

TOQUERVILLE CITY COUNCIL
Regular Business Meeting Minutes
May 14, 2020, at 6:00 pm
212 N. Toquer Blvd, Toquerville Utah



This meeting was held electronically via Zoom.

Present: Mayor Lynn Chamberlain; Councilmembers: Keen Ellsworth, Justin Sip, Ty Bringhurst, Gary Chaves, Chuck Williams; Staff: Attorney Heath Snow, Zoning Official Mike Vercimak, Treasurer June Jeffrey, Deputy Treasurer Dana McKim, Public Works Director Lance Gubler, Recorder Ruth Evans; Support Staff: Planning Chairman Manning Butterworth; Public: Wendi Merritt, Dan Catlin, Jeff Fry, Greg Turner, Hoyt Cousins; Absent: Hurricane Valley Fire District Representative Merlin Spendlove.

A. CALL TO ORDER:

1. Mayor Chamberlain called the meeting to order at 6:00 p.m. Councilman Bringhurst led the Pledge of Allegiance. Councilman Ellsworth gave the invocation. Mayor Chamberlain reminded residents that the chat box could be used for questions or comments and the plan is to go back to live meetings in June. There were no statements of belief voiced.

B. APPROVAL OF AGENDA:

1. The Council reviewed the agenda. Councilman Bringhurst declared a possible conflict with item G4 Discussion and possible action on an expenditure approval for an air compressor purchased from Dovetail Development, which is his company. He will abstain from voting.

Councilman Justin Sip moved to approve the Regular Business Meeting Agenda. Councilman Chuck Williams seconded the motion. Motion unanimously carried, 5-0. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

C. CONSENT AGENDA:

1. Review and possible approval of meeting minutes from April 9, 2020 Work Meeting and April 16, 2020 Business Meeting.

Councilman Ty Bringhurst moved to approve the meeting minutes from April 9 and April 16. Councilman Justin Sip seconded the motion. Motion unanimously carried, 5-0. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

2. Review and possible approval of City Expenditures from April 2020.

Councilman Ty Bringhurst moved to approve the City Expenditures from April 2020. Councilman Justin Sip seconded the motion. Motion unanimously carried, 5-0. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

D. CITY DEPARTMENT REPORTS:

1. Zoning Administrator Mike Vercimak did not have anything to report and asked the Council if they had any questions for him. There were no questions or comments from the Council.



2. Planning commission Chair Manning Butterworth did not have anything to report.
3. Public Works Director Lance Gubler reported the State Health Department did a sanitary survey in the City and there were no violations. A letter was drafted by the City that explains the dual check valve and cross-contamination checks that will be coming which will be sent out to the residents. Weeds, specifically thistle, are being sprayed around the City. Fertilizer has been put down at the cemetery to promote the growth of the grass seed that was recently put down. There needs to be a schedule put together to show who is in charge of putting up and taking down the flags along Toquer Blvd.
4. City Attorney Heath Snow had not yet arrived at the meeting.

E. PUBLIC FORUM:

Resident Greg Turner commented that he and Bruce Wallace will be on the lookout for thistle and other noxious weeds.

F. PUBLIC HEARING:

1. Public input is sought on the FY 2021 Toquerville Tentative Budget.

There were no public comments regarding the budget.

The Mayor recognized that Attorney Lowry Snow just joined the meeting. Mr. Snow represents Darcy Stewart and stated he is available to answer any questions. The Council discussed amending the agenda order and move item G10 to the first item of discussion to accommodate Mr. Snow's schedule.

Councilman Keen Ellsworth moved to amend the agenda order. Councilman Justin Sip seconded the motion. Motion unanimously carried, 5-0. Ty Bringham – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

G. BUSINESS:

1. Discussion of the proposed creation of Pine View Public Infrastructure District Nos. 1-6 for the purpose of allowing public input on (A) whether the requested service is needed in the area of the proposed districts, (B) whether the service should be provided by the city or the proposed districts; and (C) all other matters relating to the request or the proposed districts.

The Council was reminded that this is a discussion item only and there is a public hearing scheduled for May 21st. Councilman Ellsworth gave a brief explanation of the purpose of these public infrastructure districts and the letter of intent that was submitted. The Council will most likely table the item on that date due to the public hearing needing to be delayed. Lowry Snow commented on this process and the next steps for the creation of these PIDs.

2. Discussion and possible action on a street deferral agreement application on Tax ID # T-TEA-B-10 for Michael and Patricia Delbarone.

The Council was reminded that this property is in the heights where there is no curb and gutter installed.



Councilman Ty Bringhurst moved to approve the street deferral agreement application on Tax ID # T-TEA-B-10 for Michael and Patricia Delbarone. Councilman Justin Sip seconded the motion. Motion unanimously carried, 5-0. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

Attorney Heath Snow joined the meeting at 6:25 p.m.

3. Discussion and possible action on a request for an abatement of impact fees for one lot at The Terraces at Cholla Creek Subdivision Jeff and Kaesha Fry.

The Council discussed the Fry's lot split and the improvements they have made to the City. It was suggested that only the roads, water, trails, and parks portions of the impact fees can be waived from the City. The applicants were aware of the impact fees that are due. The Council discussed that impact fees are vital to the City, but that these fees were already paid.

Councilman Justin Sip moved to approve the abatement of impact fees for one lot at The Terraces at Cholla Creek Subdivision in the amount of \$8,620.00. Councilman Keen Ellsworth seconded the motion. Motion unanimously carried, 5-0. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

4. Discussion and possible action on RES.2020.XX A resolution authorizing application to the BLM for real property lease/patent for 300+/- acres of real property located west of I-15, south of Exit 27, identified as follows: Salt Lake Meridian, Utah; Township 40 S., Range 13 W., Section 28, lots 1, 2, and 5, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and Section 33, lots 5, 6, 7, and 12, NW $\frac{1}{4}$ NW $\frac{1}{4}$. The real property has been identified for the development of a recreational park and school.

Councilman Ellsworth explained this resolution authorizes and instructs the City to move forward with submitting an application to the BLM to lease approximately 300 acres west and south of I-15. Attorney Snow would recommend a correction to the legal description before approval.

Councilman Justin Sip moved to approve RES.2020.XX A resolution authorizing application to the BLM for a real property lease with Attorney Snow's legal description changes. Councilman Gary Chaves seconded the motion. Motion unanimously carried, 5-0. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

5. Discussion and possible action on an expenditure approval in the amount of \$6,000.00 for an air compressor from Dovetail Development.

The Council discussed that this air compressor has been rented from Dovetail Development for many years. The value is comparable to online prices. Public Works Director Lance Gubler commented the air compressor is used for many purposes, including crack seal projects, blowing out water lines, and cleaning equipment.

Councilman Justin Sip moved to approve the expenditure in the amount of \$6,000.00 for an air compressor from Dovetail Development. Councilman Chuck Williams seconded the motion. Motion carried, 4-1. Ty Bringhurst – abstain, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.



6. Discussion and possible action on ORD.2020.XX Light Trespass as a Nuisance – An ordinance amending the definition and enumeration of light trespass as a nuisance.

The Council discussed light shielding, the changes in the verbiage that were made to the ordinance, and that this is a nuisance code, not a lighting code. Resident Wendi Merritt was concerned about the verbiage specifically stating residential lighting and not including agricultural lighting. The code should include all lighting. Attorney Snow commented the verbiage should be changed to say any light should be shielded that faces a residence. Attorney Snow then explained what a per se nuisance is and the state statutes of nuisances.

Councilman Gary Chaves moved to approve ORD.2020.XX Light Trespass as a Nuisance using the first sentence and the last sentence of paragraph J, which defines light trespass.

Mayor Chamberlain reported this motion dies for lack of a second. Resident Dan Catlin commented that directional lighting is a light that faces out in a specific direction and potentially disturbs neighbors. Resident Wendi Merritt commented that intermittent use is understandable, but this ordinance is attempting to address the lighting that is on constantly and shines onto other's property. The Council discussed removing the word directional and adding the word residence instead of residential.

Councilman Gary Chaves moved to approve ORD.2020.XX Light Trespass as a Nuisance using the first sentence and the last sentence of paragraph J, removing the word directional, and replacing the word residential with residence. Councilman Keen Ellsworth seconded the motion. Motion unanimously carried, 5-0. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

7. Discussion and possible action on Fiscal Year 2021 tentative budget; set public hearing date for final budget approval.

Treasurer June Jeffery commented that two items that need to be added to the budget, to show depreciation and to increase park wages. A date needs to be set to hold a public hearing for final budget approval. The date needs to be before August 17th and start after 6:00 p.m. The Council agreed upon August 12, 2020 at 6:01 p.m. Washington County will advertise for the public hearing. The budget needs to be passed before September 1st.

Councilman Justin Sip moved to approve Fiscal Year 2021 tentative budget with the stated additions and approve the public hearing for August 12, 2020 at 6:01 p.m. Councilman Keen Ellsworth seconded the motion. Motion unanimously carried, 5-0. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

8. Discussion on ORD.2020.XX A Zone Change application submitted by Lowe Land TK, LLC for Tax ID parcels T-101-A, T-103, T-3166, T-3-0-34-3000, T-3-0-34-140, T-3-0-27-321, T-3167. Proposed zoning is R-1-12 Single Family Residential. Current zoning is MU-20 Multiple Use.

The Council discussed possibly approving this item before having a recorded development agreement but were counseled by Attorney Snow to table the items until the development agreement is recorded and on file. Councilman Bringhurst and Attorney Snow commented that the development agreement is close to being finished. The Planning Commission will make their recommendation on this item at their next meeting on May 20th and then it will go back to the City Council for possible approval. The purpose for the joint Planning



Commission and City Council meeting on May 21st is to review the Lowe's zone change and MPDO application. The Council discussed the development agreement does not need to go before the Planning Commission; it only needs to go before City Council as they are the governing body.

9. Discussion on a Master Planned Development Overlay proposal submitted by Lowe Land TK, LLC.

The Council discussed the acreage discrepancy from the submitted proposal and that Hoyt Cousins, the Land Planner for the Lowe's, will amend the numbers to reflect the accurate acreage. The Council also discussed staff comments and recommendations, plans for the land, open space, commercial land acres, and proposed districts.

10. Discussion on ORD.2020.XX A Zone Change petition to change Tax ID parcel #s T-125-C, T-149, T-125-D-1-A, T-139-C, T-123-B-1, T-139-B-1-A, T-125-G-1, T-125-A-1, T-121-A-1-A-1-A-2, T-123-A-1, T-123-A-2, T-121-A-1-F, T-121-A-1-D, T-121-A-1-E, T-121-A-1-C-1, T-121-A-1-B-1, T-125-G-1, T-125-A-1, T-121-A-1-A-1-A-2, T-123-A-1, T-123-A-2, T-121-A-1-F, T-121-A-1-D, T-121-A-1-E, T-121-A-1-C-1, T-121-A-1-B-1, T-166-B-1-A-1-A, T-121-E-1 and T-121-A-2 from current zoning R-1-20 Single Family Residential to proposed zoning AG Agriculture.

The Council noted this item was discussed last week and three parcels were identified as not meeting the one-acre minimum lot size requirement to be zoned agriculture. Attorney Snow supported Zoning Official Mike Vercimak's recommendation of excluding these three parcels from the zone change application and pointed out that the City should comply with its own ordinances.

H. COUNCIL REPORTS:

1. Justin Sip reported on the Solid Waste meeting and the new contracts for trash collection and BluCan that are being considered. The Sewer District is selling hay in a commercial market. Trails and Parks meetings will start up again soon. The fundraiser for the park will be postponed until early fall. The Council discussed Trail Ridge Estates has been gating some trails due to illegal dumping issues. The City is looking into the blocking of these trails on existing right of ways.
2. Keen Ellsworth did not have anything to report.
3. Ty Bringham asked if the 4th of July celebration was still scheduled. Councilman Williams commented that it will proceed unless the State cancels all celebrations.
4. Gary Chaves reported on the Mosquito Abatement meeting that was held; mosquito numbers are up this year over last year. More traps have been set to reduce those numbers. There is a Confluence Park meeting next week. The question was put forth to the Council if electronic participation for City Council meetings is allowed. Attorney Snow commented that there is a provision in the City Code to allow for electronic participation.
5. Chuck Williams reported on the grass that was recently planted at the Cemetery. There is a Memorial Day Celebration event at 8:00 a.m. at the Cemetery on Memorial Day.
6. Mayor Lynn Chamberlain did not have anything to report.



I. CALENDAR OF EVENTS:

There will be a combined City Council and Planning Commission Special Meeting on May 21st at 6:00 p.m. and a Memorial Day Commemoration Event at the Toquerville Cemetery at 8:00 a.m. on May 25th.

J. ADJOURN REGULAR SESSION:

The Council discussed moving into a closed session for the purpose of discussing the character, professional competence, or physical or mental health of an individual and to discuss pending or reasonably imminent litigation.

Councilman Chuck Williams moved to enter into a closed session for the purpose of discussing the character, professional competence, or physical or mental health of an individual and to discuss pending or reasonably imminent litigation. Councilman Keen Ellsworth seconded the motion. Motion unanimously carried, 5-0. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

Mayor Chamberlain adjourned the regular meeting at 8:01 p.m.

K. CLOSED SESSION:

The closed session to discuss the character, professional competence, or physical or mental health of an individual and to discuss pending or reasonably imminent litigation was called to order at 8:03 p.m.

Minutes of the closed session were recorded and are now on file as a protected record.


The closed session adjourned at 9:06 p.m.

L. ADJOURN:

Mayor Chamberlain called the meeting back into open session at 9:06 p.m.

Councilman Justin Sip moved to adjourn the Regular Business Meeting. Councilman Ty Bringhurst seconded the motion. Motion unanimously carried, 5-0. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.

Mayor Chamberlain adjourned the regular business meeting at 9:06 p.m.



Mayor – Lynn Chamberlain

6/11/2020

Date



Attest: City Recorder – Ruth Evans



City of Toquerville
212 N Toquerville Boulevard
PO Box 27
Toquerville, UT 84774
Phone: (435) 635-1094,
Fax: (435) 635-5761
www.toquerville.org



CLOSED MEETING AFFIDAVIT

STATE OF UTAH
COUNTY OF WASHINGTON
AFFIDAVIT OF MAYOR

I, Mayor Lynn Chamberlain swear as the person presiding at this closed meeting on
The 14 day of May, ~~2019~~ ²⁰²⁰, that the sole purposed for conducting a closed
meeting was to discuss the following items:

- Discussion of the character, professional competence, or physical or mental health of an individual
- Discussion regarding deployment of security personnel, devices, or systems
- A meeting of the Health and Human Services Interim Committee to review a fatality review report
- A meeting of the Child Welfare Legislative Oversight Panel
- A meeting of a conservation district for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law



Mayor Lynn Chamberlain

05/14/2020

Date



Recorder, Ruth Evans

5.14.20

Date



Seal