

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

July 6, 2021

4:30 p.m. Closed Executive Session
5:30 p.m. Work Meeting
7:00 p.m. Regular Meeting

TIME AND ORDER OF ITEMS ARE APPROXIMATE AND MAY BE CHANGED AS TIME PERMITS

I. CLOSED EXECUTIVE SESSION-4:30 P.M.

1. Imminent or Ongoing Litigation

Mayor Pro Tem Kahler called the meeting to order at 4:38 p.m. and welcomed everyone present.

Motion: Council Member Stack made the motion to enter a Closed Executive Session for the purpose of discussing pending or imminent litigation. Council Member Hardman made the second. Rollcall vote: **Voting Aye:** Council Members Franco, Hardman, Kahler, and Stack. The meeting entered Closed Session at 4:39 p.m.

Present: Council Member Rachel Kahler – Mayor Pro Tem
Council Member Wayne Hardman
Council Member Mike Johnston
Council Member Ryan Stack
Council Member Heidi Franco

Absent: Mayor Kelleen Potter

Staff present: City Manager Matt Brower
City Attorney Mark Smedley
City Recorder Trina Cooke

Also present: Airport Litigation Counsel Steve Osit and Peter Kirsch

Motion: Council Member Stack made the motion to end the Closed Executive Session. Council Member Hardman made the second. Rollcall vote: **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The Closed Executive Session ended at 5:24 p.m.

II. WORK MEETING-5:30 P.M.

Present: Mayor Kelleen Potter – arrived 5:32 p.m.
Council Member Heidi Franco
Council Member Wayne Hardman
Council Member Mike Johnston
Council Member Rachel Kahler
Council Member Ryan Stack

Staff Present: City Manager Matt Brower
City Attorney Mark Smedley
Sergeant Dan Smith
City Planning Director Tony Kohler
City Engineer Bart Mumford
Parks and Cemetery Director Mark Rounds
City Planner Jamie Baron
City Recorder Trina Cooke
IT Specialist Anthon Beales

Staff Participating Remotely:
City Engineer Bart Mumford
City Finance Manager Wesley Bingham
Public Works Director Matthew Kennard

Also Present: Richard Egbert, Diana Lance, Landon Bonner, Mandy Bonner, Russel and Susan Lee, Jeff Bradshaw, Bill Wark, Shirlene Mayo, Trisity Andra, April Estel, Scott Bonner, Randy Sant, Tom Stone, Rachel LeMelle, Tyrel Sage, Megan Sage, Stephen Anderson, Kristy Anderson, Lana Przybocki, Jerry Duke, Tricia Brown, Carolyn McDonald, Loren Bangerter, Cortney Smith, Benj Becker, Kent Buie, John Kohlman, Danny Fugal, Kassie Fugal, and Edward Funnell.

Also Joining Remotely: (names listed are as they appeared in the virtual meeting sign-in) David Belz, Paul, Barb Boss, Tracy Taylor, James Doolin, Kent Buie, Carol, Michael Moulton, Mark Halberg, Bryon Prince, Lynn Baum, Marie Kohler, Steven, Susan Singley, Linda, Kyle Kohler, Phil Jordan, BL, Trent Smith, Dane, Jeffrey Kuhn, Sandi Brower, Mark, Myron Lance, Dane, Rob, Todd Anderson, Glenn Singley, Vincent Esposito, and TJ.

Mayor Pro Tem Rachel Kahler called the meeting to order at 5:31 pm.

City Manager Matt Brower shared the success of the previous week's Market on Main.

- I. Discussion Regarding General Annexation or Master Development Agreement (MDA) Terms for Pending Annexations (Brower) – 30 min

City Manager Matt Bower presented the information regarding the North Village Annexation Petition process. He stated the upcoming North Village Annexation Master Development Agreements (MDAs) would have similarities in composition in order to increase Council's comfort level for, and streamline the process of, approval of the agreements. He reviewed key points for the general language to be included in the MDAs. Mr. Brower reviewed the list of enticements to formalize for the negotiations of annexation MDAs in the North Village. He listed the points that would be vested such as zoning, City standards, and fees, as listed in the PowerPoint Presentation.

Council Member Franco expressed concern with the low amount of the proposed preservation fee and noted the need to preserve the North Fields. She wished to see electric vehicle (EV) charging stations as well as electric landscaping tools added to the negotiation points. Council Member Franco proposed vesting be done at the preliminary approval stage of development and MDAs be established with terms of 10 years for completion and thereafter default to current City standards. Council Member Johnston agreed with shorter terms for the upcoming developments. Council Member Stack proposed language added to the agreements indicating failure to meet certain triggers established in the MDA would defer the agreement to current City standards.

Mr. Brower reviewed the project sequencing and phasing as well as the plan to maximize the legal protections for the City. He reviewed options for the City to secure the preservation of the North Fields. Council discussion determined to utilize the Open Space, Trails, Parks, and Tree Committee to oversee use of the preservation fees and to draft an ordinance outlining directions for use of the preservation fees.

Council Member Franco felt the developers should be required to provide an updated traffic study. Mr. Brower proposed inviting UDOT (Utah Department of Transportation) to the next Interlocal Meeting to share their traffic projection model.

2. Discussion of Ordinance 2021-21 to Amend the Annexation Policy Plan (Kohler) - 30 min

City Planning Director Tony Kohler explained the Bonners had requested their property be included in the Annexation Policy Plan map and Staff recommended doing so. Consensus of Council approved of the inclusion of the Bonner property.

Mr. Kohler noted the Crandall family had purchased the resort property, previously proposed for a waterpark development, and were requesting to be included in the Annexation Policy Plan map as well. Justin Keys, representing the Crandall family, shared the Crandall's entitlements of the property and their vision for an alternate development proposal. Trent Smith, also representing the Crandall family, shared an online presentation of an illustrative master plan, as included in the meeting recording. The proposal included residential and commercial uses, trails, pedestrian pathways, an amphitheater, greenspace, multi-use courts, a water feature, and transit stop. He provided building design proposals as well as natural vegetation and waterways to be included. Mr. Smith shared the transit plan to support the proposed density. The density proposed was less than entitled with the County. Mr. Keys explained the Crandalls wish to create a complimentary addition in the community. The two representatives of the Crandalls continued to explain the details of the proposed project and the good intentions of the Crandalls. Discussion with Council ensued.

Council Member Franco inquired whether the Crandall family would be interested in working with the City and the Open Space Board in order to lessen density even further. Mr. Smith described the Crandalls willingness to work with entities in order to provide a better project. He felt the Crandalls had always been a great partner and they wished to build a great community as well as to be good community and land stewards. Council Member Franco informed the Crandall representatives that a portion of their land might contain regional storm drainage servicing future development from the east side of the highway.

3. Review of Muirfield Expansion Plan and Funding from Wasatch Open Lands Board (Brower) - 20 min

Mr. Brower shared the City's efforts to obtain funding from the Wasatch Open Lands Board (WOLB) in order to purchase land for the extension of Muirfield Park and preserve addition open space for the North Fields. He informed Council WOLB would be holding a meeting on July 12th at 6:00 p.m. regarding the grant application from the City. The County Council would then have a Public Hearing regarding the application at their meeting scheduled for August 4, 2021 at 3:00 p.m. Mr. Brower expressed the importance of Council Members attending the meetings in order to express support and speak in favor of the application. Mr. Brower shared the presentation he intended to offer at the meetings detailing the location and costs of parcels and included a funding request justification.

III. REGULAR MEETING-7:00 P.M.

1. Call to Order

Mayor Potter called the Regular Meeting to order at 7:02 p.m. and welcomed everyone present.

2. Pledge of Allegiance (Council Member Hardman)

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

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

Council Member Johnston noted the nation had recently celebrated its 245th birthday and he wished to share some thoughts regarding Heber City's government and City. He quoted George Washington: "We should not look back, unless, it is to derive useful lessons from past errors and for the purpose of profiting by dearly bought experience". He said he was proud of the current Heber City Council for looking forward and looking back to learn from experience. He felt they were following President Washington's example. George Washington also said: "The basis of our political system is the right of the people to make and to alter their constitutions of government". He expressed appreciation to the people present for participating in Council proceedings. Council Member Johnston then shared a quote from Thomas Jefferson: "When you are angry, count to ten before you speak. And if very angry, count to a hundred". He felt it was not right to get angry with people and that everyone was trying to do their best.

IV. CONFLICT OF INTEREST DISCLOSURE:

V. CONSENT AGENDA:

1. Approval of June 1, 2021 City Council Meeting Minutes, June 15, 2021 City Council Meeting Minutes, and June 17, 2021 City Council Emergency Meeting Minutes (Cooke)
2. Consider Approval of Ordinance 2021-15 Amending Section 18.08.180 Dwellings (Baron)
3. Consider Approval of Ordinance 2021-07 Accessory Dwelling Units (Kohler)

Council Member Kahler felt Consent Agenda item three should be returned to a work meeting for Council discussion. Planning Director Kohler explained the majority of the changes were in order to bring the City Code into compliance with the State Code.

Motion: Council Member Kahler moved to remove the Accessory Dwelling Units agenda item from the Consent Agenda. Council Member Franco made the second. **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed 5-0**.

4. Consider Approval of Heber City Street Striping Contract (Mumford)
5. Consider Approval of Crack Seal Bid Award (Funk)
6. Consider Approval of Contract Award for Pressurized Irrigation Retrofit Project (Funk)

Council Member Franco indicated she wished to make a motion to approve but would not include the June 17, 2021 meeting minutes in the motion as she had not been present.

Motion: Council Member Franco moved to approve the June 1, 2021 and the June 15, 2021 minutes, as revised. To approve Ordinance 2021-15 for single family dwellings, as well as the restriping projects and construction bids for the crack seal and the pressurized irrigation meter contract. Council Member Stack made the second. **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed 5-0**.

Motion: Council Member Stack moved to approve the June 17, 2021 minutes. Council Member Hardman made the second. **Voting Aye:** Council Members Hardman, Johnston, Kahler, and Stack. Council Member Franco abstained as she had not been present. The motion **Passed 4-0**.

VI. PUBLIC COMMENTS:

Lance Higgs, resident, shared his appreciation for Council Member Johnston mentioning the Country's forefathers. He had served on the Patrick Henry submarine, name for another of the forefathers who had said "give me liberty or give me death". He shared he had held the position of Public Works Director from 1983 to 1995. When he felt his rights were being infringed upon he came to City Council Meetings. He had provided copies of an article of a tyrannical Council attempting to take away the homes of senior citizens for the betterment of downtown or trails. Mr. Higgs was very concerned with some of the things the Council was doing. He asked Council to read the article and to take it seriously. He did not want to move. He was a senior citizen on a fixed income. He had lived in his house for 40 years. He was born and raised in the valley and it used to be a really nice town. Mayor Potter wanted to ensure Mr. Higgs there was not a member of the Council who wished to see anyone lose their home. Mr. Higgs felt the City wanted to install high-density housing and tear down the old homes.

Richard Egbert, resident, had moved to the area due to health concerns. His daughter-in-law had been trying to get things passed to build him a father-in-law house. He said due to the City Code, it was getting impossible. He asked if the City was just going to shove elderly people aside. Mayor Potter explained the accessory dwelling units were one of the issues the City was currently dealing with. City Planning Director Tony Kohler explained Staff's efforts to bring the City's accessory dwelling unit Code into compliance with the State Code. Mr. Brower offered Mr. Egbert his card to follow up.

VII. ACTION ITEMS:

Motion: Council Member Stack moved to recess the Heber City Council and to convene as the Heber City Community Reinvestment Board. Council Member Johnston made the second. **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed 5-0**.

RECESS AS HEBER CITY COUNCIL CONVENE AS HEBER CITY COMMUNITY REINVESTMENT AGENCY (CRA) BOARD

The Community Reinvestment Agency (CRA) Board Meeting convened at 7:18 p.m.

I. Public Hearing Regarding the Draft Project Area Plan and Project Area Budget for the Heber City Downtown Community Reinvestment Project Area (Brower)

City Manager Matt Brower shared a video outlining basics of the CRA. [Video can be found in this meeting recording and on the Envision Heber 2050 website <https://envisionheber.com/>] Mr. Brower introduced City consultants Benj Becker and Adam Long. Mr. Becker clarified that Zion's Bank had been hired by the City to be a representative and advocate for the City. They did not represent any developer's interests. He explained the CRA was not a new tax nor was it a tax increase but rather a reallocation of existing tax monies. The CRA was not form-based code, zoning, or land-use code. It was not an initiative to tell property-owners what to do with their property and did not have the power of eminent domain. The CRA would not be a windfall for developers. Mr. Becker shared the CRA was a tool and listed the key points as follows:

- promote a vibrant downtown
- promote jobs and economic development in the downtown area
- generate quality reinvestment downtown
- address existing downtown challenges such as parking, aging buildings, and decaying infrastructure

- promote quality of life investments, such as public art, park amenities, gathering spaces, etc.
- promote affordable housing for essential workers

Mr. Becker proceeded to provide additional examples of why and how a CRA would be beneficial to Heber City. He described the redistribution of tax funds from already existing property taxes through interlocal agreements with the tax recipient entities.

Mayor Potter opened the Public Hearing at 7:40 p.m.

Mr. Higgs reiterated previous statements and shared the information in the news article as attached to the meeting agenda. He said he was civic-minded. He urged the community to take the CRA seriously.

Jerry Duke, Heber City resident, felt the increased property taxes in Heber City were a shame. He described the assessment by the County Assessor's office increased taxes at a faster rate in Heber City at over 20% in five years. He hoped to fix the tax problem and have the property tax in Heber go down. City Manager Matt Brower shared he had arranged to meet with Mr. Duke, Mayor Potter, and County Council Chair Mark Nelson in order to discuss the reasons for higher tax increases in certain areas of Heber City. Mr. Becker explained the increase was not uncommon over the time frame and the assessor's office might be catching up a little as assessed values generally trailed market values.

Myron Lance, resident, read from a Deseret News article indicating Heber City had grown exponentially quickly and was ranked as one of the fastest growing small towns in the United States in 2018. It had ranked number one for growth in micro-politan cities. He felt the City should focus on the traffic travelling through downtown rather than re-beautification. Mayor Potter responded there was nothing to be done to help the traffic situation until UDOT completed an ongoing Environmental Impact Study.

Tom Stone, Heber City resident, Community Alliance for Main Street member representative (CAMS), and Main Street property owner, expressed his and CAMS gratitude and appreciation for the Council's care of the City. He felt the Council was forward-thinking and he and CAMS supported the CRA and believed it was needed. He shared his personal investment in Main Street. He saw the vision for Main Street. Mr. Stone invited the public to join CAMS.

Susan Phillips Lee, Heber City resident, agreed with Mr. Higgs concerns. She stated there were words in the plan indicating developers could take a home if it was found to be an impediment. She read article 12, page 13: "the end result will be a walkable area conducive to visitors, shoppers, and recreations". She shared her family home was located in the CRA area and they had spent a lot of money to renovate the home. She read from the plan the permitted commercial uses and asked if anyone wanted "light industrial uses" next to their homes. Ms. Lee read the residential uses "apartments of varying densities, townhomes, and modern-family homes. Redevelopment of existing homes may result in varied densities". She asked why the City would increase density. Heber was the fifth fastest growing community in the nation, there was a water problem, and pollution problem. She had lived in Orem for 30 years and Orem had developed with no thought of what that would mean. The traffic and pollution in Orem were terrible and had caused her asthma. People moved to Heber for the small-town, quaint, country atmosphere. She voted no to the plan. She suggested revisiting the plan to make sure people's homes were protected and small-town, quaint Heber was protected for visitors and others who wanted to come to spend their money in Heber instead of Park City.

Dallin Koecher, Heber City Resident and Director of Tourism and Economic Development Department at the Chamber of Commerce, felt the CRA was an opportunity for Heber City to take control of its own destiny. For so many years the City had been at the whims of developers. He felt the best part of the Valley was the view of the mountains. He acknowledged the concerns of the residents. Mr. Koecher noted the opportunity to keep money in the valley rather than syphoning to Utah County. He shared the business owners who struggled to maintain the disrepair of their buildings. He recognized the growth in the valley and considered the CRA an opportunity to help grow responsibly.

Jeff Bradshaw, lifelong Heber City resident and former City Council Member, shared that in 1971, Main Street had been a virtual graveyard. There had been hardly anything for the Citizens. The City had come a long way in 50 years and He did not wish to wait an additional 50 years to see significant progress. Mr. Bradshaw felt Heber City was on the cusp of doing very great things for the community. He thought the CRA was greatly needed in order to assist the City to accomplish those things. He felt that in the past, it had been an impediment for people to go downtown and do any significant development due to the lack on infrastructure and parking. He thought the CRA would facilitate overcoming those obstacles and help downtown businesses. He felt the CRA would help everyone who lived and worked downtown. Mr. Bradshaw owned an accounting practice downtown and had seen businesses come and go and watched them struggle. He felt the CRA would be a great help to the community and businesses. He thought the CRA was the best thing the City could do at this time to help downtown.

Council Member Johnston pointed out the section titled “Techniques to Achieve the Project Area Development Plan Objectives”, where it stated: “Parcels of real property located in the Project Area may be acquired by purchase, but may not be acquired by condemnation”. He noted the line had been inserted to protect the homeowners and prevent City acquisition of property by condemnation or eminent domain. Council Member Kahler felt residents feared the City would take their property by eminent domain or give developers more rights to buy properties for high-density projects. She felt it was important everyone understand that was not what the CRA was for. She clarified the CRA was a financial tool not a master plan.

Randy Sant, economic development consultant, applauded the City for retaining the services of the professionals assisting with the CRA. He had worked with both and commended their knowledge. Mr. Sant shared he had been retained by a development group who wished to do something in CRA area and increase Heber City’s tax base. He explained he had stood to advise Council he felt the City was falling short on the proposed CRA project area budget. He recommended the agency consider raising the budget and felt the City would be more successful than anticipated. Mr. Sant thought the City was doing a great thing and pointed out the City had chosen a path that did not permit eminent domain. He noted his experience.

Discussion regarding the limitations of City and Agency powers regarding eminent domain ensued. Adam Long, consulting counsel for the CRA, confirmed the Agency for the CRA did not have eminent domain power. There were circumstances that gave eminent domain power to the City but said circumstances were entirely disassociated from the CRA Project Area Plan and Project Area Budget documents and Agency.

Danny Fugal, born in Heber City and current Heber City resident, previously owned a home in Ogden, in the area written about in the newspaper article distributed by Mr. Higgs, as attached to the meeting agenda. He had the opportunity to see the before and after in the Ogden area. He stated the improvement to the area was night and day. He shared his concern upon receiving the blight study notification from Ogden City but that it had not taken place as the court had shut it down. Mr. Fugal did not feel Heber had ill intent. He understood the vacated senior-center was planned to be high-density housing and felt it was needed. His only concern was how projects could potentially affect his ability to use the roads and possible code-enforcement harassment. He was hopeful the CRA would dress up some of the down town and have some of the positive effects he had seen in Ogden. He was not concerned about losing his home.

Council Member Stack referred to section 4.A and wished to clarify future land uses in the CRA did not include storage and light-industrial, but rather, the two uses were listed under *existing* land uses. Mr. Long added that nothing in the CRA document superseded the City land-use designations.

Mayor Potter closed the public Hearing at 8:19 p.m.

City Manager Matt Brower recommended the agency postpone action on items two through six until the July 20, 2021 City Council Meeting. He explained the Agency was required to have a specific land survey included in the documents and it was not yet completed.

Tracy Taylor asked to make an additional comment. She inquired whether Walmart was included in the CRA area. She wished to ask how the taxpayers felt about large corporations benefiting from the CRA, noting large corporations hindered Main Street's mom and pop shops. Mr. Brower informed the Walmart had been intentionally excluded from the CRA boundary. He stated the CRA was being pursued by the City based upon public input received during the Envision Heber 2050 master plan, which had been an 18 month public drafting process.

Myron Lance expressed strong objection to the CRA. He felt Main Street was beautiful as-is aside from the traffic issue.

Mayor Potter indicated agenda items two through six were postponed.

2. Consider Approval of Agency Resolution 2021-06 Adopting the Project Area Plan for the Heber City Downtown Community Reinvestment Project Area (Brower) - 30 min
3. Consider Approval of Agency Resolution 2021-07 Adopting the Project Area Budget for the Heber City Downtown Community Reinvestment Project Area (Brower) - 30 min
4. Consider Approval of Agency Resolution 2021-08 Approving an Interlocal Agreement Between the Community Reinvestment Agency and Heber City (Brower)

Motion: Council Member Stack moved to adjourn as the CRA Board. Council Member Franco made the second.
Voting Aye: Council Members Franco, Hardman, Johnston, Kahler, and Stack. The CRA Board Meeting adjourned at 8:28 p.m.

ADJOURN AS HEBER CITY CRA BOARD
RECONVENE AS HEBER CITY COUNCIL

5. Consider Approval of City Ordinance 2021-28 Adopting the Project Area Plan for the Heber City Downtown Community Reinvestment Project Area (Brower) - 5 min
6. Consider Approval of City Resolution 2021-11 Approving an Interlocal Agreement with the Heber City Community Reinvestment Agency for the Heber City Downtown Community Reinvestment Project Area (Brower)
7. Public Hearing to Consider Approval of Ordinance 2021-23 for Proposed Development Agreement of Storage Development Located at 600 West 100 South (Kohler)

City Planning Director Tony Kohler provided the project details. The Kitchen's owned the property and planned to build a storage facility with an underground gun-range. Mr. Kohler reviewed the development agreement items for the Council to consider. He stated the project was located in the area of the City designated for tourism and recreation. The proposed project was compatible with the grandfathered zoning.

Mayor Potter opened the Public Hearing at 8:34 p.m. With no public comments forthcoming, the Public Hearing was closed at 8:34 p.m.

Council Member Franco felt clause three of the agreement should clarify what would happen when the deadline expired. She asked to include mediation before litigation in clause four of the agreement. Mr. Brower stated the Kitchen's had been good partners and wished to work with the City for an equally desirable project.

8. Consider Approval of Resolution 2021-09 to Adopt a City-Wide Public Improvement District (PID) Policy (Brower) - 30 min

City Manager Matt Brower clarified this was not an adoption of a PID (Public Improvement District) but rather the adoption of a PID policy in order to guide the City through the adoption of future PIDs. City consultant Benj Becker explained the adoption of the PID policy was a formality required by State Code in order for the City to negotiate future PIDs with developers. Mr. Becker noted the two changes requested by Council Member Stack had been implemented. The first indicated PID application fees would be non-refundable and the second change required applicants to outline specific improvements or amenities for the project with and without the PID.

Council Member Franco asked to have the policy clarify the definition of “historical performance”. She wished to add language to specify the transition to the private PID Board from the developer PID. She felt there should be a process for conflicts of interest with board members. Council Member Franco was concerned with the vagueness in the policy. She felt the applicants should provide a historic financial performance statement. Mr. Becker explained the Council’s expectations may vary from project to project. The vagueness would allow Council the flexibility of requirements by each project as seen necessary. Council Member Franco expressed concern for possible litigation from property-owners. Council Member Stack proposed the language, “proposed governance plan subject to City approval at the time of application”. He noted the document was a policy rather than code and did not need to be so tightly detailed. Mr. Becker shared each individual project would have individual specifications.

Motion: Council Member Stack move to approve Resolution 2021-09 to adopt a City-wide Public Improvement Policy subject to the following changes in the proposed policy document before the Council that night: At the end of section I.D Fees, to add a final sentence, “Payment of any fees shall be non-refundable unless otherwise negotiated”, and section III.A.10 about the proposed governance plan, to read “shall be subject to the City Council approval”, and shall include “board structure and to transition from an appointed board to an elected board”. Council Member Kahler made the second. Rollcall vote: **Voting Aye:** Council Members Johnston, Hardman, Kahler, and Stack. **Voting Nay:** Council Member Franco. The motion **Passed** 4-1.

9. Consideration to Approve Ordinance 2021-20 for a Zone Change Agreement with the Garden Apartments Formerly Rocky Mountain Care Facility Property Located at 160 West 500 North (Kohler) - 30 min

City Planner Tony Kohler shared the project details and pertinent agreement items. City Attorney Mark Smedley confirmed the review of the affordable housing deed restriction agreement had been completed and the City was satisfied with the language. Mayor Potter asked for clarification of the Planning Commission's recommendation to reject the proposal. Mr. Kohler explained the Planning Commission’s recommendation against approval was due to the proposal not meeting the code requirements for parking which had been vetted by Council.

Motion: Council Member Kahler moved to approve Ordinance 2021-20 approving a zone change and the associated development agreement, as presented with the findings and conditions, as presented in the Staff Report. Council Member Hardman made the second. Rollcall Vote: **Voting Aye:** Council Members Hardman, Kahler, Stack, Franco, and Johnston. The motion **Passed unanimously**.

10. Consider Final Plat Approval for Coyote Ridge Phase 2-5 (Vlasic) - 15 min

City consultant Mark Vlasic shared a PowerPoint as included in the meeting agenda and recording. He reviewed the project details, background, key details, and the recommendation or approval from the Planning Commission. Mr. Vlasic showed an image of the plat map and described the phasing plan. Bryon Prince explained the Coyote Lane road closure was extended due to the delay of UDOT approval. City Engineer Bart Mumford shared the expectation was for road completion by the end of July and the information had been updated on the website.

Council Member Kahler requested the developer reinstate the park amenity fee of \$75,000 due to the delay of the road completion. Mr. Prince stated that Ivory Homes had not fallen short based upon any failure of their own. Council Member Stack questioned the inaccurate calculation of required open space.

It was determined to move forward with the meeting to permit time for discovery and correction of the discrepancy.

At the end of the meeting, City Planner Jamie Baron was able to reconcile the open space calculation and confirm the amount designated in the proposed development met the requirement.

Motion: Council Member Stack moved to approve Coyote Ridge phases two through five, subdivision final, with the findings and conditions in the conclusion of the Staff Report. Council Member Hardman made the second. **Voting Aye:** Council Members Hardman, Johnston, and Stack. **Voting Nay:** Council Member Kahler. Council Member Franco abstained. The motion **Passed 3-2**.

11. Approve Request for Subdivision Final for Old Mill Village Located at 2211 South Highway 40 (Vlasic) - 30 min

Mr. Vlasic provided the project details. He reviewed the previously presented information, background of the project, and the Staff recommendation for approval. Council Member Franco requested the green open space be dedicated as private open space as long as the development existed. She asked if the developer was willing to meet the NVOZ park amenity standards. John Kohlman, development representative, agreed to work with the City. Council Member Franco asked for section 6.3 in the Master Declaration of Covenants, Conditions, Easements and Restrictions to include the developer would not make alterations to the common areas without prior consent of the board.

Motion: Council Member Franco made a motion to add to section 6.3 that the common areas would be kept as dedicated private open space as long as the development existed. The motion **Failed** for lack of a second.

Motion: Council Member Johnston moved to accept the final subdivision for Old Mill Village and grant approval based on the Staff's findings and conditions. Council Member Hardman made the second. **Voting Aye:** Council Members Hardman, Johnston, and Stack. **Voting Nay:** Council Members Franco and Kahler. The motion **Passed 3-2**.

12. Consideration to Adopt Ordinance 2021-21 Amending the Annexation Policy Plan (Kohler) - 10 min

Motion: Council Member Kahler moved to add the Mandy and Landon Bonner property into the Annexation Policy Plan. Council Member Franco made the second. **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed 5-0**.

City Planning Director Tony Kohler clarified the motion to adopt the ordinance would need to specify whether or not to include the resort property. Council Member Kahler maintained that she felt it was important to show the community the Council was listening to them and the community had indicated they wished to see the North Fields remain undeveloped.

Motion: Council Member Johnston moved to approve Ordinance 2021-21, as presented, adopting the amended Annexation Policy Plan to maintain and keep the resort and Heiner properties as well as the Bonner property, based on the findings, conditions and conclusions as presented. Council Member Stack made the second.

Point of discussion: Council Member Stack stated that, for him, the vote acknowledged the existing zoning with the County for the Heiner and resort properties. He felt it was important for Heber City to maintain a 'seat at the table' in order to be a part of the decision making process for the land in the future.

Rollcall Vote: **Voting Aye:** Council Members Hardman, Johnston, and Stack. **Voting Nay:** Council Members Franco and Kahler. The motion **Passed 3-2**.

13. Consider Adoption of Ordinance 2021-16 Establishing a City-Wide Air Quality Policy (Franco) - 5 min

Council Member Franco invited Ned Funnell to speak regarding electric vehicle (EV) charging definitions and requirements. Mr. Funnell introduced himself and shared he worked in the electric vehicle industry and was supportive of maintaining the air quality in the Valley. He was happy to see the City consider measures to help promote electric vehicles. Council Member Franco reviewed the additional changes to the Air Quality Policy based upon Mr. Funnell's expertise. She stated the EV additions were listed as negotiation points for new developments, not requirements. Mr. Funnell stated charging stations were largely funded by grants.

Council Member Stack expressed concern with language in section 8.06.060. He was concerned with the implication of enforcement by the City. Council Member Stack recommended looking to other cities for examples. He questioned the need of an ordinance to guide proposed negotiations. He was not comfortable binding the City's hands with an ordinance.

Motion: Council Member Stack moved to approve Ordinance 2021-16, an ordinance for Heber City Code Chapter 8 dealing with Air Quality, with the amendment to 8.06.070, Radon Air, to change the word 'encouraged' (past tense) to 'encourages' (current tense). The Ordinance presented to Council prior to the EV changes proposed that night. Council Member Hardman made the second.

Point of Discussion: Council Member Johnston wished to continue the discussion and supported the EV changes. Council Member Kahler felt uncomfortable implementing the recommendations in ordinance form and wished to spend a year focusing on the education of the public. Council Member Hardman agreed with Council Member Kahler regarding education. Council Member Hardman withdrew his second. Discussion continued regarding how best to proceed. Council Member Stack **withdrew** the **Motion**. He agreed it might be more appropriately adopted by resolution.

Motion: Council Member Franco moved to adopt Ordinance 2021-16 including the 'whereas's, section 010; Purpose and Scope, section 020; Definitions, section 040; Wood Burning Stoves and Fireplaces, section 050; Air Quality Monitors, section 070; Radon Air, section 080; Fugitive Dust, 090; Other Air Quality Initiatives. The **motion Failed** for lack of a second.

14. Consider Approval of Temporary Ordinance 2021-27 Shipping Containers in Commercial Areas (Kohler) - 30 min

City Planner Tony Kohler explained the ordinance prohibited shipping storage containers in commercial zones, and stayed enforcement of said containers for six months, while the City researched and prepared a permanent solution.

Motion: Council Member Johnston made a motion to approve Ordinance 2021-27 adopting temporary regulations for shipping containers, as presented, with the findings and conditions, as presented. Council Member Kahler made the second. Rollcall Vote: **Voting Aye:** Council Members Stack, Johnston, Hardman, and Kahler **Voting Nay:** Council Member Franco. Motion **Passed 4-1**.

Discussion returned to agenda item ten.

VIII. COMMUNICATION ITEMS:

IX. ADJOURNMENT

Motion: Council Member Franco made the motion to Adjourn. Council Member Stack made the second. The meeting adjourned at 10:28 p.m.




Trina Cooke, City Recorder