

**TOQUERVILLE CITY COUNCIL**  
**Regular Business Meeting Minutes**  
**June 11, 2020, at 6:00 pm**  
**212 N. Toquer Blvd, Toquerville Utah**



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, Hurricane Valley Fire District Representative Merlin Spendlove; Public: Wayne Olsen, Katie Christensen, Grace Christensen, Greg Turner, Lynn Olds, Anita Eaton.

**A. CALL TO ORDER:**

1. Mayor Chamberlain called the meeting to order at 6:00 p.m. Councilman Sip led the Pledge of Allegiance. Councilman Williams gave the invocation. The Mayor turned the time over to Councilman Williams who introduced the new Miss Toquerville Royalty. The 2020 Princess is Avery Pope, 1<sup>st</sup> attendant is Grace Christensen, and 2<sup>nd</sup> attendant is Melissa Cox. The Mayor expressed his appreciation for these young ladies representing Toquerville. There were no statements of belief voiced.

**B. APPROVAL OF AGENDA:**

1. The Council reviewed the agenda. There were no disclosures, nor conflict declarations from Council Members.

*Councilman Justin Sip moved to approve the Regular Business Meeting Agenda. 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.*

**C. CONSENT AGENDA:**

1. Review and possible approval of meeting minutes from May 7<sup>th</sup> Work Meeting, May 14<sup>th</sup> Business Meeting and May 21<sup>st</sup> Combined City Council and Planning Commission Special Meeting.
2. Review and possible approval of City Expenditures from May 2020.

*Councilman Justin Sip moved to approve the meeting minutes from May 7<sup>th</sup> Work Meeting, May 14<sup>th</sup> Business Meeting, May 21<sup>st</sup> Combined City Council and Planning Commission Special Meeting, and City Expenditures from May 2020. 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.*

**D. CITY DEPARTMENT REPORTS:**

1. Hurricane Valley Fire District Representative Merlin Spendlove commented there were not many changes from last week. Fire danger is still extremely high. Make sure burn permits are being obtained and used wisely. Be careful with fireworks this 4<sup>th</sup> of July.
2. Zoning Administrator Mike Vercimak did not have anything to report.



3. Planning commission Chair Manning Butterworth did not have anything to report.
4. Public Works Director Lance Gubler reported on incidents of squatters at the upper Springs. The BLM has been notified and will look into this. There are no sanitary facilities at Toquerville Falls. There has been a recent increase in the number of people staying overnight there raising sanitation concerns. There are also concerns about increased traffic on Springs Drive, which is the road people take to get to the Falls. The cleanup projects at the City Park are complete. The Walls subdivision is putting in curb and gutter next week. An auxiliary cable that connects to the concession stands will be installed at the City Park for internet access for security cameras.
5. City Attorney Heath Snow did not have anything to report.
6. Mayor Chamberlain wished to officially recognize that June Jeffery will be retiring at the end of June. The Mayor was appreciative of her dedication to the City for over seven years, and the outstanding job she has done.

**E. PUBLIC FORUM:**

There were no comments from the public.

**F. PUBLIC HEARING:**

1. Public input is sought on Resolution 2020.XX a resolution amending FY 19-20 budget, fiscal year July 1, 2019 through June 30, 2020.

Treasurer June Jeffery explained the budget amendments and the transfers needed to balance the budget. The certified tax rate paperwork has been received from the County. There are certain deadlines the City has to meet in order to move forward with the truth and taxation process. The current rate is .000837, which is one of the lowest tax rates in the county.

2. Public input is sought on 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.

Councilman Ellsworth explained this PID is for building the bypass road. The district will use bonds that will be used to create infrastructure, such as roads. There will be no debt to the city; it will be paid by a tax to those who are in the district. Resident Lynn Olds commented it is unfair the properties to the north and the south of this proposed district are not involved. Councilman Ellsworth responded that the property owners declined to participate. Attorney Snow explained the PID process and how it works.

**G. BUSINESS:**

1. Discussion on increasing culinary water rates.

Councilman Bringhurst met with the engineer regarding the water system capabilities, connections, and depreciation. The Council discussed the current evaluation of the water system, how to plan for future growth, how much the system should be overbuilt to allow for



growth, the water budget that is currently in the negative, and if the Council wants to raise water rates incrementally to balance the water budget and plan for depreciation. Councilman Bringhurst will have more information to discuss at next month's meeting.

2. Discussion and possible action on ORD.2020.XX 3-1-2 Business License approval procedure.

Attorney Snow commented that the ordinance is still under review, but the goal is to streamline the business license approval process. The ordinance should be ready for next month's meeting.

***Councilman Keen Ellsworth moved to table ORD.2020.XX Business License approval procedure. 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.***

3. Discussion and possible action on RES.2020.XX Budget Amendment Resolution.

***Councilman Keen Ellsworth moved to approve RES.2020.XX Budget Amendment Resolution. 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.***

4. Discussion and possible action on appointment of City Treasurer Dana McKim.

Recorder Ruth Evans issued the oath of office to Dana McKim. The Council was in favor of appointing Dana as the new City Treasurer.

***Councilman Keen Ellsworth moved to appoint Dana McKim as City Treasurer. 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.***

5. Discussion and possible action on RES.2020.XX PTIF Designation Resolution.

***Councilman Keen Ellsworth moved to approve RES.2020.XX PTIF Designation Resolution. 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.***

6. Discussion and possible action on RES.2020.XX Discharge of fireworks.

Hurricane Valley Fire District Representative Merlin Spendlove approves of this resolution. Councilman Sip explained the designation which states where fireworks can be set off and what days and times they can be set off. The City will post this resolution around town to educate residents. Hurricane will set off their fireworks at Sand Hollow this year.



***Councilman Keen Ellsworth moved to approve RES.2020.XX Discharge of fireworks. 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.***

7. Discussion and possible action on ORD.2020.XX Animal Control.

***Councilman Justin Sip moved to approve ORD.2020.XX Animal Control. Councilman Chuck Williams seconded the motion. Motion unanimously carried, 5-0. Ty Bringham – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.***

8. Discussion and possible action 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. *(PC recommended 5-0 to approve all parcel #s except T-149, T-121-A-1-D, and T-121-A-2)*

***Councilman Justin Sip moved to approve ORD.2020.XX Zone change petition excluding parcel #s T-149, T-121-A-1-D, and T-121-A-2. Councilman Keen Ellsworth seconded the motion. Motion unanimously carried, 5-0. Ty Bringham – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – aye, Chuck Williams – aye.***

9. Discussion and possible action on managing Toquerville Falls.

Councilman Sip reminded the Council that Toquerville Falls is on BLM land and the City is not liable for their land. There are garbage, sanitation, and access road issues that affect the City. The City will try and make contact with the BLM to address these issues. Resident Anita Eaton commented the group that puts on the winter 4x4 jeep crawl petitioned the BLM and the Utah Public Lands Association and were able to secure funds to help with their sanitation project on Sand Mountain. Public Works Director Lance Gubler commented that there are grants available that could help Toquerville Falls. The Council discussed alternate access roads to the Falls, available grant money to help with sanitation issues, and not improving the access road.

10. Discussion and possible action on ORD.2020.XX A Zone Change application submitted by Toquerville City and 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 consisting of approximately 715.74 acres. Proposed zoning is R-1-20 or R-1-12 Single Family Residential. Current zoning is MU-20 Multiple Use. *(PC recommended denial 3-2 of R-1-12 Zone Change request)*

The Council discussed that the Planning Commission approved an R-1-20 zoning at their meeting last night 5-0.



***Councilman Justin Sip moved to approve ORD.2020.XX a zone change application submitted by Lowe Land TK, LLC to an R-1-20 Single Family Residential zone.***

Councilman Ellsworth suggested the motion include the approval of the MPDO and a fully signed development agreement.

***Councilman Justin Sip moved to approve ORD.2020.XX a zone change application submitted by Lowe Land TK, LLC to an R-1-20 Single Family Residential zone, subject to approval of the MPDO and a fully signed development agreement.***

Attorney Snow commented that he sent out the latest draft of the development agreement before the meeting. The conditions and findings for approval in Exhibit C of the development agreement are based on Zoning Official Mike Vercimak's recommendations. The findings for approval were read by Attorney Snow. They are:

- A. The re-zoning of the Subject Property to R-1-20 coupled with its master planning and the gifting of the ROW for the last section of the Toquerville Parkway addresses a recognized and demonstrated need in the community for improved traffic circulation and added and varied housing options, added commercial and residential tax base as well as additional recreational and public facilities such as parks and trails.
- B. The re-zoning and the master planned development will not be adverse to the character of the neighborhood and surrounding structures in use, scale, mass and circulation because presently the area is fully undeveloped with limited vehicular access.
- C. The re-zoning and the master planned development will not result in an over intensive use of the land or excessive depletion of natural resources, especially because of the clustered and planned nature of the development identified in the master plan such that open space and sensitive lands are preserved.
- D. The re-zoning and the master planned development will not have a material adverse effect on community capital improvement programs as the planned development will need to construct all new capital improvements within the development, except for Toquerville Parkway which is a necessary and vital road to the City's Master Transportation Plan as well as UDOT's and its construction will be funded by various sources.
- E. The re-zoning and the master planned development will not require a level of community facilities and services greater than that which is available and if it contain said facilities, built at the developments expense, those excess facilities will be maintained and funded by a master property owners association to be created for the development.
- F. The re-zoning and the master planned development will not result in undue traffic congestion and traffic hazards in part because of the new Toquerville Parkway that is facilitated because of it.
- G. The re-zoning and the master planned development, due to its residential and mix-use commercial nature that is clustered leaving open spaces and preserving sensitive lands will not cause significant air, odor, water, light or noise pollution.
- H. The re-zoning and the master planned development will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of the City.
- I. The re-zoning and the master planned development meet the requirements of the general plan in both use and purpose.

Attorney Snow read the conditions of approval. They are:



- A. Each development phase will require a preliminary and final site plan or plat application and each application will be dealt with according the regulations set forth in the Toquerville Land Management Code (Toquerville City Code, Title 10) and in compliance with the conceptual Lowe MPDO Plan for the Toquer Ridge development.
- B. Each development phase must produce construction drawings acceptable to the City and any affected utility or entity for all improvements, utility installations, landscaping and architectural features required for the phase.
- C. Bonding and other financial security deemed necessary will conform to the requirements and amounts set forth in the Toquerville Land Management Code at the time each phase or application is submitted.
- D. Details, specifications and other pertinent items of the master planned development shall be memorialized in a development agreement between the Applicant and the City and recorded against the entire Subject Property.
- E. Pursuant to the development agreement between the Applicant and the City, the Applicant will execute and deliver to the City a deed of dedication conveying a 120 foot right of way in fee simple to the City in the location identified in the conceptual Lowe MPDO Plan and the development agreement without charge, expense or consideration given by the City other than the entitlements received by the approval of the re-zone, the conceptual Lowe MPDO Plan and the development agreement.
- F. Upon performance of the Initial Obligations contained the development agreement Applicant will be deemed to have commenced development under the Lowe MPDO Plan in satisfaction of Section 15C12 of the Toquerville Land Management Code, Title 10.
- G. The conceptual Lowe MPDO Plan will be deemed approved and become effective upon the Planning Commission recommending after a public hearing and City Council amending Chapter 16A, Section 5 and Section 6 to eliminate any prohibition from using portions within a development that have a slope greater than 30% from being included in the calculation for determining maximum density.

Resident Lynn Olds commented that the development agreement should identify that the applicant should be responsible for building the initial part of the bypass road. Councilman Bringhurst explained that the building of the road is identified in the exhibits of the development agreement. Attorney Snow commented that the City will need to amend its Hillside Ordinance and clarify calculating overall density. The MPDO will be approved and effective upon the City amending this ordinance. The purpose of this is to ensure an application is not approved that is contrary to the City’s ordinances. This amendment will encourage developers not to build on a hillside.

***Councilman Justin Sip moved to approve ORD.2020.XX a zone change application submitted by Lowe Land TK, LLC to an R-1-20 Single Family Residential zone, subject to approval of the MPDO, a fully signed development agreement, and to the findings and conditions approval as read by Attorney Snow. Councilman Keen Ellsworth seconded the motion.***

There was additional discussion regarding the percentage of slope, and how to re-word the hillside ordinance. It was suggested to add an option to eliminate the prohibition against counting acreage over 30% if there is a certain amount of open space from the MPDO. Councilman Ellsworth suggested the approval be subject to this MPDO agreement not violating our current city ordinances.



***Councilman Justin Sip moved to approve ORD.2020.XX a zone change application submitted by Lowe Land TK, LLC to an R-1-20 Single Family Residential zone, subject to approval of the MPDO, a fully signed development agreement, the findings and conditions approval as read by Attorney Snow, and to the MPDO agreement not violating current City Ordinances. 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.***

11. Discussion and possible action on a Master Planned Development Overlay conceptual proposal consisting of approximately 715.74 acres to be known as Toquer Ridge, a master planned mixed-use development, submitted by Toquerville City and Lowe Land TK, LLC. (PC recommended denial 5-0)

***Councilman Keen Ellsworth moved to approve the MPDO submitted by Lowe Land TK, LLC, subject to approval of the MPDO, a fully signed development agreement, the findings and conditions approval as read by Attorney Snow, and to the MPDO agreement not violating current City Ordinances. Councilman Ty Bringhurst seconded the motion.***

Planning Commission Chair Manning Butterworth recommended omitting the 80 acre parcel and fixing some grammatical errors in the MPDO. Attorney Snow clarified the 80 acres is not a part of the zone change or the MPDO proposal and the grammatical errors should be a part of the motion.

***Councilman Keen Ellsworth moved to approve the MPDO submitted by Lowe Land TK, LLC, subject to approval of the MPDO, a fully signed development agreement, the findings and conditions approval as read by Attorney Snow, the MPDO agreement not violating current City Ordinances, omitting the 80 acre parcel, and correcting any grammatical errors. Councilman Ty Bringhurst seconded the motion. Motion carried, 4-1. Ty Bringhurst – aye, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – nay, Chuck Williams – aye.***

12. Discussion and possible action on a Development Agreement for Toquer Ridge (a master planned mix-use development) to occur upon Parcel Nos. T-103, T-3-0-34-3000, T-3-0-34-140, T-3-0-27-321, T-3166 and T-101-A consisting of approximately 715.74 acres submitted by Toquerville City and Lowe Land TK, LLC.

Attorney Snow gave a brief update on the status of the development agreement and that it is still being revised by himself and the legal counsel for Lowe Land TK, LLC. The draft agreement is very close to being finished.

***Councilman Ty Bringhurst moved to table the Development Agreement for Toquer Ridge submitted by Lowe Land TK, LLC until July.***

Councilman Ellsworth is in favor of approving draft version #8 of the agreement and is not in favor of tabling this agreement for another month.

***Councilman Keen Ellsworth moved to approve the Development Agreement for Toquer Ridge submitted by Lowe Land TK, LLC.***



Attorney Snow commented that it would be fine for the Council to approve this version, however not every Councilman has read the latest version. The Council discussed the changes that Attorney Snow is waiting to hear back on.

The motion died for a lack of a second.

***Councilman Keen Ellsworth moved to approve the Development Agreement for Toquer Ridge submitted by Lowe Land TK, LLC subject to Attorney Snow's final changes, amending Exhibit C item G, amending the hillside ordinance. Councilman Justin Sip seconded the motion.***

Councilman Bringhurst was against approving draft version #8 because he and other Councilmen have not fully reviewed the latest version. Councilman Ellsworth commented that he is appreciative of all the work Councilman Bringhurst has done on this development agreement, but would like to get this approved in a timely manner.

***Mayor Chamberlain called for a vote on the proposed motion. Motion failed, 2-3. Ty Bringhurst – nay, Keen Ellsworth – aye, Justin Sip – aye, Gary Chaves – nay, Chuck Williams – nay.***

Councilman Ellsworth put forth the idea of calling a special Zoom meeting in one week from today to review the final version of the development agreement and make a decision on it. Resident Anita Eaton commented that the Council should take the time and read the development agreement before voting on it. The Council discussed the next steps and what was still needed to approve this development agreement.

***Councilman Keen Ellsworth moved to table the development agreement for Toquer Ridge until the Special Business Meeting via Zoom on June 18<sup>th</sup> at 4:00 p.m. 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.***

## **H. COUNCIL REPORTS:**

1. Justin Sip reported the Solid Waste District is trying to have the County take over the landfill. There is some public opposition to Ash Creek Sewer District selling hay.
2. Keen Ellsworth will have a meeting with Washington County Sheriff's Department about the services they provide and what options the City has for law enforcement.
3. Ty Bringhurst will have the water rate study ready for July's meeting. The Planning Commission has been given the task from the City Council to review the PDO section of the code to review and streamline the process.
4. Gary Chaves reported the Confluence Park trailhead stairway project has started construction.
5. Chuck Williams wanted ideas from the Council on what to do for the 4<sup>th</sup> of July celebration. One idea is to split the crowd into two groups and serve breakfast at different stations to avoid crowding. There should be no games this year. The Council and Royalty will meet at 6:00 a.m. to prepare the food. Breakfast will be at 7:00 a.m.





6. Mayor Lynn Chamberlain did not have anything to report.

**I. CALENDAR OF EVENTS:**

The 4<sup>th</sup> of July Celebration will be the annual pancake breakfast at the park at 7:00 a.m.

**J. ADJOURN:**

*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 meeting at 8:14 p.m.

  
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Mayor – Lynn Chamberlain

7/16/2020  
Date

  
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Attest: City Recorder – Ruth Evans

