

**Tooele City Council and
Tooele City Redevelopment Agency
Joint Business Meeting Minutes**

Date: Wednesday, October 7, 2009
Time: 7:30 p.m.
Place: Tooele City Hall Council Chambers
90 North Main Street, Tooele Utah

City Council Members Present:

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

City Employees Present:

Mayor Patrick Dunlavy
Glenn Caldwell, Finance Director
Paul Hansen, City Engineer
Roger Baker, City Attorney
Sharon Dawson, City Recorder
Chief Ron Kirby, Chief of Police
Randy Sant, RDA Consultant

Minutes prepared by Elisa Jenkins

Chairman Pruden called the meeting to order at 7:30 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Roger Baker.

2. Mayor's Community Recognition Awards

Presented by Mayor Dunlavy, Councilman Wardle, Chief Kirby

Mayor Dunlavy welcomed all those in attendance. He said that it is his honor to come to City Council and recognize these special young people in the community. He thanked the families for their support of these young people.

Councilman Wardle explained that each recipient will receive a bag with a certificate from the Mayor, and some goodies from various businesses in the Community.

Councilman Wardle then presented the Mayor's Community Recognition Awards to the following students:

Isabella Spenser, Clarke Johnson Junior High
Beth Anne Chevalier, Tooele Junior High
Taylor Weight, Tooele Junior High
Tom Griffith, Clarke Johnson Junior High
Erin Hammond, Tooele High School
Carlee Bunn, Tooele High School
Becca Leone, Tooele High School
Emily Turner, Tooele High School

Mayor Dunlavy expressed his gratitude to these young people and the important role they play in this community. He thanked the families for the important role they play in these young people's lives.

Chairman Pruden recognized the youth, on behalf of the Council, for their role in the community.

A brief recess was taken for a picture with the mayor and the students.

3. Open Forum for Public Comment

Chairman Pruden invited anyone from the public who would like to address the Council to come forward.

Joe Liddell addressed the Council. He would still like to see some walking paths in the City where there are no sidewalks. He also noted that the park on 200 West is in need of some attention.

Councilman Johnson suggested that Mr. Liddell contact the public works department.

Mayor Dunlavy asked Mr. Liddell to contact him regarding this issue.

LuAnn Allie addressed the Council. Ms. Allie represents Marvin's Gardens minor subdivision. Ms. Allie is requesting from the Council a modification or adjustment to the waiver right conveyance requirement for Tooele City Code 7-26. She is in process of doing a permanent change of use with the Utah State Division of Water Rights for one Middle Canyon irrigation share to be used for indoor use for lots 1 and 3. Lot 2 has an existing structure that will be torn down and her son will be build a new house, water is already secured for this lot. She is requesting that this adjustment or modification not impede the construction process, she would like to deed the property to her son so that construction can begin. The permanent change in use can take up to six months to process. She would like to see the subdivision finalized with the exception that no building can take place on lot 1 and 3 until water is secured. Middle Canyon irrigation shares will be used for all of the outdoor use on all of the lots.

Councilman Johnson indicated that the City has an ordinance and what Ms. Allie is requesting would require an ordinance change.

Ms. Allie indicated that she is doing a permanent change in water right use from irrigation to municipal with the state water right division. This process can take several months to be completed, and she would like to be able to proceed with her subdivision. Her son would like to start building on lot 2, where water is already secured.

Councilman Wardle asked if Ms. Allie is doing a permanent change use with Utah State Division of Water Rights for the Middle Canyon Irrigation share or is Middle Canyon Irrigation doing the change?

Ms. Allie stated that she is requesting the change. She indicated that Vern Loveless is helping her with the application. Ms. Allie stated that she has two acres of property. She is giving her son 1/3 of an acre. The rest of the property will remain in her name. She can not give the whole piece or property to her son.

Councilman Johnson asked if she is planning on building on all three lots?

Ms. Allie indicated "no". Her son is planning on building on the lot that already has an existing structure, which will be torn down.

Councilman Johnson stated that the ordinance requires as a condition of the subdivision to provide water before the subdivision can be recorded.

Councilman Wardle indicated that a decision can not be made at this meeting because this type of a request has to be an agenda item.

Councilman Johnson asked if Ms. Allie could pay the City for water rights and then when she gets her water rights converted they could reimburse.

Ms. Allie indicated that she could not pay the City \$15,000.00, for a water right share. She would be willing to trade her share of irrigation water for municipal water.

Councilman Wardle stated that when the change application is done, the state engineer changes the share it is not a straight across change. He said that an irrigation share does not help the City.

Ms. Allie stated that she has the water share for the lot that they would like to build on. She suggests not issuing building permits for the other two lots until the water is secured for those two lots.

Councilman Johnson asked if she could make two lots instead of three, which would save her money in water shares.

Ms. Allie indicated that she needs to have three lots for family members for the future.

Councilman Johnson was concerned how the City would track it if they allowed the subdivision and allowed building on Lot 2, but not Lots 1 and 3 until the water was secured.

Ms. Allie noted that in the City ordinance it states that someone can ask the Council for a modification or waiver to the ordinance.

Councilman Wardle had a concern that if the Council makes an exception it sets a precedence for others.

Councilman Johnson is concerned that the State Engineer will not grant culinary water for Ms. Allie's irrigation shares.

Ms. Allie stated that Mr. Loveless is working with her and researching the water uses in her area.

Councilman Wardle had two concerns 1) setting precedence for others and 2) Ms. Allie filing a change application on behalf of the company that she is not the owner of but a share holder in. He believes that the company would have to make that change application on their own.

Ms. Allie said that according to the water rights she can file a change application.

Councilman Johnson asked Mr. Hansen what the harm would be by allowing the subdivision but not allowing any building until the water was secured?

Mr. Hansen stated that it would be hard to track an exception to the ordinance. He was also concerned about setting precedence for other developers.

Councilman Johnson stated that this request needs to be an agenda item. The Council can not make a decision at this meeting.

Councilman Hansen stated that the Council looks to administration for their recommendation. He suggests that she discuss this matter with the staff. The staff will then make a recommendation to the Council.

Councilman Johnson stated that he would rather see a change to the ordinance rather than an exception to the ordinance.

Councilman Wardle agreed but then there would have to be a discussion about changing an ordinance that has been working.

Councilman McCall asked how many small subdivisions are approved a year.

Mr. Hansen said that there are between 6-12 small subdivisions done in one year. He agrees that this needs to be looked at. He also stated that the City Council provided a mechanism where small subdivisions can be approved and that is by purchasing water credits from the City so the applicant does not have to wait for the change order to be processed. He said that staff can look at this. He said that if this comes back before the Council the irrigation company would need to state what they would do. He would also like to see an opinion from the state engineer's office.

Mayor Dunlavy stated that staff will look at Ms. Allie's situation. All the questions need to be answered before this item comes back to the Council. The staff will need to research if an irrigation share can be changed to culinary water. Administration will make a recommendation to the Council.

Chairman Pruden closed the public hearing at 8:20 p.m.

4. **Resolution 2009-52 A Resolution of the Tooele City Council Adopting the Certified Tax Rate**

Presented by Glen Caldwell

Mr. Caldwell explained that under Utah Code Section 10-6-133 requires cities to set by ordinance or resolution the final property tax rate for the fiscal year 2009-2010. The County auditors calculated the certified tax rate to 0.1917%. He said that it is down a little from last year.

Chairman Pruden noted that the property rate has gone down a little, but the property values have gone up.

Chairman Hansen moved to approve Resolution 2009-52. Councilman Wardle seconded the motion. All members present voted "Aye".

5. **Resolution 2009-53 A Resolution of the Tooele City Council Approving Judges and Polling Locates for the General Election for 2009**

Presented by Sharon Dawson

Ms. Dawson stated that a list of election judges and polling locations for the general election is required under Utah state code to be approved by the Council. Ms. Dawson indicated that they are the same as the list used for the primary election that was held in September.

Chairman Pruden noted that this is a formality, because this is the same list that was used in the Primary elections.

Ms. Dawson also noted that this is the County's list.

Councilman Hansen moved to approve Resolution 2009-53. Councilman Wardle seconded the motion. All members present voted “Aye”.

6. Resolution 2009-48 A Resolution of the Tooele City Council Authorizing the Mayor to Sign a Tractor Rental Agreement with Greenline Equipment

Presented by Paul Hansen

Mr. Hansen stated that the City is ready to start spreading bio-solids on the property immediately west of the Tooele City waste water treatment plant. The City owns a spreader but a tractor is needed to pull it. Mr. Hansen noted that there are only four vendors that rent tractors in Utah, two in Salt Lake, one in Brigham City, and one in Ephrim. The City solicited prices from the two companies in Salt Lake City. Wheeler gave a bid of \$4,000 a month and Greenline Equipment bid an annual cost of \$10,250.00. (The cost comparison is included with the minutes as Exhibit A). He is recommending that the Mayor sign a tractor rental agreement for a one year period. When the enhancements are made to the waste water treatment plant they will no longer need the tractor.

Councilman Wardle moved to approve Resolution 2009-48. Councilman Hansen seconded the motion. All members present voted “Aye”.

7. PUBLIC HEARING & MOTION on 2400 North Road Dedication Plat

Presented by Paul Hansen

Mr. Hansen noted that Nelson and Sons are requesting to construct some enhancements at their existing facility located at approximately 700 E 2400 N. This is an action to allow the City to accept the plat dedication so Nelson and Sons may move forward with the commencement of public improvements. When the public improvements are done they will come back before the Council to be accepted.

Chairman Pruden stated that this is a public hearing if anyone would like to come forward and discuss this issue. No one came forward.

Councilman Wardle moved to close the public hearing. Councilman Johnson seconded the motion. All members present voted “Aye”. The public hearing closed at 8:25 p.m.

Councilman Johnson moved to approve the 2400 North Road Dedication Plat. Councilman Hansen seconded the motion. All members present voted “Aye”.

Councilman Wardle noted that Nelson and Sons have been a great company to work with.

8. PUBLIC HEARING to Review Community Impact Board Application for Funding of Sewer Treatment Plant Expansion

Presented by Randy Sant

Mr. Sant stated that they have done a number of things to try and get this funded. They want to put an application into the Community Impact Fund and borrow \$4.6 million dollars at 3% interest for 25 years. This would be an annual payment of \$261,000.00. The impact board requires a public hearing. The public hearing is to inform the public of the impact is on the existing user rate. He stated that the impact is none. The existing user rate can fund this loan without any increase in fees.

Councilman Johnson asked if there is a surplus in the enterprise funds?

Mr. Sant stated that there is a surplus in the enterprise funds. This amount is just enough to borrow what is necessary to fund the solar drying facility and do some expansion at the sewer treatment plant. They have discussed going on the open market and bond for the remaining amount. The application had to be submitted but a public hearing must be held. A decision will be made in February. He said that they have a plan B if they do not get the loan. When this is funded the tractor that was approved earlier will no longer be needed.

Chairman Pruden stated that this is a public hearing if anyone would like to come forward and address this issue. No one came forward.

Councilman Wardle moved to close the public hearing. Councilman Hansen seconded the motion. All members present voted "Aye". The public hearing closed at 8:30 p.m.

9. Resolution 2009-54 A Resolution of the Tooele City Council Authorizing the Mayor to Sign a Settlement Agreement with the Cove at Overlake LLC and Secured Property Assets LLC

Presented by Roger Baker

Mr. Baker explained that a dispute has arisen between the owners of lots 602 and 603 of Overlake Estates 1G, with regards to the site plan previously approved for this property and water rights that accompanied the subdivision approval in 1998. The City has negotiated over a period of weeks a settlement agreement to settle all claims that could be made against the City. The agreement has been discussed in closed meetings because of the threatened litigation and the litigation that already exists. Under State Records Law, settlement negotiations are confidential records which is why a draft of the final agreement is not attached to the resolution. Mr. Baker indicated that rather than the proposed 180 units on these two lots, the owners are agreeing to reduce the density to 132 units, which is a significant reduction in density. The City will also be providing water rights to the development.

Councilman Johnson explained for the public that when this property was approved in 1998 and subdivided into 1G it allowed them to build 180 units on this property. He feels that this is a good compromise. They will be building the apartments to the Overlake Development Agreement multi family standards.

Mr. Baker stated that there will be no reference to the Development Agreement design standards. The City has created an Exhibit to this agreement which contains the same design standards that are to be found in the Overlake Development Agreement.

Councilman Johnson noted that aluminum or vinyl siding are not prohibited unless there are special circumstances.

Mr. Baker indicated that aluminum or vinyl siding is discouraged.

Councilman Johnson said that his view is just because aluminum or vinyl siding is cheaper it does not make it a special circumstance. He would request that when this is handled administratively that they request stucco or brick.

Mr. Baker said that unlike the other developments approved in Overlake which are reviewed by the Overlake Design Review Committee, that Committee will have no involvement on this site plan in the settlement agreement. The City will make sure of the design standards through the building permit applications.

Councilman Wardle thanked Mr. Baker for his work on this Settlement Agreement. He also feels that it is a good compromise.

Chairman Pruden also thanked Mr. Baker and the staff for their work on this agreement. He feels that it is very important to avoid litigation.

Councilman Johnson moved to approve Resolution 2009-54 with the condition that the final form of the Settlement Agreement be shared and approved by the Council before it is signed. Councilman Wardle seconded the motion. All members present voted "Aye".

Mr. clarified that he won't seek the Council's approval in a future meeting. He will seek the Council's approval of the final edits that he has been asked to make.

Councilman Johnson suggested that Mr. Baker e-mail the black lines to the Council and if anyone has a problem with them to get back to Mr. Baker.

10. Minutes: September 16, 2009; Closed Meeting and Joint City Council and RDA Minutes; September 22, 2009 Special Business Meeting

There was one change on the Closed Meeting Minutes; Councilman Wardle made the motion to adjourn and Councilman McCall seconded the motion.

Councilman Wardle moved to approve the minutes as presented with the one change indicated above. Councilman Hansen seconded the motion. All members present voted “Aye”.

11. Invoices

Presented by Sharon Dawson

Ms. Dawson presented the following invoices for payment:

- Pro Force Law Enforcement for 19 tasers for the Police Department in the amount of \$15,456.00.
- Ferguson Enterprises, Inc for Miscellaneous parts and supplies for water department in the amount of \$13,197.42.
- Greenline Equipment, LLC for rental of tractor to spread solid wastes from solid waste facility from 10/01/09 to 10/01/2010 in the amount of \$9,750.00.
- Broken Arrow for pre-approval of road salt for the winter of 2009-2010 in the amount of \$60,000.00.
- Holme Roberts & Owen for profession fees in the amount of \$81,330.30.
- RS Contract Services, LLC for services securing rights of way for 1000 North phase 2 and services on community impact board application for a total amount of \$31,752.00.
- Intermountain Slurry Seal, Inc for type 2 slurry seal and mobilization in the amount of \$16,415.78.

12. Adjourn to Large Conference Room for RDA Discussion

Chairman Pruden adjourned the meeting to a RDA discussion meeting at 8:42 p.m.

Approved this 21st day of October 2009

Chairman Pruden