

Heber City Corporation
City Council Meeting
November 9, 2010

6:10 p.m.

SPECIAL MEETING

The Council of Heber City, Wasatch County, Utah, met in **Special Meeting** on November 9, 2010, in the City Council Chambers in Heber City, Utah.

Present:	Mayor	David R. Phillips
	Council Members	Eric Straddeck (by phone) Nile Horner Benny Mergist
Excused:		Robert Patterson Alan McDonald
Also Present:	City Manager	Mark K. Anderson
	Deputy City Recorder	Michelle Kellogg
	City Engineer	Bart Mumford
	Police Department	Sgt. James Moore
	City Attorney	Mark Smedley

Others Present: Cathy Riley and Delyn Yeates

Delyn Yeates: Anderson stated Mr. Yeates was with Elmbridge Development. As part of the annexation agreement, there was a provision that Yeates would deed a portion of his property to Heber City for the future bypass plus his surplus land. Yeates stated he was preparing a deed to transfer title, but there was a discrepancy between the legal description and the survey description. The difference could be up to 70 feet that was located between the fence line on the north and the survey line. Mumford indicated on the map the 200 foot bypass area could be shifted 70 feet to the south if necessary. But there would be an area that was somewhat in question because the boundary lines didn't match up. He thought one way to resolve these issues would be through boundary agreements. Mumford indicated Yeates could not give the City something they didn't own.

Mayor Phillips asked if the truck route was in jeopardy with this shift in property lines. Mumford said it should easily fit within that 200 foot area and stated there were two points to take into

consideration: The first point was that there was a discrepancy with the boundary lines. The second point was that Elmbridge could still deed the property to the City because there was still enough for the bypass, knowing there was an area that could be in dispute at some time in the future. Councilman Horner stated the owners to the north, the Buells, would need to be made aware of this conflict.

Yeates referred to two survey monuments on the plat map, and explained that he owned the 70 feet in question, and indicated it was only a plotting issue because the property was surveyed from the two different monuments. Councilman Horner felt that when there was a boundary problem, the land owners should work it out. Mayor Phillips suggested Yeates tell the Buells he was getting ready to deed that piece to the City, and offer to work it out. Yeates stated there was a state ordinance that said an owner couldn't deed property to a municipal entity without the entity's permission. Consequently, Yeates was here tonight to request that permission. Councilman Horner stated he didn't want the Council to receive the property until the boundary lines were cleared up. Mayor Phillips indicated all Yeates could deed to the City was what he had title to. Smedley stated monuments took precedence and fences were monuments, but he agreed Yeates could only deed what he legally had. Smedley thought the Council should determine if the 200 feet of land which was not in dispute were enough for the bypass. Discussion on legal descriptions from the deeds versus the survey.

Anderson said if the City accepted the deed, then it could go to Buell to get a boundary line agreement. Mumford asked Councilman Horner if he would accept the deed on the condition that a boundary line agreement was acquired. Councilman Horner indicated he wanted the issue cleared up before accepting the deed. Councilman Straddeck asked if there was a problem talking to the Buells. Yeates indicated the Buells were opposed to the bypass and to the Elmbridge project, so he didn't know how they would respond. Yeates stated according to the Development Agreement, when the building permit was issued by the City, Yeates would deed the surplus property to the City, which could be within the next two weeks. Councilman Straddeck didn't have a problem tying the deed to getting the building permit. Councilman Mergist stated he didn't want to accept an encumbered piece of property. Yeates stated when the title company took the survey to the County, they were concerned about the dispute.

Riley explained the matching of deeds and surveys and stated the deeds to the two properties lined up perfectly. Mumford stated a possible compromise would be to omit the requirement to deed the property to the City before Yeates recorded the subdivision plat. The City could then hold the building permit until it received the deed. Councilman Horner asked Yeates to talk with Buell and get back with the Council and indicated he wanted the boundary agreement tied to the recordation of the plat. Councilman Straddeck thought it would be fine to tie the deed to the building permit. Yeates thought the bank wouldn't close on the loan with the condition that tied the property to the building permit. He indicated that if there was resistance with the Buells, he

would proceed with a quiet title, which would put the burden of proof on those owners to show that they owned the property on the other side of their fence.

Councilman Horner moved to go into Closed Session to discuss pending litigation. Councilman Mergist seconded the motion. Voting Aye: Councilmen Straddeck, Horner and Mergist.

Councilman Mergist moved to adjourn the Closed Session. Councilman Horner seconded the motion. Voting Aye: Councilmen Straddeck, Horner and Mergist.

With no further business, the meeting was adjourned.

Michelle Kellogg, Deputy City Recorder