

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

Date: Wednesday, April 3, 2019
Time: 5:00 p.m.
Place: Tooele City Hall, Large Conference Room
90 North Main St., Tooele, Utah

City Council Members Present:

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

City Employees Present:

Mayor Debbie Winn
Glenn Caldwell, Finance Director
Roger Baker, City Attorney
Michelle Pitt, Recorder
Jim Bolser, Community Development Director
Steve Evans, Public Works Director
Andrew Aagard, City Planner
Paul Hansen, City Engineer
Darwin Cook, Parks and Recreation Director
Ron Kirby, Police Chief
Randy Sant, 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:

- Resolution 2019-31 A Resolution of the Tooele City Council Approving an Agreement with Tooele County for Dispatch Services for Fiscal Year 2019-2020 Presented by Chief Ron Kirby

Chief Kirby said that the \$316,327 cost for dispatch services is actually less than it has been in the past. The County Commission determines how much of the 911 fees they include in off-setting dispatch costs. The total cost will be paid in quarterly payments.

- Resolution 2019-08 A Resolution of the Tooele City Council Approving an Interlocal Agreement for Tax Increment Participation with the Redevelopment Agency of Tooele City, Utah, (“RDA”) for the Broadway Community Development Project Area, and Authorizing the Chair to Sign the Same Presented by Mayor Debbie Winn

AND

- RDA Resolution 2019-02 A Resolution of the Redevelopment Agency of Tooele City, Utah (“RDA”) Approving an Interlocal Agreement for Tax Increment Participation with Tooele City Corporation, for the Broadway Community Development Project Area, and Authorizing the Chair to Sign the Same Presented by Mayor Debbie Winn

Mayor Winn stated that these agreements are between the City and RDA for tax increment participation in the Broadway project. The tax increment will include 75% of the City’s tax increment for years 1-10. There is a cap of \$125,000 of what the Agency will retain. Mr. Sant said that there have been changes made to the agreement, and that he would bring the amended agreement to the 7:00 meeting.

- RDA Resolution 2019-09 A Resolution of the Redevelopment Agency of Tooele City, Utah (“RDA”) Approving an Interlocal Agreement for Tax Increment Participation with Tooele County for the Broadway Community Reinvestment Project Area, and Authorizing the Executive Director to Sign the Same Presented by Mayor Debbie Winn

Mayor Winn stated that this agreement is between the RDA and the County for the Broadway Community project. She said that the County approved this agreement at their commission meeting on March 19th.

- RDA Resolution 2019-10 A Resolution of the Redevelopment Agency of Tooele City, Utah (“RDA”) Approving an Interlocal Agreement for Tax Increment Participation with Tooele County School District, for the Broadway Community Reinvestment Project Area, and Authorizing the Executive Director to Sign the Same Presented by Mayor Debbie Winn

Mayor Winn said that this agreement is between the RDA and the school district for the Broadway Community project. She added that the school district approved the agreement at their March 26th board meeting.

- RDA Resolution 2019-06 A Resolution of the Redevelopment Agency of Tooele City, Utah (“RDA”) Approving a Real Estate Contract of Purchase and Sale with the State of Utah to Reacquire a Five-Acre Parcel from the Tooele Technical College
Presented by Mayor Debbie Winn

Mayor Winn stated that a few years ago the RDA worked out an agreement with the Tooele Technical College (TTC), where the City would, with the help of funding from the State of Utah, purchase a five acre piece of property near the TTC. The RDA, the TTC, Tooele County, and Grantsville City, were going to create a Small Business Resource Center. The Small Business Resource Center has been operating out of an office in the TTC. The TTC is growing and now needs the space for other classes. They need to acquire additional property, and would like to get something closer to the TTC. The Mayor went on to say that west of the building is a piece of property that is owned by the school district. The school district is willing to sell the property and the building that is currently on the property. The TTC has asked the RDA to purchase the property back so that they can use those funds to purchase the property from the school district.

- RDA Resolution 2019-08 A Resolution of the Redevelopment Agency of Tooele City, Utah (“RDA”) Approving an Interlocal Agreement for Tax Increment Participation with Tooele County for the 1000 North Retail Community Reinvestment Project Area, and Authorizing the Executive Director to Sign the Same
Presented by Mayor Debbie Winn

Mayor Winn explained that this agreement is with RDA and Tooele County for the 1000 North retail community reinvestment project. This agreement was approved by the County Commission on March 19th. This is a 20 year agreement for 75% tax increment. The Mayor stated that as she talked with County Commission, they were supportive and understand the income that will come from the sales tax.

- RDA Resolution 2019-07 A Resolution of the Redevelopment Agency of Tooele City, Utah (“RDA”) Approving a Listing Agreement with New West Realty Group for the Sale of up to 358 Acres of RDA-Owned Property in Bauer
Presented by Roger Baker

Mr. Baker stated that the City owns 358 acres in Bauer. Mr. Baker said that he is recommending, and the Council has already approved, to sell the property, but his recommendation includes holding out a five acre parcel for potential future water facilities. This parcel could be used for a future water treatment plant, or a reservoir. They may look at shifting the parcel line to make it one piece, which would require a lot line adjustment using the County process. Mr. Baker further explained that this land was acquired when Mathew Arbshay’s Central School property foreclosed. Mr. Baker recommended retaining Mike Quarnberg’s firm

to list and sell this property. He explained that the property needs a survey and the lot line process done before a contract with Quarnberg would be brought before the Council for approval. Council Member Wardle asked if, since it's RDA property, the RDA would need to sell it to the City. Mr. Baker said that it may be able to be done by a deed exchange, rather than a sale to the City. Council Member McCall asked if easements needed to be obtained. Mr. Hansen answered that they were not needed at this time, but the City may need to address it if something was done with water at some point.

- Resolution 2019-30 A Resolution of the Tooele City Council Accepting Fencing on 2000 North Street and 400 West Street as a Public Improvement Owned by Tooele City and Maintained by the North Tooele City Special Service District Presented by Roger Baker

Mr. Baker stated that the white vinyl privacy fence along 2000 North and 400 West was built by Drew Hall and Tooele Associates by Tooele Associates' standards. It was not written in to an ordinance at that time, but implemented as a special district amenity. When Drew Hall itemized all of the public improvements he was constructing, this fencing was included, but it was not included in the items that were bonded for. It was not included in the items that were accepted by the City, as City-owned public improvements. Mr. Baker further explained that the City doesn't have documentation of City ownership. There is also no documentation of private ownership. Mr. Baker recommended that since the fence was a critical element of the 2000 North corridor design, and with Sunset Estates being annexed in to the district, the only viable way to maintain the integrity and quality of the fence is for it be owned by the City. Mr. Baker stated that he believes this was intended to be owned by the City, and maintained by the North Tooele City Special Service District. He did not believe it was meant to be owned by the homeowners.

Mr. Baker said that after the 2014 Settlement Agreement, the first thing he did was prepare a Resolution to accept all of the public improvements for 1B through 1G. In order for the fence to be owned by the City, it would need to be accepted as a public improvement. The District has been maintaining the fence since the beginning because they believed it was owned by the City as a public amenity and because of its function as a public amenity. Without the district's attention, it would deteriorate. A representative of the District, Jeff Hamner, stated that the District has maintained the fence from the beginning, with the understanding that the City owned it. He said that this issue has come up because one of the homeowners put a gate in.

Mr. Baker said that if the Council accepts the fence as a public improvement, the next step would be for a committee of the administration to meet with the District to come up with a maintenance standard for the fence, which could dictate when repairs needed to be made, what colors and materials could be used, what alterations could be made, if gates are allowed, and so forth. Mr. Baker said that this would be an administrative policy, and not a legislative policy.

Chairman Pruden suggested that Council Member Gochis meet with the District Board to come up with a policy, then bring it to the administration and get it signed. Council Member Pratt said that in the current condition, a private property owner could make a modification to that fence at any time. Mr. Baker said that he didn't believe that property owners have a legal right to the

fence, or to make alterations to the fence. At the same time, the City doesn't have a right at the present time to prevent the alterations or dismantling of the fence.

Council Member Wardle asked what the costs have been to maintain the fence. Mr. Baker said that he didn't think that the Council would need a list of the costs before they approved this Resolution because the District Board would have it built in their budget. He added that it was included in the Interlocal Agreement that once certain public improvements are accepted, the District will maintain them.

Mr. Bosler said that Sunset Estates has recently joined the District, and they have said they want to match the public improvements that are already there.

- T-Mobile Cell Phone Tower at Elton Park
Presented by Roger Baker

Mr. Baker stated that in 2011, T-Mobile approached the City with a proposal to replace one of the light poles in the outfield at Elton Park. The City Council approved a lease. T-Mobile said they would put their antennas up higher, and remount our lights a little lower at 70 feet, instead at 75 feet where they are now. T-Mobile is back, and interested in replacing the light pole. In the area of the light pole there are some challenges such as gates in the outfield fence for maintenance, the grade of the land, and the main irrigation water trunk line which needs to go through the place where the ground equipment would be. These challenges may cause a need for an alternative location. Mr. Baker has informed T-Mobile that they need to get with Mr. Cook to see if there is an acceptable alternative site. Mr. Baker indicated that he was introducing this proposal tonight, and would bring it back at a later time for approval, if and when a spot is agreed upon.

Mr. Baker said that T-Mobile has offered \$1250 per month, with an escalator of 1% increase in the monthly rent either annually or every term, and the City gets a new light pole. Council Member Wardle felt that T-Mobile should pay current rates, not the rate at 2011, because the market has changed since then. Mr. Baker said that the demand for macro tower light poles has gone down in favor of the small cell, so the market rate has actually been depressed since 2011. Mr. Baker added that he demanded that T-Mobile match the original offer instead of offering something less. Chairman Pruden said that the City would get a new pole and new lights, which is an asset for the city. Council Member Wardle said that whatever money the City gains from the pole needs to go back in to Elton Park, rather than anywhere else.

Mr. Cook said that there was a possible new location for the T-Mobile pole, that wouldn't require replacing a light pole because a light pole wasn't needed at that spot.

- Signs Ordinance
Presented by Andrew Aagard

Mr. Aagard presented that the amendments that have been proposed for Title 7-25 are primarily for off-premise development signs. He said that there are two sections of the Sign Ordinance where amendments are proposed: 7-25-3 Definitions, adding a new definition for off-premise

development signs, as signs advertising available lots and homes for sale at new subdivisions other than where the sign is located; and 7-25-12, signs permitted in all zoning districts. Another amendment proposed is to add a section stating that off-premise signs shall only advertise homes and lots for sale in approved and recorded subdivisions in the process of construction. In order to get a sign permit, they have to comply specified criteria. The signs cannot be illuminated, require written authorization from the property owner, must be removed within one year after the issuance of a certificate of occupancy, and shall not advertise for another city development such as Grantsville, Stansbury, etc. Mr. Aagard added that he had consulted sign ordinances of other cities.

Chairman Pruden asked about the process for a builder that wants to put up signs, and who would police it. Mr. Aagard said that Trish Waltz, the code enforcement officer, would be the one to police the sign ordinance. Mr. Aagard added that the process would include obtaining a permit to install the signs and meeting the qualifications. Chairman Pruden asked about traditional real estate signs. Mr. Aagard said that they were exempt from this ordinance, and would not need a permit. Chairman Pruden requested that Ms. Waltz work a couple of hours on Saturday because people are putting up illegal signs on Saturdays. Council Member Wardle said that he was involved in putting a sign ordinance together in the beginning, and that it was very difficult. He said that if the City was not going to enforce it, it shouldn't be put in it.

Mayor Winn said that Ms. Waltz gives a list of signs that she picks up. Real estate signs are the majority of the signs that are picked up. The Mayor added that she has been approached by a real estate agent, asking what realtors can do to have legal signs. Chairman Pruden said that he has driven along Main Street on a Saturday and thought it looked clean and sharp. He expressed appreciation for Ms. Waltz's code enforcement work. Council Member Wardle said that there is a lag somewhat in the City's ability to advertise because the City doesn't have on-site signs. He cited Riverton as a good example. There are certain parts of the sign ordinance that need to be changed, but the idea of a sign ordinance is good.

Mr. Baker agreed with the policies that have been brought forth, and with the City wanting to be business friendly. He said he couldn't explain why Riverton, South Jordan, and others have such sign ordinances, but the sign ordinance is all about speech - mostly commercial speech. Mr. Baker further explained that under the constitution the City can't touch personal speech. The Supreme Court does allow the City to regulate commercial speech as to the time, the place, and manner that that speech is made. All that gets built in to the sign, which is speech. Advertisement is speech. Our current Ordinance bans all off-premise signs. City Code equates an off-premise sign as a billboard. The constitutional problem comes in when the City creates exceptions to that ban and allows a certain group of people to speak, but not the rest. In those cases, the City has violated constitutional principles and may be set up for challenge in federal court. Based on his twenty years of national and state training on the topic of sign regulation and speech, Mr. Baker expressed concern, as the City's legal counsel, that this would be perceived by companies such as Regan, as an un-level playing field. He added that he talked with the Mayor, Mr. Aagard, and Mr. Bolser and felt that the policies are laudable, the drafting was well done, but stated he has constitutional concerns.

Mr. Baker stated that he had no recommendation that would allow a rule or exceptions for some, and not others. The best recommendation he could make is to try to help businesses in other ways that don't involve protected speech, through things like fees.

Council Member McCall presented a scenario that if a developer put up a sign saying that there were homes for sale, off-premise, and got a permit; and a store wanted to have a sale and to advertise off-site, they would need to get an off-site permit also. Mr. Baker answered that they could create a temporary category because sales would be temporary. Council Member Wardle stated that part of his concern was creating a balance; he didn't want to be too restrictive or too permitting. He asked what other cities had done so that they weren't sued over the speech issue. Mr. Baker said that Jody Burnett advises to not create exceptions to the general rule. Mr. Aagard asked if it made a difference if the signs were on private property, and the owners gave permission allowing a sign to be placed on their property. Mr. Baker said the reason the City can regulate signs, even though they are speech, is that they are less protected speech because it is commercial speech.

Council Member McCall said that the sign ordinance may be challenged even more as the City gets more people and businesses. The sign ordinance will probably require a lot more discussion, and needs to be fair across the board. Council Member Wardle asked about putting a committee together to discuss the sign ordinance. Council Member Pratt suggested posing these questions to other cities to see how they are handling these situations.

Mr. Baker stated that many cities create exceptions to the general rule, even though they know the rules, they do it anyway. He added that the City can also do it, but he didn't recommend it.

Chairman Pruden asked Mr. Aagard to contact other entities, and formulate something to bring back for their May 15th meeting.

- Resolution 2019-27 A Resolution of the Tooele City Council Authorizing an Agreement with Tooele County for Municipal Elections
Presented by Michelle Pitt

Ms. Pitt stated that the City is required to conduct municipal elections in odd-numbered years. The County clerk's office has traditionally assisted with these elections. The estimated cost for their assistance is \$29,992.50. Ms. Pitt added that the County has switched to voting by mail, with a few polling locations for the disabled.

- Ordinance 2019-06 An Ordinance of Tooele City Amending Tooele City Code Section 1-5-9 Regarding Reconsideration of City Council Votes
Presented by Council Member Scott Wardle

AND

- Ordinance 2019-07 An Ordinance of Tooele City Amending Tooele City Code Chapter 1-6 Regarding Mayoral Powers and Duties
Presented by Council Member Scott Wardle

Council Member Wardle stated that these Ordinances are housecleaning items. One of them corrects grammatical terms, and the other one is to bring the Code up to date, so that it is not gender specific.

- Resolution 2019-29 A Resolution of the Tooele City Council Appointing Kari Scribner to the Administrative Control Board of the North Tooele City Special Service District
Presented by Council Member Melodi Gochis

Council Member Gochis explained that Kari Scribner has been nominated to fill a vacant position on the North Tooele City Special Service District. She has been a resident for 18 years and wants to contribute to the community.

- Resolution 2019-33 A Resolution of the Tooele City Council Approving a Contract with Landscapes Unlimited for the Installation of a New Irrigation System at Elton Park
Presented by Darwin Cook

Mr. Cook stated that the contract will be awarded to Landscapes Unlimited, who was the lowest qualified bidder. Landscapes Unlimited has done projects such as the Salt Lake City cemetery. Mr. Cook said that since the City has no idea what is under Elton Park, they have added a contingency amount, or may need to bring back a change order, if the amount is larger than accounted for. The contractors have agreed to work around hard dates of when organizations, or the City needs the park. Council Member Gochis asked where the water source was for this park. Mr. Cook answered that the main source is irrigation, with an option of culinary water. Mr. Cook indicated that Landscapes Unlimited is ready to begin right away. The sports leagues have been notified about this project, and will be told when there are open spaces.

Mr. Cook provided an update on pickle ball, saying that they are getting ready to pour the footings. He said they are predicting they will be done the middle of May. A hole has been dug for the City Park restrooms. Mr. Cook said that there is already a change order because the corner elevation is creating a ledge. Once improvements are made, the pavilion will be ADA compliant.

- Resolution 2019-32 A Resolution of the Tooele City Council Approving a Contract with Christensen and Griffith Construction Company (C&G) for the Construction of a Pavilion at the Oquirrh Hills Golf Course
Presented by Darwin Cook

Mr. Cook said that the pavilion will be located on the southwest corner of the clubhouse. It will be enlarged and covered. Christensen and Griffith are ready to go as soon as the contract is approved. They are hoping to be done by June. The Mayor added that C&G has offered use of their large canopies during the Mayor's tournament, and other tournaments, if needed.

- Subdivision Final Plat for the Tooele City Police Station Subdivision, Application by Tooele City, Located at 70 North Garden Street in the GC General Commercial Zoning District for the Purposes of Consolidating Five Parcels into One Lot
Presented by Jim Bolser

Mr. Bolser stated that work has begun on the new police station on Garden Street. This plat consolidates the five existing parcels into one lot. He added that the plat also vacates existing easements no longer needed and establishes the utility easements still needed.

- Subdivision Final Plat for the Providence at Overlake Phase 3 Subdivision, Application by Howard Schmidt, Located at 1400 North 400 West in the R1-7 Residential Zoning District for the Purposes of Creating 48 Single-Family Residential Lots
Presented by Jim Bolser

Mr. Bolser stated that this past fall the Council approved a preliminary plat for Phases 3-6 for the Providence at Overlake Development. They are now ready to being the final approval of Phase 3.

4. Close Meeting to Discuss Litigation and Property Acquisition

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

The meeting closed at 6:27 p.m.

Those in attendance during the closed session: Mayor Debbie Winn, Paul Hansen, Michelle Pitt, Jim Bolser, Steve Evans, Glenn Caldwell, Roger Baker, Darwin Cook, Council Member Wardle, Council Member Pratt, Council Member McCall, Council Member Gochis and Chairman Pruden.

No minutes were taken on the closed meetings.

5. Adjourn

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

The meeting adjourned at 6:47 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 17th day of April, 2019

Steve Pruden, Tooele City Council Chair