

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting **AMENDED**
December 5, 2023

APPROVED Minutes

4:00 p.m. Closed Executive Session
4:30 p.m. Work Meeting
6:00 p.m. Regular Meeting

I. CLOSED EXECUTIVE SESSION - 4:00 P.M.

Mayor Franco called the meeting to order at 4:02 p.m.

City Council Present:

Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Mike Johnston
Council Member Rachel Kahler
Council Member Scott Phillips - remotely
Council Member Ryan Stack

Staff Present:

City Manager Matt Brower
City Engineer Russ Funk
City Attorney Jeremy Cook
City Recorder Trina Cooke

1. Strategy session to discuss the purchase, exchange, or lease of real property
(Russ Funk, City Engineer)

Motion: Council Member Stack moved that the meeting enter Closed Session for the purpose of discussing the purchase, exchange, or lease, of real property. **Second:** Council Member Kahler made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** None. The **Motion Passed unanimously, 5-0.** The Heber City Council Meeting entered Closed Session at 4:03 p.m.

Motion: Council Member Kahler made the motion to adjourn the Closed Session. **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.** The Closed Session adjourned at 5:03 p.m.

II. WORK MEETING - 4:30 P.M.

Mayor Franco called the meeting to order at 5:05 p.m. and welcomed everyone present.

City Council Present: Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Mike Johnston
Council Member Rachel Kahler
Council Member Scott Phillips - remotely
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 Director Sara Jane Nagel
City Attorney Jeremy Cook
Deputy City Recorder Robin Raines-Bond
City Recorder Trina Cooke

Staff Participating Remotely: Finance Director Sara Jane Nagel, Community Development Director Tony Kohler, IT Director Anthon Beales, Human Resource Manager Cherie Ashe, Engineering Administrative Assistant Desiree Muheim, Assistant City Manager Mark Smedley, Public Works Director Matthew Kennard, City Treasurer Mindy Kohler, Deputy City Recorder Robin Raines-Bond, City Engineer Russ Funk, and Accounting Technician Wendy Anderson.

Also Present: Mike Glenn, Missy Manghan, Dave Fuller, Max Covey, Phil Jordan, Dallin Koecher, Joshua Jewkes, Pat Sweeney, Sid Ostergaard, Grace Doerfler, Tori Broughton, Melissa McMillan, C Moore, L.A. Morales, Linda L. Middleton, Jacob S. Anderson, Christian Payan, Kayden Davis, Jaxson Persch, Aaron Cheatwood, Jason Norlen, Jordan Behunin, Riley Wright, and others who did not sign in or whose handwriting was illegible.

Also Attending Remotely: (Names are shown as signed-in online) Christen Thompson, J, Mark Evans, Megan Ryan, BB, BM, Lisa Jane Dinga, Matt, DW, Helena Glenn, John Janson, Mike, Brock M, Denna Woodbury, Jason, Nick Lopez, Shortcake, Shorty 5, Wasatch Wave, and Sid Ostergaard.

1. Ground Lease and Parking Agreement for Performing Arts Center (Matt Brower, City Manager, Phil Jordan) - 25 min

Wasatch County Arts Council President Pat Sweeney and representative Phil Jordan presented details of the performing arts theater they planned to have built for Wasatch County. They shared images of the proposed building and parking structure, described the details of each, and listed services and opportunities the center would offer as

shown in the attached PowerPoint presentation. Mr. Jordan shared a projected timeline with the estimated time of completion for the project in 2028.

Heber City Manager Matt Brower provided an overview of the proposed Ground Lease and Parking Agreement between Heber City and the Wasatch County Arts Council as well as detailed the essential terms within, as outlined in the attached Staff Report and PowerPoint. Council provided feedback regarding the agreement and discussed additional details. The agenda item would return on the December 19, 2023, City Council Meeting as an Action Item for Council approval.

2. Fiscal Year 23-24 Budget - Evaluating Funding and Police Department Staffing (Jeremy Nelson, Deputy Police Chief, Sara Nagel, Finance Manager) - 25 min

City Manager Matt Brower reminded Council of the direction they had given the Police Department to return mid-fiscal year to reintroduce the request for the fulfillment of a third new police officer position in the budget. Finance Manager Sara Nagel shared the financial status of the funds in the budget that would be needed to fulfill the requested position. She noted the reliance on sales tax to pay for added full-time positions in the City and the volatility of said sales tax.

Chief of Police Parker Sever provided numbers of police officers and call-outs in comparable cities. Each city listed had several more officers per capita, while the number of call-outs was far fewer. He reviewed the additional pressures on the department. He felt that as Heber City continued to grow, the police department staffing needed to stay ahead of the growth rather than get behind. Discussion with Council followed resulting with a majority consensus expressing support for the additional officer request.

3. Discussion Regarding TCSSD Sewage Wheeling Fees (Russ Funk, City Engineer) - 25 min

City Engineer Russ Funk explained the request of Twin Creeks Special Service District (TCSSD) to lower the renewal and replacement fees paid by them to Heber City. The request was based upon the results of a Sewage Wheeling Study completed for a Shared Sewer Agreement between Heber City and Charleston.

SSD Director Max Covey explained that their goal was to achieve a fair solution for both parties. Consulting Engineer Justin Dietrich with Bowen and Cohen Associates provided the reasoning for their request to lower the fee to 1% from 1.4%. Fees of 1.4% calculated the full replacement of all Heber City pipes utilized by TCSSD. TCSSD felt it was unlikely there would be need for a full replacement of all Heber City pipes within the next 75 years and 1% would cover necessary costs of repairs and/or replacements of pipes utilized by TCSSD. TCSSD asked that Heber City agree to allow TCSSD to pay the fees calculated at 1%. Council feedback and discussion followed.

Council majority provided direction to move forward with the Sewage Wheeling Fees established at 1% in the Shared Sewer Agreement.

III. BREAK - 15 MIN

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

1. Call to Order

Mayor Franco called the meeting to order at 6:30 p.m.

2. Pledge of Allegiance (Mike Johnston, Council Member)

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

3. Prayer/Thought by Invitation (Rachel Kahler, Council Member)

Council Member Kahler shared a prayer.

V. CONFLICT OF INTEREST DISCLOSURE:

There were no conflicts of interest to disclose.

VI. AWARDS, RECOGNITION, and PROCLAMATIONS:

Mayor Franco recognized the following staff members for their achievements and positive representation of the City and presented each with token of appreciation:

1. Mayor's Award for Candace Bufton receiving the 2023 Outstanding Administration Award from the Intermountain Chapter of AWWA (the American Water Works Association)
2. Mayor's Award for Officer Chandra Crosby for Outstanding Work and Going Above and Beyond her Job Duties
3. Mayor's Award for Public Works Crew: Jacob Anderson, Blake Walton, Cristian Payan, Kayden Davis, and Thomas Coleman for Outstanding Work and Expeditious Effort

VII. CONSENT AGENDA:

Motion: Council Member Stack moved to remove Item Five from the Consent Agenda and to approve Items One through Four. **Second:** Council Member Kahler made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** None. The **Motion Passed unanimously, 5-0.**

1. November 7, 2023, City Council Meeting Minutes (Trina Cooke, City Recorder)
2. Ordinance 2023-44 adopting the 2024 Annual City Council Meeting Schedule (Trina Cooke, City Recorder)
3. Fiscal Year 2025 Budget Calendar Adoption (Sara Nagel, Finance Manager)
4. Resolution 2023-22 Recertifying the Heber City Justice Court (J. Mark Smedley, Asst. City Manager)
5. Ordinance 2023-45 Amending Heber City Code Section 5.26.040 to remove HOA Consent Letter for Short-Term Rentals (Jeremy Cook, City Attorney)

City Attorney Jeremy Cook reviewed the business licensing requirements by the City for short-term rentals. He explained the reasoning for the proposed amendment to the code to remove Home Owners Association (HOA) approval to issue business licenses for short-term rentals. He did not feel it was appropriate for the City to have any involvement with private HOA requirements. Mr. Cook reminded Council that the conversation needed to be a city-wide conversation and not focus on one property owner's complaint. Council discussion followed.

Mayor Franco opened the meeting for public comment.

Aaron Cheatwood, Council Member-Elect, supported the revocation of a business license if an HOA came forward indicating there was a short-term rental operating in their private community where short-term rentals were prohibited by the HOA's CC&Rs (Covenants, Conditions, and Restrictions).

Linda Middleton lived in a neighborhood with a lot of events nearby. She felt it was imminent there would be more investors coming to Heber City for rental homes based upon the possibility of the Olympics returning. She felt the community wanted to remain a residential home-town. She felt the issue could be resolved with zoning and that neighborhoods were not equipped to house the event participants.

Tony Parcle owned a second-home in Heber that he rented out as a short-term rental. He had been unaware of the business license requirement but had done all else to be compliant. He had reached out to all the neighbors to ensure the short-term rental was not a nuisance. The HOA of the private community his home was located in was defunct, thereby, invalidating any of the restrictions originally adopted. He indicated that if the private community did reactivate the HOA and the decision was made to not permit short-term rentals, he would abide by the rule.

Paul Berg proposed permitting short-term rentals by overlay zones or as a conditional-use.

Motion: Council Member Barney moved to keep the Ordinance [Code] as-is and to have further discussion in the coming year. **Second:** Council Member Kahler made the

second.

Discussion: Council Member Stack noted he would support revisiting overlay zones. Council Member Phillips felt HOAs needed to be part of the discussion. Mayor Franco asked whether grandfathering would be an issue based on the annual business license requirement. Mr. Cook confirmed that if there was an exception under a grandfather clause, the exception would expire at the end of the year with business license renewals.

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

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

Linda Middleton, resident, thanked Council for the tree-lighting event. She felt it went very well. She wanted west Heber near Southfield Road to be a focus for less construction, less disruption, sidewalks along the Wasatch County Event-Center, where they put up the tall fence, and she wanted to know if anyone knew the UDOT (Utah Department of Transportation) decision whether the fence needed to be moved or changed and how long it would take before they got sidewalks so the residents did not need to walk in the streets on 650 South. She detailed the construction and hazards created by the construction on 650 South as well as the suffering inflicted on the surrounding neighbors. She wanted the Heber City Council to be the hierarchy for what happened in Heber, not the County, and not UDOT. She appreciated the time and effort the Council put into making Heber a wonderful place to live and for making events safe.

Tony Pericle had recently purchased a home in Heber City. He expressed gratitude for the service of the Mayor and Council. He had sent each of them a letter and respectfully requested Council's consideration to approve the proposed ordinance regarding short-term rentals. His second home was being operated as a short-term rental in Heber City. He shared his extensive due-diligence to preserve neighborhood tranquility. He had provided his phone number to the surrounding neighbors in order to allow them to report disturbances to him directly. He had been informed of the recent complaints received by the City from a neighbor. He had been informed when researching buying the home that there was no active HOA (Homeowners Association) with rules prohibiting a short-term rental. He noted State Code indicated that if there was no active HOA, there was no enforcement ability. Mayor Franco asked to reserve additional Council discussion until the meeting arrived at that specific agenda item.

Catherine Moore lived by the Main Street Park and expressed a love-hate relationship with the Farmers Market held at the City's Main Street Park on Thursdays every summer. She felt it was upsetting when people's dogs jumped her fence into her yard. She listed safety concerns with the traffic, and the parking issues that came with the event. She hoped the City would consider her concerns and work to provide solutions.

IX. GENERAL BUSINESS ITEMS:

1. Monthly Development Report (Jamie Baron, Planning Manager) - 5 min

City Planning Manager Jamie Baron presented the previous months project applications as included in the attached presentation.

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

Discussion returned to Consent Agenda item five which had been removed from the Consent Agenda in order to allow for Council discussion.

1. 2023 Municipal Election Canvass (Trina Cooke, City Recorder) - 5 min

City Recorder Trina Cooke presented the 2023 Municipal Election Results. The voters re-elected Mike Johnston to the first City Council seat; Aaron Cheatwood to the second seat; and Sid Ostergaard to the third City Council seat. Proposition 9 to impose a 0.05% EMS sales tax passed.

Motion: Council Member Phillips moved to approve the Canvass of the Heber City Municipal Election results with the findings and conditions in the conclusion as presented. **Second:** Council Member Kahler made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** None. The **Motion Passed unanimously, 5-0.**

2. Wilcox Property Acquisition Agreement (Russ Funk, City Engineer) -

City Engineer Russ Funk noted the agenda item had been discussed in the preceding Closed Session.

Mayor Franco opened the discussion for public comment.

Mark Evans asked for an overview of the discussion. City Attorney Jeremy Cook advised against providing any details until the property acquisition was finalized. City Manager Matt Brower noted the agreement would be a public record once finalized. Mr. Funk noted the City would be contacting Mr. Evans in the near future to discuss the acquisition of his property.

Motion: Council Member Phillips moved to approve the acquisition of property as discussed in the Closed Session. **Second:** Council Member Stack made the second.

Discussion: Council Member Kahler noted her vote would be due to the high cost of the roundabout.

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

3. Downtown Deer Mitigation Plan (Scott Phillips, Council Member, Jeremy Nelson, Deputy Police Chief) - *10 min*

Council Member Phillips wished to clarify that the intent for the proposed deer mitigation was not to eradicate all deer from the City but rather to address the deer herds that were making the City their full-time home and not returning to the mountains in the summer months. Deputy Chief of Police Jeremy Nelson shared a PowerPoint as attached to the meeting materials providing details of the DWR (Division of Wildlife Resources) programs available for deer mitigation within city limits. He listed the responsibilities of the City if the City did choose to proceed with any of the available options as well as what the City was and was not allowed to do. Council discussion followed.

Mayor Franco opened the discussion for public comment.

Lynda Middleton knew of good taxidermists and that trophies of hunted animals could cost thousands of dollars. She had not realized the need for deer mitigation until she had hit a deer with her car and the deer had gone through her windshield. She said her concern would grow with the potential bypass and the increased traffic that would come with a possible Olympics. She was concerned about feeding venison to people who were not used to the taste and felt the taxidermists in the community could benefit from the trophies of the deer.

Mike Hewlett stated that the mule-deer herd population in Utah had decreased by over 50% over the past year. He felt another hard winter could be devastating to the remaining deer population and saw no need to kill additional deer.

Cathy Moore agreed. She loved seeing the deer in the neighborhood and did not support deer mitigation.

Council Member Phillips agreed with Council Member Barney's suggestion for a way to allow residents who had deer nuisances mitigation options. Lt. Nelson noted the state did not permit individual mitigation and that it was illegal to taxidermy the protected mule deer. Council Member Kahler did not wish to pursue deer mitigation but expressed appreciation for the information. Council Member Johnston agreed with her. Consensus of Council majority did not wish to pursue deer mitigation within City limits.

4. Accept/Reject MTech Annexation Petition of 10.41 acres located at approximately 900 West 100 South (Denna Woodbury, Planning Consultant) - *20 min*

Planning Consultant Denna Woodbury presented the information for the annexation petition as included in the meeting materials attached. The proposed annexation for the land owned by Mountainlands Technical College was located adjacent to the recently annexed Wasatch County High School land.

Motion: Council Member Kahler moved to accept the annexation petition. **Second:** Council Member Johnston made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** None. The **Motion Passed unanimously, 5-0.**

5. Ordinance 2023-41 Amendment to General Plan to Incorporate the Envision Central Heber Vision (Tony Kohler, Community Development Director, John Janson, Planning Consultant) - *15 min*

Planning Consultant John Janson presented. He explained that with the adoption of the City's Envision Heber 2050 general plan, came the need for the municipal code to be updated in order to align with the plan. The proposed amendments to the City code were in effort to achieve that alignment. He listed the specific changes proposed in this ordinance as outlined in the attached Staff Report.

Mayor Franco opened the discussion to public comment.

Linda Middleton was grateful that the new zoning rules were available online for public consumption. She asked how soon the proposed updates would be available. She was concerned about additional pavement being added for parking and appreciated the infrastructure going in first before the pavement.

Catherine Moore asked if there would be additional laws to require helmets with the e-bikes on the roads now. She was concerned about the traffic during events. Chief Parker Sever explained the law considered anything with pedals a bicycle.

Motion: Council Member Johnston moved to adopt Ordinance 2023-41 amendments to the general plan to incorporate the Envision Central Heber vision including the proposed change to page 21 on central neighborhood uses to only include single-family dwellings as recommended by Mr. Janson. **Second:** Council Member Phillips made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** None. The **Motion Passed unanimously, 5-0.**

6. Review Ordinance 2023-39 Updating the C-3 Zone, Parking Regulations and C-3 Design Criteria (Tony Kohler, Community Development Director, Jason Norlen) - *45 min*

Planning Consultant John Janson reviewed the proposed changes as outlined in the attached Staff Report and detailed the setbacks proposed. He noted the details discussed by the Planning Commission as well as the open house hosted to address the public's concerns.

City Engineer Russ Funk recognized the discussion at hand was specific to the C-3 zone but wanted the Council to understand the issue should be carried over to other zones as well. Jason Norlen, General Manager of Heber Light and Power, shared a PowerPoint with images of utility boxes in limited spaces. He described the difficulties

faced by the utility workers when setbacks continued to be reduced and smaller utility easements were required in developments. The workers were unable to access utility boxes in confined and tight spaces with the necessary equipment. City Engineer Russ Funk did not want to have a 3-15 foot range as he felt that set him up for an argument with every developer. He wished to see a 15-foot minimum distance established for setbacks on utility easements. Public Works Director Matthew Kennard shared the safety concerns faced by his department as well as the lack of space for snow removal. Mr. Janson felt a 15-foot setback requirement in the C-3 zone would not allow developers to follow the Envision Heber 2050 design guidelines. Council Member Stack asked how other cities and towns had addressed the same concerns. Council discussion followed.

Motion: Council Member Stack moved to continue the item to allow Staff more time to research the issues discussed and return to Council with their findings. **Second:** Council Member Kahler made the second.

Discussion: Mayor Franco asked what the current setback was for the C-3 zone. Mr. Funk answered that it was currently a zero-lot line setback. Council Member Stack clarified the motion to continue was until Staff was prepared to return with additional information.

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

7. Ordinance 2023-42 Updating Chapter 18.04 General Provisions, Chapter 18.12 Administration, Chapter 18.16 Zones Generally and Chapter 2.38 and 2.48 of the Heber City Municipal Code (Tony Kohler, Community Development Director, Meg Ryan, Planning Consultant) - 30 min

Planning Consultant Meg Ryan presented the proposed updates to the City Code as included in the attached Staff Report.

Motion: Council Member Stack moved to approve Ordinance 2023-42 as presented. **Second:** Council Member Barney made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** None. The **Motion Passed unanimously, 5-0.**

8. Vector System Procurement to Track Operations and Collect Landing Fees at Heber Valley Airport (Travis Biggs, Airport Director) - 15 min

Airport Manager Travis Biggs explained the Vector aircraft tracking system that would be able to calculate the landing fees collected at the Heber Valley Airport. Currently, the collection of landing fees was outsourced and tracked only during business hours. The proposed system would allow the Airport to collect landing fees after hours and on weekends. Vector representative Helena Glenn expanded upon the services provided by Vector and noted that it was widely used across the state, as well as nationwide,

which incentivized airport users to remain in good standing and to pay the fees they were billed for. The Vector company would charge the Heber Valley Airport 16% of the landing fees for the initial duration of a five-year contract.

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

9. Establish City Council Retreat Dates for January 2024 (Matt Brower, City Manager) - 10 min

Council determined to hold the 2024 Annual City Council Retreat on Thursday evening January 18, and Saturday morning January 20, 2024.

XI. COMMUNICATION:

City Manager Matt Brower reminded Council of the upcoming holiday party dates and times. He shared the dates and times for two Council-elect orientations planned in December and thanked everyone involved for the successful tree-lighting event the previous Friday.

City Engineer Russ Funk provided an update on the status for multiple ongoing roads projects.

XII. ADJOURNMENT:

Motion: Council Member Kahler moved to adjourn. **Second:** Council Member Johnston made the second. The City Council Meeting adjourned at 10:12 p.m.




Trina Cooke, City Recorder