



## CITY COUNCIL MINUTES

**Wednesday, October 24, 2018**  
**Approved November 14, 2018**

The following are the minutes of the Special City Council Meeting of the Herriman City Council. The meeting was held on **Wednesday, October 24, 2018 at 5:00 p.m.** in the Herriman City Hall Council Chambers, 5355 West Herriman Main Street, Herriman, Utah. Adequate notice of this meeting, as required by law, was posted in the City Hall, on the City's website, and delivered to members of the Council, media, and interested citizens.

**Presiding:** Mayor David Watts

**Councilmembers Present:** Sherrie Ohrn, Clint Smith, Jared Henderson, and Nicole Martin

**Staff Present:** City Manager Brett Wood, Assistant City Manager Gordon Haight, Director of Administration and Communications Tami Moody, Finance Director Alan Rae, City Recorder Jackie Nostrom, Parks and Recreation Director Wendy Thomas, Operations Director Monte Johnson, Police Chief Troy Carr, City Planner Michael Maloy, Chief Building Official Cathryn Nelson, Communications Specialist Destiny Skinner, City Attorney John Brems, Economic Development Manager Heather Upshaw, Assistant City Planner Bryn McCarty, Events and Recreation Manager Kevin Schmidt, Assistant City Engineer Jonathan Bowers, Public Works Director Justun Edwards

### **5:00 PM - WORK MEETING:** *(Fort Herriman Conference Room)*

#### **1. Mayor and Council Social**

- 1.1. *The Mayor and Council will meet for informal discussion and dinner. No action will be taken on any items.*

#### **2. Council Business – 5:15 PM**

Mayor Watts called the meeting to order at 5:18 p.m.

##### **2.1. Review of this Evening's Agenda**

There was no discussion.

##### **2.2. Future Agenda Items**

Mayor Watts reported that Envision Utah had approached several cities in the southwest corner of Salt Lake Valley because they wanted to conduct a similar study to what they did at the point of the mountain. They were asking that each community involved contribute financially to the project, and they would be seeking a \$100,000 grant from the

TLC program. In order for them to secure the grant, a letter of intent must be sent to them by October 29<sup>th</sup>. Mayor Watts noted that the letter of intent would not bind the City to anything, but the Council will need to have a discussion regarding Herriman's potential participation in the study.

Councilmember Henderson wanted to see more details on the study before participating, and Mayor Watts agreed. Councilmember Martin was concerned that Envision Utah had been approaching clients asking for a job rather than the reverse. Typically, the City would decide that they need a study, sent out an RFP, and follow the procurement code. She was sure that Envision Utah would do quality work, but their approach was unsettling. Councilmember Ohrn agreed.

Mayor Watts reported that he had also attended a meeting with UTA and they had informed Herriman that they would be looking into initiating a micro-transit pilot program. This is a program that would directly compete with UBER and Lyft as an on-demand type of transit service. Councilmember Ohrn asked about cost, and Mayor Watts said that it would be the same cost as the current bus route. Councilmember Ohrn was uncomfortable with the idea of subsidizing competition against the private market. Mayor Watts wanted UTA to come and make a full presentation to the Council so that they could see the details and ask questions. Essentially, UTA was looking for a better way for Herriman to get better public transportation.

City Planner Michael Maloy added that he had asked UTA to do a ridership study at the Trax station in Daybreak. For privacy reasons, they couldn't break the study down beyond municipalities. The study showed that Herriman was the single largest user at the Daybreak parking lot, but they had split Daybreak from South Jordan. Herriman is using public transportation, but they weren't really using the shuttle system. He said that the proposed micro-transit was simply a smaller version of the shuttle. Mayor Watts confirmed and said that UTA was looking to take away one of the existing flex routes that has little use and replacing it with the on-demand service. This would be at no additional cost to UTA. Staff was currently working with UTA as part of the transportation and transit portion of the upcoming retreat, and they would be talking about some alternative transit options.

Councilmember Martin was interested in having a discussion with UTA beyond the pilot program. She would like them to be prepared to discuss the feasibility study that was done recently. The reason they chose to put so much density at the town center was because they expected that the transit would be here. Likewise, they brought in REAL Salt Lake and Salt Lake Community College with the expectation that transit would be available to them. All they have received from UTA was silence. Councilmember Smith agreed that they should have a discussion with UTA because there were many issues that needed to be addressed. Councilmember Martin noted that she would be interested in participating in the pilot program if there was no cost to the community.

Mayor Watts said that the last item for possible future discussion was a presentation that had been given to the legislators regarding some transportation and transit issues of the southwest area of the Salt Lake Valley. This presentation was put together by the mayors of the communities in the area. He wanted the City Council to see the presentation so that they could see what was being passed on from the region to the legislators. The presentation would be given to the City Council during the December meeting.

### 3. Administrative Reports

#### 3.1. Introduction of Rio Tinto External Affairs Advisor Matt Holton – Brett Wood, City Manager

City Manager Brett Wood said that Matt Holton was excused for the evening. He briefly explained Mr. Holton's position with Rio Tinto and said that they would be working on future events.

#### 3.2. Ice Ribbon Discussion – Wendy Thomas, Director of Parks, Recreation and Events

Parks, Recreation and Events Director Wendy Thomas invited Events Manager Kevin Schmidt to give the presentation because he oversaw the ice rink operations last year. Manager Schmidt said that they learned a lot during their first season, but they felt that it was a success. The rink opened at the end of December last year, and they had 12,353 visitors. The busiest evenings were Tuesdays, Wednesdays, and Fridays. Toward the end of the season, they did some creative programming of the space to bring more people in, and they planned to continue with that next year. They intended to start building ice on November 13<sup>th</sup> and be ready to open by November 28<sup>th</sup>. Manager Schmidt explained that he wanted to start a Learn to Skate program next year, which was a national skating program. Entrance fees would be the same as last year, and they would be adding a season pass option. He proposed starting the Learn to Skate program fee at \$35.

Councilmember Martin suggested that they look at what the County is charging for some of their programs to give them a sense of what the market would bear. Manager Schmidt gave some examples of other programs and said that the proposed fee of \$35 was a little lower than the average. After some discussion, they decided to start the fee at \$35 and see how that fairs.

Mayor Watts wanted to ensure that the Herriman residents were taken care of first, because this was an amenity for them. Manager Schmidt said that the system does allow them to do a resident and a non-resident rate, if the City wanted to do that.

#### 3.3. Primitive Trail Planning, Construction, Maintenance and Use – Wendy Thomas, Director of Parks, Recreation and Events

Director Thomas said that there had been many conversations about trails and trail developments in the last month, so she had prepared an overview of primitive trail planning, beginning with a development plan. The only thing that they were not doing in this process of trail planning was mailing out notifications. She noted that they did send out notification for the master plan, but not for specific trail projects.

Councilmember Martin asked if staff had an extended cost of doing such notifications, and Director Thomas said that it would depend on what they were notifying for. Recently, staff started noticing for bathroom structures and trailheads because they felt that people would want to know about those. Councilmember Martin emphasized that Herriman City has branded itself as an active-oriented community, and trails and parks are a huge part of that. It seemed a mistake not to notify the residents because the trails do impact them.

Assistant City Manager Gordon Haight said that when trails go before the Planning Commission, they are generally conditional use, which essentially means that they're going to be approved. However, the public comes out thinking that they can change it, and then they are upset that all the decisions had already been made. These conversations

need to take place at the masterplan level. Councilmember Martin argued that people want to know what is happening in their community and in their back yard. She suggested that notices be educational. Additionally, the City should make an effort to educate the public regarding the approval process.

Director Thomas returned to the presentation and stated that the City had already formed the Trails Advisory Committee and they had put together some project proposals. Although there is a masterplan, trails are hardly ever built to follow the alignment in the masterplan due to a number of factors. The Trails Advisory Committee recommended that the City send notification for primitive trails to property owners within 300 feet.

A resident addressed the Council regarding his experience with a trail that had gone in behind his home. During the process, he tried to be open and honest with the City about his opinions and he had attended or listened to as many meetings as he could to become educated about the process. He found that the Open Space Committee referred to the masterplan as a “cartoon” because the plan is constantly changing. It was inaccurate to say that the residents didn’t need to be notified because there was already a masterplan in place. He encouraged the Council to go over these plans and help educate the residents. People want to know what’s going on in their backyards. As a citizen, he did not think that his voice had been heard and the entire process was very frustrating for him and his neighbors.

Councilmember Henderson said that the City needed to move ahead with the process of notification for all of the reasons the residents had articulated.

Mayor Watts reiterated that one of the resident’s concerns was that the City doesn’t notify because they had already sent notice about the masterplan, but that plan changes without notice. He suggested that they set parameters for sending notice when a trail changes, such as if a trail location was moved by more than 15 or 20 feet from the intended location. He explained that the City was allowed to address mitigating factors with any conditional use, and if there was something, they could reasonably address potential issues by having those discussions. Director Thomas explained that most of the changes for trail location come when a builder starts building the trails and issues arise. They immediately stop the work and try to resolve the issue before they continue. Councilmember Henderson wasn’t sure they could set the bar at a certain number of feet, because the trails differ from the General Plan every time. He agreed that the residents needed to be notified and educated. The consensus among the Council was to set the noticing requirement at 300 feet.

Councilmember Henderson asked if the trails needed to be sent back to the Planning Commission or the City Council when changes were made. Staff confirmed that conditional uses were not noticed as public hearings, but the practice has been to allow residents to speak if they come to the meeting for that item. The City Council only approves the budget for trails.

There was a brief discussion regarding the OHV trail system, and the revenue that the City could bring in if they allowed motorized vehicles. Mayor Watts was willing to appoint someone to the trails committee that was involved in OHV.

### **3.4. Discussion pertaining the Agricultural Zone within the Herriman Land Development Code – Michael Maloy, City Planner**

City Planner Michael Maloy stated that some of the City Council members had requested information regarding the agricultural uses and zoning within the City, so staff had prepared information outlining those uses. This information was included in the staff report.

Councilmember Henderson said that he had specifically requested a discussion about the agriculture residential zone. The previous Council made a decision about this zone and he wanted to know if the new Council wanted to revisit the matter. Councilmember Martin said it would be worth having the discussion as part of the General Plan update.

### **3.5. Discussion of Building Setbacks in Agricultural, Residential and Mixed-Use Zones – Michael Maloy, City Planner**

City Planner Maloy noted that this presentation was given during the last City Council meeting, but there was low attendance, so he chose to present it again. The information included in the staff report identified the setback requirements for dwellings in the agricultural zones, residential zones, and mixed-use zones in the City. They had recently received comments from residents that were concerned about a development going in behind City Hall, because one phase had a ten-foot rear yard setback, and then the next phase had a five-foot setback. City Planner Maloy had reached out to the current builder and set up a meeting for the next day. They would be going to the site to see if anything could be done to mitigate the issue. He confirmed that a five-foot setback was not allowed in the current code, and this could only be done through a planned development agreement. The builder had acknowledged the problem, but they were not willing to commit to change the product type. One of the concerns he had heard was that this setback couldn't possibly meet fire code, but even the planned development agreement doesn't allow the building to construct anything contrary to fire code. He suggested that the Council consider having a discussion about whether master planned development agreements are good for Herriman City, in general.

*Councilmember Obrn moved to temporarily adjourn the Work Meeting to be reconvened after the General Meeting at 6:53 p.m. Councilmember Smith seconded the motion and all voted aye.*

### **3.6 Text change to the Land Development Code to allow Manufacturing in the T-M (Technology Manufacturing) Zone and Modify Landscaping Requirements (File NO. Z2018-08) – Michael Maloy, City Planner**

*The Work Meeting reconvened at 9:09 p.m.*

City Planner Maloy explained that the Planning Commission had recommended an amendment to the TM Zone to facilitate the Jetpack project. From his experience working with Salt Lake City, he knew that landscaping requirements were a common problem and it was a significant barrier to development in industrial areas. He also noted that more cities were growing water conscious and looking for better ways to conserve water. To see such heavy landscaping requirements in manufacturing zones seemed contradictory to those efforts. The Planning Commission recommended to reduce the overall landscaping requirement from 20-percent to 15-percent. The designer of the project said that they would like to see that reduced to ten-percent which was not uncommon. The Planning Commission also recommended removing the five-percent landscaping requirement for the parking lot, which City Planner Maloy was not as comfortable with.

Assistant City Manager Haight explained that the ordinance required a 20-foot landscape buffer and other specific landscaping. If the designer included simply what was required that way, he would reach 11-percent landscaping. To add another four-percent was basically converting parking into more landscaping that wasn't usable by the public. He recommended that the City require meaningful landscaping rather than requiring a certain square footage. He felt that many developments would reach the 15-percent just doing the specific requirements.

Councilmember Martin felt that it was important to keep that extra landscaping requirement because it enhances the look and feel of the community. Keeping the extra four-percent showed the Council's interest in having some greenery in the City.

City Planner Maloy said there was a clause in the ordinance that allows a developer to request a waiver from the strict application of the landscaping standards. Councilmember Martin said that she would prefer that a reduction in landscaping be handled this way. The consensus of the Council was to reduce the landscaping requirement to 15-percent.

### **3.7. Amendment to the Herriman Land Development Code to increase the Maximum Building Height, remove Auto Sales, and add Stadiums in the C-2 (Commercial) Zone (File No. Z2018-19) – Michael Maloy, City Planner**

City Planner Maloy clarified that the existing code had vehicle and equipment rentals or sales on one line in the land use table. Staff was proposing to move those from the M-1, M-U, and C-2 zones, because auto sales would all be located in the Automall Specialty District Overlay. However, City Planner Maloy questioned whether they wanted to remove the ability to have auto rental agencies anywhere else in the City other than the automall. The request for additional height was to accommodate a potential stadium development. The Planning Commission recommended 45-feet as the maximum for a permitted use, but no maximum height for a conditional use. Staff was surprised by this recommendation.

Councilmember Smith said that a conditional use process would allow the public to comment on the proposed development. City Planner Maloy said that staff could draft some standards and specific uses that would justify the additional height.

### **3.8. Discussion relating to the text change to the Land Development Code to revise the Home Occupation Chapter (File No. Z2018-14) – Michael Maloy, City Planner**

City Planner Maloy said that the Council had requested that staff look at how other cities administrate high traffic home occupations, such as dance studios. In the staff report, he included a survey of other cities' regulations and he asked for direction from the Council on how they wanted to proceed. Staff's proposal was to limit the home occupation to two sessions per day. It was noted that some cities limit students rather than daily sessions.

Council Member Smith asked how recent legislation affected the City's ability to track home based businesses. City Planner Maloy explained that there were now some types of home occupations that no longer require a license, and the city was not charging fees for those. Councilmember Smith said that he still wanted to find a way to track home businesses and encourage business incubation in the City.

Mayor Watts addressed language regarding outdoor play areas and asked if they should include language specifying that the property must be owned by the business owner. He was concerned that situations would arise with HOAs. The Council discussed the concern and determined that the HOA would have to monitor that. The comment was made that the language requiring fencing should address the concern.

Mayor Watts disagreed with the language prohibiting home occupations on a shared driveway. He would rather this was a conditional use than to apply a blanket ban.

### **3.9. Discussion of the proposed Annexation Agreement – Gordon Haight, Assistant City Manager**

There was no discussion.

### **3.10. Discussion relating to Surplus Property – Gordon Haight, Assistant City Manager**

There was no discussion.

### **3.11. City Manager Updates – Brett Wood, City Manager**

City Planner Maloy explained that staff had seen an influx of requests for storage units from developers, and staff wanted the Council's opinion on that before the applicants spent money on their applications. He identified a specific property and explained that it would have to be rezoned to accommodate storage units. The Council discussed and determined that storage units would not be the highest and best use of the property. They advised staff to speak with the developer before accepting money for their formal application.

City Planner Maloy reported that they were working on a contract for the consultant that would be working on their General Plan update.

Public Works Director Justun Edwards addressed concerns about Gina Road and its condition. The concern now was with ownership of the road. City Engineer Blake Thomas was working on getting proposals to fix the road, and he would be reaching out to the property owners to speak with them about what they wanted to do. There were two property owners that he knew would be against any work being done on the road. The City had traditionally maintained the road as a curtesy, but they need permission to do any repairs.

City Manager Wood reported on the garbage and recycling program and a proposal from Herhoff. Apparently, Herhoff had been speaking with other cities and saying that Herriman was onboard with his proposal, although they had given no such indication. Mayor Watts said that he had spoken with Herhoff on the phone a few times, but he had not given any commitment. He wanted Herhoff to make a presentation to the Council before making any decisions.

HPD Chief Troy Carr provided an update regarding the Herriman Police Department and specific cases that they had faced recently, including a car theft that led to several arrests. He presented the Council with commemorative badges.

Councilmember Ohrn moved to temporarily recess the City Council meeting at 10:20 p.m. to convene in a Closed Session to discuss the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205. Councilmember Henderson seconded the motion.

The vote was recorded as follows:

Councilmember Jared Henderson	Aye
Councilmember Nicole Martin	Aye
Councilmember Sherrie Ohrn	Aye
Councilmember Clint Smith	Aye
Mayor David Watts	Aye

The motion passed unanimously.

**7:00 PM - GENERAL MEETING:**

**1. Call to Order**

Mayor David Watts called the meeting to order at 7:06 p.m. and welcomed those in attendance.

**1.1. Invocation/Thought/Reading and Pledge of Allegiance**

Scout Troop #1963 led the audience in the Pledge of Allegiance.

**1.2. Council Disclosure for Conflict of Interest**

There were no noted conflicts of interest.

**1.3. Mayor/Council Comments and Recognitions**

Mayor Watts reported that the Herriman Howl was a great event and recognized staff for their efforts.

**2. Public Comment**

No comments were offered.

**3. Mayor and Council Board and Committee Reports**

Councilmember Smith reported that the South Valley Sewer Board had met the previous morning and they were currently working through their budget process. He had been impressed by the way they manage their budget and said that they had a great team working on it. The budget hearing for the Sewer District would be on November 13<sup>th</sup>. One item of note was that there was a concern with the current site for biohazard disposal, which would not be accessible to them any longer. There had been discussions regarding the increased cost of gas, trucking fees, and tipping fees for another location.

Councilmember Martin reported that she had attended the recent meeting with the Unified Fire Authority. It had been a busy season for the UFA and she expressed appreciation for them. She also met with the Utah League of Cities and Towns, and they were undertaking a largescale campaign to educate residents, local officials, and legislators as to how best to work together. The general principal was that the government closest to the people govern the best. What they were seeing was an increase of action taken by the legislature that had been negatively impacting

cities and their residents. They also wanted to address the density and growth concerns happening in Utah. The legislature wanted to make sure that there is enough room for all of this growth, but the cities in the southwest area of the Salt Lake Valley didn't want all of that density forced into their communities simply because they have land. Essentially, they were being penalized for developing later than other cities. What they didn't want was for the legislature to start getting into land use planning, because that needed to be a local decision.

Councilmember Ohrn stated that she serves on the Wasatch Front Waste and Recycling Board, and they were also going through a budget process. There would be a public hearing for the budget on November 19<sup>th</sup> at 6:00 pm. Herriman City had proposed that the City do the billing for garbage and add it to the water bill. To do that, they would have to enter into an Interlocal agreement with Wasatch Front. Herriman had also proposed to pay for a study to be done that would help them understand the financial implications for both entities. The proposal was presented to the Board and they approved to move forward with a study.

Councilmember Henderson said that the Riverton City Council had voted to direct staff to hire a police chief and move forward in creating their own police department, just as Herriman had.

Mayor Watts reported that the Mosquito Abatement District was also going through their annual budget review and there would be a public hearing for that budget as well.

#### **4. Reports, Presentations and Appointments**

##### **4.1. Rocky Mountain Power Report – Alene Bentley, Rocky Mountain Power Regional Business Manager**

Alene Bentley, with Rocky Mountain Power, presented the report and highlighted some of the services that they provide to Herriman City, as well as the participation rate of some of those programs. She first thanked the Council for adopting a 20-year franchise with Rocky Mountain Power and said that they value that partnership. Currently, Rocky Mountain Power serves nearly 11,000 customers in Herriman, and they delivered over 11 million kilowatt hours of power to Herriman over the past year. One of the ways in which they partner with Herriman is to support summer activities, and she was pleased to say that they were able to increase their sponsorship last year. Ms. Bentley had also been in discussion with Director Thomas about working together on a holiday event. The participation rate of Herriman residents and businesses in the renewable energy programs was very high, and there were 764 customers with rooftop solar panels. Their energy generation amounted to almost eight million kilowatt hours and saved the residents thousands of dollars on their energy bills. To address the growth in Herriman City, Rocky Mountain Power would be undertaking a project that would double the capacity of the Herriman substation on 6300 West and 13400 South. She briefly explained the project and said that they would do their best to limit disruption and inconvenience. Ms. Bentley commended staff for their professionalism and said that Herriman was one of the best managed cities that she has worked with.

##### **4.2. Olympia Hills Update – Michael Maloy, City Planner**

City Planner Maloy stated that the City Council had received periodic updates from the team doing the Olympia Hills study, and staff anticipated a final report soon. He reminded the Council that Olympia Hills was outside of the City limits but was part of the annexation declaration in the current General Plan. They intended to use information from this study in the General Plan update.

Bob Springmeyer, the consultant, said that there was a question about water last time that he had not adequately answered. Since the previous meeting, he had met with Jordan Valley Water and received some answers that might ease their concerns. Jordan Valley has water and they have the ability to buy additional water. The question was whether to pay for that new water with a fee to new residents or through impact fees. The Water Board was currently evaluating that issue, but they weren't ready to announce anything yet. The Council had also expressed concerns about what would happen during a long-term serious drought. Jordan Valley Water confirmed that in this case, cutbacks would be even across the system. For a growing community like Herriman, this means that there is no disincentive for additional annexations or more residents.

Councilmember Ohrn argued that residents would still see an influx of more people during a drought as the cause of less water, so the concern is still there. That did not take into effect the reality that people are simply coming into the City, no matter what.

Mayor Watts said that the numbers in the study are reflecting what the City Council has known for a long time. They were experiencing rapid growth here, and Herriman has a higher percentage of multi-family units than any other city. He wanted to clarify that the permit number from January to August doesn't reflect projects that were approved by the Council during that timeframe. These are the actual number of building permits that were taken out from previous approvals.

Councilmember Martin asked if the study would pick up Eagle Mountain, Lehi, and Saratoga Springs, and Mr. Springmeyer said that it would. He suggested that they organize a field trip to some of these developments in Utah County and see what kind of products are being offered and what is selling. Councilmember Martin said that she was in favor of the idea. She noted that the developments listed in the study were half the density of what was being proposed for Olympia Hills. She thought having that high of density was unfair to the community. Councilmember Ohrn added that there is no public transportation in the area to warrant such density.

## 5. Consent Agenda

### 5.1. Approval of the September 26, 2018 City Council Meeting Minutes

### 5.2. Approval of the Monthly Financial Summary – Alan Rae, Finance Director

*Councilmember Smith moved to approve the Consent Agenda as written. Councilmember Martin seconded the motion.*

*The vote was recorded as follows:*

<i>Councilmember Jared Henderson</i>	<i>Aye</i>
<i>Councilmember Nicole Martin</i>	<i>Aye</i>
<i>Councilmember Sherrie Ohrn</i>	<i>Aye</i>
<i>Councilmember Clint Smith</i>	<i>Aye</i>
<i>Mayor David Watts</i>	<i>Aye</i>

*The motion passed unanimously.*

**6. Discussion and Action Items**

**6.1. Discussion and Consideration of an Ordinance Declaring Approximately 0.485 acres of Real Property Located at or near 4900 West 12600 South, as Surplus; Determining that a Trade for Approximately 4 Acres of Real Property Located at or near 5200 West 12200 South Constitutes a Minimum Bid and Consummating the Trade Constitutes the Highest and Best Economic Return to the City – Blake Thomas, City Engineer**

Assistant City Engineer Jonathan Bowers excused Blake Thomas, who was at a conference this week. It was his understanding that the City Council had seen this proposal before, so he briefly explained the potential surplus and exchange of City property.

*Councilmember Henderson moved to approve an Ordinance declaring approximately 0.485 acres of real property located at or near 4900 West 12600 South, as surplus; determining that a trade for approximately four acres of real property located at or near 5200 West 12200 South constitutes a minimum bid and consummating the trade constitutes the highest and best economic return to the City. Councilmember Ohrn seconded the motion.*

*The vote was recorded as follows:*

<i>Councilmember Jared Henderson</i>	<i>Aye</i>
<i>Councilmember Nicole Martin</i>	<i>Aye</i>
<i>Councilmember Sherrie Ohrn</i>	<i>Aye</i>
<i>Councilmember Clint Smith</i>	<i>Aye</i>
<i>Mayor David Watts</i>	<i>Aye</i>

*The motion passed unanimously.*

**6.2. Discussion and Consideration of a Resolution Approving the Execution and Delivery of an Annexation Agreement Related to the Kennecott Utah Copper LLC Annexation and Related Matters – Gordon Haight, Assistant City Manager**

Assistant City Manager Haight stated that the Council had been discussing the annexation of Kennecott property for the last several meetings. The staff report included a development agreement with a few changes from the previous meeting. He turned the time over to City Attorney John Brems to address those changes.

Attorney Brems noted that the changes were highlighted in blue on the copy in the staff report. He noted that staff had received a few more requested changes earlier that day that were unable to be included in the draft agreement, but he would also be addressing those with the Council. The first change was to include an annexation plat map in Recital A. The next change was to paragraph three, where language regarding the TM zone was included. Attorney Brems stated that the City would no longer be doing a road, but they would be installing a water line to Zones 3 and 4 to service the property in question. He confirmed that they could only provide water to those within City limits, per ordinance.

Councilmember Henderson was concerned that Kennecott had emphasized residential uses as part of the masterplan discussion. This was a non-binding collaborative land use planning process for additional real property by the owners

annexed into the City, and they would obviously engage in discussions about uses. However, he was unsettled that they would specifically call out residential uses. Assistant City Manager Haight said that the City has made it very clear that they were interested in commercial development here, especially with the property being annexed now. Kennecott was looking at their full 1,000 acres and wanted to be clear that some residential uses would be utilized in their plan. The agreement wouldn't bind the City or Kennecott to do anything more than go through the planning process. Councilmember Smith said that the public following these discussions would not see it that way. The wording of the agreement here looked like they're only interested in doing more apartments.

Councilmember Martin expressed appreciation for Kennecott's willingness to work with the City and try to be good neighbors. Herriman has had a long-standing relationship with Kennecott and she was pleased that the agreement called out a collaborative process.

Attorney Brems then addressed the changes that they had received just hours before and restated that these were concepts that had not been drafted yet. Kennecott requested that the subject property could not be changed from the TM zone unless both parties agreed to a rezone. Assistant City Manager Haight clarified that this was not referencing the actual TM ordinance, but the zoning of that specific property. The Council had no objections to this request.

Attorney Brems said that the second request was to include language saying that if Riverbend Development falls through, the City would no longer be obliged to build the water line, and they would agree to allow the property to be de-annexed. If the property were to be de-annexed, Kennecott would then include the 38 acres as part of their overall masterplan for the area. Councilmember Martin was uncomfortable with this request because she felt that they were agreeing to a specific use for the property rather than a developer. It was possible that another tenant could come in and build a similar product.

Assistant City Manager Haight clarified that Kennecott could withdraw their application for annexation, but they were committed to this project. They have also made it clear that they were annexing this portion of their property before the rest for this specific user. If the user doesn't go through with the project, Kennecott would like the acreage as part of their full master-planning process. Councilmember Smith said that the property was currently under contract and there was a scheduled closing date. He asked if Kennecott could pull out of that agreement now and if that would force this proposed clause. Assistant City Manager Haight said that Kennecott can pull out of the sale and withdraw their annexation application. However, the user or the City could also pull out of their agreements and stop the project. The reason they were pushing this was because the user had extremely tight deadlines that they need to meet to make this happen.

Councilmember Smith expressed his concerns about the decreasing size of the annexed property. When they started the discussion, the annexation would have included several hundred acres, and now it had decreased to 38 acres. Councilmember Henderson has the same concerns. Assistant City Manager Haight explained that Kennecott hasn't had time to fully vet the best use for their property, including the 38 acres to be annexed. If the current user doesn't pull through, they would like to have time to evaluate the highest and best use of the property.

Mayor Watts asked if there was any legal precedence for automatic de-annexation, or if State Code even allows it. Attorney Brems explained that there was a process to de-annexation. The agreement wouldn't automatically send the property back to Kennecott. It would essentially state that the City would not fight the de-annexation.

Councilmember Martin felt like they could agree to a use over a user. It would be better to plan the entire area rather than doing a hodgepodge of development. Assistant City Manager Haight said that Kennecott has given every indication that they would want to fully vet the property and the City would be involved in that process.

Councilmember Ohrn expressed similar concerns as Councilmembers Smith and Henderson regarding the decrease in property size. Assistant City Manager Haight said that a large part of the issue was poor communication. It seemed that both parties had a different idea about the annexation. Councilmember Smith said that their option about the use of the property wouldn't matter very much if it was outside of Herriman City limits. He suggested including a timeframe for the property to be sold to another user if the current one falls through.

Assistant City Manager Haight addressed the third concept presented by Kennecott that day, which was to spell out in the agreement that there was no open space requirement for this property. The City currently doesn't have a way to do that, so including this would be like agreement to something they already don't do. The final concept was to include language stating that the agreement doesn't obligate Kennecott from annexing more land into the City. He commented that if the parties could come up with a really good plan, then they would agree to annex the full 1,000 acres into Herriman. The end goal of the planning process was to create a plan that everyone was comfortable with.

Councilmember Smith agreed with what Assistant City Manager Haight was describing, but he felt that the agreement was contrary to that concept. He thought that the concepts in writing makes it seem like this was Kennecott's intention from the beginning.

Councilmember Martin said that the only proposed concept that she had heartburn over was that this agreement does not bind them to anything other than the property listed. That language felt unnecessary. She expressed concerns about what this communicated to the community. Councilmember Henderson said that he was alright with putting the language in there, but it was a "poke in the eye" to the City and the residents.

Mayor Watts explained that a company called Jetpack was looking to come into this property, and they would be providing 800 jobs at buildout. He personally had heartburn over Kennecott's ability to de-annex. He wanted it clear that their intention wasn't to pull out of Herriman and go into another city, but to create a master plan and come back into Herriman. Assistant City Manager Haight said that the agreement would automatically de-annex the property. Kennecott could wait to file for de-annexation for six months, a year, or several years. Staff was confident in their ability to fill that space before Kennecott would file for a disconnection.

Mr. Jeff Stevensen, with Kennecott Utah Copper, said that he was the appointed representative on this project, and he wanted to address some of the Council's concerns. He said that Kennecott would be happy to stay in Herriman City if they want to build the water line. The reason they wanted to include the de-annexation clause was to allow Herriman City the opportunity to choose whether to build the water line or not.

Councilmember Henderson asked if Kennecott would be willing to include a timeframe before they file for de-annexation, and Mr. Stevensen said that they could agree to a timeframe of twelve months. There was a discussion about how this clause could be phrased in the agreement.

Mayor Watts asked why they specifically included language about residential uses in the master plan, and Mr. Stevensen said that they absolutely wanted to consider residential uses on the remaining 900 acres. He wasn't concerned about other uses, because he knew the City would be amenable to them. The Council was concerned that this language made it seem like they only wanted residential uses on the property. Mr. Stevensen explained that there were constraints with the mine and they knew that there were many areas where residential was not suitable. After some discussion, it was decided that the language would include industrial and commercial uses as well as residential.

There was a discussion regarding the motion, and the staff recommended that the Council approve subject to Attorney Brems confirming that the altered language is substantively addressing the concerns raised today. If the City Manager, City Attorney, and Kennecott's attorney are comfortable with the language, staff would approve it. If anything changes substantively, the agreement would come back to the City Council.

*Councilmember Henderson moved to approve Resolution No. R49-2018 approving the execution and delivery of an annexation agreement related to the Kennecott Utah Copper LLC Annexation and related matters; with the following conceptual changes:*

- *There will be no changes to the zoning of this property without the consent of both parties;*
- *If the current sale is not consummated and no subsequent sale takes place within a twelve-month timeframe, then the property owner can apply for de-annexation and the City will not protest, and the City is not obligated to build the water line;*
- *There is no obligation for annexing future property;*
- *There is no open space requirement for the zone;*
- *Language was stricken from the end of paragraph four;*
- *Paragraph six would include language regarding commercial and industrial uses.;*
- *“Winter” be specified at December 31, 2019.*

*Councilmember Martin seconded the motion.*

*The vote was recorded as follows:*

<i>Councilmember Jared Henderson</i>	<i>Aye</i>
<i>Councilmember Nicole Martin</i>	<i>Aye</i>
<i>Councilmember Sberrie Ohrn</i>	<i>Aye</i>
<i>Councilmember Clint Smith</i>	<i>Aye</i>
<i>Mayor David Watts</i>	<i>Aye</i>

*The motion passed unanimously.*

**6.3. Discussion and Consideration of an Ordinance Annexing Territory Located at or near 11800 South 7000 West Comprising of Approximately 74 Acres into Herriman City Commonly known as the Kennecott Annexation; Establishing Zoning for the Annexed Territory; and Related Matters – Jackie Nostrom, City Recorder**

City Recorder Jackie Nostrom briefly explained the annexation process and noted that staff did not receive any protests or comments opposing the annexation. By State Code, the annexation must be approved and recorded through the Lieutenant Governor’s Office and the County Recorder by October 31<sup>st</sup>. It was noted that the acreage had been reduced to 38 acres.

*Councilmember Smith moved to approve an Ordinance No. 2018- 35 annexing territory located at or near 11800 South 7000 West comprising of approximately 38 acres into Herriman City, commonly known as the Kennecott Annexation; establishing zoning for the annexed territory, and related matters. Councilmember Martin seconded the motion.*

*The vote was recorded as follows:*

<i>Councilmember Jared Henderson</i>	<i>Aye</i>
<i>Councilmember Nicole Martin</i>	<i>Aye</i>
<i>Councilmember Sherrie Ohrn</i>	<i>Aye</i>
<i>Councilmember Clint Smith</i>	<i>Aye</i>
<i>Mayor David Watts</i>	<i>Aye</i>

*The motion passed unanimously.*

**7. Calendar**

**7.1. Meetings**

- 7.1.1. ~~November 1 – Planning Commission Meeting 7:00 p.m.~~ Cancelled
- 7.1.2. November 9 – Special City Council Work Meeting 9:00 a.m.
- 7.1.3. November 14 – City Council Work Meeting 5:00 p.m.; City Council Meeting 7:00 p.m.

**7.2. Events**

- 7.2.1. November 3 – Miss Herriman Scholarship Pageant; Herriman High School 7:00 p.m.
- 7.2.2. November 7 – Herriman Senior Social; Herriman City Hall 11:00 a.m. – 2:00 p.m.

**7.3. Closed Session**

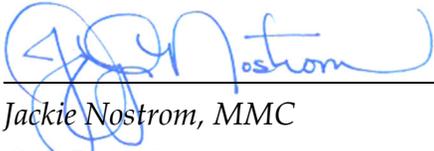
- 7.3.1. *The Herriman City Council may temporarily recess the City Council meeting to convene in a closed session to discuss the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205*

**8. Adjournment**

*Councilmember Smith moved to adjourn the City Council meeting and reconvene the City Council Work Meeting at 9:01 p.m. Councilmember Martin seconded the motion and all voted aye.*

**9. Recommence to Work Meeting (If Needed)**

*I, Jackie Nostrom, City Recorder for Herriman City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on October 24, 2018. This document constitutes the official minutes for the Herriman City Council Meeting.*



*Jackie Nostrom, MMC  
City Recorder*

