

TOQUERVILLE CITY COUNCIL MINUTES

6PM - Work Mtg; 7PM – Regular Mtg
Held APRIL 9TH, 2009, at City Offices, 212 Toquer Blvd.

Attending: Mayor Ken Powell (excused); **Council Members:** Lynn Olds (Mayor Pro-Tem), Randy Scott, Darrin LeFevre, Paul Heideman, Daren Cottam; ATT. Heath Snow; Mike Vercimak, (Inspection/Planning/Zoning); D. Gubler & B.Gubler (Water & Sewer Depts); Carol Pogue (Recorder); DC Young (Brd of Adj./Website); ATT. Bill Ronnow.

6:05PM – Work Meeting is called to order by Mayor Pro-Tem, Lynn Olds. Lynn O. explained the Agenda will be conducted as follows: There will be updates from Planning / Zoning; Water / Sewer Department updates and Mike Vercimak; we'll then call an Executive Session to hear from ATT. Bill Ronnow. The public in attendance will be dismissed for this (Legal Issues) Session; they have the option to return afterwards to hear the rest of Regular Mtg and final Department Reports.

Mayor Pro-Tem Olds asked for the Water Dept to explain the issue of correcting the contamination of culinary cross connections that have occurred this spring when irrigation was started up. Doug Gubler explained how Lynn O. and he were called out to help a resident (who was unable find the problem) with an unsafe culinary condition being pumped into the home. Doug told how this illegal cross-connection (bringing irrigation and culinary through the same line) is an illegal process from State Plumbing Codes. We've had other problems in the past and have published information before; we'll get some current paperwork for the public to read today. Previously, some landowners would use the culinary (installing valves) for watering when the pressure was off for the irrigation; when the pressure comes from irrigation lines in the spring, they backflow into the culinary system right into the home. NOTE: The law protects the entire City system from this possible water contamination with one cross connection.

Doug G. answered the question of “how did this happen”; stating a previous owner had tied the lines in with a valve on the meter. People sometimes do not shut the valve off and usually the meter will register a large amount of usage from culinary which alerts the City. Paul Heideman said he thought that was a (legal) thing, put in at the same time as the irrigation system. Lynn O. explained some residents watering during the winter have had these valves put in, fail to turn them off and when pressure hits from irrigation, it force-feeds back through (to the house).

Doug related how this call for contamination (odor, etc.) came in and we went out to check water from the main (line) which was a long way from the home. We ran the water for some time and never detected any “residual” (irrigation), so I assumed these older people were just not using enough water to clear the lines; chlorine registered OK as well. Then went to the City again with a sample and Lynn and I met to find out they had a personal line – it was not a City problem. Lynn O. said he and Doug found the valve and had to shut irrigation down in one section until owner can fix the problem; then flushed all the lines in the house to clear out the bad water. Doug added we'll give time to fix the problem before we have to shut it down.

Annette Kleinman asked if they can still use that device for watering? Lynn and Doug explained it can be done legally with space and physical break between lines, etc. – not touching; Doug will get the information for the residents.

Blaire Gubler (Sewer Dept) reported they will be starting the new system upgrade in LaVerkin Creek on Monday; we're extending the pipe from where it was and down to the river. Lynn O. asked if Ashcreek Sewer could discuss the Leeds service annexation area for requirements; Blaire responded they had talked and if Leeds gets their grant money to put their system in, we will make sure their lines are big enough in their original installation to service things that will only run through Leeds. Whether the Board decides to put money into doing that, we take things into account in different areas. Paul Heideman (Sewer Board) said they did talk about that today in meeting with Washington Conservancy District regarding Leeds restricted water.

Mayor Pro-Tem Olds asked Mike Vercimak to review his concerns now before Exec. Session. Mike V. said he would like to talk a little about TRE; after CC last week, we've put together a “punch list” with those items that are complete and those not complete. Interstate Rock was working on that list until the FDIC “grabbed the money out of the Bank – and Interstate did quit work.

CC Mtg Minutes, 4-9-09 (Cont.)

Mike V. continued, I think what I would do is get Interstate to get the tank up until we feel good about it, turn the water on and put Casey Craig on notice we'll sell building permits. When that happens, it will start the one-year warrantee period; we can keep the money in the event the money is not required to sustain the water system and has satisfied the bonding requirements; then we can use the money (\$98,000) for park improvements or fence the tank, etc.. Lynn O. added, what is in that first Phase. Mike stated if we use the money now, City may find we need it during warrantee; Lynn O. said that also was his concern; we need to "hang tight". Mike said we know the Subdivision isn't 100%, but as long as we get that water tank compliant and meet specifications; Randy Scott asked who technically owns that? Mike responded he thought Trail Ridge Estates is still owner; we haven't accepted on a temporary or final basis.

ATT. Snow responded the Plat recording contained the improvements in the Phase including the Tank; if we accept the improvements and start the warrantee period, we accept the dedication to the Town. Lynn O. stated the Staff had heard there was negotiating going on with Pulaski Bank (owner of loan) and TRE owner, Casey Craig; Carol P. confirmed that was the Office understanding. ATT. Snow related that the FDIC and a private group called Kingston were going about the County approaching borrowers on the loans to negotiate some type of "going forward" – as Casey Craig - buying out the loan or arranging to pay and bringing current arrangements.

Mike V. asked if ATT. Snow opinion was that - because the City allowed this to be recorded, is the time of recording the time we accept? ATT. Snow answered acceptance occurs when the recording has dedication language in it and we accept it by inspecting improvements and start warrantee period. Mike V. said he knew of instances that improvements don't have to be in and you may record the plat if they bond for it. ATT. Snow said because you have the bond in place; Mike added there is a "hole" in that line of thinking – what is the "trigger"? Lynn O. said it would have to be at the inspection if they bonded for it, done with improvements and warrantee period should start with our acceptance.

Mike V. compared this with the Dixie springs in Hurricane having been recorded for 30 yrs before a "shovel of dirt was turned there". ATT. Snow explained that the City needs (under this recorded part of the plat) to get the tank working with funds from the bond in our possession; we can get a letter to TRE (C. Craig) saying we accept those improvements and start the warrantee period. If there's anything needing to be fixed during warrantee period, the bond is in place.

ATT. Ronnow (previous City ATT.) asked if he (TRE) had not posted that bond under the securities section of the LMC? ATT. Snow said that was done after ATT. Ronnow had left; there is an Agreement allowing for inspection; we should look at that. Mike V. said he believed they were going to put in the improvements prior to recording, then TRE wanted to sell lots; Mike also gave ATT. Snow a copy of the "punch-list" for TRE in Jan., '08.

Lynn O. asked what Mike V. suggested and whether they should review the Agreement; Mike V. said City should call Sunrise Engr, as chief inspectors to look at the Tank. ATT. Snow said City recently looked at the Agreement and concluded TRE was in default and made written request from Pulaski Bank (holding the funds); Casey Craig did not oppose and acknowledged the default. We're reviewing the "purpose for the bond" again – which was not a true "completion bond", rather posted under provision of "restoration bond" being they were far into the process. ATT. Ronnow added he thought both those provisions fall under "restoration and completion" giving City control, apart from recording and based on inspection and acceptance.

Mike V. asked if we should talk to Casey Craig? ATT. Snow said yes, he would know who the buyers were; my understanding was there were 4-5 buyers in there; we can go to County website and look up TRE and property owners (NOTE: County Site shows (3) owners listed). Mike said he would call Sunrise to inspect the Tank. Lynn O. added he would like himself or Mike to meet with them on-site.

Mike V stated the Planning Commission has some public hearings this month. He reported to CC the LMC Chapter Zoning was updated in "Conditional Uses" for Residential properties; they added the "Keeping of Livestock" according to the Animal Ordinance requirements, amended in November, 2006.

Mayor Pro-Tem Olds asked if there were other LMC Updates; Carol P. reminded of the Signage Ordinance previously approved, and is on the public hearing for PC; noting the meeting was moved to 22nd April, allowing for notice and publishing time.

Annette Kleinman (PC) reported the “Joint CC/PC Mtg” was held on the 26th Mar.; we agreed to “drop” the Hillside Ord. into Sensitive Lands – to omit “environmentally sensitive” to Sensitive Lands with an overlay map for the City. We’ll add definitions and work to “meld” the two (ordinances) together.

Annette K. updated the FEMA Ordinance passage (previously with CC) and addition to the LMC (as Chapter 20). Lynn O. questioned why this is back after CC approval; ATT. Snow answered that the FEMA requirement for April 1st deadline came up without City consideration for the “land use” application, requiring an approval with public hearing to add to the Land Management Code on the 22nd April and after PC recommendation. City will re-adopt the Ordinance without taking away from FEMA requirements. Annette K. also reported the “lot line adjustment” item for public hearing on LMC update; dealing with the 25% requirement – previously limiting any part of the plat over that percentage requiring a subdivision application.

Lynn Olds asked if there were any questions or comments to the Regular Mtg Agenda before going to Executive Session with Attorney Bill Ronnow; none were requested; others in attendance were excused.

6:32 PM – Daren Cottam MOTIONed to convene the Executive Session; 2nd by Randy Scott; all in favor? Yes, unanimously. Lynn Olds explained the purpose for this Session is pending City litigation.

7:34 PM – Daren Cottam MOTIONed to go out of Executive Session; 2nd Darrin LeFevre; all in favor? Yes, unanimously. NOTE: The minutes for this Session will be separated for legal purposes, and reviewed for approval at the Regular Mtg on May 14th. ’09.

Mayor Pro-Tem, Lynn Olds, asked to reconvene the Public Mtg for City Council Regular Meeting; he excused the Mayor and asked for the pledge of allegiance by Daren Cottam and invocation by Paul Heideman. There were no declarations of conflict or statements from the Council.

Lynn Olds asked for review of the Consent Agenda; (1) approval for minutes of March 4th, 6th, and 12th, ’09, (Regular and Executive); Carol Pogue explained the March 26th Mtg will be presented May 14th. (2) City Expenditures: Randy Scott had a question on the payroll summary with “1st & 2nd Qtr discrepancy of total costs”; Lynn O. asked Carol to check on that. Carol also noted the addition of hourly expense (\$220) for Leeds Annexation Attorney; Lynn O. reminded CC of this being billed to Eaton/Lowe. Paul Heideman asked for an update to the Department budgets for next meeting. Randy S. also asked about the power bills at Anderson Junction; Carol responded there were pump station and other building lights; that we had been doing well with the utilities after cutting administrative costs. **Paul Heideman MOTIONed to accept the Consent Agenda; 2nd by Randy Scott;** Mayor Pro-Tem asked if there was any further discussion? Carol P. reminded Council of the ratification for Mayor Powell’s signature on Attorney Day (Leeds Annex. Protest) Contract with City.

ATT. Snow also asked if City had any agreement signed for Eaton/Lowe payment of Attorney fees? He recommended that it be written up. Carol informed CC that only the Minutes have noted the agreement to pay for Attorney Day. Lynn Olds will call Mr. Eaton; he also said he had **received a Motion and Second for the Consent Agenda, asking if all Council was in favor? Response was unanimous in the affirmative;** Carol asked this Motion to **include the \$1,882 for Attorney Day and the \$4,800+ for Allied Waste fees received after expense totals were delivered, yet still part of March costs. ATT. Snow instructed to include those in approval and all Council agreed.**

Mayor Pro-Tem asked for Item C.1., New Business, Park Committee request for fundraisers. Committee Member, Sandy Cordova explained proposed plans to raise funds for a canopy over the playground area; or a proposal to redo the turf on the ball field. This will be taking place with an “A-May-Zing-Race” (\$20 dollar entry) for locals to run an obstacle course; a “dutch oven family dinner” will take place later. Committee proposes grant funding for another walking path project with possible Scout projects. Paul Heideman asked if they had a cost for the infield? Randy Scott said the last cost given for the special turf was \$4,500 to \$5,000; Paul H. asked if this could be an Eagle Scout Project?

CC Mtg Minutes, 4-9-09 (Cont.)

Lynn O. said this would require heavy machine work and the Scouts could do the trail system. Sandy C. was asked if CC needed to help with money? She explained they hope to finance all with donations and fundraiser. She also told of Committee proposals for a former resident's Family Reunion and Car Show called "2010 – Come Home Again"; Committee needs to clear a Park date for the Race with City Office.

Carol P. told Council of another Washington County first annual "Days of Camelot" coming to the Fair Grounds on May 22 & 23; all Cities will be involved with a booth and lots of entertainment with free tickets; more information will be coming.

Mayor Pro-Tem Olds called for Item B.1. Ratification of Mayor Powell signature on contract to retain ATT. M. Day for the Leeds Annexation Protest with County Boundary Commission. **Paul Heideman MOTIONed to approve this ratification with addition of written Agreement with Eaton/Lowe reimbursement of Attorney fees; Daren Cottam seconded; all in favor? Yes, unanimously.**

Item C.2. Review of Mayor Powell proposed Employee Sick Day Allowance; **Paul Heideman MOTIONed to TABLE this proposal until April Mtg; seconded by Darrin LeFevre; all in favor? Yes, Unanimously.**

Item C.3. Due to the Executive Session discussion at earlier meeting tonight, this item for request to "push to trial" on the Regan Signs Billboard Case was to be dropped with no action by the Council. Randy Scott asked if Attorney Ronnow fees were to be lowered? Carol P. said ATT. Ronnow had agreed to no charges to attend this Executive Session tonight. Lynn Olds said he also agreed to a lower fee of \$170; ATT. Snow added that was if he were to "move forward" on this litigation.

Mayor Pro-Tem Olds asked for Department Reports

Cemetery - Randy Scott reported completion of the request for a sign with tree (15) donations from the Beatty Family; it will be placed with the small grove around the Basketball Courts.

Culture & Refinement - Paul Heideman reported on Miss Toquerville Program to be held on May 25th at the Town Hall; they've had only three contestants apply for this year.

Streets - Daren Cottam reported his attendance to an RPO (Transportation Rural Planning Org.) meeting in Leeds; there was discussion about many UDOT projects going for bid in the area during the next 60-90 days. The (St George Airport) Southern Parkway has another \$70 mil. from UDOT, four phases including design work. We also talked about continuing the Southern Parkway across Hwy 9, northward between Leeds and Toquerville, tying in the "Bypass Rd".

Daren C. said the Hwy 17 will have maintenance for "chip and seal" from UDOT. They (RPO) also want maps for 'walking trails'; County portion of RPO will provide mapping for us. Paul H. asked if this was existing or future; Daren C. answered - wherever we want to have them. Lynn O. told of a previous group's work on trails, and information that we may adapt to. Annette Kleinman said R. Wrangle worked on previous trail proposal. Daren C. said there would be a meeting coming in a month or two. Paul H. said Aaron Langston (resident) also had some information on the Escalante Trail. Daren C. asked if we knew who put the "Nephi's Twist" sign in; no response. Daren C. also said there is some Impact money for roads and time limits for using those funds. Carol will look for the old "trails" file; and ask Pam to have "Impacts" (roads) information for next mtg.

Randy Scott asked when City would use eight dumpsters (4 & 4) for future clean-up; Paul H. said the "City Beautification" is in Oct.; Randy will let Carol know when the times will happen and publish for residents.

Subdivisions – Darrin LeFevre had nothing to report.

Mayor Pro-Tem Olds asked about the Budget approval; Carol reported this is in work for the May-June final approval. We've had several meetings with Mayor Powell (CFO); Pam has a meeting scheduled with State Auditor in St George and we will deliver the Tentative Budget in a couple days for feedback before May Mtg; and she will ask for feedback prior to Final Budget in June public hearing. Lynn Olds praised Mayor Powell (excused with ill wife tonight) for his work in the City and for his busy schedule of other meetings for the City; he also expressed appreciation for Council support and help.

CC Mtg Minutes, 4-9-09 (Cont.)

Carol P. asked (from residents who've expressed interest) if the Economic Development Dept. (L. Olds) was interested in having a Committee; Mayor Pro-Tem said the City didn't have much to offer (prospective business). Carol said those asking state they want to "help, want to know what the City has, what's happening and / or what's possible"; more of an information meeting for those interested citizens so they understand the process and what the City has done, instead of the misinformation received from others. ATT. Snow suggested City look at others who're trying to get economic development, offering incentives for relocating stores and businesses to their City, etc..

8:15 PM – Randy Scott MOTIONed to Adjourn the Council Mtg; Darrin LeFevre seconded; all in favor? Yes unanimously.

ACTIONS & ASSIGNMENTS

1. Mayor Pro-Tem Olds – Contact Eaton/Lowe
2. Council Members – (a) Review Budget; (b) review "Employee Sick Leave";
3. Randy Scott – Dates for City Dumpsters to Office.
4. Mike Vercimak – Get Sunrise inspection of TRE Tank.
5. Carol Pogue – (a) Check Econ. Development planning with other Cities; (b) Public Hearing for Amending LMC, etc.; (c) Post Dumpster Days; (d) find old "trails" file; (e) "Days of Camelot"; (f) Beatty Family "Tree Donation" sign at Park; (g) Park Date for fundraiser (Race).
6. Doug Gubler – Info for residents on legal cross-connecting irrigation and culinary lines.
7. Pam Jarman – (a) Tentative Budget to CC; (b) Road Impacts to D. Cottam; (c) "Days of Camelot"; (d) Payroll Summary question (Randy Scott) to 1st & 2nd Qtr;
8. PC – (a) "Sensitive Lands" merge to "Hillside Ord."; Introduction, Definitions, and Overlay Map.
9. ATT. Snow – (a) Review TRE Bond Agreement

The Minutes of the April 9th, 2009 Toquerville City Council Work, and Regular Meetings will be presented for review and approval in the May 14th 2009 City Council Meeting:

Approved: _____ Dated: _____
Lynn Olds, Mayor Pro-Tem

Attested: _____
Recorded and Typed by Carol Pogue, City Recorder