

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

Date: Wednesday, October 4, 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
Matt Johnson, Assistant City Attorney
Jim Bolser, Community Development and Public Works Director (joined the meeting late)
Terra Sherwood, Assistant 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:

- Resolution 2017-43 A Resolution of the Tooele City Council Consenting to the Mayor's Appointments to the Tooele City Historic Preservation Commission Presented by Terra Sherwood

(This item moved to the beginning of the agenda. Jim Bolser was attending to an emergency caused by a cut gas line.)

Ms. Sherwood explained that in 1985 there was an ordinance that established an historic preservation commission. The City would like to restore that commission. The City sought and received applications from those who were interested in serving on this board. The duties of the board include: survey and inventory the City's historic resources, review proposed nominations to the National Register of Historic Place, provide advice and information to City officials, and enforce the state of Utah historic preservation laws. Ms. Sherwood went on to say that his resolution would appoint Richard Trujillo, Amy Kelly, Burton Cahoon, Stephanie Statz, and Jacob Lyman.

Councilman Pratt asked how long it has been since this board has been active. Ms. Sherwood said that she couldn't find a date of when the board last met. Mayor Dunlavy said he thought that it was under Mayor Diehl's administration. Councilman Wardle asked if there was a line item associated with this board, so that if the commission presented recommendations to the Council, there was a way to fund those requests. The Mayor said that the main reason for appointing the board was so that the City could apply for grants. One of the criteria to apply for certain grants is that the City needed to have an historic preservation commission. Ms. Sherwood added that the City has not been able to apply for certain grants because the City has not had an active commission. There are some grants that are almost a guarantee with a board in place. Councilman Wardle said that he would like the commission told that there is not a budget associated with the commission. Ms. Sherwood said that the ordinance only requires the commission to meet twice a year. They will serve as an advisory board, review documents, and make recommendations. Mr. Baker said that the commission will not have decision making authority, but will make recommendations to the Council. The Mayor added that Jean Mogus, who has managed the railroad museum for many years, is leaving. He is hopeful that this commission will generate interest in the railroad museum as well.

- Ordinance 2017-24 An Ordinance of Tooele City Enacting Tooele City Code Chapter 3-6 Regarding Enforcement of Title 3 and the Fire Code and Abatement of Title 3 and Fire Code Violations Presented by Roger Baker and Fire Chief Bucky Whitehouse

(Bucky Whitehouse was not present at the meeting because he was attending to an emergency caused by a cut gas line.)

Mr. Baker said that he met with Fire Chief Whitehouse earlier this year to discuss a number of initiatives that might fill some gaps in the fire code. The fire chief and City staff would like to propose two new chapters of the City code to fill those gaps. The first chapter is regarding the enforcement of the fire code, and violations of the fire code. Mr. Baker explained that the

Council has adopted the state fire code which gives the fire department the authority to do fire inspections to establish compliance. Kitchens and food establishments are especially important because they may use open flames and are full of patrons. The fire department can issue citations for violations of fire code. It is not a criminal ticket. Mr. Baker stated that there currently is not an existing mechanism to see that the violations get fixed. The fire code says that the fire department can implement a program to abate violations. The City already has a program in place that abates violations. Mr. Baker stated that he and Fire Chief Whitehouse discussed having the abatement process a criminal prosecution option, but decided it was not a good option because it can take up to six months to get through the criminal justice system. Even if the City were to win the criminal case, the judge might say they can have 30 days to fix the violation, and we are back where we started. Civil penalties can work, and are more geared towards fixing violations. City staff is recommending implementing a program similar to the nuisance abatement program in place now, but for fire violations. Mr. Baker explained the process: an inspector would go to the premises, if there is a violation, issue a violation notice, and provide a window of time to correct the violation. If the violation is not corrected, the department will move forward with procedural steps to have the issue abated.

Mr. Baker stated that the fire department inspects 300-400 businesses a year. They find violations in $\frac{3}{4}$ of those. They achieve compliance with 81% of the violations upon a first notice. Almost everyone complies voluntarily when they are told there is a problem. There are about 57 establishments that don't fix their problems per year. The purpose of this ordinance is to give the fire department a tool to help with public safety. Mr. Baker said that he invited Matt Johnson to the meeting because he will be overseeing this program when appeals are brought.

Mr. Baker further explained that a notice of violation is given if there is a problem upon the first inspection. It will tell them what the problem is and what they need to do to comply. Mr. Baker stated that he and Kacie Hall developed forms for the nuisance abatement. He has used those forms, with some adaptation. The violation notice gives a description of the problem, lists the code that is being violated, tells them they may ask for an extension, explains the appeal process, and explains the penalties. The City will respect property rights of the owners through this process. If someone feels the City is wrong, they have the chance to explain why throughout the whole process. If they comply, the fire department will do a compliance inspection and issue a Notice of Compliance. If they don't comply, the fire department will do another inspection to verify the non-compliance, then will file a default judgment. A default judgment is a serious action but is only done if every opportunity to comply or appeal has been exhausted. A default judgment is signed by the hearing officer, not an employee. The property owner can appeal the default judgment, or the case could be settled at that point. If they don't comply, don't settle, or don't appeal, the City will abate the situation. The fire department would have the authority to correct the problem and recoup the cost.

Councilman Wardle asked for clarification on the part of the ordinance that talked about razing, grading and removing structures. He asked about a line item to fund this abatement process. Mr. Baker said that he hasn't suggested an abatement superfund, like with nuisance abatement, in part because the City doesn't have a paid fire department. He said he was recommending that the fire department request a line item, with funding by the Council, with justification from the fire department. The fire code dictates what to do to abate the problems, but the fire chief will

have to prioritize those things. Mr. Baker said that every problem may not be abated, depending on funding and Fire Chief Whitehouse's discretion. All revenues from fire code abatements would go into the general fund.

Mayor Dunlavy said that if there was a restaurant, for example, that didn't comply with the code after they had been cited, they wouldn't be allowed to continue to operate. This type of abatement is a little different than cutting someone's weeds.

Councilman Wardle said again that the word "raze" bothered him a little. If a building had to be taken down, there would be a cost to that. Mr. Baker said that if the building isn't razed, the City would not incur a liability, but that the owner would still have full liability. There currently is not an enforcement mechanism. Businesses know that. Mr. Baker went on to say that the fire code requires the City to cause a building to vacate, but the proposed abatement ordinance does not require it. Mr. Baker reiterated that there were three opportunities to appeal, and three opportunities to settle the matter. He said that there wasn't any reason why these matters couldn't be resolved without fees and penalties, but there needs to be an ability to impose penalties for violations.

Councilman Wardle said that the ordinance says that someone out of the fire department and out of Title 3 can do fire inspections. He asked who that person from Title 3 would be. Mr. Baker said that this ordinance is to enforce both the fire code and City Code Title 3, which is the fire chapter. There are some obligations in Chapter 3 that are not in the fire code. This new chapter will help to be an enforcement mechanism of Title 3 as well. Councilman Wardle clarified that the fire inspections would be done by the fire department, and not code enforcement. Mr. Baker agreed. Mr. Baker indicated that he had spoken with Ms. Custer and Mr. Bolser about the appeal process in the nuisance abatement area. The number one complaint from the public is that people say they didn't get notice. Mr. Baker said that he wasn't saying that he believed them all, but some may not have received notice. Mr. Bolser's department has already increased the number of notices required by City code. This new proposed chapter says the notice has to be mailed to the physical location of the property, and the address that the county recorder has for the owner. Often times those addresses are different. They can also mail the notice by certified mail, with a return receipt requested, or deliver by personal service or posting on the property

Chairwoman Winn said that with places of business, they are going to be open, and someone should be there to receive the notice. Mr. Baker said that the notice has to be given to an owner, or a tenant.

- Ordinance 2017-25 An Ordinance of Tooele City Enacting Tooele City Code Chapter 3-7 Regarding Nuisance Fire Alarms Presented by Roger Baker

Mr. Baker stated that this ordinance is another initiative of the fire department. The fire department experiences about 400 alarms a year. Almost half of those are false alarms. In 2016, they responded to 167 fire alarms, while an additional 149 were false fire alarms. In 2015, there were 212 legitimate alarms, plus 199 false alarms. Each of these alarms causes fire trucks to roll, firemen to travel, emergency vehicles traveling the roads, and they put firefighters at risk. It

takes an average of 1 ½ hours from start to finish to deal with a false alarm. This takes time away from legitimate responses, and many man hours to respond. The City would like to explore a program to incentivize repairs of fire alarms and impose a fine to those who won't fix their alarms.

Mr. Baker explained that he used Salt Lake City's ordinance as a starting point. Under the proposed ordinance, when the fire department responds to a false alarm, the fire department will be authorized to issue a notice of false alarm and gives notice that it needs to be corrected. After two chances, there will be a charge for responding to a false alarm. It escalates as infractions continue to occur. On the third false alarm, there will be an assessment of \$100 each, which won't cover the actual cost of responding. If someone receives six or more false alarm notifications, they would be considered a habitual false alarm, at \$250 each. A notice will be issued that informs them that if they don't get the problem fixed, the City could order them to disconnect the fire alarm. This could cause them to shut down their business because they can't function without a fire alarm. They can appeal the decision because there is a financial component to it.

Mr. Baker stated that there is an order to disconnect form. A fire watch is a program instituted by the fire chief which may be implemented during this time for the property. It would involve people watching the property while the fire alarm is disconnected so there isn't a fire without an alarm. The fire watch form lists the requirements that the property owner has to go through while the fire alarm is disconnected.

Councilman Wardle asked why a fire watch would be issued if a company was shut down. Mr. Baker answered that there could be situations where a warehouse could continue to operate during a fire watch. The fire chief would determine the type of conditions for the fire watch. There were different levels of fire watch. Even if a business was shut down, we wouldn't want their building to burn down. In order to disconnect, the form informs them that their occupancy permit could be suspended if necessary. Mr. Baker went on to say that it wouldn't be automatic, but if necessary, it could be accomplished. Occupants could be ordered to vacate. Companies are able to appeal. The notice gives them notice of the fees and costs.

Mr. Baker described the last form and said that it would be given to the property owner after repairs had been made. Mr. Baker stated that this program was not intended to be a revenue generator. It was intended to obtain compliance and protect public safety.

Councilman McCall asked what would happen if a fire alarm goes off when it's not the business's fault, such as a power bump, or fluctuation of water. He wondered if it would count towards their first false alarm. Mr. Baker said that the fire alarm definition says that it is caused by the negligence or the intentional misuse by the occupant, so in that case the owner would not be penalized. Mr. Baker added that if the fire chief determined that the water flow was causing the fire alarm to be tripped, they would be required to fix it.

Mr. Baker said that the proposed fees were \$100 for 3-5 alarms in one year, and \$250 for 6 or more alarms in one year. If there is an order to reconnect which causes an inspection, there would be a \$50 inspection cost. Appeals would go to the fire chief. The fire chief would have

the opportunity to investigate to make sure of the inspector was correct in issuing the notice of violation. Then appeals could be made to the hearing officer.

Councilman Pratt said that he had a neighbor that had a faulty piece of equipment in their fire detector. The first time it went off, the fire department responded. The second time it went off, the owner wasn't home. Councilman Pratt said that he disarmed the alarm system because the fire department responded again. The neighbor said he has known he needed to fix the alarm for 1 ½ years. Councilman Pratt said that this ordinance raises the level of protection against fire in the community. Mr. Baker added that it protects the resources of the fire department.

Councilman Wardle felt there was a conflict with the order to disconnect and the fire watch. Once a business is put under a fire watch, they can't have employees in the building. Tier 1 wouldn't work. Mr. Baker said that when the situation was so serious as to order the fire system disconnected, they would need to stop conducting business and the occupancy permit is suspended. Councilman Wardle said that under the tiers, they can't have employees do the fire watch because they can't have employees in the building. Mr. Baker said that under this situation, they wouldn't be occupying the building under the occupancy permit, they would be occupying it under the fire watch. Mr. Baker said that he would study it.

- Bernice Heritage Minor Subdivision – Final Plat Request
Presented by Rachelle Custer

Ms. Custer stated that this was a 1.14 acre subdivision. This is the lawn piece near Main Street and Vorwaller Drive for a future commercial location. At the time a user comes in and a site plan application is received, the City would require water rights, but not at this time. Ms. Custer explained that because it's a commercial subdivision, the City doesn't know what the water requirements are going to be. They may lose some RV spaces due to this subdivision. If they do, because of the settlement agreement that locks them in to a specified number of RV spaces, they do not get to replace those spaces. Ms. Custer said that she studied the settlement agreement, as requested by Councilman Wardle. The agreement required that within two years of the date of the agreement, that common facilities be constructed. Common facilities have not been constructed, as required by the agreement, but they have begun construction. Footings and some foundation are in place. The agreement also required that Mr. Vorwaller retain a licensed contractor to obtain building permits for the conversion of some of the old mobile home spaces to RV spaces. That was completed. The only part of the agreement that has not been upheld is the security bond for the common facilities that were to be put in place. Mayor Dunlavy asked if there was any way to protect the person that buys the property from thinking that they could use the side of the property for parking. He said that the downtown overlay doesn't allow parking on the street. Ms. Custer said that a note could be placed on the plat. Mr. Baker said that this area may not be in the downtown overlay. Mr. Baker said he thought the downtown overlay ended at Utah Avenue. Ms. Custer said that staff would need to look in to that further, however the code in the downtown overlay says parking to the side or in the rear "as practical." There have been some businesses such as Walgreens and Big 5 that were allowed parking in the front due to their loading dock. Mayor Dunlavy said that it was gratifying to be flexible as a City. Mr. Sant asked if the lot had enough setback for a commercial development. Ms. Custer said it was 154 feet deep and 383 feet in length. Mr. Baker said it would include the scraped area, the road, and the

first row of RVs. Ms. Custer said that the code says 30 foot setback but may be reduced to 20 as allowed by the Planning Commission for various reasons.

4. Adjourn to Redevelopment Agency Meeting

Councilman Wardle moved to adjourn to a Redevelopment Agency meeting. Councilman Pratt 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 5:58 p.m.

RDA Chair Pratt introduced RDA Resolution 2017-07 and turned the time over to Mr. Sant.

- RDA Resolution 2017-07 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 for a Business Resource Center
Presented by Randy Sant

Mr. Sant said that the City would like to build a business resource center, putting all the services that businesses need in one area. Tooele Applied Technology College has had an interest in building the business resource center. Mr. Sant explained that the piece of property that was being looked at had some issues because it wouldn’t be a full 5 acres. The RDA is looking at a different piece of property which already has utilities in place. The piece of property appraised higher than the original piece. This contract allows the RDA to sell this property to the TATC. If there is funding left over, they will commit the funds towards the design. The contract gives them 30 days from the date of the sell, to November 6th, rather than the October 31st, the date listed in the agreement. Mr. Sant went on to say that most of the due diligence has already been done. There are no environmental issues. If TATC wants to hire a surveyor, they will do so at their cost. Mr. Sant said he was anticipating closing the end of November. Mr. Hansen asked if the new piece of property was subdivided. Mr. Sant said that he believed so.

Mr. Sant said that he received an invoice from TATC for the business resource center. Grantsville, Tooele, and the county all help with \$15,000 each. He assured the Council that although the invoice says \$45,000, the City portion is only \$15,000, so it won’t go before the Council for approval.

5. Close Meeting to Discuss Litigation and Property Acquisition

RDA Board Member McCall moved to close the meeting. RDA Board Member Winn seconded the motion. The vote was as follows: RDA Board Member “Aye,” RDA Chair Pratt “Aye,” RDA Board Member Pruden “Aye,” RDA Board Member McCall “Aye,” and RDA Board Member Winn “Aye.”

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

The meeting closed at 6:05 p.m.

No minutes were taken on these items.

At 6:38 p.m. Councilman Wardle made a motion to adjourn to a closed meeting to discuss personnel, and to dismiss City staff. Councilman Pratt seconded the motion. Staff was dismissed. There were no minutes taken, and there is no recording of that portion of the meeting.

Councilman Pruden moved to recess the meeting. Councilman Wardle 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 closed meeting reconvened at 7:47 p.m.

Those in attendance during the reconvened closed session were: Glenn Caldwell, Paul Hansen, Michelle Pitt, Jim Bolser, Randy Sant, Councilman Wardle, Councilman Pratt, Councilman McCall, Councilman Pruden, and Chairwoman Winn.

6. Adjourn

Councilman Wardle 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 8:08 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 18th day of October, 2017

Debra E. Winn, Tooele City Council Chair