

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
November 7, 2023

APPROVED Minutes

4:00 p.m. Work Meeting
6:00 p.m. Regular Meeting

I. WORK MEETING - 4:00 P.M.

Mayor Franco called the meeting to order at 4:00 p.m. and welcomed everyone present.

City Council Present: Mayor Heidi Franco
Council Member Yvonne Barney - arrived 4:04 p.m.
Council Member Mike Johnston
Council Member Rachel Kahler
Council Member Scott Phillips
Council Member Ryan Stack

Staff Present: City Manager Matt Brower
Assistant City Manager Mark Smedley
Community Development Director Tony Kohler
Planning Manager Jamie Baron
City Engineer Russ Funk
Finance Manager Sara Jane Nagel
Human Resources Manager Cherie Ashe
City Attorney Jeremy Cook
City Recorder Trina Cooke

Staff Participating Remotely: IT Director Anthon Beales, Assistant City Manager Mark Smedley, Human Resources Manager Cherie Ashe, Public Works Director Matthew Kennard, City Treasurer Mindy Kohler, Deputy City Recorder Robin Raines-Bond, GIS Technician Shiona Howard, Accounting Technician Wendy Anderson, and City Engineer Russ Funk.

Also Present: Paul Royall, Wesley Crump, Sandra Olsen, Russell Olsen, Marty Oakeson, Terry Diehl, Chelsea Remund, Grace Doerfler, Nanine Allen, Logan Johnson, Tori Broughton, Di Ann Duke Turner, Sid Ostergaard, and others who did not sign in or whose handwriting was illegible.

Also Attending Remotely: (names are listed as signed in) Luke s, Phil Jordan, Aaron Cheatwood, Cw, Grace - KPCW, J. Nelson, Kamen Goddard, MK, Shortcake5, and

Logan Johnson.

1. Ideas for the Development of Muirfield Park (Wesley Crump, Sandra and Russ Olsen) - *15 min*

Utah Valley University (UVU) Extension Representative Wesley Crump presented the group's ideas for Muirfield Park as included in the attached materials. The group hoped to create a model community park. Sandra Olsen shared a video (found in the meeting recording) of a playground they were proposing for Muirfield Park and listed the benefits of an all-abilities playground. Mr. Crump noted possible grants to assist with funding.

Council Member Kahler preferred to keep Muirfield Park as a garden park. Council Member Stack felt the future Duke Park should be the regional park in Heber City. Mayor Franco informed the presenters of the Annual Council Retreat that would establish budget priorities for 2024.

2. Short Term Rentals (Jamie Baron, Planning Manager, Jacob Roberts, Planner) - *40 min*

Planner Jacob Roberts reviewed locations of the existing short-term rentals located in the City. He listed concerns and possible methods of regulation for short-term rentals. Staff was looking for direction from Council to proceed. Finance Manager Sara Jane Nagel shared the software used by the County to identify locations of short-term rentals within the County. City Attorney Jeremy Cook explained restrictions for enforcement. Council Member Kahler expressed concern that the City had created an ordinance that she felt set homeowners up for civil disputes. Council discussion ensued regarding the enforcement of short-term rentals located in HOAs as well as general enforcement, zoning, business licensing, and the effect of short-term rentals on affordable housing.

City Treasurer Mindy Kohler oversaw business licensing for the City and noted the majority of short-term rentals being issued business licenses were located in old-town Heber City where the majority of affordable housing was found. She said there were few located in the more affluent areas of the City. Council provided feedback and Staff indicated they would continue to research what had worked for other cities and seek additional solutions for Council consideration.

Marty Oakeson, resident, indicated he operated an Airbnb in the City and was unaware of the license requirement. He indicated he would get it licensed the following day. He felt the market was not strong enough to sustain many more nightly rentals in the area. He felt it was important to inform the community that a license was required to operate nightly rentals. Mayor Franco recommended adding information to the City website and including in the City newsletter.

3. Highlands Master Development Agreement (MDA) Amendment Presentation
(Denna Woodbury, Planning Consultant) - 45 min

Planning consultant Denna Woodward explained the request from the developer to amend the existing Master Development Agreement (MDA). Community Development Director Tony Kohler added that the information provided was intended as an introduction for Council but the process required the proposed changes be presented to the Planning Commission in order for a recommendation to be forwarded to Council prior to a decision.

DR Horton home-builder representative Adam Loser explained the request was to help ensure the builder interpreted the intent of the City's code correctly and that the builder was able to comply due to the hillside topography of the location. He shared images of the limitations of the architectural facade designs of the single-family and town homes as included in the meeting materials as well as changes to the courtyard design. Council discussion included the intent to include porches, self-imposed limitations of lot-width, and architectural style opinions.

Council Member Johnston noted the limitations of the architectural design that the Council had imposed within the code. Consensus of Council majority did not oppose the proposed changes to the town home and courtyard design but did not support increased density. Highlands representative Terry Diehl pointed out that the code allowed them to build 3-story buildings but they were trying to avoid building taller by constructing the buildings closer together.

Mayor Franco indicated the discussion had exceeded its time limit and the meeting would need to move forward. Council Member Barney felt there was too much information and asked for the discussion to be broken up into smaller segments when returned to Council.

4. Downtown Deer Mitigation Plan (Scott Phillips, Council Member) - 10 min

Council Member Phillips agreed to allow Work Meeting agenda item four to be moved to the end of the Regular Meeting in order to remain on schedule.

Council Member Phillips shared concerns with the deer herds living in downtown Heber City year-round. He had found a program through the Department of Natural Resources (DNR) that would euthanize the deer and donate the meat to food banks. The Mayor asked to discover the cost of the program to the City and bring the DNR in for additional discussion.

II. BREAK - 10 MIN

III. REGULAR MEETING - 6:00 P.M.

1. Call to Order

Mayor Franco called the Regular Meeting to order at 6:16 p.m. and welcomed everyone present.

2. Pledge of Allegiance (Yvonne Barney, Council Member)

Council Member Barney led the recitation of the Pledge of Allegiance.

3. Prayer/Thought by Invitation (Mike Johnston, Council Member)

Council Member Mike Johnston noted there was an election coming up. He felt serving in public office was one of the biggest challenges and biggest honors in life. He noted the Council's diversity in backgrounds and ideas and thanked each of them for working so well together, listening to each other, and for all of their collaboration and support.

IV. CONFLICT OF INTEREST DISCLOSURE:

There were no conflicts of interest disclosed.

V. AWARDS, RECOGNITION, and PROCLAMATIONS:

1. Swear-In New Police Officer Ty Cummings

Chief of Police Parker Sever introduced Officer Ty Cummings. Chief Sever noted Officer Cummings was from Heber City but had moved to Houston, Texas, for some time. He introduced Officer Cummings' wife Liz and daughter Luna.

Heber City Recorder Trina Cooke swore in Officer Ty Cummings. Liz Cummings pinned his badge to his uniform.

VI. CONSENT AGENDA:

1. Approval of October 17, 2023, City Council Meeting Minutes (Trina Cooke, City Recorder)

Motion: Council Member Phillips moved to approve the October 17, 2023, City Council Meeting Minutes. **Second:** Council Member Johnston made the second. **Voting Yes:** Council Members Johnston, Barney, and Phillips. **Voting No:** None. Council Members Kahler and Stack abstained as they had not been in attendance. The **Motion Passed 3-0.**

2. Ordinance 2023-37 Adopting Supplemental Zoning Code Update (Tony Kohler, Community Development Director)

Council Member Kahler was concerned about approving an ordinance she felt lacked enforcement. City Attorney Jeremy Cook explained that the City Code included a

default misdemeanor penalty of up to a \$1,000 fine and/or six-months in jail. He explained the City's Justice Court helped with enforcement. City Manager Matt Brower praised the efforts of the current Code Enforcement Officer Travis Price. Council Member Barney was concerned about houses that were left vacant and neglected. Council Member Stack asked whether anything could be done about a home that seemed to be used as a storage facility. Discussion continued.

Motion: Council Member Phillips moved to approve Ordinance 2023-37 adopting the Supplemental Zoning Code Update. **Second:** Council Member Stack made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

3. Resolution 2023-19 Authorizing the Annexation and Withdrawal of Certain Property Into and Out Of the Jordanelle Ridge Public Infrastructure District No. 2 (Jeremy Cook, City Attorney)
4. Ordinance 2023-38 Wittco Master Development Agreement (Tony Kohler, Community Development Director) -

City Engineer Russ Funk shared that there was language in the Wittco agreement that provided a 17-foot easement for a future road and noted the need for five more feet to build a sidewalk. Ben Witt, property-owner, agreed to allow the sidewalk shown in the rendering to be included in the easement dedicated to the City.

Motion: Council Member Kahler wished to remove Consent Agenda Item 2 for further discussion and moved to approve Resolution 2029-19 authorizing the annexation withdrawal of certain properties into and out of the Jordanelle Ridge Public Infrastructure District number two as well as Ordinance 2023-38 the Wittco Master Development Agreement including the 22 and one-half feet in clause nine as requested by Engineering. **Second:** Council Member Stack made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

Discussion returned to Consent Agenda Item number two.

VII. PUBLIC COMMENTS: (3 min per person/20 min max)

Mayor Franco reminded everyone of the election date on Tuesday, November 21, 2023, and provided voting details.

Mike Bradshaw, resident, wished to express his appreciation to the Council, especially the outgoing Council Members Ryan Stack and Rachel Kahler as they were not running for reelection. He thanked them all for their service.

Luke Searle, resident (online), thanked Russ Funk, Sunrise Engineering, and all of the construction crews for the road construction project that was completed in his

neighborhood for the Central Heber Replacements Project.

Chelsea Raymond, resident, lived in a self-help homes neighborhood and wished to express concern for the number of nightly rentals in the neighborhood, noting the neglect of certain properties. She hoped there was something to be done. Joseph Packard, a neighbor in the subdivision, proposed solutions such as setting boundaries or a limitation of capacity; requiring permits as well as owner residency; and enforcement by the City. Discussion followed.

Di Ann Duke Turner, resident, expressed concern with the time taken by the meeting presenters who went over their allotted time on the agenda without being cut off versus the limitation of public comments that were held to three minutes by a timer. She did not think the Council should comment during the Public Comment period as Council comments consumed the publics already limited time.

Nanine Allen, resident, asked for clarification of the Wittco property request. She recalled the Planning Commission recommendation had been for the property to remain residential with no commercial. Council responded that the project had been approved allowing for commercial on the main level.

VIII. GENERAL BUSINESS ITEMS:

1. Monthly Development Report (Jamie Baron, Planning Manager) - 10 min

Community Development Director Tony Kohler reviewed the project applications received for the month of October as listed in the attached presentation. Council Member Kahler was concerned that she had seen a real estate advertisement for a development promoting short-term rentals. She felt that promoting investment properties for short-term rentals inhibited the City's attempt to provide affordable housing for the community.

2. Heritage Farms Parkway and General Roads Update (Russ Funk, City Engineer) - 10 min

City Engineer Russ Funk detailed the roads project. He stated that Heritage Farms Parkway would not be completed in 2023. There had been a freezing morning that prevented the curb and gutter from being poured, thereby preventing completion of the asphalt surfacing. Council Member Kahler asked that Staff communicate with the public when 550 East would re-open. Mr. Funk informed that the road maintenance project remained approximately 20% incomplete and Staff was in the process of negotiating with the contractor for upgraded service and/or product. Council Member Barney expressed appreciation for the contractor's efforts to get the road project in her neighborhood done. City Manager Matt Brower noted the impressive efforts and achievement of City Staff that had been applied to the immense project.

IX. ACTION ITEMS: (Council can discuss; table; continue; or approve items)

1. Ordinance 2023-32 College Downs Annexation (Tony Kohler, Community Development Director) - *30 min*

Community Development Director Tony Kohler explained the commercial development had been prioritized in the proposed changes as suggested by Council previously. City Engineer Russ Funk asked for confirmation of the road dedication. The agreement required compliance with the City's Street and Storm-Water Master Plan. He felt the road dedication needed to be captured clearly in the site-plan. Project representative Logan Johnson answered Council questions. Mayor Franco inquired about the transportation plan. Mr. Johnson stated the transportation provider had informed him of their intention to install bus stops on the highway only, not within the development. Discussion regarding the proposed amendments to the agreement continued.

Mayor Franco opened the discussion for public comment. None came forward.

Council Member Stack expressed that he would not support the project due to the high number of apartment buildings.

Motion: Council Member Phillips moved to adopt Ordinance 2023-32 approving the College Downs Annexation and associated MDA as presented with the findings and conditions listed in the Staff Report. **Second:** Council Member Johnston seconded the motion.

Discussion: Mayor asked the intended height of the apartment buildings. Mr. Johnson stated they would be four stories on the downhill side and three on the uphill. Mayor Franco reminded that five-stories was prohibited in the development agreement. City Attorney Jeremy Cook agreed to add clarifying language that no structure along highway 40 would exceed three-stories with a four-story max elsewhere in the development.

Voting Yes: Council Members Kahler, Johnston, and Phillips. **Voting No:** Council Members Barney and Stack. The **Motion Passed 3-2.**

2. Resolution 2023-20 Implementing the Terms of the Predevelopment Agreement with OK3 Air and the Airport Master Plan and Rescinding Prior Moratoria (Matt Brower, City Manager, Jeremy Cook, City Attorney) - *10 min*

City Manager Matt Brower provided an explanation for the agenda item. In 2019, Council approved Resolution 2019-09 suspending any development at the airport until the adoption of the Airport Master Plan. The FAA had accepted the Airport Master Plan in October 2023. He reviewed the details of Resolution 2023-20, conditionally rescinding the development moratorium at the Heber Valley Airport.

Mayor opened the discussion for public comment. None came forward.

Motion: Council Member Phillips moved to adopt Resolution 2023-20 canceling Resolution 2019-09 maintaining a development moratorium on the North and South FBO (fixed base operator) Campuses pursuant to the terms of the Predevelopment Agreement with OK3 AIR as presented, with the findings and conditions as presented in the conclusion in the Staff Report. **Second:** Council Member Johnston seconded the motion.

Discussion: Council Member Kahler asked for clarification of the Airport's Minimum Standards. Mr. Brower answered that the Minimum Standards would be updated in the near future and Airport applications would need to comply with both the existing and future Minimum Standards. Council Member Johnston added that OK3's veto power of the Minimum Standards had been removed in the settlement agreement.

Voting Yes: Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** none. The **Motion Passed 5-0.**

3. Finalize Main Street Park/200 South Bandshell Design and Architecture (Matt Brower, City Manager) - *10 min*

Sid Ostergaard, sub-consultant to Landmark Design, provided images and information for the proposed design of the Main Street Park band-shell. Council discussed and provided feedback, resulting in the Council's request to change the size and location of the cupola atop the band-shell.

Mayor opened the discussion for public comment. Paul Royal shared that the cupola could be taken away as it was only decorative. Community Development Director Tony Kohler shared the inspiration for the design had come from the barns in the valley that had cupolas. Di Ann Duke Turner asked what would become of the businesses across the street from the band-shell on 200 South. She thanked the Council for their service. Mr. Brower had met with the business-owners who had expressed support of the plan.

Phil Jordan, Arts Advisory Committee Member, supported the proposed band-shell. He had been included in the design team and shared his extensive experience building and designing stages. Council discussion regarding the design continued.

Motion: Council Member Phillips moved to accept the whiteboard drawn rendering of the band-shell's roofline, structural, and material design that was presented. **Second:** Council Member Barney seconded the motion.

Amended Motion: Council Member Phillips amended his motion to make the cupola smaller. Council Member Barney's second stood. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

Mr. Brower said he would be holding a meeting with the business owners and property owners across the street from the proposed band-shell location. He intended to replace

the asphalt with pavers for the stretch of road between Main Street and 100 West.

4. Converting two part-time positions into one full-time position in the Police Administrative office (Cherie Ashe, Human Resources Director, Jeremy Nelson, Deputy Police Chief) - 10 min

Human Resource Manager Cherie Ashe explained the request to combine two existing part-time administrative positions at the Police Department.

Motion: Council Member Phillips moved to approve the item as presented with the findings and conditions as listed in the Staff Report. **Second:** Council Member Kahler seconded the motion. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

Mayor Franco returned the meeting to item four on the Work Meeting agenda.

X. COMMUNICATION:

Mr. Brower invited the Council to a site visit to see where the new cemetery admin building was planned to be built. He shared the newest location of a mural for the Arts in Public Places on the laundromat wall across from the Public Safety Building; reminded everyone of the dates for the Old Fashioned Christmas and the City Staff Christmas Party; there would be two City Council Meetings in December; and he asked Council to consider dates for the Annual Council Retreat, aiming for the week of January twenty-second.

City Engineer Russ Funk shared the anticipation to shut down the replacements projects for winter but the contractor did not want to lose his crew. He was asking to do alternate necessary sewer line replacements in order to keep them working. Council supported the proposal.

Sid Ostergaard asked if Council would be able to give their approval through email once the updated band-shell renderings were prepared. It was agreed that the Council had already approved the updated version but wished to see the renderings once prepared.

XI. ADJOURNMENT:

Motion: Council Member Phillips moved to adjourn. **Second:** Council Member Stack made the second. The Heber City Council Meeting adjourned at 8:55 p.m.



Trina Cooke, City Recorder