HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
City Council Meeting Minutes
October 4, 2022

APPROVED Meeting Minutes

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 4:01 p.m. and welcomed everyone present.

City Council 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
Officer Branden Russell
Officer Heath Harvey
Deputy City Recorder Robin Raines-Bond
City Recorder Trina Cooke

Staff Participating Remotely: City Engineer Russ Funk, Deputy City Recorder Robin Raines-Bond, City Attorney Mark Smedley, City Treasurer Mindy Kohler, Assistant to the City Manager Luke Searle, Airport Manager Travis Biggs, Public Works Director Matthew Kennard, Accounting Technician Wendy Anderson, City Finance Manager Wes Bingham, IT Specialist Anthon Beales, and City Planning Director Tony Kohler.

Also Present: Pat Matheson, Addison Hicken, Ryan Bunnell, Lucille Jallert, Theresa Monn, Kobi Graves, Kristen Bunnell, Marian Crosby, Ken Probst, Nick Lopez, Wayne Bond, Pat Broadhead, Neil Broadhead, Jeff Andrews, Dale Bunnell, Shirlene Bunnell, Michael Bradshaw, Ben Fitzgerald, Mike Lynch, Paul Linford, and others who did not sign in or whose signatures were illegible.

APPROVED

Also Attending Remotely: (Names are listed as signed-in virtually) Denna Woodbury, John Janson, Christie Oostema Brown, Anthony Maxfield, Sandi Brower, Kristen Saldarriaga, Alison Kuhlow, Kyle Kohler, Diana, Howard Saldarini, Kamen Goddard, Desireé Muheim, jcrail, Shellie Barrus, and Vincent Esposito.

1. Discuss potential Development Agreement for former Rocky Mountain Care Center property, located at 160 W 500 N (Woodbury) - 30 min

WM Item 1 Staff Report RM Care Center Redevelopment
WM Item 1 Exhibits

Planning Consultant Denna Woodbury presented the proposed plan for redevelopment of the former Rocky Mountain Care Center property and shared associated images as included in the attached Staff Report and exhibits. Council feedback included: a wish to see smaller units/studio-style apartments; a playground area for children was needed; project design presented might take the price range out of the affordable pricing level; more parking needed – approval of resident parking on first level beneath dwelling; desire to designate deed restriction and prohibit short-term rental usage.

2. Discuss Parkview Place Subdivision (Matheson) – 20 min

WM Item 2 PVP letter to Heber City

Pat Matheson, representing Mountainlands Community Trust, described their focus on providing housing for community workers. He explained the challenge the current development faced due to recent inflation and significantly increased price of materials, thereby preventing the development from continuing without generating additional funds. The proposal was to sell 10% of the 49 homes at marked rate in order to provide funds needed. Consensus of Council majority was to assist the project in order to proceed. Council directed Staff to work with the applicant towards a solution and for the agenda item to return to a future meeting for action.

3. Discuss potential Development Agreement for the former Football Fieldhouse located at 280 East 600 South (Hicken, Baron) - 30 min

WM Item 3 Staff Report - Hicken - Old Football Locker Room
WM Item 3 PP

Resident Addison Hicken provided his family history of renting dwelling units in the community. He hoped to convert the structure formerly used as a fieldhouse for the High School Football Team into a duplex to rent. Council noted that any setback violations would only affect Mr. Hicken as the adjoining property owner. Council feedback included offering first right of refusal to School District Employees or Law Enforcement Employees and to work with Staff to negotiate an MDA (Master Development Agreement) and return to a future meeting for Council to take action.

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4. Discuss proposed amendment to the I-1 Zone and Telecommunication Facilities updates, Chapter 18.110 (Janson/Kohler) – 30 min

WM Item 4 Staff Report

Planning Consultant John Janson reviewed the proposed updates to City Code Chapter 18.110 regarding the I-1 industrial zone and telecommunication facilities as included in the attached Staff Report. Council discussed additional details to be considered in the Code update. The agenda item would return to a Regular City Council Meeting agenda in the future for approval, once modified to include Council recommendations.

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

1. Call to Order

Mayor Franco called the meeting to order at 6:07 p.m. and welcomed all in attendance.

2. Pledge of Allegiance (Council Member Kahler)

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

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

Council Member Stack shared the following quotes:

- 'Coming together is a beginning, staying together is progress, and working together is success'. – Henry Ford
- 'It amazing what you Can Accomplish if you do not care who gets the credit'. – Harry S. Truman
- 'No one can whistle a symphony. It takes an orchestra to play it'. – Halford E. Luccock

III. CONFLICT OF INTEREST DISCLOSURE:

No conflicts of interest were disclosed.

IV. CONSENT AGENDA:

1. Approval of September 27, 2022, City Council Meeting Minutes (Cooke)

9.27.2022 Approved DRAFT Minutes

Motion: Council Member Phillips moved to remove approval of the September 27, 2022, Minutes from the Consent Agenda, to consider as a separate item, as he had been absent from the meeting and would not vote on the item. Council Member Kahler made the second. **Voting Yes:** Council Members Barney, Johnston, Kahler, Phillips, and Stack. **Voting no:** None. The **Motion Passed unanimously, 5-0.**

APPROVED

2. Approve waiver of Development Fees for the Agape Development Agreement at 90 East 900 South (Johnston)

CA Item 2 Staff Report - Agape Fee Waiver Request

3. Approval of Evidence Purge List from the Police Department (DeMille)

CA Item 3 Staff Report PD Evidence Purge

4. Approval of Police Department Contract with Unified Fleet Services for 11 vehicles (Russell)

CA Item 4 Staff Report PD Fleet Contract

Motion: Council Member Stack moved to approve the remaining items on the Consent Agenda with the clarification that approval of agenda item number two was for the fee reduction to $600 from $5,300 only, as presented. Council Member Phillips made the second. **Voting Yes:** Council Members Barney, Johnston, Kahler, Phillips, and Stack. **Voting No: no one.** The **Motion Passed unanimously, 5-0.**

Motion: Council Member Phillips moved to bring the September 27, 2022, Meeting Minutes forward for a vote. Council Member Johnston made the second. **Voting Yes:** Council Members Barney, Johnston, Kahler, Phillips, and Stack. **Voting No: none.** The **Motion Passed unanimously, 5-0.**

Motion: Council Member Barney made the motion to approve the September 27, 2022, Meeting Minutes. Council Member Johnston made the second. **Voting Yes:** Council Members Barney and Johnston. **Voting No:** Council Member Kahler. Council Members Phillips and Stack abstained. The **Motion Failed, 2-3.**

Motion: Council Member Stack moved to approve the September 27, 2022, Meeting Minutes as originally prepared without the amendments proposed in the email by the Mayor. Council Member Kahler made the second. **Voting Yes:** Council Members Stack, Johnston, and Kahler. **Voting No:** Council Member Barney. Council Member Phillips abstained. The **Motion Passed 3-2.**

VI. GENERAL BUSINESS ITEMS:

1. Public Hearing for the Fitzgerald Annexation (Kohler)

GB Item 1 Public Hearing Staff Report

City Planning Director Tony Kohler reviewed the Annexation Petition process and listed the requirements met by the applicant including the Public Hearing being held that night. The attached presentation included images of the Fitzgerald Annexation area map, surrounding pending annexations, as well as a map of the City's Annexation Area Policy Plan.

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Mike Bradshaw, representing the Sorenson Group, clarified the use of DUs (Development Units) in the information provided rather than ERUs (Equivalent Residential Units). They had determined that DUs provided a clearer calculation of the density but acknowledged ERUs would be used for water and sewer calculation purposes.

Mayor Franco opened the Public Hearing at 6:41 p.m.

Shellie Barrus, Executive Director of Habitat for Humanity with Summit and Wasatch County, shared that the group was looking forward to partnering with projects such as the Fitzgerald Annexation going forward. She noted the successful characteristics of affordable housing projects. The group supported projects such as the proposed Fitzgerald Annexation as well as mixed-use development suggested therein. The group also appreciated the City Council and the work they dedicated to the community.

Nick Lopez had been a firefighter for 29 years, was an engineer, and drove fire trucks. He expressed concern with a potential fire station being located at an intersection without a traffic signal and listed possible problems without a traffic signal.

Mr. Bradshaw explained the goal to adopt the proposed Fitzgerald Annexation into the existing Sorenson Annexation Master Development Agreement (MDA). The agreement had an existing 10% affordable housing dedication as well as 1.6 acres of dedicated open space for every acre of developed ground included. He did not feel they should be asked to dedicate an open space preservation fee in addition, but would agree to one or the other.

Discussion ensued regarding the annexation boundary, intended amenities, and the trail corridor plan.

The Public Hearing was closed at 6:46 p.m.

2. Mayoral Proclamation to designate Hispanic Heritage Month from September 15 to October 15, 2022 (Mayor Franco)

GB Item 2 Mayoral Proclamation Hispanic Heritage Month

Mayor Franco proclaimed October, 2022, as Hispanic Heritage Month.

3. Mayor's Award presented to City Recorder Trina Cooke and Deputy City Recorder Robin Raines-Bond for earning the Certified Municipal Clerk designation from the International Institute of Municipal Clerks (Mayor Franco) - 5 min

Mayor Franco presented the Mayor's Award to Heber City Recorder Trina Cooke and Deputy City Recorder Robin Raines-Bond in recognition of their achievement of the Certified Municipal Clerk designation from the International Institute of Municipal Clerks.

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4. Review of City Branding (Brower, Bunnell) - 30 min

GB Item 4 Presentation

City Consultant, and Director of Ignition Creative Group, Ryan Bunnell presented a plan to create and adopt a City Brand. Council expressed support to move forward with the creation of a City Brand.

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

GB Item 5 Monthly Dev Rep

Jamie Baron presented the current development report for the City. Two new applications had been received: a site plan for Robarge Collision and a subdivision preliminary application for the Heber City Business Park Condo Plat.

VII. ACTION ITEMS:

1. Adoption of Ordinance 2022-26 approving amendments to the Commercial Zones and Building Height in the Commercial Design Criteria (Janson, Kohler) – 15 min

Item 1 Staff Report Zones Height-Ord 2022-26

Planning Consultant John Janson presented the proposed Ordinance to amend commercial zones and building heights in the commercial design criteria section of the City Code. He presented a three-story height limitation with the potential for up to five stories if the following three conditions were met:

a. The application included at least 10% percent affordable housing, available to persons at 60% of the current County Average Median Income (AMI) or below that threshold.
b. If it was a mixed-use building.
c. If the building design included a step back of a least ten feet between the second and third stories.

Council Members shared their viewpoints regarding the proposed amendments focusing on building height.

Motion: Council Member Barney made the motion that the City permit a maximum of three-story building heights, not to exceed 46 feet, in the C-3 zones; in the C-2 and C-4 zones, the height could be increased to 55 feet, up to four stories, if all three of the conditional standards listed were met.

Discussion: Council Member Stack asked the motion to include that the step-back in condition c. be changed from between the second and third stories to between the third and fourth stories as proposed by Council Member Johnston. Council Member Barney agreed to include the alternate step-back in the motion. Council Member Phillips felt an exception should be made for hotel height. Council Member Kahler felt the exception was unneeded. Council Member Barney felt four stories was enough. Council Member Kahler's second stood.

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Council Member Johnston wished to see Mr. Brower's proposed architectural design examples from similar communities. Mr. Brower noted the proposed amendments presented could be adopted that evening and Council could further amend at a later date if desired.

Voting Yes: Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

Motion: Council Member Stack moved to adopt 18.28.040 with the four-story provisions as detailed in sub-section B., strike subsection C., renumber D. and E. to be the new C. and D., and direct Staff to work on a formula for a fee-in-lieu for affordable housing for hotels in the C-2 and C-4 zones, as a condition if they wish to build as high as four stories. Council Member Phillips made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, Stack, and Phillips. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

Motion: Council Member Kahler moved to approve Ordinance 2022-26 with the findings and conditions as presented in the Staff Report and in addition to the two previous motions. Council Member Stack made the second. **Voting Yes:** Council Members Phillips, Stack, Barney, Johnston, and Kahler. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

2. Discuss Envision Center Heber Process and Steering Committee Membership (Brown, Kohler) - 15 min

Item 2 Staff Report Envision Central Heber

City Planning Consultant, Christie Oostema Brown, with People + Place, presented a timeline for the Envision Central Heber public outreach process including steering committee meetings and open houses. A Steering Committee proposed was composed of members directly within the project area. Council discussed proposed dates, potential Committee Members, and the appropriateness of Council participation. It was determined that Council Members Barney and Johnston, as an affected home owner and business owner in the project area, would attend, with minimal participation, and report back to Council.

3. Discuss and Approve modified Language regarding Buffers in the Storm Water Design Manual (Funk) - 15 min

Item 3 Staff Report Storm Water Master Plan Language

City Engineer Russ Funk provided modifications made to the Storm Water Design Manual in order to address the concerns of the Council. The slopes in the retention basins as well as buffer width requirements for the natural drainage channels in the North Village had been adjusted.

Mayor Franco opened the discussion for public comment.

North Village Annexation representative Paul Linford expressed his opinion that the 50 foot buffer remained too large.

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Motion: Council Member Barney moved to approve the proposed revisions to the Heber City Storm Water Design Manual. Council Member Kahler made the second. **Voting Yes:** Council Members Phillips, Stack, Barney, Johnston, and Kahler. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

4. Consider Action on Motion Continued from the Special City Council Meeting held September 27, 2022: Council Member Stack moved that Council direct the City Manager that all future TAC and CAC meetings would be run by Staff, the Consultants, and Attorneys, not by any elected official. Council Member Kahler made the second. (Council) - 15 min

Item 4 Heber City and State Municipal Code

City Attorney Mark Smedley provided a legal opinion based upon research of City and State Codes as well as consultations held with legal counsel throughout the State's municipalities and the Utah League of Cities and Towns legal counsel. His findings revealed that the Mayoral Chair responsibility over meetings, as listed in Code, was specific to City Council Meetings. He shared the result of his research found the motion made by Council Member Stack at the September 27, 2022, meeting was a legal motion.

Council Member Stack called the question regarding his **Motion** to appeal of the ruling of the Chair that the his previous motion was illegal. **Vote for the Appeal of the ruling of the Chair: Voting Yes:** Council Members Phillips, Stack, Barney, Johnston, and Kahler. **Voting No:** none. The **Motion to Appeal** the ruling of the Chair **Passed unanimously, 5-0.**

Clarification was discussed that the duties of the Mayor was restricted from acting as Chair for the Airport Master Plan process. The intent was to eliminate interference from all elected officials and place the process in the hands of the experts.

Vote for the original Motion: Council Member Stack moved that Council direct the City Manager that all future TAC and CAC meetings would be run by Staff, the Consultants, and Attorneys, not by any elected official. Council Member Kahler made the second. **Voting Yes:** Council Members Phillips, Stack, Johnston, and Kahler. **Voting No:** None. Council Member Barney **Abstained** from the Vote. The **Motion Passed 4-0.**

Motion: Council Member Stack moved to extend the meeting until 10:30 p.m. Council Member Phillips made the second. **Voting Yes:** Council Members Barney, Johnston, Kahler, Phillips, and Stack. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

5. Discussion regarding the procedure for adding Public Hearings to City Council Meeting Agendas and Possible Action regarding the Removal of the October 18 Public Hearing as redundant to the October 17 Public Event (Stack) - 15 min

Council Member Stack explained the intent of the Council's decision to establish a stand-alone Airport Master Plan Meeting on October 17 in order to remove the need for a Public Hearing to be held during the October 18 City Council Meeting and prevent an Airport Master Plan Meeting from being held by the governing body rather than the experts employed by the City and the

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professionals at the FAA (Federal Aviation Administration). He also wished to address whether members of the governing body should be permitted to call a Public Hearing unilaterally or whether it should be at the will of Council majority.

City Attorney Mark Smedley shared his findings with regard to placing Public Hearings on City Council Meeting agendas. He provided details regarding State required Public Hearings versus voluntary Public Hearings. His research and consultations with colleagues and government counsel had found the Council Majority should be the determining entity.

Motion: Council Member Kahler moved to remove the Public Hearing from the October 18, 2022 City Council Meeting as redundant and to move forward with the October 17, 2022, Fireside Chat as advertised. Council Member Johnston made the second.

Discussion: Council Member Stack acknowledged his dislike of the jets and noted he lived in the flight path of the airport. He stated that by virtue of the information he had been exposed to in his role as a City Council Member, he was making an effort to remove his personal preferences from his legal obligations and commitment to the City.

Voting Yes: Council Members Phillips, Stack, Barney, Johnston, and Kahler. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

Council Member Stack asked Staff to remove the October 18, 2022, Public Hearing Notice postings. He also asked Mr. Smedley to return to a future meeting with clarification to add to the Rules of Order and Procedure for the Heber City Council that public hearings were to be held as required by State or City Code or at the will of Council majority. Council Member Stack also requested Mr. Smedley research State Code 52-4-203(2)(b) authorizing simple reduced minutes summarizing Council discussion when there was an audio recording reference available.

IX. ADJOURNMENT:

Motion: Council Member Phillips made the motion to adjourn. Council Member Stack made the second. The meeting adjourned at 10:32 p.m.

HEBER CITY CORPORATE Seal WASATCH COUNTY, UTAH

Trina Cooke, City Recorder

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