

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
City Council Meeting Minutes
February 7, 2023

APPROVED Minutes

4:00 p.m. Closed Executive Session
5:00 p.m. Work Meeting
6:00 p.m. Regular Meeting

I. CLOSED EXECUTIVE SESSION-4:00 P.M.

Mayor Franco called the meeting to order at 4:02 p.m. and welcomed everyone present.

1. Ongoing or Imminent Litigation

Motion: Council Member Phillips moved to enter Closed Executive Session for the purpose of discussing ongoing or imminent litigation. Council Member Johnston made the second. **Voting Yes:** Council Members Barney, Johnston, and Phillips. **Voting No: none.** Council Members Kahler and Stack were absent. The meeting entered Closed Executive Session at 4:03 p.m.

Present: Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Scott Phillips
Council Member Mike Johnston
Council Member Rachel Kahler – arrived 4:06 p.m.

Absent: Council Member Ryan Stack

Staff Present: City Manager Matt Brower
City Attorney Jeremy Cook
City Recorder Trina Cooke
Airport Manager Travis Biggs
Airport Counsel Steve Osit

Motion: Council Member Kahler moved to adjourn the Closed Executive Session. Council Member Phillips made the second. The Closed Executive Session adjourned at 5:19 p.m.

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

Mayor Franco called the Work Meeting to order at 5:20 p.m. and welcomed everyone present.

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

Absent: Council Member Ryan Stack

Staff Present: City Manager Matt Brower
City Attorney Jeremy Cook
City Planner Jamie Baron
City Engineer Russ Funk
City Recorder Trina Cooke
Airport Manager Travis Biggs
Airport Assistant Kiera Allen
Police Lieutenant Branden Russell
Public Works Director Matthew Kennard
Building Official Wes Greenhalgh
Finance Manager Sara Nagel

Staff Participating Remotely: Planning Director Tony Kohler, Human Resources Manager Cherie Ashe, Assistant City Manager/Prosecutor Mark Smedley, Public Works Director Matthew Kennard, City Engineer Russell Funk, Accounting Technician Wendy Anderson, IT Specialist Anthon Beales, and Finance Manager Sara Jane Nagel.

Public Present: Mike Nelson, Rod Riddle, John Peterson, Jeremy Smith, Cortney Smith, Paul Schneider, Beth Ann Schneider, Brad Hyatt, David Robinson, Heather Ackerson, John Ackerson, Shelton Taylor, Riwa McCaran, Brian Balls, Tori Broughton, Eric Hales, Jami Hewlett, Mike Hewlett, Brian Bird, Aaron Johnson, Dave Harris, John Kelsh, Patrick Matheson, Elyse Kats, and others who did not sign in or whose signatures were illegible.

Public Attending Remotely: (Names listed as signed in online) Kelli G, John Janson, Ben Lasseter, Greg Bird, Elyse Kats, Bill, Bw, Jcrail, Jen, KPCW, Nadim AbuHaidar, Sandi Brower, and Pat Matheson.

1. [Review of Heber City's Shell Building Policy \(Greenhalgh\) – 10 min](#)

[WM 1 Staff Report Shell Buildings](#)

Heber City Building Official Wes Greenhalgh explained the Building Department's policy to not accept tenant improvement permit applications until the shell building and all required site improvements were completed.

2. [Discuss proposed amendment to MURCZ \(Mixed Use Residential/Commercial Zone\) and BMP Zones \(Kohler\) - 30 min](#)

[WM Item 2 Staff Report CH 18.42 MURCZ](#)

WM Item 2 Staff Report CH 18.46 Business-Medical Park

Planning Consultant John Janson presented the proposed zoning changes to the Heber City Code as included in the attached Staff Reports. He described the Code update process as phase three of the Envision Heber 2050 General Plan implementation. The Planning Commission had forwarded a positive recommendation for the proposed changes. Council provided feedback and indicated they were ready to move forward.

3. Discussion regarding the Chain of Command for the Chief of Police (Phillips) – 15 min

WM Item 3 Staff Report Chain of Command

City Attorney Jeremy Cook explained the purpose of the proposed amendment was to clarify who the Chief of Police reported to and the Chain of Command. While the Chief of Police would report directly to the City Manager, disciplinary action could not be taken without consent of the City Council. He noted the recommendation was based upon standard chain of command operations in other cities.

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

1. Call to Order

Mayor Franco called the Regular City Council Meeting to order at 6:00 p.m. and welcomed everyone present.

2. Pledge of Allegiance (Council Member Kahler)

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

3. Prayer/Thought by Invitation (Default: Mayor Franco)

Mayor Franco shared a prayer.

IV. CONFLICT OF INTEREST DISCLOSURE:

Council Member Johnston shared his company's involvement with the Fire District's new building to be constructed on 140 East to be addressed in Action Agenda Item one but felt there was no conflict of interest with the discussion of the road. He would recuse himself from the discussion of action item three. He clarified the involvement of his company with the Sawmill project but felt the discussion of the associated road did not create a conflict.

V. CONSENT AGENDA:

1. Approval of January 10 and 11, 2023 Annual City Council Retreat Day 1 and 2 Meeting Minutes, January 17, 2023, City Council Meeting Minutes, and the January 31, Special City Council Meeting Minutes (Cooke)

CA Item 1 1.10.2023 DRAFT Minutes Day 1 CC Retreat
CA Item 1 1.11.2023 DRAFT Minutes Day 2 CC Retreat
CA Item 1 1.17.2023 DRAFT Meeting Minutes
CA Item 1 1.31.2023 DRAFT Special Meeting Minutes

2. Approval of Vehicle surplus liquidation (Kennard)

CA Item 2 Staff Report Vehicle Liquidation

3. Consider Approval of Ordinance 2023-01 Amending the PCZ (Planned Community Zone) and I-2 (Industrial) Zones (Kohler, Janson) – 15 min

CA Item 3 Staff Report CH 18.61 I-2 Zone CH 18.45 Adoption
CA Item 3 Ordinance 2023-01 Amending 18.61 PCZ and 18.45 I-2 Zone

Motion: Council Member Phillips moved to approve the Consent Agenda as presented. Council Member Johnston made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, and Phillips. **Voting No:** None. Council Member Stack was absent. The **Motion Passed 4-0.**

VI. PUBLIC COMMENTS:

Mayor Franco read a public comment received via email as attached to the end of the meeting minutes. No other public comments were made.

VII. GENERAL BUSINESS ITEMS:

1. Presentation and Discussion Regarding Downtown Movie Theater and Parking Needs (Brower, Smith) - 15 min

GB Item 1 PP

Heber City Resident Jeremy Smith was under contract to purchase the two local theaters located on Main Street. He shared a vision to convert the Ideal Theatre into a place for kids and families to hang out and participate in activities. His vision included arcade games, pool tables, and seating to enjoy TV and/or sporting events. He felt it could be used as an additional venue for the Cowboy Poetry event, hold open mic comedy or improv shows, a stage for bands, and dancing. He felt the plan would be mutually beneficial for the community and surrounding businesses. He recognized the issue of lack of parking at the theater and proposed a development agreement with the City, as a temporary solution, to allow parking for the proposed entertainment venue at the City Administration Offices.

City Manager Matt Brower expressed appreciation for the proposal and felt it was exactly the kind of project the City needed to help revitalize the downtown area. He proposed either an amendment to the City Code to allow for the parking exception or a joint parking agreement to help the project move forward. Council expressed support of the project and directed Staff to work with Mr. Smith.

2. Monthly Current Planning Development Report (Baron) – 10 min

GB Item 2 PP 

Senior Planner Jamie Baron shared details of the applications received by the City Planning Department during the preceding month as included in the attached PowerPoint.

3. Presentation of Possible Airport Amenities (Biggs) – 15 min

After Meeting Upload - Airport Presentations 

John Ackerson shared he had lived in the valley for 21 years and had been flying gliders for 16 years. He provided a history of gliders in the Heber Valley. He was proposing the glider community be permitted to lease an area of airport land in order to build shade hangars to house gliders during the summer months.

Aaron Johnson, a landscape architect with the Environmental Planning Group shared a presentation of possible uses of the open space at the airport, including a park, restaurant, and an airplane viewing space, as included in the attached meeting materials.

John Kelsh, Destination Strategies, explained the concept to include animated space to create a location that people wanted to return to as a community destination year round.

VIII. ACTION ITEMS:

1. Consider Road Standard and Funding Strategy for Proposed 140 E. Road (Brower, Fire Chief Hales) - 15 min

Item 1 email 

Item 1 Proposed 140 East Road - Image 

Fire Chief Jeremy Hales described the new Fire Station planned to be built at 140 East 1200 South. Brian Balls, engineer working with the Fire District, explained there was not money budgeted for a road that had not been anticipated. City Engineer Russ Funk explained the proposed road was not currently in the city's transportation master plan but it would be added. He said the road would be a minor collector road and felt the proposed road was appropriate. Council Member Johnston clarified that the Fire District was willing to work with the City for the proposed City Road and was agreeing to dedicate the necessary property to the City. As a City Council, they needed to agree to pay for the road and agree to the fire station's driveway access.

Mayor Franco opened the discussion for public comment.

Mike Hewlett, resident, felt that anything the City Council could do to ease resident's ability to navigate the City would be good to prioritize. He described the backroads he routed through in order to avoid driving on Main Street.

Mayor Franco read the following comment submitted through the virtual chat from Justin Crail: Will the County also provide funding for the road construction? Or is the donation from the Fire District and a contribution from the County one in the same? Mr. Brower clarified that the project was a Fire District project not a County project.

Kelly Gomez felt another community center was unnecessary due to the nearby high school and the community center located at the Public Safety Building. She suggested eliminating it from the plan and putting the money toward the road. Fire Chief Jeremy Hales explained that the space designated as a community center would be used for firefighter training and was necessary.

Mr. Brower felt an agreement between the City and the Fire District was needed. He asked for Council direction regarding the width of the road. Mr. Funk felt the minimum width should be 62 feet but would settle for 58 feet. Mr. Balls felt a 60 foot road could be accommodated.

Motion: Council Member Phillips moved to commit to the Fire District to provide a 60-foot wide road, as long as the City was deeded the ground from the Fire District, to be completed by the time the Fire Station Construction was done. Council Member Johnston seconded the motion.

Mr. Funk clarified the Fire District's contractors would construct the road and the City would reimburse the funds.

Amendment to the Motion: Council Member Johnston wished to amend the motion to include that the City work with the Fire District for dedication of land to include a right-hand turn lane, to be paid for by the City. Council Member Phillips accepted the amendment to the motion. **Voting Yes:** Council Members Kahler, Johnston, Barney, and Phillips. **Voting No:** None. Council Member Stack was absent. The **Motion Passed 4-0.**

2. [Consider Adoption of Ordinance 2023-02 Approving an MDA for mixed-use development located at 191 W 100 S \(Baron\) - 15 min](#)

[Item 2 Staff Report - 191 W 100 S Development Agreement](#)
[Item 2 PP](#)

Senior City Planner Jamie Baron presented the information as included in the meeting materials. The applicants were proposing a seven-foot setback for the side of the building and a five-foot setback for the front. The applicant also wished to construct an alternate design than the Planning Commission had approved in their forwarded recommendation.

Mr. and Mrs. Hewlett clarified their vision for the project.

Motion: Council Member Phillips moved to approve ordinance 2023-02 adopting the 191 West 100 South MDA (master development agreement) with the findings and conditions outlined in the conclusion of the Staff Report. To approve the setbacks and architecture with five-foot front and interior side setbacks; seven-foot on the exterior street side setbacks; and approximately 90-foot setback in the rear; with the option to build their choice of a flat roof or gabled roof. Council Member Johnston made the second.

Discussion to the Motion: City Engineer Russ Funk impressed upon Council the importance of a ten-foot setback. He informed of the gas company's requirement to place lines no closer than ten feet to a structure. Smaller setbacks would force utilities to be placed in City roadways, inhibit space for snow removal storage, and potentially cause additional difficulties. Council further discussed the setback depth needed.

Updated Motion: Council Member Phillips updated his motion to require a ten-foot setback on the front. Council Member Barney made the second.

Discussion to the Motion: Mr. Hewlett explained the utilities were already there. Council Member Kahler felt it important to clarify that a ten-foot setback in the front was not necessary based upon existing utilities. Mr. Funk explained that utility lines did not last forever and would always recommend a minimum ten-foot setback. Council Member Johnston clarified that a utility easement was not the same as a setback. He did not feel it was appropriate to require property owners to dedicate space for utility easements. Discussion continued.

Updated Motion: Council Member Phillips updated his motion to the setback of five feet in the front, seven feet street side, and ten in the rear rather than the 90 stated in the original motion. Council Member Barney's second stood.

Council Member Barney wished to ensure the plan accommodate the safety sight triangle at the street corner. Council Member Johnston wished to hear the recommended architectural standards from the Planning Department. City Planner Jamie Baron recommended the C3 zoning architectural standards as more historical.

Updated Motion: Council Member Phillips updated his motion to require C3 zoning architectural standards as it was more historical. Council Member Barney's second stood. **Voting Yes:** Council Members Kahler, Johnston, Barney, and Phillips. **Voting No:** None. Council Member Stack was absent. The **Motion Passed 4-0.**

3. [Consider Approval of Ordinance 2023-05 Amending the Zone Change Agreement for Parkview Place \(Baron\) – 15 min](#)

[Item 3 Staff Report - Park View Place](#) 

Council Member Johnston recused himself from the discussion and vote.

Senior City Planner Jamie Baron described the request from the builder to permit 10 of the homes in the affordable housing subdivision to be sold at market rate. The reason for the request was to make up monetary losses due to the rapid increases in material and labor costs and availability. Mr. Baron reviewed the proposed amendments to the Zone Change Agreement. Project representative Patrick Matheson was present to answer Questions.

Mayor Franco opened the discussion for public comment.

Brad Hyatt, neighbor of the development, expressed sympathy for the developer but asked Council to consider the allowances given to the project when it was originally presented as a 100% affordable housing project. He expressed concern of the possibility that future homeowners occupy a unit for six months then turned the home into a rental, thereby losing the pride in ownership aspect.

Council discussion followed.

Motion: Council Member Phillips moved to approve Ordinance 2023-05 amending the Parkview Place Zone Change Agreement with the findings and conditions outlined in the conclusion of the Staff Report with and emphasis that deed restrictions remain in perpetuity. Council Member Barney made the second.

Discussion: Council Member Kahler wished to predicate her vote that she wanted to see the applicant approach the housing authority before approving changes.

Voting Yes: Council Members Barney and Phillips. **Voting No:** Council Member Kahler. Council Member Johnston was recused. Council Member Stack was absent. The **Motion Failed** for lack of a majority vote.

4. [Consider Approval of Additional Costs for Roadway Improvements associated with Sawmill 6 \(Funk\) – 15 min](#)

[Item 4 Staff Report Sawmill 6 Road Upsize Cost](#)

City Engineer Russ Funk explained that the City road standards had changed since the land was originally annexed into the City. He was seeking Council direction to either widen the road and include a roundabout at the City's expense or allow the road and intersection to proceed as originally agreed upon in the Sawmill Development Agreement. He provided three options and the cost of each alternative as included in the attached Staff Report.

Motion: Council Member Johnston moved to approve the City funding the 72-foot wide right of way (road), to be reconfigured to include a trail, and install a roundabout. Council Member Phillips made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, and Phillips. **Voting No:** None. Council Member Stack was absent. The **Motion Passed 4-0.**

5. Consider Approval of Ordinance 2023-08 Amending the Moderate Income Housing Element of the General Plan (Baron) – 25 min

Item 5 Staff Report - Affordable Housing Actions
Item 5 PP

Senior Planner Jamie Baron presented the updated Moderate Income Housing element in the General Plan.

Mayor Franco opened the discussion to the public. No one from the public came forward to comment.

Motion: Council Member Kahler moved to approve Ordinance 2023-08 updating the Moderate Income Housing Plan with the findings and conclusions from the Staff Report. Council Member Phillips made the second. **Voting Yes:** Council Members Kahler, Johnston, Barney, and Phillips. **Voting No:** None. Council Member Stack was absent. The **Motion Passed 4-0.**

6. Review of Council Budget and Policy Priorities for Fiscal Year 2023-2024 (Brower) – 20 min

Item 6 Staff Report Council Priorities

City Manager Matt Brower asked Council to confirm that the Council's Budget Priorities, Policy Priorities, and action items had been accurately captured in the attached report. Council Member Barney wished to ensure the music elements were included in the all-abilities park. Mr. Brower noted the deadline approaching the City to utilize past parks impact fees collected.

IX. COMMUNICATION:

Conflict of interest disclosures would be distributed for Council Members to fill out at the next meeting.

Mr. Brower offered a field trip to the Spanish Fork ADA (the Americans with Disabilities Act) Park and asked who would like to participate. Mayor Franco wished to attend. Council Member Johnston indicated he would like to see video of the park.

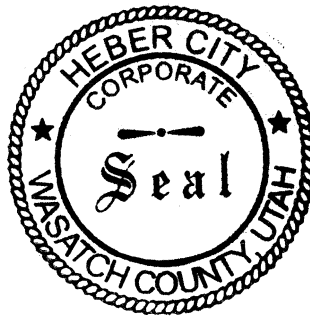
Mayor Franco reminded everyone of the ULCT (Utah League of Cities and Towns) Mid-year conference in April and asked to have hotel rooms reserved. The Interlocal Meeting would be held the following night at 6:30 p.m. at the County Chambers. The Envision Central Heber meeting was scheduled for February 15, 2023, at noon and 6:30 p.m., at the Senior Citizens Center.

Council Member Phillips needed to be excused from the March 7 Council meeting as he would be traveling for business. Council Members Kahler and Phillips would both be out of town for the April 4 Council meeting.

Council Member Phillips shared the efficiency of the State Legislature's meeting processes and noted the public comment was limited to one minute.

X. ADJOURNMENT:

Motion: Council Member Kahler moved to adjourn. Council Member Phillips made the second. The meeting adjourned at 9:53 p.m.




Trina Cooke, City Recorder

VI. PUBLIC COMMENTS:

From: Justin Crail
Sent: Tuesday, February 7, 2023 2:43 PM
To: CC Public Comments <ccpublic@heberut.gov>
Subject: ParkView Place

Dear Council,

I am submitting public comment to express my opposition of the City allowing the continuation of the density and zoning exceptions made for this development. The City should not set this precedence and should not reward this developer for mis-management of this project. We do not want other developers that mis-manage projects to have this option.

This development has been a nightmare for the South Fields community and the developer has not respected the area. Here are a few examples:

1. Allowing garbage to blow around the fields for 2 years.

2. Creating air pollution by allowing large dirt piles to blow out of control
3. Parking unlicensed cars and equipment for 2 years
4. Not controlling noxious weeds.

5. Unsafe construction practices by allowing OSB sheeting to be exposed well past standards. I am really surprised the inspector allowed this to be rotten sheeting to be used.

This development and the overall look and feel does not belong in the rural transitional area. I finally had to email the Mayor to get the mess they had made addressed.

Please do not give them any more concessions and I suggest you revoke the density and zoning enhancements you gave them.

In addition, during the Planning Commission meeting The developer stated they had a working relationship with Mike Johnston and his Partner sits on their board. I would assume he would recuse himself from this. Not sure if he did during previous votes but probably should have.

Sincerely,

Justin Crail

South Fields resident

APPROVED