

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT
City Council Meeting
April 21, 2020

5:00 p.m. Work Meeting
6:00 p.m. Regular Meeting

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** remotely via personal computer device on April 21, 2020. Due to the Wasatch County Health Department's stay at home order, this meeting was held virtually.

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

Present: Mayor Kelleen Potter
Council Member Heidi Franco
Council Member Mike Johnston
Council Member Rachel Kahler
Council Member Ryan Stack
Council Member Wayne Hardman

Staff Present: City Manager Matt Brower
City Attorney Mark Smedley
City Planning Director Tony Kohler
City Engineer Bart Mumford
Assistant City Engineer Russ Funk
City Planner Jamie Baron
Chief of Police Dave Booth
Airport Manager Travis Biggs
City Recorder Trina Cooke

Also Participating: WETx representatives; Tyler Dow, Jim Mortenson and Eric Vogler: Wellberg Inc. representative; Terry Diel.

Due to the Federal Government's declaration of a state of emergency brought on by the Corona Virus Pandemic resulting in the Wasatch County's stay-at-home order, the public was asked to participate electronically rather than in person. None were present.

Mayor Potter called the meeting to order at 5:00pm

1. Discussion Regarding Entering an Agreement with WETx (Smedley) (30min)

WM Item 1 Staff Rep WETx Inc

City Attorney Mark Smedley noted WETx was a water company headquartered in Heber City.

Mr. Smedley explained WETx was offering the City an opportunity to cooperate with them in order to implement a program which would collect data on water shares and records then organize, summarize and make information available to the City and public in a comprehensive manner. WETx was asking the City to partner with them by signing a MOU (Memorandum of Understanding). Mr. Smedley introduced WetX representative Tyler Dow to further explain the technology.

Mr. Dow introduced Wetx representative, Jim Mortensen. Mr. Mortenson described the company's process of collecting the data digitally and determining value. He indicated the company was offering the program to Heber City free, in order to help the City better understand their water assets and the market value of those assets. He advised the data would provide information of water usage and water excess the City might choose to lease. Mr. Mortenson noted the information would prove useful to the City if audited by the state water auditor. Discussion followed

Council Member Johnston asked for a better explanation to which water records WETx referred. Mr. Mortensen explained that most municipalities did not reconcile their water ownership with water usage, which this technology would provide.

Council Member Franco inquired about the need for an MOU when the information was publicly available. Mr. Dow answered the MOU was primarily for transparency and to form a partnership with the City. Council Member Franco expressed concern with the MOU stating disputes between the parties would be settled in court. Mr. Mortenson explained one of the company's goals was to provide the City with ready access to the information in order to present to the State Engineer in the case of an audit by showing proof of necessary usage. Council Member Franco asked for the MOU to include a clause stating WETx did not have City authority to contact or gain confidential information from City Staff or irrigation companies, and must protect confidentiality on any City information in perpetuity.

Council Member Stack asked to see a provision added to permit the extension of the MOU when the two years elapsed. He inquired why the MOU would not indicate the parties enter arbitration prior to court. WETx representative Eric Vogel explained it was a standard clause but he felt Court was preferred over arbitration. Tyler Dow added that mediation prior to arbitration or Court would be preferred and WETx would be amenable to changing the language in the MOU.

Discussion turned to the confidentiality of the WETx technology and the City's GRAMA (Government Records Access and Management Act) process requirements.

Mayor Potter advised the time was up and indicated the item would need to return to a future meeting for further discussion.

2. Discussion of Ordinance 2020-13 to Approve the ReInvestment and Jordanelle Ridge/West Jordanelle (aka Sorenson) Annexations (Kohler)

Mr. Kohler explained the City had received a modified MDA from the petitioner, which had been emailed to the Council prior to the meeting. Mr. Brower asked the Council to select a date for an independent work meeting in order to walk through the agreement and focus on the final details. He added that Council would also need to establish two dates to hold Budget Workshops.

Council discussed whether they would be able to meet in person with the ongoing recommendation of social distancing once the Stay-at-Home order expired.

Consensus of the Council was to hold a special meeting for the Sorenson MDA review Saturday, May 2, 2020 at 9:00 a.m. followed by the first Budget Workshop. The second Budget Workshop would be held Thursday, May 7, 2020 from 4:00 p.m. to 6:00 p.m.

Mayor Potter indicated there was time for the Council to begin to address their communication items.

City Planning Director Tony Kohler shared the Planning Commission had granted preliminary approval for the Turner Mill Subdivision with direction to Staff to follow current City road standards. He explained he was bringing the issue to Council for direction based on their decision for road widths in the Coyote Ridge development. Discussion regarding the subdivision plan, road widths and driveway accesses followed.

It was decided to continue the discussion during the Communication Items portion of the Regular Meeting.

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

1. Call to Order

Mayor Potter called the Regular City Council Meeting to order at 6:08 p.m.

2. Pledge of Allegiance (Council Member Franco)

3. Prayer/Thought by Invitation (Default: Council Member Johnston)

Council Member Johnston shared an uplifting thought regarding the choice of a positive attitude by German philosopher Johann Wolfgang von Goethe.

III. CONFLICT OF INTEREST DISCLOSURE:

Council Member Johnston declared a conflict of interest with agenda item four, the Wellberg Annexation, as one of the surveyors he employed had prepared the annexation plat. He also declared a conflict of interest with agenda item eight as the sewer project adjoined his business property.

IV. CONSENT AGENDA:

1. Approval of April 7, 2020 City Council Meeting Minutes (Cooke)

04.07.2020 DRAFT Minutes

Motion: Council Member Franco moved to approve the April 7, 2020 minutes as presented in the agenda. Council Member Kahler made the second. Voting Aye: Council Members Franco, Hardman, Johnston, Kahler and Stack. The motion passed unanimously.

2. Consider Approval of Sawmill Phase 2-B Final Plat (Baron)

CA Item 2 Sawmill 2B

Council Member Franco inquired if a particular park in the development would be open to the general-public and whether it would be maintained by an HOA (Home-Owners Association) or the City. City Planner Jamie Baron stated he was unsure but would follow up and inform Council of the answers.

Motion: Council Member Franco moved to accept the final plat for Sawmill Phase 2B with the findings and conditions in the Staff Report. Council Member Stack made the second. Voting Aye: Council Members Franco, Hardman, Johnston, Kahler and Stack. The motion passed unanimously.

V. PUBLIC COMMENTS:

Mayor Potter read aloud the public comments received by email from Paul Boyer. [attached]

VI. ACTION ITEMS:

1. Update of Heber City's Ongoing Response to Corona Virus/COVID-19 (Brower)

Mayor Potter shared information regarding the impact of the Corona Virus Pandemic on the community including increased volume of visits to the food bank as well as additional financial requests for help with other necessities such as utilities.

City Manager Matt Brower shared the most recent updates from both the Governor's office and the Wasatch County Health Department. Heber City Police Chief Booth provided an update from the police department. City Attorney Mark Smedley shared an update of the Justice Court's ongoing processes during the pandemic.

Mr. Brower provided an overview of the status of the City and assured the public that City services were still accessible online and by phone or in person by appointment if needed. He reviewed the City's stay-at-home efforts and the sick-leave policy pro-actively adopted by the City. He noted the policy would need to be modified in order to comply with the recently released federal sick-leave requirements. He read a proclamation from the department of agriculture indicating nothing but produce would be permitted for sale at Farmers Markets until further notice.

Mr. Brower shared the City sales tax revenue was down by five percent from the same month in 2019. He indicated Staff was looking at opportunities for Heber to become a technological leader.

Council Member Kahler shared feedback she had received from a member of the community who felt people were being suppressed and becoming restless. Mr. Brower stated that unless the Governor made a radical change in his directive, the Heber Valley Market on Main would be cancelled for the 2020 summer season. Discussion followed.

2. Public Hearing to Consider the Adoption of Resolution 2020-03 Amending the 2019-20 Fiscal Year Budget (Bingham)

Finance Manager Wes Bingham presented the information regarding the amendments needed to the General Fund budget.

Mr. Bingham shared details regarding grants received and monies to be shifted between budget categories to accommodate City contribution requirements for the grants. He explained the items had been previously discussed with Council and the City had the cash available for the requested amendments.

Mayor Potter noted there had been no public comments received and closed the Public Hearing.

3. Consideration to Approve Resolution 2020-03 Amending the 2019-20 Fiscal Year Budget (Bingham)

Item 2-3 Staff Report Resolution 2020-03 Budget Amendment

Motion: Council Member Johnston moved to approve Resolution 2020-03 as presented, with the findings and conditions in the Staff Report. Council Member Hardman made the second. Rollcall Vote: Voting Aye: Council Members Stack, Franco, Kahler, Johnston and Hardman. The motion passed unanimously.

4. Consideration to Accept Wellberg Investments Annexation Petition (Kohler)

Item 4 Staff Report Wellberg Annexation Petition

Council Member Johnston removed himself from the meeting due to the conflict of interest declared at the beginning of the meeting.

City Planning Director Tony Kohler presented the information with regard to the proposed annexation as attached in the Staff Report. He displayed the development concept and noted it would border the Red Ledges private community and accessed through Red Ledges. He explained there were two separate land pieces in the Wellberg property. One portion of their property was included in the Sorenson Annexation and the other portion, East of Red Ledges, was not included. Wellberg Inc. was asking for the second piece of land to be annexed into Heber City as well. Mr. Kohler explained the location of the second portion was not within the Heber City Annexation Expansion Area. He further explained the City had been unaware they were dividing the property owner's land when the Expansion Area Map had been adopted and therefore, Staff was recommending an Annexation Policy Plan amendment. Alternately, the petitioner was requesting their portion of land be excluded from the Sorenson Annexation. The latter option would create a peninsula within Heber City.

Council Member Kahler expressed reservations with the requested density, the slope of the land they intended to build and stated she was not interested in annexing Heber City further east.

Council Member Stack asked if the amendment to the Annexation Policy Plan would adversely impact or delay the Sorenson annexation. Mr. Kohler replied that the second option, creating a peninsula, would delay the Sorenson's Annexation as well as the dependent North Village Annexations but if the Council agreed to consider an Annexation Policy Plan amendment, the Sorenson Annexation could proceed without delay.

Council Member Hardman was in favor of annexing the property in order to not create a peninsula. He was not certain if he would support extending the annexation boundary further east but felt the Council should accept the petition. Mr. Kohler clarified the expansion would only include this particular property to the east.

Council Member Franco expressed concern with the increased density proposed and whether access would be permitted through Red Ledges. Wellberg representative Terry Diel responded that they had been in communication with Red Ledges. He clarified they would not develop without the two Red Ledges access points. Discussion continued.

Council Member Franco expressed additional concern with possible sensitive lands. She then asked if the petitioners were prepared to meet the fire management standards. Mr. Diel confirmed they were. Mr. Kohler recommended a master development agreement. Discussion regarding trail access followed.

Council Member Stack expressed he felt comfortable accepting the petition for further study. Mr. Kohler proposed a tour of the property for Council and Staff.

Motion: Council Member Stack moved to accept the Wellberg Annexation Petition for further evaluation and to direct Staff to initiate the process to amend the Annexation Policy Plan Expansion Map and further direct the applicant to return to Council with a specific plan of how this would add value to the City and what benefit they were willing to confer in exchange for their request. Council Member Hardman seconded the motion. Rollcall Vote: Voting Aye: Council Members Stack, Franco and Hardman. Voting Nay: Council Member Kahler. Council Member Johnston was not present for the vote. The motion passed three to one.

5. Consider Approval of Ordinance 2020-20 C-2 Zone Change to Permit Commercial Fabrication (Kohler)

Item 5 C-2 Zone Change - Ord 2020-20

City Planning Director Tony Kohler reminded Council of the information presented at a previous meeting. He explained they were creating a new craftsman industrial category to include in the zone.

Council Member Stack asked if the City could require heightened architectural designs for the buildings along the main entry corridor into the City in order to maintain an aesthetically pleasing design. Mr. Kohler displayed multiple examples of buildings built within the zones existing design criteria.

Motion: Council Member Kahler made the motion to approve proposed ordinance 2020-20 amending the uses of the C-2 Zone as presented. Council Member Hardman made the second. Rollcall Vote: Voting Aye: Council Members Hardman, Johnston, Kahler, Franco and Stack. The motion passed unanimously.

6. Consider Approval of Daniel Hangar 24 Lease Transfer (Biggs) - continued

Item 6 Daniel Hangar 24 Lease Transfer 2.0

Mayor Potter read a public comment submitted by email from Daniel hangar 19 owner Paul Boyer. [attached]

Airport Manager Travis Biggs addressed the Council's questions from the previous meeting. He explained the current hangar owner's lease contract bound them to the previous 1% transfer fee but upon transference, the new hangar owner would enter into a new contract with the City with the updated transfer fee of 3%.

Motion: Council Member Franco made the motion to approve the Daniel hangar 24 lease transfer so the new owner will accept the September 2017 new lease. Council Member Kahler made the second. Voting Aye: Council Members Stack, Franco, Kahler, Johnston and Hardman. The motion passed unanimously.

7. Consider Approval of Airport Hangars C & D Ground Lease Transfer (Biggs) – continued

Item 7 Hangars C&D Ground Lease Transfer -1

Mayor Potter read a public comment submitted by email from Daniel hangar 19 owner Paul Boyer. [attached]

Mr. Biggs explained hangars C and D were located in a non-commercial section of the airport but the current lease holder had applied for a commercial permit and paid additional fees. He stated the new tenant did not intend to use the hangars commercially. He further explained the current leases did not expire until 2025 and 2027 at which point they reverted back to the City. Until then, the current lease terms would stand for the new tenant once Council approved the transfer. Discussion regarding the tenant wanting to rent the ramp space in front of the hangars followed.

Motion: Council Member Hardman moved to approve the transfer of hangars C and D. Council Member Stack made the second. Voting Aye: Council Members Johnston, Kahler, Franco, Stack and Hardman. The motion passed unanimously.

8. Consider Approval of \$238,323.75 Contract Award for the 100 West Back Lot Sewer Replacement Project (Funk)

Item 8 Staff Report Swr Repl BackLot Const Award

Council Member Johnston removed himself from the meeting due to the conflict of interest declared at the beginning of the meeting.

City Engineer Russ Funk presented the details with regard to the back-lot sewer line project as attached in the meeting materials. He noted the sewer line had been one of the most problematic for Public Works. He stated the City had received only one bid. Mr. Funk reviewed the budgeted amount for the project noting the bid had come in under budget. He explained they anticipated the project would carry into the next fiscal year and asked Council to approve the excess budgeted money to be applied to next fiscal year's budget in order to complete the project. Clarification of the budget impact followed.

Motion: Council Member Kahler moved to approve the contract with Lance Excavation in the amount of \$238,323.75. Council Member Franco made the second. Voting Aye: Council Members Franco, Hardman, Kahler, and Stack. Council Member Johnston was not present for the vote. The motion passed.

9. Consider Approval of \$253,178.00 Contract Award for the 500 East Irrigation Project (Funk)

Item 9 Irr 20 500E PI Const Award

City Engineer Russ Funk provided the details for the irrigation project bid. He stated the City had received three bids with the lowest from Craig F. Sorenson, Inc. Mr. Funk advised the project bid was approximately \$17,000 under budget.

Motion: Council Member Stack moved to approve the item and authorize Staff to execute a contract with Craig F. Sorenson Construction, Inc. in the amount of \$253,178.00. Council Member Johnston made the second. Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion passed unanimously.

10. Adoption of Fiscal Year 2020-2021 Tentative Budget; Establish Time and Place for Public Hearing; Determine Dates for Budget Workshop Meetings to Discuss Tentative Budget (Bingham, Brower)

Item 10 Staff Report Tentative Budget Fiscal Year 2020-2021

Matt Brower explained State Law required the City to adopt a tentative budget before May 1 each year. He asked the Council make the motion to do so as well as establish the previously discussed dates for the budget workshop meetings.

Motion: Council Member Johnston moved to adopt the tentative budget as presented and meet in Budget Workshop Meetings on Saturday, May 2nd, 2020 at 11:00 a.m. and Thursday, May 7th, 2020 from 4:00 p.m.-6:00 p.m. Council Member Stack made the second. Voting Aye: Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion passed unanimously.

VII. COMMUNICATION ITEMS BY MAYOR, CITY COUNCIL AND STAFF: Staff Follow-Up Reports from City Council Requests

1. Staff Follow-Up Reports from City Council Requests

City Manager Matt Brower shared his meeting with Rae Lynne Kohler regarding the possibility of the City purchasing a number of trees on her property in order to assist in the negotiation of the sale of her property. The next step was to have a professional arborist provide an estimate of the value of the trees.

Discussion returned to the Turner Mill development as begun at the end of the Work Meeting. The street widths and parking were further discussed.

Council Member Johnston expressed support of City Engineer Bart Mumford's recommendation for 38 feet of asphalt on Turner Mill Road. He indicated his preference for the road to be narrower on the opposite side of the roundabout at 32 feet as it ran through a residential area. He felt the North end of Dusty Baker Lane could be 38 feet of asphalt and south of the roundabout should again narrow to 32 feet. Council Member Johnston expressed support of five-foot sidewalks on both sides of the streets. Council Member Franco asked for and was given confirmation that the planter strips would be eight-feet wide on all of the roads discussed. The consensus of the Council was agreement with the suggestions made by Council Member Johnston.

City Planner Tony Kohler advised Council this item would return for formal action at a future meeting and thanked them for their direction.

Council Member Kahler asked for the City Council and Planning Commission to meet in order to become more cohesive moving forward with development plans. City Engineer recommended they meet once the road standards were adopted at the second Council meeting in May.

Council Member Kahler asked if the City was getting another traffic light installed. Mr. Mumford confirmed there was a signal light to be installed at 100 South and 300 West. Mr. Brower indicated there would be an additional signal light installed on Highway 189 at 3000 South. Council Member Johnston asked the cost of the traffic signal on 100 South and 300 West. Mr. Funk advised the cost was just under \$300,000.

Council Member Kahler asked if the request by Charleston Town for sewer line access would be returning to an upcoming meeting. Mr. Mumford informed Council there was an ongoing combined study being conducted by Horrock's Engineering for Twin Creeks SSD (Special Service District) and Charleston to determine improvements and costs. Once the study was completed, the issue would return to Council for discussion of a proposal to provide additional service to Twin Creeks and offer service to Charleston.

Council Member Stack asked Staff to continue their discussion with the County with regard to the possibility of a peninsula being created in the Wellberg area in the case the annexation was not accepted..

VIII. ADJOURNMENT

Motion: Council Member Johnston made the motion to adjourn. Council Member Stack made the second. The meeting adjourned at 8:37 p.m.



Trina Cooke, City Recorder

To: CC Public Comments <ccpublic@heberut.gov>

Subject: (EXTERNAL) SECTION V. PUBLIC COMMENTS – Items not on today’s Council Meeting Agenda

PUBLIC COMMENTS FROM: Paul Boyer, Daniel Hangar #19 Owner and Airport Stakeholder

TO: The Heber City Council

RE: April 21, 2020 City Council Meeting – SECTION V. PUBLIC COMMENTS (items not on today’s agenda)

SECTION V. PUBLIC COMMENTS – Item not on today’s Council Meeting Agenda

At the April 7, 2020 City Council Meeting, City Manager Matt Brower read my comments about the Airport Advisory Board Bylaws and Airport Staff’s failure to comply with these. However, Mr. Brower did not read my remarks verbatim. Instead, he twice skipped phrase “**(without alteration)**” that is in parentheses in the AAB Bylaws, Article 8, Paragraph B., Subparagraph B.2. that is also stated in the context of my comments. It is important to recognize this parentheses phrase is not mine, but is instead the exact wording of the Bylaws.

Refer to the attached PDF with full AAB Bylaws, with the applicable Article 8, Paragraph B. reading as follows. I ask that this be now be accurately read into the April 21, 2020 Council Meeting record, as it has bearing on the intent of the City Council when they revised the AAB Bylaws on August 2, 2018:

AAB BYLAWS, ARTICLE 8, PARAGRAPH B, Subparagraph B.2.:

“ B. Forwarding the Airport Advisory Board recommendations to the City Council:

1. Recommendations made by the Airport Advisory Board will be prepared by staff and scheduled for presentation to the City Council.
2. Recommendations will be forwarded as approved by the Airport Advisory Board (without alteration).
3. The Airport Manager supported by the Chairman and other members of the Airport Advisory Board will present it to the City Council.
4. Airport Advisory Board Secretary will notify Board Members when Board matters are being presented to the City Council.”

COMMENTS:

1. The Bylaws require that AAB “Recommendations will be forwarded as approved by the Airport Advisory Board **(without alteration)**.” Again, this is exactly as written in Article 8, Paragraph B
2. Neither the Airport Staff nor the City Manager has the authority to administratively ignore these AAB Bylaws requirements that clearly define and establish the direct relationship between the Airport Advisory Board and the City Council, with Airport and City Staff providing only administrative support unless the Council determines otherwise after reviewing AAB recommendations.
3. It is notable that more than two months later, Airport and City Staffs have still not complied with AAB Bylaws in forwarding to the Council the AAB’s two unaltered February 12, 2020 recommendations.

4. Prior to this, I have never seen a situation like this regarding the AAB's serious Feb 12, 2020 safety recommendations, whereby Airport and City Staffs intercepted the recommendations, delayed forwarding them to the Council for months, and did not provide—and still has not provided—the AAB recommendations (**without alteration**), and instead acted on their own initiative to address the issues defined by the AAB without first seeking City Council approval to do so.

5. Only the Council has decision making authority regarding AAB recommendations. Historically, past Councils have taken various actions within their decision-making authority. Once Airport and City Staffs present them administratively to the Council, per the Bylaws, the Council can take any of the following actions regarding AAB recommendations:

- a. Approve the recommendations as written.
- b. Disapprove them in their entirety.
- c. Return them to the AAB with Council guidance for additional AAB input.
- d. Direct the formation of a Technical Advisory Committee (TAC) to address the issue(s).
- e. Direct the recommendations to a department within City Government that may include Airport Staff and the City Manager.

REQUEST.

The City Council should clarify and confirm that Airport and City Staffs serve solely an administrative function between the City Council and the Airport Advisory Board until the Council decides on how it wants to proceed with such issues, with Airport and City Staffs only taking additional action if so directed by the Council under Council supervision.

— End of V. PUBLIC COMMENTS – Item not on today's Council Meeting Agenda —

From: Paul Boyer <pebo@boyaire.us>

Sent: Tuesday, April 21, 2020 3:33 PM

To: CC Public Comments <ccpublic@heberut.gov>

Subject: (EXTERNAL) PUBLIC COMMENT - AGENDA ITEM #6: Consider Approval of Daniel Hangar 24 Lease Transfer

PUBLIC COMMENTS FROM: Paul Boyer, Daniel Hangar #19 Owner and Airport Stakeholder

TO: The Heber City Council

RE: April 21, 2020 City Council Meeting - V. ACTION ITEMS:

AGENDA ITEM #6. Consider Approval of Daniel Hangar 24 Lease Transfer

I support Council approval of the Jan 1, 2017 Daniel Hangar 24 Non-reversionary Lease Transfer from seller to buyer, including the City's granting a new 30-year Airport Standard Ground Lease Form as requested by the buyer.

This should be done in accordance with multiple precedent-section hangar transactions since the Council approved the current 30-year Airport Standard Ground Lease Form on September 26, 2017.

Beyond that, however, there are other important issues within the Airport Staff's April 21, 2020 Report that first need to be addressed:

CITY RIGHT OF FIRST REFUSAL TO BUY HANGAR #24

The Seller's current non-reversionary January 1, 2017 lease is the document under which the sale is taking place. One of the January 1, 2017 provisions is: "In any sale of a hangar, the City has the first right of refusal to purchase the Hangar within 10 business days for the same price as the bona fide buyer."

Under "ALTERNATIVES" and "POTENTIAL MOTIONS," Airport Staff has not allowed an option whether the Council wants to exercise its first right of refusal to buy the hangar. Additionally, Airport Staff has not addressed this issue in its "CONSENT ASSIGNMENT."

REQUEST

This issue needs to be resolved and archived, with the City Council either:

1. Taking a separate vote regarding their First Right of Refusal to Buy the hangar, and/or
2. Incorporating such a statement in the CONSENT AGREEMENT to reflect the Council has considered its option and whether or not it decides to buy the hangar.

— End of Action Items, Agenda Item #6 Comments —

From: Paul Boyer <pebo@boyaire.us>

Sent: Tuesday, April 21, 2020 3:33 PM

To: CC Public Comments <ccpublic@heberut.gov>

Subject: (EXTERNAL) PUBLIC COMMENT - AGENDA ITEM #7: Approval of Airport Hangars C & D Ground Lease Transfer

PUBLIC COMMENTS FROM: Paul Boyer, Daniel Hangar #19 Owner and Airport Stakeholder

TO: The Heber City Council

RE: April 21, 2020 City Council Meeting - V. ACTION ITEMS

AGENDA ITEM #7. Consider Approval of Airport Hangars C & D Ground Lease Transfer

I support City Council approval of the Airport Hangars C and D Ground Lease Transfer as written. However, I also strongly object to other aspects of the Airport Staff Report:

AIRPORT STAFF REPORT UNWARRANTED INFERENCES

The Airport Staff Report is a Public Document presented at a Public Meeting. The following statements and inference are not wanted or warranted in such settings. Specifically:

1. Provides unnecessary and extraneous personal information that has nothing to do with Airport Staff Recommendations or Council approval of the ground lease transfers.
2. Incorrectly infers information to the Council that is untrue.
3. States this Hangar Owner has "accepted a position as a profession airline pilot." This is personal information has nothing to do with the transaction or City approval. It should be protected and is inappropriate in a public document and public meeting.
4. Combining this statement with the one that immediately follows—" he is "no longer running his flight school out of the Heber Valley Airport"—infers that the two have something to do with each other. This has nothing to do with Airport Staff Recommendations or Council approval of the ground lease transfers.
5. When considering these two sentences together, one after the other, Airport Staff implies the reason this person "is no longer running his flight school out of the Heber Valley Airport" is because he "has accepted a position as a professional airline pilot."
6. Nothing could be further from the truth.
7. This individual moved his business to nearby Provo Airport—a competitor of Heber Valley Airport—where it is thriving and growing. The real reason the Seller moved his Flight School is Heber City refused to negotiate a reasonable lease.
8. It is truly sad to see Heber lose this business, with Heber Valley Airport now reduced to only one commercial tenant, when 2-1/2 years ago they had three airport business, plus several other legitimate offers from other businesses that the City refused to accommodate at Heber Valley Airport.

COMMERCIAL VS. NON-COMMERCIAL HANGARS

At their April 7, 2020 meeting, the City Council appeared confused about Commercial hangars and Non-commercial hangars, particularly the ground lease rates per square foot that the Owners of these pay for their leaseholds.

Nearly all of the other hangars at Heber Valley Airport—except those on the Commercial Apron—have the same Commercial operations clause in their contracts under Section VI, USE OF PREMISES, Paragraph B.:

“Lessee acknowledges that the premises may not be used for commercial purposes or as a fixed-base operator without Lessee meeting, complying with and obtaining approval for the minimum standards as may exist at that time for such operation.” In other words, nearly all existing hangars can be used commercially if they receive Council approval for a SASO and comply with the then existing Minimum Standards.

This is a very important leasing provision for the development of Heber Valley Airport for both Airport Staff and the City Council: Nearly all 76 hangars are allowed to host a Commercial Business IF they comply with SASO and Minimum Standards requirements.

FINANCIALLY UPSIDE-DOWN AIRPORT

In most small GA Airports similar to the size of Heber Valley Airport, the majority of airport revenues are received from their locally operated Commercial Businesses. For most part, Airport Sponsors like Heber City normally pay Commercial operators more fees and higher rates than individual Hangar Owners and Local Pilots. It is rare to see the situation at Heber Valley Airport charges individuals quadruple or more for ground lease rates than they do with Commercial Business (3-cents or so versus 37-cents+ and increasing annually with Consumer Price Index (CPI).

This is another reason why recently past City Councils approved converting reversionary ground leases to non-reversion leases, thereby providing the Airport with far increased revenues that are not available through existing, very old ground leases from 20+ years ago or more.

Note that this is NOT any of the current Commercial Operators fault. Simply, past City Councils 15-25 years ago approved these Commercial Business contracts that have been difficult to update.

USE OF AIRPORT REVENUES

The FAA requires that all revenues generated at the Airport be used solely for Airport projects. FAA Grant Assurances prohibit City Sponsors, like Heber City, from diverting Airport revenues to the City for off-airport use.

Additionally, if City Sponsor Heber City has more than a relative surplus of Airport revenues and funds, the FAA require Heber City to essentially “refund” these amounts to Airport users by lowering assessed rates and fees until the surplus is reduced sufficiently to satisfy FAA requirements. Only real estate taxes to Heber City, Wasatch County, and the School District can be used off-Airport for other than Airport projects.

TWO REQUESTS. Please ensure Airport Staff protects individuals’ privacy in the future by stopping their:

1. Inclusion of extraneous personal information in Public documents and at Public Meetings that has nothing to do with Staff Recommendations and the Council decisions, and
2. Using that personal information to infer something about a person’s reasoning that is not true, and frankly none of the City’s business, whether Airport Staff, City Staff, or City Council.