

Heber City Corporation
City Council Meeting
September 2, 2010

7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on September 2, 2010, in the City Council Chambers in Heber City, Utah.

Present:	Council Members	Eric Straddeck Nile Horner Robert Patterson Alan McDonald Benny Mergist
Excused:	Mayor	David Phillips
Also Present:	City Manager Deputy City Recorder City Engineer City Planners Police Department	Mark Anderson Michelle Kellogg Bart Mumford Allen Fawcett, Tony Kohler Sgt. Jason Bradley

Others Present: Kimberly Wynne, Alexa Wynne, J. Hodges, Kynan Wynne, Greg Gagon, Nate Sargent, Mike Johnston, Dave Kennamer, Mark Smedley, Glinda Straddeck, Ann Moulton and others whose names were not legible.

Pledge of Allegiance: Councilman Mergist
Prayer: Councilman McDonald

Councilman Straddeck was acting as Mayor Pro Tempore. He excused Mayor Phillips from the meeting.

PUBLIC COMMENT

Mayor Pro Tempore Straddeck asked the audience if anyone wanted to address the Council. No comments were given.

PUBLIC HEARING

Public Hearing – Sale of Public Property – Discuss Proposed Sale of 2.63 acres of land in the Heber City Manufacturing and Business Park to Rooftop Anchor Properties, LLC:

Mayor Pro Tempore Straddeck asked Kellogg to open the public hearing. Kellogg read the public notice. Mayor Pro Tempore Straddeck asked for public comment on the public meeting. No

comments were given. Mayor Pro Tempore Straddeck closed the public comment portion of the public hearing. Kohler displayed a map of the area for the Council to view. Anderson explained the purchase agreement by Rooftop Anchor properties. Anderson recommended that the City have the property surveyed and a legal description taken from that survey before deeding the property. He indicated Rooftop Anchor Properties also wanted a geotechnical survey done as well as locating the utilities on the property. They would like this to occur before closing the transaction. Anderson referred to his staff report.

Councilman Horner stated he preferred discussing this item in closed session. Mayor Pro Tempore Straddeck asked if there were aspects of this proposal that could be discussed now and asked Greg Gagon if he wanted to present anything that was not in the purchase agreement. The time frame change from 12 to 18 months was questioned. Gagon indicated they were still prepared to move within a 12 month time frame but wanted extra time in case of delays. He said they didn't want a breach of contract based on time limits. Councilman Patterson asked about the interest payable to the City if Rooftop Anchor Properties sold the land within five years from the date of purchase. Anderson explained Rooftop Anchor Properties would have to pay the City the profit made from that transaction plus interest. In Rooftop Anchor Properties' Purchase Agreement, it omitted the interest portion of that understanding. Mayor Pro Tempore Straddeck said the Council would go into closed session, and indicated that in closed session the City would determine a price on the land and present that amount in the open portion of the City Council Meeting.

After adjourning from closed session (after Action Items), Mayor Pro Tempore Straddeck explained to Gagon and his associates that the Council did not feel the informal estimate given on the property was sufficient to make a decision on an amount. Councilman McDonald apologized for making them wait. Mayor Pro Tempore Straddeck said the City Manager had been directed to acquire a market analysis. Gagon asked if the Council had reconsidered offering the land as an economic stimulus. He wanted to know if there was a certain percentage or multiplier the Council would use in determining a price. Councilman Horner felt the Council could not give an amount without knowing the market value.

Gagon explained that a contractor had given this company an estimate of \$1.5 million on the building, which they felt good about. Later, two other bids came in at \$2.2 million, so reality hit at \$700,000 higher than anticipated for construction costs. He indicated the company couldn't pay much more than \$50,000 per acre which they were counting on based on history. Gagon again stated there was not a lot of wiggle room for them, financially speaking. He asked what the procedure would be. Anderson stated the public hearing obligation had been met, but there could be another closed session.

Gagon gave some comparable properties he looked at recently. Nate Sargent, President of Rooftop Anchor Properties, asked if a market analysis had ever been done on this property. When told no, he asked why now. Councilman Horner said this Council wasn't the same as the Council in 2006, when the property was last offered for sale. Sargent said he would be blunt, and indicated the longer the delay, the less likely the company would move to Heber City. Councilman Mergist stated the Council could have a special meeting when the analysis was finished.

Gagon asked the Council to move as quickly as possible. The company had to prove they had financing in place in order to get a bond. They needed to have that by September 20.

APPOINTMENTS

Timpanogos Valley Theatre (TVT) – Discuss State History Grant and Solicitation of Support from Heber City:

Ann Moulton, President of TVT, explained the grant and indicated it was a 50-50 match from the State. TVT was asking the City for \$4,000. A sheet was presented with the options TVT was presenting to the Council. Mayor Pro Tempore Straddeck clarified that \$10,000 would need to come from other sources, and the State would match \$10,000, which would be reimbursed after the project was completed. Councilman Horner asked what the time limit on the grant was. Moulton said TVT had one year from August 31, 2010 to complete all the work. Anderson indicated the City would be the grant recipient since the City owned the building. He indicated the City would have to help with the cash flow, understanding that whatever was spent, half of it would come back from the State up to a maximum of \$9,900.

Councilman Mergist stated since the building was on the historical register, there would be limits on the types of repairs that could be done. Councilman Horner asked what type of work would be done. Moulton stated the list of items under consideration was given in the Council packet but some things for consideration included replacing window panes, repairing the subfloor, and replacing the carpet and vinyl. Councilman Horner wanted to see the dance floor preserved. Moulton indicated a bid came in at \$5,000 – \$6,000 for the dance floor. Mayor Pro Tempore Straddeck asked if the Council had to decide what repairs were done tonight. Anderson indicated the Council had to decide if it would help with the cash commitment to obtain this grant. Moulton stated the decision tonight would be if the City would contribute \$5,900 or \$9,900. She also asked that the City pay contractor bills until the State reimbursed it. Councilman Mergist asked who would oversee the grant. Anderson stated the City would oversee the expenditures and reimbursements. Sgt. Bradley indicated with many grants, in-kind donations would count as well, which could include employee time, etc. Moulton indicated if the repairs would need to be made anyway, it would be advantageous to use this grant money which was available now.

Councilman McDonald moved to approve Option One which was that the City would spend \$9,900 and TVT would contribute and raise the other \$9,900. Mayor Pro Tempore Straddeck stated if the Council went with Option Three, TVT would also help with the funds. Mayor Pro Tempore Straddeck stated he would like to see a fundraiser to help with the repairs. Councilman Horner favored Option One.

Mayor Pro Tempore Straddeck stated there was a motion on the table. Moulton again explained Option One, that the City would provide the \$9,900 which would be reimbursed, and TVT would come up with as much of the funding as possible and the City would match up to that amount until it was reimbursed by the State.

Councilman Mergist seconded the motion.

Councilman Horner stated if TVT could raise the entire \$9,900 of their portion, the City should help out to max out the grant money. Discussion on the three options.

Councilman McDonald rescinded his motion and Councilman Mergist rescinded his second.

Councilman Horner moved to approve Option Three, meaning \$9,900 would come from the City, \$4,000 and any other fundraising money would come from TVT, and the City would donate the remainder to max out the grant. Councilman McDonald seconded the motion.

Voting Aye: Councilmen Straddeck, Horner, Patterson, McDonald and Mergist.

Councilman Horner indicated he would like the Council to authorize the work being done on the building. Councilman Mergist suggested the Council do a walk-through with TVT to see the work that needed to be done. Anderson asked if the Council was willing to meet October 7th at 6:00 p.m. to walk through the building. All members agreed to meet at that time.

Mike Johnston and Hans Hoffman, Summit Engineering - Review of Snow Removal

Equipment Building Proposed Layout: Johnston indicated his firm was the subconsultant under Armstrong Consulting for designing the Snow Removal building. He wanted to review a few items with the Council. A site map was displayed and Johnston indicated the building was rotated to face the same direction as the other buildings. He stated there were two separate entrances, one on the secure side of the airport and one on the public side that would be open only during business hours. Johnston explained the different areas of the interior of the building; which included four bays, a pilot's lounge, a bathroom, and the City portion of the building which included future space for two offices and a bathroom. Armstrong indicated the building came to 5,000 square feet: 4,000 square feet in the bay area and 1,000 square feet in the interior. Armstrong indicated they would not finish the City portion of the building. That drywall, etc. would be the responsibility of the City. Johnston stated there would be minimal lighting and insulation on the City side of the building. Discussion on building standards.

Councilman Patterson asked why the building was rotated. Johnston indicated the dual entry was a major factor. Anderson stated he didn't see a reason for some bay doors to exit to the outside of the airport, so that was another reason the building was rotated.

Anderson asked how the fencing would be incorporated to the building. Johnston said it would tie into the supports. It was indicated the fence was nine feet high.

Anderson asked the Council members when they would like to see construction commence. Johnston said he would suggest soliciting prequalified bids, asking firms that the City trusted and had worked with in the past. Since the market was so competitive, many bids could come in so low that it would be hard to construct at that price, and the contractor would make up the difference in change orders.

ACTION ITEMS

Review Scope of Work and Funding Options –Valley Hills Tennis Courts: Mumford explained Council had asked about the cost for the retaining wall and stated some figures were given in the packet. Mumford said a precast retaining wall was similar in cost to a traditional wall. He thought the rock would be aesthetically nicer with the texture and the staggered rocks.

He indicated that Rounds was concerned the rock wall might be a liability because children might use it as a climbing wall.

Mumford stated one suggestion with this parcel would be to subdivide the property into two lots and sell them for \$75,000 apiece. There would then be money available to build a new park on the lower part of Valley Hills. Anderson stated a meeting would need to be held with the homeowners to let them know of the City's plans if the Council liked that proposal.

Mayor Pro Tempore Straddeck asked for thoughts from the Council. Councilman Patterson liked the idea of grading the current park. Councilman Horner said he would like to move forward with upper end as planned. Councilman McDonald preferred rebuilding the tennis court. Councilman Mergist asked about grading the property. Mayor Pro Tempore Straddeck was in favor of moving forward with rebuilding the tennis courts. Mike Johnston came forward as a Valley Hills neighbor and stated he rarely saw anyone using the tennis courts. Now that the schools and the County had great tennis courts, he suggested reclaiming the land and using it as open space. Councilman Horner indicated the tennis court was also used as a basketball court and thought it got used a lot. Tony Kohler suggested putting a multipurpose court in the lower Valley Hills open space and then a retaining wall wouldn't be needed at the upper end.

Councilman Horner stated if something different was done, the neighbors should have a chance to give input. It was indicated that Public Works could do the demolition. Mayor Pro Tempore Straddeck stated if the Council liked the idea of a basketball court in the lower half, the public should have input. He asked the Council for feedback. Councilman Horner said he knew it was not an ideal location but since it was there, he wanted to restore it. Councilman McDonald stated if reclaiming the land would cost \$50,000-\$60,000, that was not saving much, so he would just re-do the tennis courts. Councilman Patterson liked the idea of open space, but he wanted to re-do the retaining wall and the tennis court. Council decided to move forward with fixing the wall and keeping the multipurpose court.

As a matter of clarification, Anderson asked if Council wanted to get a contract to bid out the work, and also needed Council to find a way to pay for it since there was no money in the budget. He indicated money could be transferred from the Capital Projects Fund. Councilman Horner asked if there were other options. Anderson said there was also the Internal Service Fund, but that usually replaced vehicles. Mumford stated he would solicit bids and bring them to the Council. Anderson asked Mumford to email a scope of work to the Council before soliciting bids.

Approve State of Utah, UDOT Aeronautics, Cooperative Agency Grant Agreement – Taxiway Lighting Rehabilitation: Anderson said last week, lightening storms came through the area and a regulator which controlled the series lighting for the taxiway was damaged. The approximate cost would be \$15,000 to replace it. He indicated repairs needed to be made to the beacon and one of the electronic gates as well. UDOT Aeronautics was contacted and they offered a grant for the replacement and repairs of these items. Chesley Electric gave an estimate but it would take six weeks to replace. He stated this grant had the standard language in it requiring the maintenance of the airport.

Councilman Horner stated the City needed to solicit bids. Anderson indicated three bids would need to be obtained to meet the requirements of the grant.

Councilman McDonald moved to approve the grant agreement on the condition that the City Attorney review it prior to signing. Councilman Patterson seconded the motion.

Voting Aye: Councilmen Straddeck, Horner, Patterson, McDonald and Mergist.

Councilman Mergist motioned that the Council move into closed session to discuss sale of land, pending litigation and approval of minutes dated 4/15/2010 and 6/3/2010. Councilman Patterson seconded the motion.

Voting Aye: Councilmen Straddeck, Horner, Patterson, McDonald and Mergist.

Councilman Mergist moved to adjourn closed session. Councilman Patterson seconded.

Voting Aye: Councilmen Straddeck, Horner, Patterson, McDonald and Mergist.

DISCUSSION/ACTION ITEMS

Discuss Policy/Ordinance Changes regarding Change Orders, Purchasing Policy, Board Appointments, Public Comments and Communications, Alcohol Licensure, and City Manager's Powers and Duties: (Change Orders) Councilman McDonald indicated he put together some ideas for purchase order changes. Mayor Pro Tempore Straddeck asked why the number \$10,000 was set as the mark, and how many purchases did the City have on a regular basis that exceeded \$10,000. Mayor Pro Tempore Straddeck stated that from his experience on the Sewer and Power Boards, the board members reviewed the warrant lists to see what was going out. Councilman McDonald stated he had looked at a few different cities with regard to a dollar limit. Some cities had higher limits and some had lower. He felt this was a good average. Councilman McDonald indicated a dollar amount would be a guideline for the City Manager to use, and then if it went over that amount, the Council would need to look at it and approve the expenditure.

Anderson stated with regard to change orders, there would be less than six per year based on the contracts the City would have. Concerning purchases, anything over \$25,000 would be significant. He referred to the warrant list in the Council's materials and said there were four items over \$25,000. The Council received this list each meeting and could review and comment on those expenditures. Anderson indicated most items couldn't be controlled.

Mayor Pro Tempore Straddeck clarified that the \$10,000 limit was for change orders, things the City would bid out. Councilman McDonald said if the limit were dropped down to \$10,000, he would feel more comfortable. Councilman Horner thought the Council needed to see any and every change order that came to the City. Councilman Horner suggested in an emergency, change orders up to \$2,500 could be approved by Anderson or Mayor Phillips, but any amount higher than that, the Council would have to be polled. Mayor Pro Tempore Straddeck said that seemed to be extreme, especially since it would be within the contract. Councilman Horner stated a

benefit of his suggestion would be the Council would find out who was at fault – be it the contractor, engineer, UDOT, etc.

Councilman Patterson said he didn't see the need for the Council to see every change order, and asserted the Council was a legislative body. Councilman McDonald asked if the Council wanted to see change orders only if the change went above the bid project. Councilman Mergist said he was fine with that. Mayor Pro Tempore Straddeck stated he was fine with the \$10,000 amount. Councilman Horner stated he would like to see that number changed to \$2,500. Discussion on Center Street change orders.

Mayor Pro Tempore Straddeck stated the direction to staff would be to take these suggestions and draft a policy change by resolution. Anderson recommended incorporating this into the current purchasing policy. Councilman Horner indicated he wanted to eliminate the \$2,500 on number four. He thought the Council should see all change orders. All Council members agreed to this change. Anderson said a period would be placed after the words "City Council" on number four. Anderson stated these changes would be put in policy form and the City Council would then vote on it.

(Purchasing Policy) Councilman McDonald stated on the purchasing policy he would suggest putting a limit on what the City Manager could purchase. Anderson indicated the budget was intended to authorize the City to expend those funds and it was his job to make sure the departments stay within the budget. Councilman Horner said he wanted the Council to be the one to award any bid. He said just because the Council approved a budget, didn't mean the City Manager could buy a vehicle from whoever he wanted. Anderson indicated if a supplier had a state contract, the City could use that supplier without soliciting bids. Councilman Horner stated he would like that policy to be changed, but indicated he was fine with purchasing policy proposed by Councilman McDonald. Mayor Pro Tempore Straddeck said looking at the warrant list gave the Council the authority without burdening them with the need to oversee every little thing.

Discussion on different purchase limits and the authority needed for those. Mayor Pro Tempore Straddeck indicated he did not see a need to change from the current policy. Councilman McDonald stated if the City was spending funds, he wanted the Council to have more authority over those expenditures. Mayor Pro Tempore Straddeck and Councilman Patterson wanted a hands-off approach. Mayor Pro Tempore Straddeck thought the limits could be set within the budget process, but the day-to-day expenditures should be at the department level.

Councilman Mergist said he did not like the limits, and stated it could be very frustrating, speaking from personal experience. Anderson stated since none of the Council worked in the building, it would be difficult to get access to them all the time for approvals.

Councilman Mergist stated he understood the point was to exercise frugality, but this proposal was only good in theory. He said as an employee, he would hope he would be trusted. Councilman McDonald said he would put this item on hold. Councilman Horner stated he would like to bump the figures to \$5,000 and \$7,500. Councilman Patterson agreed with Councilman

Mergist. Councilman McDonald wanted to see this policy in effect. Mayor Pro Tempore Straddeck didn't want a change from the current policy.

(Board Appointments) Councilman McDonald wanted to address that board assignments be rotated in order that the Council members could have a good understanding of all the boards instead of listening to one person's reports about them. Councilman Mergist indicated he would like to rotate boards as well. Councilman Patterson was against the proposal. Councilman Horner was in favor and wanted diversity in his knowledge. Mayor Pro Tempore Straddeck was undecided. He asked if there was a different way the assignments could be structured, and said he didn't have an opinion at this point. He thought Mayor Phillips would want to have input on this topic, and was also concerned that this would constrict the Mayor's duties.

Mark Smedley, City Attorney, asked if the Council was taking an action; whether it was by ordinance or policy. He asserted if an action regarded the Mayor, Mayor Phillips would have to vote. Discussion on when a mayor could vote per State and City Code. Councilman Horner stated this policy would not change the powers of the Mayor because he could still appoint the members. He would just have to rotate those members on a yearly basis.

Anderson said these topics were only open for discussion tonight and were not in resolution or ordinance form to vote on. Councilman McDonald disagreed. He and Councilman Horner wanted it to be voted on tonight. Mayor Pro Tempore Straddeck said legal counsel had advised them and if they went contrary they could be headed into a legal minefield.

Smedley stated the Council was dealing with a power the Mayor had and now the Council wanted to change the time frame within that power. Discussion. Smedley argued the traditional action had rested with the Mayor, so if the logistics changed, that may or may not affect his power. Councilman Horner said with rotating boards, there were still four names the Mayor could choose from in a yearly appointment. Smedley asserted that now there was a limit on his power because the Mayor would now be obligated to rotate, where in the past, he did not have that requirement. Councilman Horner could not see any change of power concerning the Mayor. Smedley stated the Council did have the right to change policy, but the safe way to do that was to have the Mayor present and all vote on it. Councilman Horner stated the Mayor didn't have the power to vote. Smedley said he disagreed since this would diminish the Mayor's power.

Anderson asked if it would be a modification in the ordinance of the Mayor's duties. Anderson said ordinances were legislative and policies were administrative in nature. Discussion on Council policy. Councilman McDonald clarified that three members of the Council wanted the change, so they should move forward and draft a resolution. Mayor Pro Tempore Straddeck stated this would give Smedley a chance to talk with David Church and verify that he was giving his best legal counsel.

Councilman McDonald also suggested taking funds received from the membership of certain boards and pooling it to use jointly as a Council. Councilman Mergist was also in favor of this. Mayor Pro Tempore Straddeck asked how the Council would determine how it was spent, payroll taxes on it, etc. Councilman Mergist thought the pool might be used for training. Also, it would ensure that there would be no favoritism in board appointments. Mayor Pro Tempore Straddeck

was undecided. Councilman Patterson was against the proposal. Councilman Horner thought all Council members should be paid the same. He thought the City would be served better if substitutes went to the meetings and monies were earned for the pool. Anderson asked how the taxes would work. Discussion. Mayor Pro Tempore Straddeck asked Anderson to find out about the taxes and have a policy drafted in regard to this item.

As the hour was late, the Council did not proceed with the other items, and the meeting was adjourned.

Michelle Kellogg, Deputy City Recorder