

**Tooele City Council
Business Meeting Minutes**

Date: Wednesday, January 3, 2007
Time: 7:00 P.M.
Place: Tooele City Hall Council Chambers
90 North Main Street, Tooele, Utah

City Council Members Present:

Mike Johnson, Chair
Scott Wardle
Steve Pruden
Steve Bevan
John Hansen

City Employees Present:

Patrick Dunlavy, Mayor
Roger Baker, City Attorney
Doug Bayly, Assistant City Attorney
Ron Kirby, Chief of Police
Cary Campbell, Director of Public Works
Sharon Dawson, City Recorder
Paul Hansen, Contract City Engineer
Kami Perkins, Human Resource Director
Lisa Carpenter, Deputy Recorder and City Council Liaison

Minutes prepared by Andrea Cahoon

The meeting was called to order by Chairman Johnson at 7:02 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Tyler Cahoon. Chairman Johnson welcomed Boy Scout Troop 416 to the meeting. A representative from the troop said they were working on the Citizenship in the Community merit badge.

Councilman Hansen wanted to acknowledge how proud he was of the way Americans have been coming together to honor a fallen president, President Gerald Ford. He noted that most of the military men involved in the funeral services were combat veterans and heroes. He acknowledged all of the veterans in the audience and especially Steve Bevan, the recipient of a silver star. He stated he was thankful and proud of all of the service men and women.

2. Mayor's Community Recognition Awards

Presented by Mayor Dunlavy, Councilman Pruden

Councilman Pruden explained that each City Council meeting they honor students who have been recommended by their teachers and/or administrators as outstanding citizens. He presented awards to the following students:

Caitlyn Dixon, Overlake Elementary
Mika Greensides, Overlake Elementary
Tyler Cahoon, East Elementary
McKenna Dewsnip, Copper Canyon Elementary
Clara Heeder, Overlake Elementary
Zoe Johnson, Overlake Elementary
Braydon Heaps, Copper Canyon Elementary

Mayor Dunlavy congratulated the recipients and their parents and grandparents for all of their hard work. He also thanked Milo Berry for his work with the Communities that Care Program.

3. Open Forum for Public Comment

Chairman Johnson invited anyone from the public who wished to address the Council to come forward and do so.

No one came forward to address the Council.

Councilman Pruden moved to close the open forum. Councilman Hansen seconded the motion. All members present voted, "Aye." The open forum closed at 7:16 p.m.

4. Resolution 2007-01 A Resolution Providing for the Publication Notice of a Public Hearing Related to the Proposed Issuance of Industrial Revenue Bonds by Tooele City, Tooele County, Utah, in an Amount Not to Exceed \$10,000,000; and Related Matters

Presented by Roger Baker

Mr. Baker explained this is one step in a fairly comprehensive process for the issuance of bonds to help Conestoga build their facility at the Utah Industrial Depot. Although the City is assisting Conestoga, the bond issuance does not implicate the City's credit at all and the City bears no responsibility for the repayment of the bonds or principal should Conestoga default. The intent of this resolution is to set a hearing date as required by statute. The hearing for public comment will be held on February 7, 2007.

Councilman Hansen moved to adopt Resolution 2007-01. Councilman Bevan seconded the motion. All members present voted, "Aye."

5. PUBLIC HEARING: Resolution 2006-45 Declaring Tooele City's Intention to Establish the Copper Canyon P.U.D. Special Service District

Presented by Doug Bayly

Mr. Bayly said at the December 6, 2006, City Council meeting the council passed Resolution 2006-45 publishing their intention to create the Copper Canyon Planned Unit Development Special Service District. That was the first step in the process to create that district, and this is the second step, whereby public comment is taken regarding the establishment of the district. The public can voice their opinion tonight, and they have 15 days to submit written comments on the establishment of this district. On February 7, 2007, the Council will consider a resolution to actually establish this district.

Chairman Johnson asked if there was currently only one owner of the property? Mr. Bayly said that was correct. Chairman Johnson indicated that he wanted to make sure that no property is sold or

exchanges ownership until the district is created. He recalled that when the Overlake Special Service District was created property was sold before the process was complete and it caused a lot of confusion and problems. He didn't want that to happen again. Mr. Bayly responded that the Attorney's office was in the process of conducting research on how to establish the taxing district.

Councilman Pruden asked Mr. Bayly to explain to the audience what a P.U.D. is and why the City needs it? Mr. Bayly said that a planned unit development or P.U.D. is a development of homes, in this case approximately 490 homes, in an area of the City. In a P.U.D. the developer develops homes according to standards agreed upon by the City and the developer. It has special regulations that will govern this development only. Chairman Johnson said the reason they are creating a special service district is that this area will have some special features that other areas in the City don't have. There will be a lot of open space, parks, double fronted lots, trails, and other amenities. With those amenities there are increased maintenance costs. This allows for the people who primarily benefit from those special features to pay the extra maintenance costs incurred by having those amenities.

Chairman Johnson stated this was a public hearing. No one came forward to address the issue.

Councilman Wardle moved to close the public hearing. Councilman Pruden seconded the motion. All members present voted, "Aye." The public hearing closed at 7:22 p.m.

6. PUBLIC HEARING & Motion for the Eagle Bend Subdivision Preliminary Plat Proposed to be Located at 3400 North Highway 36, Containing 120, Third Acre or Larger Lots by G. Eldon Roberts, Bluewater Co.

Presented by Cary Campbell

Mr. Campbell explained that this is located west of SR-36, and at the northern City limits. One hundred and twenty-one lots are proposed for this area. There is an old easement for the railroad that has been purchased by the County for an east west corridor on the north end of this development. Mr. Roberts has given a certain amount of property on the north end to allow for that road. The Planning Commission recommended approval of this preliminary plat.

Chairman Johnson asked Mr. Roberts if he was building two accesses from SR-36 during phase one? Mr. Roberts answered yes. Chairman Johnson asked if UDOT had approved them? Mr. Roberts responded that UDOT has approved them. Chairman Johnson noted that the roads would be 3200 North and 3400 North and at some point there would probably be a traffic light. Mr. Campbell said the northern road will be the site of a stop light at some point. The southern road may end up with right in/right out only access at some point. Chairman Johnson asked when they anticipated a final plat map? Mr. Roberts said about two weeks or as soon as the City staff allows them to.

Chairman Johnson asked if the well has been constructed on lot 401 yet? Mr. Roberts said it has not been constructed. The plans have been submitted to the State, and they have spoken with a well driller, but they are awaiting approval from the State. Chairman Johnson asked if they would be doing their public improvements, but no lots will be sold until the well is in? Mr. Campbell said that was his understanding. Chairman Johnson said that sounded reasonable to him. Mr. Roberts said it didn't sound reasonable to him, but that is how he understood it too.

Chairman Johnson stated this was a public hearing.

Valerie Sage asked where phase one would be? The Council pointed it out on the map. Chairman Johnson asked how many lots were in phase one? Mr. Roberts answered 49.

Councilman Hansen moved to close the public hearing. Councilman Bevan seconded the motion. All members present voted, “Aye.” The public hearing closed at 7:27p.m.

Councilman Wardle moved to approve the Eagle Bend Subdivision Preliminary Plat proposed to be located at 3400 North Highway 36, containing 120, third acre or larger lots with the provision that the well will be completed with phase one. Councilman Hansen seconded the motion. All members present voted, “Aye.”

7. PUBLIC HEARING & Motion for the Skyline Park Subdivision Preliminary Plat Proposed to be Located at 700 East Skyline Drive, Containing 42 Lots, 7000 Square Foot or Larger Lots by McKay Development, LLC, Andy McKay

Presented by Cary Campbell

Mr. Campbell said this plat actually contains 35 lots, not 42 lots as shown, as they have scaled it back a bit. This is a preliminary plat. The biggest issue the Planning Commission had was the double fronted lots that are proposed. The developer also needs to update the flood plain map. Chairman Johnson asked what the Planning Commission wanted the Council to require as to the double frontage lots? The minutes from the meeting showed that they discussed requiring the developer to install gates at the back of the lots. Mr. Campbell said that wasn't included as part of their recommendation, but the Council could make that so. Councilman Wardle said that McKay Development was supposed to bring a solution to that problem back. Chairman Johnson said by the final plat they need to have something in place to address that problem. Councilman Wardle believed that was the Planning Commission's intent.

Chairman Johnson said he was reading the concerns about the FEMA issues and the compaction issues. He expressed his concern that if the City allows homes to be built up there, the City will be blamed for any problems and/or additional costs that may occur or be incurred at that site. Mr. Campbell said the developer has brought forth several plans to mitigate those issues. He himself was most concerned about the drop off from Skyline down to some of those lots. Those three eastern lots will require more work than an average lot. Chairman Johnson asked how they convey that as he was concerned that someone will buy a lot and then come back and say they were not told they had to reengineer and/or have special compaction done.

Councilman Wardle said that the Planning Commission minutes reflect that Mr. Hansen had said that the developer has agreed to work with the City and will be required to comply with all City ordinances. Mr. Campbell said they will be required to do that. We will expect far more on those lots than we would on an average lot.

Chairman Johnson stated this was a public hearing.

Councilman Wardle asked the developers if they had made any headway on those issues (doubled fronted lots, flood plain, etc.)?

Mr. McKay answered that as to the double frontage lots they are entertaining the idea of an HOA. They would like to wait until the final plat is presented to determine how they want to address that. He reported they have had many conversations with the engineering team that FEMA uses and expects no problems in working through that. That team has inspected the plat and the developer has implemented the ideas they were given. The developer reported that he expects to use conservative estimates as to what that flooding potential is. It is a dry basin, but they want to treat it as something that could become a problem in the future and take every necessary precaution. Chairman Johnson asked if they were just developing the property or if they were going to build

homes as well? Mr. McKay responded that they are a development company, but they do have some building companies they work with. Chairman Johnson said the City has had situations where a developer sells to a builder, and the builder is not told about any specific lot issues. The builder then comes to the City and tells them they wish someone had told them about the problems. The City is then told they should not have approved the lot in the first place. The City does not want that type of problem. Mr. McKay said that Mr. Campbell had discussed that at length with them. Their plan is to go forward, and then make sure they have engineering recommendations for those lots. From speaking with the engineer they feel they can do some things to deal with the slope without incurring tremendous costs.

Mr. Campbell said the biggest issue is when you drive off of Skyline there is about a ten-foot drop off. There are a lot of things that can be done. Skyline is a major road and they don't want the driveway to go down deep. There are concerns that will have to be addressed as they come up. Councilman Pruden asked if the developer anticipated the curb, gutters, sidewalks, asphalt, etc. aiding in the mitigation of any potential runoff? It is currently a dry gully, but it was created at some point by water. Mr. Campbell said the staff doesn't have any ideas with the preliminary, but they expect the issues to be resolved with the final plat and they have been raising issues that they want more information about. Chairman Johnson said he saw no reason to not give preliminary plat approval, but there are a number of issues that need to be resolved before the final plat is brought forward.

Mr. McKay said their hope is to work with the neighbor in the northwest corner, and find a way to channel any potential water around that property and make it better. The curbing will help with storm water control, but FEMA has much more stringent requirements that they anticipate having to meet.

Paul Hansen said what they had spoken with the developer about doing is on the final plat, putting notes on there to alert the homeowners that the four lots off of Skyline will require special engineering. Mr. Campbell said there are only three because the map shown is not accurate. The map that is accurate is in the Council's packets. Mr. Hansen said the lots in question, would contain a note on the final plat that state those lots would require special engineering. The second item that needs to be included is a notation as to where the FEMA flood plain lies. Just because there is a FEMA line there does not mean that homes cannot be built there. There are ways to take care of that. We want that information marked very plainly and clearly so that potential home owners will know that up front. It is uncommon to see that much detail on a preliminary plat. The City will require that detail on the final plat.

Mr. McKay asked that the record show that there will be 35 lots. Chairman Johnson said they will be approving the plat in the packet that shows 35 lots, not 42 lots.

Councilman Pruden moved to close the public hearing. Councilman Wardle seconded the motion. All members present voted, "Aye." The public hearing closed at 7:41 p.m.

Councilman Wardle moved to approve the preliminary plat for the subdivision located at 700 East Skyline Drive, with 35 lots, with the map that was included in the Council's packets. A copy of this is included with these minutes as Exhibit A. The final plat must include the solution to the double frontage lots whether it is an HOA or a vinyl fence with gates at the back of the lots to address the Planning Commissions's concerns about maintenance along that road. FEMA's recommendations on the flood plain must be approved by staff before final plat approval and the final plat will include the FEMA flood plain so that homeowners are aware of what they are purchasing. We are requiring that the four lots at the upper east section of the development will also require a special engineering certificate and that notation

should be made on the final plat. Councilman Hansen seconded the motion. All members present voted, “Aye.”

8. PUBLIC HEARING & MOTION for Copper Canyon PUD Phase 2 Final Plat Proposed to be Located at 900 North 200 West Containing 123 Lots, 6,000 Square Foot or Larger Lots by Fieldstone Homes, Inc.

Presented by Cary Campbell

Chairman Johnson welcomed Boy Scout Troop 205 who said they were working on the Communications and Citizenship in the Community merit badges. He also welcomed Troop 458 who were also working on those merit badges.

Mr. Campbell informed the Council that this subdivision was started in the late 1990s. Phase one has been completed. The developer determined they wanted to change the plat and in that process they increased the lot size. They also decreased the total number of lots by almost 100 lots. The biggest concern the Planning Commission had with this plat was the double fronted lots. This is located immediately south of the proposed 1000 North road.

Chairman Johnson stated this was a public hearing.

Chairman Johnson commented that whoever makes the motion should include that the plat not be recorded until the special service district issue is resolved. A representative of Fieldstone Homes stated that the development agreement requires that a special service district be created and they intend to fulfill their obligations.

Shirley Beagley asked what a double frontage lot is? Chairman Johnson explained that a double frontage or fronted lot has two streets—one running in front of the home and one running behind the home.

Mr. Campbell recommended that the sidewalks behind the double fronted lots be widened so there is no park strip and the areas do not become weed patches. They also want the curb right up against the sidewalk.

Councilman Pruden said he hoped that the phase one houses that back onto 1000 North will have a uniform vinyl fence along there to help with the aesthetics.

A man from the audience asked if 1000 North will be in before they begin developing those lots so there is access? Chairman Johnson answered that they don't anticipate the construction to begin on 1000 North until this fall or the spring of 2008. Paul Hansen said that 1000 North is planned to be constructed, but is not essential to serve this development. The development has two access points already. The developer is contributing money to complete 1000 North. The City received clearance from the Federal Highway Commission to begin work on the construction design of 1000 North. He mentioned that the developer asked if that requirement to withhold platting precludes them from beginning work on the development? Chairman Johnson said he doesn't want any land sold until the service district is in place. Mr. Hansen said once they have final plat approval from the Council, and once the bonds are in place, the City has allowed the developers to begin construction. Chairman Johnson said his only intent is to make sure land is not changing hands until the service district is in place. They can push as much dirt as they want.

Councilman Pruden moved to close the public hearing. Councilman Hansen seconded the motion. All members present voted, “Aye.” The public hearing closed at 7:50 p.m.

Councilman Wardle moved to approve the final plat for Phase 2 of the Copper Canyon P.U.D. to be located at 900 North 200 West containing 123 Lots, 6,000 Square Foot or Larger Lots by Fieldstone Homes. No property will be sold or exchange hands until the special service district is created and in place. Councilman Hansen seconded the motion. All members present voted, “Aye.”

9. Ordinance 2006-25 An Ordinance of the Tooele City Council Amending Tooele City Code Chapter 7-3 Regarding Legal Nonconforming Uses and Buildings

Presented by Roger Baker

Chairman Johnson asked why this was Ordinance 2006-25? Mr. Baker asked that they leave the number 2006 since it was presented to the Planning Commission in 2006 and the public hearing was held at that time. He said this code revision is required by changes to the State Land Use and Management Act. If a structure is a nonconforming structure, and if it is destroyed in any way, most cities’ ordinances prohibit it being rebuilt. The State law was changed to remove that prohibition. If such a structure is destroyed involuntarily, it can be rebuilt. This code change is so that Tooele City will comply with State law and is required. The structure has to be involuntarily destroyed in whole or part due to a fire or some other calamity. One of the reasons behind this change in the State law is that financial institutions are not inclined to insure buildings that can’t be restored or rebuilt. There is no collateral in that. Chairman Johnson asked if this changes the code requirements? Mr. Baker answered that the nonconforming statute addresses only the zoning requirements, not the building code requirements. The structure could be noncomplying as to zoning, but not exempt from building safety codes.

Councilman Hansen moved to approve Ordinance 2006-25. Councilman Wardle seconded the motion. All members present voted, “Aye.”

10. Ordinance 2007-01 An Ordinance of the Tooele City Council Establishing the Dates, Time and Place of its Public Meetings

Presented by Sharon Dawson

Ms. Dawson said this ordinance sets the City Council’s meeting schedule for the new year and is required by State law. All of the meetings will be held on the first and third Wednesdays, except the first July meeting which will be held on Tuesday, July 3, 2007.

Councilman Pruden moved to adopt Ordinance 2007-01. Councilman Hansen seconded the motion. All members present voted, “Aye.”

11. Minutes December 6, 2006, Work Session and December 6, 2006, Business Meeting

Councilman Bevan moved to approve the minutes from both meetings as presented. Councilman Pruden seconded the motion. All members present voted, “Aye.”

12. Invoices

Presented by Sharon Dawson

Ms. Dawson presented the following invoices for payment:

- Clyde Snow Sessions and Swenson for the November 2006 Grantsville litigation legal

- services invoice in the amount of \$22,740.04
- Holme Roberts & Owens for the November 2006 Tooele Associates litigation legal services invoice in the amount of \$36,441.26
- Lake City Trucks for a new snow plow in the amount of \$57,000. It was noted that this was a preauthorization.
- CDW Government for software to upgrade the exchange server in the amount of \$11,614.60. This was a preauthorization.
- TecServ to install and set up software for the upgrade to the exchange server in the amount of \$9,240. This was a preauthorization.

Councilman Pruden moved to pay the stated invoices. Councilman Hansen seconded the motion. All members present voted, “Aye.”

13. Mayor’s Report

Mayor Dunlavy reported the following:

- He attended the Chamber of Commerce Board meeting to meet the new members and chairman.
- He met with the new County officials and spoke with the new County commissioners. He offered Tooele City’s hand to work together on common issues and keep lines of communication open. He did the same with Mayor Anderson from Grantsville and offered to help Grantsville with their growth issues.
- Mayor Dunlavy thanked the City employees for their Christmas decorations this year.
- He stated that the City will take an active part with the State legislature this session.
- George McKeller and his Scout troop gave him letters about issues they were concerned about. He stated he will be working on those issues that were brought up.
- Thanked the Council for their help and stated he is looking forward to a great New Year.

14. Adjourn

Councilman Pruden moved to adjourn the meeting. Councilman Hansen seconded the motion. All members present voted, “Aye.” The meeting adjourned at 8:05 p.m.

Approved this Day of January 2007

Michael Johnson, Chairman