



WILLARD CITY
City Council Meeting – Regular Meeting
September 23, 2021 – 6:30 p.m.
Willard City Hall – 80 West 50 South
Willard, Utah 84340

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:

Mayor Kenneth Braegger
Council Member Josh Braegger
Council Member Kaleb Kunzler
Council Member John Seamons
Council Member Fred Ward

Chris Davis, City Manager
Colt Mund, City Attorney
Bryce Wheelwright, City Planner
Michelle Drago, Deputy City Recorder

Excused: Council Member Brad Robb

Others in attendance: David Brown, Connex; Dr. Bruce Parker; Dr. Joe Perrin; Officer Krystal Holmes; Officer Rick Mabrey; Trisha Heath; Rachel McIntire; Diana Baker; Travis Mote; Rew Wiley; Chad Braegger; Randy Braegger; Rod Mund; Debbie Braegger; Lindsay Wells; Chris Davis; Russ Davis; Garth Day, Heritage Land Holding; and Chandler Bingham.

1. Call to Order

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

- a. Invocation - The invocation was offered by Council Member Kunzler
- 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.)

Rew Wiley, 75 West 825 North

Mr. Wiley asked for a better privacy fence around the campground. Yesterday a big dog came through the existing privacy fence and killed sixteen of his hens. He estimated the loss was \$3,000 to \$5,000. He asked if something could be done. A privacy fence should keep animals on their side of the fence. He did file a report with Officer Holmes. He did not know what happened to the dog. It got back through the fence before he could get his shotgun out.

Mayor Braegger asked if there was a gap under the fence. Mr. Wiley said there was. He complained about the fence three years ago. The Council was probably tired of hearing him complain about privacy fences. Today he put up another fence on his side of the privacy fence to prevent a similar incident, but he didn't feel he should have had to do that.

Mayor Braegger thanked Mr. Wiley for making the Council aware of what had happened.



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Travis Mote, 455 South 200 West

Mr. Mote stated that during last week's Planning Commission meeting, Councilman Seamons asked what residents thought the General Plan should be. He didn't have an articulate answer at the time. Now he did. Mr. Mote described his General Plan vision to the City Council. He didn't feel the General Plan would be a magic bullet, but he felt it should be a guiding light. The General Plan should have five components – a vision statement, a resource inventory, an action plan, a prioritization or sequencing of the plan, and regular assessment.

The vision statement needed to be driven by the community and what its desires were. The vision statement might include goals, and it should provide direction for resource and land use issues. The resource inventory needed to include the availability of water, the capacity of the sewer plant, and other City resources. The action plan included the Future Land Use Map. It determined how resources would be used to meet the City's vision statement. The vision was always the key component. It came from the grass roots of the City. Next came prioritization or sequencing so the safety of the citizens and general resources weren't jeopardized. The last component, assessment, was frequently missed, but he felt it was one of the most important components. Every five years the General Plan should be reviewed to see if its implementation was moving forward. Was the City meeting the goals of the citizens? If it wasn't, the plan needed to be redirected. Were the resources the same? Had the citizens' goals changed?

Mr. Mote felt all five components needed to be in the General Plan in order for the plan to be successful. Through his experience, if all five of the components were there, the plan would be successful and would meet the City's objectives.

3. New Business

3A. Discussion of Proposed Non-Exclusive Agreement with Connex for the Purpose of Internet Services

Chris Davis, City Manager, stated that David Brown from Connex was present to answer any questions the Council might have regarding a franchise agreement.

Colt Mund, City Attorney, stated that the Connex contract said the City would not impose a franchise tax at this time. Why would the City agree to that? David Brown said there was supposed to be a level playing field. If the City imposed a franchise tax on Connex, it would have to rewrite contracts with any other existing franchisees. Connex was a broadband company rather than a television company. There were different rules and regulations for broadband versus television. The agreement included a lot of things other cities had wanted. Connex was amenable to whatever adjustments Willard might want.

Mr. Mund asked about Section 3 – Standards of Service. He understood that the franchise agreement would govern and supersede any of the City ordinances. Had Connex had conflicts with any cities they had worked with? Mr. Brown said they had not ran into any issues. They really tried to work cities on everything. He said Section 3 was an example of a condition that had been included by another city.

Mr. Mund said that per the agreement, the City would require developers to bear the cost of trenching to install conduit. What would happen if a developer refused to do that? Developers weren't bound by the franchise agreement. Mayor Braegger said that from a developer's point-of-view, internet service sold lots.



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Internet service was something people were looking for. If internet service was available to buyers that was a plus. A developer had to provide a utility trench for power. Connex could use the same trench. It would not be a huge expense for a developer.

Mr. Mund highlighted competitive equity. If another internet provider came into Willard, the agreement would have to be adjusted for any material differences the City might offer a new provider. Mr. Brown said the franchise agreement was often separate from a City's broadband plan. Broadband plans usually contained conduit, which would be available for any franchisee who wanted to use it.

Mr. Mund asked about the termination clause. The termination period was six months with or without cause. What would a termination look like? Would Connex remove all of its infrastructure? Mr. Brown didn't know why Connex would ever terminate. Fiber was a really expensive investment. It would be extremely unlikely that Connex would have a valid reason to terminate a franchise agreement. He felt that clause was meant to protect both parties.

Mayor Braegger felt the City would be okay with the termination as long as Connex turned all of its assets over to the City. Mr. Brown thought the termination clause had been added by Clinton City. Clinton wanted to make sure the fiber plant wouldn't be abandoned. Mr. Brown didn't feel it was likely that a fiber plant would ever be abandoned. A lot of the infrastructure in Willard would actually be aerial via Rocky Mountain Power's poles, which would probably fall outside the franchise agreement. If Connex terminated the agreement and abandoned their plant, it wouldn't cause any problems if the plants were hit.

Council Member Ward asked what happened with the franchise tax if half the citizens had aerial service and half didn't. Would the franchise tax be collected by Rocky Mountain Power? David Brown said Connex paid an annual fee to Rocky Mountain Power to be able to use their poles. Council Member Kunzler stated that Connex would pay the franchise taxes and any pole attachment fees. Connex would charge their customers to recoup those expenses. There wasn't a vehicle for those costs to be passed onto anyone other than their customers.

Council Member Ward felt not having a franchise tax was a good thing. Citizens paid enough taxes anyway. David Brown said no franchise taxes meant their prices could be consistent from city to city.

Council Member Ward felt a five-year agreement would be more appropriate than ten years. Mr. Brown said that was fine. A lot of cities customized the agreement date to coincide with other franchise agreements so all were renewed at the same time.

Council Member Ward asked if the City was liable to provide the conduit or just the trench? Mr. Brown said the contractor that provided the trench typically provided the conduit. The City just needed to make sure it notified developers that they needed to provide a trench for the conduit. Most of the time Connex paid for the cost of the conduit. Council Member Ward wanted to make sure those costs would not fall on the current citizens. Mr. Brown said the costs would be borne by them or the developer.

Council Member Seamons asked what Section 3.9 – Extension of Systems Not Required meant. It said the grantee shall not be required to provide fiber services to location within the service area which were not financially and technically feasible. David Brown said Section 3.9 made the playing field level. Comcast and Century Link only built out areas they wanted to. Connex was a city builder. They wanted to build out the whole city. They had ways to provide temporary service for customers until they could make fiber available.



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Council Member Seamons said the City was aware of \$600,000 in grant money that might be available. What would Willard receive for the grant money? Mr. Brown stated that Connexx would try to hook up all of the City facilities and give the City its own private network if there was a need, whether the City received grant money or not. Receiving or not receiving the grant really wouldn't make much of a difference. It was the \$40,000 outlier, that didn't make much sense for anyone to do, that was usually covered. Connexx had also submitted a grant application with Box Elder County for ARPA funds. Willard had enough density that he didn't feel Willard would be impacted too much either way.

David Brown stated that as soon as the franchise agreement was passed, they would hang flyers on every door. They would also use social media to see where the interest in the community was. They would plan installation of the entire City, but they would try to hit the areas where there was the most interest first. They planned to build 150,000 to 300,000 homes in the next five years. Willard very easily fit in their 12 to 18-month program.

Mayor Braegger verified that Connexx would provide service to Willard in the next 18 months. Mr. Brown said it would be 18 months from the approval of the franchise agreement.

Mayor Braegger asked that the staff coordinate the changes to the franchise agreement recommended by the City Attorney and then bring it back to the City Council for approval. Mr. Davis said it would be on the next agenda.

3B. Update on the Master Plan Process by Bruce Parker

Chris Davis stated that Drs. Bruce Parker and Joe Perrin were in attendance to provide an update on the Master Plan process.

Dr. Bruce Parker said they wanted to share some of the preliminary information they had received from the community survey and interviews they had conducted. (See Power Point presentation attached to the minutes.) They had not finalized the analysis yet, but they wanted to show the Council the themes they were starting to discover. The community value and aspect of life Willard residents found most important were open spaces, views, and agricultural lands. A resounding theme was the emphasis of a rural and small-town feel. It had come through loud and clear. Residents expressed concern about water resources as the demand for growth continued and the supply lagged behind. He didn't know if that concern was valid, but that was what they had heard when collecting the raw data.

A dominant number of residents still wanted future housing to be detached single family homes. Many expressed the desire to stay away from multi-family housing development. He didn't feel that result was a surprise. When asked about increasing housing affordability, some expressed the desire for accessory dwelling units. As the Council was aware, Utah State law now required cities to allow internal accessory dwelling units. He was interested to see if the next legislative session made changes regarding external accessory dwelling units.

When asked about affordable housing for the elderly about half of those surveyed expressed some degree of desire to plan for more affordable housing. It was clear that as people in the community aged they wanted to stay in the community. Willard was being affected by the increased housing values experienced by the rest of the state. Increased values made it difficult for people to stay in Willard. People loved the community and wanted to stay, but there needed to be affordability.

The next question related to transportation. On average, most residents took three trips from the community per day for shopping, employment, school, recreation, or visiting family and friends. Highway 89 was a



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significant concern. There was a concern about trying to cross Highway 89, trying to turn north or south on Highway 89, promoting safety for the school, heavy semi traffic, and a lack of connectivity between side streets.

When asked about land use, people wanted a rural and small-town feel. Residents wanted to see more commercial development than residential. The City needed to balance commercial activity to support the residential. Some proposed businesses that were smaller in size and were locally owned. Survey results showed there was a need for more retail, particularly a food establishment. A grocery store would allow residents to stay and shop in the community rather than having to travel outside.

Dr. Parker said the following points had been gleaned from the survey results. They would also supplement the survey results with interview data. Residents were not against growth, but they wanted to see it occur in a small, slow, and incremental way so the City could make sure it was related to service supplies of water, sewer, and road capacities. Residents felt growth should be responsible to maintain and sustain the current resources and infrastructure. They also heard that residents also wanted to see preservation of the natural beauty of the City, such as the mountain range and Willard Bay. There were safety and aesthetic concerns about the expansion of the gravel pits. Residents also felt there was a need to resolve transportation concerns around Highway 89. Dr. Parker didn't feel he was telling the Council something they hadn't already heard. He thanked all of the residents that submitted surveys and responded to interviews.

Dr. Parker stated that the State of Utah required a general plan for a community the size of Willard to include a land use plan and a transportation element. They were going the extra mile and taking the proactive step to address the issue of low to moderate income housing. It was an issue required by larger communities. He felt it was appropriate for Willard to get on top issue and for residents to understand it. Land use was related to resource protection. They were also building into the General Plan the idea of prioritizing goals and actions. The plan would include a matrix structure to identify who was responsible to achieve a General Plan action, a time frame, and a potential cost. So often plans sat on a shelf and were never acted on because they contained too many goals and policies with no understanding of prioritization. The General Plan needed simplification. It only needed to include goals and policies that could be achieved in a reasonable time. It needed to identify who was responsible to achieve those goals. The General Plan needed to be reviewed regularly. It needed to stay alive, active, and respond to the needs of the community. When the City prepared its annual budget, resource allocations should align with achieving one of the General Plan's policies in total or in part. The community could then see how resources were being expended to advance the General Plan. Through that process the Planning Commission and City Council might see a need to amend the plan. The General Plan's broad vision statement should guide resource allocation decisions, as well as the Plan's subsequent goals and policies.

Council Member Ward agreed that the General Plan should be the City's living document. It should be the guide for how the City moved forward. He didn't feel the City needed anything else other than a change to the General Plan when needed and ordinances to support it. Dr. Parker stated that implementation actions were infrastructure investments in the capital improvement part of the budget. Council Member Ward felt the City should try to live to the Plan. Dr. Parker said the City could not ask the private sector to follow the General Plan unless the City did as well.

Council Member Kunzler asked how the City addressed medium and low income housing. He didn't see any new housing that was affordable – whether it was single-family or multi-family. What mechanism could the City use to address the issue given what was happening in the real estate industry? Dr. Parker said that question occurred in every municipality and county in the state. What was the public side required to do to



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address the affordability question? The strategy identified by the State Legislature was to increase the supply of units for rental and ownership. The real estate industry said the state currently had a 40,000 unit deficit. As the building industry tried to catch up, there was still continual growth in the state. A dent wasn't being made in the deficit. Council Member Kunzler's questions was a good one, but he really didn't have an answer. Right now the City needed to actively comply with the State law mandates. In order to keep some homes affordable, some cities (typically the resort-type communities) had capped the equity a private owner could realize on a private home.

Council Member Ward felt values in today's real estate market were artificially inflated. The citizens needed to ask the Legislature to adjust property taxes. For example, the older residents who built Park City were now being forced out because they couldn't afford their property taxes. He didn't want that to happen in Willard. Dr. Parker stated that when there was a reduction in tax levels there had to be a corresponding reduction in service levels. There had to be a balance. Council Member Ward felt the City should only provide necessary things, like water and sewer. The City was not a profit-making organization.

Council Member Seamons felt some of what was being proposed from the survey results was mutually exclusive. The residents wanted commercial growth and a grocery store. Commercial growth would not happen without more homes in the community, which no one wanted. Dr. Parker agreed that the City would not see large, big box retail. Willard was competing with Brigham City and Ogden. However, there might be possibilities for small, intimate commercial. Council Member Seamons questioned whether grocers even built small stores anymore. Dr. Parker said Harmons would build community-based, small grocery stores.

Council Member Seamons said commercial growth did not occur until there were residents. The City didn't get residents without smaller lots. Builders didn't want half-acre lots. He felt the things proposed in the General Plan were really good, but they were mutually exclusive. Elderly housing wasn't a three-quarter acre lot. Dr. Parker felt Council Member Seamons was saying he wanted to remain in the community, but he wanted a home he would be able to take care of. There needed to be a balance. Council Member Seamons asked if Dr. Parker would provide some input and suggestions on how to achieve that balance. Dr. Parker said that in October they wanted to present the survey and interview findings to the community for additional feedback. He felt that would be the appropriate time to address those refinements.

Council Member Seamons asked if Dr. Parker could provide any suggestions on how the City could deal with gravel pits? The gravel pits came in, and the City had no way to stop them. Dr. Parker wished he could. However, there were state provisions over critical infrastructure investments. Gravel pits fell under those provisions; they seemed to have a life of their own. They were immune from local regulation in a lot of ways. He knew that was not what the Council wanted to hear, but that was what the State legislation had done. Gravel pits fell under the same category as residential facilities for persons with disabilities, elderly housing, and billboards.

Council Member Seamons asked if Dr. Parker could provide any solutions. How could the City control the trucks and the dust? What could the City do to make prevent health and safety issues? Dr. Joe Perrin said the Council could regulate what happened on City streets. As part of the City's transportation master plan, the City could prohibit large trucks on local collector streets, with the exception of fire and waste removal trucks. Unfortunately, the gravel trucks used Highways 89 and 315. Gravel trucks were entitled to use state routes. Pleasant View had had a similar problem. Pleasant View had worked with UDOT to establish an acceptable route for gravel trucks.

Council Member asked if the City could lower speed limits to discourage use of state roads. Dr. Perrin said the City still had to work with UDOT to get the speed limits lowered. UDOT had already lowered speed



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limits on 89 and 315 to 45 mph, when all other routes were 55. Part of their data collection would include a speed survey. They would determine what speeds the trucks were traveling versus regular traffic.

Council Member Seamons asked if gravel companies built their own roads to prevent local regulation. Dr. Perrin felt gravel-owned roads were meant to prevent cities from shutting them down. Gravel pits knew once they reached state routes, the State would not restrict their trucks. Arterial roads and roads of regional importance were designated for moving big trucks and cars at a higher rate of speed. Gravel pits built their own roads so no one could tell them what to do. There was further discussion regarding gravel pits.

Dr. Perrin wasn't aware of a big solution for gravel pits other than enforcing speed and maybe dust mitigation through required improvements. Council Member Seamons said the dust generated by the gravel truck impacted produce grown in Willard. Dr. Parker felt the fugitive dust might fall under the control of Environmental Air Quality. However, the amount of dust had to reach their thresholds, which were pretty high.

Dr. Joe Perrin stated that his part of the General Plan was transportation. They were still in the data collection phase. Much of their data for how development impacted traffic was a function of responding to it. They knew how much traffic houses, multi-family, and retail generated based on imperial data collected and compiled by the Institution of Transportation Engineers. To date they had reviewed the existing conditions in Willard so they could establish a baseline. As different land use alternatives were considered, they could translate them into traffic numbers. He presented the existing data, not projections or recommendations (see attached copy).

Dr. Perrin said they had looked at traffic on different roadways. Some information came from UDOT who was required to provide counts for any roads they received federal aid for. The information was in daily trips or average daily traffic (ADT). With that information, they were able to identify the City's critical intersections. At those intersections, they counted the a.m. and p.m. traffic, which were the critical times. Based on national standards, they ranked the intersections A through F. A service level of A was perfect; F was failing. As a community, Willard could decide what levels of service were acceptable. He felt A was unrealistic. Most cities did not plan for an F. Most cities were aiming for a C or D service level. The level of service was the average delay a vehicle was waiting to complete a traffic movements. Some of the approaches from the east and west were B's and C's, but an Intersection was evaluated on both passing and approaching traffic.

Dr. Perrin understood the City had questions about capacity. They looked at capacity from a planning viewpoint. Capacity depended on the geometry of the road and whether it was major arterial (40 mph and above), arterial (above 35 mph), or collector (30-35 mph). Capacity was ranked A through F. They usually planned for a service level of D. Level D was a comfortable traffic load. The only ways to provide better levels of service were to increase capacity or provide alternate routes. Both methods could be addressed through the City's capital improvement budget.

Dr. Perrin said they had the traffic and transportation information they needed for the next phase of the master plan, which was land use.

Mayor Braegger stated that in past conversations with UDOT, Willard had been encouraged to look at collector roads that would funnel traffic to one intersection on Highway 89 or 750 North. Was that something the general road plan would look at? He envisioned 500 West paralleling the railroad track on the west side and a collector on the east side that did something similar. He felt that encouraged two things – a fast or easier way out of the City and discouraged traffic from going through the middle of town. Dr. Perrin said traffic was like water. It would take the path of least resistance. If traffic was distributed, it bled to more



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points, which reduced the possibility of meeting traffic warrants for a signal. A traffic signal was more attractive for drivers. He agreed that the City didn't want traffic running through neighborhoods. The transportation element of the General Plan would set the City up for a more detailed transportation plan.

Council Member Ward loved 200 West which had just been paved north of 750 West. He felt it was being used mostly by Perry residents. However, it was good for both cities because it eliminated traffic on Highway 89. Willard was located in a pretty narrow area between the mountains and the freeway. Dr. Perrin agreed Willard had a limited area for roads. He reminded the Council that infrastructure costs for half-acre lots was more than it would be for clustered developments. He hoped that would be factored into the decision making.

Council Member Ward felt the area between Highway 89 and the railroad was narrow, but it needed a main road, such as 500 West. Dr. Perrin agreed that a bypass road would be good. It would have connectors to Highway 89, designated by the City, that would filter traffic from both sides. It was important to plan both sides of the highway. The City needed to plan ways for local traffic to reach local destinations without having to use Highway 89. Right now Highway 89 was carrying about 13,000 cars a day. He felt it would be difficult to get the speed on Highway 89 reduced further than it was. UDOT would not give up capacity that couldn't be recovered fairly cheaply. The City would have to determine if its vision was practical, particularly on the roads it could control.

Council Member Ward felt that UDOT could control the access points on Highway 89. Dr. Perrin agreed. That was why the City should focus those access points. If there were twenty access points with ten cars each, the City would never get a traffic light. If the access points were few and focused, they would eventually meet the warrants for a traffic light. Those access points needed to be planned. Once the City had a Master Plan, it could enter into a corridor agreement with UDOT. The corridor agreement would plan where traffic signals would be. When those locations were warranted, Willard could get on their list for a traffic signal. UDOT would put in the traffic signal because they had already agreed to. UDOT wanted to put traffic lights at designated collector or arterial roads.

Council Member Seamons agreed that Highway 89 was a big concern. It seemed Dr. Perrin was saying the City had little hope of controlling it. Dr. Perrin said the City needed to think outside the box. He didn't feel the City would be able to get the speed reduced to 25 mph or the number of lanes reduced to three. The City had to think about what it could do and what opportunities it had. Were there problems getting onto the highway? Did there need to be pedestrian and bicycle crossing points? The City could do high T's, islanding, or channelizing that would restrict or focus traffic. However, the City had to think about the impact of those different options. Islanding could focus traffic turns to one intersection where there could be turning restrictions. Acceleration lanes were another option. There was enough pavement to do some things without too much widening. The General Plan needed to talk about these concepts. Then the Transportation Plan could get into the specifics.

Dr. Bruce Parker stated that they would like to schedule a public open house to present their finding and other information to the public. Chris Davis suggested Monday, October 18th. The Council agreed with that date. Mr. Davis said the staff would include information about the open house in the next newsletter.

Council Member Seamons asked when the City could expect a General Plan draft. Dr. Parker felt they would have a preliminary draft ready for the City in December.

3B. Presentation and Discussion of Draft Special Planned Development Zone by Bruce Parker



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Dr. Bruce Parker stated the City administration had asked him to look at an amendment to the City's Zoning Ordinance and land use regulations. He had prepared a draft Special Planned Development Zone for the Council to consider. He wanted to review the main concepts and key policies items for the Planning Commission and City Council to consider. He had drafted this ordinance specifically for Willard City. The ordinance was not taken from any other community. The goal of the ordinance was to compliment the community image of Willard and its livability. It was based on the General Plan.

The Special Planned Development Zone amendment was meant to give a reasonable density level to property owners but value and protect open space and view-shaped corridors. For example, how did the City maintain a sense of agricultural activity in Willard? Dr. Parker anticipated an arrangement where a property owner could get reasonable density, and the City would be able to protect areas along Main Street, or other areas of open space that connected into adjoining open space areas. Potentially developers could work together to create larger areas of open space, but not be penalized with density concerns.

There was an applicability question. Where should the ordinance be applied? Would the Planning Commission and City Council like it to be more open ended? Then it could be applied anywhere and in any zone the City wanted. There were pro's and con's for both approaches. If the City identified the zones where the Special Planned Development would be allowed, there would be a level of consistency. Every property owner in that zone would be treated the same. Everyone had the same base zone and the flexibility allowed by the proposed provision. The advantage of not being tied to a zone was the City's flexibility and responsiveness to the needs of the community and certain areas. The City would have the ability to evaluate the application of the Special Planned Development Ordinance based on specific site features that the City might want to protect and preserve, such as the mountain. That was the first policy question.

In his draft, a property owner had to have a minimum of five acres to qualify for the Special Planned Development District. The Planning Commission and City Council would have to determine whether that was an appropriate size. The proposed ordinance required that 20% of the development site had to be preserved in agricultural uses, sensitive lands, or some other valuable open space amenity for the community. If a development was five acres in size, it would be required to provide one acre of open space. A property owner could then apply the density of the zone to the remaining four acres. For example, in a one acre zone, five units would be allowed on the remaining four acres. That meant property owners would have less infrastructure to build on the remaining four acres. In a traditional subdivision, a property owner would probably only get four units on five acres due to the amount of land needed to provided roads and infrastructure. The Special Planned Development District provided a 20% benefit for property owners.

Council Member Ward asked if the 20% open space was a set figure. Dr. Parker said it wasn't. It was the amount he proposed. The City could determine whatever percentage of open space it wanted. A property owners could then apply the density allowed by the zone to the remaining acreage. The remaining acreage would have to accommodate homes and required infrastructure.

Council Member Ward felt that at some point the open space would be turned over to the City to maintain and care for. Open space meant increased expenses for the City versus no open space. He did not like homeowner associations. Dr. Parker said the proposed ordinance provided a variety of ownership and maintenance responsibilities, such as the City, a homeowners' association, or a conservation group. He agreed that over time some homeowners' association weren't as active as they originally were. Some communities had a master homeowners' association that managed all open spaces in the community long term. That type of organization avoided the fluctuation in the administration of homeowner managements.



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Dr. Parker asked what looked like small-town rural. Was it larger lots with individual homes, or was it smaller lots with open space?

Council Member Ward appreciated Dr. Parker's effort in preparing the Special Planned Development ordinance. However, he felt it needed to be revised, and he felt that the revision needed to occur after the General Plan was finished and accepted.

Dr. Parker felt the proposed ordinance began to address the needs of those who wanted a small-town feel and a smaller lot. It provided a tool for potential developers to create those smaller lots and provide open space. The proposed ordinance invited a variety of housing types. It did not restrict the type of dwelling unit provided by a developer. A developer could provide single family homes, townhomes, condominiums, etc. All could be blended together in one development. Regular zoning only allowed one or two types of residential housing; for example – single-family or duplex. The proposed housing mix was unusual. It allowed an arrangement of dwelling units that allowed a family to move through the various stages of life and still remain in the same subdivision in the same community. That type of flexibility was unusual.

Council Member Seamons asked where that provision was found in the proposed ordinance. Dr. Parker said housing was addressed in Section 12 – Housing Variety.

Mayor Braegger asked what could the City do to prevent open space from becoming a burden to the community. Dr. Parker said some cities had a master HOA that managed all other homeowners' associations and open spaces. Another option was to make maintenance of the open space a burden of those who lived in the development by creating a special taxing district. Mayor Braegger asked how difficult that fee would be to collect. When the City had a hard time collecting a water bill, water was shut off. The City couldn't shut off open space. Dr. Parker said the City could lien the property.

Mayor Braegger stated that there had not been a successful HOA in Willard. One had been a failure. There were a few new ones starting. It was too soon to see if they would be successful. HOA's made the Council nervous. Dr. Parker felt the Special Planned Development Ordinance needed to be clear that HOA covenants and restrictions had to be approved by the City Council.

Mayor Braegger stated that different HOA's paid different fees. Could the City force those fees? Dr. Parker said it could not. However, if HOA's started to fail the City could put its plan into place. It could let homeowners know they would be paying a certain fee for the City to maintain their open space, and that fee might be higher than what they were paying. Mayor Braegger asked how the City could determine if an HOA had failed. Dr. Parker stated that an HOA board, not the individual members, would have to petition the City to take over maintenance. Dr. Perrin felt weeds could be addressed with the City's Nuisance Ordinance and citation process. An HOA could be cited just like any other property owner.

Council Member Ward related his experience with Ogden's City's nuisance abatement on his mother's property. They were notified that the property needed to be cleaned or the City would clean it and attach the expense to the property taxes. Mayor Braegger said that was still a burden on the community. Who knew when that lien would be collected?

Dr. Bruce Parker felt the Special Planned Development Ordinance provided an option for open space and a long-term agricultural benefit. He felt its various weaknesses could be solved by working together. If the goal was to provide open space, protect agricultural lands, protect views of the mountains, and a view shed of Highway 89, he felt the proposed ordinance provided a good option. The City could work through the details.



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Council Member Ward felt the ordinance could be written without an HOA option.

Council Member Kunzler stated that the only people who were fans of HOA's were those that controlled them or the realtors who made a commission from them.

Dr. Bruce Parker stated that the Special Planned Development District was a draft ordinance. He asked the Council to think about its weaknesses and send their suggestions to him through Chris Davis. He would then do his best to respond.

3D. Consideration and Discussion and Potential Action Regarding the General Plan Update – 2021 Survey – Council Member Ward

Dr. Bruce Parker felt their survey was well-balanced and was not unbiased in any way. They had been able to gather the information they needed. A few leading questions had been eliminated from the survey. They were able to discover the information they needed by asking questions in different ways. The survey was sound with good questions. They had provided opportunities for qualitative comments back from those who were interviewed and from the survey instrument. He was confident they had the information they needed. The information would be subject to refinement during the open house on October 18th. He didn't want to redo the survey for two reasons – one was time; the other was an element of confusion from the community.

Council Member Braegger felt the survey was well-balanced.

Council Member Ward stated that he brought the survey up because Travis Mote showed that some of the questions in the survey had been altered. As a Council member he was concerned about whether the community saw what they should have seen. He was also upset that the Council did not get to see and approve the survey before it was sent out. He felt the survey should be put out in its original form, and he suggested that it be redone.

Dr. Parker stated he had worked with the staff to make sure the City had a good survey instrument. He had done a number of surveys across Utah and in other states. He felt the survey was sound without bias or leading questions. They were able to get the information they needed regarding the vision and overall themes from the community. The survey was done in a timely way. The City received 200 responses both online and in written form. The survey included some open-ended questions.

Council Member Ward felt a few of the questions were leading. Dr. Parker asked if Council Member Ward had received a copy of the survey prior to it being sent out. Council Member Ward said he had not, and the City Manager knew how to get him a copy. As a Council member he should have seen the survey before it was sent out. Dr. Parker said point well taken.

Mayor Braegger asked if Council Member Ward wanted to take any action. Council Member Ward felt the Council could vote on whether to redo the survey.

Motion: Council Member Seamons moved to not redo the survey. Council Member Braegger seconded the motion. Council members who voted "aye:" Kunzler, Seamons, and Braegger. Council Member Ward voted "nay." The motion passed.

3E. Consideration of Preliminary Approval of the Rod Braegger Subdivision Located at Approximately 100 South 400 West (Parcel 02-054-0003)



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Bryce Wheelwright, City Planner, stated that Planning Commission held a public hearing to consider the preliminary plan for the Rod Braegger Subdivision located at approximately 100 South 400 West. The public comments revealed real concern about the second access. Braegger's and Barker's were proposing that the second access consist of an easement dedicated for emergency access. It would be located on the south side the property, and it would run from 400 West to 250 West. The emergency access would have an all-weather surface

Since the public hearing, the City had learned that in 2010 the City Council reached an agreement with the property owner to the south, Lindsey Hansen. Mr. Hansen wanted to vacate 250 West so he could put a home on his property. The City followed the State statute process to vacate 250 West at 150 South. In exchange for the vacation, Mr. Hansen gave up a 60-foot right-of-way for 400 West to run south through his property. The right-of-way on Mr. Hansen's property lined up with the location of 400 West proposed in the Rod Braegger Subdivision. Heritage Land Holding, who now owned the Lemon property south of Lindsey Hansen, had verbally agreed to continue 400 West south to 300 South and up to 200 West. That would create another access and eliminate the need for the emergency access.

Mayor Braegger clarified that it would be up to the Rod Braegger Subdivision to install an all-weather surface through the Hansen and Lemon properties. Mr. Wheelwright said that was correct.

Garth Day, Heritage Land Holding, stated that they had agreed to let Braegger's put in an all-weather surface road for their second access.

Council Member Ward asked if it would remain a permanent road. Garth Day said that was the goal. They hoped the all-weather road would be in the same location as one of their future roads. If not, they would replace it with a permanent road as they developed.

Council Member Ward understood that Rob Braegger wanted to do his development and the City was highly concerned about the second access. Yes, Rod Braegger had committed to building 400 West on his property and putting an all-weather surface road through the Lindsey Hansen and Lemon properties. However, that still didn't provide the City with a second access. He felt there needed to be a temporary access from 100 South until those roads matched up and met together. That was his recommendation as a Council member. Then there would be an emergency access available for the people that lived in this area.

Mayor Braegger said the all-weather road through the Hansen and Lemon properties would provide a second access. Council Member Ward said it would once it was done. Mayor Braegger felt the all-weather surface would be much better than trying to squeeze an access between the homes on 100 South. Council Member Ward felt the permanent road needed to be in place before the houses were constructed.

Council Member Kunzler stated that there were three lots being proposed. He was concerned about the most eastern lot. He didn't feel that lot met the frontage and access requirements in the Zoning Ordinance. Where was its primary and secondary accesses? 250 West didn't really exist across the frontage of the lot. Only the northeast corner of the lot had access onto 100 South.

Mayor Braegger stated that when the house was put in, the owners agreed to build 100 South down to 250 West. In exchange, the City agreed not to require frontage improvements across the front of the lot.



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Council Member Kunzler said the Barker/Braegger property was now being subdivided, and he questioned whether the property was still grandfathered under that agreement.

Mayor Braegger stated that if the City required them to pave and improve their frontage, the road in front of their home would become a glorified driveway which the City would have to plow. He wasn't sure it made sense to have the City's Public Works maintain a road without even a turn-around.

Council Member Kunzler didn't feel the City could just waive the requirements of the ordinance.

Council Member Braegger stated this was an existing parcel. Council Member Kunzler said it was an existing parcel that was being subdivided. The Subdivision Ordinance required subdivided lots to have curb, gutter, and pavement. He understood the circumstances, but he felt the City was setting a precedence if it waived the improvement requirements for this lot.

Mayor Braegger didn't want to create a glorified driveway that the City would have to maintain.

Council Member Kunzler felt the issue needed to be addressed through the ordinances so it would be fair for this situation and any others that might arise in the future. He didn't want to create situations that might appear to have favoritism and expose the City to liability.

Council Member Braegger asked for the opinion of the City's legal counsel.

Colt Mund wasn't sure what parcel the City was referring to. There was a discussion between Council Member Kunzler, Bryce Wheelwright, and Colt Mund regarding the location of the property. Mr. Mund didn't feel he could provide an answer at the moment.

Council Member Ward did not feel the City would be responsible to maintain the road if the owners were required to pave it. It would be located on private property. Mayor Braegger disagreed. It was already a City right-of-way. Because it was an unfinished right-of-way, the City didn't do anything to maintain it.

Council Member Seamons felt the resolution for the second access was good. The issue regarding the improvements on the east lot needed a legal answer.

Rachel McIntire, 110 South 250 West, stated that Rod Braegger had offered to give them an easement from their property to 400 West with an all-weather surface.

Mayor Braegger stated that because 250 West was a dedicated City right-of-way, the Subdivision Ordinance required that it be improved when their property was subdivided. That was the issue the Council was seeking an answer to.

Motion: Council Member Kunzler moved to table consideration of preliminary approval of the Rod Braegger Subdivision located at approximately 100 South 400 West (02-054-0003) pending legal review. Council Member Seamons seconded the motion. Members voting "aye:" Council Members Kunzler, Seamons, Braegger, and Ward. The motion passed unanimously.

3F. Consideration of Approving Ordinance No. 2021-11, and 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-



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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)

Bryce Wheelwright stated that Heritage Land Holdings was requesting that 61 acres they purchased from the Lemons and others be rezoned from A5 to R ½. The property was located at approximately 300 South 200 West. Their rezone request complied with the City's Future Land Use Map. The purpose of the rezone was to develop Phase 2 of The Orchards at Willard Subdivision. Phase 2 would consist of 12 half-acre lots. The Planning Commission held a public hearing and received public comments. Mr. Wheelwright said there wasn't anything in the Zoning Ordinance that said they couldn't rezone the property. The Planning Commission had recommended that the City Council approve the rezone request.

Council Member Ward stated that he attended the Planning Commission hearing. He brought up a concern about water. Was there enough water to support this subdivision? Mayor Braegger said they were working on the water issue. However, the Council was considering a rezone petition, not a subdivision. Chris Davis said Heritage Land Holding would have to provide water. Mayor Braegger said this was one development that had the necessary water.

Council Member Ward was concerned about the City's water storage capacity. Chris Davis said the City currently had the necessary storage capacity for a twelve lot subdivision. There might be a potential need to build additional storage in the future.

Motion: Council Member Braegger moved to approve Ordinance No. 2021-11 approving a rezone request from Heritage Land Holdings, LLC for property located at approximately 300 South 200 West from A5 to R ½. Council Member Seamons seconded the motion. Members voting "aye:" Council Members Kunzler, Seamons, Braegger, and Ward. The motion passed unanimously.

Copy filed for record.

3G. Approval of the Purchase of 144 Trash Containers from Cascade Engineering in the amount of \$12,559.04

Chris Davis stated that the City staff had discovered that Brad Kloos lived in Willard. Mr. Kloos was a Regional Manager for Waste Management. When Mr. Close came into the office wearing a Waste Management shirt, Michelle Snarr struck up a conversation about the City's problem obtaining garbage cans. He provided Michelle Snarr with the name of their garbage can supplier. Waste Management used the same type of garbage can Willard did. Michelle contacted Cascade Engineering. Their minimum order was 144 cans. They checked with Council Member Braegger to see if the City could save money on shipping by using Tramcor, but he couldn't beat the shipping charge. The order total of \$12,559.04 included shipping. The total cost per can ended up being \$87.21, which was substantially cheaper than the \$116 price quoted by Rotational Molding. Administration was seeking approval to purchase 144 garbage cans. A resolution would be prepared adjusting the cost of a garbage can.

Council Member Kunzler asked if the City had the room to store that many cans. Mr. Davis said it did.

Motion: Council Member Seamons moved to approve the purchase of 144 trash containers from Cascade Engineering in the amount of \$12,559.04. Council Member Ward seconded the motion. Members voting "aye:" Council Members Kunzler, Seamons, Braegger, and Ward. The motion passed unanimously.



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3H. 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

Chris Davis stated that the 300 East Project had been expanded, and Change Order No. 2 was for improvements on Spring Street. The City received \$174,726 from Dominion Energy to repave 300 East. The bid came back at \$73,400, which allowed the City to redo the intersection as well. The City had been working with the affected property owners - Kelly Gilmore and Corey Barton. The change order would extend paving to the beginning of Mr. Barton's property on Spring Street. Mr. Davis said the change order was for \$93,312.50. The City's portion would be \$68,188.75; Mr. Gilmore's would be \$24,123.75. Council Member Ward asked how wide the pavement would be. Chris Davis said the right-of-way would be 60 feet wide. The pavement would be 45 feet.

Mayor Braegger stated that the City had negotiated a land swap with Mr. Gilmore and Mr. Barton. The City was able to exchange land because it wasn't vacating a right-of-way. Spring Street currently wasn't a right-of-way; it was just City-owned property. The land swap would allow the City to extend 300 East in the future and tie it into the top of 100 South.

Council Member Ward asked if the extension would tie into the City-owned property east of the park. Mayor Braegger said it would.

Council Member Seamons asked how soon the change order would happen. Chris Davis said the contractor was ready to start. The work would be completed before winter.

Motion: Council Member Seamons moved to approve Change Order No. 2 for Post Construction for the 300 East Street Improvement Project in the amount of \$68,188.75. Council Member Braegger seconded the motion. Members voting "aye:" Council Members Kunzler, Seamons, Braegger, and Ward. The motion passed unanimously.

Copy filed for record.

3I. Motion to Set a Special City Council Meeting on November 16, 2021

Mayor Braegger stated that due to holidays in November, the City Council needed to schedule a special Council meeting for Tuesday, November 16th. It would be the only Council meeting in November.

Motion: Council Member Braegger moved to hold a special City Council Meeting on Tuesday, November 16, 2021. Council Member Seamons seconded the motion. Members voting "aye:" Council Members Kunzler, Seamons, Braegger, and Ward. The motion passed unanimously.

4. Approval of Minutes

September 9, 2021, Regular City Council Minutes

Motion: Council Member Ward moved to approve the regular September 9, 2021, City Council minutes. Council Member Seamons seconded the motion. Members voting "aye:" Council Members Kunzler, Seamons, Braegger, and Ward. The motion passed unanimously.

5. Financials



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Warrants
Vouchers
Reports

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

6. Department Reports

Public Works

Chris Davis stated that a great service project was held on Saturday, September 18th. Over 80 people showed up to help work on the trail and plant trees around the Nature Park and to plant trees at the Baseball and Children's Parks. There were still a few more trees to plant.

At the last Council meeting an issue regarding a fire hydrant was discussed. Public Works was working on that hydrant.

Police Department

Officer Krystal Holmes stated that the City was unable to purchase two new patrol trucks through the State bid. The Police Department was seeking bids from Ford, Dodge, and possibly Toyota.

7. Council Member Reports

Josh Braegger

Council Member Braegger thanked everyone who donated their time and equipment to help with the September 18th Day of Service.

Fred Ward

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

John Seamons

Council Member Seamons also wanted to thank everyone who helped with the Day of Service. He had taken several pictures. He asked what to do with them. Chris Davis said to send them to Michelle Snarr, the City Recorder.

Kaleb Kunzler

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

8. Mayor's General Correspondence and Information

Mayor Braegger also thanked everyone for helping with the Day of Service. The shade from the trees would be awesome. He appreciated the support of Perry residents who attended.



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9. **City Manager's Report**

Chris Davis stated that the 200 West Project would be completed in the next few weeks. The City was coordinating driveways with the truss plant. Willard Public Works had relocated waterlines for drinking fountains.

10. **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 session 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 of water shares; (f) discussion regarding deployment of security personnel, devices, or systems; or (g) investigative proceedings regarding allegations of criminal misconduct.

No closed session was held at this time

11. **Adjourn**

With no further business coming before the Council at this time, **Council Member Braegger moved to adjourn the meeting. Council Member Ward seconded the motion. All voted "aye." The motion carried.**

The meeting adjourned at 8:39 p.m.

Minutes were read individually and approved on October 14, 2021.



City Recorder



Mayor