

**HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
February 6, 2024**

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 4:02 p.m. and welcomed everyone present.

City Council Present:

Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Aaron Cheatwood
Council Member Mike Johnston
Council Member Sid Ostergaard
Council Member Scott Phillips

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
Parks and Cemetery Director Mark Rounds
Chief of Police Parker Sever
Officer Jared Fezy
Officer Branden Russell
City Attorney Jeremy Cook
City Recorder Trina Cooke
Justice Court Judge Randy Birch

Staff Participating Remotely: IT Manager Anthon Beales, Human Resources Manager Cherie Ashe, Engineering Technician Desiree Muheim, Planning Manager Jamie Baron, Assistant City Manager Mark Smedley, Engineer Kyle Turnbow, Public Works Director Matthew Kennard, City Treasurer Mindy Kohler, Finance Director Sara Nagel, and Engineering GIS Technician Shiona Howard.

Also Present: Bart Mumford, Chuck Zuercher, Trudy Brereton, Kathryn North, Melanie Funk, Marian Crosby, Andrew Dororek, Neil Goldman, Katie Wilkins, Jill Snyder, Mark Wilson, Robin Hill, Grace Doerfler, Jaden Snarr, Avade Snarr, Mark Evans, Farah Sanders, Adam Thompson, Missy Maughan, Matt Hansen, Adeha Marsh, Phil Jordan, Tori Broughton, and others who did not sign in or whose handwriting was illegible.

Also Attending Remotely: (names are listed as signed-in online) Andrea, Ashley, B, Bethany Mumford, Bingo, BM, Brock M, Doug Smith, Grace KPCW, heb, J, JJ, John, Kelli, Kendall Crittenden, Michael Demkowicz, Michael Mills, Shorty5, Stacy, T K, and TMT.

1. Gratitude Award (Trudy Brereton and Kathryn North; Wasatch Behavioral Health - Wasatch County) - *5 min*

Wasatch County Health Department representatives Trudy Brereton and Kathryn North presented the Heber City Council with the Gratitude Award.

2. Review of Tree Subcommittee Recommendations (Melanie Funk, Tree Subcommittee Chair) - *10 min*

Tree Subcommittee Chair Melanie Funk presented the Community Forestry Award to Heber City. She reviewed the achievements of the Tree Subcommittee for the previous year and proposals from the Tree Subcommittee for the coming year. The subcommittee wished to see trees installed lining Main Street and benches as well. Council discussed tree varieties and spacing along Main Street. Wesley Crump, with the USU (Utah State University) Extension program, provided additional information regarding grant opportunities. Council provided individual preferences and feedback and asked the Tree Subcommittee to return with an action plan.

Ms. Funk presented the City with an award from the State of Utah for Community Forestry and noted the recognition was an honor for the City to receive over all other municipalities in the State.

3. Harvest Village Development (Part of the Crossings Annexation) (Tony Kohler, Community Development Director) - *30 min*

Community Development Director Tony Kohler presented an informational overview for the proposed Crossings Annexation providing acreage and proposed development design as included in the meeting materials.

Neil Goldman and Andy Dororek expressed their love for the Valley. They recognized the residents of the Valley cherished the North Fields and wished to be worthy stewards for the development. He shared design images including a hotel with a tubing chute attached, and individual group gathering spaces within a larger gathering space that could accommodate multiple uses including farmers markets, open-air family movie nights, and concerts. The design proposed multi-option residential units, retail and commercial areas, a hotel, and recreation venues within the development.

Council provided feedback and Council majority expressed their willingness to continue the conversation with the petitioners. Council Member Barney read a letter sent to the City Council from the Utah Reclamation Mitigation & Conservation Commission expressing concern with the proposed annexation's shared border with the protected Provo River as included at the end of these meeting minutes.

4. Capital Facilities Master Plan (Russ Funk, Bart Mumford) - 60 min

City Engineer Russ Funk presented the proposed updates to the existing Facilities Master Plan as outlined in the attached Staff Report. He explained the intent of the Master Plan was to ensure the City could meet the overall needs of the community. Impact fees needed to be increased. Discussion concerning the proposed increases to impact fees continued.

II. BREAK - 15 MIN

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

1. Call to Order

Mayor Heidi Franco called the meeting to order at 6:20 p.m. and welcomed everyone present.

2. Pledge of Allegiance (Heidi Franco, Mayor)

Mayor Franco led the recitation of the Pledge of Allegiance.

3. Prayer/Thought by Invitation (Sid Ostergaard, Council Member)

Sid shared a movie quote from Denzel Washington. He noted you can't take everything with you but the actions taken by the Council would be lasting and he hoped the Council would leave the City better than they found it.

IV. CONFLICT OF INTEREST DISCLOSURE:

There were no conflicts of interest disclosed.

V. AWARDS, RECOGNITION, and PROCLAMATIONS:

1. Oath of Office for New Police Officer Jared Fezy

Chief of Police Parker Sever introduced Officer Jared Fezy and welcomed his family to Heber City. City Recorder Trina Cooke swore in Officer Fezy.

2. Utah Community Forestry Council Award

The award was presented during the Work Meeting by Melanie Funk.

VI. CONSENT AGENDA:

Motion: Council Member Scott Phillips moved to approve the Consent Agenda.

Second: Council Member Sid Ostergaard seconded the motion. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

1. Approval of January 16, 2024, City Council Meeting Minutes and January 18, 2024, Annual City Council Strategic Retreat Meeting Minutes (Trina Cooke, City Recorder)
2. Quarterly Disposition of Police Department Evidence (Jeremy Nelson, Deputy Police Chief)
3. Planning Commission and Audit Committee Nominees (Heidi Franco, Mayor)
4. Resolution 2024-01 Heber Light and Power Board of Director's Compensation (Heidi Franco, Mayor)

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

Adelia Marsh, Heber resident, was in favor of the River Road route for the bypass. She noted the amount of growth that continued to come to the Valley and felt the traffic needed to be diverted from Highway 40 out of consideration for the people who lived along the proposed bypass route. She had moved to Heber from Colorado and described an area of Highway 70 along the Colorado River that offered stops for picnicking, hiking, fishing, and other outdoor activities. She felt the Valley's proposed bypass could offer the same.

Adam Thompson was present for the confirmation of the newly appointed Planning Commissioners. He felt the City had shown that who you know was more important than what you know. He felt it was wrong and said he had no conflict of interest but wanted to see people appointed that would do the job.

Jaden Snarr, Heber resident, was asking for a rezone for their home to permit a multi-family dwelling. The lot previously had plans to be a bed and breakfast when they had purchased the home. She noted the location's vicinity to Black Rifle Coffee and wanted to proceed with the rezoning process. Ms. Snarr explained the dwelling was already equipped with two separate entrances, driveways, and addresses. She explained they needed the zoning changed to be approved for a loan. Planning Manager Jamie Baron clarified that the City would need to go through the MDA (Master Development Agreement) process in order to allow a multi-family unit.

VIII. GENERAL BUSINESS ITEMS:

1. Fiscal Year 2023 Audit Presentation (Jon Haderlie) - 15 min

Jon Haderlie, representing Larson and Company, had been hired by Heber City to perform the annual audit. He detailed the findings of the 2023 Annual Audit for the City as attached to the meeting materials. He had met with the Audit Committee previously to review the findings.

2. Arts Advisory Board TAP Tax Grant Program (Phil Jordan) - 10 min

Phil Jordan and Farah Sanders, Co-Chairs of the Arts Advisory Committee, shared a summary of the committee members, the vision of the committee, and their goals. The committee would oversee the distribution of the TAP (Trails, Arts, and Parks) tax revenue received by the City. Mr. Jordan and Ms. Sanders explained the application process and provided a timeline. They were looking forward to providing the benefits made possible through the TAP tax revenue to the community.

Mayor Franco suggested the committee draft an annual report of the TAP tax recipients and have the recipients present their projects to the Council. Council Member Phillips recommended a percentage of the revenue received by the City be set aside for maintenance purposes for the projects.

3. Justice Court SWOT Analysis (Judge Randy Birch) - 5 min

Heber City Justice Court Judge Randy Birch presented the SWOT (Strengths, Weaknesses, Opportunities, and Threats) analysis for his department as attached in the meeting materials.

4. Code of Conduct and Ethics Form and Training (Jeremy Cook, City Attorney) - 20 min

City Attorney Jeremy Cook reviewed the City's code of Ethics and Conduct as previously adopted by the City Council with Resolution 2012-07. He informed Council that page eight of the City policy had a signature line indicating the City Council Members' agreement to uphold the Code of Conduct and Ethics. Mr. Cook explained the overlying principle of the policy was to respect one another's opinions and agree to disagree civilly. He noted there was also State Code addressing the ethics act found in 10-3-1301 that the City Council needed to follow. The City policy was in addition to the State Code.

Council Member Phillips wished to see changes to the language in the section addressing compliance and enforcement prior to signing the ethics form. He felt the City Manager and City Attorney should oversee the enforcement of the policy and elected officials should not be involved. Discussion followed.

Mayor Franco proposed all the City's boards and committees sign the policy as well. Council majority expressed approval of the language being changed and a resolution returned to the next meeting for Council approval.

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

Planning Manager Jamie Baron provided a graph reviewing the applications processed in 2023 and shared the new applications received in January 2024, as included in the attached meeting materials. He shared projections for the Planning Commission in 2024.

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

1. Public Hearing: Ordinance 2024-03 Adopting the Heber City Facilities Master Plan including the Heber City Capital Facilities Plans, Impact Fee Facility Plans, and Impact Fee Analyses and Council Consideration to Adopt (Russ Funk, Bart Mumford) -

Mayor Franco moved agenda item two forward on the Action Items agenda to be discussed first.

City Engineer Russ Funk clarified the intent of the Master Plan was for the overall good of the community. Growth and development in the City created a need for an increase in the cost of impact fees. Horrocks Engineering Consultants to the City Willa Motley and Bart Mumford were present to explain the necessity of updating the Facilities Master Plan in order to provide a funding mechanism to plan for the future and maintain the quality level of service. Mr. Mumford provided a comparison of the prior Master Plan versus the proposed Master Plan for the following utilities and services offered by the City using future population projections and land use projections:

- culinary water usage and needs
- pressurized irrigation
- water rights and use
- sewer
- streets
- storm drains

Mr. Mumford shared the estimated costs of improvements, recommended collecting data and applying for state water use reduction, and asked whether the Council wished to continue the 45% non-residential streets impact fee subsidy policy.

Mayor Franco opened the Public Hearing at 9:50 p.m. With no one from the public coming forward to comment, the Public Hearing was closed at 9:51 p.m. Council discussion followed.

Motion: Council Member Phillips moved to approve the Master Plan and adopt Ordinance 2024-03. **Second:** Council Member Johnston made the second.

Discussion: City Attorney Jeremy Cook pointed out that the Council could adjust the 45% non residential street impact fee at that time without further noticing. If the Council chose to adjust it at a later date, the City would need to go through the noticing and public hearing process again. Council Member Phillips wanted to see a more extensive study done and have the item returned to Council at a later date for further consideration.

Vote: Voting Yes: Council Members Phillips, Ostergaard, Cheatwood, and Johnston.
Voting No: Council Member Barney. **The Motion Passed 4-1.**

Motion: Council Member Phillips moved to extend the meeting until 10:30 p.m. **Second:** Council Member Cheatwood made the second.

Discussion: City Manager Matt Brower proposed postponing agenda items three, five, and six but suggested taking action on item four if Council was ready.

Vote: Voting Yes: Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. **The Motion Passed Unanimously, 5-0.**

2. Approval of Use of Eminent Domain to Acquire Property for a Roundabout on Heritage Farms Parkway (Russ Funk, City Engineer, Jeremy Cook, City Attorney) - 10 min

City Attorney Jeremy Cook explained the eminent domain requirements and process. He described the roundabout the City wished to install for the eastern bypass being built at Heritage Farms Parkway and Mill Road. In order to install the roundabout, the City needed to acquire portions of two residents' property. Negotiations with one of the property owners remained unsuccessful. To not impede the progress of the roundabout installation, the City had determined to proceed with the process of eminent domain.

Resident and affected property owner Mark Evans shared images depicting his property that the City needed and outlined the effect it would have on his land and property value. He asked that the value determination be based upon all three tax parcels and include the loss of rear access to his land. He wanted permission to install a berm and raise his fence to block the road along his property line. He did not feel the City was valuing his quality of life loss fairly. Council discussion followed.

Motion: Council Member Phillips moved to approve the filing of eminent domain action on the Evans property. **Second:** Council Member Johnston made the second

Discussion: Council Member Ostergaard acknowledged it was a difficult decision for the Council and hoped there could still be compromise by the City. City Engineer Russ Funk answered that the intent was to proceed with negotiations, with the mediator, and not delay progress. Council Member Johnston asked if it would be helpful to have two of the Council Members participate with the mediation process.

Mr. Funk stated the intent was to move forward with the project, to get the project advertised, and to hopefully achieve fair terms for both sides. Council Member Cheatwood clarified that without Council action, the City could not move forward with putting the project out to bid. City Attorney Jeremy Cook confirmed the process would depend upon the property owners cooperation. The project would need to be bid soon in order for construction to be completed before year-end. Negotiations could continue while the City moved forward with the bidding process.

Motion: Council Member Barney moved to continue the item two weeks and give Mr. Evans until the next City Council meeting to negotiate before the City moved forward with the eminent domain process. The **Motion Failed** for lack of a second.

Discussion: Council Member Ostergaard indicated he was in the construction business and felt the project could not be delayed.

Amendment to the first Motion: Council Member Phillips amended his original motion to include that two Council Members would attend the mediation proceedings. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, and Johnston. **Voting No:** Council Member Barney. The **Motion Passed 4-1.**

It was decided that Council Members Johnston and Cheatwood would join the mediation.

The Mayor returned the meeting of item one on the Action Items agenda.

3. Ordinance 2024-02 Updating the C-3 Commercial Zone, C-3 Design Criteria and Parking Regulations within the C-3 Zone (Tony Kohler, Community Development Director) - *40 min*

Motion: Council Member Phillips moved to continue item three to the next meeting scheduled for February 20, 2024. **Second:** Council Member Johnston made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

4. Ordinance 2024-05 Removing Section 5.26.045 Notice of Short-Term Rental Restriction (Jeremy Cook, City Attorney) - *10 min*

City Attorney Jeremy Cook explained the proposed Ordinance 2024-05 would remove Section 5.26.045 Notice of Short-Term Rental Restriction. The section required HOAs (Home Owners Associations) to submit information to the City which could restrict the issuance of business licenses for short-term rentals within an HOA area.

Motion: Council Member Johnston made the motion to adopt Ordinance 2024-05 as proposed. **Second:** Council Member Phillips made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

5. Election of Mayor Pro Tem per Municipal Code 2.08.020 (Heidi Franco, Mayor)
- 5 min

Motion: Council Member Barney moved to nominate Aaron Cheatwood as Mayor Pro Tem. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Barney, and Johnston. **Voting No:** Council Member Cheatwood. The **Motion Passed 4-1.**

6. Council's Policy & Budget Priorities for Fiscal Year 2024-2025 (Matt Brower, City Manager) - 10 min

City Manager Matt Brower reviewed the final draft of Council's Budget and Policy Priorities for Fiscal Year 2025.

Motion: Council Member Phillips moved to approve the list of Council's Fiscal Year 2025 Budget and Policy Priorities. **Second:** Council Member Johnston made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

X. COMMUNICATION:

Mr. Brower shared the following communication items:

1. The Republican Caucus conflicted with the April 2 City Council Meeting. Mr. Brower asked for Council direction whether to shorten or cancel the meeting. Council majority consensus was to wait and see.
2. The Utah Legislative Session was underway. Senate Bill 172 proposed that gravel pits existing before county incorporation be exempted from zoning laws. He asked the Council Members to reach out to Senator Ron Winterton to ask that the stakeholders be the decision-makers. House Bill 367 proposed allowing a utility fee to provide public transportation. He expressed his support. Senate Bill 185 proposed to allow builders to hire third-party building inspectors. House Bill 306 would require Cities to zone 20% deed restriction for affordable housing. Mr. Brower felt both these bills took the authority away from the local entities where such decisions should be made.

Mayor Franco reminded Council of the League of Cities and Towns Mid-year Conference on April 17, 18, 19, 2024, and recommended registering soon and contacting the City Recorder to make hotel arrangements.

XI. ADJOURNMENT:

Motion: Council Member Phillips made the motion to adjourn. **Second:** Council Member Cheatwood made the second. The Heber City Council Meeting adjourned at 10:16 p.m.




Trina Cooke, City Recorder