

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

Date: Wednesday, August 16, 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  
Brad Pratt  
Steve Pruden

**City Employees Present:**

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

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  
Brad Pratt, Present  
Steve Pruden, Present

**3. Discussion:**

- Ordinance on In-Fill Lots

Chairwoman Winn stated that the City had changed this Ordinance to make it so that property owners would be able to develop infill lots in the City. Chairwoman Winn explained that Mr. and Mrs. Bevan would like to purchase a piece of property, but the City's Ordinance was making it difficult to develop because of the required improvements. The Council discussed this issue about a month ago. Mr. Bevan and Mr. Vario were in attendance at tonight's meeting and indicated they had met with the Mayor, and the Mayor agreed to put this on the work session agenda for discussion.

Mr. Bevan stated that Mr. Vario owns a lot which is for sale. Mr. Bevan is interested in buying it. He called building and zoning department to discuss what would be required of him if he tried to build on this lot. Mr. Jorgensen spelled out all of the things he would be required to improve, such as the front of the lot with curb, gutter and paved road, and to also improve the alley. Mr. Bevan explained that the rest of the alley does not have curb and gutter. The idea of paving the road, at the required width, and putting in curb and gutter would cause some neighbors to step right out on the road, and the road would go through all kinds of structures. Mr. Bevan went on to say that he discussed this with the Mayor and the Mayor threw out some ideas of how to overcome some of the challenges. Mr. Bevan explained that he then asked Mr. Jorgensen if there was a possible work around. Mr. Jorgensen said that there was not. He asked if he could appeal to a governing body to get an exception and was told the only option was to approach the Council. Mr. Bevan stated that if he put in curb and gutter, it might cause flooding to the neighboring properties. Mr. Bevan said that he knew of exceptions to these requirements around town. Mr. Bevan indicated that he sent all the Council an email and photographs.

Mr. Pat Vario stated that he was just trying to figure out how to get past these requirements. He felt there were other incidents in town where people had built without putting in curb and gutter. Mr. Vario stated that he has a piece of property that is useless because it's too expensive to put in all required improvements. Mrs. Vario stated that Mr. Bevan is the third person that has approached them about buying the lot, but they can't sell it because of all of the restrictions. If a house is built, it would face 400 South, not the alley. Councilman Wardle asked if the drive would be on 400 South, with no entrance off the alley. Mr. Bevan answered that the drive would be on 400 South.

Chairwoman Winn said that since she wasn't an engineer, she didn't know how a street has to be made. She said this would need to be researched by the staff so that it could be designed so that it didn't flood the neighborhood.

Councilman Wardle asked if the City had some type of agreement on McKellar. The Mayor said that a deferral was allowed on McKellar. Mr. Baker clarified that the Ordinance was changed after McKellar, and now the City cannot allow a deferral for a primary structure. Mr. Bevan asked how Mr. Gowans got an exception for the veterinary building, which has access to the alley. Mr. Bolser answered that he got an exception because he was a commercial business. Commercial businesses are allowed deferrals. The improvements that Mr. Gowans made were not on a primary structure, but were on an accessory structure.

Councilman Wardle asked if the City allowed different standards for infill lots. Mr. Bolser said that there were different set back standards on infill lots, but not on public improvements. Mr. Bolser clarified that these are not alleys – they are roads. Mr. Bolser added that alleys have a different codification.

Chairwoman Winn asked Mr. Baker to explain the deferral that used to be in place. Mr. Baker stated that he would have to research the issue because it was changed about a decade ago. Mr. Baker said that the current Ordinance doesn't allow a deferral for public improvements for a primary structure such as a house. The Ordinance used to not allow a deferral if the value of the improvement exceeded \$20,000, but the Council eliminated that requirement.

Mayor Dunlavy explained that the last action the Council took on this Ordinance was that improvements needed to be made on both sides of the property. The Council took that out, so that now a builder is not responsible to do both sides, just the side that is being developed.

Councilman Wardle asked if an Ordinance could allow for a participation agreement. Mr. Bolser stated that oftentimes those deferral agreements do not cash in, for a number of reasons. One reason they don't cash in is because property owners change over time. He said that in his experience, the money is never produced. Deferral agreements often give a short window of time following notice from the City that property owners would have to produce thousands of dollars, sometimes tens of thousands of dollars, for their portion of the improvements and it rarely happens. Mr. Baker stated that the only enforceable mechanism is to require the property owner to waive a protest to a special improvement district. The City would have to find enough money to put in the improvements, build them with City funds, and impose a special improvement district assessment that would require all the property owners to pay the City back their portion over a ten year period. The City would have to be able to upfront the money, have the ability to not be reimbursed for a period of ten years, and then have property owners waive the protest of a special improvement district.

Councilman Wardle asked why that couldn't be written in to a deferral agreement. The City could offer it to be paid in a lump sum or added to their City water bill over ten years. Mr. Baker said that allowing a property owner to pay in escrow over time was something that hadn't been looked at before. Councilman Wardle said that he wasn't suggesting escrow, but asked why terms couldn't be clarified if the owner said they will participate, and then specify the level that they would participate, with a time frame specified.

Mr. Baker said that the City would have to record a lien and require the owner to pay at some point. That process is frowned upon by a lot of people because it's a lien on property. If it was a promise, or contractual agreement, it is difficult to force property owners to pay, and may end up in a future lawsuit.

Councilman McCall stated this area is a great neighborhood. He said that Mr. Bevan was right about those properties that are right next to the road. He felt that whatever was done on that road would disrupt the current owners. The City would have to take part of their property, and it would be a nightmare to fix. Mr. Baker said that there's not one answer that can be applied to all those properties in the "alley."

Councilman Wardle asked if there were other properties that were corner lots, and had an alleyway, such as the area at 200 South, and if so, did the City require curb and gutter there. Mr. Bolser stated that he didn't know. Mayor Dunlavy said that there was curb and gutter at the church parking lot at 200 South, but not all the way down the street. Councilman Wardle asked how many lots were on alleyway corners. Mayor Dunlavy said there were quite a few.

Chairwoman Winn asked what the trigger was to cause curb and gutter to be put in, and have all the property owners put in those improvements. Mr. Bolser said that a number of things could trigger it, such as traffic flow or the need for a storm drain.

Mayor Dunlavy said that the back part of the lots are sometimes split; people tear down their homes and split the properties, so it was hard to make a rule that fit every property.

Mr. Bolser said that there were ways that could be worked out to not impact neighboring properties. Mr. Baker added that the City needed to start somewhere. He said that on Vine Street the City required curb, gutter and sidewalk one lot at a time, and eventually portions of it all filled in, with really nice sections. Mr. Baker indicated that he could provide the Ordinances and minutes to allow the Council to see the history of what had been done over time. The Council felt that would be very helpful.

Councilman Pruden asked if staff could provide possible solutions that would be less impactful. He added that the infrastructure is already there, so new sewer lines were not necessary. If the City wants the goal of not continuing to grow out of the City, but to use the lots already in the City, then there should be some variables that the Council can work with. Councilman Pruden went on to say that developers impact the road, and impact the system that already exists. The City will try to find something that is fair to developers, and fair to the City too.

Mayor Dunlavy suggested that the staff propose some ideas, and the Council suggest ideas as well, and then merge the two. The Mayor said that the Bevans have a time line and would like an answer. This could be discussed again at the next work session.

Councilman Wardle thought that Brigham City may have had a similar issue. Mr. Bolser said that he would do some research to see what other cities have had this issue and what they did about it. Mr. Baker said that the cleanest proposal over the last two decades has been to have property owners sign a waiver to protest a special improvement district, the City fronts the money, builds the infrastructure, and property owners pay the City back over 10 years.

Mr. Bevan asked why a commercial entity is qualified to receive a deferral when they bring more traffic. Mr. Bolser answered that residential building permits generally have a net cost to the City, and commercial permits generally have a net benefit through the return of funds through increased tax base. Mr. Baker added that they also bring in additional employment opportunities. Councilman Wardle stated that the cost of improvement to the City is less with infill, versus new construction. Mr. Bolser said that that was true in some infrastructure circumstances.

Chairwoman Winn asked the difference between a road and an alley. Mr. Bolser said that alleys are considered roads. They have never been officially called alleys, yet a lot of people call them that. The Mayor added that Road C funds from the state is considered by the number of roads a City has, and that is one reason they're called roads and not alleys.

Councilman Pratt said that the "alleys" at one time were back entrances to people's barns and their animals. Over time, people have subdivided their lots, from a double-deep lot, causing a road that was once a back entrance. Homes have been built. Thus the usage of the back approach has been changed. Councilman Pratt went on to say that there are areas like this dotted throughout the City. He felt that this matter didn't just impact this corner, but could impact the entire road.

Chairwoman Winn asked if the Ordinance had to treat all roads the same, or if the City could specify areas to be different. Mr. Baker said that there was a legal aspect, and a policy aspect to Chairwoman Winn's question. Mr. Baker addressed the legal aspect, and said that Mr. Bolser could address the policy aspect. The legal aspect allows the City to make a law for this street because of these unique circumstances. Mr. Bolser stated that for the policy side, his recommendation was to create special circumstances as little as possible. The City has an infill Ordinance that is tied to a geographic definition. Mr. Bolser added that the only alleys in town were on the east side of 1<sup>st</sup> Street, in the old Block A that are largely undeveloped and used for utilities, and east of Broadway around Elm and Date Street. Those streets are specifically deeded alleys, and deeded differently than other roads.

Councilman McCall said that there is a lot of horse property in that area and it might be hard to require them to put in curb and gutter, with horses.

Councilman Pruden asked Mr. Bevan what he felt would be fair for this lot. Mr. Bevan said that he hoped the Council would require that when the entire block was upgraded, with curb, gutter, and sidewalk, he would be required to pay for it at that point. Councilman Pruden asked what Mr. Bevan thought was fair to the neighbors when he developed that lot, and also be fair to the City. Mr. Bevan answered that he fully expected that the front of the property would need to be improved, but not the east side.

Chairwoman Winn thanked everyone for coming to the meeting. She stated that the staff and Council would talk about it and try to come up with some options. The Mayor added that staff would work on it, to come up with something that made sense. He asked the Council to come up with their own ideas as well.

Councilman Pratt asked if the Bevans would be required to put in a ramp on 400 South, and if they would also need to put in a ramp so that it was ADA. Mr. Bolser answered in the affirmative.

- Resolution 2017-30 A Resolution of the Tooele City Council Authorizing the Mayor to Sign a Contract with Paul Hansen Associates, LLC for City Engineering Services  
Presented by Mayor Dunlavy

The Mayor stated that Mr. Hansen's contract expired last month. Mr. Hansen hadn't asked for any increases for four years although he had an option of requesting a 5% increase every year. Mayor Dunlavy added that the City could not get a better person to do the job. Mr. Hansen is a true asset. Mayor Dunlavy asked the Council to renew Mr. Hansen's contract for four years, and increase the amount to \$110/hour, which is a 5% increase.

Chairwoman Winn added that this contract would be voted on in the next meeting.

- Resolution 2017-34 A Resolution of the Tooele City Council Approving a Lease-Purchase Agreement with TCF Equipment Finance for the Purchase of a Toro Greenmaster Triflex Hybrid 3320  
Presented by Brian Roth

Mr. Roth explained that traditionally in the golf industry greens mowers are replaced every 5-7 years. The City's greens mowers are about 11-12 years old. At the end of last year, and the beginning of this year, the golf course has had trouble with the mowers. Mr. Roth stated the importance of taking great care of the golf course's greens. This contract is a lease with payments over three years. The old mower will be converted to a tee mower. Mr. Roth stated that he is trying to get rid of the mowers that are 10-12 years old.

- Resolution 2017-35 A Resolution of the Tooele City Council Appointing Travis Brady to the Administrative Control Board of the North Tooele City Special Service District  
Presented by Roger Baker

Mr. Baker stated that Mr. Brady has offered to serve on the board, and the existing board has unanimously recommended he be appointed.

- Ordinance 2017-19 An Ordinance of Tooele City Amending Tooele City Code Chapter 5-6 Regarding Home Occupations  
Presented by Roger Baker

Mr. Baker stated that this matter has been brought back to the Council, from a couple of meetings ago. There was a new state law that exempts home occupations from a licensing fee, as long as they cause no impact. Mr. Baker added that this has been a difficult law to administer. The Ordinance requires that home occupations be exempt from licensing fees if they cause no impact over and above what a home would. It also clarifies that it is a class B misdemeanor if violated. Mr. Baker stated that the Recorder's Office will have to determine whether there are any types of home occupations that create impacts and will have to articulate which home occupations could cause an impact, in consultation with his office. The City will start with the assumption that there are none. Councilman Pruden stated that they still have to obtain a business license.

Councilman Wardle indicated that he had tried to get a hold of Jake regarding this new law, but Jake had not returned his calls. Councilman Wardle said that the whole thing was problematic.

He is hoping that the state will change the law. Mayor Dunlavy added that this is an extremely poor piece of legislation. He said that every City will have their own way of trying to apply this law.

Councilman Pruden said that there are certain types of home occupations that cause an impact. He knew of an area where a home owner ran a Montessori school out of their home. During drop off and pick up it caused an impact on the neighborhood because of the increased traffic. Mr. Baker stated that there were certain businesses that weren't allowed to be home occupations because of the impact they cause. Mr. Baker added that the City will lose about \$20,000 in revenue because of the new law.

Chairwoman Winn said that unless there were any other issues, this Ordinance would be on the work session and business agenda in September.

- Resolution 2017-29 A Resolution of the Tooele City Council Approving an Easement for Rocky Mountain Power for an Electric Switch Gear Box at 900 West 894 South  
Presented by Paul Hansen

Mr. Hansen indicated that this matter had been discussed with the Council before. He explained that the City owns property at 900 West 894 South, where there is a below ground water storage tank. The lot has a 10 foot easement on both corners, which is already recorded as part of the Plat, and which any utility company can use for infrastructure. The power company is requesting an additional 6 feet and an additional 7 1/2 feet, for a total of 17 1/2 x 16 feet to put in a new switch gear box to help provide services and meet demand. The box is approximately 4 feet tall and 6' x 6'. The power company would remove the City's fence in the corner, and put in a new fence. Mr. Hansen went on to say that there would not be access to the City's property. The access to the gear box would be from the 900 West side. There is some existing infrastructure on the south side on the adjacent property that would be taken out. Mr. Hansen stated that this is near the southeast corner of the water tank. Councilman Wardle asked if this would be screened. Mr. Hansen said no.

Councilman Pruden requested that Rocky Mountain Power talk to the homeowners in the area to apprise them of the project. Mr. Hansen indicated that they will request Rocky Mountain Power do that. He added that this project will be at no cost to the city.

Mr. Sant joined the meeting at 5:51 p.m.

- RDA Resolution 2017-06 A Resolution of the Redevelopment Agency of Tooele City, Utah, Approving an Easement for Rocky Mountain Power for a New Distribution Line Near 700 South Street

RDA Chairman Pratt introduced the item for RDA board, and turned the time over to Mr. Hansen.

Mr. Hansen stated that this was a similar type of easement, but of a different nature in that this involves an underground easement. When Tooele City and the RDA constructed Tooele Boulevard and 700 South, the City dedicated the right-of-way portion, but did not dedicate the easement. The easement dedication usually happens at the time of a subdivision plat recordation. The power company would like to install a buried power line which extends from the existing overhead lines which are located near the City's well #8, and run it east to the existing line at 700 South. At the Mayor's request, the power company has agreed to bury the utility line. The power company is requesting a 10 foot wide easement for buried utility lines and would have the ability to place utility gear boxes on corners, rather than on lots which could interfere with the development of those lots. Mr. Hansen stated that installation of the buried utility lines would be at no cost to the City. Mr. Baker added that since this would provide benefits to the City, the City Administration recommended that it was not necessary to charge the power company.

Councilman Pruden asked what the pile of pipe was on 700 South and Coleman. Mr. Hansen answered that it was for the City's waterline project.

- Vista Linda Subdivision Preliminary Plan  
Presented by Jim Bolser

Mr. Bolser stated that this is located next to the Loma Vista area. Currently there is a stretch of Droubay Road that ends just to the north of Skyline Drive. This project will extend Droubay Road by about two lots, plus a road width, and be developed in two phases on either side of the road. Mr. Bolser stated that there would be 17 lots. Mr. Bolser explained that the developers designed it within the property that they own. They will also address the road to the east as far as providing a temporary turnaround. The preliminary plan met all the planning and zoning requirements, and the Planning Commission recommended approval.

- Letter to Request Amendment to Settlement Agreement Gleneagle  
Presented by Jim Bolser

Mr. Bolser stated that a couple of months ago this item was discussed and is being brought back at the request of Bach Homes. Bach Homes would like the City to allow them to do a different type of development than what was approved in the settlement agreement. The result of the prior discussion was a lot of questions from the Council for Bach Homes. Mr. Bolser said that Bach Homes answered those questions in correspondence that was provided to the Council, along with a sheet of elevations for what Bach proposes.

Mr. Baker said that he wanted to reiterate his comments of when this was discussed before. This is not a run-of-the-mill contract that they are asking the Council to amend. This is a settlement agreement that resolved a claim they made against the City. There were concessions made by both sides. The agreement was specifically designed to accomplish a purpose. Mr. Baker went on to say that he cannot recommend the Council amend a settlement agreement providing substantial benefits on one side without receiving any benefits in return. It would alter both the agreement and the settlement that the Council entered in to. Mr. Baker told the Council, as a matter of law, it is not lawful for one side to offer benefits, but not receive any in return. It is not a legal, binding contract. He suggested the Council have the developer make an offer, with a real

quid pro quo. Councilman Wardle asked what type of suggestions Mr. Baker had. Mr. Baker said that they could offer additional open space, landscaping, architectural upgrades, and other amenities for tenants. What is being purposed is a significant increase in density.

Ms. Custer said that when she asked Bach about open space, they had included open space, but not in their development. The open space was part of another development and Bach laid claim to it.

Councilman Wardle said that when the settlement agreement was done, the City gave a lot and had to push hard to get the amenities they got. Councilman Pruden stated that Bach needed to make the development livable and attractive because there are a lot of townhomes in the area already.

Councilman Pruden asked if staff had a recommendation as to what they would like to see there. Mr. Baker recommended that the Council either say no, or make a proposal of certain things the Council would like to see. Mr. Bolser agreed, saying that he felt the City shouldn't dictate to Bach, but say that the City was not comfortable with what was proposed, and ask Bach to provide the City with some additional incentive. Chairwoman Winn asked Mr. Bolser to respond to Bach's request and ask them to make a proposal to offer something else to the City. If Bach comes back and asks what the Council is looking for, City staff could make suggestions at that time, to include open space, landscaping, architectural upgrades, amenities, and upgraded product.

#### **4. Close Meeting to Discuss Litigation and Property Acquisition**

**Councilman Pruden moved to close the meeting.** Councilman Pratt 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, Mayor Patrick Dunlavy, Roger Baker, Paul Hansen, Michelle Pitt, Brian Roth, Randy Sant, Councilman McCall, Councilman Wardle, Councilman Pratt, Councilman Pruden, and Chairwoman Winn.

The meeting closed at 6:06 p.m.

No minutes were taken on these items.

#### **5. Adjourn**

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

The meeting adjourned at 6:49 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 6th day of September, 2017

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Debra E. Winn, Tooele City Council Chair