

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

Date: Wednesday, November 7, 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
Roger Baker, City Attorney
Jim Bolser, Community Development Director
Steve Evans, Public Works Director
Kami Perkins, Director of Human Resources
Brian Roth, Parks and Recreation Director
Shannon Wimmer, Assistant Finance Director
Michelle Pitt, Recorder (for the closed portion only)
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:

- Resolution 2018-65 A Resolution of the Tooele City Council Acknowledging the Mayor's Appointment of Tyson Hamilton to the Planning Commission Presented by Mayor Debbie Winn

The Mayor stated that Tyson Hamilton has been serving since January or February as an alternate of the Planning Commission. A member of the Planning Commission has resigned. The Mayor is appointing Mr. Hamilton as a regular member, instead of an alternate. She said that she was working on filling the alternate position.

- Resolution 2018-66 A Resolution of the Tooele City Council Establishing Planning Commission Compensation Presented by Mayor Debbie Winn

The Mayor said that it was brought to her attention that regular members of the Planning Commission were being compensated \$50 per month whether they attended a meeting, or whether there was a meeting. There wasn't an additional stipend for predevelopment meetings. Alternate members were paid \$25 for each meeting that they attended. The Mayor gave an example of someone that had resigned and it had been a few months since they had attended a meeting, but were still being paid. The Resolution establishes a \$25 stipend for alternate and regular members for every meeting they attend. It also provides for an additional \$25 for predevelopment meeting attendance.

Ms. Perkins stated that the \$25 stipend for alternates would only be for those times that they sit on the commission; if they sit in the audience, they don't get the stipend. Chairman Pruden felt that alternates should get the stipend whether they are in the audience, or sit with the Commission. The Mayor agreed. She said that when alternates attend the meeting, they don't know at the beginning of the meeting whether they will sit with the Commission or not. They study the materials and come to the meeting prepared. Council Member Wardle agreed.

Mr. Baker stated that the Resolution says that all members will receive the stipend for meetings they attend. Chairman Pruden clarified that the stipend is for travel time, preparation of meetings, etc. It is fair for all members to receive the stipend.

- Ordinance 2018-20 An Ordinance of the Tooele City Amending the Tooele City Policies and Procedures Manual Presented by Kami Perkins

Ms. Perkins stated that these matters were discussed at the Council's last meeting. She explained that she made the changes that were requested on the nepotism policy. Those changes were sent out to the Council. The amendments were sent out to the employees asking for their feedback. Ms. Perkins stated that she didn't receive many comments from the employees, except from the police department thanking the City for the changes towards their compensation and benefits. Ms. Perkins said that the City is currently down about 1 ½ teams due injuries and officers accepting employment at other agencies.

Ms. Perkins said that other comments she received were dealing with the drug free workplace policy. This clarifies when post accident testing is required for officers. Ms. Perkins thanked Mr. Baker for his work on this policy.

The Mayor thanked Ms. Perkins for her professionalism and for being so thorough on these policies and on all of the work she does.

- Property Tax Analysis
Presented by Jason Burningham

Mr. Burningham stated that he and his firm was asked to look at property tax revenues. He said that the Council and Staff have been concerned because although there has been significant new growth over the past decade, property revenue trends didn't seem to follow the building activity. Mr. Burningham said that some of reasons are Tooele City specific, Tooele County specific, and some is how the State of Utah handles the certified tax rate process.

He reviewed several factors:

Statutory Provisions in Utah Law – treatment of property values. There could be large companies, utility companies, and railroad companies that protest their centrally assessed values causing rather large declines. Even though there could be a lot of renew growth locally, it could be erased by personal property or central property going down. Salt Lake City has also noticed that they had a decline in property tax revenue even though they had major growth. They started working with legislatures to try to remedy that. There are also reappraisals and refactoring adjustments that could cause declines.

Mr. Burningham said that there were two periods, in 2010 and 2016, where new growth in Tooele City was significant, at over \$100 million. Because of reappraisals, factoring and adjustments, the City actually had a negative amount of growth. The inability for municipalities to predict or forecast how to know what that revenue is going to be is problematic. He said he would like to see new legislation to have it more transparent or easier to predict.

Chairman Pruden asked who was responsible to collect the delinquent taxes. Mr. Burningham answered that it was the County's responsibility to collect those taxes. Mr. Burningham said that it may be helpful to ask the County about their policy for the collection of delinquent taxes.

Inconsistent Reappraisals - Prior to the last two years, the County was not consistent with reappraisals and refactoring. Refactoring is making adjustments during the interim when appraisals aren't being done. Tooele County does not have a practice of doing that on a five year cycle. Mr. Burningham explained that it is common to appraise one-fifth of the County, then the next year, do another fifth, etc. so that everyone gets a reappraisal every five years. Mr. Burningham stated that there is now a program in place to help get that done. When things don't get appraised for a while, a lot of people will go through the board of re-equalization process when hit with a large property value increase.

Mr. Baker asked what the statutory constraints were on the Board of Equalization to reduce someone's tax burden. Mr. Burningham said that there is a fairness factor. It is up to the County to interpret that. The standard is that there needs to be good evidence of value, or fairly valued to other properties. They can't just arbitrarily choose one person over another. Decline in Personal Property Tax Values – could be due to a lot of things such as large industrial users, manufacturers, businesses that may have been reluctant to reinvesting of personal property, and deferred capital maintenance.

Property Tax Collection – There are three periods within the last decade when collection of tax rates were significantly lower than anywhere in Utah.

County's Treatment or Handling of Tax Increment Funds – The process prior to new people at the County being engaged, transparency, records, and information, has made it difficult to determine how tax increment funds were being handled. There is a receipt of tax increment that was set aside for a pass through, but then it is difficult to tell if it ever went back to the taxing entity. When the County was asked, they couldn't get clarification or answers on whether that money went back to the taxing entity. More investigation is needed for clarification on that.

Mr. Burningham added that there are concerns with how the County handled some pass through accounts. He cited one example of a project where, either through an agreement or an extension, that changed the percentage amount going to the RDA. The County however, took the full percentage, set that aside, and then passed through what was due to the agency. When asked what happened to the haircutted portion, the County said that they thought they paid it on to the other taxing entities. Mr. Burningham said that it can't be done that way, because the way the certified tax rate value works, is to deduct what the incremental value is of the RDAs, CDAs, etc. By not including that in the calculation, they inflated what the truth and taxation laws intended to do. The County passed through revenue to the taxing entities causing a tax increase without going through the truth and taxation process. The school district, the County, and potentially the City would be beneficiaries of that. The difference was about \$150,000. The County wasn't able to tell Mr. Burningham if the money got back to the taxing entities or not. The County told them they would get back to them, but never did. It's a complicated calculation. Mr. Burningham said that the County may not know how to handle it the right way and said he tried to explain it to them on how to do it going forward. It is a concern because the County can't explain where it went. It could have passed through in the form of property tax instead of a pass through RDA fund. It would give the City an inflated perception of what to plan on for property tax from year to year.

Mr. Burningham said that countless hours were spent on trying to get these records, but they were not able to get them from the County.

Mr. Burningham added that municipal energy franchise taxes such as gas and electricity have been flat. Comcast was following a good trend. Rocky Mountain Power was also following a good trend, but Dominion Energy's consumption pattern did not make sense. The power company and the gas company did not provide detailed consumption information. The consumption was not following the traditional trends in other communities. There may be

energy efficiency deficiencies. Revenues coincide with consumption, but is not a big revenue stream.

Mr. Baker said that the City has recently gone with a new natural gas provider, who utilizes Dominion's infrastructure, but it was just this year. He stated that the City receives two gas bills, one from the new provider and one from Dominion.

On the board of equalization there are a couple of large property owners that contest their property values. The City may want to be a stakeholder in that. There may be some legislative tweaks that need to be done for property owners that have a certain percentage of the overall tax base. Ms. Wimmer said that the City did receive notice when the railroad was protesting their values. The notice also gave the City the amount of impact it might be. Mr. Burningham said that as a tax entity, the City would have the right to have a say in that protest. Council Member Wardle asked who would represent the City in those cases. Chairman Pruden said that the Mayor and Staff should get a game plan together for next year so that they can have a representative from the City during protests. The Chairman would like to see the plan be brought back before the Council. Mr. Burningham said that it should also go to the League of Cities and Towns for legislature.

Mr. Sant said that he is trying to get legislature in place that notifies the RDA so that they can protest if there is a decrease of at least 2%. It impacts the RDA because of tax increments that may have been offered to a company that turns around and protests their property tax. Mr. Sant said that he is tracking that in the legislature, for RDA projects. Mr. Burningham suggested it be brought before the Utah League of Cities and Towns for possible legislation.

Mr. Burningham said that residents only see the tax increase instead of the increased services, capital projects, and improvements. Property tax isn't really revenue neutral, because they are declining. Mr. Burningham encouraged the City to not wait for another 10 to 20 years to do an inflationary increase, to keep pace with inflation. It is easier if it is done by 2-3% along the way, instead of a large tax increase every 10 to 20 years. More cities are doing that by Resolution instead of truth in taxation.

Mr. Baker stated that in 2016 the Utah League of Cities and Towns passed a Resolution supporting the idea of attaching an inflationary index increase to property tax so that it can keep pace with inflation without needing to go through periodic truth in taxation. He asked Mr. Burningham if he knew if that got any traction at the legislature. Mr. Burningham said it depended on who you talked to. He felt that most of the legislators felt that truth in taxation was working, but others in the legislators recognized that it is a difficult process.

Ms. Wimmer said it would be a good practice to pace the current rate. When people get their tax notice it would show that the tax rate would be held steady. The City could make a policy to poll the rate, and not let it drop. Mr. Burningham agreed that it is difficult to keep up good services without keeping up with inflation.

- Resolution 2018-60 A Resolution of the Tooele City Council Approving and Ratifying a Real Estate Purchase Contract and Associated Agreements and Payments for Property Located at 59 North 100 East Presented by Roger Baker

Mr. Baker stated that the City signed a contract with the owner of the house across the street on October 25th. It is the last property associated with the new police station. This Resolution will ratify the signatures on that contract, authorize signatures on other closing documents, and fund the transactions. Tomorrow the remaining few thousand dollars will be wired to the title company and placed in escrow. Tomorrow the sale of this house will close because in escrow, placed today, was the warranty deed with Kathleen Meli's signature.

Chairman Pruden expressed appreciation to Mr. Baker for his work on this sale.

- Resolution 2018-35 A Resolution of the Tooele City Council Approving a Lease Agreement with Tooele County for the Middle Canyon Toll Booth Project Presented by Roger Baker

Mr. Baker said that City administration has been approached by the County Trails Manager, Dave Brown, and the County Parks Director, Mark McKendrick, about placing a toll booth in Middle Canyon. The County has made a policy decision to install a toll booth for the Middle Canyon Road to control access to Middle Canyon. The City owns strips of property on both sides of Middle Canyon Road and the County would like to utilize the small areas that the City owns, for a turn-around area and parking. Mr. Baker further explained that the County would take out the City's fence and put in jersey barriers, installing new fencing around the barriers

Mr. Baker stated that on two prior occasions the County has approached the City for use of City-owned property for trail heads and parking. This is a similar type of request in that the County is requesting to lease property from the City for their use. Mr. Baker added that the City has not discussed a proposed price.

Council Member Wardle said that this is a great thing, but suggested we wait until we get the tipping fee contract back from the County. The County has had that contract for about six months.

Chairman Pruden asked the Mayor to convey to the County that the Council is in favor of the toll booth, but would like to take care of current outstanding contracts, before entering in to new contracts.

Mr. Baker added that the County has purchased the booth, but won't install it until mid-March.

- Small Wireless Communication Facilities in the Public Rights-of-Way Presented by Roger Baker

Mr. Baker presented that federal law requires that municipalities not do anything to interfere with or prohibit the construction of communications facilities, including wireless facilities. Mr.

Baker added that in the last legislative session, they passed Senate Bill 189 that declares small wireless facilities to be permitted uses in all municipalities.

Mr. Baker explained that the wireless industry is trending away from the large cell towers that are placed at large distances from each other, to a much cheaper antennae called small wireless facilities that are mounted on existing buildings, light poles, etc. A combination of federal and state laws requires the City to allow small wireless facilities, and small antennae, to be placed in City rights-of-way on utility poles owned by the City. Mr. Baker further explained that Senate Bill 189 gives the City the ability to have some control over the design of the small wireless facilities, of the safety aspects of them, the maintenance aspects, allows the City to require a franchise agreement, and to charge fees. Senate Bill 189 sets the fees, which are small.

Mr. Baker showed pictures of examples, size limitations set by Senate Bill 189, and the maximum size of the ground mounted equipment associated with the antennas. Mr. Baker explained that these facilities will only be allowed on rights-of-way that are of a certain size, and not in residential areas. Some of the pictures showed why it would be important to have regulations in place. Mr. Baker explained that he would be coming back before the Council with additional information to urge the Council to enact a regulatory scheme for these facilities.

Mr. Baker listed items that would be brought before them at the next Council meeting:

1. Lengthy Ordinance that regulates the activities of franchisees in the City's rights-of-way,
2. Form Franchise Agreement for small wireless facilities,
3. Fees associated with small wireless franchisees and antennae applications,
4. Amendment to existing right-of-way regulations,
5. Form Franchise Agreement for other utilities,
6. Associated fees for other franchisees,
7. Pole Attachment Agreement.

Council Member Wardle asked if a company wants to put something on a new pole, how they would match it aesthetically. Mr. Baker answered that if a company wants to replace an existing pole, they can do that at their cost, and the City can have some regulations that will require the pole to be similar to the original pole. If the City has an Ordinance requiring all utilities to be underground, to be buried, then small wireless facilities cannot come in put up poles, and string wires. Mr. Baker said that the City does have an Ordinance that requires undergrounding.

Council Member Pratt asked if a small wireless company could draw power from the light pole. Mr. Baker answered that in those cases, the company would have to make their own agreement with the power company.

- Quick Quack Tooele – Final Plat Request
Presented by Paul Hansen

Mr. Hansen explained that the Flinders Park subdivision created two lots on 1280 North that were split equally. In some years past, the City allowed a sewer line to be constructed between the two lots. Quick Quack wants to replace the current car wash, but it requires relocating a

portion of that sewer line so that it is not underneath the proposed building. The City needs to vacate the existing sewer line and to amend the underlying plat to shift the lot lines.

- Barbara Boss Property and Proposed Project
Presented by Jim Bolser

Mr. Bolser stated that this project is located on the southwest corner of town. The piece of property is owned by Zitting Development, represented by Barbara Boss. The existing development to the east, is residential accessed from SR-36 by 1220 South. It is currently zoned LI, Light Industrial, and bordered on all other sides by R&D properties owned by the RDA for expansion of the education corridor. Ms. Boss has requested, through the predevelopment meeting, to look at developing her property. Mr. Bolser explained that Staff expressed concerns at the predevelopment meeting, such as the proposed Tooele Boulevard alignment, utility and infrastructure concerns, and the planned lay out. The lay out shows higher density residential and some office and commercial uses on the west side. Following that meeting Ms. Boss requested that this information go before the Council to get their feedback and feeling on this development before she files an application. This development would require a rezone from Light Industrial as a first step.

Council Member Wardle asked about staff's concerns. Mr. Bolser said that their deepest concern was the intensity of use with limited ability of getting traffic out of the area, and the mixture of uses compared to the City's intent to research and development in this area. Council Member Wardle said that if the City was going to have a transition, high density as a buffer between single family homes and these areas, is a good use. Chairman Pruden said that he liked the concept, but asked if she had tenants for the commercial portion. He's worried that the commercial portion will never be built, and a request will then be brought to do all of it in high density residential. Mr. Bolser added that an additional concern of staff was infrastructure needs in this area. This project would require a massive infrastructure needs.

Mr. Hansen added that the infrastructure for this type of high density development, coupled with the City's plans for research and development, could require an upgrade of the City's trunk lines for the sewer system all the way to 650 North. The City is, with Mr. Evans' help and resources, trying to more accurately determine the City's current capacity of these pipes. If this advances forward, one of the City's requirements of the rezone could be that any upgrades required would be the responsibility of the developer to participate in, or fund.

Council Member Wardle asked if the City would need to do this anyway, and if so, how could the City deny the request. Mr. Hansen and Mr. Bolser both indicated that they were not recommending that the City say no to this project.

Mr. Sant expressed concern that this is a proposal and concept of Ms. Boss, but there is not a developer. He said that a developer may come in and want to do something different. To rezone something without a developer onboard may not be in the best interest of the City. Mr. Baker said that Ms. Boss indicated that she wants the rezone to make it sellable. Mr. Sant said that he showed this area to a large data center.

Mr. Bolser said that the cost to go through the rezone process was about \$2,000 plus so much an acre, so it was not cost prohibitive. The bigger question was if the City wanted to explore a rezone of this property without a specific project coming.

Council Member Wardle recommended that if the property gets sold, then Ms. Boss come in with a request at that time. The Council agreed. Mr. Baker added a recommendation that the City look at the larger area to see how this project fits in with the City's vision.

Chairman Pruden suggested a meeting with the RDA to discuss the economic strategic plan in January.

- Ordinance 2018-19 An Ordinance of Tooele City Amending Tooele City Code Table 1 of Section 7-14-3 Regarding Minimum Project Size for Multi-Family Dwelling Developments
Presented by Jim Bolser

Mr. Bolser stated that this was a text amendment that was brought before the Council before. This amendment strikes the notation requiring a five acre minimum as a project size for multi-family developments.

- Ordinance 2018-22 An Ordinance of Tooele City Council Reassigning the Zoning Classification to the HDR High Density Residential Zoning District for 5.26 Acres of Property Located at 750 North 100 East
Presented by Jim Bolser

Mr. Bolser said that this is an application to rezone a piece of property at the south side of Lakeview Apartments. The property is vacant and owned by Mr. Brady. Mr. Brady is requesting to rezone the property for a townhome project.

4. Close Meeting to Discuss Litigation and Property Acquisition

Council Member Pratt moved to recess, and reconvene the closed 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 reconvened in a City Council closed meeting at 8:16 p.m.

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

No minutes were taken on these items.

5. Adjourn

Council Member McCall moved to adjourn the City Council meeting. Council Member Pratt 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 9:21 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 5th day of December, 2018

Steve Pruden, Tooele City Council Chair