

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
AMENDED AGENDA
October 15, 2024

DRAFT Minutes

4:30 p.m. Closed Meeting
5:00 p.m. Work Meeting
6:00 p.m. Regular Meeting

I. CLOSED MEETING: 4:30 P.M.

Mayor Pro-tem Aaron Cheatwood called the meeting to order at 4:32 p.m. and welcomed everyone present.

1. Pending or Reasonably Imminent Litigation: UCA 52-4-204 and 205 ()

Motion: Council Member Mike Johnston moved to enter a Closed Meeting for the purpose of discussing reasonable or imminent litigation. **Second:** Council Member Sid Ostergaard seconded the Motion. **Voting Yes:** Council Members Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was absent. The **motion Passed 4-0.**

City Council Present: Council Member Yvonne Barney
Council Member Aaron Cheatwood - Mayor Pro-Tem
Council Member Mike Johnston
Council Member Sid Ostergaard

City Council Absent: Mayor Heidi Franco
Council Member Scott Phillips

Staff Present: City Manager Matt Brower
City Attorney Jeremy Cook
City Recorder Trina Cooke
Chief of Police Parker Sever

Motion: Council Member Johnston moved to adjourn the Closed Meeting.
Second: Council Member Ostergaard made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was absent. The **Motion Passed 4-0.** The Closed Meeting adjourned at 5:00 p.m.

II. WORK MEETING - 5:00 P.M.

Mayor Pro-tem Aaron Cheatwood called the Work Meeting to order at 5:02 p.m. and welcomed everyone present.

City Council Present: Council Member Yvonne Barney
Council Member Aaron Cheatwood - Mayor Pro-Tem
Council Member Mike Johnston
Council Member Sid Ostergaard

City Council Absent: Mayor Heidi Franco
Council Member Scott Phillips

Staff Present: City Manager Matt Brower
Community Development Director Tony Kohler
Planning Manager Jamie Baron
City Engineer Russ Funk
City Attorney Jeremy Cook
Parks and Cemetery Director Mark Rounds
City Recorder Trina Cooke
Chief of Police Parker Sever

Staff Participating Remotely: Assistant City Manager Mark Smedley, IT Director Anthon Beales, Planning Manager Jamie Baron, Engineering Technician Desiree Muheim, Public Works Director Matthew Kennard, Deputy City Recorder Robin Bond, Human Resources Manager Cherie Ashe, Finance Director Sara Jane Nagel, Accounting Tech Kelli Silcox, and Wendy Anderson.

Also Present: Jeff Harris, Macie Harris, Kirt Michaelis - MTech, Elora Van Haren, Lori Thompson, Jonathan Munez, Les Thompson, Tammy C. Lewis, Randy Lewis, Grace Doerfler - KPCW, Russ Watts, Jim Harper, Joshua Jewkes, Tori Broughton, Eric Carlsen, and others who did not sign in or whose handwriting was illegible.

Also Attending Remotely: (Names are shown as signed-in online) DW, Michael Paulus, Randy Larsen, B, Brock Marchant, Cal, Huh, Grace Doerfler - KPCW, Jamie Hewlett, Jo Ko, John, Kirt M - MTech, S, Shorty5, and Toni Brown.

1. Ordinance 2024-22, approving the MTech Annexation and MDA, for property located at approximately 890 West 100 South. (Denna Woodbury, Planning Consultant, Tony Kohler, Community Development Director) - 30 min

Community Development Director Tony Kohler reviewed the status of the ongoing Mountainland Technical College (MTech) Annexation process and the previous direction and requests of Council. MTech was not subject to the same development requirements of the City due to its State agency status. Therefore, Staff was attempting to reach a mutually agreeable and collaborative Development Agreement to ensure the development met the necessary engineering requirements for the City.

MTech representative Kirt Michaelis was present for discussion with Council. He clarified there were no wetlands at the location. Based on a traffic study already having been performed, project representative Paul Berg had asked the traffic study request be removed from the proposed agreement. Council discussion to fine tune the proposed agreement followed. The agenda item would return later on the Action Items agenda for approval of Ordinance 2024-22 to accept or reject the annexation.

2. Business License Fee Study (Mindy Kohler, Treasurer) - 20 min

City Treasurer and Business License Administrator Mindy Kohler stated that the Council had requested the recently performed Business License Study return for further Council discussion. Ms. Kohler reviewed the study results as provided by Zion's Public Finance as included in the attached meeting materials. She noted the Business License fees had not been updated in approximately 10 years. She reviewed fee discrepancies for undercharged businesses that utilized more of the City's resources. Council asked the item be returned to a future meeting in 2025 to discuss updates to fees as appropriate.

III. BREAK - 10 MIN

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

1. Call to Order

Mayor Pro-Tem Aaron Cheatwood called the Regular Meeting to order at 6:00 p.m. and welcomed everyone present.

2. Pledge of Allegiance (Aaron Cheatwood, Council Member)

Council Member Aaron Cheatwood led the recitation of the Pledge of Allegiance.

3. Prayer/Thought by Invitation (Scott Phillips, Council Member)

Council Member Johnston shared two mottos of the Rotary Club:

1. Service above self
2. One profits most that serves best

One of the things he loved about Heber City and the Valley was the community's willingness to serve. He recalled attending the Wasatch Community Foundation Gala the previous week and recognized how many people were willing to give and serve others. He said people who put service above self were made a better person. He applauded everyone willing to participate in serving others.

V. CONFLICT OF INTEREST DISCLOSURE:

Council Member Ostergaard disclosed that presenter Tony Tyler was a client of his firm, but he did not have a conflict.

VI. CONSENT AGENDA:

Council Member Johnston asked Chief of Police Parker Sever to explain the purpose of the evidence purge. Chief Sever shared the evidence purge process was dependent upon the item and the status of the incident or case. For example: the Police Department had a burn device for drugs, there was a specific process to dispose of guns, cash was deposited into the City's General Fund, and unclaimed found money was returned to the person that turned it in.

Motion: Council Member Johnston moved to approve items one; the evidence purge, and three; the Mayor's nominations, on the Consent Agenda. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was absent. The **Motion Passed 4-0.**

1. Police Department Evidence Purge Request (Jennafer Morris)
2. Ordinance 2024-22, approving the MTech Annexation and MDA, for property located at approximately 890 West 100 South (Denna Woodbury, Planning Consultant) -

Motion: Council Member Ostergaard moved to adopt Ordinance 2024-22 approving the MTECH Annexation and Master Development Agreement with the following changes as mentioned in the Work Meeting: in 9a. that MTECH "would review plans with the City's Engineering Department"; review dark sky compliance; and to strike the third "whereas". **Second:** Council Member Johnston made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was not present. The **Motion Passed 4-0.**

3. Mayoral Nomination to the POSTT (Parks, Open Space, Trails, and Trees) Committee and the Historical Preservation Commission (Heidi Franco, Mayor)

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

Russ Watts, with the Celebration Workforce Housing project, updated the Council on the project status. He asked to be placed on an upcoming agenda to work with the Council through key issues on the project. Project representatives had been working with the State Housing Authority. Mr. Watts indicated he was looking for direction from Council to proceed. Council requested the item be placed on the November 19 Work Meeting agenda; asked that the applicants to forward project information to Council in advance if possible; and to work with City Staff on key points.

Jeff Harris was a short-term rental (STR) business owner and was present to represent other STR operators in the area. He read a prepared statement noting the tourism revenue provided to the City through STRs as well as other benefits. He asked Council to be cautious establishing regulations for STRs in order to avoid hurting business owners. The STR business owners he represented were requesting that the Council delay making a decision to approve the proposed temporary ordinance in order to work collaboratively with the business owners and establish responsible guidelines.

Jonathan Mauer, representing Daniel Mauer, had reached out to Airbnb and found they offered a city portal to assist cities with a better understanding of the Airbnb landscape. He listed the tools offered in the city portal to help cities maintain the regulations which were vital to daily operations. He felt Airbnb had established best practices to work with cities for compliance.

Brittany Case read a prepared statement indicating the unjustness and discriminatory nature of the proposed criminal charges for short-term rental operators that did not apply to other business owners. She noted the negative implications a criminal record could have on the short-term rental owners. She felt it was also discriminatory to limit the number of guests permitted as the City did not limit the number of family members that lived in a single family home. The parking restriction proposed could not be enforced for only vacation home-owners and their guests. She felt all the restrictions being proposed for only vacation homes or short-term rentals would trigger a class-action lawsuit against the City.

Josh Jewkes indicated he did not own a vacation rental home, he was a private citizen who felt this was an important and sensitive issue. He proposed that Council having the right to regulate short-term rentals did not mean the Council should choose to execute that right. He called the proposed code update draconian. Mr. Jewkes felt the benefits of short-term rentals in the community outweighed the downsides. He felt criminal charges were unnecessary and asked that the Council limit the regulations imposed for short-term rentals.

Jim Harper shared that his short-term rental in Heber City catered to traveling nurses and felt they offered a necessary service to the community. He recognized there may have been a bad actor on occasion but felt that was easily remedied. He had noticed that short-term rental properties were well kept and felt that would not be the case if they were forced to turn the units into long-term rentals.

Mayor Pro-Tem Aaron Cheatwood closed the Public Comment period and invited residents to always reach out to the Council with their concerns either during a public meeting or via email.

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

1. Public Hearing to receive input from the public with respect to (a) the issuance of 2024 Water Revenue Bonds and (b) an potential economic impact that the project to be financed with the proceeds of the Series 2024 Bonds may have on the private sector (Marcus Keller, Crews and Associates) -

Randy Larson, with the lawfirm of Gilmore and Bell, was present to answer any questions during the Water Bond Public Hearing. He stated the hearing was a State law requirement to allow for public comment.

Mayor Pro-Tem Aaron Cheatwood opened the Public Hearing at 6:40 p.m. With no one from the public coming forward to comment, the hearing was closed at 6:41 p.m.

2. Ordinance 2024-23 adopting a Temporary Zoning Regulation for Short Term Rentals (Jeremy Cook, City Attorney) - *30 min*

City Attorney Jeremy Cook shared the changes made to the proposed code update based upon Council concerns.

Council Member Mike Johnston thanked everyone present for the short-term rental discussion. He felt Heber City had been very progressive with short-term rentals. The issue the City had run into was the complaints by local citizens of Heber that the Council was beholden to. There were a few homes causing increased problems for the compliant short-term rental operators. He felt that the limit of 12 people in a short-term rental was an appropriate number. He wanted the owner-operators to work with the Council to find solutions that would work for everyone. He hoped there was a way to inform both hosts and lodgers of the restrictions to encourage compliance. The issue with owners blatantly violating the City's restrictions needed to be resolved. He listed the proposed restrictions that he felt Council should reconsider.

Council Member Sid Ostergaard reiterated that the reason the Council was reconsidering the ordinance was that the City needed to be able to enforce the ordinance. He had researched the short-term regulations in other cities and towns in Utah looking for inhabitant restrictions. He was taking his family to stay in a short-term rental in St George and found no limitation to occupancy. His family totaled 14. Moab limited occupancy to 10. Grand County had a limit of 16. He hoped to find an occupancy number that would work in Heber City. He stated the importance of tourism to the City but felt the City needed to protect the impact on the residents.

Council Member Yvonne Barney had also looked at St. George restrictions and found short-term rentals were only allowed in certain zones. She had seen that cities and towns across the nation were going through the same growing pains. She hoped to have further discussion before the code update was finalized.

Council Member, and Mayor Pro-tem, Aaron Cheatwood was not opposed to short-term rentals. He expressed gratitude to those that had shown up to take part in the conversation. He appreciated the comment about criminal charges being off-base. He did feel the Council needed to have further discussion. He had looked into the Airbnb portal and the VRBO comment board to seek additional guidance for Council while working through the issues at hand.

Council further discussed the following:

- forming a committee consisting of two Council Members and short-term representatives from the community
- how enforcement would be managed and contacting property managers prior to police
- educating both the owners and renters, and posting restrictions on-site
- managing unregistered short-term rentals
- the growing demand for short-term rentals
- giving neighbors of short-term rentals the property manager's contact information

Motion: Council Member Ostergaard moved to continue Ordinance 2024-23 adopting temporary zoning regulations for short-term rentals with the condition that Staff return to Council with additional examples from other cities, and to work with Council Members Johnston and Cheatwood, and meet with the short-term rental representatives.

Second: Council Member Johnston made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was not present. The **Motion Passed 4-0.**

3. Atlas Cell Tower Lease Agreement Proposal (J. Mark Smedley, Asst. City Manager) - 20 min

Assistant City Manager Mark Smedley explained the request from Atlas Tower, a communications company, to install a cell tower on City property that currently held a City water tank. He outlined the process for the proposed lease approval, including the potential to provide service from up to three additional tenants. Staff wished to obtain Council feedback regarding willingness to accommodate the 65-foot height exception for the tower before proceeding. The taller height would allow the tower to house the additional tenants and provide better service to cell phone users. He shared images of the proposed tower with pine tree camouflage. City Manager Matt Brower commended the negotiated lease agreement. Council discussion followed.

Atlas representative Sandra Layton further explained the multiple benefits to customers and the community with the expanded service a taller tower would offer. Council Member Cheatwood asked if it would be possible for the City to utilize the tower for security cameras on the water tower. Ms. Layton was unsure and indicated it would be dependent on whether a camera would interfere with the tower's service. Council further discussed updating the City Code to allow the tower height in a specific zone.

Motion: Council Member Johnston moved to accept the Atlas Tower lease agreement as presented. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was not present. The **Motion Passed 4-0.**

4. Interlocal agreement for police services between the Heber City Police Department and Midway, UT (Parker Sever, Chief of Police) - 20 min

Chief of Police Parker Sever presented the proposed contract for policing services in Midway as included in the attached meeting materials. Council discussion for clarification of contract services and terms followed. City Attorney Jeremy Cook explained the added language to protect Heber City.

Motion: Council Member Ostergaard moved to approve the interlocal agreement for police services between Heber City and Midway with the revised changes provided by City Attorney Jeremy Cook. **Second:** Council Member Barney made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was not present. The **Motion Passed 4-0.**

IX. RECESS AS THE HEBER CITY COUNCIL AND CONVENE AS THE CRA BOARD:

Motion: Council Member Johnston made the motion to recess as the Heber City Council and convene as the Community Redevelopment Agency (CRA) board. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was not present. The **Motion Passed 4-0.** The CRA meeting convened at 8:12 p.m.

City Council Present: Council Member Yvonne Barney
Council Member Aaron Cheatwood
Council Member Mike Johnston
Council Member Sid Ostergaard

City Council Absent: Mayor Heidi Franco
Council Member Scott Phillips

Staff Present: City Manager Matt Brower
Assistant City Manager Mark Smedley
Community Development Director Tony Kohler
City Attorney Jeremy Cook
City Recorder Trina Cooke
Chief of Police Parker Sever
Parks and Cemetery Director Mark Rounds

Staff Participating Remotely: Human Resources Manager Cherie Ashe, Planning Manager Jamie Baron, Accounts Payable Technician Kelli Silcox, Public Works Director Matthew Kennard, Finance Manager Sara Jane Nagel, IT Director Anthon Beales, and Wendy Anderson.

Also Present: Grace Doerfler - KPCW, Tori Broughton, and Tony Tyler.

Also Attending Remotely: (names are shown as signed-in online) Denna Woodbury, Toni Brown, Michael Paulus, Brock Marchant, John, Jami Hewlett, and DW.

The meeting was moved forward to discuss item two on the CRA agenda first.

1. Report on Impediments to Redevelopment in the Downtown (Tony Kohler, Community Development Director)

Community Development Director Tony Kohler shared that Staff had interviewed four local developers to discover impediments to redevelopment downtown. Mr. Brower shared the recurring feedback from the developers that the best way to incentivize investment in the downtown area for developers, would be for the City to bury the power lines. Mr. Kohler provided a list of additional issues faced by the developers as included in the meeting recording. Mr. Brower noted the critical importance of finalizing interlocal agreements with the School Board and the County by December 31, 2024, in order for the City to be able to capture the tax increment from the large Smith's Marketplace project. Council further discussed the possibility of burying the above-ground power-lines as well as recalled sights from places they had toured in previous months.

Mr. Brower shared the second most common feedback received was that the City should be responsible for the street-scape between the businesses and the roads. Developers had also indicated that it was the unknowns of redevelopment in the downtown area that kept them hesitant to invest.

2. Preview of Heber City CRA Website (Matt Brower, City Manager)

City Manager Matt Brower explained that the Heber City Council would be asked to convene as the CRA board more often going forward, as the Central Heber project became more active. He provided a brief tour of a new website that would be dedicated to the CRA, including an introductory video for the community to explain the purpose of the CRA in the downtown area. Council asked to change the map on the website to a previous map that did not include areas outside the CRA boundary. Council discussion followed.

The meeting returned to item one on the CRA agenda.

3. The Invisible Hand of Real Estate Development (Tony Kohler, Community Development Director) - 60 minutes

Tony Tyler, who ran a local real estate development firm, introduced himself and provided the background for his firm. He provided a list of projects the firm had been involved with and disclosed that he did not have an active project in Heber City or Wasatch County. The purpose of his presentation, as attached to the meeting materials and included in the recording, was to provide housing market information, community demographics, and data. Mr. Tyler stated that he wished to be a resource for the City. The presentation included information regarding the forces that impacted housing supply and demand as follows:

- Social forces
- Market forces
- Interest rates
- Construction costs
- Economic viability

Mr. Tyler reviewed the condominium and apartment scenario versus single-family homes. He felt added restrictions would help with housing for local workforce. Mr. Brower shared the discussion currently underway with Jordanelle Ridge to potentially relocate their affordable housing obligation to the downtown area. Council discussion continued.

Mr. Tyler's advice for the City was to match the zoning map to the General Plan.

X. ADJOURN AS THE CRA BOARD AND RECONVENE AS THE HEBER CITY COUNCIL:

Motion: Council Member Barney moved to adjourn as the CRA board and reconvene as the Heber City Council. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was not present. The **Motion Passed 4-0**. The CRA board meeting was adjourned and the Heber City Council meeting reconvened at 10:41 p.m.

XI. GENERAL BUSINESS ITEMS:

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

Planning Manager Jamie Baron provided the monthly development report for September as included in the attached Staff Report.

2. Follow-up on Heber/SLC Tour (Tony Kohler, Community Development Director)

This agenda item was postponed to a future meeting.

XII. COMMUNICATION:

1. October 21 Main City Park Open House:

- Envision Central Heber
- CRA (Community Reinvestment Agency)
- C Street
- Main Stage
- City Square Concepts

(Matt Brower, City Manager)

City Manager Matt Brower reminded Council of the Main Stage open House scheduled for Monday, October 21, 2024. There would be two sessions: the first from 11:00 a.m. - 2:00 p.m.; and the second from 6:00 p.m. - 7:30 p.m. There would also be a joint Planning Commission and Council Meeting on Tuesday, October 22, 2024, during the regularly scheduled Planning Commission meeting at 6:00 p.m. Roger Brooks would be there to present a concept for the Main City Park.

2. Main Stage Holiday and Winter Programming Initiative (Matt Brower, City Manager)

Mr. Brower and Mayor Franco had been considering scheduling programming at the Main Stage for the winter holidays. He would be working with the CAMS (Community Alliance for Main Street) Executive Director Rachel Kahler to schedule community events.

3. SMART (Saving More After Renewed Thinking) Program—Incentivization of Employee Cost Saving Initiatives (Matt Brower, City Manager)

Mr. Brower described the SMART (Saving More After Renewed Thinking) program he had initiated while City Manager in Ocala, Florida, to incentivize staff to implement cost-saving ideas, software, or practices. He was seeking Council feedback to implement the incentivization program for Staff in Heber City. He proposed further discussion at the Council Retreat in January.

XIII. ADJOURNMENT:

Motion: Council Member Ostergaard moved to adjourn. **Second:** Council Member Cheatwood seconded the motion. The meeting adjourned at 11:06 p.m.

Trina Cooke, City Recorder