

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
City Council Meeting Minutes
May 3, 2022

Approved 5/31/2022

4:00 p.m. Work Meeting
6:00 p.m. Regular Meeting

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

Mayor Franco called the meeting to order at 4:03 p.m. and welcomed everyone present.

Present: Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Mike Johnston
Council Member Rachel Kahler
Council Member Scott Phillips
Council Member Ryan Stack

Staff Present: City Manager Matt Brower
City Attorney Mark Smedley
City Planning Director Tony Kohler
Senior Planner Jamie Baron
City Engineer Russ Funk
Heber Valley Airport Manager Travis Biggs
Officer Heath Harvey
Finance Manager Wes Bingham
IT Specialist Anthon Beales
Assistant to the City Manager Luke Searle
City Recorder Trina Cooke

Staff Participating Remotely: Finance Manager Wes Bingham, IT Specialist Anthon Beales, Assistant to the City Manager Luke Searle, Public Works Director Matthew Kennard, City Planning Director Tony Kohler, Deputy Recorder Robin Raines-Bond, City Attorney Mark Smedley, Engineering Tech Desiree Muheim, and Public Works Director Matthew Kennard.

Also Present: Shelly Olsen, Jed Olsen, Ginny Tuiti, Marco Diaz, George Holmes, Kendall Crittenden, Pam Patrick, Laren Gertsch, Alicia Richardson, Neil Richardson, Allison Salisbury, Sue Mantyla, Ryan Bunell, Jeff Andrews, Camille Palmer, Ray Huletman, Ben Lasseter, Stephen Frandsen, Janessa Judd, Emma Brady, Abigayle Horrocks, Autumn Lelander, Susan Wallen, Beka Grulich, and others who did not sign in or whose names were illegible.

Also Attending Remotely: (Names are listed as signed-in virtually) Mark Halberg, James Stout, Jeremy Clark, David Belz, Kristin, Dave Phillips, John, Jeffrey Kuhn, Den Fitz, Clint Coleman, Ben Lasseter, Wesley Bingham, Michael Seiter, Josh, Jeffrey Andrews, Sandi Brower, Marian, Clint Coleman, Jack Walkenhorst, Syndi Fitzgerald, Daniel Cygrymus, Paul Watson, Kelli G, Dan Simmons, and Howard Saldarini.

1. [Presentation and Q/A with Beka Grulich, UVU Wasatch Campus Director \(Johnston\) – 30 min](#)

[UVU PP](#)

Beka Grulich, Director of the Utah Valley University (UVU) Wasatch Campus, shared the attached PowerPoint presentation. She shared the hardships faced by the University to fill seats including the LDS church lowering the missionary age requirement and ongoing COVID-19 pandemic. The School had established a 10-year vision outlining UVU's mission. She described a cohort program plan in which students traversed a specialized program as a single unit offering certifications such as resort management. The program had lost students due to the inability to find housing in the Valley. UVU was educating students for success in work and life and had partnered with M-Tech for technical certification programs.

Mayor Franco suggested the technical courses offer certification programs such as a Building Official Certification program to help fill the staffing needs at the City. Council Member Johnston asked Ms. Grulich how the City could help get more students. She felt a housing development with an area for students to gather would be beneficial. She added that UVU ran the concurrent enrollment program for Park City. Council continued to discuss and propose possible solutions.

2. [Presentation Regarding Draft Storm Drain and Transportation Master Plans \(Funk\) – 60 min](#)

[Storm Water - Streets MP Concept](#)

City Engineer Russ Funk provided an overview of the information he would be sharing. He shared images of the historic drainage patterns from the hillside area on the north-east side of the Valley to the Provo River. The natural drains had been cut off by Highway 40 and two canals built for agriculture. The Federal Government had taken over the canals when Jordanelle Reservoir was built. Mr. Funk shared the preliminary challenges faced establishing a storm-water runoff plan. Engineering Staff had sought feedback from stakeholders in order to address concerns.

Mr. Funk shared major concepts within the storm-water plan as follows:

- Developed and natural runoff would be separate
- Developed flow would be treated and retained on-site
- Natural runoff would be infiltrated in detention basins along historic channels with minimal final release to infiltration beds in the North Fields
- As a condition of annexation, properties would be required to restore or replace historic drainage channels below the canals
- Irrigation canals would be bypassed
- Recommended buffer zones and limitations on street crossings for major drainages.

Geotechnical studies had shown high infiltration rates in the area. There would be a final detention basin before any flow would be discharged into the North Fields area. Mr. Funk described the low impact development (LID) plan to mimic natural resources to produce minimal runoff.

Mr. Funk explained the term “hundred-year storm” as having a 1% chance of occurring annually. Staff had met with the Hutchinson brothers and Dan Simmons, who owned properties where the City wished to build final retention basins. Mr. Funk listed the concerns addressed in the Storm-Water Plan:

- Water quality impacts
- Preservation of North Fields
- Flooding liability/winter conditions
- Developed Flow/capacity of canals
- Direct discharge to Provo River
- Impacts to North Fields Ditches
- Wildlife Impacts

Dan Simmons wished to express concern with the proposed plan to terminate the storm-water flow into basins located on private property and possible contaminants and co-mingling of storm-water run-off. He felt it would significantly decrease the value of the land. He wished to see the City provide a plan to ensure there would be no co-mingling of natural storm-water run-off and storm-water run-off from developments. Mr. Funk added that Mr. Simmons had employed a consultant, Mr. Greg Poole, who City Staff had been working with, and thanked Mr. Poole for his help. Mr. Funk ensured all concerns were being considered and addressed.

County Council Member Kendall Crittenden expressed gratitude for City Staff working with the County to address concerns. Council Member Kahler inquired whether the County had a pre-existing storm-water plan in place. Mr. Crittenden was uncertain of the County’s storm-water plan but wished to ensure the City upheld the existing MOU (memorandum of understanding) with the County regarding annexations.

Resident George Holmes recalled weather history in Heber Valley including when storms had caused water to run down Main Street. He wished to know more about the proposed tiered water-retention areas and felt they would be visible. He explained the North Fields zoning had been implemented due to the high groundwater found there. Mr. Holmes expressed concern with the potential adverse consequences to the neighbors. He said eventually all the water would find its way to the River and offered to answer questions for Heber City Staff. Mr. Simmons indicated concern with the lack of slope for the proposed tiered drainage plan. Mr. Funk explained the proposed precautionary designs would be useful for only very large storm situations but were unneeded for most storms. He agreed to meet with Mr. Gertsch and Mr. Holmes off-line.

Mr. Funk concluded his presentation with the development requirements in the Heber City Storm Water Design Manual Draft including:

- LID (low impact development) requirements
- Storm-drain systems
- Pretreatment/treatment requirements
- Retention/detention basins

Mr. Funk provided the transportation presentation overview for the impending North Village annexation area. He described the process of conducting a traffic analysis. He shared an image of the proposed roadway network including minor arterial roads, village connector roads, and neighborhood connector roads. Mr. Funk explained that the County had advised the proposed lighted intersections on Highway 40 did not align with the MOU agreement between the City, UDOT, and the County. Mr. Funk expressed his intent to coordinate with the County in order to resolve any issues, finalize the proposed transportation plan, and return to Council for adoption. Discussion followed.

Mr. Funk explained the designated level of service for roadways within the City was level C. He felt, for the street system to work, it needed to follow the complete transportation master plan, whether all shown area was annexed into the City or remained within the County. He felt it was important to be careful that the transportation master plan design maintained an acceptable level of service. Council majority supported the transportation master plan modeling as presented. Mr. Funk informed Council the Impact Fee Analysis was ongoing, therefore, would not be presented with the Transportation Master Plan for adoption but rather at a later date.

3. [Presentation and Discussion Regarding North Village Annexation \(Kohler\) – 30 min](#)

[WM Item 3 NV the views at North Heber City Annexation Drawings](#)

City Planning Director Tony Kohler summarized the ongoing annexation process. He shared an amended annexation boundary map omitting individual property owners who did not wish to be included in the annexation.

Paul Linford, annexation representative for the North Village Views, stated the proposal being presented met the City Code and he was seeking Council support. He provided a description of the development design displayed as well as elevations. He explained the effort applied to minimize density in order to comply with Council direction. There were 219 ERUs (equivalent residential units) on approximately 36.5 acres, with additional units to fulfill the affordable housing requirement. The proposed plan exceeded the City's open space requirement. The intent for the affordable housing units was to offer 50% rental units and 50% for sale.

Council Member Barney asked why the developer wished to be allowed into the City rather than remain in the County. Mr. Linford felt the County Code was ambiguous, making it difficult to obtain approvals. He assured Council they had more than required water rights.

Council Member Johnston felt the City's creation of the transportation and storm-water master plans ensured responsible urban development within the City. He felt it was important to move forward in order to allow development within City limits. Council Member Barney questioned whether permitting more development in the City would provide affordable housing. Council Member Stack did not support the number of stacked flat buildings proposed. He wished to revisit the General Plan in order to re-address proposed high-density. Mr. Linford reminded Council the plan complied with the City's Code and the project representatives had worked closely with the City to comply with all requirements. He pointed out the apartment building could provide housing for UVU.

Council Member Johnston felt the City's General Plan was good and the Council should support what they had planned. Council Member Kahler felt the Code was being used against the City for higher density. Council Members Phillips and Johnston were in favor of moving forward. Council Members Stack, Barney, and Kahler did not wish to move forward with the proposed plan. Mayor Franco felt it would be appropriate for the annexation to include only the land held by the proposed development.

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

1. Call to Order

Mayor Franco called the meeting to order at 6:38 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 Phillips)

Council Member Phillips shared the following quote: "Good leadership puts the interest of the community as a whole before those of any specific group. Credibility of leadership can only be established through action and not words". - Mohammed bin Rashid Al Maktoum

III. CONFLICT OF INTEREST DISCLOSURE:

There were no conflicts of interest disclosed.

IV. CONSENT AGENDA:

1. Approval of April 19, 2022, City Council Meeting Minutes (Cooke)

4.19.2022 DRAFT Minutes 

2. Approval of the Heber Valley Airport's Mission and Vision Statement (Biggs)

Staff Report Airport 

Motion: Council Member Kahler moved to approve the Consent Agenda, allowing Airport Manager Travis Biggs the opportunity for final wordsmithing. The **Motion Failed** for lack of a second.

Motion: Council Member Johnston moved to approve the Airport Mission Values and Goals with the following changes to the language: the last sentence of the mission statement to read “in an environmentally sensitive manner”; the vision statement to read “Heber Valley supports the economic, environmental, and recreational needs of Heber City and the surrounding communities through safe and secure operations, and fiscal self-sustainment”; number six in the Goals to include “attract citizens in Heber Valley to the Airport”. Council Member Kahler made the second. **Voting Aye:** Council Members Phillips, Stack, Barney, Johnston, and Kahler. The motion **Passed unanimously 5-0.**

Motion: Council Member Kahler moved to approve the minutes for the April 19, 2022, City Council Meeting. Council Member Johnston made the second. **Voting Aye:** Council Members Kahler, Johnston, Barney, and Phillips. **Voting Nay: None.** Council Member Stack abstained due to his absence from the meeting. The motion **Passed 4-0.**

V. PUBLIC COMMENTS:

Marco Diaz, with the Finch Creek Town Homes, included in the North Village Annexation, explained there had been a miscommunication and his presentation had been excluded from the agenda. He wished to assure Council the associated North Village developers were listening to Council feedback. He reviewed Council concerns he wished to address. He shared a plan for additional commercial use, more open space, more gathering areas, and less density. He shared images of high-density versus medium-density and worried perception was a factor. He hoped to be on the next City Council Meeting agenda to properly discuss the project.

Mayor Franco read a public comment (attached to the end of the meeting minutes). She then read a congratulatory letter from the Arbor Day Foundation regarding Heber City’s designation as a “Tree City U.S.A.” (attached to the end of the meeting minutes).

VI. ACTION ITEMS:

1. Monthly Current Development Report (Planning Department) - 15 min

PowerPoint

Senior Planner Jamie Baron provided the report sharing the following new applications received by the City:

- Two Commercial Concept Applications: Valley Station Lot 102 was a Valvoline station and Crowbar LLC for a mixed-use commercial building.
- One Commercial Final application: Black Rifle Coffee Company.
- One Preliminary and Final Plat: Sawmill Phase 6.

Mr. Baron shared House Bill 303 would be in effect May 4th, 2022. The new bill prohibited municipalities and counties from mandating affordable housing, unless designated as a resort community. Heber City did not qualify as a resort community. The City would be able to negotiate affordable housing within master development agreements and annexation agreements. The bill also removed a ten-year new zoning restriction.

Mr. Baron explained House Bill 462 updated the Moderate Income Housing Plan (MIHP) reporting requirements. Council Member Phillips stated the change required cities to adopt a plan for development, or the State would step in and do it for them. He clarified that the State requirement was for all cities to establish a plan for growth. The State expected 250,000 new units in the next 10 years. Council Member Kahler referred to the MIDA (military installation development authority) resort as an example of the State stepping in. Council discussion continued.

2. [Consider Designation of the First Week in June as an Annual "Week of Kindness" in Heber City \(Phillips\)](#)

[Unity Banners](#)
[Pride Proposal](#)

Council Member Phillips stated the current City Code did not permit advertisement for one specific group over another. He felt the Heber City Council wished to create a unified community for all the citizens. He had worked with Council Member Johnston, City Manager Matt Brower, and others, to create a vision for a community event to promote coming together for all groups within the community, to ensure all were included and none were made to feel marginalized. He said they wished to have dumpsters at the City Parks for residents to participate in a City-wide clean-up, a day of service, and a Saturday with live music in the Park and free food for everyone. Council Member Johnston reminded Council that three of them had voted to hold an event and promote a community message of kindness. He said he had held many discussions with the Council and City Manager. The vision for the event was to gather diverse members of the community, find common ground, increase understanding, elevate public discourse, and celebrate unity. The City invitation would be for the community to come together to participate in activities, achieve the vision previously described, and share the message of “Unity, Inclusion, Kindness, and Love”.

Ryan Bunnell, City consultant from Ignition Creative Group, shared an image of proposed Main Street banners with the word “Unity” on a blue background. He explained that repetition of banners on Main Street would increase the chance of the message being seen. He was proposing a bilingual campaign for the banners to have the word “Unity” in English on one side of the light post and in Spanish, “Unidad”, on the other. Council Member Barney liked the idea of having some of the sub-caption language in Spanish but felt the bilingual message might be confusing to some members of the community. She recommended “Unity” be printed only the English. Council Member Phillips felt there was an instant connection created with Spanish-speaking members of the community when you could speak their language with them. Council Member Johnston was pleased with the outcome of the plan for the event. He felt the word “Unity” was all-inclusive. Council Member Stack felt the message of “Unity” was timely and important. He supported the proposed event. Council Member Kahler supported the proposed event and suggested keeping the dumpsters available for more than a week. She proposed the City have a booth at the opening day of Market on Main to promote the event. Discussion continued.

Janessa Judd wished to reiterate the motion made by Council Member Johnston at the previous Council Meeting stating: “I move that we sponsor, as a City, an annual Heber City week of inclusion and kindness to be held in June, emphasizing kindness and love and acceptance, particularly for LGBTQ citizens, and that could include others as well. That we as a Council work with the youth that have come, to plan and implement this event, which would include a service day, and include banners on Main Street, and I would think a couple of us on the Council could participate in that planning”. Janessa noted the focus of LGBTQ had been left out of the current proposal presented and no one had contacted the LGBTQ youth group to participate in the planning of the event. She had tried to reach out to Council and said that no one but Mike Johnston had responded.

Janessa wished to emphasize the work of the LGBTQ youth group trying to create a Pride-focused event and shared images of their proposed banners. She reminded Council the LGBTQ youth group had been told by Council they would work together. She asked who Council felt they were including because she felt the presently proposed event actively silenced the LGBTQ youth group that had presented during the previous meeting. The LGBTQ youth group still wished to work with Council as the original motion had proposed, for an event that included recognition for Pride.

Council Member Barney indicated she had heard the message presented by the LGBTQ youth but felt putting one group before another did not create unity. She apologized if she had heard incorrectly. Council Member Johnston expressed appreciation for Janessa and apologized for raising expectations. He felt the proposed event was a starting point.

Janessa felt the proposed blue “Unity” banner excluded the LGBTQ community and continued to include everyone else who had always been included. She felt diversity was unity, diversity was the community, and differences should be celebrated, not hidden. She approved of including bilingual banners to recognize the Spanish-speaking community but felt her community was still not being recognized. She pointed out that the City allowed the veterans to be recognized on the banners, and acknowledged veterans should be recognized but asked why the LGBTQ youth within the community was not worthy of recognition. She noted the significantly smaller group of LGBTQ youth present that night than at the previous meeting explaining the majority of the group was not in attendance because they felt rejected. Discussion continued.

Stephen Frandsen, documentary filmmaker who had been following the LGBTQ kids in order to tell their story, stated the kids and attorneys had read the City’s Code in order to present a compliant proposal. He asked where the Code said banners could not promote one group over another. City Attorney Mark Smedley indicated he would need to review the Code but did recommend Council exercise caution and not support one group over another. Mr. Frandsen read the Code for Council:

Section 12.32.010 Purpose Statement Pursuant to its substantial governmental interests in protecting property values, promoting the economic vitality and historic character of the City, and contributing to the City’s year-round recreation atmosphere, Heber City finds it advisable to allow from time to time the display of certain banners on City light standards for the purpose of promoting certain events and messages that the City, on behalf of its citizens, deems to be (cont.)

in the public interest. It is not the purpose of the City by so doing to designate its light standards as a public forum of any degree or type.

Section 12.32.020 Administration Banners proposed to be displayed on City light standards, which include Main Street light poles, shall be reviewed by the Heber City Manager, or designee, pursuant to the criteria set forth in this Chapter and administered by Heber City Public Works as directed by the City Manager. Appeals and questions about compliance with this Section shall be resolved by the City Council. Fees for banner placement and removal will be included in the City's consolidated fee schedule.

Section 12.32.030 Eligibility Entities or events eligible to apply to have their banners displayed on City light standards shall be limited to Heber City, Wasatch County, and the Heber Valley Chamber of Commerce. Eligible events are limited to those sponsored by the above-named entities. Eligible sponsored events are those that are non-profit and non-political, whose primary purpose is the offering of civic services, public events, or entertainment enrichment to the community. Further, banners dedicated to highlighting recognized Federal and State holidays are permissible. A banner approval grants permission to temporarily occupy designated banner locations on City property for the purpose of providing notice to residents and visitors of Heber City about City, County, or Chamber sponsored or funded events, and recognized Federal and State holidays.

Mr. Frandsen found nowhere that stated the banners could not recognize one group over another. The kids had come before Council to inform Council of a suicide crisis and bullying crisis. LGBTQ eighth-graders were five times more likely to consider suicide than their straight classmates. Blue banners that said "Unity" did not offer support to an LGBTQ youth when attending school to be barked at, called slurs, and physically intimidated. Mayor Franco recommended working with the School District. Mr. Frandsen indicated it was not an issue originating in schools but at home. He reminded Council of the quote from General Conference "boundary lines don't have to be battle lines". The kids did not wish to fight, but rather spread a message of strength in diversity, and by seeing and recognizing the LGBTQ youth in the community, they would make the town a better place, and kids would stop dying. He added that every 45 seconds in America, an LGBTQ youth died by suicide. It was an epidemic and a public health crisis. He said the kids had presented with hope of helping to end a public health crisis and were offered dumpsters in return. The motion had been to work with the kids to move forward with the event and the kids had been ignored. He felt it was not a good message to send the LGBTQ youth. Mayor Franco suggested reaching out to the Board of Health for suicide prevention. Mr. Frandsen wished to hear from Council how the City's Code was not being met.

Council Member Johnston felt the Council had made an attempt. He recommended Janessa continue to work with the LGBTQ youth coalition and continue trying to work with government. He said next year could be different. Council Member Kahler felt the group's presentation had elevated the community to have the conversation. She thought the request was for more than banners, but to be heard. She thanked Janessa for bringing her voice to the Council and the conversation to the community. Council Member Barney wanted the LGBTQ youth to know Council could not change people until they brought the people together. She said this was step one and asked Janessa to applaud herself for getting the City to that point.

Susan Warden asked if the banners could include recognition of all the marginalized groups and if the proposed event could offer a day to recognize Pride. She said the discussion had felt like the twilight zone when none of the Council Members would say “LGBTQ”. She felt the Council should reflect on the disconnect.

Council Member Phillips asked for clarification from the Council on whether they wished to move forward with the “Unity” banners, if Council wished to sponsor a week of service, and a City celebration the first Saturday in June. Council majority approved moving forward with the week of “Unity” event, to include banners, t-shirts, and a bar-b-que in the park with live music. Discussion of specifics continued.

Council Member Phillips indicated he felt it was important for all the Council Members to attend the Encircle House grand opening.

3. [Update on Due-Diligence for City-Wide Open Access Fiber Deployment \(Brower\) - 20 min](#)

[PowerPoint](#) 

Agenda item three was postponed.

4. [Consider Adoption of Ordinance 2022-06 Approving the DMJ Annexation and MDA \(Master Development Agreement\) Terms \(Kohler\) - 60 min](#)

[Item 4 Staff Report and Updated MDA](#) 
[PowerPoint](#) 

Jeffrey Kuhn, DMJ Annexation representative, reviewed the updates made to the DMJ master development agreement (MDA). He felt the City and DMJ had done well to stick to their intentions of what they were trying to accomplish. He proposed Council consider allowing surplus density ERUs to be transferred to other parts of the City such as downtown. Council Member Stack indicated willingness to consider the proposal as long as transferred ERUs were to remain commercial and the \$2,500 open space preservation fee per unit was still collected. Mayor Franco noted such an agreement would be specific to the individual MDA. Council Member Stack asked to add a sunset to the provision expiring with the MDA. Mr. Kuhn agreed.

Mr. Kuhn expressed concern with the restrictions outlined in the MDA for affordable and workforce housing. Council Member Johnston supported Mr. Kuhn’s project. Mr. Kuhn also felt the MDA prohibited DMJ from eligibility for impact fee offsets or tax credits. City Manager Matt Brower expressed concern that the requested change to the referred to section would result in the cost of the trailhead project being paid for from the City’s general fund. It was determined that the Council would not support impact fee offsets or tax credits for the dedication of land from DMJ.

Council Member Johnston felt the City was asking too much. He expressed concern with a trailhead parking lot on the far side of the highway and suggested the City either forego that part of the agreement or take responsibility for the installation of the proposed parking lot.

Council Member Stack confirmed he did not support offsetting impact fees but did wish to proceed with the gravel parking lot for the trailhead. Council Member Kahler felt the project had changed from the original agreement and wished to continue the item. She did not support the trailhead on the far side of the highway and noted the Sorenson group was building a trailhead and parking lot on the appropriate side of the highway. Council Members Phillips and Barney agreed with foregoing the trailhead parking lot as well. Council Member Barney agreed with continuing the item as she felt there were too many changes proposed in the MDA as well. Mayor Franco felt the affordable housing fee in lieu needed to be addressed as well. She wished to ensure the project was dedicated as commercial, craftsman, and support thereof. She asked for Council feedback regarding the fee in lieu for workforce housing. Council Member Johnston felt an affordable housing fee in lieu should not apply to onsite workforce housing. Remaining Council Members agreed. City Manager Matt Brower proposed allowing Staff the next two weeks to firm up the language in the document and return for Council approval at the May 17 City Council Meeting.

Motion: Council Member Kahler moved to continue the item to the next meeting. Council Member Barney made the second. **Voting Aye:** Council Members Phillips, Stack, Barney, Johnston, and Kahler. The motion **Passed unanimously 5-0.**

Mayor Franco moved forward on the agenda to item six.

5. [Consider Approval of Ordinance 2022-09 to Amend Commercial Fence Regulations \(Baron\)](#)
- 20 min

[Staff Report](#) 
[PowerPoint](#) 

Agenda item five was skipped.

6. [Consider Approval of Ordinance 2022-10 Permitting a Zone Change for 67 East 200 North from R-3 Residential to C-3 Commercial \(Baron\)](#) - 20 min

[Staff Report](#) 
[PowerPoint](#) 

City Planner Jamie Baron reviewed the decisions before Council of whether to allow the requested zone change and what conditions should be applied. He noted a public hearing had been held by the Planning Commission who had forwarded a positive recommendation to Council with conditions. Council Member Johnston felt the decision to install an eight-foot cinder block wall should be left to the neighbor whose privacy it was intended to protect. He did not think the additional land dedicated to the City was appropriate. City Engineer Russ Funk explained the additional land dedication request was in order to install angled parking in line with City standards. Discussion ensued regarding the width of downtown roads, parking, and park-strip width.

Council Member Kahler did not wish to allow four stories. Her preference was for the City and petitioner to move forward with a master development agreement rather than approve the requested zone change.

Camille Palmer stated she was present as a concerned citizen. She served on the City's Historic Preservation Board and was previously a neighbor of the home. She understood there was no safety net in place for the City's Historic homes but wished to ensure Council was aware the home had been designated as an A-level "home of importance" on a survey conducted by the Utah State Historical Committee. She was unsure of the owner's intention for the building but hoped to see adaptive re-use implemented if the zone change for commercial use was approved.

Council Member Kahler advised the intent of the petitioner was to renovate the home for office space for the time being, with the potential to tear it down in the future to rebuild. Council Member Phillips felt it was in line with the City's master plan for the downtown area. He served on the City's Historic Preservation Board and noted there were limits to what the City could dictate property-owners could do with their property.

Motion: Council Member Phillips moved to approve Ordinance 2022-10 and associated agreement with the findings and conditions in the conclusion of the Staff report with the following add-ons: the eight-foot masonry wall only be built with the permission of the adjoining neighbor, and the additional right-of-way comply with the road standards at the time of redevelopment. Council Member Johnston made the second.

Discussion to the motion: Council Member Barney felt it was important to protect the historic aspects of the City and did not wish to lose old homes in favor of commercial opportunities. Council Member Kahler was in favor of the commercial request but wished to enter an MDA to preserve the home. Council Member Stack agreed and wished to pursue additional negotiations such as preserving the large tree in the front.

Voting Aye: Council Members Phillips and Johnston. **Voting Nay:** Council Members Stack, Barney, and Kahler. The motion **Failed 2-3.**

Motion: Council Member Stack moved to continue the item with direction to Staff to meet with the applicant to put together an MDA that would explore commercial uses that could keep the house and the tree, and otherwise be consistent with the character of the neighborhood and still allow the commercial use of the property, as well as address concerns from the original motion, of the cinderblock wall requirement only if requested by the adjoining neighbor and the right-of-way. Council Member Kahler made the second.

Discussion on the motion: Council Member Phillips asked whether affordable housing could be negotiated with the MDA under the new legislation, to include residential units on the top story. Mr. Baron confirmed.

Motion Amended: Council Member Stack amended his original motion to include a height limit of two stories. Council Member Kahler's second stood.

Voting Aye: Council Members Kahler, Barney, and Stack. **Voting Nay:** Council Members Johnston and Phillips. The motion **Passed 3-2.**

Mayor Franco moved forward on the agenda to item nine.

7. Consider Adoption of Ordinance 2022-12 Approving Temporary Building Height Regulations within Commercial and Mixed-use Residential-Commercial Zones (Kohler) - 15 min

Staff Report

Mr. Brower explained the temporary Ordinance 2022-12 to regulate building heights was being presented at the request of the Council in order to allow Staff time to create a permanent ordinance.

Motion: Council Member Phillips moved to adopt Ordinance 2022-12 establishing temporary, six-month building height regulations in the City's C2, C3, C4, and MURCZ zones. Council Member Kahler made the second.

Discussion on the motion: Mayor Franco wished to ensure the ordinance set a three-story maximum building height. Council Member Stack pointed out the total height could equal up to 54-feet if the builder went to the maximum height permitted for all three stories. He proposed adding the language to the motion that no structure should exceed 45 feet in height. Council Member Johnston questioned the Council voting on an ordinance at the end of the night without going through the Planning Commission or holding a public hearing. Planning Director Tony Kohler explained that State Code permitted municipalities the ability to adopt a pending ordinance in order to restrict zoning without going through the standard process. He explained the purpose of a pending ordinance was to allow a municipality six months to put together a permanent ordinance and provided previous examples of the City adopting pending ordinances. Council Member Stack asked for the motion to include a total max height for structures.

Amended Motion: Council Member Phillips agreed to set the max structure height at 46 feet. Council Member Kahler's second stood.

Voting Aye: Council Members Kahler, Barney, Stack, and Phillips. **Voting Nay:** Council Member Johnston. The motion **Passed 4-1.**

8. Consider Approval of Traffic Study for the 1200 South 500 East Intersection (Funk) - 5 min

Item 8 Traffic Safety Study Award

Agenda item eight was postponed.

9. Consider Approval of Resolution 2022-05 Updating the Rules of Order and Procedure for the City Council (Smedley, Brower) - 20 min

Staff Report

City Attorney Mark Smedley reviewed the most recent updates included in the Rules of Order and Procedure for City Council. He shared the proposed new language for the procedure of Council making a motion and clarified that the Chair maintained the ability to determine the appropriateness of the motion.

Mayor Franco expressed concern with the stringency of the process. Mr. Smedley clarified the language was based upon Robert's Rules of Order. Discussion regarding the intent of the language describing the process of making a motion and the power of the Chair continued. It was determined to add the language: "at which point there may be discussion on the motion" to section 5.2(A)(1).

Council Member Kahler expressed concern that if a Council Meeting did not follow protocol, and the public was allowed to comment throughout, the meetings would continue to be excessively long. She felt Council was not shutting down the public but rather attempting to continue to move the meeting forward. Council Member Barney proposed the City communicate to the public the expected process and allow the public to have one turn to speak on an agenda item. Council Member Stack reminded Council they were not a direct democracy but rather a republic, elected by the people, to listen to the community and exercise their best judgment to make decisions on behalf of the citizens.

Kelli Gomez, Heber resident, was concerned with the proposed changes affecting future Councils. She felt the proposed changes allowed the Council too much control to be able to run the meeting or cut off the meetings.

Pam Patrick, Wasatch County resident, indicated she liked to attend and listen to the meetings. She said she generally only had a comment when she had a question and agreed there should be limitations to the number of public comments allowed.

Dan Simmons, Wasatch County resident, was concerned emails to Council were not included as public comments and proposed including the emails with the public comment period of the meetings. Mr. Smedley proposed emails need to indicate the designation as a public comment as not all emails received by the City Council were intended to be public comments.

Alison Salisbury had been to the Senate and House of Representative meetings, School Boards, Health Board Meetings, and had seen a trend in shutting down the public. She had been present in the Senate Building supporting House Bill 60 and claimed a Mr. Mike Brown had been hauled out of the building for wearing a T-shirt with the words "We the People" printed on it. She felt he was removed from the meeting because the shirt was a public comment the senate did not like. She felt the public was being censored for different opinions. She expressed concern with the Council having the ability to cut-off public comment from the people who elected them. Ms. Salisbury had fought with the people to make Wasatch County a Second Amendment County and felt the designation had been won because of the public comment allowed.

Council Member Phillips advised that the City held Public Hearings in which everyone was allowed to speak and by the time Council voted on an item, it had been discussed and/or debated multiple times. He wished to inform that the Rules of Order and Procedure did not change from Council to Council and the reason they were being discussed was to ensure Council followed the meeting guideline as established by Robert's Rules of Order. The Council majority was speaking on behalf of the people. He proposed to have two Council Members meet with the public once a month for Q and A.

Council Member Kahler clarified the discussion had never been about public comment but rather the ability to get through the procedures of a meeting in order to make necessary decisions for the City. Council Member Barney felt the order of the agenda would guide the meeting.

Motion: Council Member Stack made the motion to approve the amended Rules of Order and Procedure for the Heber City Council subject to the revision under 5.2(A)(1) at the end of the second-to-last sentence with a comma and the insertion as previously discussed. [“, at which point there may be discussion on the motion.”] Council Member Johnston made the second. **Voting Aye:** Council Members Phillips, Stack, Barney, Johnston, and Kahler. The motion **Passed unanimously 5-0.**

City Manager Matt Brower suggested agenda items five and eight be pushed to the next meeting but indicated he needed direction from Council on agenda item seven before adjournment.

Motion: Council Member Kahler made the motion to extend the meeting in order to discuss item seven. Council Member Stack made the second. **Voting Aye:** Council Members Barney, Johnston, Kahler, Phillips, and Stack. The motion **Passed unanimously 5-0.**

The Meeting returned to agenda item seven.

VII. COMMUNICATION:

IX. ADJOURNMENT:

Motion: Council Member Kahler moved to adjourn. Council Member Phillips made the second. The meeting adjourned at 11:22 p.m.




Trina Cooke, City Recorder