

**Tooele City Council
Business Meeting Minutes**

Date: Wednesday, January 16, 2008
Time: 7:00 p.m.
Place: Tooele City Hall Council Chambers
90 North Main Street Tooele, Utah

City Council Members Present:

Steve Pruden, Chair
Mike Johnson
Scott Wardle
John Hansen
Dave McCall

City Employees Present:

Mayor Patrick Dunlavy
Roger Baker, City Attorney
Glenn Caldwell, Finance Director
Sharon Dawson, City Recorder
Lisa Carpenter, Deputy Recorder/City Council Liaison
Cary Campbell, Public Works Director
Paul Hansen, Contract City Engineer
Chief Kirby, Chief of Police
Kami Perkins, Human Resource Director

Minutes prepared by Elisa Jenkins

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

1. Pledge of Allegiance

The Pledge of Allegiance was led by Boy Scout Troop 1302.

Chairman Pruden welcomed Boy Scout Troops 203 and 1302 who are working on their Citizenship in the Community Merit Badges. He also welcomed Troop 1547, who are working on their Communications Merit Badge.

2. Mayor's Community Recognition Awards

Presented by Mayor Dunlavy, Chairman Pruden and Chief Kirby

Mayor Dunlavy thanked all of those who have come to see these students get recognized. He explained that these awards are given out to special young people in the community who are recognized by their teachers and administrators. The

Community that Cares program is a great program. Milo Berry and his staff do a great job running this program in the schools. He thanked the parents, siblings, and grandparents for their positive role in these students' lives.

Chairman Pruden recognized Chief Kirby who is helping with the awards tonight. The students will receive a Certificate from the Mayor as well as a goody bag. The goody bag consists of a gift certificate from Leatherby's and Papa Murphy's, a water bottle from USU, a Tooele lapel pin, a Mayors Recognition bracelet as well as some other goodies. Chairman Pruden then presented the awards to the following students:

Bryton Christensen, Clarke Johnson Junior High
Kaleb Frischnecht, Clarke Johnson Junior High
Charlotte Reeves, Tooele Junior High
Braden Smart, Tooele Junior High
Jessenia Pankratz, Clarke Johnson Junior High
Brittany Hawk, Tooele High School
Lindsey Mogensen, Tooele High School

Mayor Dunlavy thanked everyone for coming and congratulated the students receiving this award. He also thanked the families for their support.

A short break was taken for a picture with the Mayor.

3. Open Forum for Public Comment

Chairman Pruden invited anyone who wished to address the Council to come forward.

Bill Perry, with Tooele Associates addressed the Council. He asked the council if he would be able to speak regarding agenda item #8, Resolution 2008-05.

Chairman Pruden stated that Resolution 2008-05 does not have a public hearing.

Mr. Perry stated that he would like to make a presentation at this time.

Chairman Pruden said that this was not the time to make a presentation to the Council about an agenda item. This was the time for public to bring to the attention of the City Council items of concern to the public.

Mr. Perry asked when he could make his presentation to the Council.

Councilman Johnson said that it would be unfair for Mr. Perry to present something to the Council regarding the agenda item without the administration having a chance to check what is said by Mr. Perry, or to make a rebuttal. He suggests giving Mr. Hansen or Mayor Dunlavy something in writing that states

what Tooele Associates has done and why they think that they comply with the requirements.

Mr. Perry stated that in December of 2007 he made a request to the City for an opportunity to be heard. When Resolution 2007-05 was considered denying their request for an extension of the development agreement they had no knowledge this was going to occur.

Councilman Wardle asked if Mr. Baird spoke at the meeting when Resolution 2007-05 was approved. Mr. Perry stated he did not believe Mr. Baird spoke when Resolution 2007-05 was adopted.

Mr. Perry said the reason for their renewed request was so they could have an opportunity to come before the Council and make a presentation in respect to their position. The letter that they received back from the City in December of 2007 invited them to come and make the presentation. He has spent a considerable amount of time preparing his presentation. He was shocked to see a Resolution on the agenda tonight denying their renewed request for a 10-year extension of the development agreement without the City giving them the opportunity to make the presentation that was requested in December.

Councilman Johnson referred to the Mayor's letter dated December 13, 2007 that states "please indicate in as much detail as possible what, if anything, has been done since February 7, 2007, to rectify the examples of non-compliance". Mr. Johnson asked Mr. Perry if he has photos or something like that to show the Council.

Mr. Perry stated that he has no photos, but he plans to make an oral presentation to the Council.

Councilman Wardle said that his presentation should be made to the administration and the staff before it is presented to the Council.

Mr. Perry stated that the Council has Resolution 2007-05. He wants to address this issue. He made a request a month ago to have an opportunity to address this issue and comes to the Council meeting tonight with a pending Resolution on the agenda without the opportunity to be heard.

Councilman Johnson said that the intent of the Mayor's letter is that he make his presentation to the administration before it comes to the City Council meeting.

Mr. Perry stated that there is no need to make the presentation to the administration. The presentation needs to go to the City Council.

Chairman Pruden said that the administration needs a chance to verify what he says has been done.

Mr. Perry said that he is not coming tonight with new facts and pictures. He is coming tonight to tell a story to the City Council. He feels that he has a right to tell this story to the City Council. He believes that the City should be willing to consider what he tells them in good faith.

Councilman Wardle said that the Council needs the opportunity to hear the City's side after Mr. Perry tells the story.

Councilman Johnson suggested that Mr. Perry have an opportunity to make his presentation when they get to agenda item #8.

Melanie Hammer, 1883 N 120 W, addressed the Council. She is a resident of Overlake. She believes that it is unfair that Mr. Perry should be allowed to discuss this matter when it was not a public hearing. She feels if he is allowed to speak that the residents of Overlake should also be able to speak. If the Council hears from one side of this issue they should hear from the other.

Councilman Hansen agrees that agenda item #8 was not noticed as a public hearing.

Councilman Wardle said that the public meeting clearly states that this is a Resolution, not a public discussion. In order for the Council to make a decision they need to be able to hear both sides. Mr. Perry needs to put his presentation in writing.

Mr. Perry said that they asked the City a month ago to allow them to make a presentation.

Councilman Wardle stated that in the letter it is very clear that if there were any changes with respect to the examples of substantial non-compliance set forth in Resolution 2007-05, then they could present them. If the changes have been made they need to know what those changes are beforehand. This way the citizens in Overlake can hear what they are and know both sides. The Council needs the full story. If they hear his presentation tonight without the staff's recommendations then they don't have the full story.

Councilman McCall said all the Council is asking is that Mr. Perry gives the City the opportunity to know what work has been done in writing so they can verify it. If the Council lets him speak then the citizens of Overlake should also be able to speak. Things need to be done in the correct way.

Mr. Perry understood from the letter from the Mayor that the City was scheduling a public hearing so that he could be heard. That is why he drove all the way out to Tooele to this meeting to make his presentation.

Councilman Hansen stated that this is not a public hearing and it hasn't been noticed as such.

Mr. Perry stated that he has gone through great lengths to prepare an oral presentation tonight to the Council. He gets here and now he can't present it.

Councilman Wardle suggests tabling this issue. In fairness the Council needs to make the best decision that they can. Whatever Mr. Perry says has to be verified because they are accountable. They have to be able to make a decision from all sides of the story. If anything has changed with respect to the examples of substantial non-compliance they need to be listed in a letter to staff.

Mr. Baird addressed the Council. He asked the Council to table Resolution 2008-05 so they can make their presentation in writing. He hopes that they can get a fair, neutral and unbiased person to look at this. He said that they thought they were getting a hearing on this Resolution, but when the agenda came out for this meeting there was no public hearing scheduled.

Councilman Johnson stated that they were invited to get information to the staff.

Mr. Baird said that when they look at the agenda it doesn't look that they are getting a fair hearing. They will make their presentation in writing.

Councilman Johnson stated that he would recommend tabling Resolution 2008-05 to give Tooele Associates time to make their presentation in writing.

Mr. Baker commented regarding the agenda for the public meeting. The item was advertised on the agenda as part of the public meeting. In a public meeting, the public has the right to come and observe their elected officials conduct the government's business; it doesn't give the right for a public hearing. If the Council wishes to have a public hearing it could be advertised and they could expand it to their desire. The Council also has the discretion to allow public comment even though the item is not a public hearing, but should open the meeting to all who wish to comment on the item. In regards to the letters between the Mayor and Tooele Associates, Drew Hall's December 5, 2007, letter says that TA wants to be represented at the meeting. TA is represented by its presence at this meeting. The letter does not say that TA desires to make a presentation. The Mayor's December 13, 2007, letter does not invite TA to deliver a presentation, but asks that TA indicate to the City Administration as much detail as possible what has been done since February 7, 2007, when Resolution 2007-05 was passed.

Councilman Pruden called for a motion on Resolution 2008-05.

Councilman Hansen moved to table Resolution 2008-05. Councilman McCall seconded the motion. Councilman Johnson proposed an amendment to the

motion to say that two weeks after Tooele Associates gets their response to the administration that it be placed back on the agenda. Councilman Hansen and Councilman McCall agreed to the amendment. All members present voted “Aye”.

Councilman Pruden asked if anyone else wished to address the council to come forward. No one else came forward.

Councilman Hansen moved to close the open forum. Councilman Wardle seconded the motion. All members present voted “Aye”. The open forum closed at 7:40 p.m.

4. **Resolution 2008-03 A Resolution of the Tooele City Council Consenting to the Mayor’s Appointment of Kami Perkins as the Tooele City Treasurer**

Presented by Mayor Dunlavy

The Mayor explained that this is an appointment by the Mayor which is required by state statute. Kami Perkins has been serving in this capacity for some time now and has been doing a great job.

Councilman Wardle thanked Ms. Perkins for the great job she has been doing.

Councilman Wardle moved to approve Resolution 2008-03. Councilman McCall seconded the motion. All members present voted “Aye”.

5. **Resolution 2008-02 A Resolution of the Tooele City Council Awarding the Public Defender Contract to Curt W. Morris, Jacob L. Linares, and S. Dee Long**

Presented by Roger Baker

Mr. Baker explained that the Constitution requires that government provide criminal defense to those individuals who cannot afford to provide their own defense when charged with a crime. Historically this contract has been split three ways. The reason for this is because sometimes a lawyer has a conflict of interest. By the rules of ethics the lawyer cannot defend this person. By splitting the contract this way they don’t have to spend unbudgeted money to hire someone outside the contract. Scott Broadhead and Frank Mohlman each had 1/3 of the contract and they resigned in December. Curt Morris also had and will retain 1/3 of the contract. Mr. Baker did not ask the two nominees to come tonight. He has interviewed them both and found them satisfactory for this contract.

Chairman Pruden said that he spoke to Mr. Long and he is excited to receive this contract.

Mr. Baker stated that the reason he recommends these two attorneys is because they are local and they have local offices. This way the individuals that they are defending do not have to travel to Salt Lake or make long distance phone calls.

Councilman Johnson asked Mr. Baker if the \$1,200 is a flat rate per month?

Mr. Baker said that the total of \$3,600 is a flat rate per month and then will be divided into thirds. The total annual contract is \$43,200. They will handle misdemeanor cases only. Felonies are handled by the County.

Councilman Johnson moved to approve Resolution 2008-02. Councilman Hansen seconded the motion. All members present voted "Aye".

6. **Resolution 2008-04 A Resolution of the Tooele City Council Accepting the donation of 48 Acres of Hillside Open Space.**

Chairman Pruden explained to the audience that this Resolution is a big deal for Tooele. Mr. Baker has been working on this for a long time.

Presented by Roger Baker

Mr. Baker explained that the City Council has established as a priority to preserve Tooele hillside open spaces. The hillsides are sensitive to erosion, water run off, vegetation and wildlife and are also aesthetically important to our community. They are the most important natural asset that the City has. When you take exit 99 and look south, you see the gradual slope going upwards and it ends at these foothills. The Council and the administration have established as a priority the preservation of this hillside. The preservation of this hillside will be enjoyed by all who live here and travel here. Mr. Baker showed on a slide where this open space is located. He explained that the yellow lines show conceptual development. This donation is approximately 48 acres. This is relatively small parcel compared to the thousands of acres of hillside but it is a key piece to the puzzle that they are adding to the complete picture. This will be recorded next week.

Mayor Dunlavy stated that this is a great example of what the Council and administration is doing to manage growth in Tooele. Mr. Baker has done an excellent job in preserving this area. He has worked very hard on this. This has been a priority to the Council.

Chairman Pruden explained that the Council and the administration are very committed to the fact that they will not have houses on the ridgeline of the hillside. He also thanked Mr. Baker for his work on this Resolution.

Mr. Baker wanted to acknowledge Paul Hansen, Cary Campbell, and Rachelle Custer for their work on securing this parcel of land.

Councilman Hansen moved to approve Resolution 2008-04. Councilman Wardle seconded the motion. All members present voted “Aye”.

Councilman Wardle asked Mr. Baker to thank Mr. Brockbank.

7. **Ordinance 2007-26 An Ordinance of the Tooele City Council Amending the Tooele City General Plan, Land Use Element, for Approximately 15.83 Acres of Property Located at Approximately 700 South 600 East, from Rural Residential to Low Density Residential Uses.**

Presented by Roger Baker

Mr. Baker said that he is presenting this Ordinance on behalf of Rachelle Custer. This is something that Cary Campbell, Paul Hansen and Rachelle Custer have been working on with the land owner. It is approximately 15.83 acres. Right now it is zoned MU 160, which means in order to get a single house you have to have 160 acres to get one lot. It is appropriate for sensitive areas and hillsides. The land owner has asked the City to rezone this area from 160 acre lots to something more for residential. This will be re-zoned at a later date. The lots will be similar to the lots in Deer Hollow subdivision, with lots being around 14,000 square ft and larger. There will be a road that will continue into Phase 7 of the Deer Hollow subdivision. Paul Hansen, Cary Campbell and Rachelle Custer have been to this property and found it to be flat enough to be re-zoned to Low Density Residential. This will not take away from the open space area discussed in the prior resolution. They recommend changing the Tooele City General Plan Land Use Element for this parcel from Rural Residential to Low Residential.

Councilman Johnson asked if this has been approved by the Planning Commission.

Mr. Baker said that Planning Commission gave a favorable recommendation to the City Council at their meeting held September 12, 2007.

Councilman Johnson asked what zones are allowed for this space.

Mr. Baker said R1-12 and R1-14.

Councilman Johnson said that the smallest lot will be 12,000 square feet.

Mr. Baker said that this is based upon the developer's representation of what he is going to ask for. The lots will be at least 14,000 square ft and the lots that go up the hill will be much larger.

Councilman Wardle said that this Resolution is smart planning for smart growth in Tooele.

Councilman Wardle moved to approve Ordinance 2007-26. Councilman Hansen seconded the motion. All members present voted "Aye".

Chairman Pruden wanted to thank the staff for all their hard work.

8. Resolution 2008-05 A Resolution of the Tooele City Council Denying the Renewed Request of Tooele Associates L.P. for a 10-Year Extension of the Development Agreement for Overlake Project Are Between Tooele City and Tooele Associates.

Presented by Roger Baker

This Resolution was tabled during the Open Forum.

9. Minutes; January 2, 2008

Councilman Hansen moved to approve the minutes as presented.

Councilman Wardle seconded the motion. All members present voted "Aye".

10. Invoices

Presented by Sharon Dawson

Ms. Dawson presented the following invoices for payment:

- Compass Holdings (Elmbridge LLC) for change directive No. 1 for the cost of installing an additional 12" waterline in the amount of \$14,975.00.
- Tooele County Clerk for election costs for September and November in the amount of \$20,801.32.

Councilman Hansen moved to approve the invoices as presented by Ms. Dawson. Councilman McCall seconded the motion. All members present voted "Aye".

11. Mayor's Report

Mayor Dunlavy wanted to give the Council a heads up on an Ordinance that will be presented to the Council in the near future. He turned the time over to Mr. Hansen to explain.

Mr. Hansen explained that they have found a conflict in allowable street grades in the City Code within the sensitive area overlay and the International Fire Code requirements, and have issued a Notice of Pending Ordinance Change effective today. Per City Code the maximum grade of a road is 12% within the sensitive area overlay, which is what they have existing on some of the hillside developments. The International Fire Code recommends the maximum grade be 10%, but it does allow the fire chief to increase the maximum grade to 12% at his discretion. Staff proposes to bring the City Code into conformance with the International Fire Code and reduce the maximum allowable public street grade to 10%, and still allow the fire chief to allow increases on private driveways to 12%. Our present recommendation is to not allow increases beyond 10% for public street grades due to fire access, snow removal, etc. This is important for safety issues. They will make the ordinance effective immediately and come back with a formal ordinance change to City Council Meeting.

Mayor Dunlavy also stated that administration will be presenting in the near future a City wide recycling program to the Council. He will make a formal presentation to the Council at a later date.

Councilman Johnson asked how much damage the City sustained in the wind storm a couple weeks ago.

Mayor Dunlavy stated that the damage was substantial at an early estimate it is around \$50,000. That is the amount the City is responsible for. City wide the damage was much larger.

Mayor Dunlavy also wanted to recognize Suzanne Ash with the Tooele Transcript who has covered all of the City Council meetings and done a great job. She is leaving to work for the Salt Lake Tribune. He wished her the best of luck.

12. Adjourn

Councilman Hansen moved to adjourn the meeting. Councilman Johnson seconded the motion. All members present voted “Aye”. The meeting adjourned at 8:02 p.m.

Approved this 6th day of February 2008

Chairman Pruden