

**Tooele City Council  
Work Session Minutes**

Date: Wednesday, April 12, 2006

Time: 5:00 P.M.

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

**City Council Members Present:**

Mike Johnson, Chair

Scott Wardle

John Hansen

Steve Bevan

Steve Pruden

**City Employees Present:**

Patrick Dunlavy, Mayor

Roger Baker, City Attorney

Cary Campbell, Public Works Director

Lisa Carpenter, Deputy Recorder and City Council Liaison

Kriss Garcia, Tooele City Fire Chief

Dave Gillette, Tooele City Fire Assistant Chief

Troy Tate, Tooele City Fire Inspector

Minutes prepared by Andrea Cahoon

The meeting was called to order by Chairman Johnson at 5:04 p.m.

**1. Tooele City's Ordinance Requiring Installation of Communication Boosters in Large Commercial Buildings**

Chairman Johnson said that there had been an issue about whether or not the new Liddiard's Furniture building needed to have the communication boosters installed. Since they called this meeting, he felt they had resolved the issue with Liddiard's, but the question that remained in his mind is if they should change this Ordinance? After speaking with the Fire Department he was not so sure that was required because the policy has enough room in it to address this specific situation.

Frank Liddiard asked if the City was going to make him install this communication system in his new building? Mr. Liddiard said there are meeting minutes from December of 2003, two years before this project was approved, that state they were informed that the communication system had to be installed in the building. If that was the case, he didn't remember it two years later. Nothing was said in the plan approval process, and they were actually notified by the building inspector two months prior to their completion date. It is tough with a project of this size, at that expenditure, to budget in two months prior to completion.

Mr. Liddiard said that in the future it would benefit other developers, who are

building structures 25,000 square feet or larger, to be told of that requirement during the plan approval process. That would have cleared things up. Chairman Johnson asked him not to blame the Fire Department. Mr. Liddiard said he was not blaming anybody. He was just saying that as an outsider looking in who experienced this, it is something that needs to be improved upon. It was frustrating to get a bill of that size so late in the project. The second thing of concern to him was that when he read the Ordinance he thought their backs were against a wall because in paragraph d it states that, "any building more than 25,000 square feet needs a communication system installed." He contacted Kriss Garcia on Saturday to discuss it. He told Kriss they didn't want to jeopardize the safety of the Fire Department. If it doesn't test, we will install it. If the radios already work, there is no reason for the system. The Fire Department tested the building the other day and it was at 100 percent. He asked the Fire Department if they were comfortable with that or if they still needed to install the system?

Kriss Garcia said you are not the first person who has come to us with issues of inconsistency. This should be a performance-based ordinance. This is about being able to communicate in the building. It is cheaper to put it in at the start. We got to this point, and it is the City's fault collectively that the requirement was not made clear. The building performs well. There are no dead spots. The communication is there and that is what they are aiming for. The Fire Department doesn't have any problem waiving this. We will test again when the building is full of merchandise. He apologized for the inconsistent enforcement. We will work on it as a City. As far as the Fire Department is concerned, your building performs well, and we can communicate out of it. He imagined it will pass when full. Usually it is not the stuff inside that hinders communication, but the building itself. Buildings are very inconsistent and usually have to be tested before they know if it is okay or not. Repeaters change, and locations are added. The Fire Department has no problem granting the waiver. He thanked him (Mr. Liddiard) for being willing to install the system if the building didn't pass.

Chairman Johnson said the Fire Department has internal policies. He felt the City ought to tell developers they should install this up front if you want to save money. You can ask for a waiver, but if the radios don't work when the building is constructed it will cost 2-3 times as much to install the system and the City will require them to do it. Chief Garcia said if they had given Mr. Liddiard the information in the beginning, he would have put it in. Mr. Liddiard said the burglar alarm and fire alarm probably cost \$18,000 by itself. If he had the amount for this budgeted in the project, it wouldn't have been a problem. Chief Garcia said when people are given information at the appropriate time there are not problems. Sometimes items fall through the cracks. That is a City issue that we need to fix.

Mr. Baker mentioned that he didn't think it was appropriate that the Fire Chief said if the City had told you up front, then you would know better. We did tell them up front. Mr. Liddiard said he had a copy of the minutes if Mr. Baker wanted to see them. Mr. Baker indicated that he had read them. Ms. Carpenter said she failed to give Kriss (Garcia) a copy of that (the minutes), so he didn't have that information. Mr. Baker said there is no question that the City can always improve and provide better information, but he didn't want the record to reflect that we provided no information. They were provided information as the minutes show. Also, neither the Fire Department, Community Development Department, nor the City Attorney's Department have the authority to grant a waiver to this requirement. Whether or not the 800 megahertz radios function inside this building or not is not the issue. The ordinance requires this all of the time. If the Council determines they want it otherwise, the ordinance must be changed by the City Council. The Council can't even grant a waiver. They can change the Ordinance so the intent will be to only require the system when necessary. Councilman Hansen said they need to do that.

Councilman Bevan said from an electronic engineer's perspective the equipment will work with this

building. Councilman Wardle said the question is not whether or not we can grant a waiver this evening. It is if we need a proposal to change the ordinance. Mr. Liddiard said as long as this doesn't affect his opening on May 1, 2006. Chairman Johnson asked if they had any problems with changing this ordinance to say it is a performance-based system? The developer has the option of putting it in up front (at a cost savings) or waiting until the building is tested and perhaps not needing to install one if the building tests okay. The standards would be determined by the Fire Department. The Fire Department would say when to accept and not accept. Mr. Baker said you will never know whether the radios will work without the communications system until after the building is substantially completed. Dave Gillette asked, "Can't they make sure the developers know that if they install it in the beginning it will cost less?"

Chairman Johnson said any engineer or architect should be able to give you some idea as to whether or not a building will need it. Chief Garcia said it is very difficult to say. Repeater locations change all of the time. It is also dependent upon the reinforcement of the building, or if they are putting in decorative metal. There are lots of things that come into play to determine if it will work. Some of that relies on the providers of the communication systems. They could lose a repeater site and the buildings wouldn't pass. Mr. Liddiard said if he had been given the option up front, he would have gambled on it to wait to see if the building passed unless they said it was at least a 50% savings to put it in up front. Councilman Wardle felt it was a gamble anyway. You could install it and still have to do a retrofit. Chief Garcia said it is a simple system of an antenna with coaxial spokes running through the building. Most businesses will put in a basic one, and if it doesn't work they run more spokes.

Councilman Wardle asked if we were talking about a procedural change in the form of a checklist instead of changing the ordinance? He felt it was a good ordinance. It was to address a safety issue. Mayor Dunlavy said that the Ordinance says you must install the system. Councilman Wardle said "you must" is not a bad thing when it concerns public safety. If it is known up front it shouldn't be an issue. Mr. Liddiard's position was not whether it was good or bad, he just wished he had known up front. Mr. Liddiard agreed, and stated further why throw good money after bad if the system already works.

Mr. Baker said he believed that Paul (Hansen) and Cary (Campbell) have developed a commercial checklist. Mr. Campbell said that particular checklist is given out by the plans examiner. Councilman Wardle said he would prefer not to change the ordinance and deal with this case specifically. If we change the ordinance to say "may" we create ambiguity and we will fight this battle again later with someone else.

Mr. Baker stated his belief that the Council could still write this as a mandatory ordinance if you wrote that the building shall be designed with materials that will facilitate transmission of 800 megahertz signals. Then it becomes an architect issue to make it happen. Chief Garcia said the reason the ordinance is not specific is so the Fire Department can change their policy without going to the Council. He wished it was an absolute. Those are City internal issues. He personally felt the City had some responsibility because he didn't want to be the one to require it now.

Councilman Hansen asked if because the ordinance is vague enough that we feel we have looked at it and determined as a Council it needs work to tighten the requirement or fix it, and based on that we have gone to the Fire Department for clarification and the radios work, therefore we are not "waiving" the Ordinance requirement, but granting approval. We need some type of compromise. Mr. Baker said he didn't think that would work. The ordinance is quite clear. It states that all types of buildings more than 25,000 square feet require this system. The wiggle room is in the "approved" coaxial antennae. What is an approved coaxial antenna? Councilman Hansen said in this case the approved system is that there is none.

Chairman Johnson asked if the ordinance could be changed to state if the Fire Department requires it? Chief Garcia said he didn't like that. They are a volunteer fire department. We are here some of the time. He liked what Councilman Hansen said that approved in this case is that it worked. Mr. Baker objected on the basis of giving too much administrative discretion. Councilman Bevan said for that matter Liddiard's could put up a five-foot piece of coaxial. Mr. Campbell said we can write an exception that says developers have the opportunity to apply for an exemption and if it passes, they are granted it. Chief Garcia said that can be listed as a policy. Mayor Dunlavy asked Chief Garcia if they have offered this same type of meeting opportunity to each other person that was required to put this in? Chief Garcia responded they have offered them the Ordinance and the Policy. Mayor Dunlavy asked if they have offered to go down and run the tests to see if it works? Chief Garcia answered that no one has asked them to do that. They had the same information that Mr. Liddiard had and just didn't ask.

Councilman Wardle asked if in a building this size, without a relay system, is it possible if relays change that it won't work? Chief Garcia responded that is a possibility.

Troy Tate said they had problems with the credit union's basement and it is a much smaller building. Councilman Wardle said it is unconscionable to lose a fireman because they changed an ordinance to meet a particular situation. He didn't feel they should compromise fire fighter safety basing it on environmental factors (i.e., relay location) that may change in the next ten years. Chief Garcia said if we defined approved as it worked, keep the ordinance as is, and let developers know when they begin their buildings, it will work. Chairman Johnson said that worked for him.

Mr. Liddiard guaranteed that if they had been informed at the beginning of the process they would not have even questioned it. A \$5,000-10,000 expense in a project this size would not have been an issue. Chief Garcia said Quality Ford had to run coaxial in the pit area because they couldn't get radio information in.

Mr. Baker said this becomes the exception that swallows the rule: i.e., you have to put one in unless we decide you don't need one.

Ms. Carpenter stated on the last page that they had copied, there was a handout given to Pat Harris, the architect at Ensign Engineering that designed this building. The handout does include these ordinances. Mr. Liddiard said Pat is a surveyor. Ms. Carpenter said she called Ensign Engineering and he was the architect. Pat attended the meeting and was given the handout.

Chairman Johnson said lets work around what the Fire Department said. They felt this was acceptable and they should work around that.

Councilman Hansen felt they should go with what Cary Campbell said. Mr. Campbell said that all of our codes are written out saying this is what you must do. Many of the codes list exceptions on the bottom. Exceptions are given. At the most we could add that exception and explain that the Fire Department can go into the building and run a test. If the test passes, they don't have to put it in.

Councilman Wardle said if a test is run in 2001, but the relays change in 2006, it may not work. Councilman Bevan said that could happen with anything. Chief Garcia said frequencies change as well. The City will go off of 800s and do 900 systems at some point. The existing systems will have to tweak the frequency so those work. They won't know that until the inspectors go into the buildings and test them. He continued that antennas blow over. They do inspect the systems every one to two years.

Councilman Wardle said if it meets the crude definition, it is an approved system. Mr. Baker

suggested that they write into the ordinance what an approved system is. Give some guidance of what an approved system is. Chief Garcia asked if the ordinance refers to the policy? Mr. Baker answered it does not. Chairman Johnson said Mr. Baker gets nervous when staff implements policy. Mr. Baker said especially if it is legislative policy; even administrative policy should be approved by the Mayor.

Chairman Johnson said Frank Liddiard can go ahead. Mr. Baker said he and the Fire Department will work on amending the ordinance. Councilman Hansen said if we clarify the policy it helps everyone. When it goes to the Planning Commission, they will have the distinct guidance as to where to go and to mention it up front. The developer can then build that into their plans.

Councilman Johnson said the bottom line is Mr. Liddiard is approved. He then stated that Al and Lid is a client of his firm and he disclosed a potential conflict of interest.

Mr. Liddiard said the City has been very good to work with on this. As far as the contractor and architect, they had nothing but good to say about the City. He appreciated them working with him on the project. Mr. Liddiard left.

**Councilman Bevan moved to adjourn the meeting.** Councilman Pruden seconded the motion. All members present voted, "Aye." The meeting adjourned at 5:37 p.m.

Approved this 3<sup>rd</sup> day of May 2006

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Michael Johnson, Chair

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