

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

Date: Wednesday, September 20, 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
Brad Pratt
Steve Pruden
Dave McCall

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
Brian Roth, Parks and Recreation Director
Rachelle Custer, City Planner
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
Brad Pratt, Present
Steve Pruden, Present
Dave McCall, Present

3. Discussion:

- Long Range Parks Plan
Presented by Brian Roth

Mr. Roth presented an evaluation and improvement proposal of the parks department and the different entities therein. He explained that the main areas of concern included irrigation systems, playgrounds, equipment, shop and equipment storage, concessions, and restroom buildings. He further explained:

Irrigation: Some of the irrigation systems are very old, and costly to maintain. It would be beneficial if the irrigation systems could be on a centralized system so that the City could adjust, monitor and use the water more efficiently. The irrigation system at the cemetery is 50 years old. It has been converted back and forth, but still needs work. Mr. Roth would like to work on at least getting Elton Park, Vine Street Park, the Dow James Complex, and Red Del Pappa Park upgraded, and get them tied in to a centralized system. This would cause a lot of water savings.

Playgrounds: There are many playgrounds that are in need of repair. Many of the playgrounds are 14-18 years old, and replacement parts are no longer available. When slides are falling apart, they have to pull out the slide and block it off. Playgrounds are \$60-80,000. If they are not replaced soon, they will have to be pulled out.

Equipment: Mr. Roth expressed appreciation for the mowers that were recently approved by the Council, but said there are quite a few other mowers that are struggling. The parks department is also in need of new vehicles.

Shop and equipment storage: The parks department needs more space for the equipment they have. There is too much equipment to be stored in the storage buildings available, so some of the equipment has to be stored outside all summer and winter. The storage buildings at the Babe Ruth and Dow James parks are inadequate.

Cemetery: The cemetery needs a maintenance building. A metal storage building was torn down and offered to the parks department. The parks department gathered the material and took it to the cemetery, and it now needs to be reconstructed. The cemetery records office has had some upgrades, but needs some additional upgrades and brought in to ADA compliance. The roads at the cemetery were resurfaced about four years ago, and made a big difference. There are new sections being put in, and roads need to be added. A road leading to the new maintenance building will need to be constructed, once that building goes up. The cemetery fencing needs to be replaced, or possibly upgraded.

Golf course: The golf course currently shares equipment space with the parks shop. There isn't enough room for cart storage. The golf course is in need of a new pavilion, equipment (although they are doing better than the park's side) golf cars, and restroom facilities. The front nine has an old restroom that needs to be upgraded. The back nine does not have a restroom.

Aquatic Center: Quite a bit of work has been done at the aquatic center over the last few years, including the stairs to the slide, a large fan has been installed to help with movement of air circulation, but there is still a lot of work that needs to be done. The lap pool had cracks, there are leaks, and lighting issues. The cracks and lighting were repaired, and the pool was plastered during the February closure. The building structure needs maintenance work, the chemical treatment system needs to be upgraded to UV filters, and the water slide needs to be refurbished.

Railroad Museum: The dock is rotting and separating from the museum. Engineering to replace the dock has been done, and they will soon have a bid for the repair or replacement. The caboose train car is rotting.

Mr. Roth talked about the long term plan to expand the cemetery, shop area and storage. The railroad museum needs a direction, and the tennis courts at Elton Park need to be upgraded or replaced.

Councilman Pratt complimented Mr. Roth on the parks presentation stating that it was very detailed. He said it gave the Council a good look at the condition of the parks' facilities.

- Code Enforcement Update
Presented by Jim Bolser

Mr. Bolser explained the code enforcement process, gave examples of the forms that are used, and provided the Council with code enforcement statistics. He said that this year is the first full year of enforcement efforts under the current ordinance so the staff and administration wanted to talk through this information with the Council, showing information from January 1st through September 7th.

Mr. Bolser characterized the code enforcement process in to three phases: initiation, violation, and remedy.

Initiation: The City receives a complaint, or the code enforcement officer observes a violation. An inspection is done and a courtesy notice is issued if a violation is validated. Mr. Bolser emphasized that this is an added step that the staff takes in addition to the process outlined in the ordinance as a courtesy to the residents. At this point there is no penalty. Another inspection is done generally a minimum of two weeks from the courtesy notice, depending upon the nature and scope of the violation. If the problem has been remedied, the process ends. If the problem has not been remedied, it moves to the violation stage. If the property owner communicates to the City that they need more time, it is granted, so long as the request is reasonable. Mr. Bolser stated that the staff has a desire to work with residents on correcting violations rather than being hard lined and seeking punishment or fines.

Violation: The property owner receives a notice of violation. At this point the property owner begins accruing fines if the violation is not remedied. Generally a minimum of two weeks later, an inspection of the property is done. If the violation is corrected, the

property owner is issued a notice of compliance and the case is closed. The property owner has the option to appeal the violation to the hearing officer. The hearing officer can uphold, reject, modify, or the City can enter in to a stipulation agreement with the property owner. A lower fee may be offered if the property owner agrees to not violate again for at least 12 months.

There is a daily fee after a notice of violation, but the City will work with requests for extensions with property owners so long as progress is being made to correct the violation. If the property owners comply, the matter is remedied. If correction of the violation does not occur, the case moves into the remedy stage.

Remedy: A default judgment is issued, which means the time window has lapsed and no progress by the property owner has been done. The default judgment is administered by the hearing officer. In order to get a default judgment, the staff meets with the administrative hearing officer to demonstrate the case and if the officer agrees, a default judgment is signed and issued to the property owner. The property owner can appeal the default judgment. If nothing is done, the property can be abated and a lien placed on the property. If the property owner comes in to compliance, they can enter in to a stipulation agreement with the City. Mr. Bolser said that when a notice of abatement is issued, property owners can appeal the costs and again have opportunities of extensions so long as progress towards compliance is being made.

Mr. Bolser stated that the City's goal is to achieve voluntary compliance rather than abating properties and collecting fines and fees.

Mr. Bolser shared the following statistics:

739 cases have been opened in 2017

Cases:

Weeds and junk 636

Violation notices 488 (66% of cases opened)

Default judgments 95 (19.5% of cases receiving a violation notice)

Abatements 39 (8% of cases receiving a violation notice)

Stipulations 19

This created:

\$26,600 worth of fines – have been stipulated down to \$6,000

Abatement costs: \$38,626

Costs of abating City-owned properties: \$50,802.50

Mr. Bolser explained that these fines are funding a portion of the program, but the City is not profiting from this program by any means.

Additionally, with this summer being the hottest on record and extremely dry after a very wet winter, a unique and dangerous situation presented itself and an Emergency Order, was implemented in July, as allowed by the City Code, for imminent fire danger. When there is an

area of five acres or larger, and there is an imminent fire danger, the City took steps to abate those properties outside of the standard code enforcement process.

Properties mitigated 42
Property owner abated 27 (62.8%)
City abated 16

Costs incurred \$33,505
Collected \$5,044.75

The Mayor stated that it was one thing to have an Ordinance that allowed the City to abate properties, but it was another thing to have the money to do the abatement. Some of the properties that pose imminent fire danger are significant in size. The cost can be significant. He said that it was something that really needed to be looked at in the budgeting process. He added that abatement was not there to make money, but at the same time, it costs the City money to abate.

Councilman Wardle asked about the process of placing a lien on property. Mr. Bolser stated that the lien is filed with the county. When property taxes are mailed out, there is a line on the tax bill showing the cost of the abatement. Mr. Baker added that it could take up to five years to collect that.

Councilman Wardle expressed appreciation to both the parks and community development departments for providing a look at the budget situation. He said he would like these types of discussions to be part of the budget process.

Mayor Dunlavy said that the reason these presentations were being brought before the Council now, is because the City is in transition. The reality is that the transition will be in a month or two, with a new Mayor. The Mayor said he knew that the Council received calls regarding code enforcement. He reiterated that the City's intent was not to make money. The Mayor added that he had the pleasure of being the parks director for a while. He realized during that time that the needs for parks will never be met because there is not an unlimited source of revenue. There are a lot of things being accomplished already, but there is a lot left to be done. He thanked Mr. Bolser and Mr. Roth for providing a tool for the future.

Mr. Bolser thanked the Mayor and Council for their support in code enforcement. He acknowledged Rachelle Custer for her work, explaining that she is code enforcement's direct supervisor. Chairwoman Winn said that when codes are enforced there are some happy customers - the neighbors next to the yards that have been cleaned up.

- Bernice Heritage Minor Subdivision – Final Plat Request
Presented by Jim Bolser

Mr. Bolser stated that this was a request for a one lot subdivision along the Main Street frontage at the Vorwaller Mobile Home Park. This subdivision will establish the front property for Vorwaller's own use. The City doesn't have the intended use of that property yet other than an

expressed desire of the property owner for a commercial use. Mr. Bolser went on to say that the Planning Commission recommended approval of the subdivision with two considerations in addition to those listed in the staff report: (1) that water rights be conveyed at the time of the use application for that property, and (2) the settlement agreement identified a specific number of units allowed. This subdivision for this project will incorporate some of the units that were included in the agreement. These lots do not get to be replaced elsewhere, thereby increasing the number of inherent density from what was agreed upon in the settlement agreement.

Councilman Wardle asked if they were currently in compliance with the settlement agreement. Mr. Bolser answered that they are not; for instance, the clubhouse hadn't been completed. Mr. Baker said that the building permit had been issued, and that it was under way.

Councilman Wardle said that he would like to see how they have and haven't complied with the settlement agreement.

Chairwoman Winn suggested this item be on the agenda for discussion for the October 4th work session, and for a vote in the business meeting. She asked Mr. Bolser to provide the requested information at the next meeting.

- Ordinance 2017-27 An Ordinance of Tooele City Enacting Street Improvement Standards for Certain In-fill Overlay District Streets
Presented by Jim Bolser

Mr. Bolser stated that this item had been discussed a couple of times during Council work sessions. Mr. Bolser explained that he tried to capture comments from those meetings in this proposed Ordinance. Mr. Bolser presented a draft proposal that redesignated three roads within the in-fill overlay districts. Mr. Bolser explained that the reason he proposed two separate designations was because Garden Street has a very different dynamic to it than 50 West and 150 West. Garden Street is 30 feet wide, has curb and gutter, and one side has a commercial feel to it through almost its entire length. He said that he created two different identities: the intermediate local class street (Garden Street), and the secondary local class street (50 West and 150 West). The proposal says that Garden Street must have 30 feet in width, and curb and gutter. The other two would require 26 feet of asphalt, which is the minimum width required to get a fire truck down it. The proposal states that a vertical construction of the road still has to comply with the local class street requirements, but the horizontal requirement only has to meet the width requirements outlined.

Chairwoman Winn asked about the section of the proposal describing the streets. Some of the secondary local class streets, areas of 50 West, 150 West, and Garden Street, south of 100 South, have some curb and gutter, but she wondered about farther north in the overlay district that go down to 600 North. Mr. Bolser answered that on 50 West, behind the police station, is a newer section of road that has some curb and gutter. Without chopping the streets up, block by block, the proposal establishes the corridor of those two, as one or the other. Regarding Garden Street, the section between Vine Street and 100 South, makes for a clean break between south of 100 and north of Vine Street, because no road exists there as the County office complex is located there. Thereby Garden Street north of Vine Street became its own district. There are sections,

particularly 50 West, that will exceed what this says. He went on to say that staff felt it was cleaner to establish those two corridors that would follow this criteria rather than break it up into sections possibly creating confusion. Chairwoman Winn said that the Council could go back and add areas that they felt fit the criteria.

Councilman Wardle asked if the City tried to improve these areas in the future, with the establishment of this Ordinance, if it would have to be done under a special improvement district. Mr. Bolser answered that that would probably be the most realistic way to accomplish improvements to the area. Councilman Wardle asked if it would have to be voted on by the property owners in that area. Again, Mr. Bolser answered yes.

Chairwoman Winn pointed out that Mr. Houghton was in attendance. He had sent the Council a letter regarding his property. Chairwoman Winn said that his property was outside the areas proposed, and didn't fit in the intermediate or secondary local class district. Mr. Bolser agreed that it didn't fit because it was outside of the infill overlay district. The infill overlay district is in an area that the City is strongly encouraging development. There are specific characteristics in the areas that have been identified in the proposed Ordinance that builds upon what is already in the City Code. Chairwoman Winn asked if the City and Council would have to address Mr. Houghton's issue with different legislation. Mr. Bolser said that the Council could, if they wanted.

- Green Bags Discussion

Chairwoman Winn thanked Mr. Baker for the interesting information about the green bags included in their packet. She indicated that out of all the comments about the green bags from residents that she received, only two were positive, the rest were negative. She asked if the Council could legislatively regulate them, or if it was considered freedom of speech. Mr. Baker felt that they might not be considered littering or freedom of speech, but rather a commercial activity. He said that it was speaking to publish, but not speaking to throw a bag on someone's driveway. He added that it didn't appear to be littering under state statute. The Council could regulate them as a commercial activity.

Councilman Pruden said that the throwers had terrible aim. The green bags usually ended up in the gutter instead of people's yards or on their porches. He has seen them on the sewer drain graders. He added that pretty soon snow plows would hit them, and they would end up in a pile in someone's yard. Councilman Pruden said that if this company, Media One, wanted to have a commercial enterprise in the City, they can't create a problem in the community. Chairwoman Winn said that she would like to regulate it, but asked if it could be done legally. She felt like it was littering even though it didn't fit the state code definition.

Councilman Pratt said that he noticed the bags tended to be thrown in certain zones in the City. He has seen 3-4 bags in one person's yard, yet he doesn't receive any in his neighborhood. He indicated that he would like to see it regulated. Councilman Wardle asked what the penalty would be, and how it would be regulated. Mr. Baker said that that was the trick. If it was made a crime, it would involve the police department and may take police away from more serious crimes. If it was made a civil issue, how does the City collect? Councilman Pruden said that

most of the people receiving the green bags didn't ask for them. He felt it was the same thing as someone dropping a bag of garbage on people's lawns. He asked if the City should go after the throwers or the company. Mr. Baker indicated that the City should probably go after the company that hired the throwers.

Chairwoman Winn indicated that she has opted out of receiving the green bags twice. They stopped for a while, but then they begin again. She said that there are a lot of older people in the community, and people with disabilities, that cannot pick the bags up and throw them away so they end up in the streets and in the gutters.

Councilman Wardle said he would like to try to enforce preventing the green bags, but wondered how they could. He wondered if a property owner would need to opt out, then if the green bag was delivered after opting out, then report it. Councilman Pruden asked why the company couldn't just go through the mail like other ads did. This would stop bags from being thrown in people's yards.

Councilman Wardle asked how other cities regulated it. Mr. Baker said that the law enables municipalities to regulate this type of activity. The City would decide who gets penalized and how.

Councilman Pruden asked if phone books were considered the same as the green bag ads. Mr. Baker felt they were different because phone books weren't considered a handbill. It's a different type of product. Councilman Wardle said that the Provo definition of a commercial handbill didn't cover phone books. He indicated he liked Provo's concept of how they handled this type of green bag activity. Councilman McCall asked if Mr. Baker could contact Provo City's attorney to find out what transpired there. He wondered about being sued and what the outcome would be. He asked if a letter could be sent to the owner of Media One asking them to either quit throwing the bags, or to make sure they get them on people's porches. He went on to say that it would cost the City a lot of money to go to court. He didn't like the idea of going after the guy throwing the bags, because it would take him out of a job.

Mr. Bolser said that his department receives the same complaints every time – that people didn't ask for the ads in the green bags, they have tried to opt out, but it doesn't stop. Councilman McCall asked if there were other cities that had ordinances addressing this issue. Mr. Baker indicated he reached out to all the attorneys in the state, but only a few responded. Chairwoman Winn asked Mr. Baker to do more investigation so that the Council could discuss the matter again at the next meeting.

4. Council Reports

Councilman Pratt stated that the Council of Governments meeting was cancelled. He said that he attended the Wasatch Front Regional Council meeting. They had a very informational projection of growth presentation for Utah, including Tooele County. Councilman Pratt indicated he would get a copy of the presentation for the Council, the Mayor, and Mr. Bolser.

Due to the lack of time, and the items that needed to be discussed during the closed session, Chairwoman Winn tabled the remainder of this item.

5. Close Meeting to Discuss Litigation and Property Acquisition

Councilman Wardle moved to close the meeting. Councilman Pruden seconded the motion. The vote was as follows: Councilman Wardle “Aye,” Councilman Pratt “Aye,” Councilman Pruden “Aye,” Councilman McCall “Aye,” and Chairwoman Winn “Aye.”

Those in attendance during the closed session were: Mayor Patrick Dunlavy, Glenn Caldwell, Roger Baker, Paul Hansen, Michelle Pitt, Brian Roth, Jim Bolser, Randy Sant, Councilman Wardle, Councilman Pratt, Councilman McCall, Councilman Pruden, and Chairwoman Winn.

The meeting closed at 5:47 p.m.

Randy Sant joined the meeting at 6:29 p.m.

No minutes were taken on these items.

6. Adjourn

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

The meeting adjourned at 6:57 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 4th day of October, 2017

Debra E. Winn, Tooele City Council Chair