

Willard City Corporation

80 West 50 South
Box 593



Willard, Utah 84340
(435)734-9881

WILLARD CITY COUNCIL N O T I C E

The Willard City Council of the Willard City Corporation will hold its Regular meeting on **Thursday, September 23, 2021**. The meeting will be held at the Willard City Offices 80 W 50 S. The meeting will be held in accordance with current COVID-19 guidelines. The meeting will begin promptly at 6:30 p.m. The agenda will be as follows:

1. Call to Order

- a. Invocation
- b. Pledge of Allegiance

2. Open Comment Period (Individuals have three minutes for open comments. If required, items may be referred to department heads for resolution. Items requiring action by the City Council will be placed on the agenda for a future meeting.)

3. New Business

- a. Discussion of Proposed Non-Exclusive Agreement with Connex for the Purpose of Internet Services
- b. Update on the Master Plan Process by Bruce Parker
- c. Presentation and Discussion of Draft Special Planned Development Zone by Bruce Parker
- d. Consideration of Discussion and Potential Action Regarding the General Plan Update 2021 Survey – Council Member Ward
- e. Consideration of Preliminary Approval of the Rod Braegger Subdivision Located at Approximately 100 South 400 West (Parcel No. 02-054-0003)
- f. Consideration of Approving Ordinance No. 2021-11, an Ordinance Approving a Rezone Request for Heritage Land Holdings, LLC for the Property Located at Approximately 300 South 200 West, Parcel Nos. 02-051-0004, 02-051-0085, 02-051-0087, 02-051-0251, 02-051-0252, 02-054-0005, 02-054-0007, 02-054-0008, 02-054-0009, 02-054-0010, 02-054-0011, 02-054-0012, 02-054-0013, and 02-054-0017 from A5 to R1/2
- g. Approval of the Purchase of 144 Trash Containers from Cascade Engineering in the amount of \$12,559.04
- h. Consideration of Review and Approval of Change Order No. 2 for Post Construction in the amount of \$65,147.50 for the 300 East Street Improvement Project
- i. Motion to Set a Special City Council Meeting on November 16, 2021

4. Approval of Minutes

September 9, 2021, Regular City Council Meeting

5. Financial

- a. Warrants
- b. Vouchers
- c. Reports

6. Department Reports

- a. Public Works
- b. Police Department
- c. Fire Department

8. Council Member Reports

- a. Brad Robb
- b. Josh Braegger
- c. Fred Ward

- d. John Seamons
- e. Kaleb Kunzler

9. Mayor's General Correspondence and Information

10. City Manager's Report

- 11. Consideration of Motion to Enter a Closed Session (if necessary)** pursuant to UCA §52-4-205 (a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual; (b) strategy sessions to discuss collective bargaining; (c) strategy sessions to discuss pending or reasonably imminent litigation; (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares; (f) discussion regarding deployment of security personnel, devices, or systems; or (g) investigative proceedings regarding allegations of criminal misconduct.

12. Adjourn

/s/ Michelle K. Snarr
City Recorder, Willard City

I, designated City Recorder for Willard City, hereby certify that the foregoing notice and agenda was posted at the Willard City Hall, on the State of Utah Public Meeting Notice Website <https://www.utah.gov/pmn/index.html>, on the Willard City Website www.willardcity.com and sent to the Box Elder News Journal September 20, 2021.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify the City Office at 80 West 50 South, Willard, Utah 84340, phone number (435) 734-9881, at least three working days.

FRANCHISE AGREEMENT
BETWEEN CITY OF WILLARD, UTAH
AND CONNEXT LLC.

This Franchise Agreement ("Franchise") is between Willard City, a municipal corporation of the State of Utah, hereinafter referred to as "the Franchising Authority" and Connex LLC, a Utah Limited Liability Company, located at 2655 G Avenue, Ogden UT 84404, hereinafter referred to as "the Grantee." The Franchising Authority and the Grantee are referred to together as "the Parties".

The Franchising Authority hereby acknowledges that the Grantee has the financial, legal, and technical ability to provide services, facilities, and equipment necessary to meet certain fiber-related needs of the community, and having afforded the public adequate notice, desires to enter into this non-exclusive Franchise with the Grantee for the construction and operation of a Fiber System on the terms set forth herein.

SECTION 1

Definition of Terms

1.1 Terms. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- A. "Affiliate" when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.
- B. "Fiber System" means the Grantee's facility, consisting of a set of fiber optic cables and associated signal generation, reception, and control equipment that is designed to provide fiber-related services which is provided to multiple Subscribers within the Service Area.
- C. "FCC" means Federal Communications Commission or successor governmental entity thereto.
- D. "Franchising Authority" means City of Willard, Utah, or the lawful successor, transferee, or assignee thereof.
- E. "Grantee" means Connex LLC of Utah, or the lawful successor, transferee, or assignee thereof.
- F. "Gross Revenue" means all revenues of Grantee, as determined according to generally accepted accounting principles consistently applied, derived directly by the Grantee, arising from or attributable to operation of the Fiber System to provide Fiber Service in the Service Area including but not limited to: Revenue from Fiber Services provided to Subscribers; ad sales revenues; and leased access revenues.

Gross Revenues do not include franchise fees or any fees or taxes which are imposed directly or indirectly on any Subscriber by any governmental unit or agency, and which are collected by the Grantee on behalf of a governmental unit or agency. Gross Revenues do not include revenues which cannot be collected by the Grantee and are identified as bad debt; provided, that if revenue previously representing bad debt is collected, this revenue shall be included in Gross Revenues for the collection period.

G. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity but not the Franchising Authority.

H. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Fiber System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing and operating the Grantee's Fiber System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other properly as may be ordinarily necessary and pertinent to the Fiber System. Public Way shall not include bike paths or trails not dedicated for utility services or compatible uses.

I. "Service Area" means the present boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in subsection 3.9.

J. "Standard Installation" is defined as up to one hundred twenty-five (125) feet from the nearest fiber access point to the Subscriber's optical network termination.

K. "Subscriber" means a Person or user of the Fiber System who lawfully receives Fiber Service on the Fiber System with the Grantee's express permission.

SECTION 2

Grant of Franchise

2.1 Grant. The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Fiber System in, along, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Fiber System.

2.2 Competitive Equity. The Grantee acknowledges and agrees that the City reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Fiber Services within the City; provided, the City agrees that, within ninety (90) days of the Grantee's request, it shall amend this Franchise to include any material terms or conditions that it makes available to the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: Franchise Fees; insurance; System build-out requirements; security instruments; Public, Education and Government access Channels and support; customer service standards; required reports and related record keeping; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent. Video Programming services delivered over wireless broadband networks are specifically exempted from the requirements of this Section.

2.3 Term. The Franchise granted hereunder shall be for an initial term of ten (10) years commencing on the Effective Date of the Franchise as set forth in subsection 8.7, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

SECTION 3

Standards of Service

3.1 Conditions of Occupancy. The Fiber System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways and other utilities and franchise holders using the public way.

3.2 Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance and regulations, to the extent the provisions of the ordinance or regulations, do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither party may unilaterally alter the material rights and obligations set forth in this Franchise

3.3 Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the Fiber System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way at Grantee's expense to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance and in a manner reasonably approved by the Director of Public Works. Except in the event of an emergency, Grantee shall provide Franchising Authority two week's advance notice of work in the Public Way except for the installation of service drops to homes.

3.4 Relocation for the Franchising Authority. Upon its receipt of reasonable advance written notice, to be not less than five (5) business days in the event of a temporary relocation and no less than ten (10) business days for a permanent relocation, the Grantee shall, at its own expense except as provided by law or entitlement, protect, support, raise, lower, temporarily disconnect, relocate in

or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, power lines or other municipal utility infrastructure, or any other type of public structures or improvements which are not used to compete with the Grantee's services.

3.5 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation, and no less than one hundred twenty (120) days for a permanent relocation.

3.6 Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Fiber System within Public Ways in the Service Area so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment.

3.7 Safety Requirements. Construction, operation, and maintenance of the Fiber System shall be performed in an orderly and workmanlike manner. All such work shall be performed in accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code. The Fiber System shall not endanger or unreasonably interfere with the safety of Persons or property in the Service Area.

3.8 Aerial and Underground Construction. Prior to construction, in each case, all applicable permits shall be applied for and granted and all fees shall be paid. All other codes and ordinances of the Franchising Authority that pertain to such construction shall be complied with.

A. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electronic services are underground, the Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground. In those areas of the Service Area where the transmission or distribution facilities of the respective public utilities providing telephone communications, and electric services are both aerial and underground, the Grantee shall consult with the City Engineer to determine whether the construction will be aerial or underground, and wherever possible depending on the season and the location construct, operate and maintain all of its transmission and distribution facilities, or any part thereof, underground

B. For the purposes of this Franchise, with the exception of service drops, facilities to be placed "underground" shall be at least eighteen (18) inches below the surface grade.

C. Nothing contained in this Section shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment.

3.9 Extensions of the Fiber System Not Required. The Grantee shall not be required to provide fiber services to locations within the Service Area which are not financially and technically feasible. The Grantee shall have the right, but not the obligation, to extend the Fiber System into any portion of the Service Area where another operator is providing Fiber Service, into any annexed area which is not contiguous to the present Service Area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

3.10 New Construction. In cases of new subdivision construction, the developer shall give Grantee reasonable notice of such construction or development and the particular date of which open trenching will be available for the Grantee's installation of conduit. Costs of trenching shall be borne by the developer unless agreed to otherwise between Grantee and developer.

3.11 Technical Standards. The Grantee is responsible for insuring that the Fiber System is designed, installed and operated in a manner that fully complies with FCC rules in Subpart K of Part 76 of Chapter I of Title 47 of the Code of Federal Regulations as revised or amended from time to time. As provided in these rules, the Franchising Authority shall have, upon request, the right to obtain a copy of tests and records required in accordance with appropriate rules but has no authority, pursuant to federal laws to enforce compliance with such standards.

3.12 Service to Public Buildings. The Grantee shall, upon request, provide without charge, one outlet of Standard Service to those Franchising Authority offices, fire station(s), police stations(s), public school building(s) and other Franchising Authority buildings that are passed by its Fiber System. The outlets of Standard Service shall not be used to sell services in or throughout such buildings, nor shall such outlets be located in areas open to the public. Users of such outlets shall hold the Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. The Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said building or premises exceeds one hundred twenty-five (125) cable feet unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of one hundred twenty-five (125) cable feet. If additional outlets of Service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials.

3.13 Customer Service Standards.

A. Fiber System office hours and telephone availability.

1. The Grantee will maintain a local, toll-free or collect call telephone access line which will be available to Subscribers twenty-four (24) hours a day, seven (7) days a week.

- a. Trained representatives of the Grantee will be available to respond to Subscriber telephone inquiries during Normal Business Hours, as defined herein.
- b. After Normal Business Hours, an access line will be available to be answered by a service or an automated response system, including a

phone answering system. Inquiries received after Normal Business Hours must be responded to by a trained representative of the Grantee on the next business day.

2. Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, will not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time will not exceed thirty (30) seconds. These standards will be met no less than ninety percent (90%) of the time under Normal Operating Conditions, as measured by the Grantee on a quarterly basis.

3. The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards set forth above unless an historical record of complaints during the previous two (2) years indicates a clear failure to comply with the standards.

4. Under Normal Operating Conditions, the Subscriber will receive a busy signal less than three percent (3%) of the time.

5. Customer service center and bill payment locations will be open at least during Normal Business Hours and will be conveniently located.

B. Installations, outages and service calls. Under Normal Operating Conditions, each of the following five (5) standards will be met no less than ninety-five percent (95%) of the time, as measured by the Grantee on a quarterly basis:

1. Standard installations will be performed within seven (7) business days after an order has been placed and the customer is ready to take service. Standard installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.

2. Excluding conditions beyond its control, the Grantee will begin working on Service Interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The Grantee will begin actions to correct other service problems the next business day after notification of the service problem.

3. The Grantee will provide "appointment window" alternatives for installations, service calls and other installation activities, which will be either a specific time, or at maximum, a four (4) hour time block during Normal Business Hours.

4. The Grantee shall not cancel an appointment with a Subscriber after the close of business on the business day prior to the scheduled appointment.

5. If a representative of the Grantee is running late for an appointment with a Subscriber and will not be able to keep the appointment as scheduled, the Grantee will contact the subscriber as soon as possible but no later than thirty (30) minutes before the "appointment

window" begins. The appointment will be rescheduled, as necessary, at a time which is convenient for the Subscriber.

C. Communications between the Grantee and Subscribers.

1. Notifications to Subscribers:

- a. The Grantee shall provide written information on each of the following areas at the time of installation of service, and at any time upon request:

i. Products and services offered;

ii. Prices and options for services and conditions of subscription to programming and other services; iii. Installation and service maintenance policies; and

iii Billing and complaint procedures, including the address and telephone number of the local Franchising Authority's office.

- b. Subscribers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the Fiber System and in writing. Notice will be given to Subscribers a minimum of thirty (30) days in advance if the change is within the control of the Grantee. In addition, the Grantee shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.

2. Billing:

- a. Bills will be clear, concise and understandable. Bills will be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly describe all activity during the billing period, including optional charges rebates and credits.

- b. In case of a billing dispute, the Grantee will respond to a written complaint from a Subscriber within thirty (30) days from receipt of the complaint.

3. Refund checks will be issued promptly, but no later than either (a) the Subscriber's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or (b) the return of the equipment supplied by the Grantee if service is terminated.

4. Credits for service will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.

D. The Franchising Authority reserves its right to establish lawful standards beyond those established by this Franchise including:

1. Customer service requirements;
2. Construction schedules and other construction related requirements;
3. Consumer protection laws.

E. Definitions: For purposes of this Section, the following definitions shall apply:

1. "Normal Business Hours" means those hours during which most similar businesses in the community are open to serve Subscribers. In all cases, "Normal Business Hours" shall include some evening hours at least one (1) night per week and/or some weekend hours. The Grantee will notify its Subscribers and the Franchising Authority of its Normal Business Hours.
2. "Normal Operating Conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinary and within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Fiber System.

SECTION 4

Regulation by the Franchising Authority

4.1 Franchise Fee.

- A. No franchise fee is imposed at this time. The Franchising Authority reserves the right to impose a reasonable franchise fee after public notice and hearing of any proposed franchise fee. Any franchise fee imposed is payable annually which shall be due on or before the 60th day after the end of the preceding end of the calendar year. A service charge of one and a half percent (1.5%) per month of the total amount due shall be imposed on late payments. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation. Revenue will be reported by service category.
- B. Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder or for any overpayment shall be three (3) years from the date on which payment by the Grantee is due, or from the date payment is made in the case of an overpayment.

4.2 Rates and Charges.

- A. The Franchising Authority may adopt the requisite ordinances to impose franchise fees applicable to all franchisees of the city.
- B. The Grantee shall file with the Franchising Authority on December 31 of each year a full schedule of all Subscriber user rates and all other charges made in connection with the Fiber System.
 - 1. All rates shall be published on file with the Franchising Authority.
 - 2. The Grantee shall not discriminate in the assessment, levy, charge, imposition or collection of rates on the basis of age, race, creed, color, gender, religion, national origin, sexual orientation or marital status.
- C. Nothing in this Franchise shall be construed to prohibit the reduction or waiving of charges in conjunction with promotional campaigns for the purpose of attracting Subscribers or users.
- D. The Grantee shall notify the Franchising Authority of any changes in rates or services within the Service Area no later than thirty (30) days prior to the implementation of such change(s).

4.3 Renewal of Franchise. Notwithstanding anything to the contrary set forth in this Franchise, the Grantee and the Franchising Authority agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof.

4.4 Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred or assigned, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Fiber System in order to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Franchising Authority shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Franchising Authority shall be deemed given.

SECTION 5

(RESERVED)

SECTION 6

Insurance and Indemnification

6.1 Insurance Requirements. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Comprehensive Commercial General Liability Insurance in the amount of Two Million Dollars (\$2,000,000) combined single limit per occurrence and Three Million Dollars (\$3,000,000) aggregate for bodily injury and property damage. The Grantee shall provide to the Franchising Authority a Certificate of Insurance designating the Franchising Authority as an additional insured. Additionally, the Grantee shall maintain in full force and effect, Automobile Liability insurance with limits of no less than \$500,000 combined single limit per accident for bodily injury and property damage. Such insurance shall be non-cancellable except upon thirty (30) days prior written notice to the Franchising Authority. The Grantee shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63-30d-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R-37-4-3.

6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any and all claims, demands, liens, and all liability for damages of whatsoever kind, including but not limited to any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's acts or omissions pursuant to or related to this Franchise, and to pay any and all costs, including reasonable attorney's fees, incurred by the Franchising Authority in defense of such claims, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority.

SECTION 7

Enforcement and Termination of Franchise

7.1 Grounds for Termination. The Franchising Authority may terminate or revoke this Franchise and all rights and privileges herein provided for any of the following reasons:

- A. The Grantee fails to make timely payments of any Franchise Fee that may be lawfully imposed by the Franchise Authority in the future and does not correct such failure within sixty (60) calendar days after written notice by the Franchising Authority of such failure; or
- B. The Grantee, by act or omission, materially violates a material duty herein set forth in any particular within the Grantee's control, and with respect to which redress is not otherwise herein provided. In such event, the Franchising Authority, acting by or through its City Council, may determine, after hearing, that such failure is of a material nature, and thereupon, after written notice giving the Grantee notice of such determination, the Grantee, within sixty (60) calendar days of such notice, shall commence efforts to remedy the conditions identified in the notice and shall have ninety (90) calendar days from the date it receives notice to remedy the conditions, After the expiration of such 90-day period and failure to correct such conditions, the Franchising Authority may declare the franchise

forfeited and this Franchise terminated, and thereupon, the Grantee shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further, that in the event such failure is of such nature that it cannot be reasonably corrected within the 90-day time period provided above, the Franchising Authority shall provide additional time for the reasonable correction of such alleged failure if the reason for the noncompliance was not the intentional or negligent act or omission of the Grantee.

7.2 Remedies at Law. In the event the Grantee or the Franchising Authority fails to fulfill any of their respective obligations under this Franchise, the Franchising Authority or the Grantee, whichever the case may be, shall have a breach of contract claim and remedy against the other, in addition to any other remedy provided herein or by law; provided, however, that no remedy that would have the effect of amending the specific provisions of this Franchise shall become effective without such action that would be necessary to formally amend the Franchise.

7.3 Third Party Beneficiaries. The benefits and protection provided by this Franchise shall inure solely to the benefit of the Franchising Authority and the Grantee. This Franchise shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of the Parties hereto).

7.4 Uncontrollable Events. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control including any delays caused by the Franchising Authority.

7.5 Bonds and Surety

A. Except as expressly provided herein, the Grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Franchise or continuing its existence. The Grantee and the Franchising Authority recognize that the costs associated with bonds and other surety may be ultimately borne by the Subscribers in the form of increased rates for Fiber Services. Initially, no bond or other surety will be required. In the event that one is required in the future, the Franchising Authority agrees to give the Grantee at least sixty (60) days prior written notice thereof stating the exact reason for the requirement.

B. Notwithstanding the above provisions, the Grantee shall be responsible for standard performance bonds and insurance required for encroachment permits for work done within Public Ways.

7.6 Termination by Grantee. Notwithstanding any other provision of this Franchise to the contrary, Grantee may terminate this Franchise with or without cause six months after giving the Franchising Authority and Grantee's customers notice of Grantee's intent to terminate.

SECTION 8

Miscellaneous Provisions

8.1 Actions of Parties. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner, Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.2 Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority on the subject of Fiber Service. Amendments to this Franchise for any purpose, including but not limited to any changes in state or federal law, shall be mutually agreed to in writing by the Parties.

8.3 Notice. Unless expressly otherwise agreed between the Parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, or b) upon receipt when sent certified or registered mail. The notices or responses to the Franchising Authority shall be addressed as follows:

Willard City
80 W. 50 S.
P.O. BOX 593
Willard UT 84340

The notices or responses to the Grantee shall be addressed as follows:

ConnexLLC
2655 G Avenue
Ogden UT 84404

with a copy to:

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection

8.4 Descriptive Headings. The captions to Sections and subsections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.5 Severability. If any Section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

8.6 Applicable Law. The terms and conditions contained herein shall be interpreted according to the laws of the State of Utah, except where expressly preempted by federal law.

8.7 Effective Date. The Effective Date of this Franchise is the _____ day of _____, 2021 pursuant to the provisions of applicable law. This Franchise shall expire on the ____ day of _____, 202____, unless extended by the mutual agreement of the Parties.

Considered and approved this _____ day of _____, 20____.

CITY OF Willard UTAH

Mayor

Attest:

City Recorder

Grantee

By: _____

Title: _____

WILLARD CITY, UTAH
SPECIAL PLANNED DEVELOPMENT (SPD) DISTRICT (PROPOSED)

Section 1. Purposes.

The Special Planned Development (SPD) District is provided to:

1. Implement the Willard City General Plan.
2. In specific locations to allow appropriate opportunities for subdivision and development design flexibilities in the Zoning Districts where such flexibility is determined appropriate by the City Council, following a Planning Commission recommendation. The application of the SPD Zoning District shall respect the agricultural and naturally occurring features of the development location ("Subject Property"); and
3. To minimize impacts on the existing site features of the Subject Property including, but not limited to, agricultural, orchards, and horticultural uses and activities, wetlands, floodplains, vegetation, and steep slopes. The SPD District may be used to minimize disturbance to the naturally occurring and man-made features existing on the Subject Property, as much as practicable.

Section 2. Applicability.

The SPD Zoning District shall only be established by following the City's procedures required for a Land Use Ordinance amendment. The City Council shall find, and following the receipt of a Planning Commission recommendation, that all standards of Chapter ____ are met. Additionally, the City Council shall establish an SPD Zoning District to achieve the purposes (Section 1) and intent (Section 3) of this Chapter.

Section 3. Intent.

The SPD Zoning District is intended to provide subdivision and development options that:

1. Compliment the community image, attractiveness, and livability of the City.
2. Encourage imaginative and efficient subdivision and development configurations.
3. Conserves and protects viable agricultural areas, orchards, horticultural lands and activities, open spaces, and sensitive lands by setting aside those areas from future development.
4. Conserves and protects scenic, historic, natural features and resources, and sensitive lands, including those areas containing features such as steep slopes, wildlife habitat, floodplains, and wetlands, by setting aside these areas from development.
5. Provides active and passive recreational facilities, including trails.
6. Promotes efficiencies in the delivery of required services, including reduced infrastructure construction costs and ongoing maintenance costs
7. Reduces the amount of impervious surfacing and the length of required utility runs.

Section 4. Applicability.

1. The SPD Zoning District shall only be applied to properties located in the __<insert zones>__ Zoning Districts.
2. The SPD Zoning District shall only be established by following the procedures required for a Land Use Ordinance (Zoning Ordinance) amendment, as required by Chapter __<insert Chapter Reference>__.

Section 5. Required Minimum Subject Property Size.

An SPD Zoning District designation requires a minimum of five (5) acres. Owners and developers may combine their properties under an SPD Zoning Designation provided:

1. They file a Land Use Amendment Application for an SPD Zoning District designation jointly, and
2. Evidence is provided to the City that the owners and/or developers have executed a legal instrument establishing their relationships, roles, responsibilities, obligations, and privileges in pursuing a development under an SPD Zoning District designation. Such legal instrument shall provide evidence to the City of their rights and remedies, thereunder, and their mutual rights and obligations to the City. (Have City Attorney review and revise).

Section 6. Application and Application Requirements.

1. All requests to establish a PD Zoning District shall be made by the submission of a Land Use Ordinance Amendment Application to the city planner as required by Chapter ____.
2. In addition to the application requirements of Chapter ____, all applications to establish an SPD Zoning District shall include:
 - a. The Agricultural Lands Plan as required by Section 7, herein.
 - b. Open Space Lands Plan, as required by Section 8, herein.
 - c. The Sensitive Lands Plan as required by Section 9, herein.
 - d. A Master Development Plan as required by Section 10, herein. The Master Development Plan shall demonstrate how the Subject Property would be developed with the SPD Zoning District. The Master Development Plan shall be provided for illustrative purposes only and shall demonstrate how the SPD Zoning District provides a preferred development option for the Subject Property. The Master Development Plan shall be accompanied by a narrative description(s), as determined by the applicant, to highlight and identify the private and public benefits of developing the Subject Property under the SPD Zoning District over the Base Zoning District only.
 - e. Adjoining Property Compatibility Plan. The Adjoining Property Compatibility Plan shall identify all property owners immediately adjacent to the Subject Property, including the name and mailing address. The Adjoining Property Compatibility Plan shall show the Zoning Districts of all adjoining properties, the existing uses, use densities and intensities, and the location of all adjoining agricultural, open space, and sensitive lands, as applicable, and as defined by this Chapter.

Section 7. Agricultural Lands Plan.

1. Plan Required. Applications for an SPD Zoning District designation shall include an accurate agricultural land(s) plan (a map), at a scale of _____ and prepared as required by this Section.
2. Requirements. The agricultural lands plan shall identify all agricultural lands located on the Subject Property, including, but not limited to all fields, grazing lands, orchards, and horticultural use areas of one (1) acre or larger. The agricultural lands plan shall accurately identify the use(s) of all agricultural lands existing on the Subject Property and located within four hundred feet (400') of the Subject Property.
3. Applicant Responsibility: Applicants are solely responsible for ensuring the accuracy of the agricultural lands plan.
4. Continuing Productivity and Maintenance of Agricultural Lands. As practicable, agricultural lands identified by the agricultural lands plan shall continue as productive agricultural lands and shall continue to qualify for assessment under the Farmland Assessment Act.

Section 8. Open Space Lands Plan.

1. Plan Required. Applications for an SPD Zoning District designation shall include an accurate open space land(s) plan (a map with necessary narrative materials), at a scale of _____ and prepared as required by this Section.
2. Requirements. The open space lands plan shall identify all areas of the Subject Property proposed to remain open and for use as a public or private amenity. The open space lands plan shall accurately identify the use(s) of all open space lands existing on the Subject Property and located within four hundred feet (400') of the Subject Property.
3. Applicant Responsibility: Applicants are solely responsible for ensuring the accuracy of the open space lands plan.

Section 9. Sensitive Lands Plan.

1. Plan Required. Applications for an SPD Zoning District designation shall include an accurate, sensitive land(s) plan (a map with necessary narrative materials), at a scale of _____ and prepared as required by this Section.
2. Requirements. The sensitive lands plan shall identify all areas of the Subject Property determined to be floodplains, wetlands, geological hazards, steep slopes, and all other areas with some form of development constraint, including all areas identified by a Federal or State Department or Agency, with authority. The sensitive lands plan shall accurately identify the use(s) of all sensitive lands existing on the Subject Property and located within four hundred feet (400') of the Subject Property.
3. Applicant Responsibility: Applicants are solely responsible for ensuring the accuracy of the sensitive lands plan.

Section 10. Master Development Plan Required.

Applications for an SPD Zoning District designation shall include a Master Development Plan for approval concurrent with the approval of an SPD Zoning District designation. The Master Development Plan shall demonstrate:

1. How the Subject Property would be developed with the SPD Zoning District. The Master Development Plan shall be provided for illustrative purposes only and shall demonstrate how the SPD Zoning District provides a preferred development option for the Subject Property. The Master Development Plan shall be accompanied by a narrative description(s), as determined by the applicant, to highlight and identify the private and public benefits of developing the Subject Property under the SPD Zoning District over the Base Zoning District only. The proposed Master Development Plan shall show.
 - a. Use Locations. Show the location of all proposed uses, including the location of all roads and streets, uses (by type), dwelling units (by type), public and private uses, the location and size of agricultural, open space, sensitive lands. All proposed active and passive recreational facilities and improvements and proposed private and publicly accessible features and facilities.
 - b. Design Features and Consistencies. All developments proposed in an SPD Zoning District shall provide and incorporate a consistent architectural and design theme, including, but not limited to street signage, lighting, fencing, entry treatments and features, landscaping, and architectural building styles, including consistency in material colors and quality.
 - c. Improvements and Enhancements. All developments proposed in an SPD Zoning District shall include, as applicable, all measures to stabilize sensitive areas, including stabilizing drainageways, the protection of wetlands, enhancements to wildlife habitat areas, improvements to open space areas to facilitate public use, various other open space area improvements and amenities, the provision of a publicly accessible and improved trail system and providing appropriate linkages and connections to existing sensitive lands, existing or proposed open spaces and existing or proposed trails.
2. Lot Standards. The owner or developer of Subject Property proposed in an SPD Zoning District shall identify on the Master Development Plan at a clearly legible scale and readable the following lot standards. If the Master Development Plan does not address any required lot standard, as provided by this Section, the minimum requirements of the Base Zoning District shall apply. To achieve the purposes and intent of the SPD Zoning District lots located in the SPD Zoning District may.
 - a. Lot Area: Be smaller than the minimum size required in the underlying Zoning District, as approved, and as required by the Land Use Ordinances of the City.
 - b. Lot Width and Frontage. Be reduced from the minimum lot width and frontage requirements of the underlying Zoning District, as approved and as required by the Land Use Ordinances of the City.

3. Consistent with the purposes and intent of this Chapter, the location standards for all primary and accessory buildings and structures shall be shown on the Master Development Plan as follows.
 - a. Front Setback: The minimum front yard setback for all primary and accessory buildings or structures.
 - b. Maximum Lot Coverage: The maximum impervious surface proposed for all lots.
 - c. Rear Setback: The minimum rear yard setback for all primary and accessory buildings or structures.
 - d. Side Yard Setback: The minimum side yard setback for all primary and accessory buildings or structures.
 - e. Side Yard Setback; Corner Lots: The minimum side yard setback for all corner lots for all primary and accessory buildings or structures.
4. Building Height. The maximum building height as provided by the Base Zoning District shall apply to all primary buildings and structures proposed in an SPD Zoning District.
5. Base Zoning District Applicability. Except and unless modified by the Master Development Plan, as approved concurrently with the approval of an SPD Zoning District all other standards of the Base Zoning District shall apply.

Section 11. SPD Zoning District Approval Criteria.

The approval criteria for establishing an SPD Zoning District shall be the same criteria as provided for a Land Use Ordinance amendment. In addition, the Planning Commission and City Council shall consider and find the proposed SPD Zoning District:

1. Will better preserve and enhance desirable site features than would be achieved by the Base Zoning District.
2. Achieves the purposes of the General Plan and does not create a conflict with any applicable General Plan goal or policy.
3. Meets the purposes and intent of this Chapter.

Section 12. Allowed Uses – Dwelling Unit Variety. Master Development Plan to Identify.

The uses allowed as either a permitted, conditional, accessory, temporary, seasonal, or other use in the Base Zoning District shall apply. However, to allow for various dwelling unit types, the SPD Zoning District may also provide other dwelling unit types as specifically identified and referenced, including the number of dwelling unit types proposed, by the Master Development Plan, and its accompanying narrative(s).

Section 13. Standards and Requirements of Base Zoning District Apply, Unless Modified by an Approved SPD Zoning District Master Development Plan.

1. All developments, including all subdivisions, land use permit applications, and all other land use permits, proposed in an SPD Zoning District shall comply standards of the Base Zoning District.

2. As provided by this Chapter, an SPD Zoning District and the accompanying approved Master Development Plan may modify the requirements of the Base Zoning District.
3. The Master Development Plan, as approved by the City Council, following the receipt of a Planning Commission recommendation, shall be controlling for all subdivision applications, all land use permit applications, and all other land use permit applications to the extent provided by the Master Development Plan.

Section 14. Proposed Minimum Agricultural, Open Space, and or Sensitive Land Area(s) Designation.

1. The SPD Zoning District requires a minimum of twenty percent (20%) of the total Subject Property acreage to be conserved, under an approved conservation instrument, for continued agricultural uses (including but not limited to grazing lands, orchards, and horticultural uses), for open space land conservation, and/or sensitive lands protection. The proposed agricultural, open space, and/or sensitive land area(s) shall:
 - a. Be as contiguous as possible to create one (1) parcel, as practicable, and
 - b. Not include any private lot areas, roads, streets or other right of way, or any areas proposed to be used for schools, churches, public facilities, or other similar uses.
 - c. Be located to be part of a larger continuous and integrated area for continued agricultural uses, open space land conservation, and/or sensitive lands protection.
 - d. Add to the area's amenities, including the maximization of visibility to the agricultural, open space, and/or sensitive land areas.
 - e. As applicable, provide adequate public and private active transportation access via a trail system and proper maintenance access to all agricultural, open space, and/or sensitive land areas.
2. **Proposed Active Recreation and Landscape Areas:** All areas of the Subject Property not identified for continued agricultural uses, open space land conservation, and/or sensitive lands protection, or included in a private lot or area shall be identified as to proposed ownership, use, improvements, and maintenance.

Section 15. Minimum Conservation Area Requirements and Ownership.

1. **Conservation Instrument.** A proposed conservation instrument shall accompany the proposed Master Development Plan. Such instrument shall be legal and binding in the State of Utah. It shall include all areas of the Subject Property proposed to be conserved as either agricultural, open space or sensitive lands.
2. **Ownership and Maintenance of Conservation Areas.** The proposed Master Development Plan shall provide the ownership and maintenance obligations for all areas included under the conservation instrument. Subject to City Council approval, the ownership and maintenance of all conservation areas may remain in single ownership and may be owned and maintained by one of the following entities: homeowners' association, land trust, a conservation organization, governmental entity, or private individual. No lands subject to conservation shall be subdivided.

Section 16. Nonqualifying Areas.

The SPD Zoning District shall not include any lands that are:

1. Not owned or controlled by the owner or developer at the time of application, or
2. Are protected from development by law, deed, easement, or other enforceable instruments.

Section 17. Land Use Application Approval Process and Amendment Process.

As defined by Utah Code, all Land Use Applications for any use, subdivision, or other activity proposed in an SPD Zoning District shall.

1. Comply with all applicable Federal and State laws, requirements, and standards.
2. Comply with all requirements and standards of the City, as applicable.
3. Comply with all requirements and standards of the Master Development Plan, including all attachments and documents thereto.

Section 18. Allowed Base Density.

The maximum density allowed in an SPD Zoning District shall be determined by dividing the total acreage of the subdivision site by the minimum lot size requirement of the Base Zoning District. All fractions shall be rounded down.

Section 19. SPD District Allowed Density Bonus.

For the Subject Property complying with the requirements of the Base Zoning District and the SPD Special Zoning District, including its accompanying Master Development Plan, the following density bonuses are available for the conservation of agricultural lands, open space lands, and sensitive lands, as identified by such plans. Density bonuses shall be as provided by Table 1.

Table 1
Maximum Allowed Special Planned Development Zoning District Density Bonus by Conserved Lands

Percentage of Total Subject Property Area							
Minimum Required Subject Property Percentage	Conserved Agricultural, Open Space, and/or Sensitive Lands, as applicable	Proposed Productive Agricultural Lands to be conserved	Maximum Bonus Density	Proposed Open Space Lands to be conserved	Maximum Bonus Density	Proposed Sensitive Lands to be conserved	Maximum Bonus Density
20	20		0		0		0
		25	30	25	30	25	5
		30	35	30	35	30	10
		35	40	35	40	35	15
		40	45	40	45	40	20
		45	50	45	50	45	25
		50	55	50	55	50	30

Need to include illustrative materials sufficient to communicate intent and understanding.

Definitions to Follow..



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5B. **PUBLIC HEARING TO CONSIDER PRELIMINARY APPROVAL OF THE ROD BRAEGGER SUBDIVISION LOCATED AT APPROXIMATELY 100 SOUTH 400 WEST (02-054-0003)**

Commissioner Bingham moved to open the public hearing at 6:58 p.m. Commissioner Hulsey seconded the motion. All voted in favor. The motion passed unanimously.

Bryce Wheelwright stated that Rod Braegger proposed to rezone and subdivide property located at the south end of 400 West. The property was currently owned by the Barker family (Rachel McIntire and Trisha Heath). The proposed subdivision consisted of two lots and would extend 400 West to their south property line. Rod Braegger and the Barker family had agreed to provide an emergency access in the form of a recorded easement to the City. The easement would be located on the south side of the subdivision. It would extend from 400 West to 250 West. The emergency access would be the required second access. The extension of 400 West to the south complied with the City's Road Master Plan. It would eventually connect to roads being built on the Lemon property to the south.

Commissioner Dubovik asked if the City would be responsible to provide the grading and road base for the easement. Mr. Wheelwright said the developer would be responsible to create a usable emergency access.

Chairman Bodily asked if the easement was an emergency access or a public access. Bryce Wheelwright said it would be an emergency access. Chairman Bodily asked if the access needed to be a regular access. Mr. Wheelwright said the Planning Commission needed to determine if the access needed to be more than an emergency access.

Commissioner Hulsey asked if the public could use the emergency access if other access was blocked. Mr. Wheelwright said it could. The public would be able to use the easement if other access was blocked. The easement wasn't intended to be used as a thoroughfare.

Commissioner Dubovik asked about a crash gate. Mr. Wheelwright said there was initially discussion about a crash gate, but the proponents were now proposing to leave the access open unless its use was abused.

Commissioner Hulsey asked if 400 West would have full public access. Mr. Wheelwright said it would. It would be a public right-of-way built to City standards with curb, gutter, and sidewalk. An easement for 500 West would be dedicated to the City.

Chairman Bodily asked if the petitioner had any comments.

Rachel McIntire stated that they did not plan to put a gate on the emergency access. If the road on the other side was ever blocked they didn't have a problem if people used it. They just didn't want people to use it on a daily basis. They were only granting an easement large enough to meet the City requirements. It would be 30 feet wide with 20 feet of pavement. It wasn't large enough for daily use.

Bryce Wheelwright stated that the standard for emergency access was 30 feet with an all-weather surface.

Chairman Bodily opened the floor for public comments.

Councilman Fred Ward, 235 South Main, provided a map for the Planning Commission to review (see attached copy). The City owned the 100 South right-of-way between 200 West and 250 West. The right-of-way was 59 feet wide. The southwest corner of the 100 South right-of-way lined up with the northeast corner of the proposed subdivision. He suggested that the City put in a public road along the north side of the



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Braegger Subdivision and the south side of the adjoining property. That would extend 100 South west between 250 West and 400 West. The developer could then extend 400 West and 500 West to the south. Four Hundred West (400 West) would eventually connect with The Orchards development, which would eventually reach 600 South. If 100 South was extended to 400 West, there would be two public accesses for this area. He didn't feel a private emergency access on the south side of the Braegger Subdivision could handle emergency vehicles and public traffic in the heat of a battle.

Commissioner Dubovik asked if the road extension would be a cost to the City. Councilman Ward felt that should be the expense of the developer.

Travis Mote, 455 South 200 West, stated that the City was updating its General Plan. He felt the Planning Commission needed to be cognizant and not lock the City into something that would conflict with the General Plan. He liked the larger lots the Barker's were proposing. He asked if there was an emergency access from the Mountain Shadow Subdivision. He didn't feel there was a need for a second emergency access if there was an existing one.

Mayor Braegger said there wasn't an emergency access for the Mountain Shadow Subdivision. The City did not require a second access when the Mountain Shadow Subdivision was approved because the requirement didn't exist at that time.

Keith Larsen, 150 South 200 West, asked what had happened to 100 South. Why it didn't go all of the way through?

Commissioner Dubovik asked if there was a mechanism to require the developer to put in a wider public right-of-way rather than an emergency access and to share in the cost with the City

Rod Braegger stated that a public right-of-way could not be built on the north side of their subdivision. There physically wasn't room.

Councilman Fred Ward said the City could talk with the Braegger's. They might be willing to give up some property to make room for a public right-of-way.

Jean Loveland, 105 South 100 East, felt the General Plan spelled it out. There were already 31 homes in this area with only one access. There needed to be some type of second access, and it needed to be in the City's name so that it would be maintained. A personal property owner would not maintain the easement in a snow storm or make sure it was graded. The developer's needed to pay for the access, not the City residents.

Jo Baird, 175 West Center Street, stated that the last time this issue was addressed she understood that this road would be a cul-de-sac with two homes. Rod Braegger said 400 West would dead end on the south side of their property. Someone else would extend the road from there. Ms. Baird asked about the difference between a dead end and a cul-de-sac. She understood that the Zoning Ordinance prohibited flag lots and cul-de-sacs. If people reached the end of 400 West and had to turn around and drive back out, didn't that qualify as a cul-de-sac? Were there really only two homes going in there? The dead end versus a cul-de-sac was confusing.

Commissioner Bingham stated that a cul-de-sac could not be extended. The road proposed in the Rod Braegger Subdivision would continue to the south.



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Bryce Wheelwright stated when 400 West extended further south, the access easement would go back to the landowners. It would no longer be necessary.

Trisha Heath stated that the easement would be recorded as a temporary access easement. When 400 West went through the easement would revert back to them.

Judy Loveland, 70 South 100 West, stated that twenty years ago she served on the City Council. At that time only 20 homes were allowed on a dead end. At that time, the City Council wanted 100 South to extend further to the west.

Commissioner Dubovik moved to close the public hearing at 7:13 p.m. Commissioner Hulsey seconded the motion. All voted “aye.” The motion passed unanimously.

Commissioner Bingham stated that his comments regarding the Rod Braegger Subdivision were similar to those he made in the Street Ordinance discussion earlier in the meeting. This subdivision was a perfect example of what he had been talking about. The City needed tools to be able to work with a property owner while it was waiting for other properties to build out. If the City didn't provide ways for smaller properties to develop, the whole area would be landlocked. The City needed to do something. If the General Road Plan called for 100 South to be extended to the west, the City needed to look into that. In the meantime, the City ordinances did require 400 West to be extended to the south. Approval of this subdivision was a step in the right direction. It provided an emergency access for this area, which the City currently did not have, and it was another step toward a proposed development with a true secondary access.

Commissioner Dubovik asked if the General Plan called for 100 South to extend west to 400 West near the location of the proposed access easement. Commissioner Hulsey said the easement location and the proposed road location were not the same. The easement was located on the south side of the Braegger Subdivision. The proposed road location would run through Mayor Braegger's property on the north side of the subdivision.

Commissioner Bingham stated that there were buildings on the Mayor's property that would prevent a full size road from being extended from 250 West to 400 West.

Commissioner Dubovik understood that the emergency access would not be maintained in the winter. It would not be plowed by the City. Was that the same with other emergency accesses?

Commissioner Bingham felt it would be. If there was an emergency, the City would plow the easement. Maybe there needed to be something in the City's ordinance that required owners to maintain access easements. If the emergency accesses were not maintained, they might not be accessible.

Chairman Bodily said the Road Master Plan showed 100 South extending all of the way to 500 West.

Commissioner Bingham said there were homes in the way.

Commissioner Hulsey clarified that Councilman Ward's solution was to extend 100 South to 400 West through Mayor Braegger's property. Councilman Ward felt that Mayor Braegger's property would develop at some point. An extension of 100 South would benefit both Mayor Braegger and the Braegger Subdivision.

Rod Braegger stated that there were two homes along 250 West in the area Councilman Ward was referring to. There wasn't enough room between or around the existing homes for a road.



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Commissioner Bingham felt a road extension would make the Braegger property too narrow.

Bryce Wheelwright stated that a long time ago, there was discussion about putting in 100 South to create a second access. The area was measured. It was determined that there wasn't enough width to build the road. If the road were built, it would take out the shop on the Mayor's property and probably the house. If the house was left, it would be too close to the road.

Councilman Fred Ward felt the City could extend 250 West by going down the south side of the Braegger Subdivision where a full width road could be built.

The Braegger's pointed out that there was a barn on that side. There wasn't enough room there either.

Councilman Fred Ward felt the City needed to make the call - pay property owners for their buildings and put the road where it needed to be. He felt this would be a mistake down the road if it wasn't dealt with now.

Commissioner Hulseley understood there was limited width for the private access road and that when everything connected through, it wouldn't be that big of an issue. However, right now the City was dealing with the mistake of a narrow Center Street without any other access. He asked if the temporary easement could be made a full public access road until 400 West was connected. Bryce Wheelwright asked if he was suggesting that the easement be paved and improved as a second access then turned back to the owners when 400 West connected. Commissioner Hulseley said he was.

Bryce Wheelwright said that is what was being proposed. Commissioner Hulseley said they were only proposing an access for emergency purposes if Center Street was blocked. He was suggesting a full time, permanent access until it was no longer needed.

Councilman Fred Ward felt that would still leave the City with only one access road – Center Street. The City was over the 30 home limit. Another access road was needed. He felt the answer was 100 South.

Mayor Braegger stated that everyone was concerned about how narrow Center Street was. The right-of-way was narrower, but the asphalt on Center Street was almost as wide as any other City street. He had been parked on Center Street while irrigating and never seen another car. Center Street did not have bumper to bumper traffic. It did have some traffic, and the traffic would increase as homes developed. At some point, 400 West would go all of the way through, and there would be a second access. If the City didn't allow people to build and create parts of 400 West, the connection of 400 West would never happen. He didn't feel it would be wise to land lock the community to no development. If the City didn't allow this development to happen, that is essentially what it was saying. Braegger's were willing to provide emergency access, which was all that was required for Granite Ridge. Granite Ridge had a lot more homes. He felt the emergency access was sufficient. The Road Master Plan was prepared after the home on his property was built. The Road Master Plan proposed a location for 100 South, but the home already existed. Bigger developments were a better option for Willard because the needed roads were built all at once. When lots were built one at a time, it took time for the need of a road to be realized. The City was working on a new Master Road Plan along with the General Plan, but it probably would not change the fact that 100 South would never exist on the west side of town unless someone wanted to come up with the money to purchase his property. He suggested that the City allow 400 West to continue to develop toward the south. Eventually the Lemon and Hanson properties would develop, and 400 West would connect. If the Braegger Subdivision was denied, the City would be landlocked. He didn't feel that would be a fair prospect.



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Councilman Fred Ward felt the Master Plan needed to be completed. Then when someone wanted to build one house, they would know where roads were supposed to be located and what improvements they had to build.

Commissioner Dubovik didn't feel the City could treat the emergency access for this subdivision any different than it had for other subdivisions. If there was an emergency in the winter, the City would run a plow through the access.

Bryce Wheelwright stated that if the easement was in the City's name, the City would maintain it. It was no longer a private easement.

Commissioner Bingham stated that there was also a 200 South on the City's Road Master Plan, as well as a 300 South. There wasn't anything to prevent those roads. The City didn't always need big development. With a good City plan, it didn't matter who developed what because City would know where it wanted its main streets and arteries. Whoever prepared the Road Master Plan in 2007 blundered on the location of 100 South because it didn't take into consideration an existing home.

Travis Mote said the City hadn't stuck to the Road Master Plan it had. There was supposed to have been a road between his property and the subdivision next to him that wasn't required. Now access to the highway in that area was not available. The City needed to stick to the plan, or future issues would be created.

There was a discussion about the road next to Travis Mote.

Commissioner Dubovik agreed there were issues with the Road Master Plan, but he didn't feel changing the standard for one development would fix a systemic problem. Going forward, the City needed to look at mechanisms and ordinances to make sure this didn't happen again. In this case, he felt the Braegger's were doing everything the ordinance required.

Commissioner Baker stated that in the June 10th SLUA meeting, the Braegger's said they were going to develop up to 500 West, but they didn't plan to build 500 West. Why weren't they going to build 500 West?

Rod Braegger stated that they did not plan to develop 500 West at this time. An easement for 500 West would be dedicated to the City, but the only houses that would be built right now were those facing 400 West.

Bryce Wheelwright stated that the right-of-way for 500 West would be dedicated. Commissioner Baker asked who would build 500 West. Commissioner Hulsey said 500 West would be built when a home on 500 West was built.

Councilman Fred Ward didn't feel 500 West could be dedicated to the City until the road was built. If the right-of-way was dedicated to the City, the City would be responsible for the road.

There was a discussion about 500 West. Commissioner Bingham stated that 500 West would have to be built if and when the lot on the west side of 400 West was subdivided. It would be dedicated as a right-of-way to ensure its location. There weren't any houses proposed along 500 West. There wasn't a need to construct it at this time.



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Willard City Hall – 80 West 50 South
Willard, Utah 84340

Commissioner Hulsey asked at what point Braegger's would be required to construction 500 West. Bryce Wheelwright stated that if someone applied for a building permit along 500 West, a permit would not be issued until 500 West was constructed.

Chairman Bodily referred to Granite Ridge as an example. They didn't construct all of the roads at one time. The roads were constructed in phases. Five Hundred West (500 West) would be part of a future phase.

Commissioner Hulsey felt Commissioner Baker was worried that 500 West wouldn't be constructed, or that the City would end up being responsible for its construction. But, he felt 500 West would be required in a future phase.

Commissioner Bingham felt the proposed subdivision was a step forward for the entire area. He did not know that there was an ideal solution, but this subdivision was a step in the right direction.

Commissioner Bingham moved to grant preliminary approval of the Rod Braegger Subdivision and forward it to the City Council. Commissioner Dubovik seconded the motion. Commissioners Bingham and Dubovik voted "aye." Commissioners Baker and Hulsey voted "nay."

Commissioner Hulsey stated that the Rod Braegger Subdivision proposed houses 32 and 33 at the end of a dead end street. Unfortunately, the burden of resolving the access fell on them. For the time being, he felt the emergency access needed to be a full public road. He didn't feel curb and gutter or asphalt should be required, but he did feel it should be a public access road. When there was a full second access, it could be granted back to the property owners. He did not feel the City was following its own code by allowing the homes in the proposed subdivision.

Commissioner Bingham felt requiring an emergency access was following the City code. This subdivision was providing an emergency access for this area, which it did not have. This was a step in the right direction. It would alleviate pressure in this area. He felt this subdivision would comply with the proposed changes to the Street Ordinance. The Planning Commission kept getting secondary access and emergency access confused.

Chairman Bodily asked if the required emergency access was following the code. Bryce Wheelwright said it was. The City's code only required that the second access be an emergency access.

Bryce Wheelwright stated that in the case of a tie vote, the Planning Chair could vote.

Chairman Bodily voted "aye." The motion passed with a three to two vote.

5C. CONSIDERATION OF A LOT LINE ADJUSTMENT FOR JUSTIN DICKSON LOCATED AT APPROXIMATELY 265 EAST 1000 NORTH (02-042-0009 AND 02-042-0010)

Bryce Wheelwright stated that Justin Dickson owned two parcels of property located at approximately 265 East 1000 North. Mr. Dickson's house was divided by the property line. He wanted to adjust the property line to run around his house rather than through it.

Travis Dickson stated that we was present to represent his father.

Bryce Wheelwright asked why Justin Dickson didn't just combine both parcels into one. Travis Dickson did not know. He did know that his father didn't want the property line running through the middle of his house.

Map showing property boundaries, owner names, and acreage. The map is oriented with North at the top. A scale bar at the bottom indicates 0 to 150 feet. A north arrow is located in the bottom right corner.

Property Owners and Acreage:

- SMITH MIKE JT 02-04-0000
- KING LARRY R 02-05-0011
- LUTZ ANGLAN J ETUX 02-05-0012
- HURST DERRICK JT 60 S 02-05-0007
- BOLTON F STEVE 60 S 02-05-0003
- WILLARD CITY CORP 100 S 02-05-0022
- GILBERT BRIAN SCOTT JT 110 S 02-05-0022
- LARSEN KEITH ETUX 02-05-0013
- 171 S
- 151 S
- 180 W
- 195 W
- 6 N
- 200 W
- 250 W
- 295 W
- 285 W
- 275 W
- 10 S
- 20 S
- 42 S
- 72 S
- 96 S
- 100 S
- 110 S
- 188 S
- 178 S
- 6 N
- 200 W
- 250 W
- 295 W
- 285 W
- 275 W
- 10 S
- 20 S
- 42 S
- 72 S
- 96 S
- 100 S
- 110 S
- 188 S
- 178 S

Map Labels:

- Center St
- W 400
- W 500
- W 600
- W 700
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WILLARD CITY
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The meeting was a regularly scheduled meeting designated by resolution. Notice of the meeting was provided 24 hours in advance. A copy of the agenda was posted at the City Hall and on the State of Utah Public Meeting Notice Website.

The following members were in attendance:

Sid Bodily, Chairman	Chris Davis, City Manager
Diane Baker	Colt Mund, City Attorney
Chandler Bingham	Bryce Wheelwright, City Planner
Alex Dubovik	Michelle Drago, Planning Secretary
Blake Harrop	
Zack Hulsey	

Others in attendance: Mayor Kenneth Braegger, Councilman John Seamons, Chad Braegger, Randy Braegger, Lindsey Wells, Beth Ann Smith, Garth Day, Rod Braegger, Debbie Braegger, Travis Mote, Bart Wade, Jodi Wade, Sandy Huthman, Chris Davis, Jordan Hulsey, Peggy Baker, and Doug Younger.

The meeting was called to order at 6:32 p.m.

1. PRAYER: Alex Dubovik

2. PLEDGE OF ALLEGIANCE: Blake Harrop

3. ROLL CALL – Attendance was recorded by the secretary.

4. GENERAL PUBLIC COMMENTS (INPUT FOR ITEMS NOT ON AGENDA)

Travis Mote, 455 South 200 West, stated that the Planning Commission had been working on the second access requirement in the Street Ordinance. He felt the Planning Commission needed to specify the difference between emergency access and general access.

5A. PUBLIC HEARING TO CONSIDER A REQUEST FROM HERTIAGE LAND HOLDINGS, LLC TO REZONE APPROXIMATELY 61 ACRES LOCATED AT APPROXIMATELY 300 SOUTH 200 WEST FROM A5 TO R1/2 (PARCEL NOS. 02-051-0004, 02-051-0085, 02-051-0087, 02-051-0251, 02-051-0252, 02-054-0005, 02-054-0007, 02-054-0008, 02-054-0009, 02-054-0010, 02-054-0011, 02-054-0012, 02-054-0013, and 02-054-0017)

Chairman Bodily read the Willard City Planning Commission Rules of Order Statement.

Commissioner Bingham moved to open the public hearing at 6:36 p.m. Commissioner Harrop seconded the motion. All voted “aye.” The motion passed unanimously.

Bryce Wheelwright stated that the City had received an application from Heritage Land Holdings, LLC to rezone approximately 61 acres located at approximately 300 South 200 West from A5 to R1/2. During its last meeting, the Planning Commission reviewed the application and set a public hearing. The area under consideration extended from 200 West to the railroad tracks and from 300 South to approximately 400 South. Heritage Land Holdings had received approval for a subdivision known as The Orchards at Willard Subdivision Phase 1, which consisted of six lots half-acre lots along 200 West. The R1/2 Zone requested by the petitioner complied with the City's Future Land Use Map.



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50 Garth Day stated that he represented Heritage Land Holdings, LLC, which was located in Tremonton, Utah.
51 They had purchased property formerly known as the Lemon Orchards and completed Phase 1. The homes
52 were currently under construction. They had been in a holding pattern because Willard City had changed
53 some of its zoning rules by repealing the PUD Ordinance. However, they needed to move forward. They
54 proposed to rezone the remainder of their property for half acre lots. They were in the process of acquiring
55 additional property to the south.

56
57 Chairman Bodily opened the floor for public comments.

58
59 Travis Mote, 455 South 200 West, felt the City had three main functions – public safety, allocation of
60 resources, and maintenance of existing infrastructure. When property was rezoned, all three functions were
61 affected. The City was in the process of creating a General Plan, which would include a traffic study. The
62 Utah Traffic Trip Report showed a minimum of seven trips per house hold per day. If the Lemon property
63 was rezoned and 100 homes were built, there could be 700 household trips per day. Two Hundred West
64 (200 West) was not paved to 600 South, and the Doug Young project had not yet paved 600 South. Without
65 paved roads, all of the traffic would use 200 West and 200 South. He felt the intersection of 200 West 200
66 South could see 1,400 cars a day if the subdivision was completed prior to paving of 200 West and 600
67 South. He felt that was a safety issue. He had asked the Planning Commission and City Council several
68 times how much traffic the City roads could handle. No one knew. He had never been given a number. He
69 hoped the General Plan update would include traffic numbers. He felt consideration of the rezone should
70 wait until the General Plan was complete and the City knew how much traffic its roads could handle to
71 ensure citizens were safe. There were six bus stops on that street. He felt the Planning Commission needed
72 to be very cognizant of the safety of the citizens.

73
74 Bart Wade, 220 South 200 West, was concerned about the traffic situation as well. He was also concerned
75 water. If the City was struggling with water, what would this development do to the City's water? He felt
76 those things needed to be considered.

77
78 Jordan Hulsey, 10 South 100 West, was concerned about the potential approval of the petition to rezone
79 61 acres. It could mean well over 100 homes. Her main concern was about water. This year had shown
80 that water rights did not equal water flow. She had heard City staff say on numerous occasions that
81 developers brought water rights with them, but that didn't mean the City springs had the capacity to support
82 that many new homes. Even if they paid to drill new wells for this development, she was still concerned
83 about the effect it would have on the existing aquifer. Further study of the aquifer capacity needed to be
84 done to plan realistically for the needs of current residents and homes. Her second concern was
85 infrastructure. Even if 600 South was paved and brought up to a decent standard, over 100 new homes
86 would need more than two access roads. Two Hundred West (200 West) was not designed to support that
87 kind of traffic. She understood that the current ordinance said a development just needed two ways in and
88 out for any development with more than 30 homes, but she felt safety needed to be considered a top priority.
89 She knew the Planning Commission had been working to update the access requirements. She didn't feel
90 any rezones should be approved until that ordinance was complete. Various City Council and Planning
91 Commission members had said those issues didn't need to be addressed until a subdivision plan was
92 submitted, which happened well after the rezone. She felt that practice had set the community up for a lot
93 of frustration. The earlier those issues could be addressed in the process, the less headache there would
94 be for everyone. She didn't feel the City should be approving any large rezones until the General Plan was
95 completed. Then the Planning Commission would have information about what the citizens of Willard
96 wanted their town to look like, as well as information about better infrastructure and water capacity. Anyone
97 who had ever worked with any sector of government knew that if it wasn't written down it didn't really
98 happen. Those things needed to be written down, and there needed to be a plan in place. As of now



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Willard's vision statement still read, "Most importantly, the impact of growth will be handled in a way that seeks as its prime goal to preserve the rural agricultural quality of life, preservation of its natural resources, and enhancement of its community pride and value." She fully expected the City staff and Planning Commission to uphold that vision.

Jodi Wade, 220 South 200 West, was concerned about traffic and water. There was only one stop sign on this road. People drove so fast it was ridiculous. There wasn't any way they were driving the speed limit. She couldn't even imagine the impact of all these new homes on the road. It would be worse than Highway 89. All she had heard this year was that there wasn't enough water. If the City was having a hard time with the amount of water for the citizens who were here, adding 100 more houses would not help out the situation.

Doug Younger, 116 South Main, stated that many of the people in attendance were transplants to Willard. Back in the day, past residents didn't want transplants either. They wanted a rural community, but growth came and was continuing to come. It was admirable that Heritage Land Holding wanted to do half-acre lots, versus one-third or one-quarter. He felt approving the rezone was the best thing for Willard to do. Why make the developer wait another year before he could get started on his project? Maybe he would be able to purchase ground further to the south and put in 600 South. No one knew how fast the subdivision would develop. He felt the proposal was a good deal and that it should be approved.

Mayor Ken Braegger, 55 South 100 East, wanted to clear up the misunderstanding about water. Somehow the idea of water conservation due to the heat of the summer turned into the idea that the City was out of water. The City was not out of water. It had sufficient water. It was in good shape for well into the future. Would the City eventually need more water? Yes, it would if the whole City was built out. Water was not an issue at this point.

Janna Vail, 195 South 200 West, was not opposed to half-acre lots, but she did feel 600 South needed to be completed. It would be too much if all of the homes from this development used 200 South. The development would be completed over time, but by the time the southern portion was finished, there needed to be another way for people to get out.

Doug Younger, 116 South Main, stated that the Heritage Land development would not happen overnight. It would take the Young subdivision (Deer Run) another few years. People were worried about traffic that would not happen for four to five years.

Bard Wade, 220 South 200 West, felt the traffic situation needed to be addressed first. There would be a lot of homes using a 25 MPH road. This was a residential area. It wasn't the highway, and they didn't want it to become the highway.

Garth Day, Heritage Land Holding, stated that right now they were proposing a second phase that would consist of 12 lots, which would take them well into next year. Their overall plan would take five to six years to build out. They were still interested in the results of the updated General Plan. They were hopeful that things might change. The housing industry had changed over the past 18 months; he couldn't imagine what it would do in the next 18 months. They were taking a slower, more deliberate approach. He totally understood the traffic issues. If they had control of 200 West and 600 South, they would absolutely build those roads. He felt their completion was a great plan. He hoped they could participate in some manner, through impact fees or a development agreement. Heritage Land wasn't trying to drop things off and leave; they were building the community as well. People that they were building for would have safety concerns as well. They would have the same issues with traffic. They wanted to build a product and community that



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would benefit Willard, not take away from it. Heritage Land Holding was a land owner in Willard too. They had land rights and property rights allowed by the State law. Farming was an incredibly important industry, but so was housing. Of the two major, basic necessities that people had – food and shelter; they built one. There was a giant housing deficit in the State of Utah. The pressure of housing would not lessen, it would increase. They were trying to build a development with the least impact possible. They wanted to be a good partner with Willard, and they would do whatever they could to help solve the transportation issues. However, they would only help with things they had control of. If they owned the property going south on 200 West, they would absolutely build it, but they didn't own it. If they had a way, they would build 600 South as well. However, both roads were beyond what they owned. The second phase they were proposing provided an inlet and an outlet. It did meet the City's double access requirements. They did want to be a good partner with Willard.

Chairman Bodily closed the public comments.

Commissioner Baker moved to close the public hearing at 6:53 p.m. Commissioner Hulsey seconded the motion. All voted "aye." The motion passed unanimously.

Chairman Bodily stated that he had personally viewed 200 West several times. It seemed there were more pedestrians than cars; although he was sure the road was busier than it used to be. He didn't disagree that it was an issue. He asked about the status of the General Plan's traffic study. Bryce Wheelwright stated that the General Plan consultant would be making a presentation to the City Council during its September 23rd meeting. Then the City would know how far along the plan was.

Commissioner Harrop asked how many existing homes were located on 200 West. Bryce Wheelwright estimated there were 50 homes. Commissioner Harrop felt there were that many homes heading north on 200 West.

Commissioner Baker stated that unless you lived on a road you didn't know what the traffic was like. She lived on Center Street, and she saw a lot of traffic. You had to live on 200 West to experience the traffic. She was concerned about the roads. There needed to be a second in and a second out. She felt the roads needed to be situated first. Every time there was a rezone, the City ended up with a subdivision and a whole can of worms.

Commissioner Hulsey felt the amount of traffic could be relative. There was a scientific way to determine the actual amount. He wanted to see the results of the General Plan traffic study before making any major decisions. The Mayor said there was enough water. The Planning Commission had been asking to see status reports. Did the Mayor know where those reports could be found?

Mayor Braegger stated that the wells had been monitored all summer. There had been very little drawn down. The City lived on a great aquifer. The City Council had asked residents to be careful about their summer water usage because it didn't want residents burning a lot of water to keep their grass green. The City used 300,000 gallons of water a month in the winter. The usage jumped to three million gallons a month in the summer. The majority of that water went on lawns. That was a problem, and that was a problem with half-acre lots. Half-acre lots had bigger lawns. The City seriously needed to look at secondary water in the future.

Commissioner Hulsey asked if Bryce Wheelwright knew where the water reports could be found. Mr. Wheelwright said the City received a water usage report every month from the utility bills. Commissioner Hulsey was interested in seeing reports on the well draw downs and how they were recovering.



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Commissioner Dubovik understood the City was in good water shape. The City had gone down the road of not having enough storage. When did the amount of storage the City currently have become insufficient? The City needed to plan. If the City had the flow, did it need more storage? He wanted to see what that number was. Bryce Wheelwright stated that the developer of the Deer Run Subdivision put in a 500,000 gallon storage tank. That 500,000 gallons would allow the Deer Run Subdivision to build out, which was almost 300 homes. There was also some excess water for development on the north side of the City. Right now there was storage capacity for well over 300 or 400 extra units. The City was working on another 500,000 gallon tank. The second tank would increase the storage capacity to one million gallons.

Commissioner Dubovik stated there was an average amount of flow that could be expected from the spring every month or every year. At what point could the spring no longer fill storage tanks? Would the City run into a physical water shortage at some point? That might be ten to fifteen years in the future. Someone had to have done that math. Mayor Braegger said the City Engineer knew at what point the City would have to look at another well. The City required developers to bring water with their developments so the City would have the ability to put in another well if one was needed. The Lemon property had a couple of wells with water rights that would have to be converted to culinary. The City didn't want to be in the position that it didn't have water. Commissioner Dubovik wanted to have actual numbers as the Planning Commission looked at updating the General Plan.

Chairman Bodily asked if someone was monitoring the water situation. Mayor Braegger stated that the City had a telemetry system that monitored the wells. The wells were constantly monitored.

Commissioner Dubovik sympathized with everyone who was concerned about the traffic. He moved to Willard from a high traffic area in West Layton. The half-acre lots requested by Heritage Land Holding was in accordance with what the community desired. No one wanted a 500 house subdivision of quarter-acre lots. There was much ambiguity in the number of accesses currently required by the City's Street Ordinance. The Planning Commission was in the process of rewriting that ordinance to require traffic and accesses to be evaluated as the community grew. Traffic and accesses would be reviewed by the Planning Commission, the Fire Chief, and the City Engineer. Additional accesses could be required as needed. He realized that rezoning seemed like a threat, but the complete development was many years down the road. He felt the rezone was a step in the right direction, but the City needed to make sure ordinances supported the growth and needed infrastructure.

Commissioner Bingham stated that he had the same concerns about this rezone and development that he had had about the Rod Braegger Subdivision. It proposed to add more homes to an area with only one access. He asked how soon roads to the south would be paved. Bryce Wheelwright stated that 600 South would be paved from 200 West to the highway when the Deer Run development started working on Phase 6. They were working on Phase 4 now. Commissioner Bingham asked if there was any way they could be persuaded to speed up the paving of 600 South. There really wasn't a second access in this area. Two Hundred West (200 West) was an unpaved, emergency access. Heritage Land Holding was trying to accomplish what the City was looking for – larger lots. He lived on 200 West. Sometimes there was a lot of traffic; sometimes there was not. He was worried about moving forward without a plan for a second road in and out.

Bryce Wheelwright said the Subdivision Ordinance stated that a developer was responsible to develop the roads in his subdivision. If Heritage Land purchased the ground south of them, then they would have to pave 200 West to the south. Until someone purchased and developed the land to the south or the City decided to pave the road, 200 West would remain a dirt road.



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Commissioner Bingham felt it would be helpful if someone could put some calcium chloride on 200 West once in a while to keep the dust down. Then people would use 200 West. He felt that would be a big improvement. At this point, he couldn't see anything to stop the Planning Commission from approving the rezone.

Commissioner Hulsey felt the public was pretty concerned about the traffic. He asked if the planning consultant would have a traffic study the City could look at next week. Mr. Wheelwright said the planning consultant would make a report to the City Council, but he didn't know what the report would entail. Commissioner Hulsey felt the City should wait to make a decision on the rezone until it received traffic numbers.

In response to a question from Councilman Seamons, Chris Davis stated that he could find out what the planning consultant planned to include in his September 23rd report. The 23rd report would not be a final draft. It would be a preliminary status update.

Doug Younger felt Heritage Land Holding should be able to proceed according to the current master plan. Why did they have to wait?

Commissioner Bingham stated that the rezone application submitted by Heritage Land Holding did comply with the current master plan.

Commissioner Harrop agreed that the application met the requirements set forth in the master plan. He felt the Planning Commission could approve the rezone and address the traffic during the subdivision review.

Commissioner Dubovik asked if there any agricultural firms interested in purchasing the Lemon orchards and making them a viable business again. Garth Day said they could if they were willing to pay what they paid for the land to farm it. Commissioner Dubovik also agreed there wasn't anything in the ordinance to prevent approval of the rezone application. He would have a hard time moving further than the rezone because of the City's current ordinance.

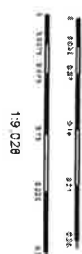
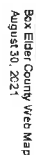
Commissioner Harrop moved to recommend that the City Council approve the rezone of 61 acres located at approximately 300 South 200 West from A5 to R1/2. Commissioner Bingham seconded the motion. A roll call vote was taken: Commissioners Bingham, Dubovik, and Harrop voted "aye." Commissioners Baker and Hulsey voted "nay." The motion passed.

5B. PUBLIC HEARING TO CONSIDER PRELIMINARY APPROVAL OF THE ORCHARDS AT WILLARD SUBDIVISION PHASE 2 LOCATED AT APPROXIMATELY 300 SOUTH 200 WEST (PARCEL NOS. 02-051-0251 AND 02-051-0087)

Commissioner Dubovk moved to open the public hearing at 7:16 p.m. Commissioner Hulsey seconded the motion. All voted "aye." The motion passed unanimously.

5C. CONSIDERATION OF A LOT LINE ADJUSTMENT FOR DAVID GRANT LOCATED AT APPROXIMATELY 466 SOUTH MAIN (PARCEL NOS. 02-052-0039 AND 02-051-0172)

Bryce Wheelwright stated that David Grant had purchased property from ? and wanted to adjust property lines. He wasn't proposing to create a new lot. There were currently three parcels. There would be three parcels when the lot lines were adjusted.

[illegible]

Box Elder County	Freeway Exits	Highway	County D Road	Subdivisions
Cities	Roads	Ramp	City Road <td>Minor Subdiv</td>	Minor Subdiv
Mile Markers	Interstate	County B Road	Private	Tax Parcels

**WILLARD CITY CORPORATION
ORDINANCE NO. 2021-11**

AN ORDINANCE APPROVING A REZONE REQUEST FOR HERITAGE LAND HOLDINGS, LLC FOR THE PROPERTY LOCATED AT APPROXIMATELY 300 SOUTH 200 WEST, PARCEL NOS. 02-051-0004, 02-051-0085, 02-051-0087, 02-051-0251, 02-051-0252, 02-054-0005, 02-054-0007, 02-054-0008, 02-054-0009, 02-054-0010, 02-054-0011, 02-054-0012, 02-054-0013, AND 02-054-0017 FROM A5 TO R1/2

WHEREAS, the City of Willard (hereafter referred to as the "City") is an incorporated municipality duly existing under the laws of the state of Utah.

WHEREAS, *Utah Code Annotated* §10-9A-101(1), 1953, as amended, grants municipalities broad authority to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values; and

WHEREAS, *Utah Code Annotated* §10-9A-102, 1953, as amended, grants municipalities broad authority to enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law; and

WHEREAS, **HERITAGE LAND HOLDINGS, LLC** has completed the rezone application, paid all associated fees; and

WHEREAS, The Willard City Planning Commission has reviewed the request for compliance with the Willard City General Plan, Willard City Land Use Ordinances, and the approval does not place the city in a negative financial condition and documents that all utilities and access have been obtained and recommends approval by the Willard City Council; and

WHEREAS, the residents within 1/4 mile were notified and the required Public Hearing was held on September 16, 2021.

NOW, THEREFORE, be it ordained by the City Council of Willard that:

Section 1: **Repealer.** Any word, sentence, paragraph, or phrase in the municipal code that is inconsistent with the Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2: **Adoption.** Ordinance 2021-11 be adopted approving the rezone of the property located at approximately 300 South 200 West, Parcel Nos. 02-051-0004, 02-051-0085, 02-051-

0087, 02-051-0251, 02-051-0252, 02-054-0005, 02-054-0007, 02-054-0008, 02-054-0009, 02-054-0010, 02-054-0011, 02-054-0012, 02-054-0013, and 02-054-0017, to change the zoning from A5 to R1/2.

Section 3: **Severability.** If any section, paragraph, sentence, clause, or phrase of the Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Section 4: **Effective Date.** This Ordinance shall be effective immediately after posting or publication.

PASSED AND ADOPTED by the City Council on this ____ day of _____, 2021.

KENNETH BRAEGGER, MAYOR

ATTEST:

MICHELLE VEST SNARR,
City Recorder

CERTIFICATION OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the City Recorder of the City of Willard, Utah, hereby certify that Ordinance No. 2021-11 was duly passed and published on the Utah Public Notice Website the ____ day of _____, 2021, and posted on the Willard City Website.

City Recorder

DATE: _____

(SEAL)

CASCADE ENGINEERING - CG
Container
4950 37TH STREET SE
FAX: (616) 975-4902
GRAND RAPIDS, MI 49512
United States

S A L E S O R D E R

Order Number: C408828 Revision: 0
Order Date: 09/17/21 Page: 1
Print Date: 09/17/21

Bill To: MU63090

Ship-To: MU63091

WILLARD CITY CORPORATION
PO BOX 593
WILLARD, UT 84340
United States

WILLARD CITY CORPORATION
160 EAST 300 SOUTH
WILLARD, UT 84340
United States

Attention: ACCOUNTS PAYABLE
Telephone: 435.734.9881

Attention: WES THOMPSON
Telephone: 801.710.4846

alesperson 1: 23

Project:
Credit Terms: NC
Resale: NET CASH
Remarks: WILLARDCITY@COMCAST.NET

Purchase Order: 1204
Ship Via: CH ROB CONSL
FOB Point: WILLARD, UT

n Item Number	Ship Date	Qty Open UM	Price	Ext Price
1 9690192-9STKNM CART 96 BLK/NO LOGO	09/21/21	144.0 EA	57.91	8,339.04

n-Taxable: 4,220.00	Currency: USD	Line Total:	8,339.04
Taxable: 8,339.04	0.00%	Discount:	0.00
Tax Date: 09/21/21			0.00
Containers: 0.00		Shipping 20 :	4,220.00
ne Charges: 0.00		Taxable Handling Charge 94 :	0.00
		Total Tax:	0.00
		Total:	12,559.04

87.27/can

WILLARD CITY CORPORATION – CITY COUNCIL

The City Council of Willard City met in **Regular Meeting**, on September 9, 2021, at 6:32 p.m. in the Council Chambers of the Willard City Offices, located at 80 West 50 South, Willard, UT 84340.

Present: Kenneth Braegger, Mayor
John Seamons, Council Member
Kaleb Kunzler, Council Member
Josh Braegger, Council Member
Brad Robb, Council Member
Fred Ward, Council Member

Staff Present: Chris Davis, City Manager
Colt Mund, City Attorney
Theron Fielding, Police Chief
Bryce Wheelwright, City Planner
Van Mund, Fire Chief
Chris Breinholt, Jones & Associates, City Engineer
Michelle Snarr, City Recorder

Others in Attendance: Mindi Vandersteen, Travis Wells, Lindsey Wells, Diana Baker, Rew Wiley, Rod Braegger, Debbie Braegger, Cami Sabin, Jordan Hulsey, Chris Davis, Chad Bragger and Travis Mote

Call to Order

Mayor Braegger called the meeting to order at 6:32 p.m.

- a. Invocation
The invocation was offered by Council Member Ward.
- b. Pledge of Allegiance

Open Comment Period (Individuals have three minutes for open comments. If required, items may be referred to department heads for resolution. Items requiring action by the City Council will be placed on the agenda for a future meeting.

Rew Wiley – 75 West 825 North

Mr. Wiley pointed out that everyone was a bit slothful at times when cleaning up their yards, and he was out picking up garbage in his yard. He went on to say he found some garbage in his yard with bullet holes in it. Mr. Wiley noted there was a privacy fence between his property and the RV Park so he couldn't see who did it. Mr. Wiley expressed concern with the shootings. He indicated they could be shooting at anything, and he was frustrated when he saw something like that.

Mr. Wiley address lighting from the adjacent property. He noted when the property owners started building the storage facility behind him, the city promised it would not light up his back yard. He stated they were lighting up his front and back yard.

Diana Baker – 276 West Center

Ms. Baker indicated she wanted to discuss the roads in the city. She noted that back behind her house there was a trailer, and the owner was told they had to face it west because they were told 300 West was going to come through. She went on to say, the Hayfields on Center Street were told they were going to have to give up 60 feet (she thought) on the east and west sides of the road for 300/400 West to go through. She pointed out the city had a Master Road Plan dated 2007, and it was her opinion that a lot of the city's problems were coming from past administration not following the Master Road Plan. That was why the city was having houses and barns put in locations where roads would not be able to go. She went on to say she would like to see some administration follow the current Master Road Plan until the city received its Master Plan update.

Mayor Braegger wanted to add some information because he thought this was leading toward the Braegger Subdivision. He went on to say, the administration that put the Master Road Plan in place, put it in place with houses already in those locations. He referred to 100 South on the Master Road Plan. He pointed out the Master Road Plan was put in place with the idea the road would go in down through his property, house, and shop. He inquired if this administration created a master road plan with a road going down through her house, would she be

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1 willing to give up her property. Ms. Baker said no, she was talking about 300 West. Mayor Braegger indicated
2 there was that discussion on 100 South, and his house was there first. Just because someone has the bright idea
3 later does not cut it.
4

5 Mayor Braegger stated he didn't disagree with following the Master Road Plan but there was some variance to it.
6 He pointed out the Three Peaks Subdivision had a proposed road to go down the property line, and the state of
7 Utah put a stop to having a lot of intersections on Highway 89. They want the city to take its traffic to collector
8 roads so that developer was allowed to move their road over to the middle of their subdivision, which made more
9 sense for them.
10

11 Mayor Braegger restated there was some variance to the Master Road Plan. It was definitely a guide for the city to
12 utilize; however, there was a reason for change sometimes too. Ms. Baker noted there were four maps in her
13 ordinance book, and she was supposed to abide by the ordinance book. She questioned shouldn't the Council
14 abide by them too.
15

16 Mayor Braegger indicated they were a guideline for the city obviously, but the City Council has the ability to
17 adjust it at the time they feel it's necessary. The City Council was the one that put it in place, and they have the
18 ability to change it if they desire to; it's a City Council decision.
19

20 Discussion followed regarding 300 West. Ms. Baker said someone in the past said there was going to be a 300
21 West that connected over to 600 South and that would be right through that property. Mayor Braegger indicated
22 the problem with 300 West was it was designed to go through Stillman Harding's property and until they decide
23 they want to develop; it probably won't ever happen. He stated there were problems with the plan if people
24 decided they did not want to develop their land. The only other choice for the city was to condemn the property
25 and buy it.
26

27 Mindi Vandersteen – 202 South Main

28 Ms. Vandersteen addressed the Council. She noted that on April 27, 2020, a car came off the highway and ran
29 over the fire hydrant located next to her house and it has not been replaced. She expressed frustration and said she
30 had talked to different city employees and the fire department, and they indicated it had been discussed with the
31 previous maintenance employees. She went on to explain she spoke with Chief Fielding, and he indicated he gave
32 the insurance information to Mr. Davis. After a follow-up with Mr. Davis, the information she got from him was
33 fire hydrants were expensive and the city needed to make sure they got reimbursed first.
34

35 Ms. Vandersteen stated it was not any type of "act" to get an insurance claim taken care of. She explained if an
36 insurance claim was not filed in two (2) years, the city would no longer have a claim. She stated she did not know
37 why the hydrant was not fixed. Ms. Vandersteen further explained the hydrant was the only things the kept people
38 from running into her house.
39

40 Ms. Vandersteen questioned what kind of maintenance was being done on the city's fire hydrants to make sure the
41 citizens were being taken care of and the fire department had what they needed to do their jobs.
42

43 Jordan Hulsey – 10 South 100 West

44 Ms. Hulsey indicated she was speaking with some of the members of CERT the other day. In addition, the
45 anniversary of the windstorm from last year and 9-11 was coming up, which was a good reminder the community
46 could be more prepared. She pointed out the city does not have a city emergency member assigned or a city
47 council member assigned to work with CERT. She inquired if the city had plans to fill those positions. Mayor
48 Braegger inquired if Ms. Hulsey was volunteering for that position. Ms. Hulsey said, no; however, she was happy
49 to help. She added that she was going to get more involved with CERT. She went on to say if anyone said Sue
50 Anderson was the city's emergency manager, that was not true. Mayor Braegger agreed.
51

52 Ms. Hulsey indicated this was a concern for her because after the windstorm, there were a lot of things they were
53 not aware of because of the lack of communication between the city and CERT. She added that she thought both
54 did phenomenal; however, it could have been better.
55

56 New Business

57 Update by Cami Sabin Regarding Improvements to the Willard City Children's Park

Ms. Sabin presented the Council with an update regarding improvements and an overall survey of what the neighbors in the area would like to see accomplished with the Willard City Children's Park. Ms. Sabin explained she made a survey online and created a flier with QR codes to the survey and the URL, and she and her children distributed the flier to every house east of Main Street between 100 South and 600 South, which was 120 homes. She indicated she received 24 responses to her survey, a few phone calls, texts, emails, and in person contacts. She noted that from the people she heard from, except for one, they were strongly in support of improvements to the park and at a minimum, cleaning up the park and replacing the equipment that was removed. She pointed out that the one person not in favor wanted to put in something more commercial like an indoor swimming pool.

Ms. Sabin referred to the graphic, which showed the results of the survey that she provided to the Council. She explained she started out by asking how many people used the Children's Park and about 45 percent said they currently used it. Another 40 percent said they used to use it, but they no longer do, and when she asked why, they cited things like, "it isn't kept up, puncture weeds, thistle stickers, weeds, it's a mess, the city stopped caring about the park". Ms. Sabin said, so clearly, I am not the only one that feels this way. I asked what they do like about the park, and the most often responses were: how close it was in the neighborhood and the swings.

Ms. Sabin summarized her report to the Council. People want the equipment replaced or some type of activity at the park for children to do. She noted that about two to one (2:1) people wanted smaller activity zones rather than one big, extravagant play area. She expressed it did not have to be expensive. She thought they could be things like resin tunnels; in addition, as a neighborhood, she thought they would like to see something geared toward younger children. She thought that was the original intent of the park. Furthermore, a lot of people would like to see things like picnic tables with a shade structure. She noted it was hot, and with the existing trees in the Children's Park, she thought they would have the same problems as the baseball park. There are three (3) trees that look like they are dead or are going to die. Finally, they would like the park cleaned up. Most people would like to get rid of the sand volleyball area and have it repurposed for activities, and they definitely want the basketball stand replaced, which may entail replacing the concrete pad.

Ms. Sabin indicated one thing that came up a few times was people asked for playgrounds that were accessible for disabled children and could allow them to play with children that are fully able.

Council Member Robb informed Ms. Sabin that some new trees would be going in at the Children's Park next week (September 18, 2021) and the old tree would be removed. Ms. Sabin inquired if all the trees would be removed or just the dead ones. Mayor Braegger indicated the three dead ones for sure and they would have to evaluate the other trees, but they would eventually die along with the other ones. Council Member Robb added that he read Ms. Sabin's graphic a few different times, and he was very impressed with the amount of time and work she put into it. He thought all the recommendations seemed very reasonable.

Ms. Sabin reiterated they didn't want some big, extravagant thing; they wanted to honor the purpose of the park. She added it was created by citizens and most of the things that are or were there were donated by citizens. The people in her neighborhood have a lot of love for that park and would like to be able to use it again.

Ms. Sabin indicated she had the full results of the survey written out, and she would be happy to provide that to the city or whoever was assigned to the park. Mayor Braegger thanked Ms. Sabin and said they would be getting back with her.

Presentation and Potential Approval of Water System Request by Dean Oyler

Mr. Chris Breinholt, Jones and Associates, informed the Council the request was from the Oyler and Newman families. The request must come from the city to the state and by doing so, the city accepts the responsibility of an individual booster pump on a home. He explained the two families hired an engineer for the drawings to be submitted to the state. He went on to explained, the two homes are located on the bench, and they have very low

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water pressure right now, which was as low as 15 pounds per square inch. Mr. Breinholt indicated by submitting this letter, (draft letter attached to the record hereto) the city believed the booster pumps would not affect the health and safety of the city's water system. Mr. Breinholt stated he was comfortable with the booster pumps as was Mr. Wes Thompson, Public Works. Mr. Breinholt explained a condition of the booster pumps was the construction needed to be inspected by Public Works and the building official to inspect the plumbing. He added from then on, it would need to be added to the city's cross connection system and be inspected annually.

Council Member Ward clarified the city would only be responsible for inspecting the backflow, which would be tied into the city's main line. Mr. Breinholt indicated that was correct; the two households would be responsible for everything else. The city would not take on any infrastructure responsibilities. The city would just look into the backflow and each home would have their own individual setup. Mr. Davis noted there was currently only one home up there now, The Oylers' daughter wanted to build a home up there as well. Council Member Seamons inquired if the backflow devices could be disconnected if the water pressure improved. Mr. Breinholt indicated they could.

Council Member Kunzler clarified the backflow inspection would be the city's responsibility; however, all the lines would be on the Oylers/Newman families. Discussion followed regarding the location of the existing water meter. Mr. Wheelwright noted the water meter was down on Highway 89. Mr. Breinholt added the Oylers had not proposed any changes to the meter location. The diagram of the proposal was evaluated, and Mayor Braegger noted the proposed water meters were not on Highway 89; they were located up on the property. He stated the water meters had to be on Highway 89. The city was not going to be responsible for the proposed water line. Mr. Breinholt suggested the reasoning for the proposal was, so they only had to put in one 2-inch water line up to the property. Mayor Braegger reiterated the water meters had to be down on Highway 89.

Discussion followed how they would control the water going into the waterline. Mr. Breinholt indicated there would be a float valve. Mayor Braegger inquired how they would control the on/off. Mr. Breinholt further explained it would be controlled by the float valve that went over to a solenoid. He noted that pump up was probably not the right wording.

Motion: Council Member Ward moved to approve the pressurized system for the two (2) lots with the stipulation that the two (2) water meters were located on Highway 89 and the waterlines were the responsibility of the Oylers/Newman families. Council Member Kunzler seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously.

Mr. Davis inquired if the Council wanted to assess a fee for the annual inspection of the backflow devices /pressurized systems. The Council agreed on a \$25.00 annual inspection fee.

Amended Motion: Council Member Ward moved to amend the motion to include an annual inspection fee on the pressurized system of \$25.00 per pump system. Council Member Kunzler seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously.

Presentation by Chris Breinholt and Potential Approval of a Proposed ARPA Project to be Submitted to the State of Utah

Mr. Breinholt presented the Council with a conceptual diagram of a proposed 500,000-gallon water tank (proposed diagram attached hereto). He informed the Council the city needed more storage, and they would like to have more storage further north to spread out the system a little bit and provide better fire protection. He went on to explain they have been working with the landowners in the area (Granite Construction and Staker Parson) for a new reservoir and an easement. They would run a waterline from the reservoir site to top of 750 North over

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1 to the well to the north side of the canyon. He stated that well could be retrofitted to pump either to the reservoir
2 site or both at the same time. Mr. Breinholt informed the Council they were initially proposing a 500,000-gallon
3 water system. However, as shown in the diagram, there was room for a potential second tank as well for some
4 time in the future.

5
6 Mr. Breinholt went on to explain the costs of the project. He said the total cost of the water tank was 1.6 million
7 dollars; however, approximately \$650,000 of that has been agreed to be paid by Neilson Homes as a prepaid
8 impact fee for the development they want to do. In addition, the city's first American Rescue Plan Act (ARPA)
9 payment was \$115,865.50 and those funds would be utilized as a portion of the city's match. He noted there was
10 no specific match on the funding, but consideration would be given to cities with a match. He pointed out the city
11 would be requesting approximately \$830,000 from the ARPA funds.

12
13 Council Member Ward asked what the city would be responsible for. Mr. Breinholt indicated the amount would
14 be \$765,000 (which was the money from Neilson Homes and the city's first ARPA payment of \$115,865.50). The
15 remaining funds would be requested from a matching grant. He pointed out if everything worked well, the city
16 would need to put out \$116,000.00. In addition, if everything worked out, nothing would come out from existing
17 users.

18
19 Council Member Ward questioned if the city had enough well capacity; did the city need to drill another well?
20 Mr. Breinholt informed the Council the city had enough capacity; however, they were the tightest on storage;
21 storage was the biggest need right now. Council Member Seamon asked if it made sense to add a well too. Mr.
22 Breinholt pointed out a well would cost approximately \$1 million dollars plus. He went on to say that would be a
23 judgement call; the city could request it. However, when the money got to be too much, the request could get shut
24 down.

25
26 Mr. Breinholt reiterated there was a need for water; in addition, they were looking at the option of secondary
27 water. The city has some existing water rights on the north but long term, they need to look into other water
28 rights.

29
30 Mr. Davis addressed Council Member Seamons question regarding an additional well. He informed the Council
31 the state of Utah had 50 million dollars to allocate between water, sewer, or broadband. The city does not want to
32 overextend its amount. He went on to say, the city had property, which was being given to it for secondary water
33 storage. He explained the project was scaled down because they were asking for far more money on a population
34 base than others. In addition, the city had private entities that were willing to work with the city.

35
36 Council Member Ward indicated he was somewhat confident the city could get some of the funding because of
37 the governor's vision of supporting rural communities. Mr. Davis explained the grants were not being evaluated
38 by the governor's office. There was a member from the Utah League of Cities and Towns, a county commissioner
39 and six legislators on the review committee.

40
41 Council Member Seamons inquired what the timing on the project was. Mr. Davis explained the review
42 committee would be meeting on September 17, 2021, for approximately three to four weeks.; and then they would
43 make their recommendation. The city would find out before the end of the year.

44
45 **Motion:** Council Member Seamons moved to move forward with the approval of the ARPA Project to be
46 Submitted to the State of Utah for the 750 North Reservoir. Council Member Braegger seconded the
47 motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward.
48 Members voting nay: None. The motion passed unanimously.

Update on the Master Plan Process by Bruce Parker

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Mr. Bruce Parker was not present at the meeting. Mr. Davis said he text Mr. Parker to find out if he was coming to the meeting, and Mr. Parker indicated he was mistaken on the date of the meeting.

Presentation and Discussion of Draft Special Planned Development Zone by Bruce Parker

Mr. Parker was not present at the meeting to discuss the draft Special Planned Development Plan.

Discussion of Proposed Non-Exclusive Agreement with Connex for the Purpose of Internet Services

Mr. Brown was not present at the meeting to discuss the agreement. Mr. Davis noted the Council had a copy of a non-exclusive agreement with Connex, and the city received it last week. He went on to say the agreement was similar to the agreement Connex entered into with Farr West. Mr. Davis said the agenda item was just to get the Council's feedback on the agreement. He pointed out there was currently a survey on the city's website requesting input for the demand of fiber in the city. Mr. Mund expressed he would like more time to review the agreement.

Consideration of Resolution No. 2021-14 Authorizing the Mayor to Enter into a Contract with Box Elder County, Utah, to Provide Election Services

Mr. Davis pointed out the agreement with Box Elder County was to allow the county to do the electronic voting for the city.

Motion: Council Member Kunzler move to approve Resolution No. 2021-14 Authorizing the Mayor to Enter into a Contract with Box Elder County, Utah, to Provide Election Services. Council Member Ward seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously.

Consideration of Review and Approval of Change Order No. 1 for Post Construction in the amount of \$3,000 for the 300 East Street Improvement Project

Mr. Davis informed the Council the change order was approved by Zach Burk, so the work was done. The change order was additional fees to clean everything up on 300 East.

Motion: Council Member Ward moved to approve Change Order No. 1 for Post Construction in the amount of \$3,000 for the 300 East Street Improvement Project. Council Member Josh seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously.

Consideration of Review and Ratification of Pay Request No. 2 for Post Construction in the amount of \$14,410.72 for the 300 East Street Improvement Project

Motion: Council Member Seamons moved to ratify and approve Pay Request No. 2 for Post Construction in the amount of \$14,410.72 for the 300 East Street Improvement Project. Council Member Ward seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously.

Discussion followed the motion. Council Member Seamons inquired if the city was done with the project. Mayor Braegger explained the city was still going up to Spring Street, and they received the numbers on that portion today. However, the engineers need to do some more research. He added that Mr. Gilmore was paying for part of it. Mr. Davis said in talking with Mr. Barton, they were talking about exchanging some property. It was explained the Spring Street portion should get done soon but the extension should be completed later.

Consideration of Review and Approval of Change Order No. 4 for Staker Parsons in the amount of \$38,020.00 for the 200 West Boundary Extension Project

It was noted the entire amount of the change order was the actual bill; however, the city's portion was 10 percent.

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Motion: Council Member Kunzler moved to approve Change Order No. 4 for Staker Parsons in the amount of \$38,020.00 for the 200 West Boundary Extension Project. Council Member Seamons seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously.

Consideration of Review and Approval of Change Order No. 5b for Staker Parsons in the amount of \$146,305.48 for the 200 West Boundary Extension Project

It was pointed out the proposed amount was the entire change order; the city's portion was 10 percent of the change order. It was explained Change Order 5b would widen out the trail because some parts had to be cut back and some fill material had to be put in to extend the trail. In addition, it would finish the road to the south end of 750 West.

Motion: Council Member Ward moved to approve Change Order No. 5b for Staker Parsons in the amount of \$146,305.48 for the 200 West Boundary Extension Project for Willard City's 10 percent portion (\$14,630.55). Council Member Braegger seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously.

Discussion and Possible Approval of the Purchase of Trees for the Willard City Baseball, Nature and Children's Park and Other Materials needed for the September 18, 2021, Service Project

Mr. Davis discussed the service project, which was scheduled for September 18, 2021. He indicated they anticipated 75-100 volunteers. The organizers of the service project inquired what kind of projects the city would be interested in, and the city decided on tree planting.

Mr. Davis informed the Council that staff talked to the people at the nursery, and they suggested sycamore and maple trees. It was a suggestion to ring the baseball field with trees. Mr. Davis noted they were looking at potentially 71 trees that would be planted between the three (3) parks. He went on to explain, the trees were 25 gallons and 2-inch caliper trees. He said the question was, does the Council wanted to do an addition project at the nature park, such as, addition material around the trail. He informed the Council the public works employees would dig the holes prior to Saturday, and the mayor indicated he had a mini excavator that he could use as well.

Council Member Ward inquired how many trees were orders. Mr. Davis indicated there were currently 71 trees order: 36 maple trees and 35 sycamore trees. Council Member Ward said he would like to suggest the city be cautious of how many trees they plant at the baseball park and then leave the rest open. He stated it would make maintenance easier. Mr. Davis noted the trees would need to be planted at least 60 feet apart. Council Member Ward suggested 80 feet apart.

Council Member Robb pointed out part of the reason they had two types of trees was for a variety of colors. Council Member Ward said he didn't think they needed an over of abundance of trees. Mr. Davis explained they received an initial drawing from the engineers; however, it wasn't to scale, which showed trees around the perimeter of the baseball park to provide shade.

Council Member Kunzler questioned if Mr. Davis was talking about the east side of the baseball park. He thought that would be a waste to put trees on the east side of the park. Mr. Davis recalled some of the poplar trees were on the east side, and they were looking to replace those.

Mayor Braegger inquired how many trees were taken out of the baseball field. Mr. Davis indicated they took out approximately 30 trees. Council Members Braegger and Seamons did not think that was too many trees. Council Member Seamons added wherever there was grass, there should be trees. Council Member Robb pointed out the

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1 nature park did not have any trees. It was questioned if the nature park was prepared for the trees regarding water.
2 Council Member Robb indicated there were a few conduits under the path at the nature park. Mayor Braegger
3 noted the Fire Department wanted some trees where they do the fireworks at the nature park.
4

5 Mr. Davis inquired if the Council wanted any other things completed other than planting trees. Discussion
6 followed regarding crushed limestone for the nature park. Council Member Braegger said he could get some
7 limestone for the nature park for approximately \$1,000. Council Member Ward asked if that would keep the goat
8 heads down. It was indicated it would. Council Member Robb added the city need to add to what was already
9 existing because some of the water had pushed off what they currently have in place.
10

11 Discussion followed regarding a drop spot for the limestone. It was said the last time it was done; it was dropped
12 on the Hall Road. Mayor Braegger indicated if they put it on the roadway, they would have to get it moved. Mr.
13 Chad Bragger indicated he would be willing to help haul the material.
14

15 Council Member Robb state he thought that would be a good project; in addition, the trees were placed in the
16 budget during the budget process.
17

18 **Motion:** Council Member Robb moved to approve up to \$20,000 for the purchase of trees and wheelbase
19 material for the Willard City Baseball Park, Nature Park and Children's Parks. Council Member
20 Seamons seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons,
21 Braegger and Ward. Members voting nay: None. The motion passed unanimously.
22

23 Consideration of Discussion and Potential Action Regarding the General Plan Update 2021 Survey – 24 Council Member Ward

25 Council Member Ward indicated he just wanted to have a discussion on the survey. He said as a council member,
26 he didn't have an opportunity to look at that survey (the first survey). He noted he did not know what it would
27 cost to send out another survey; however, he thought they should have a more single, direct survey. In addition, he
28 thought it needed to be a simple, laid out survey with direct written answers.
29

30 Council Member Kunzler said he could see what Council Member Ward was talking about. It seemed to him there
31 were leading questions and there wasn't any space online to make comments. He went on to say, he couldn't say
32 his own answer; he had to pick an answer, or he couldn't continue with the survey. He continued, the way the
33 survey was worded and policed by the electronic system, he had to pick an option that was better but not
34 necessarily the answer he wanted. He stated he didn't like the survey as a citizen on the electronic version.
35 Council Member Kunzler added they received a lot of good material from the survey, but he thought it could have
36 been better especially with the electronic version. He wasn't thrilled with it.
37

38 Council Member Robb stated he wished Mr. Parker would have been here this evening because he was going to
39 give up an update on where the Master Plan currently sat and indicate what the next steps would be. He thought,
40 in his discussion with Mr. Parker, the next steps would be to go over the open house and the results of the survey
41 and present it to the citizens so they could see what the survey looked like and what the open house looked like.
42 He said he was kind of sad the Council didn't get to see that tonight. He went on to say, he did the survey, and he
43 did not have the same issues as others. He did not find it leading and thought there were areas to write down
44 comments. He added that people could have also approached Mr. Parker at the open house and address concerns.
45 Council Member Robb said his question to Council Member Ward was, what are you suggesting? Are you
46 suggesting we scrape the survey we already have and start over? He added that he was not suggesting one way or
47 another was better; he was just asking.
48

49 Council Member Ward said although Mr. Parker wasn't here tonight to present the outcomes of the open house,
50 he thought they should see what the outcome/results of the open house were. He went on to say, one thing that

puzzled him was the one question that wasn't on the survey, which was the question regarding the rural atmosphere – how do the citizens feel about it? He indicated he remember the mayor's comment, and the mayor thought it was common knowledge that everyone wanted a rural environment. However, he wanted to see if that was true. He said if the open house reflected on some of the things that they talked about as a Council of what the city would like to see, then he was leaning toward another survey.

Council Member Robb stated, I don't think that works. He didn't think they could see the results of the open house and the survey and then not like the results and want to do it over. He went on to say, you are either looking at redoing the survey or not. He didn't think they could wait to see what the results were and say I don't like the results; let's do it again. Council Member Ward said then he recommended they do the survey again.

Council Member Braegger agreed with Council Member Robb. He did not think they needed to waste their time on another survey. He went on to say, he thought if they were to take a poll from everyone in the room, they would all vote to keep the rural feeling.

Council Member Kunzler said he was interested in how much weight was put on the survey results compared to the open house. He indicated he was at the open house from start to finish and saw everything that was presented and heard every comment that was made. He said although the results were not complied, he had pictures of the open house, and he recorded it. He was curious if what was present by the citizens at the open house was what he understood it to be what the citizens wanted.

Council Member Robb indicated he did not disagree; he saw the same thing everyone else did. I think everyone wanted rural communities. His concern was he did not want to push the Mater Plan through. His concern was they started with the survey a few months ago, and he didn't want to put the city back to square one. He stated if that was the right course, he was okay with that, but there has been a lot of work done already. He went on to say, if there were some specific questions or areas that needed to be addressed, he thought that that would be different. However, he didn't think scraping the whole thing was the prudent thing to do.

Council Member Ward said when the survey was put out, some of the questions were modified and some of the questions were deleted, and it wasn't presented to the council for approval prior to it going out. Council Member Seamons pointed out the city hired these people to do that. They are supposed to know how to do a survey. Council Member Ward stated it could be done the right way, and he didn't think it was done the right way.

Mayor Braegger pointed out the city had the opportunity to see the results, and if the Council doesn't like the result or thinks they are skewed in any way, they have the ability to change that. He went on to say the idea behind the survey was to give them a peak of what the citizens were looking for. It was not written in stone to follow what the survey said if they don't like it.

Council Member Robb said his suggestion was to see if they could get Mr. Parker on the next agenda so he could present the status on the Master Plan, and it would allow the Council to ask him specific questions and hear the data on the survey.

Planning Commission

Consideration of Review and Approval of the Hurst Subdivision Application

Mayor Braegger inquired if this was the subdivision that he had a question on regarding the road. Mr. Wheelwright indicated it was. The city has a 60-foot right-of-way; however, there was still a question on the curb and gutter. Mr. Wheelwright stated he had a copy of a deferral agreement, which would be attached to the deed of the property if the Council approved it.

Council Member Kunzler suggested they evaluate the lot and see if curb and gutter would be beneficial to the

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1 area; or should they consider extending the Old Town Zone to cover the area. He thought they should either
2 extend the zone or say they had to have the curb and gutter in the future, and he thought the deferral agreement
3 made sense. He questioned if they should send it back to the Planning Commission to see if they thought they
4 should extend the Old Town Zone.
5

6 Mayor Braegger clarified the deferral agreement was attached to the deed of the property, and it was an agreement
7 if curb, gutter, and sidewalk were required in the future, they would have to pay for those improvements. Mr.
8 Wheelwright indicated that was correct. Mayor Braegger stated he thought that was sufficient. He pointed out
9 there was no place for curb and gutter right now, and if they had them install it, it would run into the city's dirt
10 barrow ditch. He thought the deferral made sense for now.
11

12 Council Member Ward inquired how much property they were talking about. Mayor Braegger said it was two (2)
13 lots and estimated it was about 200 feet frontage. The property was located on the east side of 250 West. Council
14 Member Ward thought it would be beneficial to have the curb and gutter installed and live with the city's
15 ordinance now. He pointed out that on the county map, it shows the city owned more property. He thought it was
16 feasible to have curb and gutter now.
17

18 It was discussed that the curb and gutter would only go up a portion of the road and only on that west side of the
19 road. Council Member Ward thought that was okay. Council Member Braegger pointed out that would force the
20 water onto the neighbor's property. Council Member Ward disagreed. Council Member Braegger expressed he
21 thought it would be better to leave it all the same so the water could perk.
22

23 Council Member Ward questioned how long the city would allow that to go. Mayor Braegger indicated the
24 deferral was forever. Council Member Ward stated they were talking about this subdivision request; were they
25 going to allow the same thing as there was more development?
26

27 **Motion:** Council Member Kunzler moved to approve the Hurst Subdivision with the conditional of a deferral
28 agreement on the curb and gutter. Council Member Robb seconded the motion. Members voting aye:
29 Council Members Kunzler, Robb, Seamons, and Braegger. Members voting nay: Council Member
30 Ward. The motion passed with a four votes in favor and one vote opposed.
31

32 **Consideration of Preliminary Approval of the Rod Braegger Subdivision Located at Approximately 100** 33 **South 400 West (Parcel No. 02-054-0003)**

34 Mayor Braegger recommended tabling the agenda item until the next meeting. He noted there was a concern with
35 emergency access, and he felt the Council needed to obtain some more information.
36

37 **Motion:** Council Member Kunzler move to table the preliminary approval of the Rod Braegger Subdivision
38 located at approximately 100 South 400 West (Parcel No. 02-054-0003). Council Member Robb
39 seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and
40 Ward. Members voting nay: None. The motion passed unanimously.
41

42 Mayor Braegger said hopefully by next meeting they would have some additional information.
43

44 **Approval of Minutes**

45 August 12, 2021, Regular City Council Meeting
46

47 **Motion:** Council Member Ward moved to approve the Regular City Council meeting minutes of August 12,
48 2021, as presented. Council Member Seamons seconded the motion. Members voting aye: Council
49 Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion
50 passed unanimously.

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Financial

Warrants
Vouchers
Reports
Purchases

The Warrants and Vouchers were presented to the Council for review. The items were reviewed individually.

Department Reports

Public Works

Consideration of Approval of Payment to Rockwell Supply, Inc in the amount of \$16,350 for Sewer Lift Station SCADA Panel and Installation

Mr. Davis informed the Council the SCADA project was a project prior to Mr. Wes Thompson being with the city, and it was now completed. He went on to explain the SCADA system is the notification system, which allows city staff to know if the sewer system was functioning.

Motion: Council Member Braegger moved to approve the payment to Rockwell Supply, Inc in the amount of \$16,350 for sewer lift station SCADA panel and installation. Council Member Ward seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously.

Police Department

Consideration of Approval of Payment to Utah Federal Surplus Property Program in the amount of \$1,391.68 for Surplus Property

Mr. Davis informed the Council the city has a police officer that was active with researching surplus supplies. Recently, the city acquired two side-by-side vehicles; a Ford F-150; and a 2009 For Explorer. He added that the city was going to acquire a semi-truck/tractor; however, it was rear ended during transport, and it was taken back to its location. Mr. Davis went on to say Mr. Wheelwright would have a newer vehicle and the city would sell the Dodge Durango.

Motion: Council Member Kunzler moved to approve the payment to Utah Federal Surplus Property Program in the amount of \$1,391.68 for surplus property. Council Member Robb seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously.

Fire Department

Consideration of Purchase of I.O. Needles in the amount of \$600

Consideration of Purchase of a Life Pack K15 AED in the amount of \$24,000

Chief Mund addressed the Council. He indicated the Life Pack K15 AED was a refurbished model; a new model was \$50,000. He explained the model they have now is a Life Pack 12, and it is not serviceable anymore and hasn't been for approximately three years. Chief Mund discussed the options on the Life Pack K15 AED. He reminded the Council they discussed the purchase of the Life Pack during the budget sessions.

Discussion followed regarding I.O. Needles. Chief Mund explained how the fire department utilized the needles, and he went on to explain the department back billed the patients for the needles. The I.O. Needles come in a pack of five (5) for \$600.

Motion: Council Member Ward moved to approve the purchase of I.O. Needles in the amount of \$600 and a Life Pack K15 AED in the amount of \$24,000. Council Member Kunzler seconded the motion. Members voting aye: Council Members Kunzler, Robb, Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously.

Council Member Reports

Brad Robb

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Council Member Robb did not have anything to report at this time.

Josh Braegger

Council Member Braegger did not have anything to report at this time.

Fred Ward

Council Member Ward inquired if the city had a defibrillator in the city offices and if they were expensive. It was said the city offices used to have one; however, it was outdated. Chief Mund indicated they cost between \$800 and \$1,000 for a basic model. Council Member Ward suggested the city have a training on how to utilize one. Council Member Kunzler agreed. Mayor Braegger asked staff to look into a defibrillator for the city offices.

John Seamons

Council Member Seamons said he was going to congratulate Mr. Colt Mund on his recent marriage. He went on to inquire about training for the City Council and Planning Commission. He would like for staff to look into providing the training or find it online. Mr. Davis inquired what type of training Council Member Seamons would like to have. Council Member Seamons indicated he would like to have training on what the state required. He thought they overstepped their bounds a bit and talk before they had all the information.

Kaleb Kunzler

Council Member Kunzler did not have anything to report at this time.

Mayor's General Correspondence and Information

Mayor Braegger indicated he appreciated everyone's work and efforts. In addition, he congratulated Mr. Colt Mund on his recent marriage.

City Manager's Report

Mr. Davis did not have anything to report at this time.

Consideration of Motion to Enter a Closed Session (if necessary) pursuant to UCA §52-4-205 (a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual; (b) strategy sessions to discuss collective bargaining; (c) strategy sessions to discuss pending or reasonably imminent litigation; (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares; (f) discussion regarding deployment of security personnel, devices, or systems; or (g) investigative proceedings regarding allegations of criminal misconduct.

No closed session at this time.

Adjourn

With no further business coming before the Council at this time, Council Member Kunzler moved to adjourn the meeting. Council Member Robb seconded the motion. The meeting adjourned at 8:07 p.m.

Minutes were read individually and approved on: _____.

Recorder

Mayor