

TOQUERVILLE CITY COUNCIL

Mtg Minutes for January 8th, 2009

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

Attending: Mayor Ken Powell (excused with illness); Lynn Olds (Mayor ProTem); **Council Members:** Randy Scott, Paul Heideman, Darrin LeFevre, Daren Cottam; ATT. Heath Snow; Mike Vercimak (excused with illness) Planning/Zoning – Staff); Doug Gubler (Water Dept); Blair Gubler (Sewer Dept); M. Fahrenkamp (PC Chair), A. Kleinman (PC); P. Jarman (Treasurer); C. Pogue (Recorder); DC. Young (Website & Brd of Adjust.); Public Attendees: S. Eaton, M. Lowe, Leeds: Clark Ronnow (Planner) & Fire Chief Lewis.

6:05 PM - Work Meeting is called to order by Mayor ProTem, Lynn Olds, excused Mayor Powell due to illness; #1. Sewer - Blair Gubler reported there was no Board Mtg for the District; they had finished repair on the “bottom street” (Ashcreek Dr.). Maintenance will continue until rest of repair comes with warmer weather; working in Westfields, Cholla, and Toquer Estates. Our “TV” equipment is expensive to operate; while parts are sent to Florida, we’re using the downtime for repair work. Daren Cottam asked about a line (his lot) in Cholla Creek and into the manhole; Blaire G. said they’ll TV out to the manhole from the trail and to the cul-de-sac. If there are roots coming out of the lateral and not on our main line, we’ll let the people know; if it’s on our main, we’ll take care of it. Lynn Olds asked if the sewer line by Hansoms & Bruggemans was functioning OK? Blaire G. said you can use it as is with no additions or changes; there is no easement. Darrin LeFevre said Ty Bringhurst (neighbor of Bruggeman) offered to help with that easement but it did not happen. Blaire said they had encouraged them and gave direction but the owners had their own direction.

#1. Water Department – Doug Gubler reported pumps are running and water fixes are in until summer comes. Lynn O. asked about the drain for the box (Pump House); Doug said he will use a detector and check for leaks; he has an idea where it is and (hopefully) the valve will work – hasn’t been opened in 17 years and might not shut. Lynn O. stated we need an emergency turn-on; Doug said there was a leak (drip) we can funnel to the drain; the floor is absolutely dry, but can’t fix (drip) – there’s no ‘play’ in it – will have to tear it apart. I can talk to Kenny to see if he can come up with something else; it’s got to have 50-60 lbs pressure. The telemetry system was going in today - I’ll let Danny know in the morning if they’re done. I suggested moving the antennae (lets the telemetry system ‘talk’ to the tank) go to the pole so we can fence that facility in. The electrical should be up and good, Harvey replaced the bulb and it went out again. Doug asked if the CC had any further questions.

Darrin L. reported the TRE water tank at Cholla Creek had rifle shells and targets next to the tank; even though this is a 24 in. thick concrete, it is illegal activity. Lynn O. asked Carol to tell DeLos Elison to clean this up and post a “no firearms”, etc.; we should also notify the Sheriff to check out the site on the weekend. Blaire said there was a need for a public shooting range – and this area is not easy to get to.

Randy S. asked about the Tank use at Anderson Junction – wondering if City was going to “loop” into that, rather than it sitting stagnant. Doug G. said we haven’t done anything on that line yet; the chlorine test is still negative on bacteria content after two months of testing. Lynn O. explained the Anderson Tank turned out to be a problem for pressure reducers on the lines, etc.; City could consider an offer for Anderson Junction to hook-up free, with inspections, etc. to be able to use that. Doug G. said if they get on the System, it’ll affect your water rights; they’re using their own water now but the tank has fire flow in there. Randy S. asked if the gravel business used it for a while. Carol noted they have not for a few months. Daren Cottam said the City also appreciated the drain fix at Toquer Estates; Doug G. reported the State still has some work to finish there.

Item #2 – Planning Commission Update – Annette Kleinman reported (Mark Fahrenkamp is excused) two Occupation Conditional Uses – S. Berry (Prescription Relief), and S. Stroud (Bio-Green Tech.). PC had also removed the word “discretionary” on the requirement for public hearing (Amendment to LMC); PC Members were in agreement to have all Home Occupation requests under that requirement. PC is making progress on “Sensitive Lands” Ordinance; this will be in understandable language. If there are certain criteria on the lands, as hillsides, riparian corridors, sand, sagebrush, geological formations, etc., we want to talk about saving the desert and hillsides. The “Hillside Ord.” will be inserted into “Sensitive Lands”. Randy S. asked if the lawyer would be looking at this? Annette K. said a lot of dollars has gone into this Scottsdale “model”.

Work Mtg (Cont.)

Item B.1 – Secondary Water Connection; Paul Heideman explained this was required (where capable) for irrigation water with the Water Conservancy District (WCD); if a line goes by the house making the System available, the resident must connect, unless there is either financial or other reasons why they cannot do it. He wondered about those at Anderson Junction who have their own water supply, would they be required to hook up? Lynn O. answered this needs to be clarified – also with the Toquer Estates and other areas in the City with similar problems, as the “no access to the System” being an exempt. Paul H. said the Ord. may cover this, but if the line goes by a property and they are timing their landscape watering (under culinary) to stay under the 12,000 gallons (allowed usage), it would not be profitable for them to hook-up. If the resident protests for an exemption and has solid reasons, I would not force them; the main reason is to protect drinking water supplies.

Lynn Olds said if an owner comes in with request NOT to hook-up, they must have approval with a “clearance”. If others in Town, as in Westfield new development, they need to hook-up. This Agreement re-write came in late yesterday from the Attorney and some of the CC has not had time to review.

Item B.2 – Babylon Valley Annexation, Lowe/Eaton Property. Leeds has asked us to re-submit due to an error made in noticing and allowing for protest to County. City needs to hold off passing this Ordinance and allow re-notice to Leeds Fire District and City; TOQ. City also needs a review of the (Lowe/Eaton) amended Annexation Agreement, which was late reaching the Council today. Darrin L. said the only protest (during the 3 wks of noticing) by private owner to the County on this Annexation was rejected. Carol P. reported to CC the County Attorney’s office letter, which stated their Second Class County did not allow private protest. The Leeds Fire District services the annexation area and wants to review and respond to the new notice.

Lynn O. stated the noticing can go to Leeds; we should also address the zoning request. We agree to MU-20 default and the application asks for R-1-20; our Annexation Policy Ord. states you must carry out that process at a separate hearing; if this process is omitted, the default of MU-20 applies. Stacey Eaton asked for a meeting to discuss changes on the re-write of Agreement from ATT. Snow; Lynn O. agreed and Carol P. will get with S. Eaton for scheduling; she will also start the re-noticing process.

Item #5 – Review Fiscal Year 2008 with Auditors (Hinton-Burdick), David Witwer and Chad Atkinson attended; David W. thanked the Council for the opportunity, and the Staff help given during the Audit process; handouts were made of graphs and financial statements. David W. spoke of the first graph indicating the General fund assets and liability fund equity, with trends of prior years. Assets and liabilities both decreased in '08; fund equity also decreased about \$13,000. Changed is expenditures exceeded the revenue about \$94,000 in the General Fund. We transferred \$60,000 (budgeted in) from Water Fund to General Fund; there was \$19,000 restricted for “debt service” payments, and another \$5,000 for Miss Toquerville; the remaining \$33,000 is unreserved. There are a couple issues of note in the Gen. Fund; next chart is Cash Trend showing total cash and unrestricted – both decreased after the \$60,000 transfer from Water Fund.

On Page 29 of the Financial Statement, it gives detail of restricted cash on June 30, '08. Out of the \$66,000, \$57,000 is restricted, leaving \$9,000 to cover the payroll and other Gen. Fund expenditures to 6-30-08; we would like to see that unrestricted balance a little higher.

We point out the Capital Projects Fund, showing Street and Park Impacts (combined), were over spent in Parks, which should be replenished in '09. Page 29 shows there was \$270,000 for Streets, with negative of \$65,000 spent for Parks, using the Street Impacts. Randy Scott asked how this happened? David W. explained you had a process of transfer that was not carried out. Pam Jarman (Treasurer) added she found out today (from Auditors) that their figures were used at close of '07 Financial Statement and that when she told Randy S. he had \$120,000 to spend with the Parks Impacts, this was not the balance Auditors had from prior year’s statements including the expenditures. I was tracking with the PTIF Statements; David will be working with me to separate the funds, than transfer back to General Fund; she expressed feeling responsible for this error.

Randy S. asked at what time were they combined? we’ve been spending according to (faulty) information and then overspent to \$65,000? David W. explained (during their past three audits) these were always in the same Cap. Projects Fund, than separated annually indicating the balances.

Auditor's Report (Cont.)

Daren Cottam asked if the total funds are all impacts? David W. answered yes. Pam stated she had transferred the funds, but was not aware when she came to work at the City (May, '06) of the past expenditures (not being applied). Darrin LeFevre asked what were the ramifications of this over-spending? David W. explained the transfer from Water Fund to General Fund; these expenses happened in this Fiscal Year '08. Lynn Olds asked why we didn't recognize this and make a transfer before? Chad Anderson explained - this points out the danger of working in a bank account vs. the actions that takes place annually; there was not a deficit last year, there was a \$65,000 in Impacts reported and available for spending. During the past year the Bank Acct shows \$125,000 not specifically noting Parks;

Darrin L. asked why it was not showing? Pam J. said I wasn't aware that this money was not transferred; I take responsibility. David W. explained the Central Treasury (City) has allotted accounts to different funds – this can be confusing but all accounts are shared; we must look at those allocated Impacts, asking how much we own. Daren C. asked where the \$120,000 amount came from? Pam said it was from the PTIF statements; the Auditor will help me to understand how to get the Impact Accts reconciled and brought down to proper accounts, which will be easier for us to understand.

Paul Heideman asked how many accounts do we have? Are they Gen. Funds? Pam said there are six; (4) four are PTIF (State Treasury), (2) one checking and one money market (Zions). One of our PTIF accounts has General Funds and Water Dept money- plus \$5,000 for Parks (Chester Adams had set that up years ago); other separate PTIF funds are for Streets, Parks and Water. Savings accounts we don't touch unless Impacts are spent; our Money Market (at Zions where all our deposits and revenue go) is for drawing funds to pay expenses from Checking Account. Paul H. asked if these accounts are separated to prevent error? Pam said Chester A. had previously placed Impacts in this Money Market Account; about 7-8 months ago, I broke them out and sent them to correct the PTIF Accts, although I was not aware of expenditure errors made, as David and Chad explained.

Lynn O. asked them to continue with the presentation; David W. explained that the charts show water revenues were up \$15,000 due to connect fees lowered from \$500 to \$150. Operations expense increased due to work of Water Master Plan and Payroll Expense; positive cash flow is due to depreciation. Paul H. said so cash income is not covering depreciation? David W. said yes.

Randy Scott asked if we should increase water fee to residents? David W. answered the City might want to consider that, or increase maximum gallons allowed. Lynn O. felt the City is still good with the fees collected vs the amounts paid out. Darrin L. feels rather than a mandated raise, we need to see the alternatives; Paul H. said yes, as what is "coming" (financial swings). Randy S. asked when the last raise was done? answer was about two years. David W. stated the last graph with the Water Fund shows it to be "fairly strong", even with \$60,000 transfer to Gen. Fund.

The Financial Report papers issue an "unqualified opinion" on pg 1; on page 49, Internal Controls have some Material Weaknesses and Deficiencies reported. Page 5 show unqualified, clean reports, and some material and non-compliant findings. Carol P. asked about the State SAS requirements; David W. said yes, this is second year for these new standards. Page 53 is where "Findings" are located; similar to last year and indicates whether Staff has completed or are still working on these items. If there are questions, feel free to contact us. Page 58, note numbers are '07 and '08 to specific years. Miss TOQ. was not monitored; Pam J. reported our Staff response letter to those Findings (including Miss TOQ.) is on page 64.

David W. said page 59 shows State Accounting requirements; also page 60 shows lack of public notice for transfer of funds; timely deposits of funds – some held longer than two days. He asked if there were questions? Carol P. stated Staff appreciation for the Auditor's diligence in their "findings", and for helping us to correct our problems with the accounting. Chad Anderson stated they would help the Staff get the Impact Accounting worked out; Pam voiced her agreement and cooperation with this plan.

7:08 – Regular Mtg was Convened; Darrin LeFevre gave the Flag Salute, Daren Cottam the Invocation. Mayor ProTem asked for any statements of belief – none were given; any conflicts or statements from CC? None were given. Lynn O. announced the Public Hearing for Cholla Creek Lot Split (L. Williams) was cancelled to next month allowing Planning Commission process for public hearing first.

Regular Mtg (Cont.)

Mayor ProTem Olds asked for review of Consent Agenda, including the December 11th Executive and Regular Mtg Minutes and Expenses for November. Randy S. and Daren C. reported not seeing the Exec. Minutes (delivered previously). Carol also stated there was a final sheet handed to CC tonight of expenses needing approval since the CC books were delivered before these bills came in. **Darrin LeFevre MOTIONed to approve Consent Agenda and expenses as explained, with the Executive Session Minutes Tabled to next Mtg; 2nd by Paul Heideman; all in favor? Yes, unanimously.**

Item B.1 – Review ORD.2009.02; Secondary Water Connection Requirement with the Water Conservancy District. Lynn O. explained this was Tabled from Dec.'08 CC Mtg for further clarification. Paul Heideman said one concern was other “source water” from the City needing research; Darrin LeFevre also questioned to that reference in the “Pooling Agreement”; there was also a question on installation costs to the resident. **Darrin LeFevre MOTIONed to TABLE until clarification is complete from ATT. Snow; Paul Heideman 2nd the Motion; all in favor? Yes, unanimously.**

Item B.2 – Review Ord. ORD.2009.03, owners: Eaton / Lowe; Lynn O. stated the City needs to set up a meeting with the owners to review the proposed Annexation Agreement and re-noticing to Leeds. Daren Cottam MOTIONed to CC Mtg in February, following a Special Work Mtg to be scheduled with owners; seconded by Paul Heideman; all in favor? Yes, unanimously. Lynn O. asked S. Eaton to schedule a posted Special Meeting with Carol on Jan. 15th (next Thurs.) at 7pm with a CC Quorum of members present.

Clark Ronnow (Leeds Town Planner) addressed the Council, asking if TOQ. City would be sending the Re-Notice for Annexation of the Babylon Valley proposal. Lynn O. said Yes; we will mail notices and we appreciate your concerns.

Item C.1 – City Auditors, Hinton – Burdick (David Witwer) will present Fiscal Year, June, 2008 for review and possible acceptance by City Council. Mr. Witwer and reviewed City Financial Report with graphs to CC during the Work Mtg and expressed an “unqualified, clean opinion” with all reports necessary sent to the State Auditor. Randy Scott asked what that statement means? David W. explained this is typical language and Pam J. added this means there’s “no money missing”. Paul Heideman MOTIONed the City will accept the 2008 Fiscal Year Audit with the planned work for Pam Jarman (Treasurer) and City Auditor, Hinton-Burdick assistance and recommendation for “lining up” the Impact and PTIF Accounts. Council Roll Call: Paul Heideman – Yes; Randy Scott – Yes; Lynn Olds – Yes; Daren Cottam – Yes, Darrin LeFevre – Yes; Vote was unanimous.

Mayor ProTem, Lynn Olds – Announced he would be leaving the Council after February Mtg (due to a calling as Bishop for the LDS Church); his CC assignment has been the Economic Development and Water Department. He also stated his concerns of losing past information, recommending the City should document the history of “water shares” in the City for future reference. Lynn O. said he would like to work with the replacement on the western road (reference to “bypass road”). Carol Noted that Mayor Powell has asked for the opening to be noticed publicly and for any referrals the Council might like to make known to him. Note: the Nov., '09 City Election will be replacing the open position. Darrin L. asked if Lynn had heard anything more from the Litchfield and Blackmore people? Lynn O. said ATT. Snow had reviewed this, but (Lynn) would like to sit down with the parties and document this preliminary concept.

Department Reports:

Randy Scott – Parks/Cemetery; Randy S. asked W. Pogue (Park Maint.) if the Beatty (donated) trees were OK? Will P. said they're fine in the buckets and the snow had made mud holes which they were waiting to dry a little before setting them in. Lynn O. asked about the uneven ground with the new grass area there, offering to help with his equipment. Will P. said he had also done some shoveling but the snow had slowed the finish work. Randy asked Carol P. to have a small plaque made for recognizing the donation; Will said of the 14 trees remaining, 6 will go at the Park, remaining at the Cemetery. Paul H. also had sent the “Group Boys” to help with removal of the Willows growing in the Creek bed; they are working off probation time; this will help with the flood season.

Paul Heideman – Recreation; Paul stated the Miss Toquerville needs new forms and meeting with Treasurer (Pam J.) for instruction on the required book-keeping for this new year. He also asked for more lights this '09 holiday season to be put on the Town Hall buildings – City could request donations; they could use the young volunteers again for climbing the ladders.

Daren Cottam – Streets; Daren reported the Eastern Rural Planning Org. (RPO) from Five County will meet at the TOQ. Chambers on the 22nd, 1:30pm. Carol reminded CC of the approval for City portion of funding last month.

Darrin LeFevre – Sub-Divisions; Darrin stated there is still no action from TRE (Cholla Creek); Carol reported the City received a phone call from Casey Craig in Las Vegas informing the Treasurer of new Bank (Pulaski) Account number for \$997,000 being held as a Construction Bond. City Treasurer will address this with the Attorney to make proper claim.

7:40 PM - Darrin LeFevre MOTIONed to adjourn this Council Mtg; Randy Scott seconded; all in favor? Yes, unanimously.

Actions & Assignments:

1. Blaire Gubler – Cholla property (D. Cottam line) out to the manhole from the trail and to the cul-de-sac. If there are roots coming out of the lateral and not on our main line, we'll let the people know; if it's on our main, we'll take care of it
2. City Council – Referrals to Mayor Powell for appointment of Lynn O. Council Seat.
3. Doug Gubler – Pump House - check for leaks, etc.
4. Carol Pogue - (a) DeLos Elison to clean up and post “no firearms” on TRE Water Tank; notify the Sheriff to check out the site on the weekend. (b) RPO to meet at TOQ Bldg. on 22nd, 1:30 PM. (c) Tank signs & Beatty Plaque for Trees. (d) Miss TOQ forms for Committee. (e) Set up Special Mtg w/CC re: Annex. for Babylon Valley. (f) Re-Notice Annexation for Leeds, etc. (g) Exec. Mtg approve at next CC meeting. (h) LMC Amendment to Home Occupation Cond. Use – “discretionary” removed. (h) Pub. Hrg - L.Williams Lot Split.
5. Pam Jarman – (a) Address Bank funds for TRE Bond with ATT. Snow. (b) Meet with Miss TOQ Comm. (c) Address Impact Fee Accts with Auditors.
6. PC Chairman (Anita Lowe) – Sensitive Lands Ord. DRAFT ready for ATT. Snow and CC Review prior to February 12 Mtg.
7. ATT. Snow – Review Ordinance for Secondary Water Connection Requirement with the Water Conservancy District

Minutes of the Jan. 8th, & 15th, 2009 Toquerville City Council Mrgs will be presented for review and approval in the Feb.12th, 2009 City Council.

Approved: _____
Lynn Olds, Mayor ProTem

Dated: _____

Attested: _____

Recorded and Typed by Carol Pogue, City Recorder