

Erda City Council Minutes

10/13/2022 – 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. Jess Bird, Terry Miner, Scott Droubay, Kael Martin in attendance
 - b. Craig Smith in attendance via zoom
 - c. Jennifer Poole-City Recorder, John Brems-City Attorney
3. Pledge
 - a. Jess Blrd- Led the pledge of allegiance.
4. Public Comment
 - a. No Comment made
 - b. Jess-Moved to close public comment, Scott seconded the motion
 - c. Voting was unanimous to close public comment.
5. Approve meeting minutes from 9-22-22, and 9-28-22
 - a. Jess- Moved to approve the minutes from 9-22-22, Kael seconded the motion.
 - b. Voting was unanimous to approve the meeting minutes from 9-22-22.
 - c. Jess- Moved to approve minutes from 9-28-22, Kael seconded the motion.
 - d. Voting was unanimous to approve the meeting minutes from 9-28-22.
6. Sheriff's Report
 - a. Deputy-Penrod-We had 86 calls, 7 arrests, and 37 citations. Significant event happened on September 2nd. We were doing traffic enforcement. The driver we stopped was impaired and in possession of marijuana and cocaine. He was arrested at that time. We will also be proactively doing an operation these next few months to help stop packages from being stolen off of porches.
7. Committee Assignments Report and Discussion
 - a. Finance (Miner/Droubay)
 - i. Treasurer Report
 - a. Deposits into the checking account we received \$8,467.07 from permits, and I transferred \$51,720.00 from the PTIF account into checking. In the PTIF account we received \$34,672.09 for the B&C Road Fund and we received \$1,111.21 in reinvestment or interest. Checks written for the month of September were \$272.64 for CVE technologies for google. \$1,040.10 for clerks salary, accounting \$750, Legal \$5,000, Dispatch service \$8,209.25 for this quarter, Sheriff Services \$56,096 for 3rd quarter, Clerks salary \$919.80 and Tooele County Road Department \$51,720 for a total \$124,007.79 we have \$122.70 on the credit card. Since the PTIF account gets the B&C funds I took it out of that account

to pay for the road funds. A heads up on how the B&C roads funds can be, we got about 60k for May and June then only about 34k for August and September. It hasn't been consistent in what we receive.

b. Land Use/Zoning (Bird/Smith)

- i. Review Planning Commission recommendation for Fackler Re-Zone Application (REZ 02-2022) 5132 Heidi Way, seeking to be rezoned from RR5 to RR1
 - a. Summer Facker is asking for a rezone from RR5 to RR1 . There is RR5 zoning on 3 sides and RR1 on the back side.
 - a. Open Public Hearing
 - b. Jess moves to open the public hearing, Terry seconded the motion.
 - c. **The voting was unanimous to open the public hearing.**
 - d. Summer Fackler-I am the one requesting the rezone well my husband and I and my dad who owns the property. We currently live in my parents basement and have for 5 years. In Jan of this year we received some family news and we need to stay as close to my mother as possible. We want to split the 5 acre parcel into a 3 acre parcel for my parents and a 2 acre parcel for us. We only want to build 1 house. We like the rural feel and don't want it to change.
 - e. Scott-How much research have you done into building an ADU?
 - f. Summer-I've looked into this extensively and I can't get a loan on land that I don't own. My family won't fit into a smaller ADU. There will only be 2 lots created.
 - g. Shannon Lawson-I am the owner of the property-I want to comment further. Summer has done a tremendous amount of research and we are wanting to fit as best we can in the plan and the area. She's even looked into the sewer issue. The people who are putting the subdivision in behind us have allowed her to tap into that. We are hoping to have Summer and her family close and help us in light of our situation. In the planning commission meeting there were several things brought up in keeping Erda as rural as possible as we can. We know that more people are going to be seeking rezones and changing things, and how do we control this? Do we do it under an ADU system, or do we do it with adding some limitations, such as how many homes are allowed to be built once the parcel is rezoned?
 - h. Close Public Hearing
 - i. Scott-Moved to close the public hearing, Craig seconded the motion.
 - j. Voting was unanimous to close the public hearing.
 - k. **PUBLIC HEARING CLOSED**
 - l. Scott- What I need to get past is, I know what the Lawson's have property and neighborhood wise. But for the last month I've been in contact with people on the east end of Erda that own 30 acres. They are looking ahead for what to do with it eventually and they've been advised to just draw it up into 1 acre lots. They are being told that this is just the way this part of Erda is going to be. I've been trying to tell them that they can't just do this. Paul Kunz wants to do 1 acre lots. If we pass one rezone then are we setting up a precedent? Like those people with

the 30 acres, would they have a legal right to change the zoning of their property?

- m. John-It's a legislative decision, you can deny it. There are many legal reasons to be able to deny a rezone, like not fitting the requirements.
- n. Terry-This seems to meet all of the requirements for it to fit. It is linked to RR1 zones.
- o. Scott- I am worried that there will be this metamorphosis of all of these 5 acre lots into 1 acre lots.
- p. Craig- It's a stretch at best to say that we have to give this person a rezone just because of that person getting a rezone. Some just won't fit the plan or criteria.
- q. John-What does the general plan provide for in that area?
- r. Craig- The general plan calls for that to be a medium density area, it was written vague on purpose. I was in the planning commission meetings. The Fackler rezone had overwhelming support from every neighbor and every person around it. It was a unanimous decision from the planning commission. It should also be mentioned that they recommended it with a condition put on it. That it would be allowed to only be 2 lots.
- s. John-It seems like we could say that you could only have 1 primary residence on each lot.
- t. Kael-This one doesn't concern me this isn't a spot rezone. I'm not too worried about it.
- u. Craig-I am in favor of putting a zoning condition on it, it might not be a bad idea to ask them (Facklers) about it.
- v. Scott-Summer what do you think about the zoning condition we want to put on it?
- w. Summer-We are okay with that, we really only want to build that one home.
- x. John-If they wanted to do something else in the future, they would have to reapply for the zoning change to allow it.
- y. Scott- I'm in favor of that at least.
- z. There are 3 votes in favor of approving the rezone application, with conditions.
- aa. Jess-We are directing our attorney to approve the rezone with the condition that there can only be 2 homes or lots.**

ii. Consideration of options for a City Planner

- a. Terry- What is the job? I would like to see us stay with the status quo while we are figuring out what this budget is.
- b. John- I wouldn't
- c. Craig- We won't be hiring an employee, it would be a subcontractor. We'd do it the same way we do Legal or the accountant. It would come out of professional services. Ensign has said they feel overwhelmed and if we don't get a City Planner they will. It will save us \$45 an hour. And not knowing how much income we have coming in that could be a significant number.
- d. Scott- Would this city planner put in 10 hours a month?

- e. John-The city planner would be organizing the permits and putting them forward to the Planning Commission. Give them the information they need on how these go.
- f. Terry- So Ensign will walk away if we don't hire a planner?
- g. Jess- No, they will hire a city planner anyway and charge us more.
- h. John-Ensign is acting as the planner and that isn't what Jake does. He is overwhelmed.
- i. Craig- A city planner would look at subdivision, CUP, and rezone applications when they come in. Write the narrative that would help the planning commission do things according to code. There are some weeks she would work 3-4 hours, some weeks she would do nothing. She would be putting the paperwork together and getting it to us. We can hire a planner for \$125 an hour.
- j. Scott- I am in favor of letting Jake hire her and watching from month to month and then we have a better idea of what that would cost. That way we could see what it would cost us.
- k. Jess- No matter what we do, we will pay more for it if we do it through Ensign.
- l. Kael-If we hire her we don't have to get an RFP?
- m. John-No it'll be an independent contractor.
- n. Jess- If we find that she's worked more than 10 hours a month and we need to put a stop to it. We can make 1 ph call and put a stop on it, instead of working through multiple people.
- o. Scott-I am looking at this from a financial perspective on it. And I don't want to add any more to the budget.
- p. Jess-I think it's the same person and same services but for less money.
- q. Kael- It doesn't make sense to be paying a middle man if we don't need to.
- r. Terry-We should hire a treasurer before we hire a planner.
- s. Kael-This would be an independent contractor, not hiring a position.
- t. Jess- There is an immediate need for this position. And while we consider it, it will still cost us. These fees should be covered by the permitting process. We adopted these fees based on what other places or cities do. So these services should be a part of it.
- u. Kael-If we are worried about money, why would we spend more?
- v. Scott- Is there any back up there, or advantage to us to have the umbrella of Ensign do it?
- w. Jess- I imagine Jake will be just as involved no matter who holds the contract.
- x. Craig- I don't think it matters if she works with Jake or us. It'll be the same process. Whether he is paying the check or we are.
- y. John- You're either paying Jake \$180 an hour for this or her for \$120 an hour.
- z. Craig- We have to have a planner and either Jake will hire her or we will. We need to make this decision tonight so we can get her on board and she can be ready for the planning commission meeting in 2 weeks.
- aa. Scott-It looks like we have 3 votes to hire a planner.
- bb. Jess- I think we need some sort of engagement before we do this.

- cc. Craig-I have talked with her and \$125 is what she will charge. Do we make an official motion and vote on it?
- dd. Craig- Moved to direct the attorney to draw a contract to hire a city planner and allow the chair to execute it. Jess seconded the motion.
- ee. Roll Call Vote: Jess-Yes, Kael-Yes, Craig-Yes, Terry-No, Scott-No**
- ff. Motion PASSES 3-2 to have attorney create and city chair execute a contract for a city planner.**

8. Disaster Mitigation Committee Report

- a. Scott- One of the chief things we face is wildfire. In the committee we put together we still need to figure out what steps we can take to mitigate some of those things. We spoke with the church properties management people and talked about their property that is in the center of Erda. We would like to be able to hand out supplies and have temporary shelter. They were okay with that but they needed a contract from us on what we would do in an emergency. There needs to be a structure to it.
- b. Jess-Who's responsible for coming up with that contract?
- c. Scott- I think we are.
- d. Bucky- We also have a 50,000 gallon tank going up at the fire station on the north east side of Erda to help with the wildfire mitigation. And all of those houses on the east side of Erda that have no fire hydrants at all.
- e. Terry- If we have an earthquake the probability of everyone's wells becoming unserviceable is high. Craig didn't you go to a water meeting?
- f. Craig-It wasn't a water meeting as much as meeting with state and local reps about zoning and community issues and how they can help. It was hosted by a growth seminar. They wanted to know what our concerns are and how we see growth happening in our area. There was no good answer. They took from stakeholders in the entire county. They wanted to take this back to the legislature. We talked a fair amount about water and transportation. We are being overrun by the wasatch front.

9. Discussion of the Savage Tooele Railroad Company – Construction and Operation Exemption – Line of Railroad in Tooele County

- a. Jess-This is not a vote, this is just a discussion about the letter I've gotten. I've gotten a lot of letters from people saying to fight this and that they don't want it in our backyard.
- b. Scott- We've always known that the railroad can condemn property.
- c. John- I don't think it's a condemnation issue.
- d. Scott- Can they force the sale of that through an imminent domain?
- e. Craig- I've been a part of a condemnation before, they can do whatever they want. The only thing you can negotiate is how much you get for it. We can make it more difficult. To force them to strictly adhere to the permitting process, we don't need to give them any concessions for something that is not wanted by the community anyway.
- f. Jess- I want to see the relation to the harm they create to those specific areas. Like Gunderson Acres. This really fits the argument that the city gets all of the trouble and none of the benefits. We should get some sort of compensation for the harms to the community it would cause on an ongoing basis.
- g. Scott-Are railroads even allowed?
- h. John- In our Zoning ordinance it says if it's not allowed then it's disallowed.

- i. Jess- So right now railroads are not allowed to be built in Erda. I want to seek real solutions for the real harms that would be caused by this.
- j. Terry-If it was up to me then it wouldn't happen. I don't think we can keep them out even if we wanted to.
- k. Jess-They were asking in the letter to know what our process is for railroads.
- l. Craig- There is a permitting process, an excavation permit, a road cutting permit. The simple answer is yes. It makes them come back and see what they are. And in the meantime if there are things we can do to make it better for Erda while we are waiting.
- m. Kael-Is there something we can do to maybe make it so the railroad has to pay those that would be affected by it?
- n. Terry- I am more worried about the wells in that area, and what would happen to those wells when the railroad is there, constantly shaking the ground in the area.
- o. Kael- Do you think creating the permitting process would protect us in the long run?
- p. Jess- Craig has given a well thought out response on how I should respond.
- q. Scott- If we tell them there is no permitting process does that give them free reign?
- r. John- I would tell them that it's not an allowed use. Is there an environmental issue with this area that we could use?
- s. Terry- A lot of that land was part of a soil conservation area at one time.
- t. John- We can use those in the environmental issues response.
- u. Scott- Current zoning doesn't allow it, it's not in the general plan. There are some wetlands in that area.
- v. Jess- Do you want me to add portions about the soil conservation in that area? Should we mention the emails we've received from multiple places?
- w. Scott-Yes public opposition or position has been 100 percent unanimous of NOT wanting the railroad in the area.
- x. Jess- Terry, Do you want me to put in that when the people bought a home in Gunderson acres it was with the understanding that the railroad was gone and removed. That it would no longer be there.
- y. Terry-That was the idea. The railroad had abandoned the area and removed the tracks, it was gone and removed. That was the understanding of the citizens in that area.

10. Council Representative Reports

- a. Jess- I attended a pre legislative meeting of Tooele County today with a senator and state reps. The main takeaway is that Senator Scott Sandal is working on a bill that would affect Erda. He was talking about taxes and trying to get more out of taxes and I was really turned off up front. His argument and the argument of many cities that have gravel pits and they do have a legitimate concern. Is that these cities get an increased wear and tear on their roads and that they are literally getting the dirt from that city and selling it and no taxes come back to that city for compensation. The bill would more proportionally take that sales tax money and put some of it back in the B&C road funds and sent to those communities who have been affected. We will have a few gravel pits in our area. It resonated with me. It would amount to about 3 million more a year that would be put into the B&C road funds and sent to those communities that are affected. I think that this is something that Erda should back.
- b. Kael- I agree
- c. Scott- Terry and I had a meeting again with UDOT about the Midvalley highway. They won't /cant' take our recommendations. I did get a lot more information about why they

are taking that route. If they kept it on Sheep Lane like we asked they would have to cross the petroleum pipeline 7 times. The petroleum pipeline is the holy grail. They already crossed it once and it was 8 million dollars to do it. With that off the table the next logical place is the route right next to the airport. That would follow the street that is Evans Way. After an hour we could see that from their standpoint it makes sense to put it next to Golden Gardens, we can make them set up sound walls. I am not sure which is worse to look out your back yard and see brick walls or a freeway. This is just the first stage and it still has a way to go.

11. Comments from Council Members

- a. No Comments Made

12. Adjournment

- a. Scott motioned to adjourn the meeting, Kael seconded the motion.
- 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: Jennifer Poole, Erda City Recorder

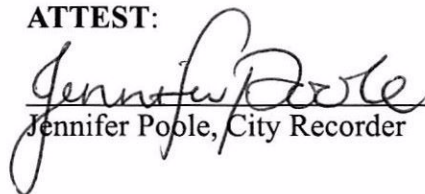
PASSED AND APPROVED by the Council this 28th day of October, 2022.

ERDA



Jess Bird, Chair

ATTEST:



Jennifer Poole, City Recorder