

**Tooele City Council
Business Meeting Minutes**

Date: Wednesday, May 16, 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 Bevan
Steve Pruden
John Hansen

City Employees Present:

Patrick Dunlavy, Mayor
Roger Baker, City Attorney
Glen Caldwell, Finance Director
Paul Hansen, Contract City Engineer
Cary Campbell, Public Works Director
Sharon Dawson, City Recorder
Lisa Carpenter, Deputy Recorder/City Council Liaison
Rachelle Custer, City Planner
Lieutenant Jorge Chilico
Officer Don Nelson
Sergeant Adrian Day

Minutes prepared by Elisa Jenkins

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 Councilman Pruden.

2. Mayor's Community Recognition Awards

Presented by Mayor Patrick Dunlavy and Councilman Pruden.

Councilman Pruden explained that this award recognizes the youth in Tooele. The Elementary students are honored at the first meeting of the month and the secondary students are honored at the second meeting of the month. The students are recognized by their administrators and teachers for being outstanding citizens. He then presented the Mayor's Community Recognition Awards to the following students:

Amanda Hyre, Tooele High School
Jacob Dalton, Tooele High School
Eric Stokowski, Tooele High School
Christina Chapman, Tooele High School
Mitch Gallegos, Tooele High School
Morgan Gates, Tooele High School
Dana Frost, Tooele High School
Steve Schwartzman, Tooele High School
Caitlyn Pengilly, East Elementary

The Mayor stated that it is the pleasure of the City Administration and City Council to honor these individuals. These are very special young people that go above and beyond. The Mayor congratulated the parents and family members of these extraordinary students. He also stated that “Communities That Care” is a wonderful program and thanked Milo Barry for his hard work. “Communities That Care” is presented to sixth graders in the community; the Mayor attended a sixth grade class today and noticed the great affect this program has on the students. Mayor Dunlavy wanted to say “Thank You” and congratulated the students.

3. Public Recognition

Presented by Mayor Patrick Dunlavy

This is a different kind of recognition award and it is his pleasure to be a part of this. Recently there was an incident where three children became lost; there were a lot of people looking for them and it caused a lot of concern and worry for many people. He would like to honor tonight some special people that aided in the rescue of these children. The Mayor then turned the time over to Lt. Jorge Chilico, with the Police Department, to present the awards.

Lt. Chilico stated on behalf of the police department everything they do affects children in some way, whether it is stopping a drunk driver, or responding to a domestic violence call. It all relates to the well being of children. This incident for the police department really hits home. He wanted to thank the wonderful members of the community who were willing to step forward and donate their time to help other members of the community. It says a lot about our community and he feels proud to serve this community. He believes that this is the best city in the state.

He then presented awards to Jeremy Ottrey, Jacob Free, and James Carpenter. These people donated their time and in looking for the three missing children. He then presented an award to Cory Dobson and Mike Parks with Search and Rescue for their part in serving as team leaders to help find the missing children.

Chairman Johnson also thanked these individuals on behalf of the City Council.

4. Open Forum for Public Comment

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

Nina Andersen addressed the council. She wanted to voice her complaint and offer a suggestion. The city recently purchased property from Scott Crowther on 700 South and Coleman St, for road improvements. The yard is becoming an eye sore. The grass has died, dead bushes, the weeds are over taking the property and the home is sitting empty. The longer it sits empty the worse it will get. The home is a nice home. She suggests the town have a drawing, and whoever wins could live in the home with the condition that they take care of the yard and pay utilities, until the city needs the property. This could help someone out and keep the view from her home nice instead of looking as weeds.

Chairman Johnson stated that the council is currently looking into their budget that begins on July 1, 2007. He also stated that it would be a great idea. The question is if they have the money to start working on this project, they would probably start demolition of the home. The council will look at this.

Lamar Penevich addressed the council. He appreciates the opportunity to address the council. He would like to make the council aware of a sewer line problem that exists at 400 South and Garden Street, East of Main Street. He recalls a special improvement district that was established in 1992. That improvement district was established to put a sewer line on 400 south, and several other improvements. The problem that exists is the sewer line on 400 south is an eight inch line, but the line that runs under Main Street is only a four inch line. He has met with the Mayor and Mr. Hansen regarding this problem prior to this evening, but a conclusion has not been met as to what should be done. Mr. Penevich owns a lot on the corner of Garden Street, and is purchasing a lot on the southwest corner of Main Street and 400 South. He talked to Mr. Hansen and he doesn't feel comfortable emptying to many homes into a sewer line that bottlenecks into a four inch line. He talked to the person who was the city engineer in 1992 and he could not recall why this was done. Mr. Penevich asks for the councils help in resolving this problem.

Chairman Johnson asked if there is a concern with a sewer back up right now or is it a concern that it will back up if there is development?

Mr. Penevich stated that there are many vacant lots around the area that will feed into this sewer line. There is not a problem right now, but there will be if all the lots are developed. There needs to be a bigger sewer line across Main Street.

Chairman Johnson stated that Mr. Penevich has started at the right place; he suggests that he continue to work with the Mayor and Mr. Hansen to help resolve this problem. He asks that administration look into this to help resolve.

The Mayor commented that he has looked into this problem. The question that remains is in order to fix the problem is who will pay for it. They are trying to find out exactly why the Special Improvement District did the sewer line this way. Mr. Penevich stated that the Special Improvement District should have addressed the problem at the time; the sewer line should be a usable line.

Chairman Johnson asked if Mr. Penevich has received an estimate of how much it would cost to be fixed. Mr. Penevich replied that he has not received an estimate of how much it would cost. He just wanted to make the council aware of the problem. He appreciates the Council's time.

Mr. Bruce Baird, attorney for Mr. Hall, with Tooele Associates, L.P. (TA) addressed the council. He would like to address the council on a problem that is not on the agenda. He would like to briefly discuss the public improvements in Overlake. Over the last few years Tooele City has used one among many excuses for denying plats in Overlake, the alleged non conclusion of public improvements in some of the phases in Overlake. The city has never given a complete punch list to TA of the public improvements that need to be made. In the fall of last year they learned through Mr. Hansen's deposition why the city has not given Overlake a complete punch list; it is because allegedly the as-built drawings for prior improvements were so insufficient that the city could not generate a punch list from those documents. TA disagreed with that, but they finally understood the city's position. At that point Overlake commissioned at great expense a licensed professional engineer to do a final punch list for the prior phases of Overlake. Those final punch lists were submitted on December 6, 2006, to date the city has never responded in any way to those punch lists. He has written or communicated with the city on many occasions requesting a response to that punch list. He was in front of the council six weeks ago and commented then that it would be nice to get a response to these as-builds, so they can get a final inspection and complete legitimate punch list work. He assumes that if these punch lists items were legitimate that the city would want them corrected, as a matter of public safety. How can they fix problems if the city will not respond to what those problems are? He asked the council four questions 1) Why has it taken so long (5 ½ months) to not get them a response or receive any communication regarding the punch list. 2) When can they get a response to the punch list or final inspection reports. 3) Do you think it is fair to deny a developer approval of subsequent plats based on the alleged incompleteness of prior improvements if the city won't tell the developer what's wrong with those prior improvements. 4) When can he get answers to questions 1, 2 and 3? He thanked the council for their time.

Chairman Johnson responded that this is tied up in litigation. He asked Mr. Chris Hogle, outside counsel to the city, to respond to Mr. Baird's questions. The council does not have the technical expertise to determine whether public improvements need to be fixed or do not need to be fixed in Overlake. That is for the engineers to decide.

Mr. Chris Hogle, attorney at Holme, Roberts and Owen addressed the council. He stated that he knows that city staff is working on putting together a punch list and reviewing the submissions that Mr. Baird referred to. It is a voluminous set of submissions and they are looking at it and working on it. Mr. Baird asked how they can fix the problem if the city doesn't tell them what the problems are. It is his understanding that it is the developer's responsibility. The developer knows what the problems are; Mr. Baird stated that TA hired an engineer to identify the problems. They can go ahead and fix the problems. He knows of nothing that the city has done that would have impeded TA from fixing any public improvements. It is his understanding of the process that when a developer requests a final inspection the city inspector does not have the resources to catalog all the problems. The developer should contact the city when the problems are fixed for them to be inspected. Mr. Hogle stated that TA knows what the problems are.

Chairman Johnson asked Mr. Hogle to give Mr. Baird a timeline as to when he can expect to receive something from the city in regards to this matter. Mr. Hogle responded that he anticipates having something for Mr. Baird within a week. What they have is what they know of; they are doing their best to identify for them what conditions need to be met. The city has been diligent in following through. In the fall of 2004 Mr. Paul Hansen spent two days walking the subdivision, he took photographs, and there was an arrangement with Mr. Hall about what they were going to do. Mr. Hall stated that they were going to go through phase by phase starting with phase 1B. Mr. Hansen created a letter and noted all the things he identified as problems and sent it to Mr. Hall, and Mr. Hall stated that he shouldn't have to fix these problems. That is where the process stopped. It could have continued at that point in time, but it did not. It stopped. Now TA demands that the city go through this process, the city is working on it. Mr. Hansen has gone out again and made another list. Chairman Johnson asked city administration to get Mr. Hall and Mr. Baird whatever it is the city has for them by the end of the month.

Mr. Baird asked to respond to what Mr. Hogle stated. Phase 1B was recommended and accepted years ago by the city council. It is his opinion that Mr. Hogle has misstated items for the record. It is his experience as a developer that it is quite common to do things the way that Tooele Associates has done things. The developer submits engineered as-builds, then you get a punch list and then you ask for a final inspection. Tooele Associates asked for that in December of 2006. He asks why they haven't gotten one. Is the city saving them all up, and giving them all at the last minute. If these are city improvements, they want to fix them.

Chairman Johnson asked why Tooele Associates is not fixing the problems that the engineer they hired recommended. Mr. Baird responded that they did not submit a punch list; the punch list comes back from the city. What they submitted is what all developers submit, a set of engineered as-builds, it does not show interior fixes. The response from the city was this is sort of what we know of now, but is not final; we will get back to you later. No reputable developer in this situation and given the litigation is going to at his own risk take care of something only to come back later and say that it wasn't fixed the way they wanted it fixed. In five months they could have had some items fixed. As soon as they get the list they will get the items fixed. It is in their interest to take away every excuse the council has in turning down their plats, so they can move forward. Mr. Baird is glad to hear they will have it in a week.

Mr. Drew Hall addressed the council. He has a document signed that Phase 1B is complete. Some of these phases have been finished for ten years and they hope to have some leeway, there will be some normal wear and tear to these subdivisions. He admits that an engineer submitted some as-builds that were poorly done. The as-builds have been corrected now, and hopes to get items completed that need to be done.

Councilman Hansen moved to close the Open forum. Councilman Wardle seconded the motion. All members present voted "Aye". The Open Forum closed at 7:49 p.m.

5. **PUBLIC HEARING and MOTION on Tooele Associates, L.P.'s January 30, 2007, Request to Amend Exhibit B to Development Agreement for Overlake Project Area.**

Presented by Roger Baker

Mr. Baker explained that Tooele Associates, L.P. (TA) has made a request to make certain amendments to Exhibit B to the Development Agreement for the Overlake Project. That Exhibit is referred to in the Development Agreement as the Development Plan for Overlake. What the council has before them is Exhibit B as it exists today as it was approved by both parties several years ago. The council has in their packets the city administration recommendation to deny the proposed amended Exhibit B, with the reasons set forth in the summary to the council. Their transportation system for the proposed Phase II subdivision is not integrated with the larger project. The proposed Sugar Plum subdivision takes a huge chunk of property set aside for a future public regional park. The city administration does not believe that this is in the best interest of the city or the Overlake subdivision. There are a number of inconsistencies such as roads, potential lots, the school sites and other items of that nature. The city wonders why this amendment is necessary, why isn't the Exhibit alright the way it stands now, why Overlake can't be developed under the current Exhibit B.

Chairman Johnson understands that an application for a subdivision has been made, which is now tied into the need to amend Exhibit B.

Mr. Baker responded that any amendment to Exhibit B must be in writing, and be approved by the City Council after a recommendation by the Planning Commission. The Planning Commission made three motions at their meeting held April 25, 2007 regarding amending Exhibit B. 1) The first motion was made to table, to allow TA to fix suggestions made by staff, the vote was 4-3, and the motion did not pass. 2) The second motion was to amend Exhibit B, the vote was 5-2, and the motion did not pass. 3) The third motion was to deny the request to amend Exhibit B, the vote was 5-2, and this motion did pass.

Chairman Johnson stated that this was a public hearing.

Mr. Bruce Baird addressed the council. He finds it unusual for the city attorney to give the staff report, he has never seen this in his more than twenty years of development practice. He has never seen a staff report before without any back up, there is nothing in the staff report that indicates anybody with qualifications has reviewed it. He would like to comment on the Planning Commission meeting. TA received the staff report just a few days before the Planning Commission meeting. It was not clear on which streets dead-end and needed to be fixed. He feels it is irrelevant because this is a concept plan. Concept plans don't have dead-end streets, they have big pictures, they do not show that kind of detail. Mr. Baird stated that Mr. Baker told the council tonight that the Planning Commission voted negatively on this recommendation. Technically that is true, he asks the council to listen to the tape, because he did listen to the tape and he feels like they were "brow beaten" by Mr. Baker.

Councilman Wardle stated that he was at the Planning Commission meeting and the statement about being "brow beaten" by Mr. Baker is not true.

Mr. Baird stated that the Development Agreement and a Concept Plan are always a look ahead plan. As the market condition changes, and factors change, such as the city taking park impact fees away from TA, such as the change for the high school site. Concept Plans are always changing. Mr. Baird does not understand the first bullet point from the staff. This Exhibit B has been amended by the council three times in the past. The first time was to change the high school site. The second time was to add the John Tooele Property in the northeast corner. The third time was to move the alignment of 400 west. Those were reasonable based requests. Another basis in the staff report for denial was that home lots were located on the high school site, those are proposed to be moved. TA stands ready, willing and able to discuss with the city the appropriate locations for those sites. That's how concept plans are normally done; the city's planning department working in good faith with the developer, proposes a change, both parties agree on it, it then comes to city council and then is a done deal. If the city denies the

concept plan he guarantees further litigation, and TA will be back with a new Exhibit B addressing every issue to address. He feels that it will get to the point that a judge will say, you have no legitimate basis to turn their request down. If they have to change the layouts they will change the layouts. If the council wants to approve they should approve Exhibit B, if they want to deny, then deny it and there will be more litigation. If the council approves the changes to Exhibit B it will produce revenue for the city in the way of building permits and fees, and more residents. It will save the city money in court fees. There is no reason to turn down this proposal. If there are comments from the audience he asks the council to strive to keep the comments to the issue at hand. Mr. Baird will be happy to answer any questions.

Chairman Johnson asked Mr. Baird to put aside the litigation for a moment. All the city is doing is a development agreement which is a contract between the city and TA. Chairman Johnson understands that developer is asking the city to amend the contract. He has not heard a good reason to do so. What does the city get by amending the contract? The city staff has told the council that there are problems with the proposed amended Exhibit B. Putting aside all of the other issues, he wants to know why this is good for the city and why should the council approve the amendments to Exhibit B.

Mr. Baird responded that there is no legitimate harm to the city to approve; there is no good reason to turn down the proposal. Concept plans by their nature, as everybody can testify, are simply plans that will have to be changed in the future.

Councilman Wardle stated that Mr. Hall told the Planning Commission that he would fix the dead-end streets. He wonders why this has not been done yet, and why the staff's recommendations have not been taken care of.

Mr. Baird responded that TA did not receive the staff's recommendation until the day before the last meeting, which gave them no time to do so. This is not a final plat approval, it is a concept plan. If the council would like to approve this development subject to TA bringing to the city engineer, or someone in the city, a plan that shows those dead-end streets removed they would be happy to do so.

Mr. Drew Hall addressed the council. He stated that Commissioner Searle made the recommendation at the Planning Commission Meeting to table this motion so that TA could fix the problems in the staff report, but the motion was denied. That is a reasonable request. It is unreasonable to assume how over a twenty year period that things would not change. That is why this is a concept plan and it is always changing. They are perfectly happy to look at density, and park properties and all the other acreages. They are trying to move things around because things have not turned out how they were on the initial map. They knew when they did the map, things would change. He would like to address the park issue; he thought that he had an agreement with the city that they could purchase park property (150 acres) for \$5,000 an acre. In exchange the park impact fees would

stay in Overlake. They are not removing the park; they are simply moving it to another area. One improvement that would be made is that 400 West would be completed; this would be in the best interest of the city. Aaron Drive would also be completed. They are not increasing density, and they are not dealing with lot sizes right now, those are plat issues. They are trying to move a few pieces around which is normal. In 1997 how could the city envision what the city would look like today? It is the same thing for them; they are trying to move things around so they will work. He also would like to address the school issue. Mr. Hall's requirement was that the school is a walkable school and so the School District decided to move it across the street. He can't control where the School District purchases property. Mr. Hall has no money to build parks; the city told TA that Overlake doesn't need any more parks right now. The intention of Exhibit B is a concept plan and it would be changed on a regular basis, they did not expect to have the type of opposition that they are getting.

Chairman Johnson stated that they have had the staff recommendations for a certain amount of time.

Mr. Hall wanted to clarify that he received the staff recommendation two days before the Planning Commission Meeting that was held April 25, 2007. Mr. Hall indicated that the city claimed they had sent an earlier letter addressing the same issues, but he never saw it. Councilman Searle made a motion to allow Mr. Hall to fix the issues in the staff report, but that motion was denied.

Councilman Hansen stated that he would like to see this issue tabled so that Mr. Hall could address the staff recommendations. Mr. Hall stated he would accept that.

Chairman Johnson stated that this is a public hearing.

Melanie Hammer, a resident of Overlake addressed the council. Ms. Hammer has lived in Overlake for nine and a half years. Ms. Hammer attended the Planning Commission meeting referred to by Mr. Baird. She did not witness a "brow beating" by Mr. Baker, but she did witness a lively discussion about what is best by all involved. She wants what is best for her family and her neighbors. She looked at the master plan on the wall of the Overlake selling trailer ten years ago when she built her house; she understands that things have changed. She understands a concept plan, but she is against anything that takes the Regional Park from Overlake. There are many things in Overlake that have not come to pass and there are many things that are not finished. She stated that 400 West is an eyesore, and 2000 North was landscaped a few years ago and the landscaping has died. She has a hard time believing that the regional park will be moved somewhere else. Ms. Hammer asked Mr. Baird who would build a home right next to the railroad tracks and he assured her that they would be nice homes. She does not want to see more multi-family homes in Overlake; there are enough there

now. Ms. Hammer stated that Tooele City needs more parks, the parks are overcrowded.

Maresa Manzione, a resident of Overlake also addressed the council. Her house was the fifth home built in Overlake. She has some concerns about moving the Regional Park in Overlake. She understands that it may not be built any time soon, but she is concerned that it will never be built according to the proposed amended Exhibit B. There is a need for this park, her kids play softball and they play until all hours of the night to try to accommodate everyone. Ms. Manzione also has not seen a lot of things come to pass that she was promised. She understands a concept plan and that things change. She was told that the same house would not be built next to each other, and was also told that larger homes would be intermixed with smaller homes to keep their property value up; they were also told that garage entrances would be in the back or on the side. Ms. Manzione stated that all of these items have changed since she moved in. She doesn't believe that Mr. Hall will take the Regional Park and move it.

Mr. Tim Fullmer is a resident of Overlake, and an employee of Tooele City. He has not lived in Overlake very long. He moved out of the Salt Lake area to this particular neighborhood because of character of this neighborhood. What he sees with the desire to change Exhibit B is to change the character of the neighborhood. He understands a Concept Plan and that things change. Of the 201 lots that Overlake has proposed, 79% of them have lots that are less than 7,000 feet. They are proposing a series of small homes on small lots. That would be in direct contradiction to the intent of the agreement, which is "they want a creation of a quiet safe pedestrian oriented neighborhood, with a balance mix of lot sizes that would encourage a heterogeneous mix of homeowners, first time homeowners, single persons, family". He is opposed to changing Exhibit B, because it will change the character of the neighborhood.

Kathryn Lowe, a resident of Overlake resident addressed the council. She has lived in Overlake for five years; she lives across the street from where the proposed park is supposed to be. When she purchased her home the proposed park was a factor. Ms. Lowe understands a Concept Plan. It would be nice if TA would show the residents where they propose to move the park. Ms. Lowe stated that if Mr. Hall would attend the homeowners meeting he would realize that all of the residents are waiting for the park. This is a concept that the residents "bought into" when they chose to move to Overlake.

Mr. Bill Perry Jr., with Perry Homes, they are also part of the litigation with TA and Tooele City, addressed the council. They have economic interests in Overlake, and feel like they have been dealt with unfairly. Concept Plans have to change, with the very size of this project Concept Plans are going to change, and this won't be the last time. The Development Agreement (DA) requires that they have a number of lot sizes that require a certain size of home. If the council would look at the 13-14 locations that Perry Homes is building in Salt Lake County right

now. They have a substantial number of house plans that range from \$250,000 to over \$1 million. If Perry Homes is ever able to develop in Overlake, it is their intent to include a wide mix of quality residential construction in harmony with the DA. He wants to say to the residents that have raised concern, that by amending Exhibit B, it does not amend the intent of the DA, the Regional Park, or the open space or the mix of houses. This particular amendment does not in any way propose to change the DA. The Concept Plan shows that most of the large lots will be interspersed with the golf course, and probably around park space.

Councilman Wardle stated that he was concerned about changing the regional park, and having houses too close to the railroad track. There was an incident in Salt Lake where the train shook the foundation of homes next to the railroad tracks. Mr. Perry stated that an engineer would be hired during the planning process to determine how far away from the railroad tracks homes needs to be.

Mr. Perry stated that there might not be a need to move the park space in Overlake if they had the funds available from the city to build the parks. They would probably be willing to build the park. There are no funds to build parks in Overlake, he want the residents to know that.

Mr. Hall stated that there are parks along the railroad tracks and between the homes. The homes are further away from the railroad tracks than e.g. Tracks in Salt Lake. He wants the council to understand there is still room for a Regional Park in Overlake. Councilman Wardle wanted to know what the buffer zone is between the railroad tracks and the homes. Mr. Hall replied that it is what is required, he stated probably 240-250 feet. Lenders have requirements about building by railroad tracks.

Mr. Perry stated that those issues are plat issues, not concept plan issues. There have already been changes to the concept plan. They are here with a concept plan, trying to get the council's approval. Mr. Perry stated that if the concept plan doesn't get approved, they will make changes to the criteria that the council wants and be back.

Councilman Hansen understands a concept plan. He doesn't feel comfortable approving without a positive recommendation from the Planning Commission. He would suggest that Mr. Hall deal with the staff recommendation issues and bring the plan back to the Planning Commission. He is uncomfortable in approving or disapproving.

Chairman Johnson stated that he does not want to approve with a list of conditions, it causes too many problems. He stated that the Regional Park is a concept that many residents in Overlake have bought into. He also stated that the city has never said that the Regional Park would not be built, just not this year. He also stated that he would have a tough time voting for the amendment to Exhibit B if it removes the Regional Park.

Councilman Bevan recommended tabling the issue to let TA make the corrective recommendations and bring back to the Planning Commission.

Councilman Hansen moved to close the public hearing. Councilman Bevan seconded the motion. All members present voted “Aye.” The public hearing closed at 8:35 p.m.

Councilman Wardle stated that he is concerned if the council tables the issue that TA will see it as a way to stop development. Mr. Perry stated from his perspective that it would be in good faith on the council’s part to table the issues so that TA could move quickly to resolve the issues. TA will not hold it against the city.

Chairman Johnson stated again the he would not vote in favor of Exhibit B if it removes the park from Overlake, but agrees that the other issues could be dealt with.

Councilman Bevan moved to table Tooele Associates, L.P.’s January 30, 2007, Request to Amend Exhibit B to Development Agreement for Overlake Project area so that TA may fix the staff recommendations. Staff will deal with it in a timely matter to get back to the Planning Commission.

Councilman Hansen seconded the motion. All members present voted “Aye”.

6. **Resolution 2007-23 A Resolution of the Tooele City Council Adopting the Budget Officer’s Tentative Budget for Tooele City Fiscal 2007-2008, and Establishing the Time and Place of a Public Hearing to Consider its Adoption.**

Presented by Mayor Patrick Dunlavy

Mayor Dunlavy reported that he his simply meeting the statutory requirement for the budget. City administration will await the councils input. The Budget Hearing and Public Hearing will be held on June 20, 2007. The budget is balanced and is fiscally conservative. There will be copies available at the front desk.

Councilman Hansen moved to approve Resolution 2007-23. Councilman Pruden seconded the motion. All members present voted “Aye”.

John Wright addressed the council. He asked the council as they consider the budget that they keep in mind the youth in Tooele. He would like to see a facility for the youth in Tooele. The youth are important in Tooele; he would like to see money allocated for parks. Mr. Wright stated that anytime you take open grass away from kids, you remove their quality of life. Chairman Johnson stated that it

is not in the budget this year to build a ball park, it would probably be 2-3 years before one would be built.

Mayor Dunlavy stated that when it comes time to build a ball park they are going to do it right. He also thanked Mr. Wright for his time and effort with the youth in Tooele.

7. **PUBLIC HEARING and MOTION on Ordinance 2007-18 An Ordinance of the Tooele City Council Amending the Tooele City General Plan, Land Use Element, for Approximately 108 Acres of Property Located at Approximately 1400 South 1930 West from Medium Density Residential (MDR) to Rural Residential (RR) Uses.**

Presented by Rachelle Custer

Ms. Custer reported that Mr. Arbshay has requested a general plan change from medium density residential to rural residential usage. This is the site that was previously zoned to open space. Mr. Arbshay would like to develop an equestrian subdivision on this property. Staff suggests that this is an appropriate use for the property. This is a down zone from what the current general plan shows. It would be a close range community, the homes would not sit on one acre lots, they would sit on smaller lots and they would be one acre by the time they put in the equestrian path, and the stables. There are some water, sewer and road issues that will need to be addressed before any developing will occur. This is a general plan change. There will be a re-zone request next month.

Chairman Johnson stated that he is in support of this, he likes the idea.

Ms. Custer stated that there are not currently a lot of live stock lots in available in Tooele City, and this will be a good location.

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

Councilman Pruden moved to close the public hearing. Councilman Hansen seconded the motion. All members present voted "Aye." The public hearing closed at 8:46 p.m.

Councilman Pruden moved to approve Ordinance 2007-18. Councilman Hansen seconded the motion. All members present voted "Aye."

8. **PUBLIC HEARING and MOTION on Amended Plat to Vacate and Re-subdivide Deer Hollow Phase 6, Lots 602, 603, 604, and 605 Located at Elk Hollow Loop and Deer Hollow Road.**

Presented by Rachelle Custer

Ms. Custer reported that Mr. Hamilton has submitted an amended plat to change some easements and property lines for the above mentioned lots in Deer Hollow. The original plat had a cul de sac at the south end of Deer Hollow Road. Mr. Hamilton has developed a through road. By taking out the cul de sac out and putting in a straight road the property lines have changed on the above mentioned lots. This is a private ingress/egress/utility easement. Planning Commission recommended approval of the amended plat on April 25, 2007.

Chairman Johnson asked if by changing the plat it will affect the water rights requirement. Ms. Custer stated that it would not change the water rights requirement; all they are doing is adjusting property lines.

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

Councilman Pruden moved to close the public hearing. Councilman Hansen seconded the motion. All members present voted "Aye." The public hearing closed at 8:49 p.m.

Councilman Bevan moved to amend the plat to vacate and re-subdivide Deer Hollow Phase 6, Lots 602, 603, 604, and 605 Located at Elk Hollow Loop and Deer Hollow Road. Councilman Hansen seconded the motion. All members present voted "Aye".

9. **PUBLIC HEARING and MOTION on Amended Plat Hometowne Court PUD to Correct Building Locations.**

Presented by Rachelle Custer

Ms. Custer reported that Hometowne Development has submitted an amended plat for Hometowne Court PUD to correct the locations of buildings. Some buildings were not built according to the original plat. The buildings are already there, they are just correcting the plat. Planning Commission recommended approval on April 25, 2007.

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

Councilman Pruden moved to close the public hearing. Councilman Wardle seconded the motion. All members present voted "Aye". The public hearing closed at 8:50 p.m.

Councilman Wardle moved to amend the plat for Hometowne Court PUD to Correct Building Locations. Councilman Hansen seconded the motion. All members present voted “Aye”.

10. **PUBLIC HEARING and MOTION on Preliminary Plan for Hawthorne House Subdivision, a Two Lot 7.45 Acre Subdivision at Three O Clock Drive and Main Street.**

Presented by Rachelle Custer

Ms. Custer reported that Three O Clock Drive has not been dedicated to Tooele City. This will dedicate Three O Clock Drive as a public road. This subdivision will create a lot on either side of Three O Clock Dr. The zoning in this area is Neighborhood Commercial. Planning Commission recommended approval of the subdivision on April 25, 2007.

Chairman Johnson asked Ms. Custer what type of shape is the road in? The city does not want to take ownership of a road if it needs maintenance. Mr. Paul Hansen responded that the intent of this action is to provide the right of way. It was important for the city to take over the road as opposed to having it blocked off or dead end. This is considered more as a road dedication rather than a public improvement. Water rights will apply. It will come back in final plat approval in a future meeting.

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

Councilman Hansen moved to close the public hearing. Councilman Wardle seconded the motion. All members present voted “Aye.” The public hearing closed at 8:52 p.m.

Councilman Hansen moved to approve the preliminary plan for Hawthorne House Subdivision, a Two Lot 7.45 Acre Subdivision at Three O Clock Dr and Main Street. Councilman Pruden seconded the motion. All members present voted “Aye”.

11. **Resolution 2007-24 A Resolution of the Tooele City Council Authorizing the Mayor to Sign a Contract with Superior Excavating for Schedule “A” (Utility Upgrades) and Schedule “B” Concrete Work) of the 2007 Roadway Improvements Project**
12. **Resolution 2007-25 A Resolution of the Tooele City Council Authorizing the Mayor to Sign a Contract with Kilgore Paving for Schedule “C” (Roto Mill and Asphalt Overlay) of the 2007 Roadway Improvements Project**

13. **Resolution 2007-26 A Resolution of the Tooele City Council Authorizing the Mayor to Sign a Contract with Intermountain Slurry Seal for Schedule “D” (Slurry Seal) of the 2007 Roadway Improvements Project.**

Chairman Johnson would like to present agenda item #11- Resolution 2007-24, #12 Resolution 2007-25 and #13 – Resolution 2007-26 together because they are all part of the same action.

Presented by Paul Hansen

Mr. Hansen stated that he would like to discuss all three resolutions, 2007-24, 2007-25, and 2007-26. Tooele City put out for bid a short time ago the road projects for this year. This will involve underground utility replacement of water lines and some sewer lines, asphalt overlay and slurry seal. There were four different bid schedules; the schedules could be awarded separately or together. After review of the bids city administration recommends that they award Schedule A Utility Upgrades and Schedule B Concrete Work to Superior Excavating. They award Schedule C Asphalt Overlay to Kilgore Paving, and Schedule D Slurry Seal to Intermountain Slurry Seal. The contract amount for Resolution 2007-24 will be \$866,120. The contract amount for Schedule C to Kilgore Paving is not to exceed \$666,625. The contract amount for Schedule B \$290,500.

Chairman Johnson stated that some of these bids were not the lowest bids, but because of previous experience and the coordination between contracts that they would work best for the city.

Councilman Bevan moved to approve Resolution 2007-24, 2007-25 and 2007-26. Councilman Pruden seconded the motion. All members present voted “Aye”.

14. **Resolution 2007-22 A Resolution of the Tooele City Council Authorizing the Mayor to Sign a Contract with PriceWaterhouseCoopers LLP for Ligation Related Services.**

Presented by Roger Baker

Mr. Baker reported that this resolution relates to the law suit filed against Tooele City by Tooele Associates L.P., challenging the Tooele City public improvement inspection fees as applied to Overlake Phase 1E. He finds it necessary to retain an accounting expert to assist the city in the defense of this action in a timely manner.

Councilman Pruden stated that the amount would not exceed \$10,000. Mr. Baker replied that the amount would not exceed \$10,000 for Phase I and an amount to be

determined by future City Council action for Phase II if need be. This Resolution approves only the Phase I cost.

Councilman Pruden moved to approve Resolution 2007-22. Councilman Wardle seconded the motion. All members present voted “Aye”.

15. Minutes, May 2, 2007

Councilman Wardle moved to approve the minutes as presented. Councilman Pruden seconded the motion. All members present voted “Aye.”

16. Invoices

Presented by Sharon Dawson

Ms. Dawson presented the following invoices:

- Clyde, Snow Sessions & Swenson for legal expenses in the amount of \$35,245.47
- Clyde, Snow Sessions & Swenson for legal expenses in the amount of \$24,822.48

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

17. Mayor’s Report

The Mayor had nothing to report at this time.

18. Adjourn

Councilman Wardle moved to adjourn the meeting. Councilman Pruden seconded the motion. The meeting adjourned at 9:00 p.m.

Approved this 6th day of June 2007

Chairman Michael Johnson