

Heber City Corporation
City Council Meeting
April 7, 2020
6:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** remotely via personal computer device on April 7, 2020.

I. **REGULAR MEETING-6:00 P.M.**

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

Staff Present: City Manager Matt Brower
City Attorney Mark Smedley
City Planning Director Tony Kohler
City Engineer Bart Mumford
Chief of Police Dave Booth
IT Specialist Anthon Beales
Airport Manager Travis Biggs
City Recorder Trina Cooke

Due to the Federal Government's declaration of a state of emergency brought on by the Corona Virus Pandemic resulting in the Wasatch County's stay-at-home order, the public was asked to participate electronically rather than in person. None were present.

1. **Call to Order**

Mayor Potter called the meeting to order at 6:05 p.m.

2. **Pledge of Allegiance (Mayor Potter)**

Mayor Potter led everyone in reciting the pledge of allegiance.

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

Council Member Hardman shared a prayer.

II. CONFLICT OF INTEREST DISCLOSURE:

There were no conflicts of interest declared.

III. CONSENT AGENDA:

1. Approval of March 17, 2020 City Council Meeting Minutes (Cooke)

3.17.2020 Draft Minutes

Motion: Council Member Franco made the motion to accept the March 17, 2020 minutes as presented in the agenda. Council Member Kahler made the second. The motion passed unanimously.

IV. PUBLIC COMMENTS:

City Manager Matt Brower stated the City had received three emails associated with specific agenda items which would be read at that time but none for the Public Comment period.

V. ACTION ITEMS:

1. Update of Heber City Response to Corona Virus/COVID-19 (Brower)

Mr. Brower stated the update was to keep the City Council Members and general public informed. He shared current statistics regarding the number of cases and deaths from Corona Virus pandemic in the nation, state and Wasatch County. He reviewed the State of Emergency declaration issued by all three including the “stay at home” order in Wasatch County.

Police Chief Dave Booth shared the efforts of the Police Department in order to minimize the spread of the virus and maximize the safety for both the Police Department and the Public. He explained their intent to continue to educate and warn the public.

City Attorney Mark Smedley updated the Council on the Justice Courts limited proceedings during the stay at home order. He described the process of electronically handling pre-trials as well as expungement petitions and other processes as they were able. He provided information regarding the additional shifts made by the Justice Court in order to continue necessary services safely while maintaining distance.

Mr. Brower reviewed actions taken by the City Administrative Offices in order to remain available to the public electronically. He stated the first priority was communication to the public. The City had established a campaign called “Heber City Services: Staff is on Hand to Meet Your Needs”. The campaign was being advertised in the local newspaper, on the local radio stations, on the Heber City website, social media platforms and in the City newsletter in order to inform the community of the accessibility of City services online and by phone. The Business License Department had sent letters to the local business owners providing information regarding federal government assistance.

Mr. Brower continued to share the pro-active steps being taken by the City in order to comply with the Wasatch County Health Department's stay at home order while maintaining service levels and keeping the community safe and informed. He also reviewed the long-term fiscal strategies.

Council Member Franco asked if the State would be able to provide figures for economic slowdown to watch for. Mr. Brower stated he would reach out to the Treasury department.

2. [Consider Acceptance of the North Village Crossing Annexation Petition Located Generally North of UVU Campus and East of Highway 40 Including Properties at the Intersection of Highway 40 and Highway 32 \(Kohler\)](#)

[cc-04-07-20-NV Crossings Annexation](#)

[Item 2 Tracy Taylor - Public Comments](#)

Mr. Brower read a public comment submitted by resident Tracy Taylor (attached). The comment was received via the City website's new eComment service, enabled to allow members of the public to have their voices heard with regard to specific agenda items while unable to participate in person.

Mr. Kohler provided the information as attached in the meeting materials. He reviewed the location and size of the proposed annexation. Mr. Kohler indicated the development project would include retail shops, two hotels, apartments, town homes, a waterpark and movie-theater. He presented a projected timeline for the annexation process as well as the steps involved. He then offered an projected economic impact for the City. He noted the petition was contingent upon the City's acceptance of the Sorenson annexation in order to provide contiguity. Mr. Kohler clarified that acceptance of the petition was not approval of the annexation but rather the City agreeing to further consider the proposed annexation and thereby allowing the petitioner to proceed with development plans and ongoing discussions with the City.

Mr. Brower asked Mr. Kohler to share with the Council the State Statute requiring the City to include the annexation petition on the agenda at this time. Mr. Kohler informed the Council of State Code 10-2-405(1)(a)(ii)(B) indicating the municipal legislative body was required to act on an annexation petition at the next regularly scheduled meeting that was at least 14 days after the petition was filed. Failure to act by the municipal legislative body was considered by the State as acceptance of the petition for further consideration.

Council Member Kahler asked developer Bruce Barrett whether there was a possibility of consideration to have a more commercially focused development rather than focusing primarily on a resort-style development. Mr. Barrett indicated there would be a substantial amount of retail included in the development. He noted the potential economic benefit to the City and explained research showed maximum economic benefit with the established project plan. Discussion followed.

Council Member Franco asked if Mr. Barrett was familiar with the City's General Plan. He stated he was quite familiar with the City's General Plan and felt certain the project would fall in line.

Council Member Franco inquired about a timeline for the project's build-out. Mr. Barrett indicated it would be seven to ten years. She asked if they had been working with UDOT regarding projected traffic. Mr. Barrett stated they had done traffic studies, environmental impact studies and held multiple discussions with UDOT.

Council Member Franco asked if they had been in contact with the army corps of engineers regarding natural wetlands in the area. Mr. Barrett advised the area held only 1.1 acre of wetlands. He stated he had been in contact with the Army Corps of Engineers and there was a new rule invalidating wetland protection when not attached to a navigable US waterway. Council Member Franco also wanted to know if Mr. Barrett had been in contact with the Provo River Water Association as they were very protective of the river. Mr. Barrett cited all the entities he had been in contact with over the past nine months as part of their due diligence including the Provo River Water Association.

Council Member Stack asked if the development concept incorporated a right of way for UDOT's proposed future flyover at the Highway 40 and River Road intersection. Mr. Barrett stated it did and further described how the development incorporated the future intersection plan.

Council Member Stack clarified the developer's density numbers as stated in the development agreement with the County were contingent upon development performance. Mr. Barrett confirmed and noted the resort development was intended to be 100% non-primary residents and prohibitive of long-term rentals, in order to maximize the economic benefit to the County.

Council Member Kahler asked how the developer intended to prevent primary residents. Mr. Barrett explained it would not be economically viable and would be enforceable through the HOA bylaws. He clarified the Crossing development would include primary residents. Discussion continued regarding the developer plan to fill rooms and where the convenience store would be located.

Council Member Franco asked if an evacuation plan had been considered in the case of a dam failure. Mr. Barrett explained the research showed the development area would be minimally impacted in the case of a dam failure.

Council Member Franco inquired whether Mr. Barrett was familiar with the City's affordable housing requirement. Mr. Barrett advised it had been a requirement of the County as well and they had done a full study with MAG (Mountainland Association of Governments). He speculated the County requirement was at least as high as the City's and the developer intended to comply fully.

Council Member Johnston was in favor of accepting the annexation and felt it was a key element to the North Village. He asked Mr. Barrett to clean up the annexation boundary to include the UDOT owned portion.

Motion: Council Member Johnston moved to accept the annexation petition for further study, pass it on to the Planning Commission and Planning Staff and start talking about it. Council Member Stack made the second. Rollcall Vote: Voting Aye: Council Members Kahler, Johnston, Stack and Hardman. Voting Nay: Council Member Franco.

3. Discussion of Coyote Ridge Open Space Agreement and Development Standard Addendums to the VXC Annexation Agreement (Smedley)

Item 3 Staff Report VXC

City Planner Jamie Baron presented the information as attached in the meeting materials. He reviewed the discussion points for the evening and noted the size of the proposed park would be 2.85 acres with the land donated by the Wasatch Back developer.

Council Member Franco asked for clarification regarding the landscaping of the berm and irrigation along the trail as she felt the City and Ivory Homes had agreed Ivory would be responsible for their installation as well as pay the fee-in-lieu for the trail. Ivory representative Bryon Prince clarified the landscaping of the berm was always intended to be a natural water-wise landscape for a more sustainable finish and prevent imposing a financial burden on the HOA. Discussion regarding the park improvements, the trail's berm landscaping and the fee-in-lieu for the trail continued.

It was determined that Ivory Homes fee-in-lieu payment could be combined with the park improvement payment. Payment would be triggered at the completion of 51% of Ivory's residential units or upon recordation of the plat that dedicates the park ground, whichever was first.

Mr. Prince shared that Ivory Homes had been in negotiation with the Boone property owner to purchase ½ acre with two old homes bordering Highway 40. He indicated Ivory's intent would be to demolish the homes and dedicate the area as open space in exchange for additional density in the planned development. Council Member Johnston supported the proposal. Council Member Stack, Kahler and Hardman expressed support as well. Mr. Prince stated Ivory would reconfigure the development design plan and continue to work with City Attorney Mark Smedley and the Planning Staff in order to add mutually agreeable language to the agreement.

Mr. Baron displayed a development plan image reflecting a requested road stub in the Wasatch Back development. Council Member Johnston felt a road was needed through the neighborhood in order to keep the driveways off the highway. Mr. Lent, representing the Wasatch Back development, explained the annexation agreement gave driveways access to the new development and removed the driveways from the highway.

Mr. Lent described the developer's effort to purchase two parcels along Highway 40. One of the property owners was unwilling to negotiate due to the value of the tree farm on her property. Discussion followed regarding the possibility of the City assisting with the purchase of the trees, to be used throughout the City, in order for the development to acquire the property and dedicate as open space, thereby allowing for trail continuity along Highway 40.

Mr. Lent agreed to work with City Attorney Mark Smedley in order to add language to the agreement amendment accommodating future development. Mr. Smedley clarified the overall density would not exceed 5.1. Mr. Baron added that the density would reach to 8.6 in areas but overall remained 5.1.

Council Member Franco wanted to know what the city could get with the Ivory donation for the park improvements. Mr. Brower advised Council that the City would leverage the fee-in-lieu paid by Ivory to apply for additional grant money for the park.

Council Member Stack stated he would prefer the increased density be in the form of town-homes rather than apartments. He indicated he was not generally in favor of increasing density but would support it as it benefited the City's residents in the form of a park. Council Member Hardman agreed with Council Member Stack with regard to increased density and the preference for town-homes over apartments.

4. Consider Adoption of the Second Amendment to the Contract for Services with People + Place in the Amount of \$68,300, to Complete the General Plan Update Initiative (Brower)

Item 4 Staff Report People + Place Contract

Mr. Brower explained the contract amendment would complete phase three of the Envision Heber 2050 General Plan Update focusing on the update of Heber City's code. He noted the City had received a grant from UDOT (Utah Department of Transportation), in the amount of \$40,000 to apply toward the cost of the contract. The balance, to be covered by the City, was \$29,300.

Council Member Franco requested the contract include the consultants attend an additional Planning Commission Meeting and an additional City Council meeting when considering updates to the Mountain community zone, North Village overlay zone and the North Village sign ordinance

Council Member Kahler felt the consultants had done great work and looked forward to Phase three. Council Members Stack and Johnston agreed.

Motion: Council Member Stack move to approve the second amendment to the contract for services with People + Place to complete phase three of the City's General Plan update initiative and for staff to include the City's portion of \$28,000 in a subsequent budget amendment. Council Member Kahler made the second. Voting Aye: Council Members Hardman, Stack, Kahler, Johnston and Franco.

5. Consider Approval of Daniel Hangar 24 Lease Transfer (Biggs)

Item 5 Updated Staff Report

Item 5 Paul Boyer - Public Comments

Mr. Brower read a public comment, submitted by email, from Paul Boyer for the record (attached).

Council Member Franco expressed concern with the language in the agreement and felt a new lease was preferred rather than a lease transfer. She suggested the language change from "consent to assignment" to "consent to buying".

City Attorney Mark Smedley indicated he would need to consult with the Airport attorney, who had drafted the document, prior to agreeing to proposed language changes. Council Member Franco also noted the 1% transfer fee should be updated to the current 3% transfer fee rate.

Council Member Stack inquired if Mr. Smedley had any issues with Council proceeding to make a decision in light of the comments submitted by Mr. Boyer. Mr. Smedley indicated he would need to further review the concerns of Mr. Boyer but assured Council that Airport Attorney Steve Osit had carefully reviewed the document prior to presenting to the Council. Discussion regarding whether a new lease should be drafted rather than transferred and the transfer fee rate continued.

Mr. Smedley indicated he would research the authority of the Council to decide whether the new lease holder needed to enter into a new lease agreement with the City or be permitted to continue with a lease transfer. It was the consensus of the Council to return to the discussion at the next City Council Meeting, when the questions brought forth could be answered.

6. Consider Approval of Airport Hangars C & D Ground Lease Transfer (Biggs)

Item 6 Staff Report Hangar C-D Lease Transfer

Airport Manager Travis Biggs presented the information as attached in the Staff Report.

Council Member Franco indicated the hangar in question was located in a row intended for commercial use bringing the City tax revenue and providing jobs. She expressed concern with the City allowing private use of a hangar intended for commercial use. She asked if the buyer would be required to pay the private lease rate rather than commercial. Mr. Biggs indicated the tenant would be required to pay the private lease rate. Discussion followed.

Council Member Stack felt it needed to be clarified in the contract that the new tenant would pay the private lease rate. Council Member Johnston agreed. Mr. Biggs agreed to take their concerns to the Airport attorneys and return to a future meeting for decision by Council.

7. Discussion Regarding Airport Radio Communication Concerns (Biggs)

Item 7

Item 7 Paul Boyer - Public Comments

Additional Paul Boyer Meeting Comments 1-8

Mr. Brower read a public comment, submitted by email, from Paul Boyer for the record (attached).

Airport Manager Travis Biggs proceeded with his presentation of the information as included in the Staff Report. He explained there had been a few incidents at the Airport with planes attempting to take off from opposite ends of a runway, claiming they could not hear anyone at the other end of the radio.

Mr. Biggs further described recommendations of the Airport Advisory Board (AAB) and ongoing steps toward resolution. He noted the most promising idea had been to add a repeater to a windsock pole mid-way down the runway.

An alternate suggestion of the AAB to install warning signs for pilots at each end of the runway was strongly advised against by both the FAA (Federal Aviation Administration) and the Airport's legal department.

Mr. Biggs explained he had waited to bring the information to Council in order to gather the necessary information to offer resolution options. Mr. Brower described the due diligence done by the City and Airport Staff towards resolving the issue. Mr. Biggs noted the Airport could potentially apply for a grant with the FAA if they could prove there was a problem. The Airport had been unable to recreate the issue in order to present to the FAA. He explained handheld radios, as had been used in the reported instance, did not reach from one end of the runway to the other. Discussion regarding safety and radio requirements of the FAA followed.

Council Member Franco recommended moving forward with the repeater. Council Member Stack expressed agreement and was the consensus of the Council.

8. [Review of Fiscal Year 2020-2021 Budget Calendar \(Brower\)](#)

[Item 8 2020-21 Budget Calendar](#)

Mr. Brower reviewed the 2019-2020 fiscal year Budget Calendar. He noted that at the next City Council Meeting, April 21, 2020, Council would be asked to select a minimum of two dates in which to hold their budget workshop meetings in order to work through the tentative budget.

Council Member Stack inquired whether the budget would be affected by the current Corona virus situation. Mr. Brower indicated the budget had already been adjusted to freeze new hires.

VI. [COMMUNICATION ITEMS BY MAYOR, CITY COUNCIL AND STAFF: Staff Follow-Up Reports from City Council Requests](#)

1. [Staff Follow-Up Reports from City Council Requests](#)

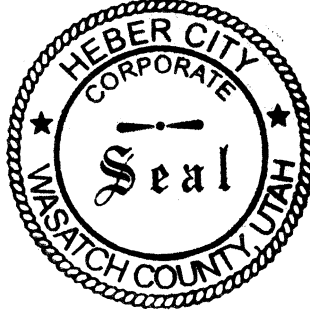
Mr. Brower introduced Matthew Kennard as the new acting Public Works director and expressed his confidence in Mr. Kennard's ability. Mr. Kennard briefly introduced himself and the Council welcomed Mr. Kennard aboard.

Mr. Brower asked Council for direction with regard to the proposed tree purchase. Council Member Franco indicated she would like to know the cost of the trees. Council Member Kahler shared the information regarding the trees from a conversation she had with the property owner. Discussion regarding how the City could proceed continued.

Mr. Brower clarified Council's direction for Staff to research the cost and possible usage options for the trees by the City and to report back to Council.

VII. ADJOURNMENT

Motion: Council Member Kahler made the motion to adjourn. Council Member Stack seconded the motion. The meeting adjourned at 9:24 p.m.



Trina Cooke

Trina Cooke, City Recorder

APPROVED