

WORK MEETING

**AGENDA
AND
STAFF MEMO**

HEBER CITY CORPORATION
75 North Main Street
Heber City, Utah
City Council Meeting

January 16, 2014

Work Meeting 6:00 p.m.

DISCUSSION ITEMS

- (Tab A)** Mike Bardole, Discuss Driveway Easement Changes
- (Tab B)** Review City Council Retreat Agenda
- Report from CIB Meeting
- Report on Hiring of the Senior Accountant
- (Tab C)** Discuss Makeup of the Planning Commission, Board of Adjustment and Airport Advisory Board

OTHER ITEMS AS NECESSARY

Ordinance 2006-05 allows Heber City Council Members to participate in meetings via telecommunications media.

In accordance with the Americans with Disabilities Act, those needing special accommodations during this meeting or who are non-English speaking should contact Michelle Kellogg at the Heber City Offices (435) 654-0757 at least eight hours prior to the meeting.

Posted on January 13, 2014, in the Heber City Municipal Building located at 75 North Main, Wasatch County Building, Wasatch County Community Development Building, Wasatch County Library, on the Heber City Website at www.ci.heber.ut.us, and on the Utah Public Notice Website at <http://pnm.utah.gov>. Notice provided to the Wasatch Wave on January 13, 2014.

Memo

To: Mayor and City Council
From: Mark K. Anderson
Date: 01/13/2014
Re: City Council Agenda Items

WORK MEETING

Mike Bardole, Discuss Driveway Easement Changes (Tab A): Enclosed is an email from Mike Bardole regarding access to his property which is located at approximately 800 West 1200 South. It appears that Mr. Bardole will have Devin McKrola (Wasatch County Water Efficiency Project Engineer), neighbors and his attorney Joseph Silversweig in attendance with him.

The City has discussed this matter since the fall of 2012. Enclosed are copies of past communication and staff reports on this matter to give the Council a history of what has occurred to this point.

A few months ago I spoke with Paul Johnson, developer of School House Estates, who owns the easement about this issue. I indicated that I would commit the Public Works Department to spread out any road base he purchased to make the easement acceptable to Mr. Bardole. Staff's position is that we have no objection to Mr. Bardole using City right-of-way to access his property, but we do not believe the City should accept the cost/responsibility to improve and maintain the right-of-way.

Since it is not 100% clear what Mr. Bardole and his attorney will be requesting, I have asked Mark Smedley to be in attendance at the meeting.

Review City Council Retreat Agenda (Tab B): Enclosed is a draft agenda for the January 25th retreat. Mayor McDonald wants to review this with the Council and Staff so people are prepared to participate.

Report from CIB Meeting: Mayor McDonald, Chief Booth and I attended the Community Impact Board meeting on Thursday, January 9th in St. George. Mayor McDonald explained our application to the Board and after a few questions, the Board approved funding prioritization for the \$6,700,000 application to build a public safety building. The final

funding approval will occur at the February 13th CIB meeting. We have been informed that sufficient funds exist to fund all of the projects that have received funding prioritization.

Report on Hiring of the Senior Accountant: Councilman Bradshaw, Lynsee Sulser and I interviewed seven individuals on January 7th. From the seven interviews two persons were invited back for a second interview and some skill testing. I expect to meet with both persons prior to City Council meeting and hope to have an offer accepted by January 16th.

Discuss Makeup of the Planning Commission, Board of Adjustment and Airport Advisory Board (Tab C): In discussing Board Appointments with Mayor McDonald, he indicated a desire to have more than one alternate for the Board of Adjustment and Planning Commission. At this time, the Planning Commission membership specifically indicates that the Board includes one alternate member. No mention is made about alternate members of the Board of Adjustment, but practice has been to have an alternate member on this Board. The Mayor would like to discuss the amendment of these Ordinances. (See enclosed City Code)

Additionally, Councilman Rowland has asked that the makeup of the Airport Advisory Board be discussed. He wants to discuss the requirement that there be City Council representation on the board. Currently the Airport Board bylaws indicate that membership should be as follows:

- A. *The Airport Advisory Board shall consist of (7) members;*
- B. *Membership shall be as follows:*
 - 1. *Membership will include persons of diverse interests from throughout the cities and suburbs in Wasatch County.*

From a staff perspective, we would like practice and the Code to match.

DISCUSSION/ ACTION ITEMS

TAB A

October 04, 2012 Staff Report

Review Letter from Mike Bardole Regarding Access to Goldrush Kennels (Tab C): For over a year, I have had conversations with Tracy Richardson and other neighbors about an alternate way to access the Bardole/Goldrush Kennel property. In discussing the matter with staff, we did not see any reason to prohibit Bardole from using the City owned right-of-way (acquired for a future 1200 South) to access his property. (See enclosed map) At the same time, we did not see any reason to improve or maintain/plow the right-of-way for their sole benefit. The neighbors have complained about the speed of the traffic accessing the Bardole property, safety concerns for kids that share the easement with vehicles as they walk to school and cars that drive on their lawns. The neighbors would like to see an alternate access obtained because of the note (below) that is on the School House Estates subdivision plat that would extinguish the Bardole's right to use the easement to access their property.

PARCEL A – (Not a building lot)
TO BE A PERMANENT PRESSURE IRRIGATION
LINE EASEMENT, & A TEMPORARY LIMITED
ACCESS EASEMENT FOR PROPERTIES TO THE
SOUTH. TEMPORARY ACCESS EASEMENT IS TO
BE TERMINATED & REVERTED TO A WALKWAY
EASEMENT WHEN ALTERNATIVE PERMANENT
ACCESS IS PROVIDED FOR PROPERTIES TO THE
SOUTH.

With that said, the City offered the use of the right-of-way under the conditions described in the attached letter dated September 17th. Mr. Bardole responded and made several additional requests of the City. (See enclosed letter dated September 20th)

With regard to Mr. Bardole's requests, staff would offer the following:

- No commitment to provide additional road base was made. The estimated cost would be \$2,000 - \$3,000 plus labor to spread the road base. The current base is pit run material from the Wasatch County gravel pit. Mike is concerned that some of the material is sharp and would damage vehicle tires. (Stephen Tozier and I have walked the roadway and we do not share this same concern) In his opinion, the cost of the road base is worth eliminating the safety concerns with the other route.
- Staff has no objection to both access points being used for a period of time to educate the customers of the kennel – Ultimately, the property owners in School House Estates will push to have the easement closed for vehicle traffic once the alternate access has been clearly established.
- Staff believes there is adequate room within the easement to store City snow if necessary. We are reluctant to assume this responsibility that Mr. Bardole already has for his existing access which is several hundred feet longer.

- With regard to access, Mark Smedley recommends that the City provide a letter to Bardole indicating he has the right to use the right-of-way for access. It should be noted that the right-of-way is intended to be used for the extension of 1200 South Street and that his access would be interrupted when construction of this roadway occurs.

The Council should review the letter and give staff direction on how to respond to Mr. Bardole.

September 17, 2012

Mike Bardole
1000 West 800 South
Heber City, UT 84032

Dear Mike:

In speaking with Tracy Richardson about an alternate access to your home and business, the City has no objection to you accessing your property from 1200 South 700 West. With that said, the City right-of-way west of 100 West does not meet any current City standard and the City provides little if any maintenance to this City owned property.

Therefore, if you choose to use this route to access your property, you could not depend on the City to provide regular maintenance or snow removal on this property. I am willing to have staff remove the cable that currently blocks the access and mow the weeds to initially make the roadway more passable, but any ongoing expense to keep the right-of-way open or improvements to make access to your property feasible will need to be at your expense.

From a public safety standpoint the City believes this is a superior access because it is several hundred feet shorter than your current access. Please let me know if you intend to accept this offer so I can get the cable removed and the weeds mowed. Lastly, feel free to contact me if you have any additional questions.

Regards,

Mark K. Anderson
Heber City Manager

September 20, 2012

Mark Anderson
75 North Main Street
Heber City, Utah

C.C. Mayor: David R. Phillips

Dear Mark,

Thank you for your consideration in presenting me the option in using the access off of 1200 south and 700 West.

I feel that this would be a good move for all of us and would address many safety concerns that could affect not just us but also the people that currently use this access. In addition the true owner of this right of way has much to gain in the way of reduced liability as well.

Many concerns and discussions regarding who really owns this road and liabilities have been considered. In reviewing these concerns it has become more than evident that when the legal net it cast out there everyone stands to lose should there be an accident. This is why we all feel strongly that this new access would be a good move for everyone involved.

In talking to Tracy and going over what was presented in your letter however, I did have a few concerns that I would like to address at this time. If we can get these items of concern addressed I feel that we can smoothly transition into this new access without any trouble at all. They are as follows:

- First, Tracy mentioned that you did agree to put in road base to make this road accessible and smooth. The shell rock that is now there makes this access impossible to use at this time.
- Second and I feel that this is the most important part. I needed at least two to three months during our busy season that was from the end of May till the beginning of school. That time has passed and we are looking at a much longer time of routing all our customers into the old access and out of the new one to keep our business established. Without this consideration met we stand to lose most of our customer base. And as you know this is our primary source of income to date. To make this effective we would need to keep both accesses open most of the winter and close the old one in the spring. Or we can wait until next spring and accomplish this in the short time described above.
- Third, I feel that we may both want to consider that someday in the future that in spite of global warming we still might experience a very heavy snow year. If this is the case it may be in your best interest to have a place to dump the excess snow overload. This will

not be possible if I were to be using this access as my only way in and out of my residence. Consider, if you will plow the snow down this new access for me, I allow you a part of my property as a temporary measure during the heavy snow loading seasons, as a place to dump the excess snow. Please understand that this is the only time this offer will be considered and will not be available to anyone again. I realize we may think we will never suffer a heavy winter until it is upon us. This is why I feel it may be wise to take this offer seriously.

- Fourth, and last it is important that my residence have a written agreement stating that this access has a prescriptive use identical to the current access I am using now. It would need to be stated in this access/use agreement that it will not be shut down, impeded, or otherwise rendered inaccessible for any length of time. With the exception of short term maintenance and/or repairs this access shall remain open for the express use of ingress and egress to my residence along with the use of emergency vehicles should there ever be a need.

In a way it is regrettable that Senator Chris Herrod and his partner Rundussa Esheti of Herrod Development, Pangaea Construction, Alpine Construction, not sure which, did not follow through with their agreement on the bond for the 12th south road that was agreed to on the final approval process in 1999.

But the past is the past and I feel that it's time to move forward. Please consider that expense needed to meet the above four goals is not as great and could be easily met. There is no doubt that this would achieve a safer and lower liability status for all of us including the children that now use this as a walkway.

If these clearly minor terms can be met please let me know when a good time we can sit down and secure not only a better access for my residence but a safer path for our school children. It should not matter who is or is not liable in the unfortunate case that one child get injured over these minor goals that really are in the best interest of the people and children that currently now use, and access it as a walkway.

Again, thank you for considering this matter. I feel we are heading in the right direction and should do everything possible to make these goals work in the interest of everyone concerned.

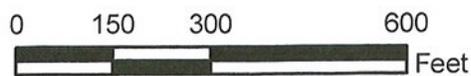
Sincerely,

Handwritten signatures of Michael and Mary Bardole in black ink. The signature for Michael is on top and the signature for Mary is below it.

Michael and Mary Bardole
Goldrush Kennels



Proposed Bardole Property Access



October 18, 2012

Michael Bardole
1000 West 800 South
Heber City, Utah 84032
(435) 654-4260

RE: License of use

Dear Michael:

Pursuant to your Letter of September 20, 2012, the City Council would ask you to please consider the following:

The City will agree to give you access and a license to access your property off 1200 South.

Inasmuch as the property you will use as your access was deeded to the City for the extension of 1200 South Street, when construction of this Street occurs, your access may be limited until the street construction is complete.

Said right of access cannot be rescinded by the City unless you have an alternate access to your property.

Your use is exclusively for access to and from your property and this license does not allow you to expand or alter this described use in any manner.

The City takes no responsibility to make further improvements or to maintain the access, remove snow or otherwise facilitate your use.

Any improvement or alteration of the access by you is strictly prohibited without written Permission of the Heber City Engineer.

Please call if you desire us to open up the access for your use under the above conditions or if you have any questions.

Sincerely,

J. Mark Smedley, Heber City Attorney

JMS/

Cc:

TAB B

Heber City Corporation
Retreat Agenda
January 25, 2014

- 7:45 a.m. Continental Breakfast
- 8:00 a.m. Mayor McDonald - Welcome
Review of Mission Statement and Motto
- 8:20 a.m. Mark Anderson - City Manager Report – Update on Budget
- 8:40 a.m. Reports from Department Heads – 10-15 minutes each – update on recent accomplishments and projects they are working on and upcoming department needs, includes time for Q & A.
- Bart Mumford
Stephen Tozier
Tony Kohler
Michelle Kellogg
Wes Greenhalgh
Mark Rounds
- 10:00 a.m. Break
- 10:15 a.m. Reports Continued
David Booth
Mark Smedley
- 10:45 a.m. Lt. Bradley – Emergency Preparedness Plan
- 11:05 a.m. Discuss Planning Commission Projects – Discuss Direction on Development Issues
- 11:30 a.m. Brad Baird – Presentation on Being Business Friendly
- 11:50 a.m. Lunch
- 12:30 p.m. Ryan Starks – Development of City Industrial Property by the Airport
- 12:50 p.m. Shawn Seager – Overview of RPO Transportation Plans
- 1:10 p.m. Discuss Budget Process 2014/15 – Policies and Meeting Dates – One time revenues one time expenses, surplus percent policy

1:30 p.m. Discuss City Council Priorities for Upcoming Budget Year

2:30 p.m. Mayor Final Remarks

Adjourn

TAB C

Section 2.48.010 Created--Membership.

A. There is created a Planning Commission within and for the City to be known as The Planning Commission.

B. The Commission shall consist of seven voting members, plus one non-voting alternate. However, said alternate shall vote in the event said alternate participates on the Commission in place of a voting member. All members shall be appointed by the Mayor with the consent of the City Council from among qualified electors of the City. Members shall be selected without respect to political affiliation and shall receive fifty dollars, (\$50.00) for each regular meeting attended. (Ord. 2003-25, 2003; Ord. 91-05, 1991; Ord. 194 §1, 1972)

(2010-04, Amended, 03/04/2010; 2007-41, Amended, 12/06/2007; 2006-01, Amended, 02/02/2006; 2004-31, Amended, 02/16/2004; 2003-25, Amended, 11/20/2003)

Section 18.12.100 Board of Adjustment--Created--Terms.

There is created a board of adjustment which shall consist of five members, each to be appointed by the governing body for a term of five years, provided that the terms of the members of the first board so appointed shall be such that the term of one member shall expire each year. Any member may be removed for cause by the governing body upon written charges and after a public hearing, if such public hearing is requested. Vacancies shall be filled for the unexpired term of any member whose term has not been completed. (Ord. 97-05, 1997; Ord. 202 §14, 1974; Ord. 199 §02.1110, 1973)