

# **TOQUERVILLE CITY COUNCIL MINUTES**

**Work Mtg; 6:30 – Regular Work Mtg;**

**7PM - Public Hearing and Regular Mtg**

**Held November 12<sup>th</sup>, 2009, at City Offices, 212 Toquer Blvd.**

**Attending:** Mayor Darrin LeFevre; **Council Members:** Lynn Olds, Randy Scott, Paul Heideman, Daren Cottam, Mark Fahrenkamp; ATT. Heath Snow; Mike Vercimak, (Inspection/ Zoning); B.Gubler, Sewer Dept.; D. Gubler, Water Dept; P.C Members: Anita Lowe (Chair), Annette Kleinman; Mary Thayer (Neighbor Watch); Carol Pogue (Recorder); Pam Jarman (Treasurer); C. McNeil, D. Elison (Maintenance); DC Young (Web/Variance Brd); Brad Langston; Gary Lunt (Variance Brd); Doug Westbrook / Neal Glauser (RD & CT Holdings); Jennifer Harris (County Recycling); Arthur LeBaron, Hurricane Engineer; Curt Hutchings (Five-County AOG); Kameron Kershaw (Honnen Equip.).

**6:30PM – Mtg is called to order by Mayor Darrin LeFevre (waiting for the Water/Sewer Update), asked Arthur LeBaron (Hurricane City), here with Curt Hutchings (Five County), to review the importance of our Eastern Rural Planning Org. (RPO) Access Management Agreement and Resolution with UDOT.** Mr. LeBaron explained the Entities involved in forming this Eastern Washington County RPO are contributing funds – including Toquerville. In the western part of the County we have the Dixie Metropolitan Planning Org. (MPO) and because of the demographics, none of the RPO Cities are included – although the 2010 Census may change some of that. We meet together to talk about our transportation needs and we’re appreciative of our association with the Five-County Association of Governments (AOG); Curt Hutchings has spurred us along to meet certain goals; the UDOT Access Management Agreement goal is one of these to adopt by Resolution. Mayor LeFevre sits on the RPO Executive Council; Daren Cottam and myself sit on the Advisory (Technical) Committee, all working long and hard to be agreeable to all entities. Mayor LeFevre has asked for proposed Agreement to be reviewed again by City Council (copies distributed); going by paragraph; Mr. LeBaron said the parties involved in this Agreement are Hurricane, LaVerkin, Toquerville, Leeds, Washington County and UDOT (UT Department of Transportation). The purpose and intent is to stimulate free-flow of traffic, protecting interests of parties traveling the roadways of the RPO, adopting a Master Transportation Plan (MTP) and reviewed on a regular basis – as required by law. This Access Management Agreement is then adopted and inserted at the end of the MTP.

**Mr. LeBaron continued;** the Agreement states every new development or addition to a development that generates 100 or more trips during the morning or peak hours, or has significant impact to the transportation system is determined by their Engineer and an impact study. Mayor LeFevre stated our City does not currently have this requirement in our LMC (Land Management Code). Councilman Heideman asked where the “100 trips” came from? Mr. LeBaron related an industry standard publication “Trips Generation” from ITE (Institute of Traffic Engineers) is used to determine the development “trip generation letter” from their Engineer; this is evaluated on a case by case basis; if it is a phased subdivision, they should do this on entire project for impacts. Councilman Cottam stated costs would vary as to size of subdivision – larger is more detailed. A. LeBaron said the ITE does determine the threshold and category 1, 2 or 3; the City can set those standard requirements to ITE’s.

**Mayor LeFevre stated the Agreement with RPO asks us to join with minimum standards (as other Cities) in the LMC.** Mr. LeBaron added, to your City benefit, when large property developer comes in with access off SR-17 through Toquerville streets, they must do off-site improvements because of TOQ system impacts; it’s good for the City to know these impacts. The RPO is concerned (overall) as to how the project impacts State Hwy and other local Cities. Councilman Olds agreed how the impact of local Cities affects others; Hurricane’s new Highway will impact Toquerville in the next couple years. Councilman Cottam said the UDOT public hearings and comments during his attendance this past couple years, indicate they want to help the Cities. A. LeBaron said yes, and by adopting a Resolution, it puts in place a standard that a large project impacting the City and dealing with 100+ trips with peak hour traffic will show those impacts of the development. Mr. LeBaron continued The LMC revisions will be valuable when entering this RPO Agreement.

**Continuing;** the Agreement also notes the impacts of the large projects to other Cities who agree to cooperate to minimize the impact; an example would be a large scale development between TOQ and Leeds boundaries requiring second access, etc.

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**Part of the review process will include calling UDOT as a technical resource when directly impacting State Roads;** Mr LeBaron noted in Hurricane when this occurred they called UDOT early and made sure they signed off on access to State Hwy before giving further improvements. Continuing under “B”, if within ¼ mile of the Hwy and 100 or more trips at peak hours is “rule of thumb”; if (say) there would be 50 trucks entering and creating a safety issue – they may need a deceleration lane. Under “C”, with much larger development, say 500 trips at peak hours, anywhere in proximity of the City will affect the State Hwy. UDOT will also go to the City for discussion before approving any State Hwy access.

Mayor LeFevre told the Council this approval request is on the Regular Agenda and CC advised last month not to sign until some concerns about proposed “technical resources” were answered; Mr. LeBaron stated they do have various resources as traffic studies, and Engineers who will answer questions. Councilman Heideman remembered the (Agreement) language seemed restricted as to what the City might do. Mayor LeFevre stated that the LMC may have to be changed if we adopt this; perhaps the Attorney can advise. **ATT. Snow said he would advise we amend LMC; this will not stop today’s Resolution, but the LMC should be the place to state clearly these requirements placed for the developer, as a “traffic study”.** He felt one City concern was the UDOT involvement in requiring us to meet their standards outside of their State Rd; especially with doing more than necessary (outside of) our City standards. Mr. LeBaron stated the only jurisdiction UDOT has is their right-of-way, unless there is transportation improvement or Federal Aid money – this includes their standards. If you were a “mile” out, you could “exercise that dominion”; he added he had not experienced that from UDOT. Councilman Cottam said UDOT will give input when projects impact State roads; we are reminded of the large amount of highway through Toquerville; this is why we started the RPO for communities to make transportation better and adopt this to help us work together. Mr. LeBaron agreed this is the “spirit of the document”, UDOT intent is to make that intersection as safe as possible.

**ATT. Snow stated on pg 1, #2, the document does say that each Jurisdiction will adopt this Agreement as part of their TMP and Ordinances; I think we would need to amend the LMC,** and we have adopted the MTP; amending the language to assist and cooperate with neighboring Cities to minimize impacts. Councilman Olds stated perhaps we can amend with reference to this Resolution and keep it simple. Mayor LeFevre thanked Mr. LeBaron, asking if Curt Hutchings would like to comment; Mr Hutchings (Five County) said Arthur LeBaron had done a good job in this presentation.

**Mayor LeFevre returned to the Work Agenda, asking for Water Update and report on the Backhoe Repair (Honnen).** Doug Gubler said the information will be addressed by Kameron Kershaw (Honnen Equip.). Mayor LeFevre said he had discussed the options with Maintenance and others; he was interested in quotes of newer and used equipment. Kameron K. said one listing was a \$34,000 unit (trade-in and good condition); others listed are newer and high-end, some being rented to bring the cost down. Mayor stated he spoke to the Treasurer about monies, we have to make sure of the funding. Kameron K. said the John Deere program of leasing (loan purchase) allows a minimal monthly, quarterly, or for a bi-annual or annual of \$5,000 for two years with balloon at end. You could do Municipal financing which will help subsidize, and be allowed to pick your plan; even putting off payment for first year.

Mayor asked for comment; Councilman Olds said the Town must have a backhoe; Councilman Fahrenkamp asked if any General Funds could be used? Mayor LeFevre said maybe \$1,000 and some from Water and Streets Departments. Councilman Scott asked if there are any useable funds in the Departments that use the backhoe – water/sewer and roads? Mayor stated we really don’t have the money to buy one without taking from Water Fund. Councilman Cottam asked about doing this over time; Kameron K. said the interest is at 4.95% with flexible terms, this could minimize impact with balloon in four yrs and is obtainable. Mayor LeFevre felt that would help City get a better machine. Councilman Scott asked about a maintenance plan? Kameron said they could include a yearly service, depending on usage under 500 hrs. Some used machines are under warrantee and if you want to buy an extension, it goes out to five years maximum. No further questions or discussion was given.

**Water Department Update; Doug Gubler reported the TRE Water Tank** is empty and he will look at that on Monday to determine what they can do. We had the convicts clean around it; it is still leaking – is drained out. Mayor asked Doug how to contact the convicts clean-up crew; Doug told him to contact Jerome or Paul Herpin at the 5<sup>th</sup> Dist. Court; he has also used them at Hurricane.

**Mike Vercimak stated we should contact Interstate Rock about the responsibility on TRE Tank**, he feels they are not “off the hook” with warrantee; we have not accepted it and leaks have occurred since it was built. ATT. Snow asked if it was on Trail Ridge property? Any warranty they’ve made doesn’t necessarily pass on to the City for us to enforce, unless they gave us a warranty. Mike V. said it’s common for contractor to give developer some sort of warranty. Mayor LeFevre added we are taking the Bond to repair this; Mike V. continued: the \$92,000 bond money will not cover the obligation Trail Ridge has to the City; if Interstate has a warranty, we can save that money for other areas.

Councilman Scott asked – now that it’s drained, what’s the next step? Mayor LeFevre reported they have an Engineer’s estimate to put the Tank and System in order, coming to \$74,600, which includes the HDTP liner. Councilman Olds suggested we can get a lot done with splitting the costs; Mr. Orton (Rural Water Assoc.) will come down to give suggestions. Mayor LeFevre felt we should ask Interstate Rock about their obligation to the City. Councilman Cottam asked if they had tried to repair the leaks? Doug Gubler said it appeared to have been crack sealed – painted with a green (color) sealant on the inside but appears wet under the paint; the tank also needs an overflow completed. Mayor added that is a “daylight overflow” and chainlink fence; having asked ATT. Snow, the City can break up the bid process. ATT. Snow confirmed if one portion is over \$25,000, it needs the bid process.

**Doug Gubler reported a Secondary system leak in the TRE Subdivision today**; he also reported two mainline breaks recently, thanking Ashcreek Sewer for their help and equipment. Blaire Gubler (Sewer Dist.) said they did charge the City for gas charges for using for excavation on that expensive (half mil.cost) equipment. He also said they will hold their first Sewer Dist. Meeting on the 8<sup>th</sup>, 6PM – Board tour at 5PM for any who would like to attend. He asked if Council had any questions; Councilman Cottam asked (due to roads and water project) if Sewer lines were pretty far up on Rim View Dr.? Blaire said they have serviced much of all they can on Rim View; on Chaparell and Ashcreek Dr., they would like to be in on that line replacement for saving future work; not everyone has service up there yet. D. Cottam asked about the Engineering; Blaire G. said they would like the avenue left open and had struggled about putting sewer up there with costs, etc.; would like City to bring to Staff with Darwin. Councilman Cottam stated City was in the planning stages now for grant/loan proposal with Five County CDBG; they could pay for the laterals in next five years.

Blaire Gubler told of a Hurricane project with replacement of lines at same time as roads; Sewer does (at times) help with oil if needed, paying full cost for the line itself. D. Cottam asked if Impact Fees are included? Blaire G. answered, historically, when the line came up on Rim View, we asked them to “hook on” and pay monthly, whether they did hook on or not. A few residents have requested (under new Board) and been allowed to not hook on until the septic fails; which is usually what happens. Councilman Cottam explained the CDBG Grants are qualifying on “low to moderate income” for residents, and we’ll probably need your help when engineering gets involved. Blaire G. stated the sewer lines should have the “avenue” when that happens next to water lines.

**Mayor LeFevre asked for #3(c). Washington County Recycling Program Update – Jennifer Harris (Coordinator).** Jennifer reported the first year collections were over two billion pounds, far exceeding expectations. There were charts (distributed) showing the monthly commodity per pounds for 2008-09, peaking in July and then came the economic downturn. She explained the cost of \$.50 cents per month covering the operational cost on the trash bill. Our first check was quite small but increasing each month; distribution is based on the house count of each Entity; Toquerville will receive \$269.57. The City may select where the money will go for community projects, and check made with this designation noted. Jennifer also told of a crane scale purchase and charges will be made accordingly.

Mayor LeFevre told of residents having odors coming from “binnies” before they are emptied; Councilman Olds also said the size of the holes is a problem. Jennifer said the contamination is #1 problem; there even have been dead animals; education is key to successful re-cycling program. They are proposing the mini-binnies, sold in sets (\$27) or singles for home use and color coded as the big binnies, which makes for easy collection and transfer. Jennifer also told of work on a program with the Big Brothers/Big Sisters cooperation for clothing and small appliances – benefiting the Organization in the St George area; they would be working with individual sites.

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Jennifer reported requests for “curbside pick-up” at homes; it is happening in some areas of Washington County and the infrastructure is still in process. She also has a newsletter for answering questions and putting information out along with the website: wcs.w.org; presentations are made at schools and we can do this in the City. Any questions? Blaire asked if the cost savings to the landfill statistics can be publicized? Jennifer agreed to pursue that. Councilman Scott asked if they could put a holding shelf near the binnies drop? Jennifer will check on that; Anita Lowe suggested maybe the Scouts could help with a project of shelves.

Jennifer told of the “don’t waste Dixie” organization to promote anti-litter and encourages clean-up activities; Washington County has teamed up with the shooting range promoting family fun and clean-up on Mother’s Day retrieved 36,000 lbs of material. We have a waiver for clean-up charges at the solid waste dump; if filled out and approved at the City Office, they would be able to pay residential fees – two per City per quarter will be sent. Mayor LeFevre thanked J. Harris for all their work.

**Item #2. Neighborhood Watch Update – Mary Thayer (Coordinator);** Mary reported Chief Terscini attended the Watch Mtg tonight. There was a “drug house” taken out this past week. There will be a new schedule for 2010, five mtgs for City wide, allowing focus on the local area mtgs; the last mtg for 2009 will be on Dec. 10<sup>th</sup>, 6PM. Councilman Scott asked if report could continue to the CC on a monthly basis; Mayor LeFevre said yes.

**7:45 PM – Regular Mtg was convened; Pledge led by Mark Fahrenkamp; Invocation by Paul Heideman. Mayor asked for any statements of belief; none were given; there were no declared conflicts of interest. Paul Heideman MOTIONed to convene Public Hearing; Randy Scott seconded; all approved.**

**Item #1 – Review Proposed Capital Improvements List, a required Legal Public Hrg for Proposed Projects.** The City will accept verbal and written proposals on Monday, Nov. 16<sup>th</sup>, PM at City Offices. Mayor LeFevre reported the Spectrum had not published within our timeframe and City will hold the Mtg on Monday to fill those requirements. Councilman Cottam will give us information on the proposed Capital Improvements List. Daren Cottam stated this mandatory Mtg is part of the Community Development Block Grant (CDBG) process for funding applications for three projects. The One Year Plan is the City Water Improvement Project; CDBG assessed this at \$200,000 with a maximum Grant of \$150,000; Project total estimate is \$1.6 mil. This Project would cover Westfield Road and all of the unimproved streets in the downtown area needing water lines and curb/gutter. On Toquerville “Heights”, we’re looking at Rim View Dr. with water lines also. The two to five year plan includes second Phase of the Water/Roads Project and a new Community Building; we also need a new backhoe and that can go on our list. The Five County Board is excited to help Toquerville, who hasn’t received any CDBG funds for a number of years; we need to stay on the Plan. Ashcreek Sewer is willing to help when water lines go in; we’re looking at CIB (Community Impact Board) also for funds; Councilman Cottam feels confident CDBG will help with costs for several years on this Plan with worthy Projects; City Administration and Council would like to hear your comments on Monday at City Office, 5PM.

**Annette Kleinman questioned the qualifications of input, and when suggestions can be put on the List;** Mayor added that CDBG requirements for low to moderate income surveys play a part in List selections, explaining only a portion of Westfield Rd qualified due to low density of homes or undeveloped areas. Councilman Cottam stated the City would ask to use the CDBG funds for engineering costs, and if used for construction, the wages (Davis-Bacon Federal requirements) would be too costly with this “labor intensive” work. Engineering and professional services are exempt; and the \$150,000 would pay for engineering and design work. Mayor LeFevre and Councilman Cottam attended a CIB Mtg last week; they also have low interest loan money for Phase 1, Streets proposal. Different Cities and Districts in the County met with requests on “A” or “B” Lists; if there is an emergency (A List), the CIB Funds are there during the year. An example was for emergency request by the City of Gunlock doing hand-chlorination due to a breakdown of their chlorinator.

**Annette Kleinman asked if this Public Hrg is necessary for future lists, not for next year? Councilman Cottam answered yes;** if we don’t get the Grant, City will need to begin our Project (prioritized); the \$150,000 Grant will be a big savings of funds. Next year we would move the Community Center on the one-year plan for funding, then put another suggestion on the Two to Five Year Plan; two to three projects can go on the One-Year Plan. Mayor LeFevre added CIB funds are of great benefit, and this building was one of those projects funded.

**Item #2 – Review of Application for Preliminary Plat Approval, RD&CT Holdings; Doug Westbrook** showed the area as the Toquerville West Church site of five acres, south of Sunset and Mesa View which dead-ends at the site. Mayor LeFevre asked ATT. Snow to tell CC of the Deferral Agreement; ATT. Snow stated there were questions at the Planning Commission (PC) review, and Staff decision was to have the Subdivision Ordinance process proceed on a traditional subdivision, not a simple subdivision. Anita Lowe (PC Chair) said the application submitted stated a simple subdivision; definition of a “simple” subdivision is taking one and making two; a conventional subdivision is taking one and making more than two. ATT. Snow stated in the Simple Subdivision Ordinance, you can seek simple or traditional; the simple is a little more “streamlined” but you give up further subdivisions for a time period; we should ask the applicant what type of subdivision they are seeking. I believe they were not in attendance with the PC when this discussion happened. ATT. Snow said the purpose of this subdivision application was for a way to subdivide and donate to the LDS Church; the way to accomplish this was to defer the requirements with a recorded Deferral Agreement, given to Staff and Mike Vercimak (Staff Admin.) gave us comment back, as well as Mr. Westbrook’s Attorney requesting for this to be a second amendment to the Development Agreement; we looked at this closely and feel to keep it in the form as prepared.

**Anita Lowe stated one comment under “Agreement”, pg 2, No.1. Deferral of Design and Installation of Public Improvements;** (wording) “simple” subdivision plat needs to say to proposed “final” subdivision plat. ATT. Snow agreed; Mayor LeFevre added realizing the preliminary plat does not need to have ???..... Mike Vercimak stated the PC has approved the Preliminary Plat as to form and process; what you see here is OK with Planning Commission. Mayor LeFevre asked for any further comments; Mr. Westbrook stated that Sunrise Engineering was fine with their review of Plat. Mayor said the CC has a copy of that letter.

**Councilman Scott stated his concern of major work on roads for a Church building on that site.** Anita Lowe said this donation to the LDS Church doesn’t necessarily mean there will be a building on that site; they may sell it for proceeds to improve other sites; any road issues are “mute” unless and if they decide to build. Mayor asked if the Deferral Agreement addresses possible sale for gain? ATT. Snow answered no, whenever a permit is pulled for building, it would “trigger” the requirements.

**Blaire Gubler (Sewer Dept) asked for this to come to the Sewer Board for review before this Preliminary Approval;** we’ll meet on the 8<sup>th</sup> of December, or at the end of January. Anita Lowe also commented on the requirement for property notice on entire parcel (651+ acres), larger than those noticed at PC Public Hrg.; on pg 8, D-13 of LMC, it states ...shall be mailed .....to those property owners of record in Washington County, within 300 ft of the subdivision” – question is this intended to be noticed to entire subdivision? ATT. Snow said “it is (speaking of multiple parcels) the Parcel being subdivided”. Doug Westbrook stated in 31 years of reports, the 300 ft is of that part (parcel) from where it is being split off. ATT. Snow asked is the parent parcel for this 5 acre parcel, the 650+ acres or is it smaller? Doug W. said in the 1710 acres, there is about 6 different numbers; Anita L. added the parcel which the 5 acres is coming out of is 651.3 acres for entire parcel; Doug W. said the 5 acres is the proposed subdivision. Mayor LeFevre agreed this is his experience as well, the parcel being split off is the notified piece, not affecting those owners three miles away. Doug W. added this (5 acres) is the only subdivision that exists. Mayor LeFevre asks ATT. Snow for his final interpretation of the intent of the Ordinance as interpreted by Anita Lowe to be the “parent parcel” vs the proposed subdivision? ATT. Snow asked Anita to complete her comments while he again reviews that portion.

**Anita Lowe read requirements for the City Council second notification for the 300 ft boundary of property owners;** Mayor also noted the posting of legal notice requirement on the subject property. Due to City not posting for ten days prior to this Public Hearing, we will post this notice and do it again as required, hold a special meeting for Public Hrg with at least three Council Members in attendance; ratifying this at next CC Regular Mtg. Mike Vercimak noted the conflict of meeting schedule with PC going into “Final Subdivision Approval” next week for that recommendation.

ATT. Snow gave his opinion to Council, saying normally he would agree with Mike V. concerns, and with Doug W. comments. The problem is a one-lot subdivision with subdivided land of five acres from a (large) parent parcel. If that parcel were to be subdivided into (say) 20 lots, it would be easy to say the parent parcel notification would be done; but the standard in most Municipalities would use the 5 acres as the subdivision and ATT. Snow would be “comfortable” arguing that point.

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Doug Westbrook asked if the Notice would be given again with the Final Approval? He was told this is not required. Mayor LeFevre asked if we should then reconvene (Pub.Hrg) in ten days after re-noticing? ATT. Snow said the ORD. does not state the time or spacing between Preliminary and Final; if you put the "Preliminary Plat" Approval on next Dec. 10<sup>th</sup> CC Mtg, then the second Item could be the "Final Plat" on the same night. Anita L. stated if they convened a "special mtg" with three PC Members prior to the CC Mtg, they could recommend with their approval. ATT. Snow opinion is there is nothing prohibiting PC recommending "Final Plat" before the CC is given Preliminary Plat; PC is a recommendation only; but will help us accomplish this. He also believes the Deferral Agreement can be agreed upon by the PC, although it is not really within their power for contracts, etc.; this will give the PC the courtesy of that review.

Mike Vercimak also stated it is pertinent to determine tonight whether this is a "simple" or "regular" subdivision; if this is left as "simple", they are precluded from subdividing within five (5) years. Neal Glauser stated they do not want "simple"; Anita Lowe said this should be changed and initialed by owners; Owners stated the application does not say "simple", but intends a "one-lot" subdivision. Mayor asked for further comments; none given.

**Paul Heideman MOTIONed to go out of Public Hearing; Daren Cottam 2<sup>nd</sup> the Motion; all in favor? Yes, unanimously.**

**8:55 – Mayor LeFevre Reconvened Regular Mtg and called for review of Consent Agenda;** Minutes for Oct. 8<sup>th</sup>, Regular and Executive Sessions; City Expenditures for October, '09. Mayor asked for comments or questions; Councilman Scott had question for expenditure of \$9,000 on Auditor; Carol Pogue said this was the annual Fee for the City Audit going on. Randy S. also asked about charges for Greentree; Carol answered this is annual support fee for Utility Meter Reader; Mayor added this includes software updates, etc. Councilman Cottam asked about the Rocky Mountain power charges to Park; Carol P. said this is an annual fee for big lights on field; user must also pay \$15/hr. **Daren Cottam MOTIONed to approve the Consent Agenda; Mark Fahrenkamp 2<sup>nd</sup>, all in favor? Yes, unanimously.**

**Item B. Unfinished Business; #1. Review and possible approval for Amending LMC for Flaglot Specifications,** ORD.2009.12; Mayor asked for Mike Vercimak comments. Mike V. noted concerns for emergency turn-arounds for fire trucks, width and type of travel surface; he referred to pg 8-26, Item 3.d. adding verbiage: ..."access portion shall be 30 ft wide and shall have a travel surface not less than 26 ft. This shall be an all-weather surface defined by the National Fire Code; the access shall also provide an emergency turn-around as described by the Nat. Fire Code." Mayor asked if there were any other comments. Councilman Fahrenkamp felt the questions we asked last month were answered and well-written. **Daren Cottam MOTIONed to approve ORD.2009.12, Amending LMC as stated; seconded by Paul Heideman; all in favor? Yes, unanimously.**

**Item B.#2; Review and possible approval of Eastern Washington County Rural Planning RPO (Rural Planning Org.), Access Management Agreement; ORD.,2009.09.** Mayor reminded of earlier discussion from Mr. LeBaron on this Item and asked for comments. Councilman Fahrenkamp noted the discussion might be whether they would amend the LMC to include these requirements. Mike Vercimak asked ATT. Snow if the statutes don't already include compliance; ATT. Snow added it doesn't refer specifically to traffic impact studies, but does include compliance. Mike V. said (reading from statute): "any and all documents, studies and reports will indicate compliance of all applicable state and federal statutes." ATT. Snow said this would not be State or Federal statute; Mayor asked if UDOT has requirement? ATT. Snow answered not a State statute; would be simple to add sentence of TOQ requiring the traffic study report of 100 trips at peak times, etc.; the Agreement asks that each Jurisdiction will adopt this Agreement as part of their Transportation Master Plan (TMP) and Ordinances. We can amend the TMP adding this Exhibit, putting a one-line condition in the Subdivision Ordinance of LMC to supply the Traffic Impact Study with proposed Subdivision generating more than 100 trips per day, etc., reviewed by City Engineer.

Councilman Cottam stated this approval tonight is for the RPO Agreement approval, not for LMC Amendment? Mayor said correct; **Daren Cottam MOTIONed to approve the RPO Access Management Agreement; 2<sup>nd</sup> by Paul Heideman; no further comments were given and all approved unanimously.**

#3. Eagle Scout not in attendance; Mayor instructed this item not return to Agenda until Scout makes contact.

**#4. Review and possible approval for Preliminary Plat Application of TOQ West Church Site** (5 acres near Sunset), Subdivision by RD&CT Holdings, Doug Westbrook and Neal Glauser. Mayor asked ATT. Snow for verbiage on action; ATT. Snow said you would “take no action tonight, instruct **Staff to set Public Hrg for Preliminary Plat Approval (properly noticed and posted) of proposed Subdivision for Dec. CC Mtg. Immediately afterwards, set action item for Final Plat Approval; Staff is to have PC attend this CC Mtg to make Recommendation of Final Plat. Randy Scott MOTIONed to approve as stated; 2<sup>nd</sup> by Paul Heideman; any further comment? It was stated PC would meet next week for review of Final Plat, applicants will attend; ATT. Snow said the application form needs to be submitted for Final Plat of Subdivision and labels for Dec. Public Hearing from applicant need to come to City Office; the sign also needs to be posted to property. Mayor stated we have Motion and 2<sup>nd</sup>, do we have Council all in favor? Yes, unanimously.**

**C. New Business; Item #2, Review of possible expenditure for Backhoe (range-\$25-70,000) ;** Delos Elison (Msint. Sup.) reported back on assignment to search for possible backhoe replacement. Delos E. stated the old machine is in repair and consideration is for fixing at \$12,000; or replacing (after a \$3,000 break down fee) with another used machine and \$1,000 trade-in; or possible lease program on new equipment. CC has a review of several models in packets tonight. For next month water leaks, etc., LaVerkin will help us while we are without equipment. Mayor LeFevre asks if Council will support a lease, or replace; Councilman Cottam said there are funds in the Water Dept and we could get low interest on lease/purchase. Mayor stated he would like to hold on to the monies for possible CIB Grant applications if they can get a low interest and payoff over a few years. Councilman Heideman asked how much is in the Water Fund? Answered about \$500,000; Paul H. said we could reduce that by \$34,000 and it not be too big an effect. Councilman Olds asked if this requires a bid request? ATT. Snow said we are buying, not procuring services. Lynn O. also asked if John Deere runs an interest free program?

**Representative from Honnen Equipment (Kameron Kershaw)** said (not speaking for Wheeler or Century) there are rarely any zero interest programs; most manufacturers are driving down costs for Municipalities by 20% to get buyer. CC question is whether they buy or lease/purchase; Mr. Kershaw said they had a J. Deere Program for one-year program out for \$7,000 per year and 300 hours – we covered major service. Discussion continued on the budget possibilities of purchase over 2-3 years, and the warrantee impact to maintenance. Mr. Kershaw stated the newer units still carry some warrantee and you may extend those when in force, and not when expired. He chose some units that have that, for their review; Councilman Cottam stated his feelings of looking at newer units with warrantee and possible lease options. Mr. Kershaw said the only disadvantage to small Towns is that any time in the future, the plan can be eliminated; ATT. Snow asked if they can set up a payoff for five years on a new unit at 4.95% interest? Mr. Kershaw said yes, above \$50,000, requiring option be taken in five yrs. Councilman Cottam said if we took a lease agreement for a new backhoe every year at \$7,000 and they discontinue this program in two yrs, we’re in the same boat as now. Mr. K. stated the way this one-year works is turning it back in annually with 300 hours (J. Deere); if hrs are exceeded, there are overage charges (Santa Clara paid \$12/hr). Mayor LeFevre asked Maintenance Dept to get that information for next month and we’ll make the decision; contracting with LaVerkin until then. Mr. Kershaw said your backhoe is in our shop on blocks and we need direction on that; current situation is SLC will pay \$2,000 for parts; I put \$1,000 trade-in on our quote as it will cost us \$1,000 to get it moved up there. You can piece it back together but it won’t have front-whl drive; the pump is also on the way out at another \$7-8,000; we’re in about \$3,000 and our quotes are including the costs; if you want to walk away, you can offset the bill. He added there are backhoes out there and if City wants a new backhoe with warrantee and willing to spend \$30-40,000, we can find that. Mayor LeFevre said we’ll look at quotes / proposals and let you know next week; will have those who use the machines make judgment. Doug Gubler thanked Mr. Kershaw for spending time and giving information.

**Item #1. Election Review and possible approval of Canvass Report; Carol Pogue (Recorder)** stated the Canvass tabulation of returns from the Election Judges is in the Packet. The number of votes in Poll Book was 321; registered voters is 785; not bad turnout for Municipal Election. The results declared: Mayoral: Darrin LeFevre – 231, Terry Watson – 98; Council Members: Brig Darger – 159, Mark Fahrenkamp – 175, Brad Langston – 166; the fourth candidate, Todd Crappa, was declared “ineligible” by the County and is not included on this tabulation. There were 8 Provisional Ballots, 3 more declined; only two absentee ballots were not returned and they would not have affected the outcome of the Election.

We were delayed with results of the Provisional ballots being notified of those challenged; they were unresolved and the results remained the top candidates were winners. We congratulate Mayor LeFevre and Councilman Fahrenkamp for a “job well done”; Brad Langston has left this meeting but we also congratulate him. City Recorder asks the Canvass Committee (City Council) to accept the Canvass Report as stated. **Lynn Olds MOTIONED to accept Canvass Report and accept Judges payment of \$100 to Barbara Watkins, Dawn Everett, and Lauree Cottam; Roll Call: Paul Heideman – Yes; Randy Scott – Yes; Lynn Olds – Yes; Daren Cottam – Yes; Mark Fahrenkamp – Yes; unanimously affirmed.**

**Mayor LeFevre announced the Newly Elected Officials Training (ULCT) will be held in Cedar City on Jan. 9<sup>th</sup>** (Saturday), Cedar City Hall; beginning at 8:00 AM until approximately 1:30 PM; City will pay the \$40 Fee which includes the current Powers & Duties Book for all attending. This is also a great “brush-up” for Council; Carol will get the forms to Council Members.

**Item #3. Review and possible approval of Amendment to Administration & Public Works Fee Schedule, ORD.2009.13. Implementation of Contract entered into by TOQ City, Solid Waste District, and Allied Waste (now Republic Waste) for Residential Waste Fee Schedule for Jan. 1, 2010 through Dec. 31.2019.** Mayor LeFevre noted the copy is in your packets; this \$10.50 per month will be changed to \$10.60 and they recommend our increase for administrative fee be increased as well. ATT. Snow stated **Motion should approve the Ordinance including the additional \$.15 cents requirement every two years above the \$.10 cents Solid Waste Fee Scheduled increase, Para. #7. Para. #9 will include penalty of late fee charged after 20<sup>th</sup> day of each billing month as included in the City Administrative & Public Works Fee Schedule. Randy Scott MOTIONED to approve this as stated; Roll Call: Paul Heideman – Yes; Randy Scott – Yes; Lynn Olds – Yes; Daren Cottam – Yes; Mark Fahrenkamp – Yes; unanimously affirmed.**

**Mayor LeFevre – Request for Agenda Items to December 10<sup>th</sup>, 2009;** Anita Lowe asked to move the Work Mtg back to 6PM and Public Hrg to 7PM, public has had to wait for the last two hearings.

**Mayor LeFevre returned to the Work Mtg Agenda and #3(a). Fire District Update – None given;**

**#3(b) CDBG – Councilman Cottam reported the Grant Application must be done by Dec. 4<sup>th</sup>**, the Survey also completed in 3 areas of the community – filled out by residents (80% complete). The street improvements are for Hillside, Cotton Gin, Old Church, Center St., Westfield Rd, and Toquer Estates (Rim View). We’re asking for \$150,000 for Engineering design costs. Councilman Fahrenkamp commented there are also property line issues to clean-up. Randy S. has a sister who will help with survey distribution in his area; we will have these prepared for each area. Resident is not named, map shows each home and area of improvement to reach, forms are left with resident explaining the survey is being used for Grant application designated by income levels for the area; CDBG said to ask for honesty of income and amount living in the home from those surveyed; they will seal it. These are sent to the State for qualification; then returned to the County for final qualification. D. Cottam will deliver and needs completion by the end of next week, before Thanksgiving.

**Mayor LeFevre asked ATT. Snow about an Encroachment Permit request** for the Jeppson property on Westfield and Ashcreek Dr. (northwest corner back lot); paying a \$22,000 Encroachment Fee with a possible \$6,000 staying in the City. Are we able to give back more than the Ordinance requires, due to the special circumstance of removing a smaller part of the asphalt? ATT. Snow said the Ord. requires retention for asphalt repair and you must be careful about waiving the fee and setting a future precedent. Councilman Olds said much of what he’s doing is not coming back to the City – a new water / sewer line trenching down the side. Mike V. said you calculate what is being disturbed in the right-of-way, the \$3 fee is for asphalt rehabilitation; we can measure those patches at \$3 per sf and retain just for that amount; Mayor LeFevre agreed. We did not have that on the Agenda this month; place this “waiver for partial fee on encroachment permits” for next month.

**Councilman Olds asked if there was a way to have a standby fee lowered on water Meter charges from the City for non-use;** he believes for those who never have need, the City could charge a small “acknowledgement” fee to show they are on record for future use. ATT. Snow said it can be adopted (as Virgin has done); he will send an electronic copy of this Ordinance for City review for next month’s Agenda.

**Work Mtg Item #3(d); Nuisance Violations.** Mayor LeFevre has issue with the lack of ability for enforcement of violations; he would like to get the County involved. Carol Pogue said the most calls for violation comes from loose dogs, which have to be a danger or “aggressive” for the County to respond. Paul Heideman suggested we contract with Hurricane Doc Catcher. Mayor added the problem is not having a Prosecuting Attorney for going forward with citations; Sheriff told us he could present to Council on the possibility of having a court system set up for the City. Paul Heideman asked is the question of more problems with dogs, or crime and vandalism? Dogs is the major problem; Paul added then it’s a priority of a dog catcher more than a Sheriff. Mayor will check with Hurricane; Councilman Cottam said we were too far away (in the past) for Hurricane; perhaps we can work something out with LaVerkin.

There is a question on spending money after City sends warning letters, then collecting fees of abatement, etc. Mayor LeFevre said it comes to a point (after letters) when we must go (to citation); Councilman Scott added we need to go to that next step. Mayor said some say a nuisance is one thing to one resident and another to the next; there are challenges to make ALL comply. Mayor Powell sent the letters and then reached a point when he could not go farther; and that’s when (after violation and court) the abatement and repayment may take two years. Councilman Heideman said the letters may not be futile, at least you have that record.

Anita Lowe has concern for **large storage units being delivered to properties in the City**, some are long term and larger than what’s required for shed permits; Mayor said Staff could have Wayne Pope inspect those for compliance or if permanent structure. NOTE: Bldg Inspector reported no Bldg Codes on temporary structure.

**E. Mayor Lefevre asked for Department Reports:**

1. **Economic Development / Water** – Lynn Olds had nothing to report;
2. Cemetery / Park / Maintenance – Randy Scott: nothing further to report.
3. **Culture & Recreation** – **Paul Heideman reported the Christmas Program** will be 7PM, Sat. on the Town Hall Lawn. Revenue on Cultural Budget is not on report this month; Carol will let Pam Know.
4. **Streets** – **Daren Cottam reported RPO next Wed. at 3PM with UDOT Projects** and prioritizations; he is trying to move the Westfield and Toquer Blvd widening priority up from #27 on their list. There is voting to be done and will be copied to the Council. The “rumble” strips have been installed due to public comment; and the widening can be voted on and moved up.
5. **Subdivisions** – Mark Fahrenkamp had nothing to report; Mayor added the TRE clean-up of weeds can be coordinated with Office; Doug Gubler had Tank clean-up done with donated time.
6. **Planning / Zoning / Staff** – **Anita Lowe reported (3) items on PC Agenda: the Prelim Plat with Church Site; the Flaglot Specifications; and Lava Heights Expansion.** The expansion of Lava Hts on 650 Springs Dr., was requested on previous CUP, which had expired. PC gave them a list of (14) conditions (Oct. PC Mtg) to be CUP compliant, including (brief description): Detailed Construction Plans, reviewed by Certified Reviewer; Consolidate existing parcels (AG zoning); Engineer Estimate and Completion Bond; Bldg Occupancy Max at 48; complete Ashcreek Sewer District Agreement; Easement for Utility and private drives; State and Local License requirements; TOQ Inspection rights and notice to owners; Reclamation to hillside; CUP not enlarged without PC approval; PC annual review; Easement access recorded; Hillside Restoration approved after completion. (Note: New CUP Issued Nov. 17<sup>th</sup>, 2009)

Councilman Fahrenkamp questioned the need for PC being on Work Mtg and then staying until Regular Mtg for recommendations and then Department Reports; Anita said she didn’t mind staying until the end of Mtg. Mayor instructed Carol to keep five or six items on Work Mtg – Sewer & Water Update; Staff and Zoning Update; and Review of Agenda Business. **Anita L. suggests the PC Minutes be sent by E-Mail to Council for review before their next Mtg (helping with information transfer); Council agreed.**

7. **Mayor LeFevre reported the Census Mtg is coming November 19<sup>th</sup>, Wed., 1:00 to 3:30PM;** Council is invited and they will be reviewing the needs for workers, taking questions, etc.. Mayor also reported he and Lynn Olds (Water Dept), would be meeting with the Water Conservative District (Ron Thompson and Barbara Hielje). This discussion is a review of final Addendum to the Pooling Agreement with TOQ Water Shares and expected costs with the District.

**10:15 PM - Mayor LeFevre requested an Executive Session for discussion of pending litigation; Paul Heideman MOTIONed to convene Executive Session; seconded by Randy Scott; all in favor? Yes, unanimously.**

The portion of Minutes for Executive Session in this Council Mtg will be transcribed by Recorder, Carol Pogue and given to City Council Members for review and approval at the next Council Mtg on December 10<sup>th</sup>, 2009.

**10:30 – Regular Mtg was reconvened and MOTION for Adjournment was made by Randy Scott; seconded by Paul Heideman; all agreed and Mayor LeFevre closed the City Council Meeting.**

Minutes of the November 12<sup>th</sup>, 2009 Toquerville City Council Work, and Regular Meetings, and Executive Session will be presented for review to CC Members; approval will be made in the December 10<sup>th</sup>, 2009 City Council Meeting:

Approved: \_\_\_\_\_ Dated: \_\_\_\_\_  
M. Darrin LeFevre, Mayor

Attested: \_\_\_\_\_  
Recorded and Typed by Carol Pogue, City Recorder