

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

Date: Wednesday, December 6, 2017
Time: 5:00 p.m.
Place: Tooele City Hall, Large Conference Room
90 North Main St., Tooele, Utah

City Council Members Present:

Debbie Winn
Steve Pruden
Scott Wardle
Brad Pratt
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
Rachelle Custer, City Planner
Jami Carter, Librarian
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
Steve Pruden, Present
Scott Wardle, Present
Brad Pratt, Present
Dave McCall, Present

3. Discussion:

- Resolution 2017-47 A Resolution of the Tooele City Council Amending the Tooele City Fee Schedule to Discontinue the Collection of Fines for the Late Return of Library Materials
Presented by Jami Carter

Ms. Carter explained that she, the library board, staff, and the Mayor recommend that the City discontinue the collection and assessment of overdue fines at the library. Ms. Carter added that a lengthy recommendation was included in the Council packet. She indicated that she had met with the Council members individually about this proposal, and tried to combine their comments and perspectives in the creation of the recommendation. She felt overdue fines for the library were not accomplishing what they were originally created to do. Since it wasn't working, she wanted to replace that system with a mechanism that would get materials back in the library. She felt that they have found a new mechanism to get those items back in.

Chairwoman Winn thanked Ms. Carter for the work that was done on the proposal, for meeting with the Council members, and for looking out for the citizens.

Mayor Dunlavy stated that he talked quite a bit about this proposal with Ms. Carter. He felt it was an innovative program. He stated that Ms. Carter did her homework and a lot of research before she approached the Mayor. As they talked through it, he got a better idea of why this approach would be better. He felt it was worth trying. He believes it will be successful and supports it. He expressed appreciation to the Council for meeting with Ms. Carter.

Councilman Pratt expressed appreciation for the outside information and the research that was done. The current situation of collecting dues is detrimental and may drive people away. He felt it was a necessary thing to do, and that it would fix the problem. He said he was impressed to know that other libraries have done this and have been successful. He expressed appreciation of the willingness of what can be done to increase the use of the library instead of driving people away.

- Resolution 2017-41 A Resolution of the Tooele City Council Authorizing the Purchase of Property from Storage City, L.L.C. for the Extension of 1280 North Street
Presented by Roger Baker

Mr. Baker explained that on November 21st, he sent an email to the Council with a proposal for a revised contract for this resolution. The revisions to the proposal were based on a meeting with Doug White, the seller, who requested (or insisted), that he be allowed to use the property after the City purchased the property. Mr. White wants to continue to allow people to park their RVs and trailers on the property. Mr. Baker further explained that the property is 66 feet deep, which wouldn't allow for an entire trailer. The last time this proposal was discussed, Mr. Baker's recommendation at that time was not to incorporate a continued use element in the contract. He felt it was better to not allow people to do conduct business on City property. After the discussion, Mr. Baker found out that Mr. White's feelings were very strong on this issue.

Mr. Baker went on to say that he didn't object to Mr. White using the property as long as he signed an indemnification. He felt this would address the liability concerns. Mr. White offered an indemnification that said if any such liabilities arise, he would indemnify the City for those. Mr. Baker explained that indemnification was not just that Mr. White wouldn't sue the City, but also if someone else sued the City, Mr. White would have to pay for it. Mr. Baker said that he felt comfortable from a legal aspect, that the risks and benefits would be minimized by causing Mr. White to shoulder the responsibility and liability.

Mr. Baker said that he realized the concern of allowing a business owner to use City owned property for profit. However, he suggested reasons why the City should consider it:

1. The City gets to pay today's prices, rather than future prices which would be more;
2. The City is currently working with a willing seller - someone in the future may not be willing to sell, requiring a condemnation;
3. The City would be securing the right-of-way today. In the future, if the City doesn't acquire the right-of-way, that right-of-way could be sold to someone else or someone could put a building on it;
4. Having the property available for the development of the road would accommodate a developer's time frame for property to develop to the east. It could eliminate a development barrier.

Councilman Pruden asked if Mr. White indicated that he would scuttle the deal if the City said that he could not continue to use the property. Mr. Baker answered that he has not indicated that, but he did indicate that this is the deal he wants.

Councilman Wardle asked if the City would build the road, or if the developers would. Mr. Baker said that he didn't mean to suggest that the City would build the road, he just meant that the road would be built. Councilman Wardle asked if Mr. White would participate in the building of that road. Mr. Baker said that he would not. Mr. Baker explained that the law did not allow the City to exact property for a road unless that road directly impacted the adjacent property. Mr. Baker said that it would be a difficult argument because the City would be arguing against the property rights ombudsman. If, after the City bought the property, Mr. White built an access onto the road, the City could then charge him for building the road because he was impacting the road. If development happens to the east that could impact this road, then things would change, with the developers to the east possibly contributing to the cost of the road.

Councilman Wardle asked about the City's overall policy on indemnification. He said that businesses use City parks for for-profit business such as sports leagues, etc. Mr. Baker answered that the City requires, through the special events policy, a certificate of liability insurance. Mr. Baker stated that the ombudsman has told the City that we need to buy the right-of-way property. Mr. Baker said that he didn't want to argue the other side because he felt it was a losing argument.

Councilman Pruden said he didn't understand Mr. White's insistence of being able to use the property. It seemed odd. Mr. Baker said that the City would have to give him a year's notice to vacate the property and to make him move his fence.

Councilman Pratt asked if the property was utilized at all today. Mr. Baker said that it wasn't, but Mr. White planned to build new buildings and needs to move the RVs that are there.

Councilman Wardle asked if the City could legally allow a business to use City property without charging them money. Mr. Baker answered, yes. He said that he drafted the agreement to include the benefits to the City (see points 1-4 above). Councilman Wardle asked how important this road was. Mr. Bolser said it was a critical connection identified in the Master Transportation Plan. Mayor Dunlavy said that the reason that staff is approaching the Council on this matter is because it was similar to the fire station property. The City doesn't need the property right now, but will in the future. The Mayor said that you never know what will happen tomorrow. The City needs to lock up the property because there has to be another access to the property located to the east.

Councilman Wardle asked what the cost of that stretch of road was. Mr. Baker said that it was about 16,000 square feet. Mr. Hansen Paul estimated the cost of road at \$75,000 construction cost, plus survey, engineering, and construction management. Mayor Dunlavy clarified that the developer has to build the road, not the City. Councilman Pratt asked if the agreement for usage had a time frame. Mr. Baker answered that the agreement provided for a 90 day written notice from the City of the need to use the property. Mr. Baker added that Mr. White would be guaranteed use of the property for one year, after closing, and then at least 90 days. After the notice, Mr. White has to remove his fencing at his expense.

Councilman Pruden said that it bothered him that the City would be boxed in for a year before anything could be done with the property. Councilman Wardle said that when the City tried to kick someone off City property before, it cost the City a lot of money in a lawsuit. He asked if the indemnification helped protect the City. Mr. Baker answered that he drafted the agreement with that lawsuit in mind. Councilman Wardle asked if the one year time period was Mr. White's idea. Mr. Baker said he didn't recall. Councilman McCall asked if the agreement could be a month to month lease, instead of a year. The Mayor said that the City's intent should be that regardless of where the City is in one year, whether the road is ready to be built or not, the City should get Mr. White off the property. Councilman Wardle asked if the language should include that Mr. White can't sue the City. Councilman Pruden asked if the City could give Mr. White 15 months as an end date, but not extend it beyond that. Chairwoman Winn said that the City may be taking the chance that Mr. White will just say no to the end time, then the City may not be able to purchase the property after all.

Councilman Wardle said that he was concerned that if Mr. White won't leave when asked, the City may get sued. Mr. Baker felt that the agreement would cover and protect the City. Councilman Wardle added that he was concerned about that the possibility of being sued under this type of contract with no definitive end date. Councilman Wardle said that it would be cheaper to buy this property in a year, than to fight him in court. Ms. Custer added that Mr. White has received his conditional use permit and site plan approval for the construction of the buildings. Ms. Custer guessed that Mr. White would start construction in the spring. Councilman Pruden asked if it would take longer than one year for him to finish the sheds. Ms. Custer answered that it possibly could. Mr. Baker said that he felt what got the City in to trouble

with the Aposhian property, was a contract that automatically renewed every year, and that the City said they would buy their sod when they left. Councilman Wardle again expressed concern. He added that he would prefer to give Mr. White an end date, and that if the City needed the property before that, the City give him 90 days' notice. Councilman Wardle said that he was concerned about a possible lawsuit. He said that whether or not the City is in the legal right, juries have not been in favor of the City in the past. He recommended 24 months as an end date.

Councilman Pruden asked if it would help to talk with Mr. White to ask him how much time he needed to build his buildings. Councilman Pruden said that the City has had people sue that the City never thought would. He doesn't want to go through another lawsuit. He would like an end date.

Councilman Pratt also felt it would benefit to talk to Mr. White to see how long he would like the agreement to be. Councilman Pruden said that it was a gamble that no one would want to develop it during that time. He added that even if someone wants to develop, the City would have the 90 day notification requirement. Chairwoman Winn said that the City could offer him the fact that the City won't do anything for a year, with an end date, and a 90 day notice. Councilman McCall asked if the City could verbally offer that Mr. White could move his vehicles to another City location if he needed to. Mr. Baker said that he would be happy to talk with Mr. White and then report to the Council. Councilman Wardle stated that the Council would table the resolution at tonight's business session.

Randy Sant joined the meeting at about 5:25.

- Resolution 2017-49 A Resolution of the Tooele City Council Authorizing the Sale of Property in the Tooele City Commercial Park to Christensen & Griffith and Approving a Real Estate Purchase Contract
Presented by Randy Sant

Mr. Sant said that the City received an offer on a piece of property that the City owns, west of Christensen and Griffith, and east of Syracuse Casting. The City, not the RDA, bought this property from the Tooele County Chamber of Commerce thinking that Syracuse Casting would expand. Christensen and Griffith would like to construct another building on this property. The property appraised at \$56,000 per acre, which would be \$109,293.00. Mr. Sant added that Mr. Baker has reviewed the real estate purchase contract. The City would sell the property as is. The only requirement of the City is to provide a title report. They would like to close between January 31 and February 15. Mr. Sant said that there are design restrictions in that area. Mr. Sant is working with Steve Griffith, who is representing the buyer.

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

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

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

The meeting closed at 5:43 p.m.

No minutes were taken on these items.

5. Adjourn

Councilman McCall moved to adjourn 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 meeting adjourned at 6:49 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 January, 2018

Steve Pruden, Tooele City Council Chair