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HEBER CITY CORPORATION
75 North Main Street
Heber City
City Council Meeting
June 6, 2023

DRAFT Meeting Minutes

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

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I. CLOSED EXECUTIVE SESSION-4:00 pm

Mayor Franco called the meeting to order at 4:01 p.m.

18

1. Ongoing or Imminent Litigation

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Motion: Council Member Stack moved to enter Closed Executive Session for the purpose of discussing pending or reasonably imminent litigation. **Second:** Council Member Kahler made the second. **Voting Yes:** Council Members Johnston, Kahler, and Stack. **Voting No:** None. Council Member Barney had yet to arrive and Council Member Phillips remote connection was temporarily lost. The **Motion Passed 3-0** and the meeting entered Closed Executive Session at 4:02 p.m.

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Present: Mayor Heidi Franco
Council Member Yvonne Barney – arrived at 4:03 p.m.
Council Member Rachel Kahler
Council Member Mike Johnston
Council Member Scott Phillips – remotely
Council Member Ryan Stack

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Staff Present: City Manager Matt Brower
City Attorney Jeremy Cook
Heber Valley Airport Manager Travis Biggs
City Recorder Trina Cooke

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Also Participating Remotely: Heber Valley Airport Special Counsel Steve Osit.

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Motion: Council Member Kahler moved to end the Closed Executive Session. **Second:** Council Member Barney made the second. **Voting Yes:** Council Members Barney, Johnston, Kahler, Phillips, and Stack. **Voting No:** none. The **Motion Passed unanimously, 5-0**. The Closed Executive Session ended at 4:57 p.m.

II. WORK MEETING-5:00 pm

1
2 Mayor Franco called the Work Meeting to order at 5:05 p.m. and welcomed everyone present.
3

4 **Present:** Mayor Heidi Franco
5 Council Member Yvonne Barney
6 Council Member Mike Johnston
7 Council Member Rachel Kahler
8 Council Member Scott Phillips – remotely
9 Council Member Ryan Stack

10
11 **Staff Present:** City Manager Matt Brower
12 Assistant City Manager Mark Smedley
13 Finance Manager Sara Jane Nagel
14 Airport Manager Travis Biggs
15 Planning Director Tony Kohler
16 Senior City Planner Jamie Baron
17 Parks and Cemetery Director Mark Rounds
18 City Engineer Russ Funk
19 Public Works Director Matthew Kennard
20 Public Works Kaden Obray
21 Public Works Cristian Payan
22 City Recorder Trina Cooke
23 Police Lieutenant Branden Russell
24

25 **Staff Attending Remotely:** IT Specialist Anthon Beales, Human Resource Manager Cherie Ashe,
26 Assistant City Manager Mark Smedley, Public Works Director Matthew Kennard, Finance
27 Manager Sara Nagel, City Engineer Russ Funk, Engineering Technician Desireé Muheim, and
28 Accounting Technician Wendy Anderson.
29

30 **Public Present:** Nioma Duke, Russ Witt, Cathy Witt, Cammie Nebeker, Shirlene Mayo, Pam
31 Patrick, John Guilds, Haylee Obray, Robert Turner, Alma Turner, Laurie Wynn – the Wave,
32 Veralee Rhees, Matthew Turner, Marcus Eder, Di Ann Duke Turner, David Ruesch, Dave Turner,
33 Brian Duke, Dean Duke, M Sabey, Tori Broughton, Ann Zimmerman, April Grange, Chris
34 Grange, LuAnn Brandt, Bob Brandt, Darryn Nihm, Sarah Duke Duncan, Jon R Duke, Jonathan
35 Turner, Jill Nystul, Michelle Stevens, Bill Wark, Josh Jewkes, David Scott, Ann Moulton, Jacob
36 Anderson, Mark Evans, Druann Lacey, Craig Lacey, Ben Turner, Melanie Funk, Ken Knight,
37 Gabe Turner, Thomas Dunn, Jim Farvis, Shauna Bennett, and others who did not sign in or whose
38 names were illegible.
39

40 **Public Attending Remotely:** (Names listed as shown signed-in online) DS, DW, George Bennett,
41 K Smith, John Janson, TMT, AZ, Catherine, cf, CLP, D Woodbury, Don Taylor, Kamen Goddard,
42 Kelli G, McKay Murdock, Meg Ryan, Ron Bridge, Shorty, Megan McKenna, and T.
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44
45

1. Discussion regarding L. Remington Master Development Amendment (MDA) Amendment (Baron) – 20 min

1
2 [WM 1 Staff report for L Remington CC 6-6-23](#) 

3
4 Planning Consultant Deena Woodbury presented the information as included in the Staff Report.
5 Development representative Josh Jewkes shared the layout design changes made in response to
6 Council’s previous feedback. The updated proposal included 31 townhomes, with three affordable
7 housing units, and a shift in architectural style to a craftsman design. The updated design was to
8 address Council’s concerns regarding parking availability, dumpster location, snow removal
9 access, and density. The project met all zoning requirements including open space and
10 landscaping. Council discussed the building design and layout plan, fire access, the playground
11 location, and the possibility of surrounding it with a fence. Council expressed appreciation for the
12 efforts of the applicants to comply with their prior directives.
13

2. Discuss potential redevelopment of properties located at 954 South and 988 South 600 West with new single-family detached dwellings, aka Cottage Style Dwellings (Kohler, Witt) – 20 min

14
15 [WM 2 Proposed Redevelopment PP](#) 

16
17 Property owners Russ and Cathy Witt described the proposed project and provided an image as
18 included in the meeting materials. They wished to demolish an existing home and install additional
19 homes for a total of six single-family units across two lots spanning 1.02 acres. Council expressed
20 support for the proposed redevelopment but asked to see architectural and design variations added.
21

22 Planning Director Tony Kohler outlined the process to move forward with a zone change including
23 a public hearing before the Planning Commission and drafting a development agreement. Staff
24 and the petitioner would then return to Council during a Work Meeting before seeking final
25 Council approval by ordinance.
26

27 **III. 15 MINUTE BREAK**

28 **IV. REGULAR MEETING-6:00 pm**

1. Call to Order

29
30 Mayor Franco called the Regular Meeting to order at 6:03 p.m.
31

2. Pledge of Allegiance (Council Member Phillips)

32
33 Mayor Franco asked Council Member Johnston to lead the recitation of the Pledge of Allegiance
34 as Council Member Phillips was not present physically.
35
36

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

Mayor Franco shared a prayer.

V. CONFLICT OF INTEREST DISCLOSURE:

There were no conflicts of interest disclosed.

VI. CONSENT AGENDA:

1. Approval of May 15, 2023, City Council Special Meeting Budget Workshop #1 Minutes, May 16, 2023, City Council Meeting and Budget Workshop #2 Minutes, and May 24, 2023, Special City Council Meeting – Closed Executive Session Minutes (Cooke)

1.1 CA 5.15.2023 DRAFT Special Meeting Minutes - Budget Workshop 1

1.2 CA 5.16.2023 DRAFT Meeting Minutes - Budget Workshop 2

1.3 CA 5.24.2023 DRAFT Special Meeting Minutes - Closed Executive Session - Litigation

2. Approval of Addendum to Richard and Boni Losee Family Estate Right to Burial Agreement (Smedley) – 15 min

CA 2 Staff Report Losee Family Estate Burial Agreement and Proposed Addendum

Motion: Council Member Kahler moved to approve the Consent Agenda as presented. **Second:** Council Member Stack made the second. **Voting Yes:** Council Members Barney, Johnston, Kahler, Phillips, and Stack. **Voting No:** none. **The Motion Passed unanimously, 5-0.**

VII. PUBLIC COMMENTS:

Bob Brandt encouraged the Council to honor the Duke family’s wishes for the property sold to the City to be used for cemetery expansion or a park. He opposed the City’s involvement in providing affordable housing for the workforce and felt it should be left to developers.

Dave Nelson did not oppose property owner rights or density. He mentioned a past conflict with the City regarding development rights. He urged the City Council, and everyone else, to uphold their commitments and to show integrity.

Kenneth Knight noted the significance of the cemetery and was not pleased that there would be a road through the cemetery. He was concerned about diminishing open space and overdevelopment in Heber City. He said his water bill had gone up eighty percent. He hoped the City Council would designate the land for a park with a pond possibly, to preserve the heritage for residents, their children, and grandchildren.

1 Tracy Taylor informed Council that one of the links on the website was not feeding the video of
2 the meeting. She was advised that only the GoTo meeting link at the top of the website page
3 provided the video feed. The second link showing the meeting was in progress was an audio-only
4 feed.

5
6 Mark Evans was concerned that the Coyote Ridge developer was not required to install a
7 roundabout due to a slope that he had calculated as insignificant. He asked Council to keep
8 consistency and integrity throughout.

9
10 Michelle Stevens expressed support for the previous comments and emphasized the existing
11 pressure on the residents from upcoming developments. She felt a park would be a valuable
12 contribution to the community.

13 **VIII. GENERAL BUSINESS ITEMS:**

14
15 **Motion:** Council Member Kahler moved to receive the presentation of the Duke Farm Park by Di
16 Ann Duke Turner at that time and to allow unlimited public comment in order to permit everyone
17 who wished to speak to be heard. **Second:** Council Member Stack made the second. **Voting Yes:**
18 Council Members Barney, Johnston, Kahler, Phillips, and Stack. **Voting No:** None. The **Motion**
19 **Passed unanimously, 5-0.**

20
21 The meeting was moved forward to the Action Items agenda item one.

- 22
23 1. [Public Hearing to obtain Public input regarding the proposed 2023-2024 Fiscal Year Budget](#)
24 [\(Nagel\)](#)

25 [Budget PP](#)
26 [GB 1 Tentative Budget FY24](#)

27 Heber City Finance Manager Sara Nagel provided a quick overview of the proposed budget as
28 included in the attached meeting materials. She noted the Council had decided to go through the
29 Truth in Taxation process in order to consider a possible increase in property taxes and provided
30 a description of the process.

31
32 Mayor Franco opened the Public Hearing at 7:38 p.m.

33
34 Ken Knight felt his water utility bill had increased 80%. He noted the increased costs of everything
35 and said he could not afford the additional costs on top of inflation.

36
37 City Manager Matt Brower explained fee increases versus a tax increase. The City was affected
38 by inflation as well and needed to increase fees to cover costs. Mayor Franco noted the forty
39 million dollar infrastructure replacement project in the City as well as other costs the City faced.
40 City Engineer Russ Funk described the impact fees the City collected from developers.

41
42 The Public Hearing was closed at 7:42 p.m.

2. [Presentation of Mayor’s Award to the Winners of the Backhoe Rodeo \(Mayor Franco\)](#)

Mayor Franco described the backhoe skills exhibited by Cristian Payan and Kaden Obray with the City’s Public Works Department at the Backhoe Rodeo during Public Works Week. The competition had included multiple entities in the valley. She presented each with the Mayor’s Award of a \$100 check.

3. [Presentation of Tree City USA Award by the Tree Subcommittee \(Melanie Funk\) – 5 min](#)

Heber City’s Tree Subcommittee Chair Melanie Funk shared the 2022 Arbor Day Award earned by the City for observing Arbor Day and planting a tree. The City had also earned the Growth Award designation as a Tree City USA due to the City’s adoption of a Tree Management Plan and the performance of a City-wide tree inventory.

4. [Monthly Current Development Report \(Planning Department\) - 10 min](#)

[Planning PP](#)

Senior City Planner Jamie Baron introduced the City’s new Planner Jacob Roberts and shared a portion of his credentials. Mr. Roberts provided an overview of a planned tour of Main Street with a representative from Main Street USA that the Council was invited to participate in. Planning Director Tony Kohler described the Main Street USA program noting the City would be eligible for grants by participating.

Mr. Baron shared the new development and project applications received by the City during the previous month as shown in the attached presentation. The Council discussed affordable housing and how to prevent designated affordable housing from being purchased by investors to use as short-term rentals. The Council proposed revisiting the short-term rentals ordinance and to consider establishing restrictions.

Mayor Franco moved the meeting forward to the Action Items agenda item six.

IX. ACTION ITEMS:

1. [Presentation on Duke Farm Park, Affordable Housing, etc. by Diane Turner \(Duke\) - 20 Min](#)

Council Member Kahler felt it was important for everyone present to understand that the Heber City Council had been presented with a proposed development concept but had not considered any decisions regarding the property the City had purchased from the Duke family. The present Council had not been in place when the original real-estate transaction had occurred.

Di Ann Duke Turner expressed gratitude to the Council for allowing her time to speak and thanked those present to support her, especially the Dukes. She shared the history of the sale of Duke land to the City with the understanding that the land would not be used for development but as cemetery expansion or a park.

1 Mrs. Turner had reviewed the Council Meeting discussions from the time of the real estate
2 negotiations as well as emails obtained from the City through a GRAMA (Government Records
3 Access Management Act) request. She presented records documenting assurances by the City that
4 the land would remain undeveloped. She stated the family would not have sold the land to the City
5 if there had been any indication the City would develop on the land. She recognized that the Mayor
6 had been a Council Member at the time but that none of the current Council had served on the
7 Council then.

8
9 Dean Duke described the significance of the property and the Duke family's civic-minded decision
10 to sell the land to the City rather than a developer. He recalled the family's frustration negotiating
11 with the City. Mr. Duke noted the State requirement for designated open space and added that he
12 had a lease agreement stating that four acres of the property was to be used for cemetery or open
13 space. He suggested a passive park with footpaths, ponds, pavilions, playgrounds, and gardens.

14
15 Mayor Franco opened the discussion for public comment.

16
17 Pam Patrick felt the City's word should be upheld. The Duke Family had sold the property to the
18 City in good faith and hoped the City would uphold that faith.

19
20 Dave Turner, Di Ann Duke Turner's Husband, recalled being approached by the School District
21 years previous with the need to widen the road in front of his home to accommodate traffic for a
22 new elementary school. Mr. Turner had asked the School District to construct a sidewalk and had
23 agreed to give up 810 feet of his land in order to allow the road to be widened, a sidewalk built,
24 and the school district agreed to maintain the sidewalk as long as Mr. Turner owned the land. The
25 gentlemen shook hands on the agreement and it had been upheld ever since. He asked the City to
26 keep their word.

27
28 Jill Nystul was saddened by the disappearing greenspace. She too opposed high-density housing
29 on the land.

30
31 Jonathan Turner, son of Di Ann, expressed appreciation for the decisions the Council had to make.
32 He noted the many developers that had approached the family over the years and the resulting
33 family discussions about whether to sell land. The family had held on to the land in order for it to
34 become a legacy.

35
36 Robert Turner, son of Di Ann, was ashamed of the City. He shared a story of his grandpa Alma
37 donating land for a church. The kids had grown up on the land, watered alfalfa, played in the fields,
38 and made many memories there. He felt Alma Duke was a steward of the community and a housing
39 development on the land would not honor his legacy. He asked the City to be honorable.

40
41 Laurie Wynn, Heber City resident, had grown up in the area. She had served on a past parks
42 exploratory committee for the City that had been informed by consultants of the low percentage
43 of designated open space and parks in the City. She felt the land being discussed provided the City
44 with an opportunity to install a beautiful park for future generations to enjoy or to dedicate as
45 additional cemetery land.

1 Jerry Duke had lived in the area for 77 years. He had spent his youth in the fields and his great-
2 grandfather had owned land on both sides of Highway 40. He felt the Dukes could have made
3 much more money through the sale of the land to developers but had chosen the option to sell to
4 the City in order to preserve the land.

5
6 Ben Turner, number 10 of Di Ann's children, understood it was a different Council than had
7 negotiated the purchase agreement but hoped the current Council would take the opportunity to
8 preserve the land. He encouraged the Council to formulate legal framework to protect the
9 preservation of the land permanently as open space rather than allow a high-density development.

10
11 Megan McKenna, housing advocate for the Housing Resource Center at Mountainlands
12 Community Housing Trust, expressed support for affordable housing. She noted the growing
13 housing crisis in the Heber Valley and all of the Wasatch Back. Ms. McKenna shared personal
14 experience of family and friends being pushed out of Summit County due to affordability issues.
15 As a school teacher, she was unable to afford to live in the community she grew up in. She
16 highlighted housing challenges faced by essential workers. Ms. McKenna became a housing
17 advocate with the hope to assist with the housing crisis while still supporting appropriate open
18 space. She provided her email address if anyone wished to contact her.

19
20 Tracy Taylor recalled the intent of the City Council's agreement with the Duke family. She
21 informed that she was a real estate broker and that private property rights and the affordable
22 housing problem were separate issues. She felt that the City had used taxpayer money to purchase
23 the land and proposed the decision be put to the voters on the November ballot.

24
25 Karen Duke Smith was a distant relative to the Duke family and lived in the area the property was
26 located. She expressed appreciation for the open space and distaste for all the development. She
27 referred to an affordable housing development that had begun years prior and was forced to stop
28 as the builders could no longer afford to construct affordable housing. She called the example a
29 disaster and did not want to see that happen at the Duke property.

30
31 Michael Moulton, Chair of the Historical Preservation Committee, felt the land was historic and
32 should be preserved as such.

33
34 John Duke, caretaker of Duke Farms, explained he had been responsible for the property since
35 leaving the military in 1980. The family had received many offers to purchase the property but had
36 never seriously considered any of them. When the City cemetery expressed interest, there had been
37 a verbal agreement that the property would be used for cemetery expansion or open space to benefit
38 the community. He felt the Council would make the right decision.

39
40 Sarah Duke Duncan was raised on the property. She had turned the water off that night for her dad.
41 She had visited the cemetery with her husband the preceding Memorial Day and was thinking
42 about where they would be buried someday and hoped to possibly be buried on Duke Farms. She
43 wanted to see the beauty and the greenery preserved. She invited anyone who would like to
44 experience walking through the fields to take a walk with her.

1 Council expressed gratitude to all who had attended and for the comments shared. Council clarified
2 that no decision had been made and expressed their desire to maintain the beauty of the valley.
3 Council expressed appreciation for the family, friends, and neighbors that had shared the history
4 of the land and assured everyone that their concerns had been heard.

5
6 Mayor Franco returned the meeting to the General Business agenda item one.
7

- 8
9 2. Discuss proposed Code Amendment to Chapter 18.68 Supplemental Zoning Regulations
10 (Kohler, Janson) - 15 min

11 Staff Report Updating Ch 18.68 Supplemental Zoning Regulations

- 12 3. Discuss proposed Affordable Housing Ordinance Amendment (Ryan, Kohler) - 20 min

13 Staff Report Ordinance to Amend Ch 18.102 Affordable Housing

- 14 4. Consider Adoption of Ordinance 2023-19, moving Chapter 17.30 Trail Design Guidelines to
15 Chapter 18.118 Trail Design Standards (Janson, Kohler) - 15 min

16 Staff Report Ordinance 2023-19 Trails Standards

- 17 5. Discuss proposed Sensitive Lands Ordinance (Janson, Kohler) - 25 min

18 Staff Report Sensitive Lands and Exhibits

19
20 City Planning Director Tony Kohler explained that Staff needed policy direction from Council in
21 order to proceed drafting the Sensitive Lands Ordinance. Planning Consultant John Janson
22 provided an overview of the proposed updates to the Ordinance as previously directed by Council
23 as well as recommendations from the Engineering Department. The proposed Ordinance aimed to
24 replace the existing subdivision ordinance and extend its coverage to include site plans.

25
26 Council discussion included the promotion of better development practices without excessive
27 limitations; adding terms such as “low impact development” and “adherence to City standards” to
28 the language in the ordinance; incentives for clustering density with the possibility of transferring
29 excess density in the future; requiring certified engineers to provide studies and mitigation
30 techniques; distinguishing between mitigatable and non-mitigatable issues, such as fault lines; and
31 prohibiting construction on the highest hilltop ridgelines.

32
33 Past Chair of the Parks, Open Space, Trails, and Trees (POSTT) committee Ann Zimmerman
34 shared her background citing landfills, and concern about contaminating the aquifer. She had
35 reviewed the Ordinance and provided her recommendations as outlined in the written public
36 comment she had emailed as attached to the end of the meeting minutes.
37
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39

6. Consider Approval of Tree Ordinance 2023-18 (Melanie Funk, Smedley) - 15 min

1
2 Tree Ordinance Staff Report and Exhibits 

3
4 Assistant City Manager Mark Smedley and Tree Subcommittee Chair Melanie Funk reviewed the
5 proposed Tree Ordinance and associated material as attached to the agenda. Mrs. Funk noted the
6 need to adopt the Ordinance in order for the City to continue qualifying for grant money. Mr.
7 Smedley shared the updates made to the proposed Ordinance in order to address concerns
8 previously expressed by Council. Council discussed how to hold developers responsible for the
9 life of trees planted in parkways and elsewhere in developments, the possibility of including tree-
10 life guarantee language in the Ordinance, as well as concerns with enforcement of such
11 requirements.

12
13 **Motion:** Council Member Stack made the motion to approve Tree Ordinance 2023-18 with
14 direction to Staff to revisit the Ordinance in the future to address some of the issues discussed that
15 night. **Second:** Council Member Phillips Seconded the motion. **Voting Yes:** Council Members
16 Barney, Johnston, Kahler, Phillips, and Stack. **Voting No:** None. The **Motion Passed**
17 **unanimously, 5-0.**

18
19 7. Consider Approval of the Historical Preservation Committee’s Waymarker Signs (Phillips)

20 The Historical Preservation Committee Member Shauna Bennett shared the purpose of the
21 proposed signs to share historic information at significant locations throughout Heber City. She
22 suggested locations and shared images of the proposed ADA-compliant signs. Council expressed
23 overall support of the project.

24
25 **Motion:** Council Member Phillips moved to approve the committee moving forward with the
26 ADA-compliant sign design and that the signs be installed ADA-compliant. **Second:** Council
27 Member Johnston made the second.

28
29 **Discussion:** City Manager Matt Brower recalled the Council had earmarked \$20,000 in the budget
30 for the Historical Preservation Committee. Committee Chair Michael Moulton recalled there had
31 been two blocks of money earmarked: the \$20,000, and separately, \$10,000 for the signs. Staff
32 was directed to confirm the amount earmarked for the Historical Preservation Committee. Mr.
33 Brower added that City policy required three bids be obtained before the signs could be ordered.

34
35 **Vote: Voting Yes:** Council Members Barney, Johnston, Kahler, Phillips, and Stack. **Voting No:**
36 None. The **Motion Passed unanimously, 5-0.**

37
38 X. COMMUNICATION:

39 **Motion:** Council Member Kahler moved to extend the meeting until 10:15 p.m. **Second:** Council
40 Member Johnston made the second. **Voting Yes:** Council Members Barney, Johnston, Kahler, and
41 Phillips. **Voting No:** Council Member Stack. The **Motion Passed 4-1.**

1 City Manager Matt Brower recommended everyone go see the flowers blooming to the west at
2 Muirfield Park in the wetland area. He reviewed the planned projects and events for Unity Month
3 during June.

4
5 Mark Smedley explained the arrangement the City had made with a contractor to dispose of the
6 broken branches throughout the City. Community members within Heber City would need to get
7 the broken branches to the street.

8
9 Mr. Brower shared the itinerary for a trip to Colorado to identify best-practices of towns
10 comparable to Heber City. There would be members of the Planning Commission, Council, and
11 Staff participating.

12
13 Mr. Brower asked the Council to review and provide feedback on a PIO (Public Information
14 Officer) contract with Ryan Bunnel with Ignition Creative Group. Roger Brooks, downtown
15 success consultant, would be returning in July to provide more detailed suggestions and renderings
16 for Heber City. Mr. Brower sought Council help to meet with Schoolboard Members in order to
17 discuss the CRA (Community Reinvestment Agency) and ask them to rethink their position.
18 Sandbags would be picked up once the weather-service provided the all-clear for flooding.

19
20 Assistant City Manager Mark Smedley shared the amount of the bid that was returned for the City
21 Building's bell-tower renovation.

22
23 Council Member Phillips suggested a bronze statue of Chief Tabby and asked for Council support
24 to direct Staff to look into it. He felt the statue could potentially be paid for with grants.

25
26
XI. ADJOURNMENT

27
28 **Motion:** Council Member Stack made the motion to adjourn. **Second:** Council Member Phillips
29 made the second. The meeting adjourned at 10:17 p.m.

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37 _____
38 Trina Cooke, City Recorder

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41
42
43 **Public comment emailed to the City Council:**

44
45 Ann Zimmerman

1
2 TO: Mayor Franco and Members of the Heber City Council
3 FROM: Ann Zimmerman, Heber City Resident

SUBJECT:	Agenda Item IX, Number 4, Proposed Sensitive Land Ordinance
T:	June 6, 2023, Council Meeting

4 DATE: June 5, 2023

5 DELIVERED: By Email Addressed to ccpublic@heberut.gov

6
7 First, I would like to acknowledge the City Council and the Planning Commission for their
8 work to bring the Proposed Sensitive Land Ordinance forward. I am offering these
9 comments in the spirit of a citizen who supports the Ordinance’s intent of preserving a
10 sense of place and recognizing the unique features and sensitive environment of our area
11 that should be protected as the City develops.

12
13 Secondly, the Council is the steward of the future. A challenging job! Perhaps some of what
14 I have learned by serving for two years as Chair of the City’s Open Space, Trails, Parks and
15 Trees Committee, a member of the Heber Valley Watershed Advisory Committee, and the
16 State of Utah Wetlands Working Group may be of value in reviewing this proposed
17 ordinance.

18
19 At a meeting with Tracy Richardson of the Health Department, I learned that Heber Valley’s
20 aquifer upon which we rely for drinking water is what geologists call “unconsolidated” or
21 “unprotected.” This means there is not a dense protective area above. An analogy is that the
22 aquifer isn’t like a pie with a top and bottom crust, but like a pie with only a bottom crust—
23 a very rare type of aquifer for a built-up area. I’m sure the rest of you were already aware
24 of it, and this means that, sadly, our drinking water is especially vulnerable to rapid
25 transmission of contaminants, and it requires more vigilant protections.

26
27 For the Sensitive Land Ordinance, the character of the aquifer heightens the need to protect
28 streams, wetlands, and areas of high ground water more in this community than others with
29 consolidated aquifers, and it is to this that I direct most of my comments.

30
31 **Specific Comments**

32
33 1. Under A, Purpose and Intent, add number 6: [To ensure development does not lead](#)
34 [to deterioration of surface and ground water quality.](#)

35 Discussion: This provision would direct attention to the vulnerability of Heber
36 Valley’s unconsolidated aquifer and recognize that stream contaminants are already
37 over action levels.

38
39 2. Under B, Applicability, reinsert [concept plan](#) between Development Agreement and
40 preliminary plans.

41 Discussion: Architects and landscape designers consulted said that concepts are based on
42 constraints and opportunities. Identifying sensitive lands is key to understanding constraints and
43 would result in a better early design and probably save the proponents money.

1 3. Under F, Development Prohibited, number 4, Significant stream beds: Delete
2 Significant.

3 Discussion: This term is not defined in this ordinance. Use of the term should
4 proceed only if this term is defined within the ordinance or referenced to a
5 definition elsewhere in the City Code or in state or federal law. Otherwise, it is vague
6 and subject to interpretation.

7
8 4. Under F, Development Prohibited, number 6, Identified Wetlands. Rewrite this
9 provision. Delete any reference to averaging setback.

10 Suggested Language after first sentence ending in Clean Water Act: Wetlands shall
11 be protected by appropriate setbacks as recommended by site-specific technical
12 studies by licensed and accredited hydrogeology professionals following detailed
13 studies that include consideration of protecting water quality, ground water
14 recharge, health of the wetland plants, flood protections and effects of fluctuations
15 in flow, and habitat disruption. In lieu of a site-specific study, a 75 (or 100)-foot
16 setback shall be designated around the wetland. Continue section with sentence
17 “areas considered to the potential pollution....”

18 Discussion: The highest and best protections for wetlands is a site-specific study
19 that recommends setbacks and protections based on conditions and the
20 environmental protections the wetlands afford. Because of the cost of studies of this
21 type, many jurisdictions opt for a prescribed setback distance. The setback distance
22 is associated with the need for protections and the sensitivity of hydrological
23 environment. This language affords a choice of a site-specific study or a
24 standardized setback.

25 Discussion of Averaging: The methodology for averaging setback distances is not
26 prescribed in the ordinance nor referenced to another source. Further, there is not a
27 minimum setback distance set, so it may be less than a foot. In a review, I looked at
28 over 100 ordinances and sample ordinances and the DEQ regulations for setbacks.
29 There are no examples of averaging in any reviewed ordinances, sample ordinances
30 nor regulations, and this may be the first such written in the nation. Further,
31 averaging does not consider the specific wetland conditions. Should the Council like
32 this method and elect to move forward with it, I recommend delaying approval and
33 convening a technical panel of wetland experts to advise on the averaging method
34 and to define it in the ordinance.

35
36 5. Under F, Development Prohibited, reinstate number 10, Viewsheds, that appears as
37 deleted text in Exhibit 2.

38 Discussion: People and Places provided this language, and my personal view is this
39 provision preserves a sense of place in our valley.

40
41 6. Under G, Development Constraints for Certain Sensitive Lands, number 2, Shallow
42 Groundwater, include eligibility for shallow groundwater areas that cannot be
43 properly mitigated as eligible for Sensitive Lands Preservation Incentives through
44 Density Transfers with the Development (Item I)

45

1 Discussion: In our valley, shallow groundwater and the need for groundwater quality protection
2 can restrict development and it seems reasonable that incentives like density transfers should be
3 extended.

4
5 7. Under I, Sensitive Lands Preservation Incentives, there is language that reads, “and
6 areas delineated by ACOE as wetlands.” This language should read “and areas
7 deemed as wetlands as defined in this ordinance.”

8 Discussion: Designation by ACOE is internally inconsistent with the definitions
9 within the ordinance.

10
11 Thank you very much for considering these comments and recommendations.

DRAFT