

**Tooele City Council
Business Meeting Minutes**

Date: Wednesday, November 3, 2010
Time: 7:30 p.m.
Place: Tooele City Hall Council Chambers
90 North Main Street, Tooele Utah

City Council Members Present:

Scott Wardle, Chair
Mike Johnson
Steve Pruden
Dave McCall
Shawn Milne

City Employees Present:

Mayor Patrick Dunlavy
Glen Caldwell, Finance Director
Roger Baker, City Engineer
Paul Hansen, City Engineer
Sharon Dawson, City Recorder
Lisa Carpenter, Deputy Recorder
Rachelle Custer, City Planner
Chief Ron Kirby, Chief of Police
Cary Campbell, Public Works Director
Jaclynn Sagers, Communities that Care Director

Others Present:

Debbie Winn, Chamber of Commerce
Tim Gillie, Tooele Transcript

Minutes prepared by Elisa Jenkins

Chairman Wardle called the meeting to order at 7:30 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Keith Borders.

2. Mayor's Community Recognition Awards

Presented by Mayor Patrick Dunlavy, Chief Ron Kirby, and Jaclynn Sagers

Mayor Dunlavy thanked all those who came to support these special young people who will be receiving this award. He appreciates the opportunity to recognize these students. He thanked the families for the role they play in these students' lives.

Jaclynn Sagers then presented the Mayor's Community Recognition Awards to the following students:

Rebekah Clonts, Copper Canyon Elementary
Tianna McMackin, Northlake Elementary
Kira Mower, Middle Canyon Elementary
Kyla May, Harris Elementary
Brayden Borders, Settlement Canyon Elementary

Ms. Sagers informed the parents that there is a brochure in the bags that the students received explaining the Guiding Good Choices program and invited anyone interested to please call her. She thanked all those who came.

Mayor Dunlavy congratulated the recipients of this award. He thanked the families again for the support they give these students. The Communities that Care program is in the schools helping students with every day situations that they come in contact with. He said that he is very proud of these students.

A brief recess was taken for a picture with the Mayor.

Chairman Wardle was excused for the rest of the meeting to attend a County meeting. Vice-Chairman McCall conducted the remainder of the meeting.

3. Open Forum for Public Comment

Vice-Chairman McCall invited anyone from the public who would like to come forward and address the Council to do so.

Tim Booth, 50 South 100 West addressed the Council. Mr. Booth was concerned about the homeless in Tooele. He has noted people sleeping in the parking lot at the old Liddiard building and behind the County Food Bank building. He was concerned about it becoming a sanitation problem. He has spoken to the police department about the problem and wanted the Council to be aware.

Councilman Milne encouraged Mr. Booth to talk to the Karen Cypress who is in charge of relief services and the County Commissioners because the County runs the food bank.

Chief Kirby stated that a number of years ago the courts outlawed vagrancy and loitering kinds of laws. The police department does not have the ability to do anything with people that are not creating a problem if they are on private property. It is up to the property owner to say they can not trespass on their property. He did indicate that if they are making noise and causing a nuisance the police can step in. This falls in an area where there is a gap to what the citizens want and deserve and what the police are able to do.

Councilman Johnson suggested that Mr. Booth talk to Myron Bateman with the health department as well.

Mr. Booth encouraged the Council to try and find someplace for the homeless to stay.

Councilman Johnson noted that ordinance 2010-14, that is on the agenda for approval makes it unlawful for private property owners to allow recreational vehicles to reside on their property.

Mr. Baker said that ordinance 2010-14 has prohibited residing in a recreation vehicle except in a recreation vehicle park since 1983. They are not proposing any new law it has been in force for some time. It has not been a tool that has been easy to enforce due to deficiencies that they are correcting. They will be defining what a recreational vehicle is and providing a penalty.

Vice-Chairman McCall moved to close the public hearing. Councilman Milne seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”. The public hearing closed at 8:00 p.m.

4. PUBLIC HEARING & MOTION on Ordinance 2010-14 An Ordinance of the Tooele City Council Amending Title 7, Chapter 9, Tooele City Code, Recreational Vehicles

Presented by Roger Baker

Mr. Baker stated that since 1983 the City has had in its ordinance a provision that prohibits living in recreational vehicles (RV) except in an RV park. They are proposing to add tonight a definition of a recreation vehicle so that the ordinance is consistent with state law and law enforcement knows what a recreation vehicle is. They have also added a corresponding penalty. The penalty is a criminal penalty, a class C misdemeanor which carries the possibility of a short jail stay and a \$750 fine.

Councilman Pruden asked what if family members come to visit and pulls an RV in front of someone’s home. Would they be in violation?

Mr. Baker said technically “yes”.

Councilman Johnson stated that is his concern also.

Councilman Pruden has noticed there is a home on 7th Street that has family come regularly in a RV and they park it on the curb and run connections to the home. It is usually there for a week at a time several times a year. He wondered if that is a hazard.

Mr. Baker stated that this ordinance is intended to be a tool for law enforcement and with any tool the user needs to know how to use the tool appropriately. He doesn’t feel that

the police would come to arrest family from an RV in front of someone's home. He feels that it might be against health code standards to run a garden hose into an RV and supply water in that way. An RV needs to be adequately hooked to a municipal system with preventions in place to guard against contamination. This is a blunt tool already in the tool box that they have tried to sharpen it. The alternative is to get rid of the ordinance or make it something much different than it has been for 30 years.

Councilman Pruden stated that the reason they have this tool is if there is a problem they then have justification to address it through legal means. He used as an example, if the RV is blocking the sidewalk, or if it is hanging over into the street.

Mr. Baker stated that it is not a perfect tool.

Councilman Johnson questioned if a family member has a fully contained motor home, pulls up in a driveway and hooks up for several days and when they are done they go to a proper dumping station; he asked why that should be illegal?

Mr. Baker suggested that maybe that is a broader public policy issue; whether the City should allow RV's to be set up in driveways or backyards and if so for what length of time. He stated that right now the legislative policy in Tooele is that it is not permitted. They are trying to make the tool enforceable. If the Council would like to revisit the ordinance they could at another time.

Councilman Johnson noted that the police are not going to come and give a ticket to someone who is staying for a few days at someone's home, but technically it is against the law. He is worried about the ability for discriminatory treatment.

Mr. Baker stated that is a concern. He also stated that the City has many blunt tools in their toolbox. He used as an example that for many years citizens could only have two dogs on their property but it did not mean that if they had three dogs the City would seek them out and ticket them. There are also many people that exceed the speed limit routinely but they try to use discretion and pull over the worst offenders. He said that they can improve the tool for now and revisit if the Council wants the tool at all.

Councilman Pruden likes the way that the ordinance is written and thanked Mr. Baker for his work on it.

Councilman McCall noted that there are many people in town that have relatives come and stay on their property in RV's and campers. He realizes that the police are not going to come unless there is a problem. But if someone calls the police they would be breaking the law. He stated that many people use their RV's to stay instead of paying for a hotel room.

Mr. Baker stated that they are not creating the tool the tool exists already. The ordinance says right now if family comes to visit in their RV they have to put their RV in an RV

park and not in your yard. This is the existing policy. If the Council would like to revisit the policy and put a time limit they could do that.

Councilman Johnson asked if there are any areas in town that someone could park an RV if they were just visiting.

Councilman Milne stated that there is the Vorwallers RV Park.

Mr. Baker stated that there may not be enough RV parks to meet the demand, but there are some.

Councilman Pruden said that he feels that it is good for the officers to have this tool.

Councilman Johnson noted that the proposed change includes defining a recreational vehicle. He asked what the other change was?

Mr. Baker stated the other proposed change is that they add a penalty. There was a violation before with no penalty.

Councilman Milne stated he was also concerned about extension cords and hoses across the public right of way and the sidewalk, he felt that could be hazardous. He would like to see leeway given by officers to visiting family members. He stated that he trusts the individuals that were hired by the administration to do the job they were hired to do. He feels that this is appropriate.

Mr. Baker stated that they attempt to address the worst problems first.

Vice-Chairman McCall stated that this is a public hearing if anyone would like to come forward and address this issue.

Corrina Brown, 702 W 770 S addressed the Council. She felt that if someone is visiting her in an RV and they are on her property it should not be illegal.

Councilman Pruden stated that if someone is staying at someone's house in an RV and not causing any problems they will not be bothered. This ordinance is set up if someone is causing a problem, such as an RV in the street.

Ms. Brown suggested having two ordinances one that addresses private property and one that addresses public property.

Councilman Pruden stated that they are trying to avoid people staying for long periods of times. The ordinance that is written gives the police department discretion to take care of problems.

Councilman Johnson said that he is struggling with this ordinance because legally people can not stay in an RV on someone's property.

Councilman Pruden stated that the police officers will now have a tool to use at their discretion.

Mr. Baker indicated that the question tonight is defining an RV and imposing a penalty. If the Council would rather they could leave the ordinance as it is and address the bigger policy issue later.

Councilman Johnson stated that if this ordinance is going to be in place the changes that Mr. Baker has made make sense. He is struggling with the bigger policy issue.

Councilman Pruden stated that he does not have a problem with how the ordinance is written. If the Council wants to address the policy issue later on they can. He would like to approve this now so the police can deal with immediate problems.

Councilman Milne agreed with Councilman Pruden. He would also like to see the policy issue looked at.

Councilman Johnson moved to close the public hearing. Councilman Milne seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”. The public hearing closed at 8:15 p.m.

Councilman Pruden moved to approve Ordinance 2010-14 as presented.

Councilman Milne seconded the motion, with the caveat that the Council has a discussion at a later date concerning this ordinance. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Nay”, and Vice-Chairman McCall, “Aye”. The motion passed.

5. PUBLIC HEARING & MOTION on Ordinance 2010-09 An Ordinance of the Tooele City Council Amending the General Plan Land Use Map to Include an Open Space (OS) Designation

Presented by Roger Baker

Mr. Baker stated that this item and the next three items are presented as four distinct items in a package.

Councilman McCall asked if the Council could vote on the items together.

Mr. Baker indicated that they could have one public hearing that addresses all four ordinances. He stated that these four ordinances were discussed with the Planning Commission and they made a positive recommendation on them. The minutes of the Planning Commission meeting are attached to each ordinance.

Councilman Johnson moved to combine the public hearings for Ordinance 2010-09, 2010-10, 2010-11 and 2010-12 into one public hearing.

Councilman Pruden seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”.

Mr. Baker explained that these four ordinances are designed to increase the protections to the open space lands that the city has acquired and that lie within the city limits right now. The property that Rocky Mountain Power wants to cross with the high-voltage transmission lines is property not within the city limits right now. These ordinances do not address that property and will not until such time it is within the city limits. Mr. Baker showed the Council on the overhead screen the property the city owns at this time within the city limits that these ordinances will pertain to. Mr. Baker stated that although the city allows open space zoning the general plan has no open space designation it has only residential, commercial and industrial uses. If there is an open space zoning district there needs to be an open space land use designation on the general plan. They are proposing to add to the general plan a box that would designate the open space uses.

Mr. Baker stated that ordinance 2010-10 would take all of the city owned open space properties and assign the open space land use designation to them. That would provide the regulatory basis and land use basis for assigning the open space zoning district to them. He indicated that first you have to have the general plan foundation and then you build the zoning on top of that.

Mr. Baker said that ordinance 2010-11 would actually zone the city owned properties for open space.

Councilman Johnson asked if they are designating a general plan or zoning open space to any property that is not city owned property?

Mr. Baker stated “no”. He said that they have already zoned some other property open space. He noted that the fairgrounds are zoned open space. Mr. Baker continued to say that the last ordinance 2012-12 has to do with making changes to the language of the zoning ordinance. The Council has a copy with redlines that shows which changes are being made. He noted that section 7-13a-13 has been added to the ordinance. This section would prohibit any property that is zoned open space for the protection of open space from being crossed by an above ground utility or utility corridor, because of the incompatibility with those uses and the underlying nature of the land. It would not prohibit underground facilities because they can be made compatible through burial and revegetation.

Councilman Johnson said hypothetically speaking if the property that Rocky Mountain Power wants to cross was already in the city limits and had been for a number of years. He asked how a provision like this in the local zoning ordinance would square with the facilities review board policies and procedures?

Mr. Baker explained that the Council has the exclusive right to determine how land the city owns is zoned and what the zoning provisions are. All it needs to be constitutional is to have a legal basis. Any legitimate public purpose that they can think of would be enough for the law to be legal and the court would not be able to find that it is arbitrary or capricious. They are not denying anything; this is the land use designation. He does not know what a court would do, but he could not see a utility facility review board trumping the Utah Supreme Court on the determination of an ordinance's constitutionality. He stated that when the city annexes property into the city limits this provision will apply to that property.

Vice-Chairman McCall stated that this is a public hearing on all four ordinances 2010-09, 2010-10, 2010-11 and 2010-12 if anyone would like to come forward and address these issues. No one came forward.

Councilman McCall moved to close the public hearing. Councilman Pruden seconded the motion. The vote was as follows: Councilman Pruden, "Aye", Councilman Milne, "Aye", Councilman Johnson, "Aye", and Vice-Chairman McCall, "Aye". The public hearing closed at 8:27 p.m.

Councilman Pruden moved to approve Ordinance 2010-09. Councilman Milne seconded the motion. The vote was as follows: Councilman Pruden, "Aye", Councilman Milne, "Aye", Councilman Johnson, "Aye", and Vice-Chairman McCall, "Aye".

6. **PUBLIC HEARING & MOTION on Ordinance 2010-10 An Ordinance of the Tooele City Council Amending the Tooele City General Plan Land Use Map for City Owned Open Space Properties**

Councilman Johnson moved to approve Ordinance 2010-10. Councilman Milne seconded the motion. The vote was as follows: Councilman Pruden, "Aye", Councilman Milne, "Aye", Councilman Johnson, "Aye", and Vice-Chairman McCall, "Aye".

7. **PUBLIC HEARING & MOTION on Ordinance 2010-11 An Ordinance of the Tooele City Council Amending the Tooele City Zoning Map for City-Owned Hillside Open Space Properties from MU-160 and Ra-12 to OS (Open Space)**

Councilman Milne moved to approve Ordinance 2010-11. Councilman Pruden seconded the motion. The vote was as follows: Councilman Pruden, "Aye", Councilman Milne, "Aye", Councilman Johnson, "Aye", and Vice-Chairman McCall, "Aye".

8. **PUBLIC HEARING & MOTION on Ordinance 2012-12 An Ordinance of the Tooele City Council Amending the Provisions of the Open (OS) Zoning District**

Councilman Milne moved to approve Ordinance 2012-12. Councilman Pruden seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”.

9. Resolution 2010-49 A Resolution of the Tooele City Council Declaring Surplus a 0.04-Acre Parcel and Authorizing its Disposal

Presented by Roger Baker

Mr. Baker showed the Council on the overhead screen the property that Mr. DeLaMare owns. Because of the way that property lines historically came together it created an odd triangle of property that the city owns which is .04 acres at the bottom of Mr. DeLaMare’s property. The city has determined on the basis of usefulness that the property has no value and no public use. Mr. DeLaMare has assumed all the costs of surveying, staking, and document preparation. The Council suggested in the last meeting that with Mr. DeLaMare bearing those costs it is sufficient consideration for conveyance of the property. This resolution will authorize the transfer.

Councilman Pruden moved to approve Resolution 2010-49. Councilman Milne seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”.

10. PUBLIC HEARING & MOTION on Ordinance 2010-17 An Ordinance of the Tooele City Council Adopting the 2010 Tooele City General Plan Transportation Right-of-Way Element Map

Presented by Paul Hansen

Mr. Hansen showed on the overhead screen a comparison of the existing transportation element and the proposed transportation element. He stated that there have been a number of principle changes. In the current plan there are a number of minor roads within the Overlake development plan, they have been deleted in the new plan. This will provide more flexibility when the property develops. The second modification is the symbols on SR-36 and SR-112. The open circles are locations that are pre-agreed upon by the city and UDOT as locations that may in the future become lighted intersections. The circles that are closed are current lighted intersections. They have also clarified some of the road types. He used as an example Skyline Drive which is shown on the current transportation element as a single designation and is clarified as limited access collector which typically does not have driveways that back out on to it which is not true for all portions of Skyline Drive. Skyline Drive has driveways that back onto it. There are several similar inconstancies in the existing plan. The new plan shows a change in line type that acknowledges that there are many roads in the city that historically have very wide rights-of-way that they are not restricting access to. It also clearly identifies those portions of the limited access roadways that they do not want to have unlimited access. This will provide consistency. They have also added in the plan what Tooele County is proposing as the Midvalley Highway. Tooele City has no plans to construct

this road as it would be a county road, but they felt it important to start to show where it may be located once the Finding of No Significant Impact (FONSI) is approved. He presented this plan to the Council for their approval.

Vice-Chairman McCall stated that this is a public hearing if anyone would like to come forward and address this issue. No one came forward.

Councilman Milne moved to close the public hearing. Councilman Pruden seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”. The public hearing closed at 8:37 p.m.

Councilman Milne moved to approve Ordinance 2010-17. Councilman Pruden seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”.

11. Resolution 2010-50 A Resolution of the Tooele City Council Authorizing the Mayor to sign a Contract with Aqua Engineering for Engineering Service Related to Design of the Phase 1B Expansion and Upgrade of the Existing Sanitary Sewer Plant

Presented by Paul Hansen

Mr. Hansen stated that this plan would provide additional facilities to the sewer plant for the City which would include the solar drying facility for the disposal of the bio-solids, a new holding tank, an equipment storage facility, and constructing a change room for the employees. There are some miscellaneous items that they would like to do to improve safety and operations. He said that Aqua Engineering is the firm that has done the facility plan update and has been involved with the City in the past expansions. The city has received a cost proposal from them with the design not to exceed \$350,000. He said that when they did the Phase 1 design for the sewer plant expansion the contract was for \$368,000. Their final bill was around \$250,000 so on Phase 1 they were well under their contract amount.

Councilman Johnson asked how happy Mr. Hansen has been with Aqua Engineering.

Mr. Hansen said that they have been good to work with. They have experience in sewer design. He said all in all he has not been dissatisfied with them.

Councilman Johnson asked if this will be paid for out of the CIB fund?

Mr. Hansen said that the facility would be paid for through a combination of impact fees for the additional capacity and what is being replaced would be paid out of existing revenue funds.

Councilman Pruden moved to approve Resolution 2010-50. Councilman Milne seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”.

12. Resolution 2010-46 A Resolution of the Tooele City Council Authorizing the Mayor to Sign a Joint Funding Agreement with the U.S. Geological Survey for Operation and Maintenance of the Faust Creek Gage During 2011 Water Year

Presented by Paul Hansen

Mr. Hansen explained that when the City acquired the water rights at the Vernon area one of the requirements from the state was that they continually monitor stream flow of the farmed property. This contract allows that monitoring to occur through a third party entity which is the U.S. Geological Survey. The total cost is \$15,100 and the U.S. Geological Survey contributes \$6,795 which leaves the city’s obligation at \$8,305.

Councilman Pruden asked if this is paid for through the water revenue fund?

Mr. Caldwell said “yes”.

Councilman Johnson moved to approve Resolution 2010-46. Councilman Pruden seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”.

13. Resolution 2010-47 A Resolution of the Tooele City Council Authorizing the Mayor to Sign on behalf of Tooele City a Contract with Hansen Allen & Luce for a Water Study Related to Development of the Honerine Water Rights

Presented by Paul Hansen

Mr. Hansen stated that Hansen Allen & Luce has been doing a lot of the city’s master planning work. There are two elements that the city submits for the Council’s consideration which are beyond the scope of the master plan. One of those is the Honerine water rights that were acquired in 2001. The master plan identifies how the water rights would be brought to the city, but with this project they are using the USGS ground water model which Hansen, Allen & Luce has been working on with the city to look at and see if there is information as to how the best way would be to put the water to use. They look at water quality and water quantity. He submitted this resolution to the Council for their consideration.

Councilman Pruden asked if they will know the quality and quantity?

Mr. Hansen said that they have some water chemistry results that they have obtained from the general area. They may do some supplemental testing. The water right as it

presently sits exists in a mine environment which typically is laden with metals and other minerals so it would have to be treated to meet drinking water standards.

Councilman Milne moved to approve Resolution 2010-47. Councilman Pruden seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”.

14. **Resolution 2010-48 A Resolution of the Tooele City Council Authorizing the Mayor to Sign on Behalf of Tooele City a Contract with Hansen, Allen & Luce for Drinking Water Source Protection Zones for the Replacement Well 9A, Rodeo Grounds Well, and Kennecott Well No. 1.**

Presented by Paul Hansen

Mr. Hansen stated that this work is also additional to the scope of work. In order to put a source of water to beneficial use they need to match where the water is directed from physically in the ground so that they can add source protection zones and maintain the water in its pristine state. The wells that the city has identified as future sources of culinary water is replacing well 9A, Rodeo Grounds Well and developing the first source using the Kennecott water rights. This study would allow them to use the same USGS model and complete the information.

Councilman Milne asked if it would provide any restrictions at the Rodeo Grounds?

Mr. Hansen said “no”. They would have to restrict the immediate area around the well which would be 100 foot radius from certain uses but not incidental uses.

Councilman Pruden moved to approve Resolution 2010-48. Councilman Milne seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”.

15. **Minutes: October 20, 2010: Work Session Minutes and Business Meeting Minutes**

Councilman Johnson moved to approve the minutes as presented. Councilman Milne seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”.

16. **Invoices**

Presented by Sharon Dawson

Ms. Dawson presented the following invoices for payment:

- Clyde Snow Sessions & Swenson for professional services through September 30, 2010 in the amount of \$38,625.72.
- Quality Chevrolet for four new police cars in the amount of \$87,608.00.

Councilman Pruden moved to approve the invoices as presented by Ms. Dawson.

Councilman Milne seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”.

17. **Adjourn**

Councilman Milne moved to adjourn the meeting. Councilman Pruden seconded the motion. The vote was as follows: Councilman Pruden, “Aye”, Councilman Milne, “Aye”, Councilman Johnson, “Aye”, and Vice-Chairman McCall, “Aye”. The meeting adjourned at 8:50 p.m.

Approved this 17th day of November 2010

Chairman Scott Wardle