

Erda City Council Minutes

9/22/2022 – 7:00 pm

Tooele County Building - Auditorium

View-Only Live Stream on Youtube: <https://tinyurl.com/2p8fjfnx>

1. Call to Order
2. Roll Call
 - a. Terry Miner, Kael Martin, Jess Bird, Craig Smith, Scott Droubay all present
3. Pledge
 - a. Pledge led by Craig Smith
4. Public Comment
 - a. No public comment (Closed by Craig's motion, Kael second)
5. Approve meeting minutes from 9-8-22
 - a. Jess had one correction - Moves to approve minutes with correction, seconded by Craig. Motion passes unanimously.
6. Marcus Keller from Zions Bank Q and A on PIDs
 - a. Marcus: Thanks for having me. I gave a summary guide to each of you. I thought it was a good idea to review the basics. It kind of hinges on one point. PID Debt Structures (Page 2). MIL Levies. I don't have a dog in the fight. It's your discretion. I just want to educate. We are focusing on limited tax general obligation bond. These can only be issued if a MIL Levy is in place. This is a limited GEO bond, because it is limited by the city council. The council can decide how many MILS it will allow. That will determine what can be issued in bonds. The idea is that the limited GO bonds is what developers use for regional infrastructure within their area. It is all noticed up front. If limited taxes are approved, the developer shares more value in the project with the city. Rather than getting impact fees, it would pay down the bond.
 - b. Terry: But they're not required to?
 - c. Marcus: We could require it. If they are not required in this and it's limited to special assessment bonds, you are only allowed to bond up to $\frac{1}{3}$ of that value based on 20 years. They have to pay those off on transfer of title. You can't really do that with a property tax. It becomes a short term financing tool for the developer. What we see developers say is that it's fine, but you should know that there is such little value above and beyond what this development agreement has as a bare minimum. Be aware if you don't allow it, regional projects and infrastructure may shrink or be taken out completely based on that project.
 - d. Terry: And the residents pay less as well? It benefits residents and not the developer.
 - e. Marcus: Correct. Who does the burden fall onto? There is some expectation that the city has to develop some of the infrastructure. Like maybe road access. You would then get impact fees. These come after the fact, once they connect in. So, the city has to bond to do it up front. Who is on the hook for that? Current residents. So, the argument is that current residents have to pay it rather than those who are moving in. You all have complete discretion. We could amend it to give it more flexibility, maybe limit it to

regional infrastructure. I think that we made it say no residential MIL levies. Maybe the pro is that your child/grandchild is a little more affordable for them.

- f. Terry: Is this regulated by statute?
- g. Marcus: Yes, but they leave a lot of discretion with you. Some people will cap residential MIL levies at 5. We would take it case by case. This just sets the terms.
- h. Terry: In 2019 there was a lot more demand than supply. The State wrote this bill to incentivize the developers to expedite the growth. Now they are saying if you build quick, we'll make that infrastructure payment go to the homeowner instead of you having to take that out of your pocket.
- i. Marcus: I think it was there to accomplish a few things. What was happening also was the burden ended up going to the cities and counties. Developers also had to piecemeal their projects. It was to incentivize developers to master plan. It has to be large in size to get a lot of bang for its buck.
- j. Terry: The other side is that it grows so fast that it overwhelms the city or town. They had to slow things down because it was overrun.
- k. Marcus: If you have an issue with being overrun or water issues, then absolutely, this is just an incentive tool. You don't have to approve any PID application. It could be something as simple as the timing is wrong.
- l. Terry: This will have no effect on us whatsoever. It will affect Sewer and water from Stansbury.
- m. Marcus: Right, but it affects your residents. Stansbury would put that bond on current users.
- n. Terry: They'd also have the authority to foreclose if you don't pay your bill to Stansbury.
- o. Marcus: That goes through property tax, so it's all together. It's a little more intricate and slower process. It's a priority lien. Special assessment has been around forever. It has lost a little bit of its teeth. At the end of the day it can be expedited. If you don't pay your special assessment bond in some areas that can foreclose in 90 days. You guys saw in Jordanelle where that whole window became a nightmare. The limited tax protects the individual property owner, not the investor. If they move into a development that goes under, they would just have to pay the levy that goes into effect. They don't have any repercussions.
- p. Terry: It requires 100% landowners to even set up a PID. The developer before he sets up any lots has to do it.
- q. Marcus: It's a developer thing. You can't go into a development with more than 2 or 3 property owners. At the end of the day it's 100% a developer tool. In Grantsville, they are reaching out to all the landowners to understand if they want to be part of a PID so that one developer isn't gaining an advantage over another one. The larger the PID is, the more complicated the project becomes. This isn't supposed to pay for all of the infrastructure. It's just an incentive to give them from point A to point B.
- r. Terry: I thought I read you could still go back and bond in \$500k increments.
- s. Marcus: They do have those, but it's for sophisticated investors. They can never bond more than what you give them permission to do. They would have to have all landowners come together, so it's now or never. They can't really go back.
- t. Scott: Help me understand how these are generated. Who buys them? Who does the developer apply to?
- u. Marcus: Let's say that you set the terms, then the PID becomes its own local government. They dissolve once it's paid off. They would act like a local government, go to bond writers, attorneys and sell them on the market. This would be probably a 6.5-7%

yield. They have a much higher than a typical municipality, but a better rate than private investors. A lot of investors won't take development risk. That's why it has to go to a high yield market. They will scrutinize the study, the build out, evaluations, etc.

- v. Scott: We had a discussion last meeting about who buys the bonds and if it's an impact fee supported bond. Who will buy an impact fee bond as opposed to who will buy a MIL levy bond.
- w. Marcus: Impact fees will not be affecting this. They could be used to pay it down, but they aren't security on the bond. The people buying this will be like Nuvene, Goldman Sachs, etc. who specialize in high yield, risky debt. These are above the level of Zions or anyone local buying.
- x. Craig: So to simplify this, without a MIL levy, you will not get a bond?
- y. Marcus: There are other ways, but you may not get the infrastructure you want.
- z. John: Without a MIL levy you won't get as much money.
- aa. Craig: So, on a special assessment, you may get a bond for sewer or water, but will you get a road?
- bb. Marcus: Maybe. Some roads. But not parks. You wouldn't get a connector road. The MIL levy allows you to put in the regional infrastructure now. There is a high probability you won't get some of the infrastructure you want or need.
- cc. Terry: The developer isn't required to pass off his savings to the residents.
- dd. Marcus: This is only the first phase. The second step of when they apply for the PID is where you can scrutinize all of that. So, you hold all of the strings in the creation process. If you don't do the due diligence, then the cat's out of the bag.
- ee. Craig: What happens if a development doesn't happen?
- ff. Marcus: Each type will be different. Mil levy - property tax. If they bond for \$50M, they start building it, everything goes under. The developer still owns what is unsold. They will continue to pay property tax on that. The ones that are sold, the homeowners would continue to pay as well. The property owner could sell the development to another developer and take a loss. Or they could go belly up. Their piece would go through property tax foreclosure. The new owner would come in and pay that property tax. The levy is only 30 years, but it's a 40 year runway. Special assessment bond - An individual owner could pay the assessment off early. There could be the 90 day quick window of foreclosure proceedings.
- gg. Jess: That won't affect the homeowner because his obligation is fulfilled.
- hh. Marcus: Depending on how you dictate that. We can easily dictate that it's a fixed rate, or no transfer of title. I'll let John speak to changing the language if you want to eliminate it for residential stuff. I've added some language in red on mine. (Reads the changes that he/Zions had made) There is a way to show that we have no interest in levying homeowners.
- ii. Jess: Thank you.

7. Committee Assignments Report and Discussion

a. Finance (Miner/Droubay)

a. Treasurer Report

- 1. Terry: Disbursement: Paid off cc, \$1474.55. Wrote one check \$833.46 (clerk salary). Deposits: \$6357.31 (building permits) \$970 (business licenses) \$5425.95 (ADDTNL tax) \$59,098.31 (Sales tax - PTIF account). I assume that is for July and August.

b. Land Use/Zoning (Bird/Smith)

i. Consideration of Ordinance 22-32 Adoption of an Annexation Plan Policy and Map

- a. Jess read Ordinance 22-32.
- b. Craig: I think we beat this to death. I don't think there were any comments or concerns with the policy. This is the latest draft of the map. I printed this one. PSOMAS hasn't sent one yet. If they send us a bill, it should be very minor. It only took about 10 minutes to make these changes.
- c. Jess: Any further discussion?
- d. Scott: I'm comparing the original Erda map with where we have expanded it for the annexation. I'm not concerned at all.
- e. Jess: Moved to adopt Ordinance 22-32, seconded by Kael.
- f. **Roll call vote: Jess-Yes, Kael-Yes, Craig-Yes, Terry-Yes, Scott-Yes**
- g. **Ordinance 22-32 ADOPTED**

ii. Consideration of Resolution 22-28 Approving a Policy statement for establishing Public Infrastructure Districts. (PID)

- a. Terry: We may have to table this. Terry made a motion.
- b. Craig: I'd rather discuss it before we do anything either way.
- c. Scott: I want to hear what Terry has to say. I have been against the MIL Levy, but I'm leaning towards it since we started discussing. Maybe they won't sell it.
- d. Terry: When they first did the statue in 2019, they had a sample property tax bill. They showed an example which made \$5000 on a \$400,000 property.
- e. Marcus: 10 MILS is 1 percent.
- f. Craig: 10 MILS is too much.
- g. Marcus: State laws only allow up to 15.
- h. Craig: I would support language that says residential MIL levies should be around 3. If they can prove special circumstances, they could go as high as 5.
- i. Terry: I'm against MIL levees. Especially now. Inflation is going up. This whole bill was set up for the developers to expedite building. That doesn't have to come out of their profit any more. They don't have to pass it on to the homeowners, or they can. Some places went nuts and had to put a moratorium on their water. It's almost like the city is picking the bones of the residents. SPID gets the money from the utilities, we only get what's left over. Residents are double taxed. It just ain't right.
- j. Craig: This doesn't affect anyone in the city, only the new people.
- k. Terry: Those are still residents. I'm looking out for current and future residents.
- l. Craig: We already have 14 different taxing districts in Erda already. That doesn't include those on wells, water systems or SPID.
- m. Terry: So, if you're for rapid growth, then tax it.
- n. Craig: There is some truth in that. But the city needs some money to survive. Right now there isn't a single acre of viable commercial, notta one. This brings Oquirrh Point into a buildable project with a lot of commercial. Oquirrh Point could also disconnect and go to the county and then they will be allowed. When others follow, we won't have any commercial left.
- o. Terry: I'm tired of the threat to disconnect.
- p. Craig: They haven't said anything about it. The guy who bought Oquirrh Point doesn't care. He isn't a Tooele resident. If he has to pay \$50M and then another \$20M in infrastructure, he'll just go somewhere else.

- q. Terry: You said he's ready to disconnect.
- r. Craig: I'm only saying he could. If I could disconnect and get \$20M, I probably would.
- s. Terry: We can give them money without doing a tax though. They can take something or nothing.
- t. Craig: That's a risk I'd be willing to take.
- u. Terry: I'm also worried about the water. Just because you have rights doesn't mean it magically comes from somewhere else. The people with shallower wells could run dry.
- v. Craig: Those wells are dropping, I know as well as anybody.
- w. Kael: How likely is a disconnection? How easy is it?
- x. John: If you want to let them go, it's easy. If you don't want to let them, it would take a court ruling. It takes time and money.
- y. Scott: It would cost us money too?
- z. John: Yes.
- aa. Scott: I'm thinking, I'm in Terry's camp, that it could be a shock and surprise to someone who moves into Oquirrh Point. However, it disturbs me that if we don't have a MIL levy, the PID is not really effective. It is either hard to sell or it comes up with less money. That's a hinge point for me. Terry had a good point. If it's not Derald Anderson or Joe White controlling the whole development. This business man could save all that money on infrastructure and pocket it. But Zion's says that we could still control that.
- bb. Marcus: The devil is in the details. That is a whole nother stage of fun. Tonight is just the policy, just setting initial parameters. You can dictate a priority list so that the projects you want, you can make sure that they are prioritized so that money has to go to them before it goes to other parts.
- cc. Craig: If we pass a policy without a MIL levy, we can't add one later?
- dd. John: We could change it later.
- ee. Scott: A MIL levy on homes should be really low. 3 MILS or less.
- ff. Marcus: I agree with you. We have been working with some cities for 4-5 months. There is a lot of information. It's important to have a policy so people know if they can ask for it.
- gg. Scott: Didn't we tell Oquirrh Point that we would help them do a PID.
- hh. Jess: There is a stipend that if we approve a PID, we get \$100,000.
- ii. Marcus: You could still deny a MIL levy, even if you have a policy that you would approve it. This is strictly for you at this point.
- jj. Jess: I have strong feelings on this topic. I don't necessarily want to be the last speaker either. What I've heard tonight is that a MIL levy based PID has more value, it doesn't mean a special assessment is zero, it only has less value. I don't know if it's been tested all that thoroughly. This is a new and creative way to fund infrastructure. I like a lot of aspects except where the collateral comes from. It comes from tax and all the teeth that come from tax. Approving a tax or MIL levy PID would be an expansion of government. It would add to the number of taxing districts in our area. It would create a tax. The point I want to make is this is new and exciting. It sounds like it has the potential to put \$20M into the developers pocket because he can shift that burden to the taxpayers. One thing that keeps coming up is that any MIL levy you approve that is over and above what is needed can be used to expand or fund regional projects. That isn't a

great sales point to me. I don't want to shift the regional burden to a select group of residents. So, I guess you could say I'm not a fan of PIDs in general and especially not a fan of MIL levy based PID. The compromise that I'd be willing to do is I would sign an ordinance/resolution approving a PID policy that would allow assessment based PIDs under parameters. For example, if their development fails, the debt can't fall to those who did buy in. So, a new resident can't be asked to pay any more. I would not be in favor of a MIL levy based PID. This country was founded on property rights. Every time you add a tax, you erode just a little bit of what property actually means. Tax and tax and MIL at a time will finally add up. Everyone in here is paying taxes between 30-50% of their entire take home. I don't want to add even a little bit to that in any shape or form. I'd really not like to have the last word here.

- kk. Scott: Those people who have bought property (mil levy or impact fees) their assessment could not be raised because of that failure.
- ll. Marcus: Assessments are a different animal. If the chair didn't want any liability, it would be a non-transferable bond. So, you would just dictate that any lien associated with the PID would be paid off at the time of title transfer.
- mm. Scott: With a mil levy, buys a new home, moves a mile to Oquirrh Point. His MIL levy couldn't rise because of that.
- nn. Marcus: No, but he would continue to pay on that mil levy level. You've made a good and fair point. It's your decision to make. It's all based on what the city wants to or doesn't want to give. Without the MIL levy, some of those regional benefits aren't there. A lot of these benefits are because of the increased population because of the development. You can't legally build a project with PID funds unless it actually benefits the residents.
- oo. Jess: I believe restricting MIL levies provides a good restraint on both the developer and the city council.
- pp. Scott: I'm in favor of having both options.
- qq. Craig: I'm definitely in favor of both options. We don't get 33rd parkway or commercial without a MIL levy. Without the intersection, there is no commercial in Oquirrh Point.
- rr. Terry: How did anything get built prior to 2019?
- ss. Craig: Slowly, piece by piece.
- tt. Terry: I don't like the veiled threats. I'm tired of them.
- uu. Craig: It'll be cheaper for the residents in the long run. It avoids inflation.
- vv. Terry: Especially taxes. They ought to sell the lots, then have everyone who buys the lots agree with the PID.
- ww. Craig: They can't. That's as easy as if they don't like it, they shouldn't buy it.
- xx. Jess: That kind of speaks to me. I'm for supporting the 1%, not the 99%. Rights and protection. Where do we go from here? We can table it, we can bring it up for a vote.
- yy. Scott: I don't see any reason to table it.
- zz. Jess: Ours, as it is written. . . .
- aaa. John: (Reads the changes to the resolution)
- bbb. Jess: We should NOT decide this policy based on Oquirrh Point, or any one developer. If someone wants to come in and bring in 2000 units with a Maverik on the corner, just because they have a Maverik, does it exempt them from that restriction?

- ccc. John: We would have to dot our 'i's and cross our 't's.
- ddd. Marcus: They would only be able to encircle the commercial based on that policy.
- eee. Jess: So, we would have to have 2 PIDs.
- fff. Marcus: They would request 2 MIL levies, potentially both going to pay towards the same bond. They could issue 2 separate bonds, or combine them.
- ggg. Scott: How much for commercial?
- hhh. John: Up to 10 mils
- iii. Scott: But none on the homes?
- jjj. John: Right.
- kkk. Scott: What do you think Kael?
- lll. Kael: I'm still trying to make a decision. It's been a hard decision. I don't want to add a decision, but we need commercial. I'm going to decide at the last second.
- mmm. Scott: Does a MIL levy for commercial bring in the commercial?
- nnn. John: I don't have a clue what the bond holders would want.
- ooo. Jess: In terms of volume, more will come from residential. Most developments are going to be residential.
- ppp. Terry: That 10 MIL is the max, we could always go lower.
- qqq. John: This is just a policy. Tell them to come and negotiate with us. If its outside this, we don't want to talk to you.
- rrr. Terry: I motion to accept it as written by John. (Pass 22-28 as written) . . . no second? . . .
- sss. Marcus: Would it be easier to come back to the next meeting with two policies?
- ttt. John: Let's just amend it. I'm tired of this.
- uuu. Craig: We have 2 of them. We have the original one. We could use it.
- vvv. Jess goes back and seconds the motion (by Terry).**
- www. Scott: I think I'm in favor of passing as written and changing if we need to in the future.
- xxx. Roll call vote: Scott - Yes. Craig - No. Jess - Yes. Kael - Yes. Terry - Yes.**
- yyy. Motion passes. Resolution 22-28 Adopted.**
- c. Roads (Droubay/Miner)
- a. Scott: We had a discussion last time about the school zone at Excelsior. I've heard MORE complaints since then. I spoke with Jed. He thought there was a traffic study already done. He was going to try to locate that. He thought a camera would be no big deal. It sounds like his department does it. There's no need to redo it if it's already been done. I've heard complaints about traffic going way too fast and creating a dangerous situation. The mix of stopped cars and full speed cars is a dangerous situation. I don't know if you can blame one group or another.
 - b. Jess: Does a lower speed limit help or hinder the situation?
 - c. Scott: I don't know. The people at Excelsior want all the other traffic to slow down.
 - d. Kael: Do you wish the speed limit in front of your house was slower?
 - e. Scott: I actually do. I wish the traffic on my road and Droubay would obey the speed limit.
 - f. Jess: It's almost like lowering the speed limit won't change the behavior of drivers.
 - g. Terry: Did you talk to him about the shoulder work he's supposed to do?

- h.Scott: That wasn't a topic of our conversation. One other thing on the roads, should we talk about the comparisons that you found Craig? In Marriott-Slaterville, they actually pay the county based on what they do.
- i. Jess: 1.75x the rate of the worker and an equipment fee.
- j. Scott: I wonder if the county would be willing to do that.
- k. Craig: Weber Co does that with all of the small cities there. Millcreek does it as well.
- l. Terry: Is snow removal the same way?
- m. Craig: They had 17.5 plow routes. They bill them for actual removal every year. It was similar to what we were seeing. I don't know if the county would be willing to look at that through the same lens as us.
- n.Jess: The county is subsidizing the city with services. If that's true, let's find a system that makes it more equitable, fair and transparent. It will benefit both sides and eliminate the question of who is subsidizing who.
- o.Craig: That's very apparent with the Sheriff's Department.
- p.Jess: So, we are paying 40% of his budget, whether he is in Erda or not?
- q.Craig: Yes. That's why if they provide services to us, they are subsidizing us.
- r. Scott: Don't we have to decide right away?
- s. Craig: They are meeting Tuesday. It's likely they won't have anything ready for us.
- t. Kael: John, can we do that word of mouth.
- u. John: We probably should do an amendment.
- v. Terry: Scott has a meeting on Wednesday with Mid-Valley Highway.

8. Council Representative Reports

- a. Craig: I went to the Tooele Economic Development meeting today. They have \$200k that they are considering giving to the airport for engineering. There will be more money available in 2023. We set some parameters on what they should look like. Who will put in matching money. There are small business grants available right now. About \$70k to give away. They have only received 4 applications. They extended the deadline on those. Anyone with a small business looking for a grant to help grow their business, there is money available right there. The other money will have \$1M available in grants open from 10.17 to 11/18. They changed it to where cities are eligible. There is a meeting tomorrow from noon to 2. Also, we adopted an annexation policy tonight. We had another property owner send a notice of intent to annex today. We never adopted a fee, we probably should do that. Grantsville changed some legal documents.
- b. Jess: Wouldn't a fee of \$0 make a lot of sense?
- c. Craig: There is a lot of work that goes into annexation. Grantsville charges \$1000 to apply. That's probably reasonable. We have 3 groups and 6 properties that want to annex in. Kilgore, Adobe Rock and Pacific West. Maybe at the next meeting we need to have a resolution to change our fee schedule so we can move forward with those.
- d. Kael: I think \$1000 seems fair.
- e. Terry: Half.
- f. Jess: \$200-\$500
- g. John: There's quite a bit of work.
- h. Craig: There are 21 steps.
- i. Jess: \$500 is my number.
- j. Craig: I think \$1000 is a reasonable number.
- k. Terry: I say \$800.

- l. Scott: \$1000.
 - m. Jess: We have 3 for \$1000.
- 9. Comments from Council Members
 - a. Jess: Special thanks to Craig for leading this whole annexation policy thing.
- 10. Adjournment
 - a. Terry moves to adjourn the meeting, Kael seconds.
 - b. Voting unanimous to adjourn the meeting.

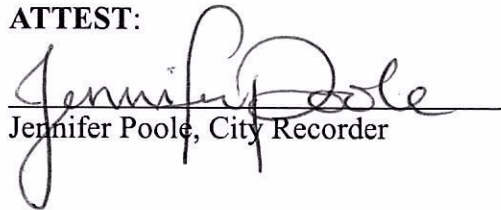
Note: these minutes represent a summary of the meeting and are not intended to be verbatim.

Prepared by: Cory Warnick,

PASSED AND APPROVED by the Council this 13th day of October, 2022.

ERDA

ATTEST:


Jennifer Poole, City Recorder



Jess Bird, Chair