

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
City Council Meeting
December 7, 2021

APPROVED Minutes

4:00 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. WORK MEETING-4:00 P.M.

Present: Mayor Kelleen Potter
Council Member Rachel Kahler
Council Member Heidi Franco
Council Member Mike Johnston
Council Member Ryan Stack – arrived 4:14 p.m.
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
Parks and Cemetery Director Mark Rounds
City Recorder Trina Cooke
Senior Officer Bryan Berg

Staff Participating Remotely: Assistant to the City Manager Luke Searle, City Engineer Russ Funk, City Finance Manager Wes Bingham, City Attorney Mark Smedley, City Planning Director Tony Kohler, Public Works Director Matthew Kennard, and Assistant City Engineer Kyle Turnbow.

Also Present: Shauna Bennett, George Bennett, Bill Fox, Scott Phillips, Jimmy Hansen, Arnold John, Terry Diehl, Gordon Spencer, Sharon Spencer, Dawn Sopar, Robert McConnell, Maydeline Casiano, Sophia Capson, Quentin Partridge, Kenna Jones, Laurie Gagan, John Kohlman, and others who did not sign in or whose names were illegible.

Also Attending Remotely: (Names are shown as they appeared online) Sandi Brower, Dan and Trudy Simmons, Kelli G, Tracy Taylor, Howard Saldarini, Dave, James Doolin, Kyle K, Marco Diaz, Barb Boss, Chuckz, Robin Raines-Bond, Kendra Wyckoff, Rob Harter, Paul, R Kent, Ben Lasseter, Marianne B Allen, Bobbie Jo Glover, and Kent Buie.

Mayor Potter called the Work Meeting to order at 4:03 p.m. and welcomed everyone in attendance.

1. Discuss draft Downtown Overlay Zone (DOZ) with Planning Commission (Kohler) - 120 min

Downtown Overlay Zone Draft
Downtown Overlay Zone PC - CC

City Planning Director Tony Kohler explained the purpose of the joint City Council and Planning Commission Meeting was to review and discuss the proposed Downtown Overlay Zone (DOZ) ordinance. City consultant John Janson provided the overall concept of the (DOZ) and reviewed the general outline of the draft including the purpose, intent, and applicability.

The proposed DOZ plan included:

- refining street cross sections
- landscaping and street tree requirements
- architectural standards for the historic area and the RR depot

Mr. Kohler provided a comparison of the City zoning map, the CRA boundary map, and the DOZ map and described the changes made at the direction of Council since last discussed. Council Member Franco expressed concern with the proposed height for multi-family homes. Council discussed the DOZ boundary extension limitations, density, building height restrictions, and their preferences of whether to preserve the historic downtown homes or replace with higher density housing.

Council Member Franco wished to ensure the City landmarks, such as the tabernacle building that had been converted into City Hall, were preserved. She expressed concern with no max density set in the DOZ ordinance. Council Member Kahler described concerns of residents located in an area when said area was rezoned as commercial. Council Member Stack felt it was important to plan with vision rather than caution. Council Member Johnston supported the DOZ ordinance as presented, he felt the historic downtown was languishing and suffering without any incentive for improvement. He felt by putting something in place with the DOZ ordinance, the area would move forward with vitality and energy and prosperity. Council Member Franco felt the people in the historic area tended to move out of the historic old houses when high density was added. Council Member Kahler was concerned with losing the character of the historic homes in the downtown area. Council Member Hardman lived in the historic downtown area and felt the majority of homes were not up to code and would generally be better off torn down rather than renovated. Council Member Franco also expressed concern with the water needed for additional high density housing. Discussion continued regarding density.

Mr. Janson reviewed the planned education outreach for the community to provide information and receive feedback. Council Member Franco hoped there would be more consensus from Council before community outreach began. Mr. Janson agreed there would need to be an additional Workshop Meeting held for Council before outreach began. He continued to review the permitted and conditional uses listed in the ordinance. Council discussion followed regarding what type of storage, commercial storage, and storage units should be permitted in the DOZ ordinance,

Council discussed permitted uses for infill. Mr. Kohler reminded Council of the recommendation previously forwarded from the Planning Commission to amend the infill district to ease restrictions, if the City wished to permit further infill. Council Member Franco wished to protect the view of the landmarks in Heber, such as the tabernacle, by restricting the surrounding building heights. Discussion continued regarding architecture design standards, building types, requirements for mixed-use building types, and building heights allowed for different areas within the DOZ. Council Member Franco asked Council to look at a town called Sisters, Oregon. The town had a three block walkable tourism area with shops and restaurants that she felt was very well done.

George Bennett, property owner within the proposed DOZ area, reminded Council of the discussion of a maximum height transition area in order to prevent max-height buildings being placed next to, and dwarfing, older, smaller mom and pop shops.

Council Member Franco wished to see “active features” defined. She wanted Council to consider an additional park to accommodate the proposed density as well as ask multi-family units to include child playground equipment.

2. [Discuss Proposed 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](#)

[Envision Code Updates](#)

Mr. Kohler advised that Phase 3 of the Envision Heber 2050 Master Plan process was the update of the code. The proposed updates that night were to eliminate or consolidate unnecessary and duplicate code sections. He presented policy questions and recommendations for the proposed code changes and provided background for each section proposed to be repealed or condensed.

Council Member Franco asked how the old zones would be phased out. Mr. Janson explained the plan would be implemented in small steps. She hoped the animal rights would remain in-tact when consolidating the proposed agricultural areas. Mr. Janson explained no rights would be taken and the intent was to eliminate inconsistencies in the Code.

3. [Discuss Proposed North Village Annexation \(Kohler\) - 45 min \(time permitting\)](#)

Discussion for Work Meeting agenda item three was postponed.

With time remaining in the Work Meeting session, Council determined to enter the Closed Executive Session originally scheduled for the end of the Regular Meeting.

VIII. CLOSED EXECUTIVE SESSION

1. **Personnel**
2. **Real Estate**

Motion: Council Member Kahler moved to enter Closed Executive Session. Council Member Hardman made the second. The meeting entered Closed Executive Session at 6:15 p.m. for the purpose of discussing personnel and the sale, purchase, or lease of real property.

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

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

Motion: Council Member Kahler moved to exit the Closed Executive Session and return to the Regular Meeting. Council Member Hardman made the second. The meeting returned to Regular Session at 7:04 p.m.

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

1. **Call to Order**

Mayor Potter called the Regular Meeting to order at 7:15 p.m.

2. **Pledge of Allegiance (Council Member Stack)**

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

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

Council Member Franco shared a prayer.

III. CONFLICT OF INTEREST DISCLOSURE:

There were no conflicts of interest disclosed by Council.

IV. CONSENT AGENDA:

1. Approval of October 19, 2021 City Council Meeting Minutes (Cooke)

CS Item 1 10.19.2021 DRAFT Minutes 

2. Approval of Destruction of Evidence for the Heber City Police Department (Booth)

CS Item 2 Staff Report Evidence Destruction 

Motion: Council Member Franco moved to approve the Consent Agenda as listed. Council Member Stack made the second. **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed unanimously 5-0.**

V. PUBLIC COMMENTS:

Students from the Wasatch High School CAPS (Center for Advanced Professional Studies) program presented. Quinton Partridge and Sophia Capson, seniors at Wasatch High School, wished to address the dangers of chemicals found in common pesticides such as glyphosate, a common ingredient in Round-up and other weed-killers. The company that manufactured Round-up had recently lost an 80 million dollar lawsuit due to findings it was the cause of non-Hodgkin's Lymphoma in users. The Company continued to manufacture the product with glyphosate. The CAPS students expressed appreciation for the parks and open spaces in the Valley and wished to ask the City to use safer methods of pest control and herbicides. Council Member Kahler asked the students to follow up with the City's Parks and Cemetery Director Mark Rounds to further discuss. Council Member Johnston asked the students to return to share their findings.

Lori Gagon stated she had launched a public awareness website titled 'stopsprayingglyphosate.com'. She worked with scientists for the information on the website. Ms. Gagon worked with cities and held workshops to bring awareness of safer methods of pest and weed control to communities. She had a friend, Kathleen Holla, who had brought an alternate product from Australia called Contact Organics. She cited organizations teaming up for safer parks for families and children across Utah.

CAPS student Maydeline Casiano, stated the students had also been working with Kathleen Holla and read a letter from Ms. Holla, as Ms. Holla was unable to attend the meeting in person. Ms. Holla was building a home in and moving to Heber City. The letter stated that a grant from Natural Grocers and Beyond Pesticides was being offered to the Heber City Parks Department for the opportunity to receive free training in proven organic methods from an organic landscape expert. The letter continued to describe the dangers of glyphosates and the benefits of organic landscaping.

VI. ACTION ITEMS:

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

[Staff Report Budget Amendment](#)
[Resolution 2021-17 Budget Amendment](#)

City Finance Manager Wes Bingham reviewed the budget amendment items listed in the attached Staff Report. He provided the specific fund for each proposed amendment and the dollar amounts associated.

Council Member Franco questioned whether the budget amendment for the water conservation system at the cemetery should be expanded City-wide and asked if the rebate would be larger if the system was implemented City-wide. City Manager Matt Brower explained the intent had been to run a trial with the system at the cemetery and expand if successful. The rebate was dollar amount based and majority Council directed to move forward with the cemetery system trial as long as the rebate would be available for future system installations.

Mayor Potter opened the Public Hearing for the budget amendment at 7:49 p.m. With no one from the public coming forward to comment, the Public Hearing was closed at 7:49 p.m.

2. [Public Hearing Regarding Proposed Updates to the Heber City Water Conservation Plan for 2021 \(Turnbow\)](#)

[Staff Report 2021 Water Conservation](#)
[2021 Water Conservation Plan](#)

Staff Engineer Kyle Turnbow presented the 2022 Heber City Water Conservation Plan Update. He explained that municipalities were required to provide a Water Conservation Plan Update to the State every five years in order to remain eligible for Federal and State funding. He noted the Plan had considered projected population growth. Council Member Kahler expressed concern whether there was enough water in the Valley to sustain the immense population growth in the City. City Manager Matt Brower described the water rights developers were required to obtain in order to build. Developers would be unable to develop if there was not enough water. Mr. Turnbow described the water adjudication process currently being done state-wide. He highlighted that the City had surpassed its 2016 goal to reduce water usage by 5% and had achieved a 17% overall reduction. He noted that Heber City's water usage was below the state average and reviewed planned projects to help increase efficiency as well as a drought response plan.

Mayor Potter opened the Public Hearing for the City's Water Conservation Plan update at 8:06 p.m.

James Hansen, resident, had read the report and commended the City's detail. He hoped to see more information regarding secondary water usage and wished to see secondary water metering implemented.

Mr. Hanson noted the record low level water in the Great Salt Lake and expressed concern for the bird estuary located there. City Engineer Russ Funk explained the City had received federal grant funding and was in the process of implementing a phased secondary water meter installation. The City had trouble getting materials due to the limited supply chain.

With no further comments coming forward from the public, Mayor Potter closed the Public Hearing at 8:10 p.m.

3. [Consider Approval of Resolution 2021-17 to Amend Budget for Fiscal Year 2021-2022 \(Bingham\) – 5 min](#)

[Staff Report Budget Amendment](#)
[Resolution 2021-17 Budget Amendment](#)

Council Member Franco wished to know the projected budget surplus percentage for the second quarter in the fiscal year. Mr. Bingham anticipated the surplus would meet the 35% maximum as established by the State.

Motion: Council Member Kahler made the motion to approve Resolution 2021-17 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, Johnston, Hardman, Kahler, Stack and Franco. The motion **Passed Unanimously 5-0.**

4. [Consider Adoption of Resolution 2021-18 to Approve the Proposed Updates to the Heber City Water Conservation Plan for 2021 \(Turnbow\) - 5min](#)

[Staff Report 2021 Water Conservation](#)
[2021 Water Conservation Plan](#)

Motion: Council Member Franco moved to approve Resolution 2021-18 updating the Heber City Water Conservation Plan. Council Member Kahler made the second. **Rollcall Vote: Voting Aye:** Council Members Franco, Stack, Kahler, Hardman, and Johnston. The motion **Passed Unanimously, 5-0.**

Mayor Potter moved to agenda item 14 in order to accommodate residents Spencer present.

5. [Children's Justice Center Update Regarding Application of City Donated CARES Funds \(Kenna Jones\) – 5 min](#)

Kenna Jones, Director of the Children's Justice Center (CJC), informed the Council that \$32,338.00 of the CARES Act Funding had been used to bring the CJC into compliance with Covid-19 health and safety guidelines and to make improvements to the CJC. She thanked the Council for their assistance.

6. [Peace House Update Regarding Application of City Donated CARES Funds \(Kendra Wyckoff\) – 5 min](#)

Kendra Wyckoff, Peace House, reminded Council of the organization's mission to end interpersonal violence and abuse. The organization was fully operational and had been able to add telehealth capabilities and extend housing options. Peace House provided 5,000 nights of safety to the community in 2021. CARES funding provided food, clothing, medications, and increased janitorial and cleaning services. She thank the Council for their aid.

7. [Christian Center Update Regarding Application of City Donated CARES Funds \(Rob Harter\) – 5 min](#)

Rob Harter, with the Christian Center of Park City, indicated that basic need assistance such as rent, medical bills, electric bills, water bills, and heating bills had increased over the past year during the COVID-19 pandemic. Over \$77,000 had been spent assisting Heber City residents. He thanked Council for their help.

8. [Mountainlands Association of Governments \(MAG\) Presentation to Review Available Grant Options \(Nancy O'Toole\) – 15 min](#)

Skipped.

9. [Monthly Current Development Report \(Planning Department\) – 10 min](#)

Jamie Baron, Planning Department, summarized the new applications and unit projects that had been received. He indicated that the Planning Department would be monitoring the applications to insure they met requirements and would help the applicants move forward in the process.

Council Member Franco expressed concern about the right of way corridor on the east side near the new School Property. Mr. Baron said the Labrum addition did not affect that, but it would be a good discussion for Council in the future.

10. [Presentation of Heber City's 2021 Annual Audit \(Stephen Rowley\) – 15 min](#)

Skipped

11. [Consider adoption of Ordinance 2021-38, approving the Highlands Annexation, located at approximately 3000 North Highway 40 \(Kohler\) – 30 min](#)

[Highlands Ord 2021-38 and other materials](#) 
[Final Modified MDA - Exhibit with Redline](#) 

Planning Director Tony Kohler reviewed the updates and changes made to the MDA (Master Development Ageement) based upon direction of Council during previous discussion.

- Gathering Areas publicly owned.
- North Fields description clarified.
- Request from engineering to note that Exhibit C and I were subject to the Master Development Agreement (MDA) requirements.

Mr. Kohler noted the proposed MDA exceeded Code requirements.

Council Member Stack inquired about design guidelines. He wanted strong MDA guidelines to define design standards and reflect what was agreed upon with the developer. He wished to see more specific language for the storm drain plan and proposed language for the architectural guideline language read “will meet or exceed” the standards within the NVOZ (North Village Overlay Zone). Council Member Stack also recommended a statement be added to indicate that in the presence of any conflict, the MDA would govern. He wanted to see preservation fees restricted to preservation use. Mr. McConnell, counsel for the applicant, agreed to remove any time restriction for the preservation fees.

Council Member Franco expressed concern with who would comprise the Highlands design review committee. Mr. Brower clarified that the City had final approval on the design guidelines. Mr. Smedley stated that the City Council would determine whether modifications were minor or major in order to designate the decision as administrative or legislative. Council Member Franco was concerned with the park standard meeting the NVOZ requirements and also felt the bathroom in the park should be closer to the pavilion. Ken Puncerelli with LAI Design Group, clarified park details and stated the amenities for the plan would create a fabulous community. Further discussion followed for clarification of terms, approvals for phasing, timeline for development, fire code for culs-de-sac, a church, bonds, and ERU (equivalent residential units) density.

Motion: Council Member Franco moved to continue the agenda item until the language was updated as requested by Council. The motion **Failed** for lack of a second.

Motion: Council Member Johnston moved to adopt Ordinance 2021-38 approving the Highlands Annexation and associated Master Development Agreement, with the findings and conditions presented by Staff in the Staff Report, with the following additions or changes: The additional recommendations offered by Staff in the presentation dealing with Public Gathering Areas, North Fields Description, PID Act in exhibit C and exhibit I as presented. Also the items Council Member Stack had recommended and as discussed by Council, concerning 5.1, 3.8, and 4.2. In addition, removing any time-line for spending the preservation fee. Council had agreed the preservation fund would be put in a separate account solely for the use of preservation of the cultural lands of the North Fields. Council Member Hardman made the second.

Discussion on the motion: Council Member Kahler wished for the development representative Terry Diehl to meet with the School District Superintendent Paul Sweat in order to discuss the inclusion of a school in the plan. Council Member Franco expressed concern with approving a document prior to final amendments being included. Council Member Stack wished to reference the County MOU and felt context should be addressed. He noted all but one zoning restriction imposed by the County had expired for the location being considered for annexation.

Council Member Stack acknowledged the need for a school but felt the neighboring development's school could accommodate the density. He expressed comfort moving forward with the MDA in order for the City to collect \$1.8 million in preservation fees to be applied towards a potentially substantial preservation of land in the North Fields in the Valley.

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

12. [Consideration of Approval of the Old Mill Village Master Development Agreement \(MDA\) 1st Amendment \(Baron\) - 30 min](#)

[Staff Report Old Mill](#)

City Planner Jamie Baron shared the key policy question was whether the “Attainable” housing for the proposed development should be screened by the housing authority and provided the background of the proposed MDA amendment. Mr. Baron detailed the proposed changes and the numbers of units to be designated as affordable and attainable housing.

John Kollman, applicant, explained the request for the time period to be extended for rental reservation applications in order to benefit the rental unit applicants. Priority applicants would be City Employees, followed by public service employees within the County. He added that as residents moved out of the units, and the units were returned to market, the affordable housing would be kept in perpetuity, while the attainable housing would revert to market rate. Council Member Franco wondered whether the City could rent or purchase a unit in order to reserve for potential employees when needed. Dawn Soper, Counsel for the applicant, stated the terms of the MDA would not permit the City to do so in the first round of renting/selling

Council Member Stack felt attainable units should be required to remain primary residences, even after the initial sale. Ms. Soper explained that the Wasatch County Housing Authority had the authority to perform an audit at any time. Discussion followed to clarify the terms and intent of the language in the MDA regarding affordable and attainable housing as well as primary resident requirements and deed restrictions.

Motion: Council Member Stack moved to bring the agenda item back as soon as the agreement was ready with the revised language. Council Member Franco seconded the motion. **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed Unanimously**.

13. [Establish Dates for Council Retreat \(Brower\) - 5 min](#)

[Staff Report 2022 Council Retreat](#)

City Manager Matt Brower requested feedback from the Council for days, times, and topics for the City Council Retreat. The intent of the Retreat was to identify Council's top budget and policy priorities for 2022. Council discussed topics they wished to review during the Retreat.

Thursday and Friday, January 6 and 7, 2022, from 5:00 p.m. until 10:00p.m., was tentatively designated for the Retreat.

14. **Consider Request to Fund Repairs From City Water Main Break.**

Mayor Potter explained that Heber City residents, Gordon and Sharon Spencer had their basement flooded twice in the last two years from two separate water main breaks. She asked the City to cover additional costs that were not covered by the City's no fault insurance. City Manager, Matt Brower suggested Council approve the additional cost of \$8,917.09. Council Member Franco asked the City Council to consider increasing the no fault insurance in the future. Mr. Brower commented that increased coverage would increase premiums, but that costs could be compared and considered.

Motion: Council Member Johnston motioned to write a check and compensate the Spencer's in the amount of \$9,000.00 for their out of pocket expenses and damages per the invoices they had provided for all the work and the work they did on their own. Council Member Hardman seconded the motion. **Voting Aye:** Council Members Franco, Hardman, Johnston, Kahler, and Stack. The motion **Passed Unanimously.**

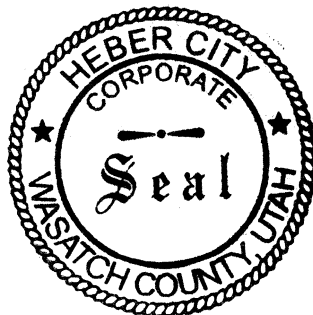
VII. COMMUNICATION:

Mr. Brower shared a photo from the Christmas Tree light up held the previous Friday night and stated what a successful community event it had been.

Mayor Potter noted she had been approached by a generous community member looking to provide a sub for Santa Christmas for a family in need.

X. ADJOURNMENT

Motion: Council Member Stack made the motion to adjourn. Council Member Kahler seconded the motion. The meeting adjourned at 10:47p.m.



Trina W Cooke
Trina Cooke, City Recorder