

HEBER CITY CORPORATION

75 North Main Street

Heber City, UT 84032

City Council Meeting

December 21, 2021

6:00 p.m. Regular Meeting

Approved Minutes

REGULAR MEETING - 6:00 P.M.

Present: Mayor Kelleen Potter
Council Member Rachel Kahler
Council Member Heidi Franco
Council Member Mike Johnston
Council Member Ryan Stack – remotely
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
City Recorder Trina Cooke
Officer Bryan Berg
Officer Heath Harvey

Staff Participating Remotely: Human Resources Manager Melanie Alleavitch, City Attorney Mark Smedley, Assistant to the City Manager Luke Searle, IT Specialist Anthon Beales, City Planning Director Tony Kohler, Public Works Director Matthew Kennard, and Deputy Recorder Robin Raines-Bond.

Also Present: Tracy Taylor, Adam Herbets, Yvonne Barney, Nick Lopez, John Kohlman, Brad Ellert, and others who did not sign in or whose names were illegible.

Also Attending Remotely: (Names are shown as they appeared online) Fox 13 News, Steven Rowley, Kristy, Marianne B Allen, Brad E, Elizabeth, Matt Hansen, Brett, Kathy, Paul Berg, Adama, Sandi Brower, Paul A. Sweat, Kim Dickerson, Robert Stoll, Philip Jordan, Luke, and others whose names were not listed.

1. [Call to Order](#)

Mayor Potter called the Meeting to order at 6:04 p.m. and welcomed everyone in attendance.

2. [Pledge of Allegiance \(Mayor Potter\)](#)

Mayor Potter led the recitation of the Pledge of Allegiance.

3. [Prayer/Thought by Invitation \(Default: Council Member Hardman\)](#)

Council Member Hardman shared a prayer.

II. [CONFLICT OF INTEREST DISCLOSURE:](#)

Council Member Stack disclosed conflicts with agenda items three and eight and stated he would recuse himself from discussion and possible action of said agenda items.

III. [CONSENT AGENDA:](#)

1. [Approval of November 16, 2021 City Council Meeting Minutes \(Cooke\)](#)

[CA Item 1 Draft Minutes 11.16.2021](#)

2. [Consider Adoption of 2022-2023 Fiscal Year Budget Schedule \(Bingham\)](#)

[CA Item 2 Staff Report FY 2022-2023 Budget Calendar Staff Report CC 12212021](#)

3. [Consider Approval of the 2022 Holiday Schedule for the Heber City Offices \(Alleavitch\)](#)

[CA Item 3 Staff Report 2022 Holiday Schedule](#)

Motion: Council Member Johnston moved to remove agenda item three from the Consent Agenda for further discussion. Council Member Hardman seconded the motion. **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed unanimously** and Agenda Item 3 was removed from the Consent Agenda.

Council Member Johnston felt the Council should obtain feedback from Staff regarding the replacement of a floating holiday with the newly recognized federal holiday of Juneteenth. Council determined to postpone approval of the 2022 Holiday Schedule until the following meeting. It was noted there was a holiday on the schedule before the next Council Meeting.

Motion: Council Member Franco moved to approve the January 3 holiday in observation of New Year's Day. Council Member Johnston made the second. **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed unanimously**.

4. Consider Approval of Ordinance 2021-40 Adopting the City Council Meeting 2022 Annual Schedule (Cooke)

CA Item 4 Staff Report Ordinance 2021-40 Annual Meeting Skd 2022

5. Consider Final Approval of Fitness Court MOU (Memorandum of Understanding) Agreement (Searle)

CA Item 5 Staff Report Fitness Court MOU

Motion: Council Member Hardman moved to approve the remaining four items on the Consent Agenda. Council Member Kahler made the second. **Rollcall Vote: Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed unanimously.**

IV. PUBLIC COMMENTS:

Nick Lopez, Heber City resident, read a statement regarding the importance of police agency accountability and transparency. He was disappointed to see a news story with Heber City Police officers involved in, what he felt, was unprofessional and unbecoming conduct. He had been proud to see other officers had the courage to report the misconduct. Mr. Lopez shared his experience in the Marines. He was a firefighter and EMT. He was concerned with what the news story reported and the unanswered questions remaining. He proposed all police officers be required to wear body cameras; that investigations into misconduct be performed by individuals unknown to those being investigated; following investigations, records be made available to the public; organize an adverse citizens review board to review reported incidents; allow the local law enforcement officers to form a labor union to protect them from retribution and lend legal assistance if, or when, needed.

Tracy Taylor, Heber City resident, expressed concern with the aftermath of the officer involved incident. She was concerned, as a citizen, that anyone employed by Heber City would ever be uncomfortable expressing concerns to a superior at the City without being retaliated against. She hoped the City would provide an environment that allowed staff to feel comfortable expressing concerns.

Michael Franchek, resident of Park City, stated he had been a victim of police violence and was a public accountability expert. He had worked with federal law enforcement agencies and the federal government on whistle-blower cases and had an open 1983 case against the Park City Police Department for violations against civil rights. He documented police violence and accountability. Mr. Franchek stated he had submitted a number of records requests with the Heber City Police Department and Heber City and felt he had been ignored. He felt a Chief of Police should never place hands on a suspect. He felt the City had all the information he had requested and chosen to ignore him. He commended the brave and honorable law-enforcement officers who had the guts to stand up to a bully. He explained that he and his 15 year-old son had been assaulted by Park City Police officers and, at the direction of the Summit County Chief of Police, had taken his complaint to the Wasatch County Sheriff's department who had done nothing to investigate the incident. He felt it was a pattern. He was anxiously awaiting fulfillment of his GRAMA request.

Fox 13 News journalist Adam Herbets asked why Heber City was withholding records from the public. He asked Mayor Potter if it was true she had told a room full of Police Officers “Karma is a Bitch”. He referred to Wasatch County Sheriff Rigby recording himself telling officers he was speaking on behalf of Heber City and advised an officer he would be unable to advance his career if he did not choose to change his statement against the Police Chief. Mr. Herbets asked whether the Sherriff was authorized to speak on behalf of the Heber City Police Department or whether he had been intended to act as a neutral third-party. He inquired what the Council knew about the investigation into Chief Dave Booth. Whether they had seen the video or if the situation had been described as baseless and without merit. A claim the State said was not an accurate portrayal of the incident. Mr. Herbets then stated a complaint had been filed with POST (Police Officer Standards and Training) indicating Chief Booth had lied about his training and training hours.

Brad Ellert, Midway resident, had children attending school in Heber City and served on the Future Schools Committee with Wasatch County School District. He shared that the Future Schools Committee listened to students, parents, survey results, and community feedback regarding the location of future schools as well as what the kids felt the schools should provide. Transparency and trust were the most important to the community. He felt the City needed more transparency to gain community trust. He recommended a third-party investigation from an entity outside the Valley. Mr. Ellert shared an interaction he had with another police department in which he had requested body camera footage that had proved the officer lied.

V. ACTION ITEMS:

1. Presentation of Heber City’s 2021 Annual Audit (Stephen Rowley) – 15 min

Item 1 Audit Presentation PowerPoint

Item 1 Heber City - FY2021 Report - ISSUED (12-17-2021)

Item 1 Heber City - Letter to Governance FY2021

City Finance Manager Wes Bingham introduce Steven Rowley with Keddington and Christiansen CPAs. Mr. Rowley had conducted the 2021 Annual Financial Statement Audit for Heber City. Mr. Rowley reviewed the City’s financial and fiscal responsibilities. He provided the Audit Opinion and stated it was as high as could be achieved by a municipality. He shared the internal controls and compliance within the Government Auditing Standards Report. A Single Audit Report had been required as well due to the amount of grant monies received by the City in order to ensure said money was used appropriately. The State Compliance Report showed Heber City was in compliance in all but two areas, which seemed to be isolated incidents. Mr. Bingham explained there had been unexpected Airport legal counsel invoices which had crossed over the fiscal year thereby preventing the City’s anticipation of the need for a budget amendment. He shared the second issue had been a staffing constraint that prevented the City from making the required bank deposits for a week. All reports for Heber City were very positive and the audit had found no difficulties to report.

Council Member Franco inquired what other cities had done to lower uninsured money in the bank. Mr. Rowley shared a few options and described the low risk for the uninsured money. Mr. Bingham explained Heber City's practices to reduce risk.

2. [Consider Approval of Agreement with Utah Central Water for Mill Road Bridge Replacement \(Funk\) – 5 min](#)

[Item 2 Staff Report Bridge Repl CUWCD Agree](#)

City Engineer Russ Funk reviewed the money previously budgeted for the Mill Road Bridge replacement and Council's decision to postpone the project based upon the unreasonably high bids received by the City had exceeded the budgeted amount. As part of the Wasatch Canal system, the Central Utah Water Conservation District (CUWCD) had reopened the project for bids in September of 2021 and awarded the project to JL Concrete. Staff was seeking Council approval to enter into a cost sharing agreement with CUWCD for the bridge replacement. The project was expected to begin mid-February and conclude the first of April 2022.

Council Member Johnston pointed out the bridge was not very old and felt it should not be failing. He asked Engineering Staff to report back findings regarding why the bridge was failing. Council Member Kahler expressed concern that the project would obstruct a main school bus route. She wondered whether it would be better to postpone the project. Mr. Funk confirmed there would be detours due to an entire road closure but the canal company needed to do repairs in the off-season while there was no water flowing.

Motion: Council Member Johnston made the motion to approve the agenda item and authorize Engineering Staff to execute a cost sharing agreement with CUWCD for the initial amount of \$212,800.00. Council Member Hardman made the second. **Voting Aye:** Council Members Franco, Hardman, Johnston, and Stack. **Voting Nay:** Council Member Kahler. The motion **Passed 4-1**.

3. [Consider Statutory Option to Deny or Proceed with Review of Wasatch School Site Annexation Pursuant to Annexation Petition Protest \(Smedley, Kohler\) - 10 min](#)

[Item 3 Staff Report School Annexation Protest](#)

Council Member Stack recused himself.

City Planning Director Tony Kohler reviewed the timeline of the Wasatch School Site annexation petition from the receipt of the petition, the acceptance by Council, and certification as a valid petition by the City. He advised that the County and City had received a protest to the petition from a rural property owner. Council had the option to deny the petition at that point and end the annexation process or alternately allow the petition to go through a review process with the Boundary Commission as established by the County. Recommendation from Staff was to permit the annexation process to proceed through the Wasatch County Boundary Commission. Mr. Kohler then described the peninsula created within the annexation area map.

Council Member Kahler stated, for the record, that she did not want the land to be annexed, she did not wish to see it be developed or have high density on the frontage. She felt it was important that Council distinguished, with the annexation of the school site, it was for the betterment of the students in the area and to allow for a second school site. It was not to continue growth in Heber City nor to add more commercial area. Council wanted to preserve the North Fields. The School District had selected the site and Council Member Kahler supported them but did not wish to see additional residential or commercial growth. Council Member Franco pointed out that growth around a school was inevitable, the school district held a very valuable piece of land they could sell for a profit and build elsewhere, there would be a traffic bottleneck created if the school were built at the proposed location, and she did not support the annexation.

Motion: Council Member Franco moved to deny the Wasatch High School annexation petition. The **motion Failed** for lack of a second.

Motion: Council Member Hardman made the motion to take no action and to allow the annexation petition to move forward to the Boundary Commission. Council Member Johnston made the second. **Voting Aye:** Council Members Hardman, Johnston, and Kahler. **Voting Nay:** Council Member Franco. Council Member Stack was recused. The motion **Passed 3-1**.

Discussion regarding the annexation, the school location, density, and the preference of the voters followed. Heber City resident Tracy Taylor stated she served on the Future Schools Committee and was concerned the Council was considering the annexation based solely upon it being a school site, while it very possibly might not end up as a school site. Council Member Johnston noted school districts were sovereign entities and not subject to the restrictions of zoning by the County or the City.

4. [Discussion to Determine Whether Sorenson Design Guidelines Amendment is Administrative or Modification Amendment \(Kohler\) - 15 min](#)

[Item 4 Sorenson MDA Amendment-alk](#) 

Agenda item four was postponed to January 2022.

5. [Consider Approval of First Master Development Agreement \(MDA\) Amendment for Old Mill Village, Located at Approximately 1981 South Highway 40 \(Baron\) – 15 min](#)

[Item 5 Staff Report - Old Mill Village MDA 1st Amendment](#) 

City Planner Jamie Baron reminded Council of their discussion during the previous meeting and Council's direction to amend the language in the MDA before returning to seek approval. He reviewed the amended language to adequately address owner occupancy for deed restricted housing. He noted the amended language included enforcement by the HOA (homeowners association).

Motion: Council Member Franco made the motion to designate the amendment as a modification amendment rather than administrative amendment. Based on clarification of the action needed, Council Member Franco withdrew the motion.

Motion: Council Member Johnston moved to approve the first Master Development Agreement Amendment for Old Mill Village MDA as presented by Staff. 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**.

6. Consider Approval of Appointment of Matthew Hansen as the Heber City Appeal Authority (Administrative Law Judge) (Kohler) - 15 min

Item 6 Staff Report - Appeal Authority

City Planner Jamie Baron advised Council that Staff had issued an RFQ (Request for Qualifications) and had formed a committee to hold interviews for an Administrative Law Judge for the purpose of reviewing Heber City Zoning Appeals, Variances, and Reasonable Accommodations, as well as nuisance appeals. The recommendation of the Committee and Mayor was to appoint Matthew Hansen as the Administrative Law Judge and Appeal Authority for Heber City. Mr. Baron provided an overview of the contract, calculation of billable hours, and the estimated amount of work based upon past appeals.

Council Member Stack noted he had previously worked with Mr. Hansen and had found him to be an individual of the highest integrity and character. He felt Heber City would be fortunate to have him. Council Member Franco was pleased to see the position filled and welcomed Mr. Hansen.

Motion: Council Member Kahler made the motion to approve the appointment of Matthew J. Hansen as the Appeal Authority for Heber City, with the associated contract. Council Member Franco made the second. **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed unanimously**.

7. Consider Adoption of Ordinance 2021-39 to Approve Envision Heber 2050 Phase 3 Code Amendments: Repeal Section 17.38.100 Costs and Charges; Consolidate Chapter 18.16 Zones General with Chapter 18.20 Official Zone Map; Repeal Section 18.67 Hillside Overlay Zone; and Repeal Chapter 18.51 R-14 Transitional Residential Zones (Kohler) - 15 min

Item 7 Staff Report Ordinance 2021-39 Code amendments

City Planning Director Tony Kohler provided a brief summary of the proposed amendments. Discussion ensued regarding the proposed repeal of the Hillside Overlay Zone and whether there were enough protections in place if repealed. Mr. Kohler asked Council to approve the remaining proposed amendments and remove the Hillside Overlay Zone if Council was uncomfortable doing repealing it at that time.

Motion: Council Member Franco moved to approve Ordinance 2021-39 phase three code amendments with the exception of section 18.67 and keep the Hillside Overlay Zone in place. Council Member Stack made the second. **Rollcall Vote: Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed unanimously.**

8. Discussion and Consideration to Approve Resolution 2021-20 to Participate in the State Opioid Settlement (Brower) - 15 min

Item 8 Staff Report Resolution 2021 Opioid Settlement

Council Member Stack recused himself.

City Attorney Mark Smedley explained the proposed Resolution would enable Heber City to register as a participant in a class action law suit within the State of Utah for a settlement from an opioid lawsuit. It was recommended the City authorize the registration. Money received from the settlement would be processed through the County and used for education, preventative treatment, and support.

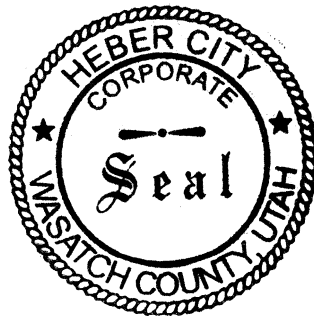
Motion: Council Member Hardman made the motion to proceed and approve Resolution 2021-20. Council Member Kahler made the second. **Rollcall Vote: Voting Aye:** Council Members Franco, Kahler, Hardman, and Johnston. Council Member Stack was recused. The motion **Passed 4-0.**

VI. COMMUNICATION ITEMS:

City Manager Matt Brower reminded Council of the upcoming Strategic Retreat planned for January sixth and seventh.

VII. ADJOURNMENT

Motion: Council Member Hardman made the motion to adjourn. Council Member Kahler made the second. The meeting adjourned at 7:49 p.m.




Trina Cooke, City Recorder