

TOQUERVILLE CITY COUNCIL
Regular Business Meeting Minutes
March 14, 2019 at 6:00 pm
212 N. Toquerville Blvd, Toquerville Utah



Present: Mayor Lynn Chamberlain; Councilmembers: Paul Heideman, Keen Ellsworth, Justin Sip, Alex Chamberlain, Ty Bringhurst; Staff: Attorney Heath Snow, Zoning Official Mike Vercimak, Planning Commission Chair Manning Butterworth, Public Works Director Lance Gubler, Treasurer June Jeffery, Recorder Dana McKim; Public: Chuck Williams, Wayne Olsen, Annette Kleinman, Mark Fahrenkamp, Lonnie Christensen, Mike Walker, Jackson Ream, Brian Lewis, Newell Matheson, Scott Otterstrom, Sadie Lewis, Justin Douglas, Anita Eaton, Stacey Eaton, Rebecca Hansen, Troy Wall, Tiffany Douglas, Katie Christensen, Roger Watters, Lapita Watters, Heather Crockett.

A. CALL TO ORDER:

Mayor Chamberlain called the meeting to order at 6:00 p.m. Councilmember Ty Bringhurst led the Pledge of Allegiance. An invocation was given by Councilmember Keen Ellsworth. There were no disclosures or conflict declarations, nor statements of belief voiced.

B. CONSENT AGENDA:

1. Review and possible approval of meeting minutes from the work and regular business meeting on February 7, 2019
2. Review and possible approval of City Expenditures from February 2019.

Councilmember Keen Ellsworth moved to approve the consent agenda items listed on the agenda. The motion was seconded by Councilmember Ty Bringhurst. Motion unanimously carried 5-0. Roll call vote: Paul Heideman-aye, Alex Chamberlain-aye, Ty Bringhurst-aye, Keen Ellsworth-aye, Justin Sip-aye.

C. CITY DEPARTMENT REPORTS:

1. Zoning Administrator, Mike Vercimak:
No report was given.
Bringhurst and Sip drove out to the 60 acres where a road was graded. There are two areas where drainage channels should be mitigated. They asked Vercimak to take a look at the graded road and provide some information to the council.
2. Planning Commission Representative, Manning Butterworth:
There are three public items set for a public hearing. The tree items include a home occupation permit for Mr. Trujillo to conduct online sales of jewelry and textiles at 746 South Peachtree Drive. The second item will be on a home occupation permit application for a home business located at 290 South Ash Creek Drive. The business will be for the sales and assembly of powered parachute, accessories, and parts. The third item will be a conditional use livestock permit submitted by Donna DuCrest for the care and keeping of 24 chickens at 1632 South Ash Creek Drive in the Toquerville Heights.
3. Hurricane Valley Fire Department, Merlin Spendlove:
The representative was absent.
4. Public Works Director, Lance Gubler:



A water cost analysis may need to be conducted by the city for the future development of the Bypass road and the Anderson Junction area. The study would provide a tool to project how the Washington County Water Conservancy District will provide water for the area. The city will have to purchase the water at a wholesale price, but the service needed will need to be defined. A water resolution would be drafted to increase the cost of the water charged by the district to the city. The district plans to raise the water rate ten cents per thousand gallons, each year for the next thirty years.

A second enterprise fund will need to be established with a water rate and an engineered hydrology study. He wondered if this fund should be included in the Capital Facilities Plan. Snow stated the city should plan for future development and include the density if the area will be served by their water system. The plans should include a geographic map to designate the new zone. The water currently provided comes from the springs. Anderson Junction owns its own private system and isn't served by the city. They pay the district directly. The water system is lacking pressure and standards will need improvement. The district will want to know how large the new area will be and how the density will affect its water resources. There was a discussion of if an impact fee or credit will need to be collected or allocated towards the water purchased from the district.

Vercimak suggested Alpha should provide a water model of the area. It would give the city an indication of what is needed for the development of the area. After the model is obtained then the city can start planning. There was a study done back in 2012 and staff wondered if Alpha could use the data as a starting point.

5. City Attorney, Heath Snow:
No report was given.

D. PUBLIC FORUM:

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

Stacey Eaton from South Ash Creek Drive:

Toquerville has experienced some break-ins in the past week. Unofficially, the Sheriff's Department knows who are responsible for these acts. He would like these youth homes to be fined and their permits to conduct these facilities reconsidered. These businesses should not have a negative impact on the community.

E. BUSINESS:

1. Discussion and possible action on a Zone Change Application submitted by Matt Wathen located between Anderson Junction Road and I-15, Property Tax ID # T-3-0-22-233. Parcel is approximately 7 acres. Property is zoned R-1-20. Proposed zoning is M-1 Light Industrial. *(Planning Commission recommended denial 5-0):*

Newell Matheson lives directly across from the proposed zone change. The change would have a negative impact on his property value. The roadway is a dead end street called Anderson Junction road, the Old Hwy 91. The zone change is not consistent with the surrounding area. Councilmember Ellsworth heard talk about the area and the assumption of the property being located next to the interstate should be zoned as commercial property. He wanted to know what Matheson thought of those statements. Matheson believed there are areas all over the area where residential neighborhoods are developed near an interstate. To assume the property located alongside an interstate should be commercial is untrue. He thought the zoning should be consistent with the surrounding neighborhood. Sip would rather have commercial uses near the freeway and the trucks could turn around on the property developed. Matheson reminded Sip the proposed zone change is on the backside of the interstate and does not front the freeway. His family moved to the area because it was a remote area and doesn't want a light industrial area across from his property. The property was graded without a proper permit, left piled up rocks and scraped the land from all the trees and brush.



Scott Otterstrom explained why 90% of the surrounding property owners were against the proposed zone change. The road will be reconfigured and the neighbors don't want an increase in truck traffic. They would like to preserve the small area of residentially zoned property because the area is zoned as residential.

Councilmember Bringhurst spoke about the future development of the Anderson Junction area and what the city as a whole envisioned to see. The growth aspect and the improvements that need to happen do not coincide with one another. The applicant submitted a zone change they felt would transition into a residential neighborhood. He felt the council needed to make a decision of how to develop the area. The general plan outlines the area to be commercial and not light industrial. Ellsworth looked at the circulated petition and sees both sides of the argument. Scott Otterstrom did a survey of the surrounding property and believed the light industrial could be better developed closer to the interchange. The new road development will make a dead end road.

Anita Eaton from S Ash Creek Drive:

Eaton gave light to the situation and explained that she used to live on a busy highway. Her parents purchased the home knowing it was near a busy road. She asked when the bypass road is developed should they circulate a petition against the road development? The property owners know that property will change. Whether it is open property, residential property, commercial or industrial change is bound to occur. To make a decision based on a petition is wrong. 100% of the owners on the north end of the proposed bypass road and SR17 intersect. She warned the council about being persuaded by public clamor.

Rebecca Hansen from Westfield Road:

She thought the city should stick with the original plan for the area. She wouldn't want to jeopardize the possibility of a high-end resort area located west of the proposed zone change. While she understood decisions can't be made solely on public opinion, she paused when 90-100% of the property owners were against the proposal. She also noted the future plans for the area would not benefit the city with a high tax rate.

Planning Chair Manning Butterworth stated the commission was tasked with evaluating the zone change application. A standard for review is conducted. The application failed to meet standard 6-Will not result in undue traffic congestion and traffic hazards, and standard 2-Will be compatible with the character of the neighborhood and surrounding structure in use, scale, mass and circulation. Attorney Snow pointed out the plan for the area shows commercial zoned property and residential. An industrial is different than a commercial zone.

Councilmember Chamberlain looked at the surrounding property and noticed the zone change would create an island of light industrial near residential and multiple use. While spot zoning is allowed, he would rather the commercial property develop southwest rather than northwest. Bringhurst believed with the future reservoir development to occur in the near future will change the area and the water district will sell off property to developers. He spoke briefly how the applicant came to development staff where it was found storage units was neither a conditional or permitted use in any zone. The use was added to the industrial zone and a conditional use. He urged the council to develop a plan for the Anderson Junction area and how it will be developed. Excerpts of the General Plan was read by Bringhurst. The property borders the freeway and across from a residential area. The council discussed how there were some inadequacies of the General Plan and how the application will be voted on.



Councilmember Ellsworth moved to deny the zone change application. The motion was seconded by Councilmember Chamberlain. Motion carried 3-2. Council Vote: Keen Ellsworth-aye, Paul Heideman-aye, Alex Chamberlain-aye, Ty Bringhurst-nay, Justin Sip-nay.

2. Discussion and possible action on a Zone Change Application submitted by Wall Family Rentals located at the west end of Old Church Road, Property Tax ID # T-91-A-1-A-2. Parcel is approximately 23.86 acres. Current zoning is R-1-20. Proposed zoning is R-1-12. (*Planning Commission recommended denial 4-1*):

A letter written by Heather Crockett from North Ash Creek Drive was read by Tiffany Douglas: As far as she can tell the only people that are for the zone change are the ones that would financially benefit from it. In her opinion that makes their voice biased and should not be taken into account of the final decision. The vast majority of the citizens of our town oppose the change. We want to know that our voices are being heard and represented by those who voted in the process.

Mark Fahrenkamp from Old Church Road:

He was involved with the Toquerville Planning Commission 16 years ago. They were taught to not spot zone areas of municipalities and thinks both of these applications do so. He is a home builder and understands development. If an overlay or development agreement could be reached he would be favorable to the idea. If the zone change makes sense to the area there wouldn't be such great opposition. The plan to enter into a planned development agreement may be the solution to the reaction of the surrounding property owners.

Lonnie Christensen from Old Church Road:

He appreciated the time allowing the citizens to talk. His biggest concern was also spot zoning with R-1-12 surrounding his property. He thinks his agricultural zoned property may become a nuisance for the proposed zone. He is against the development of creating rows of homes and thought it would look ugly. He believed that Mr. Wall knew what the property was zoned when he purchased it.

Annette Kleinman from North Ash Creek Drive:

Suggested open space and a development agreement could occur on this property. She would like a planned development before the property is rezoned.

Wayne Olsen from Old Church Road:

Admitted to making some bad decisions in the past while he served on the city council. He had to live with those decisions. People know what the zone was when they purchased it. The citizens of the city don't want to see the residents lose their property values. He suggested the council should stick with the current zoning. Growth will happen, but hopefully with careful planning. The zone is R-1-20 and believed the applicant should develop the property with compatibility to the surrounding area. The nine standards and conditions are put in place for a reason. He hasn't seen more turn out for a meeting in quite some time with great opposition.

Mayor Chamberlain stated that 56 homes could be built with the current zoning. Manning Butterworth gave a brief report of the Planning Commission's decision. The application failed standard and conditions 2,3,5,6, and 9:



2. Will be compatible with the character of the neighborhood and surrounding structures in use, scale, mass and circulation;
3. Will not result in an over-intensive use of the land or excessive depletion of natural resources;
5. Will not require a level of community facilities and services greater than that which is available;
6. Will not result in undue traffic congestion and traffic hazards;
9. Will meet the requirements of the general plan.

Councilmember Heideman left the work meeting thinking Mr. Wall would be agreeable to providing a development agreement. Ellsworth echoed Mrs. Kleinman’s comments and believed the agreement would mitigate the citizen concerns. Mr. Wall admitted that looking hindsight he should have offered to bring forth a development agreement. He is planning on building a home on the property. An engineer provided a simple design of how the property could be created. They are open to entering into a development agreement. The council discussed if Wall would like to table the agreement until an agreement can be drafted. Attorney Snow asked the applicant if the three phases of this subdivision could meet the current zoning with a development agreement. Mr. Wall stated it would be close to the current zone but preferred if the council would approve or deny the application for the zone change tonight.

Councilmember Keen Ellsworth moved to deny the zone application. The motion was seconded by Councilmember Paul Heideman. Motion unanimously carried 5-0. Council vote: Paul Heideman-aye, Justin Sip-aye, Ty Bringham-aye, Alex Chamberlain-aye, Keen Ellsworth-aye.

3. Discussion and possible action on a Preliminary Plat Application submitted by Wall Family Rentals for the development of a 15 lot subdivision, “Park View at Desert Mountain” located at the west end of Old Church Road, Property Tax ID # T-91-A-1-A-1 and T-91-A-1-A-2. Parcel is approximately 9.86 acres. Current zoning is R-1-20. *(Planning Commission recommended approval 5-0.:*

Councilmember Alex Chamberlain asked Vercimak if the application was still lacking the geotechnical and hydrology report, the preliminary landscaping plan, a preliminary ADA report and, a tortoise habitat clearance form. Vercimak stated the reports are usually obtained after the preliminary plat is approved. The reports are expensive and if not approved, the report wouldn’t benefit the applicant.

Rebecca Hansen from Westfield Road:

As a planning commissioner, she wanted to make sure the applicant will provide access to the homes from Old Church and Center Street. Attorney Snow stated the applicant would have to provide two access.

Annette Kleinman from North Ash Creek Drive:

She was concerned the developer is still creating cookie cutter homes. She wondered if the placement of the lots could be set in a more creative way.

During the preliminary plat, construction drawings will be made to follow the plat. The council will be vested in what the plans are now. There were some access and utility off-site improvement to be made, i.e. access roads, utilities, and possible bridge improvements. The council spoke about the dedication and road width of Old Church should be determined.



Mark Fahrenkamp from Old Church Road:

He asked if the city should require a Planned Development Overlay and if Toquerville allows for one.

Councilmember Ty Bringhurst moved to approve the preliminary plat application with staff comments and a development agreement. Motion was seconded by Councilmember Alex Chamberlain. Motion unanimously carried 5-0. Council vote: Keen Ellsworth-aye, Ty Bringhurst-aye, Paul Heideman-aye, Alex Chamberlain-aye, Justin Sip-aye.

4. Discussion and possible action on a Final Plat Application of Mesa Views at Trail Ridge Estates~Phase 2, submitted by Mesa View at Trail Ridge Estate LLC for the development of 18 lots on Tax ID# T-3-1-12-33001. Current zoning is R-1-20. (*Planning Commission recommended approval 5-0*):

Councilmember Ty Bringhurst moved to approve the final plat application with staff comments and a development agreement. Motion was seconded by Councilmember Justin Sip. Motion unanimously carried 5-0. Council vote: Keen Ellsworth-aye, Ty Bringhurst-aye, Paul Heideman-aye, Alex Chamberlain-aye, Justin Sip-aye.

Attorney Snow asked if the financial obligation in lieu of the park improvements was made and if the trail system was checked by staff. Jackson Ream stated the trail system was developed and checked by Lance Gubler.

5. Discussion and possible adoption of the Washington County Water Conservancy District Revised Regional Water Supply Agreement:

Snow represented the city when the original agreement was adopted. The changes to the agreement were minimal and included some different terminology and inclusive the state impact fee statute. Snow attended the meetings where the changes were discussed. The agreement helps smaller cities collect impact fees when a developer records a plat. It ensures responsible planning for development.

Councilmember Justin Sip moved to approve the Washington County Water Conservancy District Revised Regional Water Supply Agreement. The motion was seconded by Councilmember Keen Ellsworth. Motion unanimously carried 5-0. Council vote: Alex Chamberlain-aye, Justin Sip-aye, Keen Ellsworth-aye, Ty Bringhurst-aye, Paul Heideman-aye.

6. Discussion and possible action on Resolution 2019.XX ~ Reclamation Grant:

Councilmember Bringhurst is in favor of approving the grant if it doesn't tie the city to a specific vendor. The project will draw money out of the depreciation fund set aside for maintenance. Jeffery briefly explained the grant to the council. Vercimak did state that Hurricane City switched from the 3G network to the 4G network and they have experienced some billing issues. The council and staff discussed the problems occurring with master meter including equipment and staff support. Toquerville Staff will do some due diligence in picking out a vendor and the best equipment.



Councilmember Alex Chamberlain moved to approve Resolution 2019.01. The motion was seconded by Councilmember Ty Bringhurst. Motion unanimously carried 5-0. Roll call vote: Justin Sip-aye, Keen Ellsworth-aye, Ty Bringhurst-aye, Alex Chamberlain-aye, Paul Heideman-aye.

7. Discussion and possible action on Resolution 2019.XX ~ 2019 Arbor Day Proclamation: Councilmember Sip would like to dedicate April 11, 2019 as Arbor Day.

Councilmember Justin Sip moved to approve Resolution 2019.02. The motion was seconded by Councilmember Paul Heideman. Motion unanimously carried 5-0. Council vote: Justin Sip-aye, Keen Ellsworth-aye, Ty Bringhurst-aye, Alex Chamberlain-aye, Paul Heideman-aye.

8. Discussion and possible appointment of an Alternate Planning Commission Member: Attorney Snow suggested the city should disseminate a notice for an application of interest. The notice will be posted on the city website, at the three kiosk locations, and at city hall. People may submit their letter of interest for the position with the city recorder.

Councilmember Alex Chamberlain moved to table the item until next month. The motion was seconded by Councilmember Justin Sip. Chamberlain amended his motion to include the city recorder will disseminate the notice as discussed and include an application deadline of April 2, 2019. Sip seconded the amended motion. Motion unanimously carried 5-0. Council vote: Paul Heideman-aye, Justin Sip-aye, Keen Ellsworth-aye, Alex Chamberlain-aye, Ty Bringhurst-aye.

9. Discussion and possible action on Ordinance 2019.XX-An ordinance to modify the City Council Work and Business Meeting Schedule.

Councilmember Alex Chamberlain moved to deny the proposed ordinance. Motion was seconded by Councilmember Ty Bringhurst. Motion carried 3-2. Council vote: Paul Heideman-nay, Keen Ellsworth-nay, Ty Bringhurst-aye, Justin Sip-aye, Alex Chamberlain-aye.

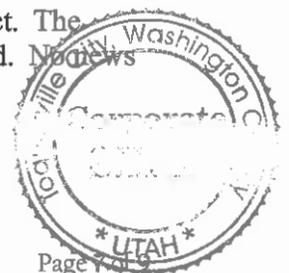
10. Discussion and possible action on Resolution 2019.XX-The Revised Annual Meeting Schedule. Item is removed as a discussion item due to the prior action item.

11. Discussion and possible action on Resolution 2019.XX ~ Authorization to file eminent domain action to acquire real property for the purpose of building a bypass road for Highway 17:

Councilmember Ty Bringhurst moved to table the item until next month. Motion was seconded by Councilmember Alex Chamberlain. Motion unanimously carried 5-0. Council vote: Paul Heideman-aye, Justin Sip-aye, Keen Ellsworth-aye, Alex Chamberlain-aye, Ty Bringhurst-aye.

F. REPORTS:

1. Justin Sip-Solid Waste/Mosquito/Tree Board/Trails/Parks:
He and Councilmember Bringhurst went to the Almond Heights Park drainage project. The property is progressing well and hopefully, the park will be planned with a splash pad. News



from the solid waste or mosquito abatement board. Sip will plan with city recorder McKim an event to observe Arbor Day.

2. Keen Ellsworth-Economic Development/Fire:

Ellsworth received a suggestion from a citizen to modify the southern Toquerville sign to include the city slogan, "It's the People." Smith Steelworks can modify the sign to include the change but it would incur a design cost. Mayor Chamberlain suggested they should get a quote. He asked who should head up negotiations or to draft a development agreement with Mr. Wall. Ellsworth was appointed by his fellow councilmembers to pursue the agreement. Snow will email Ellsworth a copy of a development agreement to work with.

Regarding economic development, he asked the council if the city should look into building an indoor sports complex with artificial turf fields. He suggested SUU or Dixie State provide a financial analysis of the proposed complex. The council discussed how the facility would be managed and if it would be profitable. Alex Chamberlain was supportive of Ellsworth to obtain more information. Vercimak suggested Hurricane City Manager may have some financial data on this type of endeavor.

3. Ty Bringhurst-Water Department/Streets/MPO/TSWS/DTAC:

The TSWS sent out letters to property owners when building permits were issued and the connection fee was not collected. If citizens have questions they should contact the district or direct them to talk to him. He briefly discussed how the district worked out the issue with those connections.

The drainage plan for the Almond Heights park needs to be revisited to look at if there was a planned berm on the project. Bringhurst would like Gubler to erect a "No Dumping" signs on the property to deter people from dumping debris and fill on the park property. Signs will be placed on Mulberry Drive and Westfield Road.

4. Alex Chamberlain-PC Liaison/Beautification Committee/Cemetery/Risk Management/City Hall Maintenance:

Chamberlain woke up at 3:00 a.m. this morning because March is the first month when you can see the Milky Way. In March 2017 he took a nightscape photo of Toquerville. Two years later he took the same photo, with the same camera, with the same settings, forty minutes apart. Heideman asked if the weather conditions and air quality were the same. Chamberlain did not know. He displayed two different photos to show the current photo was more saturated with blue coloration. He explained the two photos and how they contrast one another. The blue hue over the city makes it harder to see the stars at night. Gubler stated the LED lights can be modified to change the color temperature. He suggested the lights should be addressed in future agendas to lower the color temperature stated in the night sky and exterior lighting ordinance. He would like to clean up and be proactive with light pollution. Chamberlain spoke with two different cities regarding their light preservation efforts and encouraged them to adopt some sort of standard.

5. Paul Heideman-Sewer District/Culture and Recreation/Confluence Park:

The Ash Creek Special Service District is busy replacing old lines. The Miss Toquerville Pageant will be held on April 27th at the LaVerkin old church. Heideman explained the benefits of competing in the Miss Toquerville pageant. It's a great opportunity to learn how to be interviewed.

6. Mayor Chamberlain-TSWS/EMC/DTEC:

No report was given.



Anita Eaton wanted the council to know she eradicated one less feral chicken at her late mother's home. It was suggested the chickens could be removed with crossbows.

Councilmember Paul Heideman moved to go into a closed session to discuss strategy session for the purchase, exchange or lease of real property including any form a water right or water share, and discussion the character, professional competence, or physical mental health of an individual. The motion was seconded by Councilmember Justin Sip. Council vote: Paul Heideman-aye, Justin Sip-aye, Keen Ellsworth-aye, Alex Chamberlain-aye, Ty Bringhurst-aye.

The open meeting ended at 8:21 p.m.

G. POSSIBLE CLOSED SESSION:

Closed session meeting commenced at 8:26 p.m. Attorney Snow, Mayor Lynn Chamberlain; Councilmembers Justin Sip, Alex Chamberlain, Ty Bringhurst, Keen Ellsworth, Paul Heideman; Treasurer June Jeffery, Public Works Director Lance Gubler, and Recorder Dana McKim were in attendance.

H. ADJOURN:

Mayor Chamberlain adjourned the meeting at 9:10 p.m.



Mayor Pro Tempore – Keen Ellsworth

4/11/19

Date



Attest: City Recorder - Dana M. McKim

