

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
CITY COUNCIL MEETING

APPROVED Minutes

October 19, 2021

5:00 p.m. Work Meeting
7:00 p.m. Regular Meeting

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

Present: Mayor Kelleen Potter
Council Member Rachel Kahler
Council Member Heidi Franco
Council Member Mike Johnston
Council Member Ryan Stack - Remotely

Excused: Council Member Wayne Hardman

Staff Present: City Manager Matt Brower
City Attorney Mark Smedley
City Planning Director Tony Kohler
City Finance Manager Wes Bingham
City Planner Jamie Baron
City Engineer Russ Funk
IT Specialist Anthon Beales
Senior Officer Bryan Berg
City Recorder Trina Cooke

Staff Participating Remotely: City Finance Manager Wes Bingham, Assistant City Engineer Kyle Turnbow, City Planner Jamie Baron, City Attorney Mark Smedley, Public Works Director Matthew Kennard, and IT Specialist Anthon Beales.

Also Present: Ann Zimmerman, Bryce Hoover, Paul Linford, Brian Balls, Marcus Keller, Rena Bucad, John L. Paul, Rob Heywood, Marty Oakeson, Bret Wahlen, Randy Sant, Yvonne Barney, Brian Bird, Ryan Poelman, and others who did not sign in or whose names were illegible.

Also Attending Remotely: Trudy Simmons, Lisa M Ammons, Phil Jordan, Brian Balls, Marianne B Allen, Susie Becker, Kyle Kohler, Sandi Brower, Tracy Taylor, Drew Jex, Dave Nelson, Kim Dickerson, Wendy Jex, Steve Farrell, Justin Crail, Ben Lasseter, Kent Puncerelli, Howard Saldarini, Christen Thompson, Marco Diaz, Greg Bird, Glenn, Barbara, and others whose names were not listed.

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

1. Discussion Regarding an Amendment to the Drinking Water Source Protection Code, 8.28
Drinking Water Source Protection (Franco) – 20 min

WM Item 1 Staff Report Drinking Water Source Protection

City Attorney Mark Smedley reviewed the proposed amendments to the Drinking Water Source Protection Code 8.28. He read the summary included in the attached report. He clarified the ordinance would not be enforced by Heber City but rather was intended to provide notice to developers that the local Health Department and State Agency would enforce.

Council Member Kahler inquired the number of properties affected by the ordinance as properties with well water were required to convert to City culinary water. Council Member Franco informed there were over 35 wells located in the North Village Annexation Area and the ordinance provided property owners the choice to not annex and informed them that the City would follow best practices to protect the fresh water wells from the potential pollutants of new developments. Open Space, Trails, Parks, and Trees (OSTPT) Chairperson Ann Zimmerman explained the proposed process to place the responsibility on developers to locate wells within 100 feet of the development and notify the well owners of the development in order to protect from contamination. Discussion continued.

Council Member Stack inquired how a letter between two outside parties would indemnify the City. Council Member Johnston felt well owners would not sign an indemnification letter. Council Member Franco clarified the signature was intended to acknowledge receipt of notification only. Council Member Johnston read a list of possible pollutants from the State Code and pointed out that none of the pollutants were permitted within Heber City. He questioned the City inserting itself in a private matter that no other city would. He said the State drinking water source protection applied only to public wells and proposed the letter to well owners be a notification only.

2. Discussion Regarding Highlands MDA (Kohler) - 90 min

WM Item 2 Staff Report Highlands MDA

City Planning Director Tony Kohler reviewed the common values identified by community members who had participated in the Envision Heber 2050 master plan process. He shared the proposed future land use, displayed the North Village Overlay Zone (NVOZ) map, listed pending annexations in the North Village area, and provided the development goals for the area. All in alignment with Envision Heber 2050. He asked Council to focus feedback on the high level information to be determined rather than the smaller unknown details.

Mr. Kohler explained the proposed agricultural preservation impact fee of \$2,500 per dwelling unit, to be paid by new development, could potentially conserve over 30% of the North Fields. Council Member Franco expressed concern with the calculation totaling 12,000 dwelling units. Mr. Kohler provided an approximate breakdown of units between the proposed developments, adding that it was a rough estimation. Discussion regarding density ensued.

Mr. Kohler continued to review key discussion points as follows, and as included in the PowerPoint presentation in the meeting recording.

- Land Develop-ability
- Policy Questions
- Staff Recommendations

Mr. Kohler explained that Staff had pulled back to provide a broad overview in order for Council for Staff to proceed with an MDA (master development agreement) tailored to Council's expectations.

Kent Puncerelli with LAI design group and principal planner for the Highlands development presented a conceptual master plan and annexation. He shared a vicinity map, a site analysis, and described the vision for the development including open space, green space, residential units, student housing, and commercial plans to create a walkable community. Mr. Puncerelli provided images of proposed architectural styles and an illustrative master plan.

Council Member Stack questioned the ERU (equivalent residential units) calculation and asked for an explanation for the high number of market rate units. Mr. Puncerelli indicated the concept plan provided guidance with the maximum allowed following the City's NVOZ (North Village Overlay Zone). It exceeded 30% open space, over twelve miles of trails and sidewalks, and multiple parks.

Mr. Puncerelli detailed the trail connectivity and shared images for a community park concept, including an adventure park, a pedestrian bridge, restrooms, and parking. He shared additional images of a conceptual amphitheater park proposed, wedding gardens, and a wedding facility, with parking to accommodate both, and a community clubhouse. Mr. Puncerelli described proposed underground parking accommodations. He reviewed the projected phasing of the proposed development and stated the timeline for completion would be five to seven years.

Council Member Kahler expressed concern with multiple developments proposing potentially competing amphitheaters and felt the proposal before Council was not the best location. She asked if the project would consider foregoing the amphitheater. The amphitheater was included in the open space calculation. Council Member Stack suggested a coordinated approach with the County Arts Council with open lines of communication to determine the need for an amphitheater.

Discussion ensued regarding whether the development could or should dedicate land to the school district. The Sorenson development had dedicated land to the school district. Council Member Kahler suggested the adjoining developments needed to communicate with regard to road connectivity, schools, and other shared community amenities.

Council Member Franco asked what the storm-water plan was. Mr. Puncerelli explained they planned to manage the developments storm-water with detention ponds. City Engineer Russ Funk explained that Mr. Diehl had met with their department to discuss the development storm-water plan in order to align with the City's plan.

Council Member Kahler pointed out the NVOZ requirement to include churches and storage units in the overall ERU calculation conflicted with the proposed MDA. Direction from Council majority was to count the storage units in the ERU calculation but exclude churches. Council Member Kahler questioned the exclusion of basements from the habitable living space square footage calculation. Direction from Council majority was to calculate square footage based upon finished and useable square footage. Council Member Kahler inquired about the language “gross acreage should be used to calculate density”. Discussion regarding density and the Envision Heber 2050 General Plan identifying intent for density location followed.

Mr. Terry Diehl reminded Council of the significant contributions the developer had relinquished in the agreement including: paying a \$2,500 per unit preservation fee towards Heber City’s preservation of open space; 60% AMI (area median income) housing dedication agreed to, which was 20% better than the 80% requirement in Heber City’s Affordable Housing Ordinance. The development felt they had given a lot in the agreement negotiations and felt it would be unfair for the City to reduce the developments gross acreage density.

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

1. Call to Order

Mayor Potter called the meeting to order at 7:23 p.m. and welcomed everyone present.

2. Pledge of Allegiance (Council Member Johnston)

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

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

Council Member Stack shared a thought from French poet and author Antoine de Saint-Exupéry who said “If you want to build a ship, don't drum up people to collect wood, and don't assign them tasks and work, but rather teach them to long for the endless immensity of the sea." Council Member Stack felt it emphasized the importance of leadership by hearing and embracing the big picture and keeping the long-term vision as the focus.

III. CONFLICT OF INTEREST DISCLOSURE:

Council Member Johnston stated he would recuse himself from the Sawmill agenda item discussion.

IV. CONSENT AGENDA:

1. Approval of September 21, 2021 City Council Meeting Minutes (Cooke)

CA Item 1 9.21.2021 DRAFT Minutes 

2. Consider approval of a Professional Services Agreement with FFRK Architects for Preservation Work on the City’s Bell Tower in the Amount of \$39,450 (Brower)

CA Item 2 Staff Report Tabernacle Renovations 

Motion: Council Member Kahler moved to approve the minutes and the agreement with FFRK as presented in the Staff Report. Council Member Johnston made the second. **Voting Aye:** Council Members Franco, Johnston, Kahler, and Stack. The motion **Passed 4-0**.

V. PUBLIC COMMENTS:

Heber City Resident Tracy Taylor stated there was no street light at the turn for Coyote Canyon Parkway from Highway 40 and she hoped a light could be installed as it was very difficult to see at night. Mayor Potter thought it had been done previously and advised she would follow up with Heber Light and Power.

VI. ACTION ITEMS:

1. [Public Hearing Regarding a Proposed Budget Amendment for Fiscal Year 2021-2022 \(Bingham\)](#)

[Item 1-2 Staff Report Public Hearing - FY 2021-2022 Budget Amendment](#)

City Finance Manager Wes Bingham reviewed the details for the proposed budget amendment as included in the attached Staff Report. Council Member Johnston inquired about the Building Department budget increase for outsourcing work in order to fulfill the increase need for inspections. He felt it was important to maintain the institutional knowledge in the Building Department as with all City departments. He proposed hiring additional staff. Mr. Brower shared the difficulty faced by the City finding help as well as housing for City employees.

Mayor Potter opened the Public Hearing at 7:43 p.m.

Council Member Stack inquired where the money for additional expenditures was coming from. Mr. Bingham explained the building permit revenue was adequate to off-set building permit expenditures and the remainder was being moved from the budget surplus in the general fund.

With no comments from the public, the Public Hearing was closed at 7:46 p.m.

2. [Consider Approval of Resolution 2021-14 Approving the Proposed Budget Amendment for Fiscal Year 2021-2022 \(Bingham\) – 10 min](#)

[Item 1-2 Staff Report Public Hearing - FY 2021-2022 Budget Amendment](#)

Motion: Council Member Johnston made the motion to approve the first budget amendment for fiscal year 2021-2022, which was budget Resolution 2021-14, and removing the CRA 2020 funding of \$20,000. Council Member Kahler made the second. **Voting Aye:** Council Members Johnston, Kahler, Franco, and Stack. The motion **Passed 4-0**.

Motion: Council Member Johnston moved to recess as the Heber City Council and reconvene as the CRA (Community Reinvestment Agency) Board. Council Member Kahler made the second. **Voting Aye:** Council Members Franco, Johnston, Kahler, and Stack. The motion **Passed 4-0**.

Recess as City Council and Convene as CRA Board

3. Consider Approval of MOU (Memorandum of Understanding) Between the Heber City Community Reinvestment Agency (CRA) and Valley Hills, LLC, to Explore Terms and Details for a Potential Public Improvement District (PID) Development Agreement for the Commercial Property Located at 900 North Highway 40 (Brower) – 40 min

Item 3 CRA Staff Report 

Item 3 Exhibit E PP Zions Bank 

City Manager Matt Brower provided a discussion overview and reviewed the background of the proposed MOU (Memorandum of Understanding) with Valley Hills, LLC. He explained the purpose of the MOU was to allow the two parties time needed to conduct due diligence for a potential future tax increment participation development agreement, to insulate the City from financial and legal risk, and to enable Valley Hills, LLC to proceed with the execution of an agreement with Kroger.

Susie Becker and Marcus Keller, with Zion's Public Finance, provided a financial analysis of the New London development. Ms. Becker shared potential fiscal impacts to the City with three different scenarios. She provided a bar graph reflecting annual revenues from property taxes in order to demonstrate how the revenues would cover the debt service for a bond.

Council Member Franco wished to know whether an Impact Fee analysis had been performed. Ms. Becker explained impact fees had not been included in the analysis and said fees were limited to what they could be applied towards. Council Member Johnston clarified a PID (Public Improvement District) held no financial risk to the City as it was the bond-holders who held the financial risk if revenues were not produced as projected. He felt it was critical information for the public to know it was an all-encompassing project that would need to fund itself. Mr. Keller described a PID as a finance mechanism to help pay for a project. Council Member Kahler pointed out the PID revenues were much more viable if the School District and the County chose to participate in the CRA via inter-local agreements with the City. Discussion continued.

Heber City Engineer Russ Funk presented a cost estimate for the total costs of Smith's Marketplace and New London infrastructure improvements. He provided a list of developer requirements as listed in the Annexation Agreement. Council Member Franco asked to include street and storm-water drains on the list. Mr. Funk felt it was implied the developer would be responsible for storm-drain improvements. He reviewed the potential City obligations and provided a list, including dollar amounts, of impact fees available for use. Mr. Funk shared the City's major collector road standards at the time the annexation took place versus the current major collector standards and landscaping requirements.

Council Member Johnston stated he preferred the Eastern Bypass collector road to be divided by medians and include roundabouts. Council Members Kahler and Stack agreed. Council Member Franco suggested xeriscaping for the landscaping. Council Member Franco felt the City needed additional impact fee analysis information before moving forward.

Mr. Brower clarified that an MOU between the City's CRA and Valley Hills, LLC was not a legally binding contract. The intention was to reflect a level of commitment based upon mutual respect.

City Planning Director Tony Kohler explained the City's dark store and vacant lot policies. Mr. Brower described the proposed location of the storm-water retention pond on the opposite side of Highway 40 in order to maximize commercial space in the development. Mr. Brower provided an overview of the sections contained in the MOU.

Council Member Franco expressed concern with the manner in which the PID was issued. She wished to see a developer only PID, excluding residential units, and better numbers provided to the City in order to make a more informed decision.

Council Member Johnston felt the request was for an MOU to commit Heber City to widening the City's portion of road while Smith's built rather than after completion of the project thereby impeding access to the store. He felt the decision before Council was to either adopt the MOU and work with Smith's or miss the opportunity for the City to see the benefits from the commercial development and allow more residential units in its stead. Council Member Johnston supported the MOU.

Council Member Stack expressed comfort proceeding with the MOU as it was not contractually binding. He wished to include a line in the MOU indicating the City reserved the right to pay cash and forego a PID. He hoped Valley Hills, LLC, understood the City intended to hold them to the agreements within the annexation and development agreements and Heber City would not pay for anything that was the developer's obligation.

Motion: Council Member Kahler moved to approve the Valley Hills, LLC preliminary contingencies MOU agreement between Valley Hills, LLC, and Heber City, to define conditions precedent, expectations, responsibilities and guarantees upon which a future development agreement and other associated contracts are conditioned and established including the conditions requested by Council Member Stack. Council Member Johnston made the second. **Rollcall Vote: Voting Aye:** Council Members Stack, Kahler, and Johnston. **Voting Nay:** Council Member Franco. The **motion Passed 3-1.**

Motion: Council Member Franco moved to adjourn as the CRA board and reconvene as the Heber City Council. Council Member Kahler made the second. The CRA board meeting adjourned at 9:17 p.m.

Adjourn as CRA Board and Reconvene as City Council

4. [Consider Approval of Proposed Sawmill Master Development Agreement \(MDA\) Amendment Located at Approximately 1800 South 600 East \(Baron\) – 30 min](#)

[Item 4 Staff Report Sawmill](#) 

[Item 4 Original Recorded Master Development Agreement](#) 

Council Member Johnston had previously excused himself from the discussion and left the room.

City Planner Jamie Baron presented the policy question before Council was whether the City should amend the Sawmill Master Plan and Master Development Agreement (MDA) to accommodate a ten-acre elementary school site within the development.

The Planning Commission had held a Public Hearing. Based upon concerns expressed by the public, the development plan had been modified to increase open-space, better protect view-sheds of neighboring residents, and density had been reduced by 30 units. The developer was requesting the City allow commercial building heights to be increased to four stories in order to make the accommodations based upon public concerns as well as include an elementary school. Mr. Baron reviewed a detailed list of the proposed changes to the original Master Plan and MDA.

Council Member Stack expressed support for the proposal but wished to know whether the additional developers involved in the MDA were comfortable with the changes. There had been no objections brought forward. Council Member Franco wished to see a written agreement with Regal Homes. Mr. Brower did not feel Regal would enter into an agreement in writing. Council Member Kahler asked to rename the extension of Hidden Creek Lane as Kelsey Lane.

Motion: Council Member Kahler made the motion to approve Ordinance 2021-26, amending the Sawmill Master Development Agreement and Master Plan with the findings and conditions in the conclusion of the Staff Report. Council Member Stack made the second. **Voting Aye:** Council Members Kahler, Stack, and Franco. **Voting Nay:** none. Council Member Johnston had recused himself from the discussion. The motion **Passed 3-0**.

Mr. John Paul thanked City Planner Jamie Baron for his work to accommodate the relocation of a road to prevent headlights heading directly into his home.

5. [Authorize Staff to Negotiate a Purchase Sale Agreement with Selected Buyer for 1.5 Acres Located in the Industrial Park \(Brower\)](#)

The meeting skipped ahead to hold a Closed Executive Session prior to discussing agenda item five.

Council Member Johnston noted that after consideration and discussion in Closed Executive Session of three proposals submitted for the purchase of City surplus property located in Industrial Park, he would make a motion.

Motion: Council Member Johnston moved to ask Staff to negotiate the sale of property with Michael Pavicic for a reasonable price and return to City Council for ratification. Council Member Kahler made the second. **Voting Aye:** Council Members Franco, Johnston, Kahler, and Stack. The motion **Passed 4-0**.

VII. [COMMUNICATION:](#)

City Manager Matt Brower informed Council of the City's search to replace his administrative assistant as well as an assistant to the Airport Manager. The City had found two qualified candidates and he was requesting permission to hire two full-time assistants rather than the originally projected two part-time assistants.

It was an addition of one more full-time City employee. Council Members Franco, Johnston, Kahler, and Stack expressed support.

Mayor Potter shared that the County had rejected the City's proposition to install a fitness court at Southfield Park. She asked Council whether they wished to continue fundraising and move forward with an alternate location at Muirfield Park. \$35,000 of the \$70,000 needed had been raised to date for the fitness court installation. Direction of Council was to continue fundraising for the fitness court to be located at the alternate location.

VIII. CLOSED EXECUTIVE SESSION:

1. Real Estate

Motion: Council Member Kahler moved to enter Closed Executive Session. Council Member Franco made the second. The meeting entered Closed Executive Session at 9:50 p.m. for the purpose of discussing the sale, purchase, or lease of real property.

Present: Mayor Kelleen Potter
Council Member Rachel Kahler
Council Member Heidi Franco
Council Member Mike Johnston
Council Member Ryan Stack - Remotely

Excused: Council Member Wayne Hardman

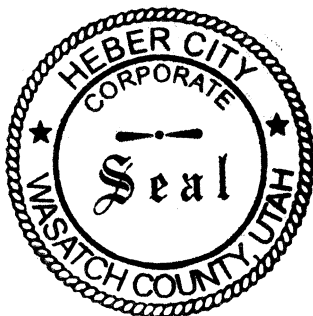
Staff Present: City Manager Matt Brower
City Attorney Mark Smedley
City Recorder Trina Cooke

Motion: Council Member Franco moved to exit Closed Executive Session and return to the Regular Meeting. Council Member Kahler made the second. The meeting returned to Regular Session at 10:14 p.m.

The meeting returned to agenda item five for discussion.

IX. ADJOURNMENT

Motion: Council Member Kahler made the motion to adjourn. Council Member Stack seconded the motion. The meeting adjourned at 10:28 p.m.



Trina W Cooke
Trina Cooke, City Recorder