

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

Date: Wednesday, March 7, 2018
Time: 5:00 p.m.
Place: Tooele City Hall, Large Conference Room
90 North Main St., Tooele, Utah

City Council Members Present:

Chairman Steve Pruden
Dave McCall
Scott Wardle
Brad Pratt
Melodi Gochis

City Employees Present:

Mayor Debbie Winn
Glenn Caldwell, Finance Director
Michelle Pitt, Recorder
Matthew Johnson, Assistant City Attorney
Jim Bolser, Community Development and Public Works 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

Chairman Pruden called the meeting to order at 5:00 p.m.

2. Roll Call

Steve Pruden, Present
Dave McCall, Present
Scott Wardle, Present
Brad Pratt, Present
Melodi Gochis, Present

3. Discussion:

- City Charter and RDA Bylaws Training and Discussion
Presented by Dave Church

Mr. Church said that the last year the City updated the Charter was about 6-7 years ago and he came to talk with the Council about the Charter at that time. He said that Tooele City is special because it's the only Charter City out of 248 cities and towns in the state. The last City that had a Charter was Ogden, and they gave it up a couple of years ago. The constitution allows municipalities to be created in one of two ways: by the virtue of the municipal code listed in the State code, and the other is to adopt a Charter.

Mr. Church further explained that under the Charter, residents can create any form of government they want. The legislature has limited the Charter in some respects because the legislature has the right to define general laws of what the Council and Mayor can do. Mr. Church went on to say that the Charter refers often to the state laws. The Charter can broaden who does what, and how it is done. The Charter is similar to a Mayor/Council or strong Mayor form of government. Mr. Church said that in this form of government, conflicts can arise if there is not a good relationship between the Council and Mayor. The Charter separates executive power from legislative power, similar to state laws. The other forms of government available don't separate the powers. In the other forms of government, there is a concept of a governing body, or government by a committee. The Charter separates the power - there is the Mayor side, and the Council side - subject to the Charter.

Mr. Church explained that the Charter doesn't define the powers - it just names those powers. The Courts have defined legislative power as the power to make policy, and executive power as the power to carry out those policies and appoint employees to carry out policy. He stated further that some issues can be blurry, but emphasized that the first duty of Mayor is to see that the policy adopted by the Council is carried out. The Council's duty is to set policy, not necessarily to carry out policy.

Mr. Church indicated that the Charter says that the Mayor gets to appoint department heads, but the Council gets to consent to them. If the Mayor wants to fire a department head, she has to come to the Council for permission. In the Mayor/Council form, the Mayor doesn't have to ask the Council permission to fire a department head. Department heads report to the Mayor, and run their departments through the Mayor. Chairman Pruden pointed out that Recorders are the exception - the Council appoints their own Recorder. Mr. Church added that the Charter allows the Council to have their own staff.

Mr. Church listed the Mayor's additional powers of being able to veto all ordinances and resolutions, but she doesn't have the power to veto appropriations. Mr. Church stated that the individual Council members are legislators and get to set policy as a group, but as an individual it can be frustrating because it's only one vote. Mr. Church added that it can be frustrating for Mayors because Mayors may want to make policy, but the Mayor's number one duty is to execute the policy by the Council. If the Council hasn't made policy, the Mayor can fill the void, but once the Council has made the policy, the Mayor's duty is to fulfill the policy. The staff, within the budget adopted by the Council, is to execute the policy by the Council. They can't ignore or not carry out the policy. Council Member Wardle asked for clarification regarding this executive action. He asked if the Mayor only makes a policy when there is a void in policy. Mr. Church indicated that it would be similar to an executive order, and gave an

example of a Mayor running a police department who felt it wasn't a good policy to be so aggressive on speeders. That Mayor instructs the police chief to only give tickets for a bit more than 10 over the speed limit. Mr. Church said that without any other comments or instruction from the Council, the Mayor could do that. If the Council heard about it, and decided to, they could adopt a policy and change it.

Councilman Pruden said that government works best when the Council and the Mayor all communicate and work together and collaborate. Mr. Church agreed that communication is the key. He said that if the Council clearly outlined their policy, the Mayor would carry it out. If the Council doesn't clearly clarify, then the Mayor can't carry it out. He said that it was best to treat it like small government, even though there are branches of government.

Mr. Church then discussed the RDA Bylaws. Mr. Church said that there were some issues of what the Mayor's role is on the RDA board. There used to be a gap in state law about the Mayor's role, but state law now says that the governing law of an agency is the legislative body. The Mayor serves as the executive director created by the agency. A Charter City was not included in State Code 10-3B-102 but that issue was resolved with the adoption of Resolution 98-05. The RDA should rely on the Resolution and treat it as written. The RDA Board is comprised of the City Council members. The Mayor has a role on the RDA Board as set by Resolution. The Mayor's role is intended to be more like a board of directors, and treated as a business enterprise. The Mayor has no veto, and no power of legislation. It's a decision power of business type decisions.

Mr. Sant said that the reason for the Resolution in 1998, was that they knew Tooele was the only Charter City in the state. Mr. Church said that it used to be possible for the Council to leave the Mayor out of the RDA process. This was the problem for the strong Mayor form of government and is what the state law tried to prevent. Mr. Sant added that the Bylaws govern the agency. Every RDA adopts Bylaws, and if they want to do something different from the Bylaws, they need to amend the Bylaws. Mr. Church added that the RDA can't cut out the Mayor completely.

Council Member Wardle asked about the open meetings laws and how it pertained to RDA Board elections. The Bylaws state that elections have to be done in an annual meeting. He asked if the elections needed to be titled as an annual meeting, or if they could be done during any meeting. Mr. Church said that it is required in the Bylaws to at least hold one meeting per year, which is an annual meeting. The RDA can meet as often as they want, in annual meetings, regular meetings, and special meetings, but it's at the annual meeting where officers are elected. Council Member Wardle said that they will start titling it as an annual meeting.

Chairman Pruden asked if there was anything with the Charter that Mr. Church would suggest be changed. Mr. Church said no – it is too hard to change the Charter. He added that if the City was ever going to change the Charter again, they may want to add some detail. He added that the City may want to add a line item veto for the Mayor. This has shown to be helpful to avoid conflicts. That way the Mayor wouldn't have to veto the whole budget. Relative powers and duties could use a little more definition. Chairman Pruden said that when it was last modified, Council Member Mike Johnson wrote most of it. One of the things they took out of the Charter,

was that all police officers had to live in the City limits. They felt it was impractical. Mr. Church agreed that it was impractical.

- Resolution 2018-16 A Resolution of the Tooele City Council Approving an Agreement with Tooele County for Dispatch Service for Fiscal Year 2017-2018 Presented by Mayor Debbie Winn

Mayor Winn indicated that a couple of weeks ago the Council discussed dispatch fees. At that time, the Council asked for the 2017-2018 charges to be brought back to them. The Mayor said that she discussed this Agreement with Council Members Pratt and Wardle. The amount listed in the Agreement was a number that was agreed to in August, so this amount will be brought before the Council for approval. Council Member Wardle asked if the County has accepted the redlined Agreement, as indicated in the attachment. Mr. Johnson answered that the County hasn't agreed to it yet. The redlined Agreement has been mailed to the County, but they have not responded. He suggested that the Council approve the Resolution tonight, then make changes if necessary later.

- Copper Canyon Phase 4 – Final Plat Request Presented by Jim Bolser

Mr. Bolser said that the Council is familiar with the Copper Canyon PUD development. This is Phase 4, but actually the 6th to be constructed. Chairman Pruden said that he loves the way this developer builds out their phases, completes them, and then moves on to the next phase. He added that they build a good product.

- Legacy Apartments Subdivision – Preliminary Plan Request Presented by Jim Bolser

AND

- Legacy Apartments Subdivision – Final Plat Request Presented by Jim Bolser

Mr. Bolser stated that this project is the one that was recently rezoned on 100 East, south of Scholar Academy. There are two parcels, and the developer will combine them in to one. Last time this was brought before the Council during the rezoning process, there was a stipulation by the Council for an east/west access and this plat dedicates that right-of-way also. Mr. Bolser added that the developers changed their product and brought a plan for an apartment project instead of town homes. The plan shows 132 units. Chairman Pruden asked if it would help the City's number of low to moderate income housing. Mr. Bolser said that it may have the opportunity to increase our level of low to moderate income housing although our community has not traditionally had concerns with meeting our obligation for such housing.

Council Member Gochis asked if there was a requirement for improvements such as sidewalk, curb and gutter. Mr. Bolser answered that every development has those requirements. She asked if the traffic pattern would affect the school. Mr. Bolser said that it would not. Mr. Hansen

added that the Scholar Academy is going under plan review, and their site modifications will result in more on-property queuing for traffic. Council Member McCall asked if this would fix the entrance way to 1000 North. Mr. Bolser said that it would not. He added that the City can't exact that improvement. Mr. Bolser went on to say that this needed to be addressed, but that they can't impose that requirement on this project. Mr. Hansen said that Scholar Academy would be doing some striping, but would not change the road or widen it. They would, however, create a left turn lane and a right turn lane to go east.

Mr. Bolser added that the Legacy Apartments Subdivision would still need to go through a pre-construction meeting, but that they are ready to begin the project at any time. Ms. Custer said that this project would be built in 12 phases, with the clubhouse building as Phase 12.

- Resolution 2018-19 A Resolution of the Tooele City Council Authorizing the Mayor to Sign a Contract with Broken Arrow, Incorporated for the 100 East Storm Drain Project – Phase II (Vine Street to 400 North)
Presented by Paul Hansen

Mr. Hansen stated that this project is to be in conformance with the Tooele City Storm Water Master Plan. The City put this project out to bid and received four bids. The criteria selection was changed for this bid process to allow scoring for project approach and experience. The City has traditionally based their award on the lowest responsive, responsible bidder, but this time these additional criteria was added. All four bidders have done work for the City in the past. Broken Arrow was the lowest bid at \$817,000, followed by Silver Spur. The last two bids were about \$200,000 higher than the first two bids. In talking with the highest bidders, they indicated that they bid high because they were so busy that they couldn't begin this project for several months. Mr. Hansen went on to say that contractors this year haven't had to shut down all winter because of the mild weather, so they're not waiting for projects to come in. Because of that, there's a substantive increase in the amounts on contracts coming in. Mr. Hansen said that the best available information is always last year's bid, but the market has changed. Chairman Pruden asked if Broken Arrow's bid was reasonable. Mr. Hansen said that from his review, it was. Mr. Hansen indicated that the City has had prior experience with Broken Arrow on both project approach and experience. Mr. Hansen cited the 100 East Phase 1 project, as an example of prior experience with both of them. He and staff suggest that it would be in the best interest of the City to award the bid to Broken Arrow. Mr. Hansen said that Staff is also requesting an additional 5% contingency fee for unseen expenses. He said that the City has not gone over that 5%, except once, and then it was brought back to the Council. There is \$1 million appropriated to this project.

Mr. Hansen stated that these storm drain projects have reduced flooding in the City dramatically. This project will begin the end of April to reduce inconvenience to residents with potential storm runoff in the Spring.

4. Close Meeting to Discuss Litigation and Property Acquisition

Council Member Gochis moved to close the meeting. Council Member McCall seconded the motion. The vote was as follows: Council Member Wardle "Aye," Council Member McCall

“Aye,” Council Member Pratt “Aye,” Council Member Gochis “Aye,” and Chairman Pruden “Aye.”

Those in attendance during the closed session were: Mayor Debbie Winn, Glenn Caldwell, Matthew Johnson, Paul Hansen, Michelle Pitt, Jim Bolser, Randy Sant, Council Member Wardle, Council Member Pratt, Council Member McCall, Council Member Gochis, and Chairman Pruden.

The meeting closed at 5:57 p.m.

No minutes were taken on these items.

Motion to Reopen the Meeting

Council Member Pratt moved to reopen the meeting. Council Member McCall seconded the motion. The vote was as follows: Council Member Wardle “Aye,” Council Member McCall “Aye,” Council Member Pratt “Aye,” Council Member Gochis “Aye,” and Chairman Pruden “Aye.”

5. Adjourn

Council Member Wardle moved to adjourn the meeting. Council Member Pratt seconded the motion. The vote was as follows: Council Member Wardle “Aye,” Council Member McCall “Aye,” Council Member Pratt “Aye,” Council Member Gochis “Aye,” and Chairman Pruden “Aye.”

The meeting adjourned at 6:33 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 21st day of March, 2018

Steve Pruden, Tooele City Council Chair