



WILLARD CITY

Planning Commission Meeting – Regular Meeting

Thursday, August 15, 2024 – 6:30 p.m.

Willard City Hall – 80 West 50 South

Willard, Utah 84340

The meeting was a regular meeting designated by resolution. Notice of the meeting was provided 24 hours in advance. A copy of the agenda was posted at City Hall and on the State of Utah Public Meeting Notice Website.

The following members were in attendance:

Sid Bodily, Chairman
Ruth Beebe
Chandler Bingham
Chad Braegger
Brian Gilbert

Jeremy Kimpton, City Manager
Colt Mund, City Attorney
Madison Brown, City Planner
Michelle Drago, Deputy Recorder

Excused: Alex Dubovik

Others in attendance: Mayor Travis Mote; Councilmember Jordan Hulsey; Ken Ormond; Ruth Ormond; Rew Wiley; John Piere; Alena Pierce; Steve Spencer; Andraya Spencer; Becky Kruitbosch; William Perry; Bryce Darley; Garth Day, Heritage Homes; Nelson Kapp; Colton Kapp; Kamryn Kapp; Jodi Wade; and Bart Wade.

The meeting was called to order at 6:36 p.m.

1. PRAYER: Sid Bodily
2. PLEDGE OF ALLEGIANCE: Chad Braegger
3. GENERAL PUBLIC COMMENTS

There were no comments.

4. CITY COUNCIL REPORT

Time Stamp 01:28: – 08/15/2024

Mayor Mote reported that during the August 8th City Council meeting, the Council passed the Short-Term Rental Ordinance with a few small changes.

- 5A. CONSIDERATION AND RECOMMENDATION TO THE CITY COUNCIL REGARDING A PETITION FROM HERITAGE LAND DEVELOPMENT TO REZONE APPROXIMATELY 48.19 ACRES LOCATED AT APPROXIMATELY 300 SOUTH 300 WEST FROM R1/2 TO MPC (MASTER PLANNED COMMUNITY) (PARCEL NOS. 02-051-0004, 02-051-0062, 02-051-0085, 02-051-0264, 02-054-0005, 02-054-0007, 02-054-0009, 02-054-0011, 02-054-0012, AND 02-054-0013) (CONTINUED FROM FEBRUARY 1, AND JUNE 20, 2024)

Time Stamp: 02:43 – 08/15/2024

Madison Brown, City Planner, stated that Garth Day sent a revised concept plan for The Orchards development on August 13th. The only change she could see was the addition of a community garden to the open space.



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Garth Day, Heritage Homes, showed the Planning Commission a map of the original proposal they submitted in February. It contained 121 lots and exclusive open spaces. After the public hearing, they went back to the drawing board and eliminated a couple of roads, nearly 20 lots, and consolidated the open spaces. The open spaces were now accessible to the public. During the June 20th meeting, the Planning Commission asked that curb and gutter be added throughout the entire development. The road widths had not changed because they were already 60 feet wide, but they had updated the road cross section. They left the option for the rural road design because that was their preference. The roads in the patio home section had been widened from 40 feet to 43 feet. The roads would be widened further to 48 feet, which would give the city five feet of sidewalk on both sides of the road. They had clarified the public parking areas for the open space. One thing they continued to hear from the public was a desire to make the development more rural and more community oriented. The community gardens had been included to show there were options to make the development more community oriented. The CCR's had been changed to allow some medium-sized animals beyond household pets. The fences would be regulated so the lots would not all have white vinyl privacy fencing. The front yards would have split rail, three rail, or something that had a rural design.

Mr. Day reviewed the density with the Planning Commission. The smaller lots ranged from 8,000 square feet to 14,000/16,000 square feet. In the larger lot area, there were about six half-acre lots. The rest of the lots ranged from 16,000 square feet to 18,000 square feet, or about .45 of an acre. The overall density was .44 units per acre. He felt they were pretty close to the half-acre density.

Chairman Bodily asked about the total number of lots. Garth Day said there were 107 lots.

Commissioner Braegger asked about the water rights for this development. Jeremy Kimpton, City Manager, said the city had not received the water rights yet. Garth Day stated that even though the first two phases had been completed, Heritage Homes had not transferred any water rights. Part of the issue was the water shares with the Willard Irrigation Company. They were hard to calculate. Heritage Homes had hired Kirton McConkie to figure out how many shares they actually owned. Heritage Homes felt they had 225-acre feet of water for the entire property. They need to give Willard 107-acre feet, which they were committed to doing.

Chairman Bodily asked if the Planning Commission could move forward without a water commitment.

Mayor Mote said the irrigation shares with Willard Irrigation did not count because they were not culinary water. The city required culinary water rights to be turned over. The only way for Willard Irrigation shares to count was to put them in a pressurized secondary water system.

Commissioner Braegger said the zoning ordinance said water had to be in place as part of the rezone process. Garth Day said he could not give the city water until the rezone happened. Commissioner Braegger said the city needed proof Heritage Homes had the water rights. Mr. Day said they had given the city proof.

Mayor Mote said the city needed the conversion facts from the Water Rights Division so the city could see how many water rights were transferrable to make sure there was enough water to comply with the ordinance. The city code required that water rights be transferred before the final plat was recorded.

Commissioner Braegger stated that water was life. Problems would be created if the city rezoned property without water. Garth Day said that constitutionally if they gave the city water, they could never get it back.



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The former city manager was aware of where they were with their water. They had the water, and they were committed to handing it over just as soon as they knew exactly what they had.

Chairman Bodily felt the city need a little more proof.

Jeremy Kimpton asked if Garth Day had given Chris Davis, the former city manager, any paperwork. Mr. Day said he had. He could provide the city with another copy.

Mayor Mote stated that the conversion of 225-acre feet might result in only 100-acre feet.

Commissioner Gilbert asked if the Planning Commission could recommend approval of the rezone without proof of water rights. Garth Day asked if the Planning Commission could forward the rezone to the City Council with a recommendation that they provide proof of water rights.

Colt Mund, City Attorney, said the development agreement did discuss and obligate the developer to transfer water rights. The city code required the city to know what the water rights were and that they were free of encumbrances. The Master Planned Community zone included the site plan and other requirements. The Planning Commission could make a recommendation if it was satisfied with the information provided by the applicant/developer.

Commissioner Braegger said the last rezone forwarded to the City Council was pushed back due to lack of information regarding water rights. He felt the Planning Commission needed to take care of that issue before forwarding items to the City Council. If the City Council turned a planning issue down because of something in the ordinances, he did not feel the Planning Commission was doing its job.

Commissioner Gilbert asked if the staff wanted the Planning Commission's input on the open space design. Jeremy Kimpton felt the open space should be designed by the Planning Commission, City Council, and the developer.

Commissioner Gilbert felt the development agreement should outline what open space improvements would be constructed by Heritage Homes. He asked that Heritage Homes provide a submittal of their open space proposal.

Garth Day was concerned about the city's lack of manpower to maintain the open space. Heritage Homes proposed creating a temporary HOA to manage it. The city did not like that option. Now Heritage Homes was proposing to hand over the open space immediately, and then negotiate what was built based on what the city could maintain. They did not want to build something that would fall into disrepair and waste money for everyone.

Commissioner Gilbert said even if there was a temporary HOA, he wanted to know what product the city was going to end up with. Mr. Day said the city was going to end up with the property.

Commissioner Gilbert said Heritage Homes was proposing pickleball courts, a gazebo, and some horseshoe pits. He liked the concept of the community garden, but who was going to maintain it? It would be a lot more maintenance for the city in the long run. There was not a playground. He felt a playground would be better than community gardens. Mr. Day said playgrounds were a huge liability and insurance problem. People did not use playgrounds like they used to. Heritage Homes was proposing amenities he felt were usable. Pickleball courts were incredibly popular, and they were low maintenance. Horseshoe pits



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were easy. Trails did not have a lot of maintenance if they were built properly. That is what they proposed knowing that the city did not have a Parks Department.

Commissioner Braegger did not agree with Mr. Day's comment regarding manpower. When this subdivision was built out, the city would have the tax revenue to support a few employees to take care of the open space. Having a raw chunk of land from the beginning would grow weeds and be a mess. The development agreement should outline the construction of the open space from the beginning. Then the city would figure out how to maintain it.

Chairman Bodily stated that if the city was going to require the open space, it needed to be ready to step up to the plate.

Commissioner Gilbert agreed. He did not mind the design, he just wanted to know what the end product would be. How would the pickleball court be constructed? What kind of fencing and lighting would it have? All that information should be in the development agreement. When the project was done, the city could determine if it was what everyone had agreed to. Right now, it is open ended.

Garth Day said it was open-ended by design. He had been focused on the overall design and densities because that was what the Planning Commission and public were concerned about. He would be happy to design an open space with the necessary specifications if the Planning Commission was comfortable with the overall subdivision design.

Commissioner Gilbert said he personally liked the proposed subdivision concept.

Commissioner Beebe agreed that the proposed concept was better than a bunch of rectangular lots. It only had eight more homes than an R-1/2 Zone would allow.

Commissioner Braegger said the density was a little high, but it was close. He felt the open space design could make up for that. If the Planning Commission understood exactly what the open space product would be, it might be able to compromise on the density.

Garth Day asked for assurance that he was working toward something. He did not want to spend money on the open space design if the rezone was not going to move forward. He had the same concern about water. If the proposed development were not going to happen, the water dynamics would change. He felt he had the needed direction regarding the water.

Commissioner Braegger did not feel comfortable pushing the rezone forward without information regarding water.

Colt Mund stated the Planning Commission was considering a conceptual Master Planned Community Zone, and it was looking at a preliminary site plan. The preliminary site plan included open space and density. The Planning Commission was making a recommendation based on the information it had. He did feel it was appropriate for the Planning Commission to consider density, open space, management of open space, etc. The Planning Commission had a pretty broad scope. Its recommendation should encompass all the issues the Master Planned Community Zone said should be included in a site plan.

Garth Day understood that he had to come back to the Planning Commission after the zoning was in place. When the rezone was approved, then the plan would be refined.



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Mayor Mote felt the proposal included the development agreement. The Planning Commission should be able to review an updated draft of the development agreement.

Commissioner Gilbert said the Planning Commission had a draft copy of the development agreement, but he did not feel it was complete because it did not include information about the open space. He felt that information needed to be integrated because the development agreement would be the signed contract between Heritage Homes and the city. If the Planning Commission recommended that the rezone be approved, would the development agreement be approved later, or did the development agreement need to be included with the Planning Commission's recommendation?

Colt Mund stated that the development agreement should be part of the Planning Commission's zoning recommendation. An MPC rezone request was like other rezones, where the Planning Commission was a recommending body to the City Council. The City Council would then consider everything the Planning Commission had. If there was something the Planning Commission felt should be addressed before going to City Council that was appropriate. The Planning Commission could recommend the rezone subject to issues being clarified, such as water rights or open space.

Commissioner Gilbert did not mind the overall subdivision concept, but he felt Heritage Homes needed to provide a detailed open space plan and answers about the water rights.

Chairman Bodily felt the Planning Commission needed to understand when the open space be constructed, and what would be constructed. If the city approved the open space plan, the city needed to be ready to take care of it.

Garth Day stated that when a development included open space, Heritage Homes normally did not start construction in the first phase because they had to generate people and revenue. The development agreement would outline the phasing plan and a timeline for the open space construction. In other developments, they had started constructing the open space with the second and third phases. The timeline was a negotiated point. The open space would not be the last thing to be constructed.

Commissioner Gilbert asked if the patio homes would be constructed first. Garth Day said they would because those were the lots that had gravity sewer. Heritage Homes could not develop the southwest part of the project until the Young's extended the sewer line to the north as part of the Deer Run development. The open space was integral to the patio homes. He felt it would take 24 to 36 months to complete the patio homes. The open space would probably be constructed 18 to 24 months after the first phase was started.

Commissioner Beebe asked about the storm water detention areas. Garth Day said those areas would be maintained by Willard Flood Control.

Commissioner Bingham asked what Heritage Homes planned to do with excess water rights. Garth Day said water had been an interesting topic lately. The state engineer and the governor's office closed any new water rights in Area 29, which Willard was in. Everyone was scrambling to prove the beneficial use of the water they had. It had created an inflationary issue for excess water rights. He thought water rights were currently worth \$14,000 per acre foot. One hundred water rights were a very valuable commodity. Two years ago, they would have handed the excess water rights over to Willard City. Now they needed to use any excess water for other developments in Area 29. Heritage Homes did plan to hand over the irrigation shares because they planned to build a dry secondary water system in The Orchards.



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Commissioner Bingham stated that Garth Day had done everything the Planning Commission had asked for regarding the density and the roads. He felt comfortable forwarding the rezone to the City Council. However, after the Planning Commission forwarded a project to the City Council it never really saw it again. He felt the Planning Commission wanted to see a final park plan.

Garth Day said he would be happy to design the open space, but he was concerned the plans would be changed when it reached the City Council. He was in a catch twenty-two. Did he spend the money to design the open space? He felt the project was headed in the right direction. Everyone seemed to be more comfortable with where it was at.

Commissioner Bingham was concerned about how the traffic would flow before the project was built out. Garth Day felt the best solution was the completion of 200 West to 600 South. Commissioner Braegger felt 600 South was nearing completion.

Commissioner Braegger was concerned about the depths of driveways. He wanted to make sure driveways were deep enough that a full-size pickup would not hang over onto the sidewalk. Garth Day anticipated that the front yard setbacks for the patio homes would be at least twenty-five feet. Commissioner Braegger felt twenty-five feet was doable.

Commissioner Braegger also wanted to make sure that the stub roads to the north lined up with the Road Master Plan, existing roads, and that they were labeled correctly. Garth Day said the location of 300 West could not change because of an existing sewer line. The street name could change, but its location could not.

Commissioner Bingham made a motion to recommend that the City Council approve the petition from Heritage Homes to rezone approximately 48.19 acres located at approximately 300 South 300 West from R-1/2 to subject to verification of the water rights, that the development agreement be amended to include all details about the open space, and that the front yard setbacks in the patio homes be at least 25 feet.

Commissioner Gilbert felt the Planning Commission needed to see and approve the open space design and an amended development agreement that included those details.

Commissioner Bingham withdrew his motion.

Garth Day understood that the Planning Commission was okay with the proposed density and the proposed design. He needed to come back with a more detailed park master plan and construction plan, verification of water rights, and an updated development agreement.

Commissioner Braegger wanted to make sure there was adequate parking for visitors and those using the open space. Garth Day said he would include parking in the open space design.

Commissioner Beebe liked the proposed design. It was only eight more homes than an R-1/2 Zone, and the city was gaining open space. She felt the city needed verification of the water rights.

Commissioner Gilbert asked that Colt Mund review the amended development agreement to make sure all the language was correct before the Planning Commission saw it. Mr. Mund said he would.



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Commissioner Gilbert asked that the term *force majeure* in the development agreement be defined better.

Commissioner Bingham moved to table consideration of the rezone petition from Heritage Homes until they could provide verification of water rights, an open space master plan, and an updated development agreement addressing open space and water. Commissioner Braegger seconded the motion. All voted “aye.” The motion passed unanimously.

5B. CONSIDERATION OF A PRELIMINARY PLAN FOR GRANITE RIDGE SUBDIVISION PHASE 6 LOCATED AT APPROXIMATELY 675 SOUTH 450 EAST (PARCEL NOS. 02-053-0014 AND 02-053-0069)

Time Stamp: 43:21 – 08/15/2024

Madison Brown stated that SLUA had forwarded the preliminary plan for Granite Ridge Phase 6 to the Planning Commission with two conditions. The first was verification of the open space for the entire development, which John Newhall had provided. The second condition was construction plans for the hiking trail through Phase 6. The city did not receive the construction plans until August 14th. The staff had not had time to review them. She recommended that this item be tabled until the next meeting.

Chairman Bodily asked about a second access. The city was holding back other developments because they did not have a second access. Why was this development being allowed to proceed?

Commissioner Bingham said the overall development was approved years ago without a second access. He did not feel there was anything the city could do until either 300 East was developed or Joel Murray developed his gravel pit.

Colt Mund stated that this issue had come up several times. He felt the Granite Ridge plan was approved with the use of a private access as an emergency access. The private access was the Staker Parson road. He did not know if the private access was still available to Granite Ridge.

Commissioner Braegger felt that situation was okay for Phase 1, but the developer was now on Phase 6.

Chairman Bodily recalled that there was supposed to be a second access. He did not feel a crash gate was a second access. This development needed a second access. The Planning Commission was holding back other developments because they did not have the required second access.

Colt Mund said he would review the Granite Ridge development agreement.

Jeremy Kimpton stated that the lack of a secondary access was brought up a few weeks in a SLUA meeting. According to the city engineer the Granite Ridge development was approved with an agreement between them and Staker Parson to use the haul road as an emergency access with restrictions and limitations. He did not know if that agreement was still viable.

Chairman Bodily felt the Planning Commission needed to understand what the current access requirement was.

Commissioner Beebe stated that there were now sixty-two homes with only one access.



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Commissioner Braegger didn't feel it would take much to connect the last phase to 300 East. He felt the city needed to be consistent.

Colt Mund said there was a similar situation with the Rod Braegger Subdivision. The city approved the subdivision with a temporary emergency access. The Council may have approved Granite Ridge based on an emergency access.

Commissioner Braegger said that might have been okay for Phases 1 and 2. Now the developer was asking for approval of Phase 6. He felt the city needed to confirm the access requirements.

Mayor Mote stated that before he was elected, a property owner above Granite Ridge wanted access via Parsons Road, and Parsons threatened to lock the gate. If Parsons Road was the second access, he felt the developer needed to provide the city with an agreement that the road would never be locked. If the road was locked, it was no longer a second access.

Madison Brown stated that John Newhall was representing Scott Priest, the new owner of Granite Ridge. He planned to be at the September 5th Planning Commission meeting. Jeremy Kimpton stated that Madison Brown would reach out to John Newhall and ask for information regarding second access requirements.

Commissioner Braegger asked if Granite Ridge had complied with the water requirements. Madison Brown said the city engineer had confirmed that all the water rights had been conveyed to the city.

Chairman Bodily asked that this item be tabled until the next meeting.

Commissioner Beebe moved to table consideration of Granite Ridge Phase 6 until the next meeting. Commissioner Gilbert seconded the motion. All voted "aye." The motion passed unanimously.

5C. REVIEW OF A CONDITIONAL USE PERMIT ISSUED TO LYNN BEARD FOR A DUPLEX LOCATED AT 481 NORTH 200 WEST (PARCEL NO. 02-046-0075) ISSUED FEBRUARY 5, 2015 (CONTINUED FROM AUGUST 1, 2024)

Time Stamp: 53:05 – 08/15/2024

Jeremy Kimpton stated that the staff had not been able to find a copy of a signed conditional use permit for Lynn Beard's duplex. The staff reached out to Mr. Beard. He did not have a signed copy either.

Chairman Bodily asked if that meant Mr. Beard did not have a conditional use permit.

Colt Mund felt the conditional use was still valid, but the staff and Planning Commission would have to rely on the minutes of the February 5, 2015, Planning Commission meeting to determine what the conditions were.

Jeremy Kimpton asked if conditions could be added at this point. Mr. Mund said no conditions could be added. The only conditions were those approved on February 5, 2015.

Commissioner Bingham felt there were conditions discussed in the February 5, 2015, meeting that were not included in the written conditional use permit.



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Jeremy Kimpton felt the Planning Commission would have to determine if it was okay with the conditions as written. He felt the conditional use permit needed to be signed by the city and the applicant.

Chairman Bodily stated that there had not been any problems with the conditional use.

Commissioner Bingham wanted to listen to the meeting recording and review the minutes to see if there were other conditions discussed. He remembered that the Planning Commission did not want the conditional use to transfer to a future property owner. It wanted the use to end if the property was sold.

Madison Brown said that discussion was in the minutes, but it was not included in the written conditional use permit. The staff wondered if that condition could be added to the written conditional use permit if the permit had never been signed.

Colt Mund felt there should be written findings from the Planning Commission based on its discussion. The written findings should be approved by the Planning Commission before a conditional use permit is approved. If a finding was missed, the findings could be updated.

Commissioner Braegger asked if the Planning Commission needed to treat this as a new conditional use permit. Colt Mund felt the minutes could be reviewed to determine what the conditions were, and a form could be created listing the findings. Nothing new could be added. He did not feel it was necessary to have Mr. Beard's signature if there were clear findings from the meeting. He did not feel the findings could be disputed.

Madison Brown stated that she would review the minutes of the February 5, 2015, meeting.

Chairman Bodily asked that this item be added to the next agenda.

- 5D. DISCUSSION REGARDING AMENDING THE TABLE OF USES FOUND IN CHAPTER 12-111-3 AND 12-112-3 OF THE WILLARD CITY ZONING ORDINANCE (CONTINUED FROM JUNE 6, JUNE 20, AND AUGUST 1, 2024)

Time Stamp: 58:20 – 08/15/2024

Madison Brown stated that Michelle Drago had created a Table of Uses spreadsheet for the Planning Commission to review (see attached copy).

After a brief discussion, Chairman Bodily tabled this item to allow the Planning Commission time to review the spreadsheet.

- 5E. DISCUSSION REGARDING A PROPOSED AMENDMENT TO THE DEFINITION OF THE SUBDIVISION LAND USE AUTHORITY (SLUA) FOUND IN CHAPTER 12-400-41 OF THE WILLARD CITY ZONING ORDINANCE TO INCLUDE A MEMBER OF THE PLANNING COMMISSION

Time Stamp: 1:02:33– 08/15/2024



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Jeremy Kimpton stated that the Planning Commission had appointed a liaison to the Subdivision Land Use Authority (SLUA) Committee, but the liaison did not have voting power. Would the Planning Commission like the definition of SLUA to be amended to include a Planning Commission member as a voting member?

The Planning Commission said yes.

Jeremy Kimpton stated that an ordinance would be drawn up for the Planning Commission to consider.

Commissioner Bingham moved to schedule a public hearing for September 5, 2024, to receive public comment regarding a proposed amendment to the definition of the Subdivision Land Use Authority (SLUA). Commissioner Beebe seconded the motion. All voted “aye.” The motion passed unanimously.

6. CONSIDERATION AND APPROVAL OF THE AUGUST 1, 2024, REGULAR PLANNING COMMISSION MINUTES

Commissioner Beebe moved to approve the August 1, 2024, minutes as written. Commissioner Gilbert seconded the motion. All voted “aye.” The motion passed unanimously.

7. COMMISSIONER/STAFF COMMENTS

Time Stamp: 1:08:48 – 08/15/2024

Madison Brown

Did not have any comments.

Jeremy Kimpton

Did not have any comments.

Colt Mund

Did not have any comments.

Commissioner Braegger

Commissioner Braegger asked if there was a way to review articles published by *The Box Elder Journal* to make sure content was accurate. Mayor Mote said there was not due to freedom of the press. The editor had been pretty responsive to his emails. Commissioner Braegger was concerned about misinformation to the public.

Commissioner Gilbert

Commissioner Gilbert asked about the status of alternate Planning Commission members. Mayor Mote stated that he had asked Rew Wiley to serve as an alternate. Commissioner Braeger also had a recommendation. The alternates would have to be confirmed by the City Council.



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Commissioner Beebe

Commissioner Beebe felt Willard needed businesses to generate sales tax revenue to help the city's budget. Jeremy Kimpton said the administration was working on an economic development grant. Citizens were needed to serve on the review committee. Commissioner Beebe said she would be interested. Jeremy Kimpton asked for recommendations for other committee members. The city needed 10 to 15 stakeholders from agricultural, construction, small business owners, etc. He hoped the study would start in the next month and be completed by January. Mayor Mote said Fred Barker was interested.

Chairman Bodily

Chairman Bodily asked about the story behind the new rock at the historic cemetery. Mayor Mote provided a brief history. During construction of Granite Ridge a rock with petroglyphs was uncovered. Lync Construction moved it to the city shop. The State Historic Preservation did not return the city's calls. He mentioned the rock to the Northwestern Shoshone Tribe. The tribe met and felt the rock needed to stay in Willard as close to the original site as possible. The City Council suggested the historic cemetery, which the tribe was happy with. The tribe conducted a ceremony to dedicate the site on Monday, August 12th.

Commissioner Bingham

Did not have any comments.

8. ADJOURN

Commissioner Beebe moved to adjourn at approximately 7:54 p.m. Commissioner Bingham seconded the motion. All voted in favor. The motion passed unanimously.

Minutes were read individually and approved on: 9/5/24


Planning Commission, Chairman
Sid Bodily


Planning Commission Secretary
Michelle Drago

dc:PC 08-15-2024

