

**Tooele City Council and Tooele City Redevelopment
Agency of Tooele City, Utah
Work Session Meeting Minutes**

Date: Wednesday, January 18, 2017
Time: 5:00 p.m.
Place: Tooele City Hall, Large Conference Room
90 North Main St., Tooele, Utah

City Council Members Present:

Chairwoman Debbie Winn
Scott Wardle
Dave McCall
Steve Pruden
Brad Pratt

City Employees Present:

Mayor Patrick Dunlavy
Glenn Caldwell, Finance Director
Jim Bolser, Director of Community Development and Public Works
Michelle Pitt, Recorder
Roger Baker, City Attorney
Brian Roth, Parks and Recreation Director
Rachelle Custer, City Planner
Paul Hansen, City Engineer
Randy Sant, Economic Development and Redevelopment Agency Director

Minutes prepared by Michelle Pitt

1. Open Meeting

Chairwoman Winn called the meeting to order at 5:00 p.m.

2. Roll Call

Debbie Winn, Present
Scott Wardle, Present
Dave McCall, Present
Steve Pruden, Present
Brad Pratt, Present

3. Discussion:

- Utah Open and Public Meetings Act Training

Presented by Roger Baker

Mr. Baker pointed out that there are lengthy materials in the Council packets that were provided by David Church of the Utah League of Cities and Towns to a conference of city attorneys in May 2016. At the request of Chairwoman Winn, Mr. Baker focused on one of the questions included in these materials, "Is it a violation of the open meetings act to engage in electronic communications outside of the public meeting?" Mr. Church's answer is, "it depends." Mr. Baker provided an outline providing a short answer to this question. To be categorized as a meeting, a meeting must be convened (which means called by someone with authority), there must be a quorum present (with three or more members of the Council), and business of the City must be discussed. Mr. Baker explained that the Mayor has the authority to call a Council meeting. This is unique to Tooele City - it is the only City in the state where the Mayor has authority to do that, because of the City Charter. If one or two Council members want a meeting, but the Chairperson doesn't, there cannot be a meeting. Mr. Baker gave some examples of scenarios and whether they could be considered a meeting or not a meeting.

Mr. Baker stated that he appreciated working with six elected officials that care about what the law says. He also expressed appreciation for the fact that this Council can work together, even when they have differing opinions.

Mr. Baker cautioned that electronic messages are public and discoverable under GRAMA. Mr. Baker went on to say that the Council can communicate electronically all they want, until it could be considered deliberation, which could make it a meeting of a public body. The law doesn't say that they can't text during a meeting, but Mr. Church advises that the Council not text each other, or a member of the audience, during a meeting.

Mr. Baker further cautioned that whether texting in or out of a meeting, it could still be considered as convening a meeting illegally. He said to be careful when texting each other and try to keep texts as informational only, and to not elicit responses from other Council members.

- Resolution 2017-05 A Resolution of the Tooele City Council Appointing Jeff Hammer to the Administrative Control Board of the North Tooele City Special Service District
Presented by Roger Baker

Mr. Baker stated that there are currently two vacancies on the Administrative Board of the North Tooele City Special Service District (NTCSSD), with the resignation of two members. The board suggested Jeff Hammer fill one of the vacancies. The other position would still be vacant.

Chairwoman Winn said that she met with the NTCSSD at their meeting last night. Jeff Hammer was there and was excited about being on the board. Chairwoman Winn told Mr. Hammer that this appointment would be on the agenda for tonight's meeting. Mr. Hammer was called out of town, so he will not be present.

Mr. Baker reminded the Council that even though there is an administrative board, it is the Council's district, with its administration delegated to the board, and the Council instructs the

board on how they would like things, rather than the board instructing the Council. Mr. Baker stated that historically, the City has allowed the district to propose names for appointment to the board.

- Acceptance of Public Improvements
Presented by Roger Baker

Mr. Baker stated that this is a small issue that raises big issues. The acceptance of public improvements is a small administrative act that the Council performs. The larger issue that it raises is the separation of powers - legislative vs. executive. Under the City Charter, City Code, and state law, the Mayor and staff run the administration of the City. The Mayor acts as the Chief Executive Officer (CEO), as stated in the Charter. The Council performs equally important, but different roles of legislative government. The acceptance of public improvements is, by its nature, an administrative function that should be performed by the Mayor. City staff is recommending this function be transferred from the legislative to the administrative body. Councilman Wardle stated that he felt that the checks and balances needed to stay in place. Councilman Wardle said that he was comfortable with the team that is currently in place, but the team can change over time. He said he struggled with moving it to an administrative function. Councilman Pratt agreed with Councilman Wardle. Councilman Pratt stated that he felt responsibility there, and that the City has been burned in the past. Councilman Wardle said that he felt it was important to have more than one set of eyes or one set of approval for the safety of the City and the Mayor.

Mr. Baker said that as a counterpoint, it is not the legislature's role to make sure the CEO and staff are competent and are fulfilling their administrative roles; it is the public's role to do that, through the democratic process. If the public is dissatisfied with the competency of the administration, they get to tell the Mayor and staff every four years. Councilman Wardle said that the public has responded in the form of a jury. Councilman Wardle went on to say that this was a major question in the [Tooele Associates] trial. There were policies and procedures that were not followed and called in to question. This Council now has to take care of that settlement. Councilman Wardle said that he wouldn't support taking this out of that realm, knowing that processes were not followed in the past. Mr. Baker stated that it was not the fault of the Council because they didn't ever accept the public improvements, because they were never completed. It was the fault of lower level employees that signed documents that should not have been signed. Councilman Wardle felt that this level of check and balance should remain in balance and the integrity of that system stay the way it is.

Chairwoman Winn said that she was not here during the lawsuit and she hasn't thought of it that way. When there is a staff member standing in front of her, telling her that improvements were done, she bases her decision on what the staff member is telling her. Chairwoman Winn said that she is not able to go out and look at the improvement, so she believes and has the faith in staff that it has been done. If the staff member is not doing their job correctly, it will fall back on someone.

Councilman Wardle said that staff and the public works department have done a phenomenal job on this. This Mayor was not the Mayor at the time of the lawsuit. If the City has a Community

Development Director or Mayor that is not attentive, then there will be issues similar to those in the lawsuit.

Councilman McCall said that although he was not part of the City Council at the time of the lawsuit, he was part of the City. Based on the way it happened, and things that he heard, he believes that some city employees may have been enticed to do what they did. They were told not to sign the documents, but they were enticed to sign them anyway. Some people are enticed to do things that they wouldn't normally do. Councilman McCall went on to say that the Mayor at that time didn't catch it, or caught it and didn't care. He said he didn't have a problem with continuing as they are currently doing it. He said the Council is going to rely on Mr. Hansen's or Mr. Bolser's say on whether the improvements were done the way it was supposed to be done. There was a method behind all of that.

Councilman Wardle said that the way that Mr. Hansen and Mr. Bolser do the approval process, they always have pictures so the Council is able to see the improvements. There are five people knowing, in addition to the mayor.

Councilman Pratt stated that he greatly appreciated the knowledge and expertise provided by the staff. He said that the Mayor has incredible staff. In all these situations, all the information that has been needed has been given to them. All questions are immediately answered. Because of past bruises, he felt that the situation should continue the way it is for the safety and security of the City. His theory was that the more support the Council can give the Mayor and staff, the better working relationship there will be, and the better the outcome.

Councilman Pruden said that Council relies on the expertise of the staff, so in a lot of incidences, the Council rubber stamps decisions made by staff because they don't have the knowledge or expertise. In giving the CEO the authority it's more critical to make sure that the staff are experts and that the Council trusts them. He felt that the change may save a step and make efficiency better. He said that the Council was basically relying on everyone's expertise and understanding. The change would move things along because they wouldn't have to wait for the Council to convene a meeting before improvements could be approved.

Mr. Baker stated that no one, including Councilman McCall has never presented him with information about any employees having been unduly influenced or enticed (i.e., by the developer in the Tooele Associates matter).

Mr. Baker thanked everyone for their discussion.

- Ordinance 2017-02 An Ordinance of Tooele City Amending Chapter 5-1 of the Tooele City Code Regarding Business Licenses for Special Events Presented by Michelle Pitt

Ms. Pitt stated that this proposed Ordinance change was regarding business licensing for special events. City staff would like to allow the sponsoring organization to obtain the business license for the event, and allow the other businesses conducting business at that event to fall under that license. Thus, not every vendor would have to obtain their own individual license.

For example, during the Tooele Arts Festival, the arts festival would apply for the business license. Once the business license is approved, the arts festival would then sign up vendors for their event – rather than require each vendor at the arts festival to obtain their own license, and pay a booth fee.

The wording in the ordinance would be similar to the ordinance already in place for park concession licensing.

- Rezone Proposal at Approximately 500 East 2400 North
Presented by Jim Bolser

Mr. Bolser stated that this property is one parcel that has a roadway cutting through the middle of it, north and south. The proposal was initially to rezone the entire thing, but the applicant is now asking to only rezone a portion. The zoning is currently General Commercial (GC). If the Council is interested in the rezone, the City would have to change the General Plan as well. The proposal is to rezone east of the right of way to an HDR zone to do some multi-family development. The project would be a mixture of townhomes and apartments. Mr. Bolser showed images to the Council of the proposed rezone.

Mr. Bolser explained that the intent of this proposal was to bring it to the Council before it gets too far down the road, with design and application, to see if the Council likes the idea. Councilman Pruden asked if this was south of Liddiards. Mr. Bolser answered yes, it was the area south and east of Liddiards. Councilman Pruden asked if infrastructure was available there. Mr. Hansen stated that the developers would have to upgrade some things, however, there is great sewer capacity. Chairwoman Winn felt that it fit in with the General Plan. Mr. Bolser clarified that the City would have to amend the General Plan, and it would create a solitary pocket of residential land uses on the map, but that the request was not illegal. Councilman Wardle said that he liked the concept. He said that area is not a great destination because it's a dead end. If it's done on the east end, it would hopefully bring further development near it. Ms. Custer said that the developer has letters of interest from small corporations but are waiting until the Council gives the nod. The developers are not willing to accept any offers on the commercial portion until they know that the City gives their okay. Chairwoman Winn asked if it fit in with the density requirements. Mr. Bolser answered that it did. Councilman Pruden said that it might lay the ground work to eventually punch the road all the through to Droubay. Mr. Hansen stated that the railroad made it clear that they would not approve any more railroad crossings. If the road were to punch through, it would have to be by overpass or underpass. Mr. Bolser said that currently the dirt road from the end of 2400 North has a curve in it that connects over to Droubay Road north of the existing railroad crossing so they would still have an option to tie it across, but it would not be a direct line across.

Councilman McCall asked if there was any concern about building residential that close to the fish food factory. Ms. Custer said that developers were made aware of the plant and invited them to visit the area in all different climates and times of the day.

Mr. Sant said that area had been rezoned for an industrial area because of its location with the fish food plant. He said that there are other areas in the city that can accomplish that zone.

Mr. Hansen added that this was a conceptual rendering of the layout. The developers haven't done a full evaluation of road widths. Mr. Bolser added that there are some concerns with the layout. For example, he didn't believe that the current drawing would comply with parking requirements.

Mr. Baker said that when Liddiards went in, they had to lift their sewer. He asked if this property would also have to lift the sewer. Mr. Hansen answered that most of this development would be able to be served, if they built it correctly. Mr. Hansen said that they have let the developers know that they will not support a lift station on the residential portion.

Mr. Sant asked when the site plan would be done. Mr. Hansen said that the rezone could be done concurrently. Ms. Custer added that the developers had done a lot of work on the concept plan already. City staff has met with the developers several times to get to this point but investors don't want to invest any more in engineering until they know the City likes the idea. Councilman McCall again voiced concern with the fish food plant. He said it would disappoint him if they built it, and then the City gets complaints about the smell.

- Mandatory Sewer Connections
Presented by Jim Bolser

Mr. Baker stated that in June of 2015, City staff brought to the council an Ordinance that enacted a pretreatment regulation required by the EPA. The City engaged a consultant to help write the pretreatment ordinance. At the same time the City overhauled the chapters that had to do with sewer. In that process, the City inadvertently left out a portion that needs to be reinstated and updated. If a house or building is built within 300 feet of a sewer line, the proposed ordinance diminishes the number of septic tanks that you have for homes or businesses when there is a sewer system available. Mr. Baker stated that City staff would like the language put back in place. Mr. Bolser drafted the legislative language and Mr. Baker felt it was better than the language in place before. Mr. Bolser said that when looking at this language, it may seem to be written as a very hard line because there aren't any outs to it. He asked the Council if they wanted an out. He recommended that they don't offer outs because it would be hard to decide what sort of an out to include. He went on to say that finding criteria that was not subjective is hard to do. He added that a reason for such an ordinance and to have a hard line in it is that it has been documented in this valley and elsewhere that infiltration from septic tanks are affecting ground water creating a public health concern. Councilman Pruden stated that if loopholes are included, they tend to bite us later. Mayor Dunlavy stated that the County is running out of septic tank permits. Now the County is hustling to provide sewer. Councilman Wardle asked how much it was to connect to sewer. The city is only giving people 90 days to connect and it may cause a hardship. If it's not new construction, and someone has a septic tank, they may not have the money to connect before fines for daily noncompliance is assessed. He asked how the City was going to handle those situations. Mr. Bolser said that to address existing septic tanks, if they have a failure, they don't have 90 days anyway. They are either out of their home because they don't have sewer services, or they have to make a connection. For new businesses, or new

residential, there won't be a choice. This Ordinance will come in to play, with a septic failure. Mr. Bolser went on to say that the cost is hard to answer because it depended on how deep, how far away from the property, etc. An estimate would be a couple of thousand dollars. Councilman Wardle asked where the Ordinance specifies that it is only on a failure basis.

Mr. Sant suggested that the City apply for CDBG money. He said that this might be an excellent use of the CDBG grant. Homes could be identified that are on septic and if they meet the CDBG criteria, they might be able to receive grant money to connect to sewer. The City would need to apply for the grant, but it could take care of a lot of those homes to connect.

Mr. Baker stated that the Ordinance, as drafted, doesn't say they have 90 days from the day that the Ordinance is enacted, it's 90 days from when they get a notice from the City. If there is some reason to be sympathetic to a resident, they can simply not issue a notice.

- Legislative Update
Presented by Randy Sant

Mr. Sant stated that there are 153 bills already done, 88 in the senate. The session starts Monday and ends March 9th. Local official's day is next Wednesday, at 11:00 a.m., with a meeting at the Salt Palace, then lunch at noon.

The City is working with Doug Sagers on:
Appropriation for a feasibility study for the Pony Express State Park.
Legislature is requiring 125% of all cities for state incentives, and they have to meet a salary minimum requirement. The City needs to have a competitive advantage. He would like to see legislation diminishing that amount to 110%.

Mr. Sant said that Midvalley Highway funding is not guaranteed, even though the paper said it was. There will be extreme competition for that money.

Mr. Sant said there are some Bills to watch:

- Land use bills
- Law enforcement
- Service Districts
- Business Licensing for home occupations
- Funding
- Transportation
- Economic Development
- Unfounded mandates
- Limit or Reduce our local controls

4. Close Meeting to Discuss Litigation, and Property Acquisition

Councilman Pratt moved to close the meeting. Councilman Pruden seconded the motion. The vote was as follows: Councilman McCall "Aye," Councilman Wardle "Aye," Councilman Pratt "Aye," Councilman Pruden "Aye," and Chairwoman Winn "Aye."

Those in attendance during the closed session were: Glenn Caldwell, Roger Baker, Jim Bolser, Mayor Patrick Dunlavy, Michelle Pitt, Randy Sant, Brian Roth, Paul Hansen, Councilman McCall, Councilman Wardle, Councilman Pruden, Councilman Pratt, and Chairwoman Winn.

The meeting closed at 6:14 p.m.

No minutes were taken on these items.

5. Adjourn

Councilman Pruden moved to adjourn the meeting. Councilman Wardle seconded the motion. The vote was as follows: Councilman McCall “Aye,” Councilman Wardle “Aye,” Councilman Pruden “Aye,” Councilman Pratt “Aye,” and Chairwoman Winn “Aye.”

The meeting adjourned at 6:53 p.m.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

Approved this 1st day of February, 2017

Debra E. Winn, Tooele City Council Chair