

Heber City Corporation  
City Council Meeting  
09/13/2010  
5:30 p.m.

SPECIAL MEETING

The Council of Heber City, Wasatch County, Utah, met in **Special Meeting** on September 13, 2010, in the City Council Chambers in Heber City, Utah.

Present:	Mayor	David R. Phillips
	Council Members	Eric Straddeck via phone Robert Patterson Alan McDonald Benny Mergist (Arrived at 6:03)

Excused: Nile Horner

Also Present:	City Recorder	Paulette Thurber
	City Engineer	Bart Mumford
	City Planning Dept.	Allen Fawcett
	City Planning Dept.	Tony Kohler
	City Police Dept.	Chief Ed Rhoades

Others Present: Martin VanRosendaal, Nate Sargent, Bryce Wells, Greg Gagon, Mike Johnston and Mike Thurber.

**Sale of Public Property – 2.63 acres of land in the Heber City Manufacturing and Business Park located at approximately 800 South 430 West – Purchaser – Rooftop Anchor**

**Properties, LLC:** Mayor Phillips gave some background and said the Industrial Park had been around at least 15 years. He said in his opinion the City had two things to offer its businesses: pristine water and clean mountain air; but, more viable the City had an ordinance to pay 50% of impact fees for commercial businesses on roads which was funded out of a .25% sales tax and the other thing was affordable lots in the City's Industrial Park. He explained that this issue was a carryover from a previous meeting and since that previous meeting an appraisal on the property had been obtained.

Mayor Phillips asked for general discussion. There was none at this time from the Council.

At 5:42 Councilman McDonald moved to go into Closed Session to discuss the sale of land. Councilman Patterson made the second. Voting AYE: Eric Straddeck, Robert Patterson, and Alan McDonald.

Those going into Closed Session: Mayor David Phillips, Councilman Eric Straddeck (via telephone), Councilman Robert Patterson, Councilman Alan McDonald and City Recorder Paulette Thurber.

At 5:58 Councilman Patterson moved to return to Open Session. Councilman McDonald made the second. Voting AYE: Eric Straddeck (via telephone), Robert Patterson and Alan McDonald.

Mayor Phillips announced the Council was back in Open Session.

Mayor Phillips pointed out, for the benefit of the audience, that it took three affirmative votes for a motion to pass.

Councilman Straddeck moved to accept the real estate proposal of Rooftop Anchors and that the City move forward with the purchase contract which had been previously reviewed by the Council with a purchase price offer of \$50,000 per acre. Councilman Patterson made the second.

Councilman McDonald welcomed the new business and said the City and the Council wanted to extend their hands to them and also wanted to be fair to the existing businesses. He said he supported the motion even though the offer was lower than the value of the land.

Mayor Phillips called for a vote on the motion. Voting AYE: Eric Straddeck (via telephone), Robert Patterson, and Alan McDonald.

Mayor Phillips indicated he felt the Council had made a great decision.

Gagon thanked the Council and was excited to become part of Heber's business district and expressed appreciation to the Council. He said a lot of families, those working for his company, would also be appreciative.

Gagon said he had a couple of issues with the contract. He was hoping to move quickly with a closing, around November 15, but wanted to get a survey and clean up any issues associated with that. He said the bank was requiring a geotechnical study and thought they could have that done in six weeks or so. Councilman McDonald asked if there was anything else in the contract he had concerns about. Gagon said a three-year re-sell stipulation would be better than a five-year stipulation. Councilman McDonald said he saw an advantage to three years. Gagon said they had an aggressive growth model and indicated the reason they would sell would be because they might outgrow the building.

Councilman Mergist arrived at 6:03. He said he wanted to add his approval to the decision to sell the property. He also agreed with the decision to change the language in the contract regarding the re-selling time limit to three years instead of five years and he wanted the City to give due diligence in working with them based on their situation with the bank and getting their survey and study completed.

**Aspen Pointe:** Mumford asked the Council to discuss a Work Session item from last meeting in relation to Aspen Pointe in which everyone at that time agreed to not release any bond monies. He said he had had time to reconsider his opinion on that issue, checked with different attorneys, and now felt strongly the Council ought to reconsider that and allow that to happen. He said there was going to be lot owners from that subdivision wanting to move forward because of their investment and they could come to the City, who was under the responsibility to finish the subdivision because of the bond, requesting the City complete the subdivision. Mumford said it might cost the City more to complete the subdivision than bond monies available. The risk the City would be assuming under the proposal, which was complete the whole subdivision and release the bond for construction, was funding. Mumford suggested that during the warranty, after everything was complete, the City retain less than normal—possibly \$60,000. Councilman McDonald asked about other collateral. Mumford said they would give the City lots as collateral to make up the difference.

Mumford said the City had never spent that much on warranty. He thought the risk of having a reduced warranty versus the chance that they could complete that, as they would have to use some of their own money as well to complete it, was worth it. He said he had talked to a number of attorneys about this as the City had not been in this situation before. Additional discussion about calling the bond. Mayor Phillips summarized that if the City called the bond, got “x” amount of money, gave that money to the contractor to finish the roads, it would be less costly to the City than otherwise. Mumford thought what they were proposing was minimal. The City would still have \$60,000 in cash. The risk of them completing and failing versus the City having to do it was worth consideration.

Councilman Straddeck said he would like to see a couple terms. He wanted to make it clear that the City would not return any cash in exchange for lots that were less than \$60,000--at a minimum the City wanted to retain \$60,000. If the warranty period was only one or two years and if the lots were \$60,000, the City needed three or four lots for collateral. Councilman Mergist felt the City should have four lots for collateral and he stressed those lots had to be buildable lots. Mumford summarized \$60,000 and four buildable lots. The Council agreed.

As there was no other business, the Special Meeting of the Heber City Council on September 13, 2010, adjourned at 6:25 p.m.

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Paulette Thurber, City Recorder