

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

Date: Wednesday, September 19, 2018
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
Michelle Pitt, Recorder
Roger Baker, City Attorney
Jim Bolser, Community Development and Public Works Director
Andrew Aagard, City Planner
Randy Sant, Redevelopment Agency Director
Paul Hansen, City Engineer

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:

- Rocky Mountain Power (RMP) Update
Presented by Travis Tanner, RMP Regional Business Manager

Mr. Tanner stated that he works in the Salt Lake Service Center, which covers Tooele. He talked about their partnership with Tooele City. Mr. Tanner listed ways the RMP has given back to the community through various organizations. He explained that they are working on updating windmills by replacing old blades with new ones. They are also doing quite a bit of solar power in southern Utah. He discussed the various programs and incentives that RMP offers.

Chairman Pruden expressed appreciation to Mr. Tanner for coming to Tooele to introduce himself and talk about Rocky Mountain Power.

- Local Districts
Presented by Roger Baker

Mr. Baker stated that a local district is governed by its own chapter in the Utah State Code, which is Title 17B. The Code states that a local district is another unit of government formed by a City Council for a specific purpose. These types of government have been renamed over the years, Title 17C is a similar title but for what used to be called redevelopment agencies. Mr. Baker went on to say that the purpose of a local district is to construct and maintain specific types of municipal systems that the municipality doesn't own or operate. For example, if a new developer wants to develop in an area where there are no facilities for municipal services, a local district would be created that could finance those facilities and then maintain and operate those facilities.

Mr. Baker said that a local district can only be formed for specific services that are provided for in the Code, such as transportation, parks and recreation and open space, water, and sewer systems. A local district can only be formed if there is no other government entity to provide those services and amenities. The way the financing works is, a local district would sell a general obligation bond, or revenue bond, to generate the revenue. The bond is approved by the owners of the district. An assessment is then placed against those properties. The property owners would pay the debt service, not the bond, either through property tax or through a utility rate. The property is also used as collateral on the debt. The cost to run (operate) the utility system is charged to the property owner.

Mr. Baker further explained that the City has received a Request, which is a specific statutory term, which is not an application, a plea, or petition, to create a local district within City limits and within the Overlake property. The property is associated with the Lexington Greens Development. The Request is to form a local district to construct and maintain transportation, parks and recreation, water and sewer facilities for the development. Mr. Baker said that a Request has to comply with specific statutory requirements. It is the City recorder's job to go down the statutory checklist to make sure the request complies. If it does, then the recorder certifies the request. Thereafter, the requester can file a petition for the City to create the local district. Mr. Baker stated that the City received a request in July. It was not certified because it was not complete and did not meet all the requirements. Another request was received in August, but was still incomplete. A third version was received on September 14th and appears, after an initial look, to be complete.

Mr. Baker indicated that the next step would be to issue a certification. The City has 30 days to certify the request. The requesters would then file a petition. He said that there is a separate list of requirements for the petition. If the City recorder does not certify the Request within 30 days, it is deemed certified.

Mr. Baker said that the Council can decide whether the City should form a local district for the purposes requested. He said that he was not answering whether the Council should form the local district because it was up to the Council to weigh the options to decide if it is best for the community. Mr. Baker stated that he has studied the statute and is concerned. The statute contains a provision that says a petition may not propose a local district within the municipality if the municipality is willing to provide the services proposed to be provided by the local district. If the municipality is able to provide the services, then there's no need to create a local district. The local district can only be created if there is a municipality that is not willing or able to provide those services. Mr. Baker went on to say that Tooele City already maintains a transportation network. The City owns and operates a parks and recreation system with green space. The City already owns and operates extensive sewer collection and treatment facilities and water sources, storage, transmission and distribution. He expressed concern about creating a local district for those purposes. Mr. Baker stated that in his opinion the City cannot create a local district for the purposes of providing these services.

Mr. Baker stated that a subset question is, can a local district be created to fund the construction of infrastructure that would be dedicated to the City for perpetual City maintenance? He advised against it because the City already has a mechanism in place to exact that infrastructure from developers under State Code provisions. He explained that when utilities are constructed, they are dedicated to the City. Thereafter it is the City's obligation to maintain those systems. There are other mechanisms to create amenities in a development, such as an HOA, or special service district. Mr. Baker said that he doesn't recommend numerous special service districts.

Mr. Baker said that he wanted to introduce to the Council what a local district is, how it is funded, and what it can and can't do. He stated that the requester was at the meeting to discuss their request with the Council, but he didn't want the discussion to turn in to a debate on who is right on the law or policy.

Chairman Pruden asked the Mayor and Council for questions or comments. They indicated that they would like to hear from the property owners first.

Joe Spencer indicated he works for 82 West Nexus. They are registered municipal advisors. He stated that there's a difference between a special service district and a local district. A special service district would be created specifically for water, sewer or fire. A local district can choose up to four services out of a menu of seven that can be funded through a local district. After a municipality creates a local district, it becomes an entity of the state. A special service district becomes an entity of the municipality. The state then requires them to abide by all of the open laws, open records, etc. Mr. Spencer indicated that he was involved in another local district formed outside of Park City.

Mr. Spencer explained that the owners of the lots are obligated to pay the bond back. When the developer puts in the infrastructure, they give the City the authority to make sure they follow Code. If everything goes well, it's great. The bond can either be paid off as homes are sold, or it can be paid for in the cost of the lot. It is up to the developers to determine whether they want to pay off the assessment.

Chairman Pruden asked why the Council would want to do this type of development. Mr. Spencer said that sometimes the City doesn't want to bond to put in infrastructure. This way, they can ask the developer to put the land up for collateral. Chairman Pruden said that that was not the way the City does things. He asked what the advantages were for the City.

Charles Akerlow said that he was the Manager of the property. He said that in order to connect to the City's sewer system, they have to go through a half mile of someone else's property. He said that it was an enormous burden on them. He talked about a temporary street in the area that connects 4th and 5th West to 1000 North. He said they are proposing to bring that street to City standards so that there's a connection from 5th to 6th West which would complete an important piece of the City's transportation plan. He added that he has struggled for many years with HOAs. He said that there are some good HOAs, and some bad. He would like a local district because it's collecting a tax, and they can also charge for the maintenance for whatever is put in. He said that he would rather use the local district to maintain the vegetation and landscaping that is going to be put in the project. He said that with this program, there's a built in regular cash flow, but with an HOA you have to worry about a homeowner who has not paid their fees for the month. The City would get a permanent road, and connection to the sewer for future development.

The Council asked what the current zoning was in this area. Mr. Bolser answered that it was R1-7. Mr. Akerlow added that the zoning is governed by the agreement with Tooele Associates. Mr. Bolser responded that zoning for this area is governed by the City's regular zoning amendment processes.

Andrea Cahoon said that with the North Tooele City Special Service District (NTSSD), she was surprised that their tax increase couldn't be signed by the NTSSD board, the paperwork had to be signed by the City. She asked if it would be same for the local district – the state would have to sign off on things. Mr. Spencer answered that the local district would be different, and the state wouldn't have to sign. Mr. Spencer indicated that a board would be elected by the property owners. The board can choose to raise their rates or not.

Council Member Wardle asked Mr. Caldwell if it would affect the City's bond rating. Mr. Caldwell answered that he didn't know. Mr. Baker said that it wouldn't because the collateral and payment revenue is generated from the property, independent from the City's finances. Mr. Sant said that if developers defaulted on the bond, it could affect the City's rating by affecting the City's reputation.

Council Member Wardle explained that the City currently went through a tax increase. He said that citizens have a problem understanding their tax bill. He felt that citizens would see it as another City tax. He said that it would come out on their tax bills and citizens would not

distinguish what is the City tax and what is not. He asked what the amount would be per house. The answer was about a couple of hundred a year.

Council Member Wardle asked if the City would receive a pro forma. Mr. Akerlow said that they would, at some point. Council Member Wardle said that he had looked at their board. He asked why someone from the City, or the community wouldn't sit on their board. Mr. Akerlow answered that he would be more than happy to have someone sit on the board once the local district was passed. Council Member Wardle said that he looked at the Hideout local district board. He said he doesn't have a lot of trust with developers that ask the City to do something, because developers don't follow through. He thought it would have to have some involvement from someone outside their group. Mr. Akerlow indicated he was okay with that. Mr. Spencer said that the board is generally a land owner. Mr. Akerlow said that they can appoint anyone to the board. Mr. Baker indicated that he thought board members needed to be residents of the local district, and that State Code governs board membership.

Council Member Wardle asked why not do a reimbursement agreement for the sewer line instead of a local district. Mr. Akerlow said that he hadn't thought of it.

Council Member Pratt asked Mr. Baker what the Council's duty was to respond to this request right now. Mr. Baker answered that the Council has 30 days to certify it. Upon certification, it is the requester's option to petition. The Council would then either pass a Resolution to create the local district, or pass a Resolution that they won't create a local district because the City will provide the services. It was his opinion that a public hearing is not required while there is a single property owner. Mr. Baker added that the Council could pass a resolution at any time.

Council Member Gochis asked why they didn't just join the special service district that is already there instead of creating a local district. She said that the special service district is very close to their property. She added that the residents that are there would use the amenities already provided by the special service district. Mr. Akerlow said that the simple purpose of the district is to extend the half mile for sewer, and to create the road. He added that the special service district has no interest in letting them bond to build these facilities. Mr. Baker stated that the special service district maintains the amenities developed by the developer and dedicated to the City, but does not construct new facilities.

Council Member McCall asked Mr. Akerlow if he had talked to the Perry's about sharing in the cost of putting in the sewer line. Mr. Akerlow indicated that he had. He said that the sewer goes in an area that Perry won't develop for 4-5 years. Council Member McCall said that if the City created the local district, and the market crashed, then he could see that the developers wouldn't be able to finish the development for up to five years, or pay off the bonds.

Mr. Spencer said that when the bond is sold on the market, the funds go to a Trustee account. The bond is there for the amenities. If the developer doesn't make the payment, the money is still there and property goes to cover the bond. Council Member Wardle asked if there would be multiple lien holders and who would be in fort position. Mr. Akerlow said it would become part of the tax lien which always goes ahead of anything else. Council Member McCall asked if the property owners would be required to also pay City taxes. Mr. Akerlow said that they would.

Council Member McCall stated that it would be another tax, and the citizens would be upset about it.

Laney Reigel said that it is the realtor's job to disclose the taxes to the buyer before they buy. She added that the board could do it on a yearly assessment, or they would have to pay it on their own through an HOA. She said that the local district has more teeth than an HOA.

- Resolution 2018-55 A Resolution of the Tooele City Council Approving a Listing Agreement with Mike Quarnberg for the Sale of 1,784 Acres of Tooele City-Owned Property in Rush Valley
Presented by Roger Baker

Mr. Baker said that the Council and Mayor asked him to explore alternatives for the disposition of 1,784 acres of City-owned property in Rush Valley. He stated that he has explored several possibilities over several years and is recommending to list the property with Mike Quarnberg. Mr. Quarnberg has a lot of experience in Rush Valley and with agricultural properties. Mr. Baker said that he is proposing a listing agreement for 12 months. The agreement scanned in the Council packet says 24 months, but Mr. Baker explained that he clarified with Mr. Quarnberg that the City would like a 12 month agreement. The Council suggested a six month listing agreement and it was discussed with Mr. Quarnberg but the process of preparing a comprehensive marketing package could take a couple of months, not leaving much time to sell it. Mr. Baker explained that they compromised at a 12 month agreement.

Mayor Winn felt that Mr. Quarnberg was well qualified and she was excited to work with him. Mr. Quarnberg said that he was excited to work with Tooele City. He felt that it would be a great property to market. Mr. Baker said that City is having the property re-appraised by a company experienced in agricultural properties, out of Richfield. There will actually be two appraisals: one will be as a dry-farm and keep the City's ownership with the water, the other will dedicate a supply of water to the property for irrigated crop land.

- Final Plat on Copper Canyon Phase 6
Presented by Jim Bolser

Mr. Bolser stated that earlier this summer the Council saw the preliminary plat for Copper Canyon Phase 6. Improvements were recently completed for Phase 4, and developers are ready to start construction on Phase 6.

- Text Amendment to Title 7 to Remove a Clause Requiring a Minimum of 5 Acres for a Multi-Family Land Use
Presented by Jim Bolser

Mr. Bolser said that in Title 7 Chapter 14, governing residential land uses, there is a table of allowed uses. In the listing for multi-family residential uses, there is a note that specifies that you have to have a minimum of five acres. Mr. Bolser stated that this provision was put in the table before he worked for the City, and that there was probably a good reason, however, there

are possibilities that a development could be done on less than five acres. He asked the Council if they would like to continue to require the five acre minimum, or to strike it.

Chairman Pruden asked if the City has had applicants that have been denied because of this requirement. Mr. Bolser that he was not aware of any, but there may be a request waiting. Mr. Baker said that this provision predated him as well. He added that one of the reasons that this provision exists, is to avoid the proliferation of small pockets of high density zoning in the midst of single-family neighborhoods. It could prevent half acre multi-family zones scattered in with single family homes. He did not know whether that good land use policy or not, and would leave that recommendation to Mr. Bolser and Mr. Aagard.

Mr. Bolser stated that the Council has flexibility of whether or not to create small pockets. He said they could specify some other number if they wanted. Chairman Pruden said that five seemed like a large number. Mr. Baker said that he lives in a five acre multi-family project with about 85 units. He said it feels large. Mr. Aagard said that it wasn't unusual for cities to require five acres minimum for multi-family. He added that other cities have the five acre minimum, like Riverton and Sandy.

Mr. Bolser said that he didn't have a recommendation or preference. He said that Staff was asked about the possibility of changing it, so he brought it before the Council. Mayor Winn asked if the number was removed, and there was not a number at all, would it allow the Council to treat each project individually. Mr. Bolser answered that the ability lied in the rezone request. If a developer came to the Council with a multi-family project in an R1-7 zone, and wanted to rezone it to HDR, then the Council could decide at that point as a part of the zoning process, but if a developer had a small piece of property that is already zoned HDR then the City would be obligated to approve the project if it met the terms of the City Code.

Council Member Wardle expressed concern about not removing it, because rezone requests require a public hearing, which puts it two months out. He added that the Council has been encouraging a streamlined process that allows development without being cumbersome. Mayor Winn stated that it mattered what the project was and where it was located. Council Member Wardle said that even if they took the number out, the Council would still have to deal with the rezone request. Chris Sloan, from the Planning Commission, said that there was no reason to even have the number in there. He added that it limited developers that don't have five acres. A project can't even be submitted because they don't have enough acreage.

Mr. Bolser asked if the Council would like to explore removing the requirement, saying that the Council could maintain control under the rezone request. Mr. Hansen asked if the current code allowed spot zoning. Mr. Bolser answered that spot zoning is not illegal.

Chairman Pruden requested that Mr. Bolser draft something to remove the five acre requirement.

4. Close Meeting to Discuss Litigation, Property Acquisition, and Personnel

Council Member Gochis moved to close the meeting. Council Member McCall 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.”

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

The meeting closed at 6:11 p.m.

No minutes were taken on these items.

Staff was excused from the meeting at 6:40 p.m. Those remaining in the closed meeting were: Mayor Debbie Winn, Michelle Pitt, Council Member Wardle, Council Member Pratt, Council Member McCall, Council Member Gochis, and Chairman Pruden.

5. Adjourn

Council Member Pratt moved to adjourn the meeting. Council Member McCall 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 6:58 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 3rd day of October, 2018

Steve Pruden, Tooele City Council Chair