



**TOQUERVILLE CITY COUNCIL**  
**City Council Regular Business Meeting Minutes**  
**August 9, 2018, at 6:00 p.m.**  
**212 N. Toquerville Blvd, Toquerville Utah**

Present: Mayor Lynn Chamberlain; Councilmembers: Justin Sip, Keen Ellsworth, Ty Bringhurst, Alex Chamberlain, Paul Heideman; Staff: Public Works Director Lance Gubler, Treasurer June Jeffery, Recorder Dana McKim; Others: Zoning Official Mike Vercimak, City Attorney Heath Snow; Public: W. Jake Peart, Chuck Williams, Than Nagle, Alan Wright, Jodi Turner, Greg Turner.

**A. CALL TO ORDER:**

The meeting was called to order by Mayor Chamberlain at 6:02 p.m. The Pledge of Allegiance was led by Councilmember Keen Ellsworth and an invocation offered by Councilmember Paul Heideman. There were no disclosures or conflict declarations from council members, nor belief statements expressed.

**B. CONSENT AGENDA:**

1. Review and possible approval of the City Council Work Meeting Minutes from July 5, 2018, City Council Regular Meeting Minutes from July 12, 2018, and City Council Special Meeting of July 26, 2018.
2. Review and possible approval of City Expenditures from July 2018.

Councilmember Alex Chamberlain would like a revision to the meeting minutes on July 12, page 3 to reflect he wanted to include a short list of events to require a special permit rather than institute an exclusionary rule in the proposed ordinance.

*Councilmember Keen Ellsworth made a motion to approve the consent agenda items with the proposed changes to the July 12, 2018 meeting minutes as stated by Councilmember Chamberlain. Motion was seconded by Councilmember Paul Heideman. Motion unanimously carried 4-0. Roll Call Vote: Keen Ellsworth-aye, Ty Bringhurst-aye, Alex Chamberlain-aye, Paul Heideman-aye. Justin Sip-Absent.*

**C. CITY DEPARTMENT REPORTS:**

1. Zoning Administrator, Mike Vercimak:

Mr. Vercimak gave a brief report about the property being developed by Carson Jones on the south end of Toquerville. Mr. Jones asked if he needs to obtain a grading permit. He was told he will need to apply for a permit. Vercimak is expecting to view a set of engineered plans for a road and copy of an easement from Mr. Westbrook to be submitted to the city in the near future. The plans will need to show the cuts and fills, and the width and length of the road.

Alan Wright, a representative to the owner of the property spoke on behalf of the project. The drawings are being drafted by the Bush and Gudgeon Engineering Firm at the present moment. Mr. Jones will be excavating the land for the property owner. Wright will relay the information needed for the roadway to the property owner. A second staking may occur in the near future. Councilmember Heideman asked Vercimak about how roads are approved and when is a grading permit required by the city. Bringhurst believed a permit would be needed because the roadway will cross another property owner's land. Vercimak would like a legal access obtained for the roadway.



Jeff Fry approached Vercimak about his property and the desire to split the land into three separate parcels. The building was originally purchased by Fry and was an illegal nonconforming property. They discussed with him regarding their options of how the land may be legally subdivided. Since the lot would be split into three sections it would not qualify as a simple subdivision. The lot splits will have to be carefully developed to provide each lot with adequate road right of way.

Attorney Heath Snow entered the room at 6:14 p.m.

A private road may be granted the city council. He asked the council if they would be willing to approve a subdivision where a private road is established. The road will be approximately 250-275 feet long. This property is the old Bruggeman home in the Cholla subdivision but is not a part of the subdivision. There are two homes located on a single parcel. The process the applicant will need to pursue this option will include a zone change, a preliminary and final plat, but wanted to get a feel from the council if the council would be willing to approve a subdivision with a private drive. One of the lots will front Cholla Drive and will have a frontage of 100 feet. The other two lots will front the private road. The fire district will need to evaluate the development to make sure they have access to fire hydrants. There was a brief discussion of different road width requirements and what the property would require.

Councilmember Justin Sip entered the room at 6:17 p.m.

Mr. Bringhurst would like to support this development and is near his backyard. The lot is a large lot that will probably be the future of a weed patch. He would like the lot to be split so it may be more manageable for the homeowners. Vercimak stated the meter will be set on Cholla Drive and each home will have water and utilities ran to each individual home. Gubler suggested since it would create a new subdivision curb, gutter, and sidewalk improvements would need to be installed.

Mayor Chamberlain asked the council if it was the common consensus of the council for Mr. Vercimak to tell the Fry family they may proceed with their proposed subdivision plans. The council was in agreement to proceed ahead.

A second pre-construction meeting for the Ash Creek Overlook-Self Help Home subdivision will be scheduled for August 14, 2018, at 5:00 p.m. They recently changed their contractor and it would be wise to schedule a second meeting.

2. Planning Commission Representative-Greg Turner

The commission approved the ordinance replacing the board of adjustment for a one person appeal authority with a few questions for the council. They wanted to know who would assume the liability for decisions made and what the vetting process would be in obtaining an appeal authority.

A special meeting with two planning commissions, two councilmembers, the mayor and the city attorney will occur in the near future to discuss the changes to the short-term rental ordinance.

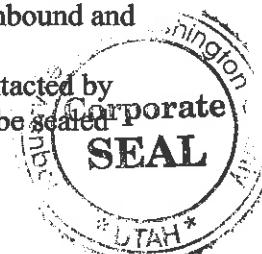
3. Hurricane Valley Fire Department Representative:

No report was given, as the representative was absent.

4. Public Works Director, Lance Gubler:

The city received a traffic complaint of a road hazard on the Westfield Road. Mr. Theobald requested the roadway on the s curve near his home to be striped and end at the bridge. He stated on several occasions people are crossing the center of the roadway traveling both southbound and northbound.

Mayor Chamberlain asked if Gubler is ready for the chip and seal project. He was contacted by Ron Whitehead the dirt from the recent flood needs to be cleaned off for the cracks to be sealed.



properly. The project is ready to go and if there is any leftover material he would like to chip seal the road from Ash Creek down to the city park. He would like a letter sent from the city to the county thanking for their cooperation with the project. The material purchased from the county made it affordable to resurface many roads in Toquerville. He explained how much money was saved by using the county versus a contractor. Jeffery will draft the letter.

5. Attorney Heath Snow:

Snow asked about the special event permit ordinance. He inquired if it was the desire of the council to create a short list of events to require a permit or use a list of exceptions. There was a brief discussion of if the permit would be required any time someone is using city property for commercial purposes and if the event is a re-occurring a permit would be needed. It was also suggested if the event exceeds 500 people they would need to get a permit.

Councilmember Chamberlain would prefer the ordinance state a short list of events where a permit would be required. The council would rather take a lenient approach, rather a stance of blanket prohibition with some exclusion. There was a brief discussion about baseball rentals, fundraiser projects, and different scenarios. The reason for the ordinance was to protect risk liability, increase safety, and keep city officials notified of upcoming events.

**D. PUBLIC FORUM:**

*Limit three (3) minutes per person; please address the microphone and state full name and address.*

Than Naegle from Toquerville Blvd:

He wanted to thank the council for the County Fair Grand Marshall appointment. The event had a good turnout and he was able to see people he hadn't seen in years. He prayed for cloud cover and rain for the parade. During his conversations, he spoke with a water conservancy district representative, Zach Renstrom. Mr. Naegle was disturbed to find out most of the complaints to the district originate from Toquerville area citizens about the secondary pressurized water system. The district maintains the secondary water system and is the best possible system anywhere in the county. He would like that type of negative rhetoric toned down. He reminded everyone, the agreement was for a thirty-year contract and the city is twenty years into the contract. He asked if the district decides to not renew the contract where does that leave Toquerville? The stockholders were paid in cash for their water shares. Ron Thompson did not steal water from Toquerville. The district purchased the water. He encouraged members of Toquerville to not bad mouth the district. Mayor Chamberlain thanked Mr. Naegle for his comments.

Councilmember Alex Chamberlain made a motion to enter into a closed session for the discussion of the character, professional competence, or physical or mental health of an individual. Motion was seconded by Councilmember Ty Bringham. Motion unanimously carried 5-0. Vote: Keen Ellsworth-aye, Justin Sip-aye, Ty Bringham-aye, Paul Heideman-aye, Alex Chamberlain-aye.

The regular meeting ended at 6:46 p.m.

**E. POSSIBLE CLOSED SESSION:**

Discussion of the character, professional competence, or physical or mental health of an individual.

The closed session was opened at 6:46 p.m. and ended at 7:03 p.m. Members present were Attorney Heath Snow, Councilmember Paul Heideman, Councilmember Alex Chamberlain, Mayor Lynn



Chamberlain, Councilmember Ty Bringhurst, Councilmember Keen Ellsworth, Councilmember Justin Sip, Treasurer June Jeffery, Public Works Director Lance Gubler, and Recorder Dana McKim.

***Councilmember Ty Bringhurst made a motion to enter back into regular session. Motion was seconded by Councilmember Paul Heideman. Motion unanimously carried 5-0. Vote: Alex Chamberlain-aye, Paul Heideman-aye, Keen Ellsworth-aye, Ty Bringhurst-aye, Justin Sip-aye.***

The regular session was back in session at 7:04 p.m.

**F. BUSINESS:**

1. Discussion and Possible Action on Planning Commissioner Appointment:

Mayor Chamberlain made an appointment to replace the vacancy of Councilmember of Mike Ruesch to be fulfilled by Chuck Williams. Consenting Vote: Keen Ellsworth-aye, Ty Bringhurst-aye, Paul Heideman-aye, Alex Chamberlain-aye, Justin Sip Aye.

Mayor Chamberlain will approach two people to serve as alternates on the Planning Commission. Tentatively those two individuals will be appointed at the September 6th meeting date. Snow suggested the alternates are numbered to clarify the order of which appointed member will be seated, i.e. one and two.

2. Discussion and Possible Action on Rocky Mountain Power Street Lighting Facilities Purchase and Sale Agreement:

June Jeffery explained how Rocky Mountain Power evaluates the price of each pole. Toquerville initially installed LED lights on power poles in the city jurisdiction after the city received information the city owned the poles. This initial information was incorrectly given. The original lights were removed and disposed of. Jeffery gave a brief of the proposed pricing of the poles. The city will purchase the poles where only lights are attached to them. Ellsworth asked what the benefit for the city to purchase the power poles. The benefit would be the energy savings and future expenditures of keeping the LED lights. If the city doesn't purchase the poles the city would be required to restore the lights to the original condition. Councilmember Chamberlain asked if there was room for negotiation for the replacement of the luminaires. After discussion of wooden pole discrepancy and terms of maintenance, and equipment restoration responsibility it was suggested a representative from Rocky Mountain power should meet with the mayor, the public works director, and the treasurer to discuss the equipment and the agreement. Mayor Chamberlain, councilmembers Ty Bringhurst and Keen Ellsworth will meet on August 23, 2018, with a Rocky Mountain Power representative to discuss the agreement.

***Councilmember Justin Sip made a motion to table the item until September. Motion was seconded by Councilmember Ty Bringhurst. Motion unanimously carried 5-0. Vote: Alex Chamberlain-aye, Paul Heideman-aye, Ty Bringhurst-aye, Keen Ellsworth-aye, Justin Sip-aye.***

3. Discussion and Possible Action on Ordinance 2018.XX Special Event Business License:

***Councilmember Alex Chamberlain made a motion to table the item until next month when the resolution may be modified by the city attorney. Motion was seconded by Councilmember Paul Heideman. Motion unanimously carried 5-0. Vote: Justin Sip-aye, Ty Bringhurst-aye, Alex Chamberlain-aye, Paul Heideman-aye, Keen Ellsworth***



4. Discussion and Possible Action on Ordinance 2018.XX Appeal Authority Replace the Board of Adjustment (PC recommended 5-0):

The Planning Commission wanted to know who would be liable for the decisions made by the appeal authority and how the vetting process would occur.

Snow advised the appeal authority is still considered a body of the city government and would have some governmental immunity. Their decisions may be appealed, just like a board of adjustment panel, and if could be sued personally. He suggested the appointment of the person could be sent out as a request for proposal. There are a handful of municipal attorneys in southern Utah who are well versed in municipal law. Snow will send the proposal to the city recorder. Applicants should be notified the application fee may not cover other professional fees incurred by the city during a variance. Councilmember Chamberlain felt like every time public comment had occurred on the item there was reservation to dissolve the board of adjustment. He suggested the fee should be affordable. Jeffery suggested the application fee could be less, but the applicant should know other fees could be incurred by other professional services. The pros of obtaining a one personal appeal authority were the individual is usually a law-trained appeal authority where more efficient decisions are more and are less expensive. Their decisions are made by the findings of facts and conclusions of law. The decisions made are usually more refined and less expensive for the applicant and appeals to the city. Another pro would be the authority is trained and does not require the city to be responsible for training. Sip suggested it would be more affordable to adopt an appeal authority, rather than continue to educate a five-person board of adjustment.

***Councilmember Justin Sip made a motion to approve Ordinance 2018.05 to replace the board of adjustments with a one person appointed appeal authority. Motion was seconded by Councilmember Keen Ellsworth. Motion unanimously carried 5-0. Vote: Keen Ellsworth-aye, Alex Chamberlain-aye, Justin Sip-aye, Ty Bringhurst-aye, Paul Heideman-aye.***

5. Discussion and Possible Action on Resolution 2018.XX Personnel Policy Amendment-Toquerville Employee Medical Stipend:

Councilmember Sip would like to provide this benefit to the full-time employees.

***Councilmember Justin Sip made a motion to approve Resolution 2018.13 to modify the personnel policy amendment to grant a medical stipend to each employee. Motion was seconded by Ty Bringhurst. Motion unanimously carried 5-0. Vote: Justin Sip-aye, Paul Heideman-aye, Alex Chamberlain-aye, Keen Ellsworth-aye, Ty Bringhurst-aye.***

6. Discussion and Possible Action on Resolution 2018.XX FY2018 Fund Transfer Within the General Fund:

Jeffery suggested the council approve a fund transfer of \$1000.00 from account 10-45-300, the general fund to cover account 10-59-100, the building inspection expenditure. Building inspections exceeded the budget in the amount of \$630.33. The council is unable to open the budget back up but a fund transfer is allowed.

***Councilmember Ellsworth made a motion to approve Resolution 2018.14 to transfer \$1000.00 from account 10-45-300 to 10-59-100 to cover building inspections. Motion was seconded by Councilmember Sip. Roll Call Vote: Justin Sip-aye, Keen Ellsworth-aye, Ty Bringhurst-aye, Alex Chamberlain-aye, Paul Heideman-aye. Motion unanimously carried 5-0.***



7. Discussion and Possible Action on Resolution 2018.XX Constitution Week Proclamation:

***Councilmember Justin Sip made a motion to approve Resolution 2018.15 to support the Constitution Week Proclamation. Motion was seconded by Councilmember Keen Ellsworth. Motion unanimously carried 5-0. Vote: Justin Sip-aye, Keen Ellsworth-aye, Ty Bringhurst-aye, Alex Chamberlain-aye, Paul Heideman.***

Councilmember Ellsworth wanted documented on the record, "A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed."

The quote was from the Second Amendment of the United States Constitution. Ellsworth stated he was a constitutionalist.

8. Discussion of Toquerville Culinary Water Rates:

The Rural Water Association agreed they will present some current information to the staff and council for proposed future water rates once they obtain the data.

***Councilmember Ty Bringhurst made a motion to table the item until further information is obtained. Motion was seconded by Councilmember Alex Chamberlain. Motion unanimously carried 5-0. Vote: Paul Heideman-aye, Keen Ellsworth-aye, Justin Sip-aye, Alex Chamberlain-aye, Ty Bringhurst-aye.***

9. Discussion and Possible Action of South End Toquerville Welcome Sign Expenditure:

The expenditure is for the purchase of a double-sided welcome sign to be erected on the south end of the Toquerville. Councilmember Heideman did not like the artistic rendition of the Smith Mesa on the top of the sign. The illumination of the sign is not inclusive in the bid. The bid was in the amount of \$23,082.00. Jeffery suggested the motion be increased so the council doesn't have to approve added costs to incur during the project.

***Councilmember Ty Bringhurst made a motion to approve the expenditure of the welcome sign not to exceed the amount of \$25,000.00. Motion was seconded by Councilmember Keen Ellsworth. Motion carried 4-1. Roll Call Vote: Justin Sip-aye, Keen Ellsworth-aye, Ty Bringhurst-aye, Alex Chamberlain-aye, Paul Heideman-nay.***

10. Discussion and Possible Action of Old Church Road Bridge Reinforcement Expenditure:

The city received a quote from Alpha Engineering in the amount of \$35,000.00. Gubler and Bringhurst discussed the future layout of the bypass road and the possibility of Old Church Road would connect to the bypass road. There was a discussion about a possible connection on Center Street, rather than Old Church Road. With the time frame in mind of the future widening of the road, Bringhurst believed the bridge should be reinforced.

***Councilmember Ty Bringhurst made a motion to approve the Old Church Road Bridge reinforcement expenditure not to exceed \$36,000.00. Motion was seconded by Councilmember Paul Heideman. Motion unanimously carried 5-0. Roll Call Vote: Paul Heideman-aye, Alex Chamberlain-aye, Ty Bringhurst-aye, Keen Ellsworth-aye, Justin Sip-aye.***



Councilmember Bringhurst directed Gubler to coordinate construction to occur this next winter during the slow season.

#### 11. Discussion and Possible Action of Fall City Cleanup Days:

Mayor Chamberlain suggested a second date where a community-based cleanup crew will offer assistance to tidy up properties alongside Toquerville Boulevard. Bringhurst suggested the city could pay for three dumpsters to be delivered the first week of November in addition to the regular fall cleanup days. The regular cleanup day is scheduled October 5-8th. Mayor Chamberlain would like someone from the city council to contact the boulevard owners and let them know what the proposed project is and when it will occur. McKim suggested future cleanup days to occur at different locations throughout Toquerville should occur.

***Councilmember Ty Bringhurst made a motion to institute two additional beautification cleanup days, once in the fall and once in the spring where 3 dumpsters will be rented, with an expenditure to not exceed \$1000.00. Motion was seconded by Councilmember Justin Sip. Motion unanimously carried 5-0. Roll Call Vote: Paul Heideman-aye, Alex Chamberlain-aye, Ty Bringhurst-aye, Keen Ellsworth-aye, Justin Sip-aye.***

#### G. REPORTS:

1. Justin Sip-Solid Waste/Mosquito/Tree Board/Trails/Park:  
No report was given.

2. Keen Ellsworth-Economic Development/Fire:

The sign survey for the south end welcome sign placement was completed. The suggested sign placement will need to be moved north approximately 10 feet and east 3-5 feet so the sign will be placed on the property belonging to the owners in which the city has a signed easement agreement with. Lance will need to go out and mark the location of the sign before the markers are no longer visible.

Gubler wanted Ellsworth to know the Water District went out the proposed reservoir site and had Alpha Engineering do a cost estimate of what it would cost to bring water into the campsite area for water and sewer services. The estimate came out to approximately \$147,000.00 minus installation. The district agreed to purchase the pump and grinder in for sewer services. The city will need to be responsible for running the line into the proposed area. Bringhurst asked who will be responsible for maintenance of the grinder. Gubler believed the sewer district would maintain it.

3. Ty Bringhurst-Water Department/Streets/MPO/TSWS/DTAC:  
No report was given.

4. Alex Chamberlain-PC Liaison/Beautification Committee/Cemetery/Risk Management/City Hall Maintenance:  
No report was given.

5. Paul Heideman-Sewer District/Culture and Recreation/Confluence Park:  
The county fair was a success. Toquerville was the spotlight city and was represented well.

Mayor Chamberlain-TSWS/EMC/DTEC:



Chamberlain asked if the council could discuss the reallocation of city council responsibilities. Justin Sip agreed to release the risk management and city hall maintenance to Councilmember Chamberlain. He was eager to take responsibility for the tree board, trails committee, and the parks. Councilmember Chamberlain will be the future Planning Commission Liaison, lead the beautification committee, budget and address any issues with the cemetery, take care of all risk management and city hall maintenance. Justin Sip offered to attend the ULCT (Utah League of Cities and Town) Conference held September 12-14.

***Councilmember Ty Bringhurst made a motion to enter the meeting into a closed session to discuss pending or reasonable imminent litigation and strategy session to discuss the purchase, exchange or lease of real property. Motion was seconded by Councilmember Justin Sip. Motion unanimously carried 5-0. Vote: Justin Sip-aye, Alex Chamberlain-aye, Paul Heideman-aye, Keen Ellsworth-aye, Ty Bringhurst-aye.***

Open meeting closed at 8:28 p.m.

**H. CLOSED SESSION:**

A closed session called to order by Mayor Chamberlain at 8:33 p.m.

Strategy sessions to discuss pending or reasonably imminent litigation and strategy sessions to discuss the purchase, exchange, or lease of real property.

***Councilmember Ty Bringhurst made a motion to move out of a closed session and back into a regular meeting. Motion was seconded by Councilmember Justin Sip. Motion unanimously carried 5-0. Vote: Justin Sip-aye, Alex Chamberlain-aye, Paul Heideman-aye, Keen Ellsworth-aye, Ty Bringhurst-aye***

The closed session ended at 9:10 p.m.

**I. ADJOURN:**

Mayor Chamberlain adjourned the meeting at 9:11 p.m.

  
\_\_\_\_\_  
Mayor - Lynn Chamberlain

9.7.2018  
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Date

  
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Attest: City Recorder - Dana M. McKim

