

**Heber City Corporation  
City Council Meeting  
October 17, 2013**

**7:00 p.m.**

**REGULAR MEETING**

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on October 17, 2013, in the City Council Chambers at 75 North Main Street, Heber City, Utah.

**Present:** Mayor David R. Phillips  
Council Members Robert Patterson  
Alan McDonald  
Jeffery Bradshaw  
Erik Rowland

**Excused:** Council Member Benny Mergist

**Also Present:** City Manager Mark K. Anderson  
City Recorder Michelle Kellogg  
City Engineer Bart Mumford  
Planning Director Anthony Kohler  
Chief of Police David Booth

**Others Present:** Rod Hopkins, Brian Balls, Alisha Earl, Courtney Neerings, Davidene Zimmerman, Mario Sanchez, Carolina Moreno, Santiago Penado, Xela Thomas, Sandra Thomas, Anares Rosas, Dani Loehr, Marina Loeh, Jaclyn Phillips, John Zimmerman, Laurie Wynn, Colton Mecham, Sadie Broadhead, Skylar Vitez, Randy Larsen, Adysen Larsen, Danny Goode, Heidi Franco, Salvador Segura, and others whose names were illegible.

Mayor Phillips opened the meeting and excused Council Member Mergist. He welcomed those in attendance and recognized the Boy Scouts and high school students.

**Pledge of Allegiance:** Council Member Erik Rowland

**Prayer:** Council Member Robert Patterson

**Minutes:** October 3, 2013 Work and Regular Meetings

Council Member Rowland moved to approve the above listed minutes. Council Member Bradshaw seconded the motion. Voting Aye: Council Members Patterson, McDonald, Bradshaw, and Rowland. Council Member Mergist was excused.

***OPEN PERIOD FOR PUBLIC COMMENTS***

Mayor Phillips asked those in the audience who wished to address the Council to come forward at this time. No comments were given.

## *APPOINTMENTS*

**Mayor Phillips's Recognition of Officer Xela Thomas for Outstanding Service:** Mayor Phillips read a letter from a law office that commended Officer Thomas for the kindness, professionalism, and dedication in her service regarding a tragic situation with a local family. He thanked Officer Thomas for her outstanding service and presented her with a \$100 check.

**John Zimmerman, Request to Have Heber City Pay His Water and Sewer Impact Fees for His Home Located at 1070 South Mill Road:** Zimmerman stated he and his family moved to Heber in 1997. He was here tonight to request that his impact fees be waived. Mayor Phillips explained that according to State statute, impact fees must be paid; so if Zimmerman didn't pay them, the City would be required to pay the fees in his behalf. Zimmerman explained the history of developing the subdivision in which his property was located. He felt that whatever contract the City had with Sage Holdings, who was the original property owner, the agreement should be carried over to Zimmerman so he would not be liable for the impact fees. It was noted the City never had a contract with Sage Holdings. Zimmerman also felt the City had some responsibility regarding a lawsuit he had fought with the new owners of the development for the past three years over a property line setback that did not comply with the City code. He stated he did not want to bear the whole cost of these mistakes.

Council Member Rowland felt Zimmerman went through a large expense and felt justified that the City should help so he wouldn't have to bear all the costs by himself. Zimmerman commented that he would be willing to pay his past monthly sewer bills that had not been charged. Mumford stated the impact fees for water, sewer, and pressurized irrigation would total \$7,620. Council Member McDonald asked what the value of the property was that was lost when the property line changed. Zimmerman stated he offered \$30,000 for that strip of land and the investment firm, who took over the parcel when Sage Holdings went bankrupt, refused. Council Member Rowland clarified that the value of that 3.5 foot x 100 foot strip of land was worth more than the \$7,620 impact fees.

Mumford stated Sage Holdings had indicated to the City that the house would be hooked up to water and sewer service, but there was no written agreement. Council Member Rowland asked Anderson for his concerns with this issue. Anderson stated that the State code declared the City could pay impact fees for projects that were for broad public benefit. Council Member Bradshaw asked if the bond was used to finish the bankrupt project. Anderson stated the bond was not meant to pay for impact fees. He also felt the City would probably have immunity from any responsibility regarding the setback discrepancy, but noted he had not looked at that issue.

Council Member Rowland moved to approve John Zimmerman's request that the City pay his water, sewer and pressurized irrigation impact fees with money from the General Fund based on settling the lawsuit so a new subdivision could begin construction on the disputed land. Council Member Rowland felt that effort would constitute broad public benefit. He was also in favor of approving this request because the value of property lost was greater than the value of the impact fees, although he did not think it was the fault of the City. Council Member McDonald seconded the motion.

Council Member McDonald commented that he was in favor of approving Zimmerman's request in order to reimburse him for the loss of his property. Council Member Bradshaw stated he would prefer giving the \$7,620 to Zimmerman as a partial payment for lost property, and then

have him pay his impact fees. Council Member Rowland asserted that in having the City pay these impact fees, Zimmerman would not come against the City for additional compensation for the loss of property. Zimmerman stated he would sign any agreements necessary to absolve the City from responsibility. Anderson advised the Council to seek advice from the City Attorney regarding this issue. He thought there had been decisions made by the developer, surveyor, City and others. It would be well to understand where the City responsibilities lied. Council Member Rowland understood Anderson's concerns, but felt Zimmerman justified his case and stated the City would be not held liable for further responsibility. Council Member Patterson asked if the water rights were given to the City. Mumford acknowledged the water rights were given to the City and that was not an issue. Anderson asked Brian Balls if there was legal precedence from a surveyor's perspective. Balls asserted that the first thing to do would be to determine if there was an error. If there was, then determine who was liable.

Voting Aye: Council Members Patterson, McDonald, Bradshaw, and Rowland. Council Member Mergist was excused.

### ***ACTION ITEMS***

**Resolution 2013-15, Consideration for Adoption of a Resolution Authorizing the Issuance and Sale of its Water Revenue Bonds, Series 2013 in the Aggregate Principal Amount of \$900,000 and Related Matters:** Anderson noted Randy Larson with Ballard Spahr was here to answer any questions. Anderson stated the purpose tonight was to adopt the resolution authorizing the Mayor and City Recorder to sign the bond documents.

Council Member Rowland moved to approve Resolution 2013-15, consideration for adoption of a resolution authorizing the issuance and sale of its Water Revenue Bonds, Series 2013 in the aggregate principal amount of \$900,000 and related matters. Council Member Bradshaw made the second. Council Member McDonald stated he did not support this bond because the City had \$750,000 and reserves in other funds to pay for these projects without going into debt.

Voting Aye: Council Members Patterson, Bradshaw, and Rowland. Voting Nay: Council Member McDonald. Council Member Mergist was excused. Motion passed.

### ***DISCUSSION/ACTION ITEMS***

**Guy Haskell, Request for New Subdivision Plat Approval for Phase I (16 Lots) and Phase II (11 Lots) of the Swift Creek Subdivision and Associated Subdivision Agreement:**

Anderson stated at the last meeting the Swift Creek Subdivision was approved, but upon meeting with Haskell this past Monday, Haskell indicated he wanted to develop the subdivision in phases and he didn't want to install a fence next to the Christensen property. It was indicated that the City code did not require fences. Mayor Phillips asked if the Planning Commission required the fence to be erected. Kohler stated the Planning Commission assumed the developer would volunteer to erect a fence. Mayor Phillips asked if the Council would like the Planning Commission to consider changing the City code to require fences of the same size and color from developers. The Council agreed this issue should be considered by the Planning Commission and brought to the Council in the near future. Anderson stated the farm language was noted on the plat for Phase I. Mumford stated Haskell agreed that he would construct a bridge over the canal, but that would be in the Phase II construction process.

Council Member Rowland moved to approve the changes to the Swift Creek Subdivision plat as outlined in Phases I and II. Council Member Bradshaw seconded the motion.

Voting Aye: Council Members McDonald, Bradshaw, and Rowland. Voting Nay: Council Member Patterson. Council Member Mergist was excused. Motion passed.

Council Member Patterson moved to go into Closed Session for the purpose of discussing land acquisition and personnel at 8:00 p.m. Council Member Rowland made the second.

Voting Aye: Council Members Patterson, McDonald, Bradshaw and Rowland. Council Member Mergist was excused.

Upon adjourning from Closed Session at 8:36 p.m. the Council adjourned from the Regular Meeting.

---

Michelle Kellogg, City Recorder

APPROVED 11-07-2013