

**Tooele City Council
Work Session Meeting Minutes**

Date: Wednesday, December 16, 2020

Time: 6:00 p.m.

Place: Tooele City Hall, Council Chambers
90 North Main Street, Tooele, Utah

City Council Members Present:

Tony Graf
Melodi Gochis
Ed Hansen
Justin Brady

Council Members Excused:

Scott Wardle

City Employees Present:

Mayor Debbie Winn
Police Chief Ron Kirby
Steve Evans, Public Works Director
Darwin Cook, Parks and Recreation Director
Shannon Wimmer, Finance Director
Roger Baker, City Attorney
Paul Hansen, City Engineer
Andrew Aagard, City Planner
Kami Perkins, Human Resource Director
Michelle Pitt, City Recorder
Cylee Pressley, Deputy City Recorder

Minutes prepared by Kelly Odermott

Chairman Hansen called the meeting to order at 6:01 p.m.

1. Open City Council Meeting

2. Roll Call

Tony Graf, Present
Melodi Gochis, Present
Ed Hansen, Present
Justin Brady, Present

3. Mayor's Report

Mayor Winn stated that several weeks ago Jared Stewart, Tooele City Economic Development Coordinator applied and received a Safe Route to School Grant for sidewalks on Vine Street; east of Coleman Street towards the Junior High and High School. The grant is from UDOT for the north side of the road. The road will be widened and trees will be removed for the installation of the sidewalk. The grant is for \$90,000 and the original estimate is \$102,000. The grant is for fiscal year 2023 and is reimbursement funding. The City will pay for the work and seek reimbursement July 1, 2022. The Parks Department and city crews have been taking out six large trees which were dead, along 520 East, north of 1000 North. The trees were raising the sidewalks and the estimate to have those removed was quite high, but with the Parks Department and city crews stepping the cost was reduced. She thanked the Arts Council and Council Member Gochis for the Thurl Bailey concert. The last chance to watch the concert will be Monday December 21, 7:00pm on the YouTube Channel. It was an excellent concert.

4. Council Member's Report

Council Member Gochis stated she attended the RDA executive meeting. There will be a COG meeting and Tooele City and Jared Stewart have applied for a third quarter sales tax grant. The funds will be used to reimburse expenses paid for repairs to the G Avenue and Lodestone Road projects in the Peterson Industrial Depot. It was reported that there has been some interest on the Ballard property. Mr. Stewart has reached out to Tooele County and some gravel extraction companies for purchase. Mr. Stewart is also working on an Economic Development Strategic Plan and will be updating the bylaws. She thanked the Mayor for her kind words on the Arts Council concert. It was viewed over 520 times on the first broadcast, with 54 times during the second broadcast. The last viewing will be on December 21. She stated that Arts Council discussed to work with the Tooele County School District to discuss a performing arts center.

Council Member Brady stated he attended the Planning Commission and they have expressed appreciation for the Council report. He will be attending the CARES grant meeting on Monday and there was a good turn out of applicants.

Council Member Graf stated he appreciated the concert from the Arts Council. He has the CARES grant meeting and is excited to be part of that process. He thanked the City employees for the work they have done over the past year and the phenomenal job they have done. He recognized that Stephanie Statz on the Tooele City Library Board and Historical Perseveration Board and her work for the City. She is moving to Texas.

Chairman Hansen stated he watched the Thurl Bailey concert and he appreciated it. He thanked Dr. Statz for her work. He met with Communities Care and they have stepped up and worked hard to help with covid. He stated the Council will be interviewing new candidates for the council and opened the discussion for how to approach the interviews.

Chairman Hansen stated that there are over 20 applicants for the Council position. Each Council Member will ask one question. The interviews will be a live interview. One of the things that

needs to be decided is how to break a tie. There was a lengthy discussion between the Council Members and staff on the specifics of the interview process. The following was decided; A tie will be decided by a card draw and the cards will be provided by Michelle Pitt, City Recorder.

Each applicant will be provided 30 seconds at the beginning of the interview for a brief introduction of themselves, prior to questions.

Each Council Member will ask the same question to each applicant.

The applicants will be asked to be in a holding room away from the questions, so that the applicants have equal time to prepare for the questions.

The Council will have to have a verbal roll call vote.

5. General Annexation Discussion

Presented by Roger Baker, Tooele City Attorney

Mr. Baker stated that he wanted to discuss annexation and municipal authority with the Council. The Council has legislative roll in the municipality. The Mayor is the executive branch and implements the policy. He gave an analogy of an ocean liner ship. The Council are the owners and investors of the ship and decided where the ship goes, make the map and provide the reason for going. The ship is turned over to the ship's captain, the Mayor, who runs the ship, runs the maintenance, buying and organizing of supplies, morale, discipline, safety, and instructions to the crew. Both rolls are different, but both are critical to the mission.

Mr. Baker stated that annexation is the step in the development process where the Council has the most discretion to determine what happens. The Council decides what property comes into the city or not and the Council does not have to have a reason for saying no or yes. The Council can require owners to bring whatever is needed into the city for the Council to approve the vote. Once property is in the city land use designations and zones must be assigned to the properties. That happens during the annexation. In making rezone decisions, the Council does not have absolute discretion and is limited to a rational basis. There has to be some reason to approve or deny the rezone. It can be anything that is credible. A subdivision application gives very little discretion, as the Council has already put in place the rules and must approve it as long as the applicant has complied with the rules. The standard for this is the substantial evidence on the record which means any amount of evidence that is enough to convince a reasonable mind is enough. The same applies for Conditional Use Permits.

Mr. Baker stated that the reason for this discussion is there is an annexation that has come in and the City is aware of more that are coming. He is discussing general policies during the following discussion, not any particular annexation petition. In an annexation the property owner asks to be brought into the City and the Council has discretion and can require anything to make it attractive. There will be a point in the discussions where what is required is heavier than what the property owner is willing to give. The property owner can at any point state they do not like the deal and remove their application. Mr. Baker stated that fairness and public perception is important.

Mr. Baker stated that the fundamental question for annexation is, is the annexation good for the City and its tax payers? An annexation should pay for itself and then some. The city should do more than break even and should not be a losing proposition. A Council could accept an annexation that would cost more, but it wouldn't be advised. Mr. Baker stated he is not in front of the Council as anti-development or pro development, but wants to sensitize the Council for some of the policy issues that will need to be thought about and decided at the time of annexation.

Mr. Baker addressed reasons that some communities use to justify annexations and the downsides of those reasons with the basis of whether it is good policy.

- Communities that think bigger is better. That reason doesn't answer the fundamental question of if it is good for the City. Bigger may be better if an analysis provides that conclusion.
- It is good to square off the city's boundaries. It can be an attractive argument but it doesn't answer the fundamental question of if it is good for the city. Is leaving the way it is now bad for the city, which is an important question to ask.
- Wanting to control development on the borders. It is a two-edged sword, with no City influence. If the property is left in the county, the county will have the public process of development. If it is annexed into the city, is there really that much control. Once the zones are placed, the applicant is approved for development if the rules are followed.
- Annexation is desirable because there are more rooftops. More rooftops does equate to more attractiveness to businesses that want more rooftops. It is important to understand that property taxes paid by single family residences, generally do not cover the cost of services to the home. It costs the City more to have new homes than less. It is important to have a commercial component to pay for the shortage in property taxes.
- A petitioner stating water won't be a problem and they will pay to drill new wells. Water is a complicated issue and the City is actively looking for new City wells, but the areas to drill them in this valley are running out. The water sources will be west or south with complex and expensive issues. Infrastructure is important and the petitioner needs to pay for it.

Mr. Baker addressed reasons for including an annexation into the city, with the fundamental question of if an annexation benefits the city and outweighs the costs. A well planned development is always better than an unplanned development without amenities. Mr. Baker suggested looking at the housing mix, with various housing types to a wide range of consumers, will there be services and neighborhood commercial within the development? Will there be green space, walking trails, and will that add to the quality of life? These are not easy to quantify.

Mr. Baker addressed liabilities that need to be addressed when discussing with developers interested in annexation.

- **Water Rights.** Mr. Baker stated that the water is owned by the state of Utah and the residents own the right to pump and use the water. That paper water right is nothing if there is no source, well, spring to draw the water from. The water source is only good with the water rights. Mr. Baker added the Kennecott water rights confines the use of those water rights to the existing city limits. The Kennecott deal was done to allow Tooele City to build out. The Kennecott rights allow Tooele to drill. Chairman Hansen asked when the agreement was signed. Mr. Baker stated 2007. Chairman Hansen asked if there has been annexation since 2007. Mr. Baker stated there was one annexation of the Tooele City's open space property, some property at the end of Skyline Drive, and Mr. Bob Smart's annexation. The water rights can be purchased from Kennecott, but can only be used in Tooele City. If Kennecott water rights are used on newly annexed properties that water will be unavailable for the intended Tooele City properties, which is today's city limits. Chairman Hansen asked about the usage of the water. Mr. Baker clarified that the water needs to be used within the existing city limits. Changing the city limits allows the water to still be used in the new limits. The City has some really good water sources in Rush Valley, but the cost to bring it within City limits is approximately a million to two million per mile. Impact fees would have to be increased substantially and would be a major funding for added infrastructure to make the water usage possible. The more property annexed into the city the earlier those demands will need to be met. The sewer plant has capacity limitations and the more usage will make the need for plant expansion occur earlier to meet needs.
- **Human Cost of more water and more sewer.** The human cost will include the hiring of new staff to facilitate water, sewer, road crews, water crews, more clerical staff, and professional staff. Adding new territory those costs must be considered. There will be expanded parks, streets, and sidewalks.

Mr. Baker stated he has provided to the Council the outline for Annexation Policy Recommendations. This document details some of the items discussed tonight. These items must be discussed with all annexations. The outline is just a breakeven proposition. There is attached a two page checklist used by staff to track the progress through the state required system. There are lots of little steps. He showed the Council slides of developments and asked the Council to consider if this is what the Council would like in the City. Mr. Baker thanked the Council and administration for the opportunity to present.

Chairman Hansen asked if the city has a policy requiring Open Space in the developments? Mr. Baker stated the city does not. The City has a Master Plan for the acres of park per thousand of population. An annexation could require a dedication of parks, but the question would become would there be a credit for impact fees for the dedication of improved parks and open space.

6. Closed Meeting

The closed meeting was cancelled.

7. **Adjourn**

Chairman Hansen adjourned the public meeting at 6:59pm.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

Approved this 6th day of January, 2021

Ed Hansen, Tooele City Council Chair