

Tooele City Council Business Meeting Minutes

Date: Wednesday, April 4, 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
John Hansen
Steve Bevan

City Employees Present:

Patrick Dunlavy, Mayor
Roger Baker, City Attorney
Glenn Caldwell, Finance Director
Sharon Dawson, City Recorder
Ron Kirby, Police Chief
Paul Hansen, Contract City Engineer
Lisa Carpenter, Deputy Recorder and City Council Liaison
Rachelle Custer, City Planner
Terra Sherwood, Parks & Recreation

Minutes prepared by Lisa Carpenter

The meeting was called to order by Chairman Johnson at 7:00 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Milo Berry

2. Mayor's Community Youth Recognition Awards

Presented by Mayor Dunlavy, Councilman Pruden, and Milo Berry

Councilman Pruden explained that the Council and Mayor recognize primary & secondary students who have been chosen by their teachers and peers as "great citizens of Tooele City." They receive a certificate for a free sundae from Leatherby's, a University of Utah pencil and water bottle, a Tooele City tie tack or lapel pin, and some carmel eggs from Milo saying that you're all "good eggs!" He then presented the Mayor's Community Youth Recognition Awards to the following students:

Ashley Martinez, Harris Elementary
Katie Jensen, Harris Elementary
Elijah Berry, Overlake Elementary
Adam Lucero, Overlake Elementary
Jonathan Gonzales, Northlake Elementary

Adam Milner, Copper Canyon Elementary
Morgan Vorwaller, Copper Canyon Elementary
Joseph Larson, Middle Canyon Elementary
Sierra Krippner, Middle Canyon Elementary

Mayor Dunlavy congratulated the students, their parents, and family members. He expressed appreciation too them, as well. You know how we have a special place for the youth in our community. Be proud of them, because we are!

3. Recognition Award

Presented by Mayor Patrick Dunlavy

We would first like to recognize the Arts Council Board = Chairman Renee Milne, John Hansen, Steve Pruden, Carol LaForge, Perry Stowe, Rowe Harrison, Terra Sherwood, and Michelle Pitt. Renee teaches art at the High School and challenged her art class to create a logo for the Arts Council. The one that was chosen was by Jonathan Christensen Perkins. JCP then received an award/certificate from Mayor Dunlavy.

4. Open Forum for Public Comment

Mr. Lawrence Romero addressed the Council concerning his frustration in trying to acquire water rights for a home he wants to build on his property on 1000 West. He mentioned that he had tried looking in the newspaper but he only found 7 acre feet of water for \$70,000 and 9 acre feet for \$90,000 and both of those people would not sell just 1 acre feet to him. He says he has two sons and would like to actually purchase 2 acres feet; one for each of them. He said he's been given the run around for two months. He asked why we sell to commercial projects and not to residential. He just wanted some answers along with why he could not just be put on the Council Agenda.

The Mayor mentioned that the staff was following the policy that the City has in place and a situation such as this would not need to be on a "formal" agenda.

Chairman Johnson replied by saying that these are issues that we can't solve tonight. Residential construction has had to bring their own water since 1998 and that Mr. Campbell can't just ignore what the City Council has made policy. Chairman Johnson noted that Mr. Romero was asking the Council to change the law which, perhaps can be discussed. Chairman Johnson pointed out that this was a tough one to tackle but that the City needed the water rights because the City is in a deficit.

Councilman Bevan noted that Mr. Romero had a point that needs to be addressed.

The Mayor mentioned discussing the issue and getting back to Mr. Romero.

Chairman Johnson made it known that something like this works for a developer but that this needed to be discussed by the Mayor, Paul Hansen and Cary Campbell. It could take up to a month to review. The ordinance could be amended but would like input from the administration first. We could shoot for the first City Council in May, but I can't promise that time frame.

Mr. George McKellar then stood in support of Mr. Romero and his concerns. He voiced that he has grandchildren that would like to build on his property some day. If he needs to he can bring in others who have lived in that area for many years who have the same concerns, but don't have any

water. Please keep in mind the ones who have lived there for years and years. We appreciate what you're doing, but we need help!

Chairman Johnson Mentioned that administration would take a hard look at this. He mentioned that the City would not want to hurt individual people. He stressed that the City would do what they could, but please give them 6 weeks or so to call Mr. Campbell's office and to follow-up with him.

Councilman Bevan moved to close the open forum. Councilman Hansen seconded the motion. All members present voted, "Aye."

5. **Resolution 2007- 20 A Resolution Providing for the Acquisition, Construction, Equipping and Improvement of a Manufacturing Facility for the Manufacture of Finished Wood Products and Related Products to be Located in Tooele City, Utah in Order that Conestoga Wood Specialties, Corporation ("Borrower") may be Provided with Facilities to Promote the General Welfare and Encourage the Increase of Industry and Commerce; Authorizing and Providing for Issuance by the Issuer of its \$10,000,000 Tax Exempt Adjustable Mode Industrial Development Revenue Bonds, (Conestoga Wood Specialties, Corporation Project) Series 2007 Which Will be Payable Solely from the Revenues Arising from the Pledge of a Loan Agreement with Borrower; Authorizing the Execution and Delivery of a Loan Agreement Between the Issuer and Borrower; Providing for Financing the Acquisition, Construction and Equipping of Said Project; Authorizing the Execution and Delivery of a Trust Indenture, a Bond Purchase Agreement, and Related Documents; Approving the Use of an Official Statement; Confirming the Sale of Said Bonds; and Related Matters.**

Presented by Eric Johnson, Smith Hartvigsen PLLC

The Federal Government as well as the State of Utah provide tax breaks. One is when a municipality incurs debt, that the interest income on that debt is not taxed. That benefit can be passed through to help enterprises such as Conestoga Wood Specialty Corporation. The bonds will be issued by Tooele City, the obligation lies with Conestoga Wood. The loan agreement is authorized by this Resolution that all payments by these bonds shall be paid by Conestoga Wood.

Chairman Johnson asked if this would show up on the City's financial statements? It's not an obligation to the City so it should not, correct?

Mr. Johnson replied that the City's auditor might know that it is there but it should not show up and is treated differently by the IRS. There are also two forms of security for these bonds. The first is a letter of credit and the other is a deed of trust. Those are the levels of security so that you know it will be paid by Conestoga. This is a variable rate bond because it can be changed to a fixed rate. If Conestoga doesn't like the way interest rates are going up then they can lock in. There is a single bond in the amount of \$10,000,000,000 due April 1, 2027. All that is being paid on the bond is the interest for 20 years. There is a side agreement that lets the lender and Conestoga more flexibility to adjust that payment schedule if they need to.

Chairman Johnson wanted to clarify that this is not an obligation to Tooele City but Conestoga.

Mr. Johnson mentioned that this is a 2% savings over 20 years, which is a nice chunk to be able to save on.

Councilman Wardle asked if this changed to a fixed rate would it have to come before City Council again?

Mr. Johnson answered no.

Councilman Hansen moved to adopt Resolution 2007-20. Councilman Wardle seconded the motion. All members present voted, “Aye.”

6. PUBLIC HEARING and MOTION on Zoning Change for Two Lots from Commercial to R1-8 Located at 1200 West 750 South by Nathan and Roger Brockbank

Presented by Rachele Custer

This West Meadows plat that was approved several years ago. It has residential to the South, two lots of high density residential and two lots of neighborhood commercial. Tooele Boulevard was to go to the West of this property but with the Army taking back portions of this area we are looking to realign that once we sell our property (the City’s) to the West of this. Because neighborhood commercial is not a viable zone in this area, the developer is asking that we change the zone to R1-8, which is the same as the property that is to the South.

Chairman Johnson was concerned with what happens if the Army gives the property back and we do decide to build Tooele Boulevard. There has also been some discussion on the 700 South floodway which Councilman Wardle has some knowledge about. There were strong concerns about the residents not being informed about the Light Industrial Zoning. But I’m not sure what that is about.

Ms. Custer answered by saying that one concern was the buffer between Tooele Boulevard and the residential. There is a possibility we may relocate the alignment of Tooele Boulevard if at some point we could get to SR36.

Councilman Wardle had a question to Paul Hansen regarding Tooele Boulevard.

Mr. Hansen informed the Council that we anticipate the property to be redeveloped at some point. We would also like to leave the option open to say whatever works with the adequate development of that property. The Tooele Boulevard location may stay where it is shown or may move internal where the property can better serve an access rather than bringing the truck traffic through the residential area. There was a question about drainage? Drainage issues are valid whether it’s residential, commercial, high density. The issue with this property is that the floodway at 700 South will need to be maintained and the property adequately protected regardless of how they develop the property.

Ms. Custer mentioned that one concern was that Tooele City was selling this property as Light Industrial so it would need to be sold as a “buyer beware” (to the prospective homeowners) in that area of residential homes that there may be a possibility of Light Industrial going there.

Councilman Wardle mentioned that those items are a part of the recorded plat.

Chairman Johnson asked if water rights would be required?

Ms. Custer answered that yes, they would be required.

Councilman Pruden moved to close the public hearing. Councilman Wardle seconded the motion. All members present voted, “Aye.”

Councilman Bevan moved to approve the Zoning Change for Two Lots from Commercial to R1-8 Located at 1200 West 750 South. Councilman Wardle seconded the motion. All members present voted, “Aye,” along with adopting Ordinance 2007-13 assigning the R1-8 Zoning District to the Property Located at Approximately 750 South and 1200 West, approved by Councilman Bevan and seconded by Councilman Wardle.

7. **PUBLIC HEARING and MOTION Ordinance 2007-09 An Ordinance of the Tooele City Council Creating Revisions to the One and Two Family Residential Design Guidelines**

Presented by Rachelle Custer

Ms. Custer noted that they have been getting complaints from builders and staff about issues in the current design guidelines. This Ordinance clarifies a couple of points. The intent was for the garages to be 24’ deep and 20’ wide, it was written 24’ wide and 20” deep. Another is the applicability date for the design guidelines on lots. As it is now written, every home has to meet the guidelines. If a home was subdivided and platted prior to December 16, 1998, they do not have to abide by the guidelines.

Chairman Johnson stated that he didn’t recall that. He then asked for the reason why?

Roger Baker answered by saying that they suggested drawing that line because that is the date the current land use plan was written. Tying it to that date seemed to make sense.

Chairman Johnson asked what the problem was. He asked why it couldn’t just say that every house is subject to the design guidelines?

Mr. Baker answered by saying that the guidelines have minimum sizes, minimum footprints, minimum garage dimensions. In the older parts of town there are narrow lots that cannot accommodate the current guidelines. We felt it was appropriate to draw a line back to the current Master Plan. That date is in there as to when it was first enacted it was just not written well enough.

Ms. Custer added that the Planning Commission had a concern that if we have two little lots in an already developed subdivision, maybe someone had a 3 acre lot and they wanted to subdivide it at that point it would be required. But if it was already a platted lot the new guidelines may not fit in the existing neighborhood. It may lower the value of the home, as well.

Chairman Johnson mentioned that he has a lot up in Deer Hollow that was platted prior to 1998. What would be the problem with imposing that now, if I don’t know it? I could be strung up by the neighbors. I’m wondering if there is a better way of doing it like saying that all lots of a certain size before that date does not apply or something to that effect.

Councilman Wardle stated that the ordinance is not as aggressive as your neighbors are.

Ms. Custer added that the CC & R’s (codes, covenants & restrictions) would be.

Mr. Baker stated that they tried not to be arbitrary and want to try to tie everything back to the current Master Plan.

Ms. Custer mentioned that one other concern that she addressed in the staff report was that there was quite a bit of discussion on the garage size in the Planning Commission meeting. As it reads we have it 24' deep and 20' wide. Maybe we can do a 22' deep and a 20' wide with the Councils approval.

Councilman Wardle elaborated by saying that Ken Spence, from the Planning Commission, brought in a designed plan from the store that you would order out of. The average depth (the most in terms of what most plans had) was 22' to 23'. The least was 20' to 24' within that book. This would solve many of the concerns since the builder or homeowner continually have to change the plans to comply with the ordinance. This would allow for standard to be a little higher than what the common practice is now without having to make multiple changes on plans.

Chairman Johnson asked if 20' by 22' was interior.

Ms. Custer answered, yes it was. The Planning Commission is recommending 24' but tabled it and are addressing it at their next meeting for the 22'.

Chairman Johnson asked Sean Milne, Chairman of the Planning Commission, if he saw any problems?

Chairman Milne stated that this was a good compromise to reduce to 20' by 22'.

Chairman Johnson stated that this ordinance only applies to lots created by Final Subdivision Plat on or after December 16, 1998.

Councilman Pruden moved to close the public hearing. Councilman Wardle seconded the motion. All members present voted, "Aye."

Councilman Wardle moved to adopt Ordinance 2007-09. Councilman Pruden seconded the motion. All members present voted, "Aye."

8. PUBLIC HEARING and MOTION Ordinance 2007-07 An Ordinance of the Tooele City Council Amending Tooele City Code §7-26-7 to Clarify the Effective Date of Chapter 7-26- Regarding the Developer Requirement to Convey Water Rights

Presented by Roger Baker

Mr. Baker stated that he wanted to clarify and eliminate confusion about water rights requirements to site plan applications in old Commercial Subdivisions. This is a draft to make it clearer.

Chairman Johnson asked if there were a residential plat, you could look at the plat and see how many lots there were and calculate how many water rights are required, correct? Commercial, you could build a lot of different things on a 1 acre lot and use 1 acre feet of water or 100 acre feet of water. You don't know until you know what's going to be built there.

Mr. Douglas Leavitt addressed the Council during the public hearing by asking what do you mean?

Chairman Johnson stated simply that if you want to build in commercial or residential you need to bring water rights.

Mr. Leavitt asked if someone had an existing house and they dozed it, would water be required?

Chairman Johnson answered by saying that it was required on raw land only. Undeveloped property.

Mr. Cary Campbell also answered by saying that size doesn't matter as long as it's a house.

Chairman Johnson also mentioned that there would be no additional impact fees.

Councilman Wardle moved to close the public hearing. Councilman Pruden seconded the motion. All members present voted, "Aye."

Councilman Hansen moved to adopt Ordinance 2007-07. Councilman Wardle seconded the motion. All members present voted, "Aye."

9. Resolution 2007-13 A Resolution of the Tooele City Council Authorizing the Police Department to Appropriate Unclaimed Personal Property for Public Use

Presented by Ron Kirby

Chief Kirby expressed that the article the previous evening's local paper explained it VERY well. This resolution would allow the Police Department to convert some property that we have in our storage area to public use. There should be a list of the property, a memo detailing where it all came from: burglary investigations, where someone had been arrested and they had a room or garage full of stolen property. But we can't always find the rightful owner of the property. There should also be a memo detailing what we plan to do with it. Most of it would be used by our investigations team collecting evidence.

Councilman Bevan moved to adopt Resolution 2007-13. Councilman Pruden seconded the motion. All members present voted, "Aye."

10. Resolution 2007-19 A Resolution of the Tooele City Council Authorizing the Mayor to Sign on behalf of Tooele City a Contract with Western Excavating for Construction of the 425 West Utility Upgrades Project.

Presented by Paul Hansen

Mr. Hansen reminded the Council that this was brought to the Council last fall for the 425 West sewer upgrade work. The City put it out for bid and we received one from Western Excavating for the work. But because of the cost of the bid and the weather, we decided to wait until Spring. The emergency repairs have been done but the remainder of the work must be completed. The price has decreased from the original bid. We need approval to adjust the amount to continue the work. We would like your authorization to proceed with that certain sewer, water and roadway work.

Chairman Johnson commented that we should say after the "now therefore" that the 425 West utility project upgrade amount shall not exceed \$372,770.

Councilman Hansen moved to adopt Resolution 2007-19 with amendments. Councilman Bevan seconded the motion. All members present voted, “Aye.”

Resident Shirley Beagley was worried about where this was being done, cause she lives close to that location.

Mr. Hansen explained that it starts on 425 West and goes along 400 South. It does replace the entire sewerline, as it is very old and aged. It also replaces about half the waterline. With new service laterals. So every home will be impacted. We would like to start as soon as we can. We still need to get the insurance, bonds, and paperwork along with utilities marked.

Chairman Johnson asked if they would be notifying the homeowners.

Western Excavating owner, Steve Hamilton, answered “Yes.”

11. Ordinance 2007-14 An Ordinance of the Tooele City Council Reducing the Municipal Telecommunications Tax Rate from 4% to 3.5%

Presented by Glenn Caldwell

Mr. Caldwell stated that the State legislature reduced the telecommunications tax from 4% to 3.5%. This resolution brings us into conformity with the State code.

Chairman Johnson mentioned as he understand it, if we would have left our ordinance the same, they would have just collected the 3.5% no matter what. Also, is this just on landlines or cellphones, too?

Mr. Caldwell answered that it would be both.

Councilman Pruden moved to adopt Ordinance 2007-14. Councilman Wardle seconded the motion. All members present voted, “Aye.”

12. Resolution 2007-18 A Resolution of the Tooele City Council Amending the Returned Check Fee for Utilities Billings

Presented by Glenn Caldwell

Mr. Caldwell informed the Council that the returned check fee we pay the bank is \$20, we also charge our delinquent members \$20.

Councilman Pruden moved to adopt Resolution 2007-18. Councilman Wardle seconded the motion. All members present voted, “Aye.”

13. Minutes March 21, 2007 (Work Session); March 21, 2007 (City Council)

Councilman Bevan moved to approve all of the minutes as presented. Councilman Hansen seconded the motion. All members present voted, “Aye.”

14. Invoices

Presented by Sharon Dawson

Sharon Dawson presented the following invoices and pre-approvals:

- Quality Ford for a truck for the Shops in the amount of \$27,411.50.

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

15. Mayor’s Report

Changes in Law Enforcement: Police Chief Ron Kirby promoted Paul Wimmer to Lieutenant. So, now we a shift commander Lieutenant on each shift.

Councilman Pruden asked if we had lost an officer

Chief Kirby mentioned that we hadn’t. He found out that one officer is being called to active duty. A couple positions are coming available and he is just getting ahead of the game.

Chairman Johnson had a question about Rogers Road and commented on what horrible shape it’s in. When will we fill the potholes? If we can’t asphalt right away, at least put gravel in to fill the potholes. 6 Foot potholes that are 8 inches deep.

Mr. Campbell answered that they are being filled now and that they are out finding those.

Chairman Johnson commented to Mr. Campbell that he should go drive on it and go see.

Mr. Campbell said that he would have Mark Busico go down and look at it.

Chairman Bevan asked when would the roads project get started on.

Mr. Hansen handed out the projects that will be worked on for Overlake and for slurry seal. There are 12 roads on here including 425 West. There are another 60 roads that are equally in the same condition that could be added to this list, but these roads were chosen based on the traffic flow and the condition of the roads based on outside study. Several will have waterline upgrades, water lateral service made available, and sewerline upgrades, and we will notify the residents as well. Slurry seal will be in the newer subdivisions to prevent them from getting like these others. This is all going in the paper this next week and we will start in about two months.

Chairman Johnson asked if the pothole fixes were a separate issue?

Mr. Hansen answered that potholes are always being worked on.

Mayor Dunlavy added that they just barely made asphalt available to get. There is a big “catch up” curve on those.

Chairman Bevan agreed that he was speaking with Mark Busico and was told that some of the asphalt coming from Salt Lake, by the time they get it here a lot of it you can’t even use. So I realize we don’t have any control over that.

Mayor Dunlavy mentioned that they have blankets to help with that problem. It keeps it so it doesn't solidify so quickly. Just so you know, we met on this Road Project about 3 ½ weeks ago. We brought in the water, sewer, and roads Superintendents along with Mr. Campbell and Mr. Hansen to coordinate all projects. This was so we weren't doing road projects and then having to have sewer or water come in and have to tear up the new roads. They guys did a lot of analysis as to which ones would be done. We could easily take this list and multiply it by 10 but we decided to use the money available to its best use by combining efforts.

Chairman Johnson asked about storm water mitigation funds that have been spent?

Mr. Hansen answered yes and also have some federal participation with the Droubay Road project. We will recommend that those matching funds be paid out of that mitigation fund money. That list I gave you also includes handicap ramps along with replacing some curb and gutter which is a capital investment back into the community. Something that will be very noticeable to the community and be a positive move ahead.

Mayor Dunlavy added that if we get some good bid, we will add to it!

Councilman Hansen asked about meeting with Mr. Campbell at the RV dump to get that taken care of. He gets calls on it all the time. He mentioned that he would like to see something in the paper letting people know that we are working on it in coordination with the County to get it fixed and expanded.

Western Excavating owner Steve Hamilton, mentioned that he would be willing to help out. He mentioned that he was the contractor on it and there wasn't much he could do with the slope.

Councilman Hansen commented that Steve did his best to get it level . With the way that land is it made it hard. We hope to turn it East to West, instead.

Mr. Hansen commented that we did the best with what we had at the time. It is not a defect in his (Western Excavating) work at all. I think we will take him up on his offer to help us, though.

16. Adjourn

Councilman Hansen moved to adjourn the meeting. Councilman Wardle seconded the motion. All members present voted, "Aye."

The meeting adjourned at 8:25 p.m.

Approved this day of April 2007

Michael Johnson, Chairman