

**TREMONTON CITY
CITY COUNCIL MEETING
July 21, 2009**

Members Present:

David Deakin
Roger Fridal
Lyle Holmgren
Jeff Reese
Max Weese, Mayor
Shawn Warnke, City Manager
Darlene Hess, Recorder

CITY COUNCIL WORKSHOP

Mayor Weese called the July 21, 2009 City Council Workshop to order at 6:00 p.m. The meeting was held in the City Council Meeting Room at 102 South Tremont Street, Tremonton, Utah. Those in attendance were Mayor Weese, Councilmembers Deakin, Fridal, Holmgren, and Reese, City Manager Shawn Warnke, Police Chief David Nance, Zoning Administrator Steve Bench, Public Works Director Paul Fulgham, and Recorder Darlene Hess. Councilmember Wood was excused from the meeting.

1. Review and discuss agenda.

Mayor Weese asked Manager Warnke to proceed with the items he had listed on the Workshop Agenda.

2. Open Public Meeting Annual Training - City Manager Shawn Warnke

Manager Warnke handed out copies of Open and Public Meetings Act Training and discussed the following with the Council from Title 52, Chapter 4 of the Utah Code:

- ▶ Purpose: State and Local agencies exist to conduct the people's business, which must be done openly. (Section 52-4-102 Utah Code)
- ▶ "The presiding officer of the public body shall ensure that the members of the public body are provided with the annual training on the requirements of this chapter." (Section 52-4-104 Utah Code)
- ▶ The Legislature finds and declares that state agencies and political subdivisions exist to aid in the conduct of the people's business, must take their actions openly, and must conduct their deliberations openly (Section 52-5-102 Utah Code)
- ▶ Key Definitions:

"Meeting" = The convening of a public body with a quorum present to discuss, receive comments, or act on a matter over which it has jurisdiction or advisory power.

“Convening” = Calling of a meeting of a public body by an authorized person to discuss a subject over which it has jurisdiction or advisory power.

“Public Body” = any administrative, advisory, executive, or legislative body that is created by Utah Constitution, statute, rule, ordinance, or resolution. Consists of two or more persons. Expends disburses or is supported in whole or in part by tax revenue and is vested with the authority to make decisions regarding the public’s business.

“Meeting” ≠ A chance meeting, a social meeting, or a convening solely for discussion or implementation of administrative or operational matters if no formal action is taken or the matters would not come before the body for discussion or action.

“Public Body” ≠ A political party, political group or political caucus or conference committee, rules committee, or sifting committee of the Legislature.
(Section 52-4-103 Utah Code)

- ▶ A meeting is open to the public unless closed in accordance with the act.
- ▶ Open meetings include regular meetings, special meetings, workshops, executive sessions, site tours. (Sections 52-4-103, 52-4-201 Utah Code)
- ▶ Closed meetings have specific restrictions. A meeting is open to the public unless it is a closed meeting. A closed meeting may be held if a quorum is present and two thirds of the members present vote, at an open meeting, to approve closing the meeting. The reasons and location of the closed meeting shall be announced and entered into the minutes of the open meeting. Only certain matters may be discussed in a closed meeting.

A closed meeting may be only held for discussion of the character, competence or health of an individual. Strategy sessions for collective bargaining, pending or imminent litigation, purchase exchange or lease of real property, sale of real property, discussion of security, investigation regarding allegations of criminal conduct, discussion by a county legislative body of certain commercial taxpayer information.
(Section 52-4-204)

- ▶ Public Notice: “A public body shall give not less than 24 hours public notice of each meeting” The public notice must include the agenda (providing reasonable specificity to notify the public as to the topics to be considered - listed as agenda items) the date, time and place. The public notice must be posted at the principal office of the public body, or if none exists, at the building where the meeting is to be held posted on the Utah Public Notice Website (with exceptions for certain small entities) provided to at least one newspaper of general circulation within the jurisdiction or a local media correspondent. Public notice of an annual meeting schedule must be provided if the public body holds regular meetings. (Sections 52-4-202, 63F-1-701 Utah Code)

- ▶ Topics not listed on the Agenda: A topic raised by the public may be discussed during an open meeting, but the public body may not take final action on the topic at the meeting unless it is an emergency meeting. (Section 52-4-202 Utah Code)

- ▶ Minutes and recordings:

Open Meetings: Written minutes and a recording shall be kept of all open meetings, except a recording is not required to be kept of a site visit if no action is taken; and a meeting of a small local districts (\$50,000 budget or less).

Closed meetings: A recording must be made of the closed meeting, unless the closed meeting is exclusively for discussion of the character, competence or health of an individual, or discussion of security and the person presiding signs a sworn statement that the closed meeting was solely for the purposes outlined above.

For open meetings, the written minutes are the official record of action taken and must include the date, time, place, and the names of all members present and absent, the substance of all matters discussed which may include a summary of comments made by the members, a record of each vote of each member, the name of each person who, after being recognized, provided comments and the substance in brief of each person's comments, other information that is a record of the proceedings that a member requests to be entered in the minutes. A recording shall be complete and unedited from start to finish of the meeting, open or closed, and be properly labeled.

For closed meetings, the recording and any minutes must include the date, time and place and names of all members present and absent, the names of all others present except where the disclosure would infringe on necessary confidentiality to fulfill the purpose of the closed meeting.

Written minutes and recordings of open meetings are public records under GRAMA. A public body must establish procedures for approval of written minutes. Written minutes prepared in a form awaiting only formal approval are a public record. Written minutes shall be available with a reasonable time after the meeting. A recording of an open meeting shall be available to the public for listening within three business days after the meeting.

Closed meeting minutes and recordings are protected records under GRAMA.

Emergency Meetings: An emergency meeting may not be held unless an attempt has been made to notify all members of the public body, and a majority of the members vote to approve the meeting. The 24 hour public notice requirements may be disregarded if unforeseen circumstances cause a need to hold an emergency meeting to consider emergency or urgent matters, and the best notice practicable is given of the time, place, and topics to be considered.

Electronic meetings: A public body may not hold an electronic meeting unless it has adopted procedures for conducting it (the Utah Legislature has not adopted procedures). Adopted procedures may include consideration of budget, logistics, presence of a quorum at an anchor location, vote to establish an electronic meeting,

notice requirements, etc. (Sections 52-4-103, 52-4-202, 52-4-203, 52-4-206, 52-4-207 Utah Code)

Penalties: The Attorney General and the county attorneys shall enforce this chapter. Any final action taken in violation of the act is voidable by a court. A suit to void a final action must be commenced within 90 days after the action (30 days for bonding instruments). A closed meeting violation is a Class B Misdemeanor. If a closed meeting is challenged, a court shall review the recording or minutes (in private) and determine whether a violation occurred. If the judge determines a violation occurred, the judge shall publicly disclose all information about the portion of the meeting that was illegally closed.

- ▶ The Council discussed whether or not to add a section to provide for closed meetings to all City Council Meeting Agendas. Manager Warnke said he felt this item should be added to the agenda.

3. Discussion on developing the Walking Trail at Jeanie Steven’s Park - City Manager Shawn Warnke

Manager Warnke informed the Council that he had met with members of the City’s staff to discuss an alternate location for the Walking Trail. The proposed change would be located at Jeanie Steven’s Park instead of the new Hospital. The Council reviewed and discussed the map of the proposed location. The cost to construct the Trail at the Hospital would be \$188,000 and the Park location would cost \$82,000. In addition to the financial benefit, there are several other benefits in having the Trail at the Park such as improving City owned property, multiple uses already exist at the Park, the Park is ADA accessible, people can watch their kids play at the Park while they walk along the Trail.

Director Fulgham reminded the Council of the City’s commitment to the Hospital to install sidewalks along the north and east borders of the Hospital. The Council discussed the possibility of making an agreement with the Hospital to postpone installing the sidewalks to a later date.

Manager Warnke asked to have this item put on the August 4, 2009 City Council Agenda.

The meeting adjourned at 6:54 p.m. by consensus of the Council.

CITY COUNCIL MEETING

Mayor Weese called the July 21, 2009 City Council Meeting to order at 7:00 p.m. The meeting was held in the Tremonton City Council Meeting Room at 102 South Tremont Street, Tremonton, Utah. Mayor Weese, Councilmembers Deakin, Fridal, Holmgren, and Reese, Zoning Administrator Steve Bench, Police Chief David Nance, Public Works Director Paul Fulgham, and Recorder Darlene Hess were in attendance. Councilmember Wood was excused from the meeting.

1. Opening Ceremony:

Mayor Weese informed the audience that he had received no written or oral request to participate in the Opening Ceremony. He asked anyone who may be offended by listening

to a prayer to step out into the hall for this portion of the meeting. The prayer was given by Manager Warnke and the Pledge of Allegiance was led by Mayor Weese.

2. Approval of agenda

Mayor Weese asked if there were any changes to the agenda? No comments were made.

Motion by Councilmember Deakin to approve the July 21, 2009 agenda. Motion seconded by Councilmember Holmgren. Vote: Councilmember Deakin - aye, Councilmember Fridal - aye, Councilmember Holmgren - aye, and Councilmember Reese - aye. Motion approved.

3. Approval of Minutes - June 10, 2009, June 16, 2009, and June 30, 2009.

Mayor Weese asked if there were any changes to the minutes? No comments were made.

Motion by Councilmember Reese to approve the minutes of June 10, 2009, June 16, 2009, and June 30, 2009. Motion seconded by Councilmember Deakin. Vote: Councilmember Deakin - aye, Councilmember Fridal - aye, Councilmember Holmgren - aye, and Councilmember Reese - aye. Motion approved.

4. Introduction of guests

Mayor Weese welcomed a Boy Scout from Troop 900 who was visiting from Romania.

5. Department Report

- a. Scheduled Events for Tremonton City Days - Marc Christensen, Recreation Director
Director Christensen did not attend the meeting.

6. Common Consent:

- a. Ratification of signing Acknowledgment of Notice and Consent of Special Meeting for approving the UTOPIA

Manager Warnke informed the Council that the City had received notice from UTOPIA regarding a special Board Meeting to discuss the financial obligations of one of their service providers.

Motion by Councilmember Reese to acknowledge and consent the Special Meeting for approving the UTOPIA. Motion seconded by Councilmember Holmgren. Vote: Councilmember Deakin - aye, Councilmember Fridal - nay, Councilmember Holmgren - aye, and Councilmember Reese - aye. Motion approved by majority vote.

- b. Approval of a Streetlight Agreement between Tremonton City and Rocky Mountain Power

Mayor Weese informed the Council that unbeknownst to the contractor, Rocky Mountain Power will now require developers to install street lights in new subdivisions. Rocky Mountain Power is charging the City \$3,129 for lights in the new Holmgren Subdivision.

Councilmember Holmgren declared himself a conflict of interest and stepped down from the podium.

Contractors are required to dig trenches and install conduit for each light fixture. Rocky Mountain Power pulls the wire for the lights and installs the transformers and associated equipment. The City previously paid the monthly power bill, of \$8.00 per light, and the contractor paid for the light fixtures. Rocky Mountain Power will now charge the City for the lights and the equivalent of five years future use for each light instead of billing the contractor. The City will in turn either require reimbursement from each contractor for these charges or add these amounts onto the subdivision fees. A standard fiberglass light will cost approximately \$500 per light. The cost is higher if the developer requests a speciality type fixture other than the standard light.

Administrator Bench said the developers will be informed of these fees when they attend the Land Use Authority Board Meeting for preliminary subdivision approval.

Motion by Councilmember Reese to accept the Streetlight Agreement between Tremonton City and Rocky Mountain Power. Motion seconded by Councilmember Fridal. Vote: Councilmember Deakin - aye, Councilmember Fridal - aye, and Councilmember Reese - aye. Motion approved.

Councilmember Holmgren returned to the podium.

c. Approval of the June Warrant Register

Mayor Weese asked if there were any questions on the June Warrant Register? No comments were made.

Motion by Councilmember Reese to approve the June Warrant Register. Motion seconded by Councilmember Holmgren. Vote: Councilmember Deakin - aye, Councilmember Fridal - aye, Councilmember Holmgren - aye, and Councilmember Reese - aye. Motion approved.

d. Approval of the June Financial Statement

Mayor Weese asked if there were any questions on the June Financial Statement? No comments were made.

Motion by Councilmember Reese to approve the June Financial Statement. Motion seconded by Councilmember Holmgren. Vote: Councilmember Deakin - aye, Councilmember Fridal - aye, Councilmember Holmgren - aye, and Councilmember Reese - aye. Motion approved.

7. Request(s) to be on the agenda:

- a. Discussion and consideration of giving a written variance on distance for a Club License for Western Billiard - Don Anderson

Don Anderson, owner of Western Billiards, reminded the Council that he would like to change his current business license so he may serve liquor to nonmembers of his establishment. Mr. Anderson needs approval from the City before he can obtain a State License.

Mayor Weese read City Ordinance, Section 9-424. Proximity Limitations.

(1) “ No alcoholic beverage licensee, club or other establishment selling or vending alcoholic beverages shall be located within a radius of 650 feet of any public or private school, church, public library, public playground, park, unless the City Council finds after full investigation that compliance with the distance requirement would result in peculiar and exceptional practical difficulties or exceptional or undue hardships, in either of which events the Council may, after giving full consideration to the attending circumstances, following a public hearing in the City, authorize a variance from the distance requirement so as to relieve the difficulties or hardships, provided the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this part.”

Mayor Weese said a church currently exists across the street from the Western Billiards, however, Mr. Anderson’s establishment was in business prior to this ordinance and is considered Grand Fathered against the ordinance, however, now that he wants to make a change at his business he must apply for approval.

The Council asked Mr. Anderson why he wanted to change his exiting license? Mr. Anderson said his current business only allows for patrons with memberships to purchase liquor. He would like to serve drinks to patrons without requiring a membership.

Pastor Kenneth McCaulley from the Grace Bible Church, which is located across from the Western Billiards, read a statement protesting the issuance of a license to Mr. Anderson. Pastor McCaulley asked the Council to uphold the law and deny a variance.

The Council discussed the possibility of issuing a business license variance to Mr. Anderson. Councilmember Deakin said Mr. Anderson’s request is based on economics and not because of any hardship. Manager Warnke said the City in general established ordinances for the betterment of the community which includes a process to request variances. The City respects both sides of the issue and both parties should be allowed to go through the process. Manager Warnke suggested the Council obtain written statements from each party for the City to review and schedule a Public Hearing to allow for public input on the matter.

Motion by Councilmember Reese to allow due process in the matter of obtaining a variance on distance for a Club License for Western Billiards and consider a Public Hearing after the matter is investigated thoroughly by the City. Motion seconded by Councilmember Fridal. Vote: Councilmember Deakin - nay, Councilmember Fridal - aye, Councilmember Holmgren - aye, and Councilmember Reese - aye. Motion approved by majority vote.

Mayor Weese told Mr. Anderson that the City would contact him regarding the outcome of the review and that the City would post the Public Hearing. Mayor Weese asked Mr. Anderson and Pastor McCaulley to provide the City with written responses on this issue.

8. New Council Business:

- a. Discussion and consideration of approving Resolution 09-25 accepting a petition for annexation of certain real property under the provisions of Section 10-2-403 and 10-2-405, Utah Code Annotated, 1953, as amended - L.D.S. Church

Recorder Hess gave the Council a mylar plat map of the L.D.S. Church property.

Administrator Bench said this area consists of approximately 20 acres and is located at 1000 West 300 South. The area is currently used as a church farm and now the church would like to build a Stake House on the property.

Mayor Weese asked if there were any questions? No comments were made.

Motion by Councilmember Deakin to approve Resolution 09-25 accepting a petition for annexation of certain real property under the provisions of Section 10-2-403 and 10-2-405, Utah Code Annotated, 1953, as amended - L.D.S. Church. Motion seconded by Councilmember Reese. Vote: Councilmember Deakin - aye, Councilmember Fridal - aye, Councilmember Holmgren - aye, and Councilmember Reese - aye. Motion approved.

- b. Discussion and consideration of approving the bid for the Road Chip and Seal Project - Bid Opening July 21, 2009 at 10:00 a.m.

Director Fulgham informed the Council that the City held a bid opening for the chip/seal road project earlier today and received the following bids:

Intermountain Slurry Seal	\$291,600
Staker Parson	\$371,250
Advanced Paving Construction	\$418,500

Director Fulgham handed out copies of the bid results along with a map of the City streets that will be sealed. In addition to the chip/seal layer, a fog coating will be put on top to seal in the gravel chips. Director Fulgham said the projected streets to be sealed are an estimate and a few of the east/west side streets may not fit into the budgeted amount of \$301,000. The City had made an agreement to seal 2000 West two years after it was installed, which is now due. Director Fulgham has a Notice of Award for the Mayor to sign after the Council accepts and awards the bid.

Motion by Councilmember Deakin to award the bid for the Road Chip and Seal Project to Intermountain Slurry Seal with a bid amount of \$291,600 and authorize Mayor Weese to sign the Notice of Award. Motion seconded by Councilmember Reese. Vote: Councilmember Deakin - aye, Councilmember Fridal - aye, Councilmember Holmgren - aye, and Councilmember Reese - aye. Motion approved.

9. Comments:

a. Administration/City Manager Advise and Consent

1) Report on items that the City Manager is working on.

Manager Warnke said he is going over the City's Policies and Procedures and will bring his proposed adjustments to the Council at a later date.

Manager Warnke said he is also working with Department Heads on the next fiscal year's budget along with a Budget Document covering five years into the future.

Manager Warnke informed the Council that he had entered the City in the County Fair Parade which will be held Wednesday, August 26, 2009 at 5:00 p.m.

Manager Warnke informed the Council that the City has received a request from a company to purchase three to five of the City's old telephones. Manager Warnke asked the Council to consider the old phones as surplus property and have this item put on the August 4, 2009 Council Agenda.

2) Canvassing of Elections

- a) Primary Election - September 22, 2009 at 7:00 p.m.
- b) General Election - November 10, 2009 at 7:00 p.m.

Manager Warnke informed the Council that there will be canvassing of elections on September 22, 2009 and November 10, 2009 at 7:00 p.m.

Mayor Weese told the Council that the City will be holding a short meeting to canvas the votes at the Primary Election on September 15, 2009. The General Election will be held November 3, 2009. By law the City must wait three days and no more than 7 days after the Primary Election, and 7 days and no more than 14 days after the General Election to canvas votes. The Council will be needed on those days.

b. Council Reports

Councilmember Deakin thanked Manager Warnke for the format of his presentations to the Council.

Councilmember Deakin distributed handouts to the Council which contained miscellaneous information regarding Property Taxes. Councilmember Deakin said he and Manager Warnke had received communications on Property Tax issues from Tom Bennett and ULCT referencing a letter received from the Tax Commission. An issue had come up regarding the Proposed Certified Tax Rate which initially came from the Utah State Tax Commission at .003446. This is up from the current rate of .002744. This 26% increase brought about concerns at the County Office. An anomaly happened with House Bill 77 regarding Industrial Parks. Councilmember Deakin suggested the Council review this information.

Councilmember Fridal said he had recently traveled to Texas and came to realize how fortunate we are to live in this community. Tremonton is terrific and a beautiful place to live. We need to appreciate the beauty and opportunities we have here in Tremonton. We work with a great group of men and Manager Warnke is fitting nicely into his new position.

Councilmember Holmgren informed the Council that the vandalism to the sculpture at the Library has been repaired by sculpturer Val Lewis and should be returned to the Library on Friday, July 24, 2009.

Mayor Weese read the activities being held during Tremonton City Days:

July 23, 2009	Ogden Raptors Baseball Game in Ogden
July 24, 2009	Teen Dance sponsored by the Boys and Girls Club at Jeannie Stevens Park
July 25, 2009	5 K Run at 7:00 a.m.

Council Breakfast at Jeannie Steven's Park 8:00 a.m. to 10:00 a.m.

All day Activities at the Park

Concert on the stage at 8:15 p.m. - free to the public.

Fireworks put on by the City Fire Department at 10:00 p.m.

The Mayor informed the Council that the Chamber of Commerce will be honoring Public Works employees from Tremonton and Garland on July 28, 2009 at North Park at 12:00 noon and have asked for an R.S.V.P. from those invited.

10. Public comments: Comments limited to three minutes.

No public comments were made.

11. Adjournment

Motion by Councilmember Deakin to adjourn the meeting. Motion seconded by Councilmember Holmgren. Vote: Councilmember Deakin - aye, Councilmember Fridal - aye, Councilmember Holmgren - aye, and Councilmember Reese - aye. Motion approved. The meeting adjourned at 7:58 p.m.

The undersigned duly acting and appointed Recorder for Tremonton City Corporation hereby certifies that the foregoing is a true and correct copy of the minutes for the City Council Meeting held on the above referenced date. Minutes were taken by Shirley Colvin.

Dated this _____ day of _____, 2009.

Darlene S. Hess, City Recorder