall Lease Agreement. Council Member Potter made the second. Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

4. Approve Inter-Local Cooperation Agreement for the Provision of School Resource Officers in Certain Wasatch County School District Schools Staff Report and Proposed Inter-Local Agreement

Chief Booth informed the Council the Police Department applied for a grant for a School Resource Officer, and they received the grant. He went on to explain part of that grant was that they had to enter into a MOU with the Wasatch School District. Chief Booth noted that the School District had already signed the MOU, he had signed it, and he is now coming before the Council for their approval.

Council Member Potter moved to approve the Inter-Local Cooperation Agreement for the Provision of School Resource Officers in Certain Wasatch County School District Schools. Council Member Smith made the second. Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

5. Approve FAA Grant Application - Land Acquisition Project FAA Grant Application

Mr. Anderson noted during the Council's last meeting, the City Council approved a purchase agreement to purchase 2.93 acres of land on Heber Parkway in the Runway Protection Zone. He indicated that the grant application was the first step in getting the City's reimbursement from the FAA, which was higher than what they needed because they do not anticipate demolishing the building on-site. Mr. Anderson stated once all the costs were identified, and the FAA had authorization to issue grants, a grant would be issued.

Mayor McDonald inquired if the grant money could be utilized to make improvements to the building. Mr. Anderson indicated he would not think so. Council Member Franco clarified that they were going to keep the building. It was noted that it was anticipated. She pointed out the demolition was on the grant application. Mr. Anderson stated they would just not request for the reimbursement for that portion of the grant.

Council Member Franco inquired if the City would be paying the \$69,786. Mr. Anderson indicated it would come out Airport Capital Projects Fund. Council Member Franco questioned if it would be that much if they could reduce the cost. Mr. Anderson indicated that any reduction to the City, would reduce their portion by 4.685 percent.

Council Member Franco inquired once the land was purchased, could they spend some money to spruce up the property or fence the property so it's not such an eye sore. Mr. Anderson indicated he did not know what would be eligible. They did not want to make the site attractive to birds in a Runway Protection Zone.

Council Member Franco questioned if they could see a final version of the grant application before they voted on the application. She stated she was concerned about the total. Mr. Anderson clarified that Council Member Franco wanted to see the total without the demolition. He noted that the grant application should go down; the application would be the actual cost of the land purchase, some cost for engineers (they no longer need a phase 1 or survey). Mr. Anderson indicated that he did not know of any other costs unless the Council wanted to fence the property. Council Member Franco said she thought they would have a final document, with final costs. Mr. Anderson stated if the Council wanted to delay approval of the grant application until those costs were available, they could do that; however he did not think changing the application would affect the outcome.

Council Member Crittenden said he wanted to be careful. The final number seemed higher than what Maverick wanted. He wanted to make sure they were not double paying on the earnest money. Mr. Anderson noted the land would be purchased for \$1,383,000 and there would be \$7,500 for engineering. He did not anticipate anything for demolition; therefore, this was a worst case scenario. He did not anticipate that the number would go over 1.4 million.

Discussion followed regarding the displacement of a business. Council Member Crittenden inquired if the purchase of the property would cause the displacement of a business. Mr. Anderson indicated that it would not. There was no business on the property that could be displaced.

Discussion followed regarding the inspection of the building on the property. It was indicated that it would be well to go and inspect the building. Council Member Franco stated that may be the point; the building may be an excellent salt storage facility; she suggested that Mr. Greenhalgh go inspect the building.

Council Member Franco indicated that she would recommend they leave the application as is and get better acquainted with the building as it is. If they don't use all the funding, that would be fine. Council Member Franco questioned if the state would give them any problems. Mr. Anderson said the grant amounts are typically what they expect the project to cost; however, if it's under, they are happy.

Council Member Potter clarified they could wait. Mr. Anderson noted that he could check with the FAA to see how long they could wait. He said if the Council was not ready, he did not see that it would harm the City. Council Member Franco stated she would like to have the building inspected.

Council Member Potter moved to continue the approval of the FAA grant application until the Council received more information in a regular meeting. Council Member Bradshaw made the second. Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

**6. Final Plat Approval for the Ranch Landing Condos - Building D Located at 1055 South 500 East, Watts Enterprises
Staff Report re Ranch Landing**

Mr. Berg informed the Council this was another building in the Ranch Landings Master Plan. It would be another 12 units, and it was similar to the ones that had already been built. It was a condominium project. It was inquired what the price range was. Mr. Berg indicated he thought it was from the low \$300,000. It was inquired if the HOA allowed the home owners to rent their properties. Mr. Berg indicated it did not.

Council Member Smith moved to approve the Final Plat Approval for the Ranch Landing Condos - Building D Located at 1055 South 500 East, Watts Enterprises. Council Member Potter made the second. Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

**7. Reconsideration of Tabled Agenda Item - Fourth Amendment to the Inter-Local Agreement Regarding Red Ledges Property
Red Ledges Fourth Amendment to Interlocal Agreement**

Mayor McDonald recapped the agenda item from the previous meeting. He noted the Council tabled the agenda item on January 21, 2016, and there was an amendment to Red Ledges' Interlocal Agreement. He went on to say Council Member Crittenden and Mr. Smedley had worked out a proposal to that agreement. He invited Council Member Crittenden or Mr. Smedley to share the proposal with the Council.

Council Member Crittenden indicated it was on the table now, and they would need a motion to untable the motion if they wanted to proceed. He went on to say most of the changes were a word or two here and there. The biggest change was the definition of what the trigger would be. It indicated the trigger would occur when the Bassett-Ritchie property started construction beyond 800-feet of Highway 40.

Council Member Crittenden said at some point they would need to bring the item off the table, or they would need to keep on discussing it. He noted he had some discussion with some of the other Council Members, and they are not ready to take it off the table. However, if and when they do decide, he would propose these changes.

Mayor McDonald walked through the proposed amendments. The extension would go through October 31, 2019. In addition, after the extension, each year after that, in February or March, the Council would decide if they wanted Red Ledges to build the road or not. Mayor McDonald went on to say Red Ledges agreed to give the City the waterline easement immediately. He went on to say, Red Ledges shall grant the City the utility easement for the property between the bypass and western property line, and they would grade the property within 2-feet of grade line. Finally, if Red Ledges does not meet the requirements to get the road finished, there was a part that indicated that Red Ledges would be in breach of the agreement, and if the breach occurred, the City could choose to withhold any future phase approval until the agreed physical construction of said bypass road was constructed.

Council Member Crittenden noted what was in the packet was the same thing that was tabled other than clean-up language and a few typos. Mayor McDonald inquired if there were any comments from the Council.

Council Member Bradshaw said he would like to hear Mr. Smedley's point of view, and did he agree with Council Member Crittenden.

Mr. Smedley indicated there were a couple of different options out there. He noted that Council Member Crittenden wanted what he had put on the table to be in the packet with a few clarifications. He said the way he understood it, instead of a five-year extension, this proposal backs down to a three year-extension with a review every year thereafter. After 2019, thereafter, there would be a review where the Council would be able to review the agreement with Red Ledges. The exception of that would be Bassett-Ritchie. If Bassett-Ritchie gets going before that, within a year, Red Ledges had to be done.

Mr. Smedley indicated he was confident they had been able to identify the four things that Stone Creek was concerned about; the one thing Mr. Mumford was concerned about; and what the City was concerned about. He thought all of those things could be addressed. Mr. Smedley said they could continue to discuss the amendment, and if they couldn't do it tonight, he would suggest they get representatives from Stone Creek, Red Ledges, the City Council, and Staff or if the City Council wanted Staff to work it out and bring it back to the City Council. Then, they could come into a meeting, having identified those things, decide what was most important to everyone, and come to an agreement. He indicated that he thought that was a good forum if they could not come to an agreement in the meeting.

Council Member Bradshaw inquired if Mr. Smedley thought the proposed agreement before them was enforceable; were there any problems with having the parties perform as described in the agreement. Mr. Smedley stated he did not have any legal concerns; however, he thought it could be improved upon. He added that he and Council Member Crittenden discussed it. Council Member Crittenden got the ball rolling and wanted to preserve what was tabled. However, he believed there were other things that could be added.

Council Member Crittenden pointed out the elephant in the room that was the big difference between Staff and Red Ledges was the connectivity between the two subdivisions, which was not in what was tabled or in the agenda. Mr. Smedley said that was an important clarification; it was one of the two keys that would bring it to a global settlement. It was left out initially because it wasn't a part of the tabled portion. However, his point was, the Council was not bound to that tabled portion that was just the conduit from which to pull it off the table and move forward.

Discussion followed regarding other options to the agreement.

Council Member Crittenden indicated that Council Member Smith had a legal opinion, which could affect the City. He asked Council Member Smith to explain his opinion. Council Member Smith noted that up

until the other day he wasn't terrible concerned; however, as the Council, he thought they needed to look at the ramifications of saying just build the road; they needed to look at the details of it. One was the connectivity of the road. The other concern to him was making sure the road curved at the top and from what he understood, the proper right-of-way was not there. He went on to say he saw some details there, which arguable could be between two private entities that maybe the City doesn't need to be involved in; however, the end result was how the road was going to be built and that road would serve the City and the citizens of the City. He stated he thought those details did concern the City and as the Council, he thought they needed to cross their T's and dot their I's on those details before they made a decision. He indicated there were a few items on the road that were on the way they had intended. He went on to say, for him those details needed to be worked out before a decision could be made.

Council Member Crittenden added they discussed the idea of not taking the item off the table this evening until the issues were worked out, and they don't want to get in the middle of the issues; however, they certainly affect the City.

Mayor McDonald turned the time over to Mr. Cates. Mr. Cates addressed the proposed agreement, and the things he noted that could be an issue was: it talked about the execution of the two easements in Exhibits A and C. It said the easement shall be grant for the purpose of a roadway and underground utilities. He noted as they discussed previously, Exhibit C was for a utilities easement only.

Council Member Crittenden asked Mr. Cates to clarify his concern with Exhibit C. He stated that he did not change paragraph two in regards to Exhibit C. It came forward from the original 2007 agreement that way. Mr. Cates indicated it became incorrect when the redlined version was done. Council Member Crittenden inquired if Mr. Cates had a sense of what the verbiage was in the 2007 version of the agreement. Mr. Cates said there was nothing in the 2007 verbiage about that in regards to the agreement. He said that was a minor issue; they could tweak some wording there and make it work.

Mr. Cates indicated the bigger issue was they needed a minimum of three years on the extension. He understood the trigger, and there was a low possibility of it happening; however, there was a possibility of it happening. From where they stand, they need at least a three-year timeframe without the trigger. He stated that would be his request on this version.

Mr. Cates indicated he was open to some of the other versions that were out there. One being doing away with the trigger all together and just having a three-year extension and reviewing the agreement every year after that. In addition, they would grant the easements under this agreement.

Council Member Crittenden clarified it would be the same as his proposed agreement with the exception of the trigger and the connection that Staff wanted. Mr. Cates indicates that was correct.

Mr. Cates addressed Council Member Smith's comments. He said he thought Council Member Smith was right. When it came to the turn at the bypass road, the curve was very important. He thought it could be a part of a future phase with Stone Creek. Mr. Cates addressed the connectivity issue. He said he thought it was an important issue. He agreed with the Council's and Staff's thoughts. He would suggest the same thing. When Stone Creek came in for their second phase, it should be a requirement for their second phase approval. He thought it was the just and fair way of approaching these things. If Stone Creek was not developing, there would be no need for that access point.

Mr. Cates informed the Council there had been some meetings and e-mails between Stone Creek and Red Ledges, and he was pleased where they had been going. He indicated there had been a proposal with a couple of counters going back and forth, and he felt those negotiations were going in the right direction;

he thought a resolution between the two parties could be worked out. He thought the best decision of the Council to stay out of private business, was the Council's best decision.

Council Member Crittenden inquired if Mr. Cates could address the Stone Creek proposal that was also on the agenda because he thought it most immediately affect other citizens and their need to move forward. Mr. Cates indicated there was originally a section called the initial work section; however, since Stone Creek went away and wasn't functioning, that was never finished. He went on to say his understanding was from that document, Stone Creek was requesting that Red Ledges come in, and in 2016, put in the initial work section, which is between 150 and 250 feet of roadway to their entry point.

Mr. Cates noted that they had made some proposals to Stone Creek regarding the work section, and he thought they could work it out. Mr. Cates requested that it not be in the agreement because it didn't have anything to do with the extension or the bypass road.

Council Member Crittenden pointed out there were four things between Stone Creek, Red Ledges and the City. There was the connectivity along the main bypass, the curve, the initial work section, and the water easement. Mr. Cates stated you can correct me if I am wrong, but the initial work section was already in Stone Creek's plat, which all do affect the City in one way or another.

Council Member Crittenden asked Mr. Cates if he was willing to trade the three years, and leave the connectivity. Mr. Smedley clarified, was Red Ledges willing to acquiesce to the eastern connection on the bypass road in exchange for no trigger and just having a three year extension.

Mr. Cates stated they have had a lot of conversation about that easement. They do understand the importance of that easement to the City, and they could look at giving that easement. However, they would ask that they get a longer extension; such as five years. Council Member Potter stated she thought the three years was adequate for Red Ledges to get the water line; and it was an issue for her. Mr. Cates explained giving up the easement was a significant risk for them to give up the easement, and they had discussed those reasons. To take on those risks, they think it would be fair and just to go for a longer extension without the trigger. Council Member Crittenden indicated he thought if Red Ledges wanted the five-year extension, they would need the trigger.

Mr. Cates said the great compromise would be to go back to the three-year extension then do a review each year, and let Stone Creek and Red Ledges work out the easement. He said he agreed it was necessary and needed for the community. When Stone Creek came in for their second phase, they would be required to secure that easement.

Council Member Crittenden addressed Mayor McDonald; he indicated that he thought they needed to hear from Stone Creek and the public.

Mayor McDonald invited the public to comment on the agenda item.

Ed Parkinson - Heber City

Mr. Parkinson indicated a few meetings ago the City Attorney was going to review the water easement. He noted that it should have already been recorded and not in the agreement. He questioned if it had been reviewed by the City Attorney and had he given the City Council any answers. He went on to say any further conversations, until the water easement was recorded, should not be conducted with Red Ledges.

Mr. Smedley indicated the water easement had been reviewed extensively. He went onto say, to the point that they understand that it is a non-issue. The issue had been discussed, he was confident it would come and was not an issue. The four issues were what Mr. Crittenden indicated.

Council Member Potter inquired if Red Ledges was required to give the water easement upon request. Mr. Smedley said he was confident they were legally required to grant it. Mayor McDonald added the City had not made the request as of yet.

Rich Hansen - Stone Creek

Mr. Hansen indicated his point was Red Ledges had utilized the water easement to extend the agreement. His other point was they needed a traffic study because it would affect Valley Drive and 550 East.

Tracy Taylor - Heber City

Ms. Taylor said she agreed with a lot of what the Council and City Attorney said; however, the City should be their number one priority when they are negotiating. The reality was if they don't come to an agreement, Red Ledges had to start the bypass road. It was her opinion that was where they should start the discussion.

She indicated that she appreciated Council Member Smith's comments. She said the bypass road affected the entire community, and it shouldn't be placed on one or two developers. Ms. Taylor expressed concern with section 1.2 regarding breach of contract, which she discussed. She stated that section was huge in the Council's ability to protect the City and the taxpayers of Heber City. She, as a citizen, would like to see some financial penalties on any breach of contract.

Finally, she said she agreed with the entry for Stone Creek for a construction entrance.

Darren Tuddenham - Heber City

Mr. Tuddenham indicated that he agreed the initial work piece needed to be put in place and also had a concern with the eastern access. He said a lot of traffic would be alleviated.

Rich Hansen - Stone Creek

Mr. Hansen said he found it interesting that Mr. Cates indicated that Stone Creek should turn over easements; however, when the City requested they turn over an easement, they have a different take on it.

He indicated that he was a little concerned about what he was hearing this evening. Mr. Hansen discussed the right-of-way, and how the agreement and right-of-way was coupled together. He was baffled how Red Ledges had nine years of extensions, and wanted another five years. He went on to say, the fact the right-of-way was not granted, was the loss of their buyer, Edge Homes. It was a 2 million dollar loss. Mr. McCloskey stated the City had the right to demand the right-of-way. Red Ledges was obligated to give it. He noted that Stone Creek was told they had to get the right-of-way; they were caught between Red Ledges and the City.

Mr. Hansen discussed the initial connection piece, which was about 6 percent of the road, and Red Ledges could afford to build the 200-foot section. Mr. McCloskey informed the Council they were miles apart on their negotiations.

Ed Parkinson - Heber City

Mr. Parkinson said he expressed the same feelings, as did a number of people he knew. Until the water easement is done, He didn't think there should be any more discussions regarding Red Ledges' extension.

Eric Stradderck - Heber City

Mr. Stradderck indicated that he lived in the Timp Meadows area that was being impacted by all the decisions being made. He went on to say this was nine years in the running. He noted that nine years ago,

Todd Cates and Rick McCloskey were in his home talking about the location of the road that was going to be further west, and they had an amicable discussion about it.

He stated the intent was for a bypass road to move cars from Center Street back to Mill Road. Mr. Stradderck went on to say, the connections from inside Stone Creek was not a question at the time. Those needed to occur. He doesn't even know why it's a question at this point. Those connections need to happen for the flow of traffic to occur.

Mr. Stradderck said he felt a little dirty with the conversations that were going on. We will do this if you do that. He stated I'm asking you to do the right thing. He added that they didn't have to look after everyone's best interest; it's not their job. The Council knew what their job was.

Mr. Cates stated he thought some of these things have been mischaracterized and were incorrect. He addressed the traffic study. When they were discussing the bypass road, they were talking in the range of 25,000 to 30,000 trips. He stated that 300 to 500 trips coming out of Stone Creek was minimal. For someone to say we need the bypass road and traffic studies today was just not true.

Mr. Cates went on to discuss the City being the number one priority, he agreed. In addition the community needed to be the number one priority too. He also thought their prospects should be looked at as well.

Mr. Cates stated the construction entrance at the initial work piece was news to him, he was not aware it was to be just a construction entrance. He went on to say they utilize the bypass road as a construction entrance. He added if you were to use it as a construction entrance now, it would get beat to heck. In addition, Stone Creek would not have to replace it, the City would have to. Red Ledges utilizes it as a gravel road, which would be much smarter.

Mr. Cates pointed out that Mr. Hansen talked about being fair. Mr. Cates said he took offense to that. He indicated that they came in in 2007, and they had to get an easement from Stone Creek for 1 million dollars. In addition, they put in time, effort and money into their engineering. Mr. Cates disagreed with Mr. Hansen's statement.

Mr. Cates said Mr. Hansen brought up the nine year extension. He acknowledged they had received that, and he thought it made sense; nothing developed out. They were no were near 25,000 trips down Center Street. Mr. Cates stated the bypass road would be put in when it was needed.

Mr. Cates indicated that Mr. Hansen talked about a water line easement, and he lost a buyer. Mr. Cates said they were told they lost a buyer because the bypass road didn't go in at the timeframe desired. He said it was incorrect to say Red Ledges withheld something so Stone Creek would lose a buyer.

Mr. Cates stated we don't pretend to be in charge of anything. We have tried to be a good neighbor and a partner to the City. He added that they have done a multitude of things in the City and a lot to help out in the community. He had never heard any complaints about how they had conducted themselves.

Rick McCloskey

Mr. McCloskey stated he thought Mr. Smedley's idea about a meeting with the three parties was a good idea. A lot of things get said that can't be responded to right away. He thought the issues could get resolved in this manner. In addition, Mr. McCloskey indicated that he thought the Council had every right to say if Red Ledges wanted an extension, this is what they had to do. Mr. McCloskey went on to say, when he threw out his original plat, he had seven lenders on the properties; not all the money went into

his pocket. There was a cost that went into the easement, and when we talk about what we want, we don't get what we need.

Mayor McDonald indicated that he thought it was important for the Council to hear all the points of view and to gather as much information; and give it back to the Council.

Council Member Franco moved to request the water line easement from Red Ledges immediately as a good faith effort to continue discussions on all the other issues. Council Member Crittenden seconded the motion. Council Members Voting Aye: Council Members Franco, Potter, Crittenden. Council Members Voting Nay: Council Members Bradshaw and Smith. The motion passed with three votes in the affirmative and two opposed.

Council Member Potter moved to create some type of committee/study group similar to what Mr. Smedley suggested to work some of the issues out between all parties; getting representatives from each party, Red Ledges, Stone Creek, Staff, Mr. Smedley, Council Member Franco and Potter, and Mr. Mumford and a member from local community.

Mr. Cates indicated that he didn't think it was a public issue.

Mr. Smedley inquired if the Council wanted to step into the middle of the parties? He stated his initial idea was not to open it up to everyone. Council Member Potter suggested that Mr. Smedley tell her what his legal advice was. Mr. Smedley suggested that Mr. Anderson, Mr. Mumford, himself, Council Members, legal representatives from both parties and the parties be present.

Council Member Potter amended her motion to reflect the members Mr. Smedley indicated be present. Council Member Franco seconded the motion. Voting Aye: Council Members Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

Council Member Franco inquired who was going to write the letter to Red Ledges immediately to get the water line easement and what type of deadline do they need to proceed. She indicated that she would hope to get it within a week. Mayor McDonald indicated City Staff would put it together between legal and engineering, and he thought they should get it approved by the Council before they sent it out. Council Member Franco pointed out the motion did say immediately. Mayor McDonald stated he wanted to make sure all the council was in agreement before they sent the letter out. Council Member Franco suggested that could be done through e-mail.

**8. [Todd Cates - Final Approval for Red Ledges Phase 2F Located at Abajo Peak Circle and Abajo Peak Way, the Main Entrance to Red Ledges is Located at 1851 East Center Street](#)
[Staff Report re Red Ledges Phase 2F](#)**

Mr. Cates indicated that Red Ledges Phase 2F plat was approved in July 2014 for another builder, which was going to be Mountain Villas; however, he decided not to do the project. Therefore, they never recorded that plat.

Mr. Cates explained a new builder had come to Red Ledges and wanted to build 12 units, which would be twin homes.

Council Member Potter moved to approve Final Approval for Red Ledges Phase 2F Located at Abajo Peak Circle and Abajo Peak Way, the Main Entrance to Red Ledges is Located at 1851 East Center Street. Council Member Bradshaw made the second. Voting Aye: Council Members Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

9. Review Proposed Request to Amend Red Ledges Phase 1R Subdivision Plat - An Amendment Combining Three Lots, Lots 434, 435, and 436 Into One Lot, Lot 434 Amended, to be Located at Approximately 1455 North Explorer Peak Drive, the Main Entrance to Red Ledges is Located at 1851 East Center Street

Staff Report re Request to Combine Lots

Mr. Cates explained there was a man who came in and purchased three lots, and he would like to combine all three lots for the purpose of building one home.

Council Member Bradshaw moved to Amend Red Ledges Phase 1R Subdivision Plat - An Amendment Combining Three Lots, Lots 434, 435, and 436 Into One Lot, Lot 434 Amended, to be Located at Approximately 1455 North Explorer Peak Drive, the Main Entrance to Red Ledges is Located at 1851 East Center Street. Council Member Crittenden made the second. Voting Aye: Council Members Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

10. Approve Ordinance 2016-3, an Ordinance Amending the Heber City Land Use Map From Low Density Residential to Moderate Density Residential for Property Located at 700 South 1200 West

Staff Report

Ordinance 2016-3

11. Approve Ordinance 2016-4, an Ordinance Amending the Heber City Zoning Map From the R-1 Residential Zone to the R-2 Residential Zone With the Cluster Open Space Overlay Zone (COSZ) for Property Located at Approximately 700 South 1200 West

Ordinance 2016-4

Mr. Kohler noted that the property in question was the property that they refer to as Sherman's Landing, which was the name of a subdivision that had been approved. The request was to change the property from R-1 Residential to R-2 Residential with a Cluster Overlay Zone. The developer/owner wanted to construct an assisted living facility and some senior living homes.

Council Member Franco indicated that she was concerned that the Planning Commission recommended that the zone change only be enforced if the property was only developed for senior citizen housing. In addition, they recommended if it was not in the future, that it be rezoned back to the R-1 Residential, which was not in the Ordinance. She went on to say she would recommend that it be included in the Ordinance, and she would like some discussion as to why it was not included.

Mr. Kohler stated he thought that was in the Ordinance as well. He must have forgotten to put in the Ordinance. When we looked at it in the late fall, it was in there.

Council Member Franco moved to add an additional paragraph to Ordinance No. 2016-3, and include the restriction on the zone change that it only applies or be in affect if the property is utilized for senior citizen housing, otherwise the zone would revert back to its original R-1 Residential zoning. Council Member Potter seconded the motion.

Discussion followed regarding the motion. Mr. Anderson addressed the Council. He indicated that he did not think the Council could revert the zoning back to another zone without going through the public process and without holding a public hearing and allowing public input. He did not think they could circumvent the public process to initiate a zone change.

Council Member Franco inquired how it should be proposed. Should it say if it's not utilized for senior citizen housing, the City Council would hold a public hearing to revert the property back to a R-1 Residential zone. Mr. Anderson indicated that was correct; he thought they had previously drafted language to that effect. Mr. Kohler added he thought it was correct to do it that way so it showed legislative intent.

Mr. Anderson said he remembered talking about this at one time. If the property was not utilized for that purpose, the City would initiate a public hearing for the purpose of changing the zone back.

Mr. Balls expressed concern with the language of senior citizen. He said there was an actual definition of what actually constituted a senior citizen. He said it was their intent to have assisted living there and that could be of ages of less than senior citizen ages. He went on to say the rezone would apply to the entire piece of property; therefore, he was concerned with the exact language of senior citizen because of the age definition.

Mayor McDonald indicated that he thought assisted living needed to be put in the Ordinance as well to broaden it out a little bit more.

Council Member Franco inquired if the assisted living area included disabled living or drug therapy type homes. Mr. Balls indicated that he did not know how broad it was; however, he would not bring in drug therapy. It was a whole other side of thing.

Mr. Kohler indicated he didn't know if there was an actual age associated with assisted living; he thought if there was an individual of the age of 25 that was disabled, they could live in an assisted living facility.

Mr. Balls said he wanted to make it clear it was their intent to have an assisted living facility for aged individuals; however, he thought they should utilize different words than senior. Mr. Anderson referred to the Work Meeting of October 1, 2015, and he indicated they had prepared a zone change agreement, which addressed the issue at hand.

Mr. Kohler referred to the zone change agreement of October 1, 2015, which stated:

WHEREAS, the city finds the rezoning of this property is for the purpose of meeting the goals and objectives of the General Plan, specifically:

1. To provide a variety of housing types for senior citizens, including assisted care centers, independent care centers, and targeted senior retirement communities. These facilities need to be located near critical support facilities, namely: medical, shopping, churches, etc.
2. To provide zoning regulations to encourage housing types for elderly or senior citizens including assisted care, independent care, and targeted senior retirement communities;

NOW, THEREFORE, the Parties hereby agree as follows:

In the event the property described in Exhibit 2 is proposed for a use other than senior housing, the City may rezone the property back to R-1 Residential.

Council Member Franco inquired if that was the original developer's agreement. Mr. Kohler indicated it would be equivalent to a developer's agreement. Council Member Franco inquired what the title of the document was so she could change her motion.

Mr. Balls indicated that could be a portion of it; however, they didn't want that as the only thing.

Council Member Crittenden noted during the Work Meeting two weeks ago, he had some more concerns, and they had not addressed those concerns as of yet. He stated he had concerns he would like to address somewhere before they make a decision.

Council Member Franco moved to table the agenda item until the following regular meeting so they could work out what the previous year's understanding and add that into the Ordinance draft. Council Member Crittenden the motion. Voting Aye: Council Members Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

It was noted that Agenda Item Number 11 tied into Agenda Item Number 10 as well.

Council Member Crittenden moved to table Agenda Number 11 as well until they are ready. Council Member Franco seconded the motion.

Council Member Crittenden inquired if they were tabling the agenda items or continuing the agenda items to the next Work Meeting. Council Member Franco indicated she just wanted the language cleaned up.

Mr. Kohler inquired if it would it be possible to put the agenda items back on the next regular agenda. He went on to say the Council had seen the item four or five times. He thought they could get the definition and language together for the next meeting. Council Member Franco agreed.

Council Member Crittenden moved to untable agenda item number 10 and moved to continue agenda items number 10 and 11 to the next City Council Meeting. Council Member Smith seconded the motion. Voting Aye: Council Members Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

Council Member Franco suggested they include the language of the zone change agreement, and clean up the language on the uses that would be required; there are many uses that relate to senior housing.

Council Member Crittenden moved to forward Agenda Items Number 10 and 11 to the next City Council Meeting and in the Ordinance have Staff add in the elements of the October 1 meeting that was forgotten about and address it in whatever way it could be done that this is only for this purpose that the zone is being changed, and it's fully understood if it isn't built, that it will revert back. Council Member Potter seconded the motion. Voting Aye: Council Members Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

12. Appointment of City Treasurer and City Recorder **Utah Code §10-3-916**

Mayor McDonald indicated when there was an election; they had to reappoint the City Treasurer and City Recorder. He noted that Mindy Kohler, had been serving as City Treasurer, and she had been very faithful in her duties, and she would like to continue in her position. In addition, Michelle Limon had been serving as City Recorder, and she would like to continue in her position as well.

Mayor McDonald made recommendation to the City Council for their approval and consent to keep these two fine young women in their positions.

Council Member Bradshaw move to approve the appointment of Heber City's City Treasurer and City Recorder as nominated. Council Member Crittenden seconded the motion. Voting Aye: Council Members Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

10. Approve Ordinance 2016-3, an Ordinance Amending the Heber City Land Use Map From Low Density Residential to Moderate Density Residential for Property Located at 700 South 1200 West

Staff Report
Ordinance 2016-3

11. Approve Ordinance 2016-4, an Ordinance Amending the Heber City Zoning Map From the R-1 Residential Zone to the R-2 Residential Zone With the Cluster Open Space Overlay Zone (COSZ) for Property Located at Approximately 700 South 1200 West

Ordinance 2016-4

Mr. Balls inquired if there was anything they could address now so next time they would be prepared.

Council Member Crittenden indicated he did have some questions. The first question, you can't do what you want to do without a zone change. He inquired why that was. Was it because of density? Mr. Balls explained they needed a zone change because they needed a zone that would allow a commercial use.

Council Member Crittenden clarified the site plan had a big building with 20 units, and then it had some individual units in the assisted care facility. Mr. Balls indicated that was correct; there were 30 of the small units. He then said there were some pods. Council Member Crittenden inquired if they were changing the zoning for all the property.

Mr. Kohler stated the Ordinance they put together for the previous meeting during the Work Meeting was to change the zoning for all the property. Council Member Crittenden indicated that was where he was losing him because they don't even know what they want to do, and they are talking about spot, up zoning. Mr. Balls indicated they were not talking about spot, up zoning. If you look at what is contiguous to the area, there is an R-3 zone to the south of it. He said overall it's a difference in zone; however, it was not spot zoning.

Discussion followed regarding spot zoning and the overall site plan.

Council Member Crittenden referred back to Council Member Franco's previous comments. If we were changing the zone for the big building and the smaller units associated with the assisted care facility, it could be zoned without dealing with the other part you are not defining.

Council Member Crittenden said he was glad to know in October that it was suggested to put off the previous development because of the form based code; in addition, there was a moratorium against housing. He indicated that he didn't understand how the undefined homes got around the residential moratorium.

Mr. Kohler addressed the Council. He stated ever since he had been at the City, the City had been begging for someone to do a senior based project. He went on to say, we are not getting the housing that we need. We need housing for seniors; we need this type of housing. He said it was very costly to process. Mr. Kohler stated that he thought they were sending the signal to this developer that the City did not want them. He implored the Council to please not scare this developer away. We need this type of development.

Council Member Crittenden indicated that he agreed with Mr. Kohler. He said he was just asking questions about process. Mr. Kohler explained the process to the Council, and he indicated that the developers realized what was happening; in addition, the City would place some restrictions on them. Mr. Kohler noted there were some unknowns; however, if we nit-picked them, they would go away.

Council Member Crittenden agreed with Mr. Kohler. He indicated that he was asking what the moratorium meant. He questioned if there was another place in the City for the development. Mr. Kohler explained the City was not in the position to find a place for developments. He went on to explain the development was near a church; it was by a main road and it had open space.

Mr. Balls indicated they came to the work meeting to work this out. He stated these were seniors and they were protected and had every right to live anywhere. In addition, they have every right to live in that neighborhood.

Council Member Franco indicated that she was not opposed to untabling the agenda item; however, she would like some specific language before it was passed. She asked what the developers would suggest. Mr. Balls indicated that he thought the language was 95 percent there; it just needed a few little tweaks. The overall intent of the agreement was acceptable to them. Council Member Franco stated if they could refer to that agreement that was all she was looking for.

Council Member Franco went on to say she was familiar with the laws regarding drug addictions, and she questioned if the facility would be involved with that. She stated if you could give me specific language, we could proceed with the item. Mr. Balls stated we are not going after a drug facility; we are going to be an assisted living facility only.

Discussion followed regarding the October 1 zone change amendment. Council Member Franco noted that they would need a sentence in the Ordinance that indicated if the development was not developed to standards by the deadline, the City would consider proceeding with public hearings to rezone the property back to R-1 Residential.

Mr. Kohler indicated the intent was to have the agreement have that information; therefore, they would record the agreement with the property, and then they would have legislative intent.

Council Member Franco suggested they put the language onto the plat when it was recorded.

Council Member Potter moved to undo the motion to continue Agenda Items 10 and 11. Council Member Smith seconded the motion. Council Member Voting Aye: Council Members Bradshaw, Franco, Potter, and Smith. Council Members Voting Nay: Council Member Crittenden. The motion passed with four votes in the affirmative to one vote against.

Council Member Potter stated she thought they needed to be sensitive to people who are trying to invest in their community. Their interests were ticking and the building season was coming. She thought that they pounded it out and figured out what everyone's concerns were. She was willing to make a motion to support it.

Council Member Franco moved to add a paragraph to Ordinance 2016-3 that this Ordinance was subject to the October 1st zone change agreement with the developer's name. That if the property was not used for the initial zone change agreement, and any other proposals, then the City would proceed with public hearings to rezone the property back to R-1 Residential. Council Member Potter seconded the motion. Voting Aye: Council Members Bradshaw, Franco, Potter, and Smith, and Crittenden. The motion passed unanimously.

Council Member Franco moved to approve Ordinance 2016-3 with the amendment, with an additional amendment with the condition that the amendment be recorded on the plat. Council Member Smith

seconded the motion. Voting Aye: Council Members Bradshaw, Franco, Potter, and Smith, and Crittenden. The motion passed unanimously.

Council Member Smith moved to approve Ordinance 2016-4 amending Heber City's zoning map from R-1 to R-2 with the Cluster Open Space Overlay Zone. Council Member Potter seconded the motion.

Discussion followed regarding the motion. Council Member Franco inquired if they needed to apply the same language to Ordinance No. 2016-4 so it was consistent. Mr. Anderson indicated that he thought they should do it to the zone change agreement. Council Member Crittenden indicated he had the same concerns. Mr. Anderson said the zone change agreement should be attached to the zone change not the General Plan Amendment. It was indicated they would put the amendment on both motions.

Council Member Smith moved to amend his motion to add the same amendment from Ordinance No. 2016-3. Council Member Potter seconded the motion. Voting Aye: Council Members Bradshaw, Franco, Potter, and Smith, and Crittenden. The motion passed unanimously.

13. Closed Meeting as Needed

With no further business coming before the City Council at this time, Council Member Potter moved to adjourn the meeting. Council Member Smith seconded the motion. The motion passed unanimously. The meeting adjourned at 9:46 p.m.


Michelle Limon, City Recorder