

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

Date: Wednesday, February 18, 2009
Time: 7:00 p.m.
Place: Council Chambers
90 North Main Street

City Council Members Present:

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

City Employees Present:

Mayor Patrick Dunlavy
Glenn Caldwell, Finance Director
Lisa Carpenter, Deputy Recorder/City Council Liaison
Cary Campbell, Public Works Director
Milo Berry, Communities that Care Director
Rachelle Custer, City Planner
Roger Baker, City Attorney
Randy Sant, RDA Consultant
Jerry Morgan, City Cemetery
Becky Bracken, Police Department
Patricia Yandow, Police Department
Linda Tredway, Library
Raymond Johnson, Streets Department
Terry Hulett, Waste Water Treatment Plant
Karen Emery, City Librarian

Others Present:

Shawn Milne, Planning Commission

Minutes prepared by Elisa Jenkins

1. Pledge of Allegiance

The Pledge of Allegiance was led by Boy Scout Troop 1320.

2. Presentation by Mayor Patrick Dunlavy

Mayor Dunlavy explained that the City offered an early retirement incentive program to help with budget concerns this year. This program was voluntary by the employees. There are several employees who opted for the early retirement and he would like to recognize these individuals for the great service they have given to Tooele City. He realizes that these individuals have a lot of experience with the City and their knowledge will be missed. He appreciates each of them and the service they have given to the City. Mayor Dunlavy stated the City Council, the staff, and the citizens of Tooele City thank these individuals as well. Each of the retirees will receive a clock engraved with their name and date of service. He wished these individuals well in their future endeavours. He invited the department heads to join him to present the awards. Kathy Bell, Chief Kirby, and Karen Emery joined Mayor Dunlavy to present the awards.

Mayor Dunlavy presented a retirement award to the following individuals:

Jerry Morgan, City Cemetery
Becky Bracken, Police Department
Patricia Yandow, Police Department
Linda Tredway, Library
Raymond Johnson, Streets Department
Terry Hulett, Waste Water Treatment Plant
Karen Emery, City Librarian

Mayor Dunlavy thanked these individuals again for their hard work.

Chairman Pruden also thanked these employees on behalf of the City Council, for the hard work they have given the City.

3. Mayor's Community Recognition Awards

Presented by Mayor Dunlavy, Councilman Wardle and Chief Kirby

Mayor Dunlavy stated it is his honor at City Council to recognize some very special young people. He explained that the City has a program called the Communities that Care that is under the direction of Milo Berry. This program was started about six years by a grant by the University of Washington. This program is based in the school and helps young people deal with the problems of today. This award is part of this program. He feels it is important to acknowledge these young people publicly and give them the recognition that they deserve. He thanked the families of these young people and the role that they play in their lives. He knows that these young people will be the future leaders of the City.

Councilman Wardle explained that each student will receive a bag of goodies. The bag contains a Certificate from the Mayor, a notepad from the Tooele County Chamber of Commerce, chap stick from the Tooele County Health Department, a free movie ticket, A Mayor's Recognition Award wristband, a Tooele City pin as well as some other goodies.

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

Taylor Dangerfield, Middle Canyon Elementary
Omarii Jansen, East Elementary
A.J. Loertscher, Copper Canyon Elementary
Jake Brady, West Elementary
Megan Medley, Harris Elementary
Katelin Hardy, Settlement Canyon Elementary
Janny Dennison, Northlake Elementary
Nancy Aldrete, Middle Canyon Elementary

Mayor Dunlavy congratulated these students again for their hard work. He thanked the families for their support.

A brief recess was taken for a picture with the Mayor and the recipients of the award.

4. Open Forum for Public Comment

Chairman Pruden welcomed Boy Scout Troop 1325 who are working on their Citizenship in the Community Merit Badge.

Chairman Pruden invited anyone from the public who wished to address the Council to come forward and do so. No one came forward.

Chairman Pruden closed the open forum at 7:33 p.m.

5. Resolution 2009-09 A Resolution of the Tooele City Council Consenting to the Appointments of Malcom Walden and James Pruden to the Library Board of Directors; Setting their term of Service; and Awarding them the Powers of the Office

Presented by Mayor Patrick Dunlavy

Mayor Dunlavy presented the names of Malcom Walden and James Pruden to serve on the Library Board of Directors. Both of these individuals have expressed a desire in serving on the Board.

Chairman Pruden asked Ms. Emery if she was o.k. with these two individuals.

Ms. Emery said yes.

Councilman Johnson moved to approve Resolution 2009-09. Councilman Hansen seconded the motion. All members present voted "Aye".

6. **Ordinance 2009-05 An Ordinance of the Tooele City Council Amending Title 7 Chapter 1 to Allow for up to Eight (8) Children for Home Occupation Daycare/Preschool with State Child Care Licensing**

Presented by Rachelle Custer

Ms. Custer explained that currently under Tooele City Ordinance up to six children are allowed for a Home Occupation Daycare/Preschool. The State allows up to eight. The State does count their own children under the age of four and Tooele City ordinance does not. The City is requiring them to be State licensed therefore the State requirement will govern that.

Chairman Pruden asked if someone is operating under the old ordinance do they have to do anything to be able to take in eight children.

Ms. Custer said no. The conditional use permit for some daycare/preschool providers specify six most of them say per City Ordinance. The new City Ordinance will allow them to have eight children.

Councilman Johnson indicated that a State license includes the providers' children under the age of four, and now they can have up to eight. Councilman Johnson asked if someone has less than four children they are watching are they required to get a business license?

Ms. Custer stated that Tooele City does not require someone to get a conditional use permit to watch less than four children.

Councilman Johnson asked if the State requires someone to be licensed if they are watching less than four children.

Liz Hamilton, from the audience stated that the State requires them to be licensed if they are watching any children.

Councilman Johnson stated that someone should know if a daycare/preschool has even one child under their care.

Mr. Baker said that this ordinance change will eliminate an inconsistency between the City Code allowances and the State allowances.

Councilman Hansen moved to approve Ordinance 2009-05. Councilman McCall seconded the motion. All members present voted "Aye".

7. **Resolution 2009-10 A Resolution of the Tooele City Council Authorizing the Conveyance of the Unplatted Portions of the Tooele City Commercial Park to the Redevelopment Agency of Tooele City**

Chairman Pruden indicated that Councilman Hansen will introduce the next two Resolutions because he is the RDA Chairman.

Presented by Roger Baker

Mr. Baker said that this City Resolution is a companion to the RDA Resolution that follows. They both address the same transaction and the same agreement. The first resolution authorizes the City to sell the unplatted portions of the City Commercial Park to the Redevelopment Agency. The RDA Resolution correspondingly authorizes the RDA to purchase the property that is now owned by the City. Staff believes that it makes more sense for redevelopment agencies to own and market property in a commercial park. It is the RDA that has the statutory power to offer incentives to attract companies to invest in a community. The RDA is in the business of marketing, showing properties, and developing them. This resolution will also provide some income to the City budget. The agreement is attached to both resolutions which were included in the Council's packet. This is a simplified real estate purchase agreement. Also attached to the resolution are some pages from the appraisal and a copy of the resolution that declared this property surplus. The public hearing has already been held which declared the property surplus. He believes that this is in the best interest of the City and of economic development in the City. It is also in the best interest of the RDA.

Councilman Johnson noted one spelling error to Mr. Baker.

Councilman Johnson moved to approve Resolution 2009-10 with the one spelling correction. Councilman McCall seconded the motion. All members present voted "Aye".

8. Resolution 2009-01 A Resolution of the Redevelopment Agency of Tooele City, Utah Authorizing the Purchase of the Unplatted Portions of the Tooele City Commercial Park from Tooele City Corporation

Presented by Roger Baker

Councilman Wardle moved to adopt the RDA Resolution 2009-01. Councilman McCall seconded the motion. All members present voted "Aye".

Mr. Baker noted one change on Exhibit C of the City Council Resolution that was just passed. The land acquisition says \$1,450,000.00 it should say \$1,550,000.00.

Councilman Johnson had a comment in regards to agenda item #6. He doesn't have a problem allowing providers up to eight children. He feels that anyone watching children that are not their own should be required to have a conditional use permit, even if it is less than four. He asked if the City and the State should be the same on that issue as well.

Ms. Custer said that staff will look at making that change to the ordinance.

9. Resolution 2009-11 A Resolution of the Tooele City Council Authorizing the Mayor of Tooele City to Lease City Property to Tooele County

Presented by Roger Baker

Mr. Baker states that this resolution will ratify an agreement that already exists. He explained that Tooele County has opened a trail system that utilizes an abandoned railroad right-of-way in the northwest part of the City. Tooele City owns 20 acres in that area. The County asked if they could locate a trailhead and a parking area on the City owned parcel adjacent to their trail. They felt that they needed to make the arrangement in writing. Utah law and City law prohibit the City from leasing a small part of a larger parcel without a subdivision. This agreement leases the entire 20 acres to them but says they can only occupy a smaller area.

Chairman Pruden asked if the County is responsible for the maintenance.

Mr. Baker said that all the improvements have been installed at County expense. It will all be maintained at County expense. It shouldn't involve any cost to the City. If the City needs that property in the future they can invite the County to re-locate their improvements.

Councilman Johnson commented that under #2 of the lease it says "this lease shall commence on the date first above written and shall continue for a period of twenty-five (25) years thereafter" and under #8 "The parties may terminate this Lease Agreement during its initial term or any extension thereof by mutual written consent." He feels that those two parts should be tied together to read "That the lease shall commence on the date first written above and shall continue for a period of twenty-five years thereafter, unless terminated earlier pursuant to the provisions of paragraph six and eight."

Councilman Johnson also noted on page 3 it reads "The County shall not construct and/or place any improvements on the lease property outside of the 1.371 acres the County presently occupies without first obtaining the written approval of the City and renegotiating consideration for the lease". He feels that it should say . . . without first obtaining the written approval of the Tooele City Council by way of amendment to the lease approved in a public meeting. He said if they are going to build something the City should know about it.

Councilman Hansen moved to approve Resolution 2009-11 with the changes as noted above by Councilman Johnson. Councilman McCall seconded the motion. All members present voted "Aye".

10. Minutes: January 21, 2009 (RDA); February 4, 2009 Closed Meeting; February 4, 2009 Business Meeting

Councilman Wardle moved to approve the minutes as presented. Councilman Hansen seconded the motion. All members present voted "Aye".

11. Invoices

Presented by Mayor Patrick Dunlavy

Mayor Dunlavy presented the following invoice for payment:

- Caldwell Richards Sorensen for legal description and title work for the two new RDA areas in the amount of \$8,352.20.

Councilman Wardle moved to approve the invoice as presented by Mayor Dunlavy. Councilman Johnson seconded the motion. All members present voted “Aye”.

12. Adjourn to Discussion Items:

Councilman Wardle moved to adjourn the meeting to the Discussion Items. Councilman Hansen seconded the motion. All members present voted “Aye”. The meeting adjourned at 7:50 p.m.

Approved this 4th day of March 2009

Chairman Pruden

A short recess was taken. The discussion meeting began at 7:55 p.m.

Discussion Items:

1) Discussion Regarding the Subdivision of a lot owned by Mathew Arbshay in the Tooele Commercial Park Phase 1

Mr. Sant stated that when the Commercial Park subdivision plat was created all of the property in the first phase was given to the property owners as an incentive to build within the park. Mr. Arbshay received the property in this phase at no cost to him from the RDA. Mr. Sant also said that when this subdivision was created there was an understanding that there would be no lot less than one acre within the Commercial Park. There are not any lots in the park that are less than one acre. One of the lots Mr. Arbshay wants to subdivide is less than once acre. It is Mr. Sant’s recommendation that the lot be at least one acre. Mr. Sant is not opposed to the subdivision but it would also be his recommendation that it would be better to look at a subdivision when Mr. Arbshay has someone to buy the lot. He said that the RDA has a right to know what kind of tenant will go into the Commercial Park. He said if he subdivides the lot the RDA might loose

the ability to know who the tenant would be, unless they put a restriction that he can't sell a lot without the RDA's approval. The RDA needs to make sure all the CC&R's are met.

Councilman Johnson asked if Mr. Arbshay is proposing to have three lots. One lot already contains the building, and then there would be two vacant lots.

Mr. Sant said yes, but he feels that they need to be at least one acre lots.

Mr. Arbshay said that he acquired this lot in 1995. He said in the year 2000 he started a business selling goat cheese and he was planning on making this into a big business, but the project has sense "died". The building in the Commercial Park is where he was planning on running this business. He said that the building is vacant and the economy and construction have not been good. He has tried to market and sell this property. He thought if he could divide the lot it might be more affordable and more appealing to buyers. He would like a small piece for his operation. He wasn't able to get a hold of Mr. Sant to talk to him about this before this discussion. He did not realize that there were restrictions on the size of the lots. He can not market this property until it is subdivided. He said because of the economy he is struggling and this would help him out.

Councilman Wardle asked if this lot was subdivided would Mr. Arbshay have enough frontage to have an entrance. Ms. Custer said that he would have a 60' right-of-way.

Chairman Pruden said his concern is that there has been a long standing guideline that there are no lots under one acre and is it fair for the other tenants?

Mr. Sant said that Mr. Arbshay did try to contact him but he was unavailable. He went forward with the dimensions he thought were o.k. Mr. Sant said that there are tenants in the Commercial Park that wanted to have smaller lots and they were told they had to be at least an acre in size. Because the standard has been set in the Commercial Park he feels that lots still need to be at least an acre. He wondered what happens if Mr. Arbshay finds a tenant that wants two acres then he would have to re-do the subdivision. He also indicated that this would be a minor subdivision.

Councilman Johnson understands that Mr. Arbshay wants to sell the finished portion of the lot which includes the building and the parking lot. Mr. Arbshay is trying to reduce the cost to the buyer. He wondered if this lot could be subdivided into two lots.

Mr. Arbshay said if this was subdivided into two lots one lot would be 1.88 acres and one would be 2 1/3 of an acre. He said if that is what the Council decides that is what he would have to go with. He feels it would be most beneficial for him to have three lots. He could have the small lot for his personal use.

Councilman Johnson said that if they divided this into two lots he could sell the lot with the buildings and if someone came in later and wanted it smaller he could come back to the RDA then and they could look at it.

Councilman Wardle said that part of the problem is they do not have any lots under one acre in the Commercial Park.

Mr. Sant said that Mr. Arbshay would like to start the subdivision process which takes about three months. If the lot was divided into two Mr. Arbshay could sell the 1.88 acres and then could make a deal to lease back a building for his purposes. It is very difficult with the principal that they have maintained to have at least one acre lots to subdivide this lot into three lots. He has 4.08 acres total.

Councilman Johnson asked if the Council let Mr. Arbshay subdivide this into two lots how does the RDA control who is allowed go into the Park. Could they put a deed restriction that they could not build without RDA approval?

Mr. Sant said they could do a quick agreement with Mr. Arbshay that says they give him the right to subdivide the lot. There is only one restriction left on the deed and that is he pays the property taxes. His recommendation would be they could put a note on the subdivision plat or they could do a quick agreement with Mr. Arbshay that would allow him to subdivide but he would have to come back to the RDA a review with them who the user would be.

Councilman Johnson suggests that it should be on the plat.

Mr. Sant said that he would put it on the plat. The agreement might be quicker.

Mr. Baker said that he would need to study what restrictions the City Council can legally put on a subdivision. He is not prepared to speak on that subject at this time. Mr. Baker noted that Mr. Arbshay had mentioned to him that before he spent money on a surveyor he wanted to know what was acceptable to the City Council.

Councilman Wardle does not feel comfortable allowing Mr. Arbshay to subdivide the lots into less than one acre lots.

Councilman Johnson stated that the Council is willing to let him subdivide the lot as long as the lots are at least one acre of more.

Chairman Pruden said that one acre lot minimums would be the guideline.

2) **Discussion of the sale of property to Utah State University**

Mr. Sant said that a few weeks ago he met with Representative Menlove at the legislature and they talked about getting this deal wrapped up as soon as possible. He said that during that discussion she indicated to Mr. Sant that everyone needs to be on the same page in regards to the uses of the property. He said that the RDA has agreed to give 30 acres of property to USU and sell another 20 acres to them so they would have a 50 acre campus. He said since that time the Tooele City School District has contacted him about building a trade school, which he thinks is a great idea. The property they would like is

on the north end of the 50 acres with USU. The School District has agreed to move a sewer line and put the road improvements in, both at their expense.

Councilman Johnson asked if anyone was developing they would be required to make the improvements to the property.

Mr. Sant stated that it doesn't make sense to give USU 58 acres. He suggests that USU would still have 50 acres and the RDA would give 8 acres to the School District, which would be done with the City not USU. USU would then have 42 acres. Rather than purchasing 20 acres USU would purchase 12 acres all up front. Mr. Sant said that USU had funding to purchase 10 acres now and purchase 10 acres at a later date. He said that if she could fund all 12 acres now, that would give the RDA board all of the funding up front. USU would then have all their property and they could start moving forward. The RDA would deal with the School District instead of USU. He feels that it is a great deal with the School District. Mr. Sant said that the RDA is in process of creating three RDA project areas and they are going to need the school districts participation on those project areas, especially on 1000 North. He said if they help them out and not charge them for the eight acres then the school district would help the RDA with their project areas. Mr. Sant said in regards to Councilman Johnson's question that any developer would be required to make improvements is correct but Mr. Sant said that the sewer line might be debatable.

Councilman Wardle said that it is his understanding that the sewer line would accommodate USU. They are planning long term so they don't have to upsize the sewer line in the future.

Councilman Johnson would be comfortable with this if he could get an interlocal agreement from the school district. He doesn't want to give the school district eight acres on a promise because elected officials and superintendent's change.

Councilman Hansen said that the school district might not help they City out in the tax increment.

Mr. Sant said that if the Council does not want to deal with the school district that USU could deal with them. He said that from an economic standpoint the school district is doing something good. This will be a state of the art trade school. Tooele needs to have something like this.

Councilman Johnson asked if the RDA is loosing the payment of eight acres.

Mr. Sant said they are loosing payment of 8 acres. He said it would be about \$160,000.

Councilman Wardle said that the school district has agreed to allow the City to use some of their facilities.

Councilman Johnson said that he has not seen any agreements on that.

Mr. Sant believes that he could get an interlocal agreement with the school district for what has already been committed. He feels that he could collect the \$160,000 plus in tax increment. He does not feel like they would not participate with the City in tax increment.

Councilman Hansen agrees that a trade school would be beneficial for Tooele. The RDA has already agreed to give USU 30 acres. That is still not a signed agreement and it has been dragging on for about 3 years. He said that USU has agreed to purchase 12 acres but he wonders how long that will take. The extra 8 acres is the Tooele citizens' money. The dynamic is changing for this deal. He would like to continue with the donation of the 30 acres and they can buy 12 acres and the RDA will keep the 8 acres for them when they are ready to purchase that and let USU deal with the school district. He doesn't feel that the school district has supported the City when it come to tax increment.

Councilman Johnson said that he has been in front of the school board when they have not wanted to give up the tax increment because it takes away from them building new schools. He wonders if they will support the City.

Mr. Sant said he feels comfortable with the preliminary conversations that he has had with the school district. He is asking the board to amend the original deal with USU which consists of 50 acres of property that would be available for USU and the school district combined. The deal would be that eight acres would go to the school district for their building and 42 acres would go to USU. The other change would be that USU would agree to buy 12 acres up front instead of 20 acres. The value of the acres will go up once USU starts building. He said that he and the mayor would meet with the school board and get a commitments from them that they would have the support of the school board. USU would like to get this done before the legislative session is over.

Councilman Hansen asked who would pay for the other eight acres.

Mr. Sant said that the other eight acres could come back in tax increment participation or as they sell additional property in the park they will make up the difference through selling other parcels of ground. This property was donated to the City; there are certain restrictions that have to be followed to sell the property.

Chairman Pruden said that there was never an outlay of cash to purchase this property, plus they are going to get to use the recreational facilities that Councilman Wardle mentioned earlier.

Mr. Sant said that Tooele will get a state of the art training facility. He feels that they will recoup the \$160,000 in other ways.

Councilman Hansen would like to see the City and the school district have an interlocal agreement for the eight acres in exchange for their support in tax increment.

Councilman Wardle indicated that they could let USU give the property to the school district, but if the City donates it they are in a better position to leverage a deal.

Mr. Sant said they could let USU negotiate with the district on the eight acres, but they possibly don't have to make a deal. The City could loose the training facility. He would like the opportunity to make a deal with the district.

Councilman Johnson said that he would like to see a binding deal for the district to give something to the City.

Mr. Sant said that there have been two new project areas in the County that school district has participated with in tax increment. They are now dealing with a new board, new superintendent and a new business manager. He feels that the City is giving them something in return for their tax increment participation.

Councilman Johnson said that he is looking for something more binding. He would like Mr. Sant to negotiate something with the school district.

Mr. Sant said that the agreement with USU should be completed within the next 30 days. Rhonda has the funding for 10 acres and believes that she can find the funding for the other two.

Councilman McCall said that he understands the concerns of Councilman Johnson. School Boards and Superintendents change and new people might not agree with what has been done in the past. He agrees that the City should have some kind of agreement with the school district.

Mr. Sant said that the 1000 North project is the most important one for the school district to support.

Councilman Wardle understands that USU is looking at laying off about 300 people and feels that this deal needs to be taken care of soon.

The meeting adjourned at 8:35 p.m.