

WILLARD CITY CORPORATION – CITY COUNCIL

The City Council of Willard City met in **Regular Meeting**, on October 14, 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
Josh Braegger, Council Member
Fred Ward, Council Member

Excused: Kaleb Kunzler, Council Member
Brad Robb, Council Member

Staff Present: Colt Mund, City Attorney
Theron Fielding, Police Chief
Officer Kara Mueller
Michelle Snarr, City Recorder

Others in Attendance: David McIntire, Rachel McIntire, Trisha Heath, Rod Braegger, Diana Baker, Travis Mote, Jordan Hulsey, Chandler Bingham, L. Wells, Russ Davis, and Chris Davis

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 Ward.
- 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.

Travis Mote – 455 South 200 West

Mr. Mote addressed the Council. He noted during the previous meeting Mr. Parker was present to discuss the general plan and there was a discussing regarding holding open space and what some of the alternative could be. He discussed one-acre lots and allowing it to go to half-acre lots over a ten-acre parcel.

Mr. Mote indicated one alternative he wanted to present to the Council for consideration as the general plan was being developed was agricultural easements. He went on to say he has worked with a lot of farmers and there was a difficulty with generationally succession because the children own the farm and they can't buy each other out, the cost of land, or financial issues.

Mr. Mote state what Mr. Parker offered was a good idea, but he didn't finish it. He went on to say the open space could be placed into agricultural easements, and the city could hold the easements with the right of enforcement if for some reason it wasn't maintained. It would allow successional generations to farm their own family farms in perpetuity. He added instead of the city having to maintain the property, the family would continue to maintain it, or they could sell it; however, it would stay as farm ground. It was his opinion they would want to promote successional family farming. He said he thought it was a solution to the city's problem.

Council Member Seamons inquired if there was a limit to the acreage, e.g., could it be a five-acre plot? Mr. Mote said it would really be up to the city; he wasn't saying it had to be a self-sustaining farm. He went on to say there were a lot of people that were raised on a farm that would still like to own a piece of the farm; however, they cannot because there are too many siblings that hold an interest in the farm.

Mr. Mote went on to provide an example of an agricultural easement. He suggested there could be a 100-acre farm, and 50 acres could be developed into one-half acre lots. The other 50 acres could go into an agricultural easement, and it could be farmed perpetually because the city had stripped the development rights, and the city would hold those rights, but the family maintains their private ownership.

WILLARD CITY CORPORATION – CITY COUNCIL

Diana Baker – 276 West Center

Ms. Baker indicated she wanted to discuss the traffic on Center Street. She explained the past few weeks, around 11:00 p.m. to midnight, there has been some racing down the street. It was her opinion that someone was dropping someone off at their home. She noted the car backfires approximately four times, and it sound like a canon going off. She expressed the city needed to get another exit down in the area and get the traffic off Center Street. She stated there was way too much traffic right now.

Chandler Bingham – 95 North 200 West

Mr. Bingham indicated he was at the meeting last week, and he wanted to listen to Mr. Parker. He went on to say sometimes they were waiting for this plan to come about, but the plan may not be approved for at least another six months minimum. He expressed his concern that they were putting off other business of the city waiting for the approval of the General Plan. For example, the PUD ordinance; they could make it so it would work with the general plan, and they could tweak it if the general plan necessitated that. His opinion was there was a lot of the business of the city that had been put off because of the General Plan and it needed to be put in place.

Jordan Hulsey – 10 South 100 West

Ms. Hulsey said she saw on the agenda the Council was slated to vote on the Rod Braegger Subdivision this evening. She said she was not opposed to the subdivision; however, she was concerned with the way it was laid out and noted it barely passed by the Planning Commission. She was concerned it was not meeting one of the ordinances and referred to Title 24-64-060, Exceptions and Private Streets. She went on to say while private drives are acceptable to be used for a secondary accessed there were different requirements based on the number of parcels not the homes that the private drive was servicing, and this will be serving more than two parcels. In the Planning Commission that it was passed, it was noted they were going to offer a 30-foot right-of-way, but if it would be serving more than two parcels, which the code read, it must be a 50-foot right-of-way. In addition, if it was serving three or more parcels, it must be up to public street standards. In addition, because they said the private drive could be utilized as an emergency access, she felt there needed to be a clearer definition of what an emergency drive constituted.

Ms. Hulsey pointed out when work was being constructed on West Center Street, some of the residents had to park at the church and walk to their homes because there was not a secondary access. Therefore, she wanted it written that it would constitute an emergency assess or it would only be for emergency vehicles or evacuations. As well as increasing the right-of-way so they were not setting any future precedence and not allowing any development that does not meet city code.

Ms. Hulsey stated she hoped as the Council consider the approval of the subdivision, the language would be included to address those issues so the Braegggers could still build their home, but it would still meet city code.

3. New Business

3.a Consideration of Adopting Ordinance No. 2021-12, An Ordinance Granting to Connex Company a Franchise for the Construction, Operation and Maintenance of an Internet Service Provider Through a Fiber Optic System in Willard City, Box Elder County, State of Utah

Mr. Mund informed the Council the ordinance was separate and apart from the agreement. There was a separate franchise agreement they were exploring as well. He noted the agreement still needed to be fined tuned. There was the subject of a franchise fee. Mr. Mund went on to say staff and legal recommendation was the ordinance was satisfactory.

Council Member Ward referred to Section 3 of the ordinance, which states:

Term. This Franchise is granted for an initial term of twenty (20) years. At the expiration of the initial term, the Franchise shall continue in effect upon the same terms and conditions for up to two additional terms (each of which is a renewal period) of fifteen (15) years each. The City may terminate the Franchise at the end of the initial term, or any renewal period, by giving Connex written notice of the City's intent to so terminate not less than ninety (90) calendar days before the expiration of the initial term or any renewal period.

WILLARD CITY CORPORATION – CITY COUNCIL

Council Member Ward went on to say he talked about this during their last meeting. He reiterated for a new business coming into the city, he thought five (5) years would be more reasonable than 20 years to see if they would hold up to what they needed to do. In addition, he would like to see the additional two additional terms reduced from 15 years to eight (8) years. He felt Connex needed to do what they said they would do.

Council Member Ward went on to refer to Section 6, (at the end of paragraph two), which states:

...After written notice and failure of Connex to make correction, the city may, at its sole risk, make such correction itself and charge the cost to Connex including any minimum cost provided by ordinance. Nothing in this Franchise limits Connex's right to oppose any ordinance, either existing, proposed, or adopted from and after the effective date of this Franchise.

Council Member Ward stated he would like the language to read: Connex would make corrections and the city may revoke the agreement. He went on to say he did not want the taxpayers of the city to pay for the corrections if Connex was not holding up to their part of the agreement.

Mr. Mund indicated he did not have any issues with those edits.

Council Member Braegger offered a motion to approve Ordinance No. 2021-12 with the amendments as proposed. However, there was further discussion.

Council Member Seamons inquired if it wasn't a little extreme to cancel the contract with Connex because they didn't fix what the city thought they should. In addition, he thought within the agreement there was a mitigation process. Mr. Mund indicated he thought that was correct; there was an opportunity for both parties to work through any issues they may have. He added that he thought it could be viewed as extreme. Council Member Bragger questioned if they could word it as "the city had the option to". Mr. Mund indicated they could, and Council Member Seamons was correct. The franchise agreement allows them an opportunity to cure any breach.

Council Member Ward stated he just wanted Connex to know the city had the right and the authority to revoke the franchise if things could not be resolved with their own time and money. Mr. Mund inquired if the Council wanted to give Connex a period of time. Council Member Seamons pointed out it was in the franchise agreement.

Council Member Seamons clarified the proposed change to the ordinance would be that the city had the option rather than it would revoke the agreement; in addition to change the terms of the agreement.

Motion: Council Member Braegger moved to adopt Ordinance No. 2021-12, An Ordinance Granting to Connex Company a Franchise for the Construction, Operation and Maintenance of an Internet Service Provider Through a Fiber Optic System in Willard City, Box Elder County, State of Utah with the amendments as proposed. Council Member Seamons seconded the motion. Members voting aye: Council Members Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously. Council Members Robb and Kunzler were not present for the vote.

3b. Consideration of Preliminary Approval of the Rod Braegger Subdivision Located at Approximately 100 South 400 West (Parcel No. 02-054-0003)

Mr. Mund addressed the Council. He recalled during a previous meeting, the Council tabled the agenda item because there was a change to the proposal. He noted previously there was a private drive on the McIntire property to allow emergency access. He went on to say the provision was on a future agreement on the master road plan that would allow 400 West to be built out. As he understood it, the proposed subdivision would have houses facing 400 West, and they would put in curb, gutter and sidewalk and improve their street. In addition,

WILLARD CITY CORPORATION – CITY COUNCIL

where it crossed onto the Hansen property, it would have all-weather surface and the emergency access would connect with Heritage Land, which was in the process of developing. With that in mind, he did not see any issues. There was appropriate frontage, they would have the emergency access, which would be built out for a future street dedicated to the city that would meet all street requirements. He stated with that in mind, it would be in compliance with the ordinance.

Motion: Council Member Ward move to approve the Rod Braegger Subdivision located at approximately 100 South 400 West (Parcel No. 02-054-0003) with the agreement the street would be completed prior to building and improvements were completed and a secondary access be in place. Council Member Braegger seconded the motion. Members voting aye: Council Members Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously. Council Members Robb and Kunzler were not present for the vote.

3c. Consideration of Resolution No. 2021-15, a Resolution of the Willard City Council Approving a Decrease in the Amount Charged for Garbage Cans due to Decreased Costs Associated with a New Supplier

Motion: Council Member Braegger moved to approve Resolution No. 2021-15, a Resolution of the Willard City Council Approving a Decrease in the Amount Charged for Garbage Cans due to Decreased Costs Associated with a New Supplier. Council Member Seamons seconded the motion. Members voting aye: Council Members Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously. Council Members Robb and Kunzler were not present for the vote.

3d. Consideration of Approving the Amendment to Pipeline Relocation and Temporary Use Agreement by and between Questar Gas Company, dba Dominion Energy Utah and Willard City Corporation

Mr. Mund explained the agreement before the Council was related to the acquisition of the Hillman property, and Questar Gas Company had an existing line that had been abandoned on the property. Questar was offering to pay the city \$45,000 to leave the line in place.

Council Member Ward inquired what the easement was on the gas line. Mayor Braegger indicated he did not know; however, he did know it was a deadline. Council Member Seamons stated he spoke with Doug Thompson quite a few times regarding as built drawings for the city, and he expressed concern this line would not show up on the city's plats. Mayor Braegger said they needed to get with the city's engineer and have them plot out the gas line.

Motion: Council Member Seamons moved to approve the Amendment to Pipeline Relocation and Temporary Use Agreement by and between Questar Gas Company, dba Dominion Energy Utah and Willard City Corporation with the provisions the city had the as built drawings that show where it was located. Council Member Ward seconded the motion. Members voting aye: Council Members Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously. Council Members Robb and Kunzler were not present for the vote.

4. Approval of Minutes

September 23, 2021, Regular City Council Meeting

Motion: Council Member Braegger moved to approve the Regular City Council meeting minutes of September 23, 2021, as presented. Council Member Seamons seconded the motion. Members voting aye: Council Members Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously. Council Members Robb and Kunzler were not present for the vote.

5. Financial

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

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

6. Department Reports

a. Public Works

- i. Consideration of Approval of Purchase of Repair Kit and Replacement Pump for Flygt 3127-181 (Lift Station Pumps)

The Council reviewed the three estimates for the purchase of a repair kit and replacement pump for the lift station.

Motion: Council Member Seamons moved to approved \$14,305 to Utility Management Systems for the purchase of a repair kit and replacement pump for Flygt 3127-181 for the lift station. Council Member Ward seconded the motion. Members voting aye: Council Members Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously. Council Members Robb and Kunzler were not present for the vote.

Mayor Braegger discussed the purpose of the repair kit and the backup pump. He explained the situation when the lift station pump went down this past summer and what caused the lift station to go down, which was a mop head and a piece of wood. Council Member Ward thought it would be a good idea to put in the city newsletter to what the public enemy to the city's sewer system was. Mayor Braegger agreed. Council Member Braegger indicated he could get a list of dos and don'ts for the sewer system.

b. Police Department

Chief Fielding discussed a few of the payments, which were associated to the Police Department. There were the dues for Rocky Mountain Network and a per diem check for Officer Mueller to attend some free training.

Council Member Seamons inquired about Code Red. Chief Fielding explained the County took down the link. He went on to say Code Red worked well for those individuals that have a home landline; those that only have a mobile number have to register their phone number. He explained the process to register a mobile number. An individual would need to go onto the county Facebook emergency page to get the alerts. He added the county was going to try and rework the county's webpage. Council Member Seamons inquired if the city was going to put it on its website. Chief Fielding replied, yes, eventually. They, the county, are going to try to make it so every small city can put it on their website. He went on to say, he didn't have any timing on when that would be implemented. He indicated that he had a meeting next week, and he would get back with the other emergency managers.

c. Fire Department

There was nothing to report at this time.

10. Consideration of Motion to Enter a Closed Session pursuant to UCA §52-4-205(c) strategy sessions to discuss pending or reasonably imminent litigation

Mayor Braegger entertained a motion to enter closed session pursuant to UCA §52-4-205(c) strategy sessions to discuss pending or reasonably imminent litigation.

Motion: Council Member Seamons moved to enter closed session pursuant to UCA §52-4-205(c) strategy sessions to discuss pending or reasonably imminent litigation. Council Member Ward seconded the motion. Members voting aye: Council Members Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously. Council Members Robb and Kunzler were not present for the vote.

WILLARD CITY CORPORATION – CITY COUNCIL

The Council entered closed session at 7:00 p.m.

The City Council of Willard City met in **Closed Session**, on October 14, 2021, at 7:00 p.m. in the city planner's office of the Willard City Offices, located at 80 West 50 South, Willard, UT 84340.

Present: Kenneth Braegger, Mayor
John Seamons, Council Member
Josh Braegger, Council Member
Fred Ward, Council Member

Excused: Brad Robb, Council Member
Kaleb Kunzler, Council Member

Staff Present: Colt Mund, City Attorney
Michelle Snarr, City Recorder

Those present discussed strategy sessions regarding pending or reasonably imminent litigation.

Motion: Council Member Braegger moved to close the closed session and reconvene the Regular City Council meeting. Council Member Seamons seconded the motion. Members voting aye: Council Members Kunzler, Robb, and Seamons. Members voting nay: Council Members Seamons, Braegger and Ward. Members voting nay: None. The motion passed unanimously. Council Members Robb and Kunzler were not present for the vote.

The closed session closed at 7:09 p.m.

7. Council Member Reports

a. **Brad Robb**

Council Member Robb was excused from the meeting.

b. **Josh Braegger**

Council Member Braegger inquired about the restrooms at the nature park. Mayor Braegger indicate they were functioning; however, they were not winterized. Chief Fielding added the Police Department locked them at night.

Council Member Braegger questioned if the city was going to have a Christmas party this year. He suggested the city could do a Christmas party on Friday, December 10th. He indicated he could invite the high school madrigals, and he thought some type of gift for our employees would be appropriate. It was requested to put the item on the next agenda.

Council Member Braegger indicated he wanted to follow up with the Master Plan Community Zone. He pointed out the city had gone through two public meetings, and he thought they knew what the people want. It was his opinion the Council needed to address the issue. He went on to say, they could just keep kicking it down the road, but he did not think that was in the best interest of the city.

c. **Fred Ward**

Council Member Ward inquired if the city was fixing the fire hydrant located on South Main. Mayor Braegger explained Public Works had been working on it, but he thought they were waiting on a vac truck. He went on to explain he thought there was fiber in the location.

Council Member Ward addressed the General Plan update. He said he thought they would have a copy of the plan before Christmas for the Council to review, and he thought they should wait and review the draft plan prior to moving forward with anything else.

d. **John Seamons**

Council Member Seamons pointed out the city planted a lot of trees, and he inquired if they were getting watered. Mayor Braegger informed the Council they were all getting taken care of at this point. Staff hand waters the ones

WILLARD CITY CORPORATION – CITY COUNCIL

that don't get sprinkled. In addition, they talked to a tree specialist, and they told the city what kind of fertilizer to utilize.

Council Member Seamons pointed out that in October of last year he was asked to look at the PUD ordinance. He went on to say on September 16, 2020, and October 8, 2020, he brought something back to the council. By November 19, 2020, they decided to do away with the PUD. He pointed out that was almost a year ago.

Council Member Seamons stated essentially, we did that (repealed the ordinance) with no plan to put something else in place with no timetable. He said he tried to do that when he voted yes. He added, they did a work session on January 14, 2021, and they caused a lot of contention and disruption. At that time, they decided they wouldn't do anything until they had a master plan. Council Member Seamons pointed out the city has a master plan; they are just updating the plan from 2017.

Council Member Seamons indicated they talk about waiting for the master plan and realistically they would get a draft around Christmas; therefore, they wouldn't see it in December and there would be a new Council in January. He added even if it took three months to review the first draft, it would take another 30 days for the second draft and then another draft after that. He stated they would then be in May 2022. After that, there would be two public meetings, and they would be a year and a half out since they rescinded the PUD, which stopped all development within the city that wasn't a half-acre lot.

Council Member Seamons said they were not going to wait for the city's master plan. They will go to the county and get what they want including the gravel pit. He questioned if the city would still have to provide sewer to those individuals. Mayor Braegger indicated that was correct; however, if they were not in Willard City it would be difficult to see that revenue because Perry City would get their portion (of the fees). Council Member Seamons stated the city's no action had pushed the developers and other people to do something else. It was Council Member Seamons' opinion that it was in the city's best interest and the city needed to be proactive and proceed with trying to come up with something to allow the development to come back into the city.

Council Member Braegger requested Ms. Snarr to resend the Master Community Zone to the Council for their review.

Council Member Ward indicated he did not think it was stopping the developers from coming into the city. The current developers/builders that had been approved were building on less than half-acre lots now. As far as the city, as a whole, it was not being affected. It would affect those that would want to annex into the city, but they are not part of the city yet.

Council Member Braegger thought they could incorporate some of the thing Mr. Mote talked about in the city's Master Plan Zone and get things moving and done. He went on to say, he thought they were doing a disservice to the community to put it off another half a year or how long it may be. Council Member Seamons pointed out it took them five years to get a nuisance ordinance.

Mayor Braegger pointed out that the one development that was certainly a possibility with an annexation was Willard Lands – the EK Bailey Farm. Not only would they participate in the city's sewer, but they were also willing to bring water in the form of a well and a water reservoir. He stated that both of those items would enhance the city water system because it would give the city redundancy in its wells and additional storage. He thought it would be a disservice to the city to overlook that and allow that to pass by because the water they would bring would be over and above what they would use in their own development. It would be a benefit to Willard in a big way. Council Member Braegger added he thought it was just a good additional asset to the community. Mayor Braegger pointed out they couldn't do any of it if they did not have an ordinance in place.

Council Member Ward inquired if there was anyway Perry City would revisit whatever the agreement was with Willard City. Council Member Braegger stated they did not want to go back down that road. Council Member Ward said he did not think it was an irrevocable agreement. It was his opinion that it was stupidity that Willard City signed the agreement, and he thought they should see if they could get it changed to accommodate Willard City. Council Member Braegger questioned Council Member Ward if he knew how many hours of mediation he went through to avoid the cities from suing each other. He said it was not worth the fight, and he did not want to go down that road.

WILLARD CITY CORPORATION – CITY COUNCIL

Council Member Seamons stated it had been a good year; it had given them a lot of insight and the public had their input. They had a chance to talk every time they had gotten together. He went on to say, we hear that, but at the same time, we have a duty to the city if from 20 years from now we don't deal with it right now, it would pass them by.

e. Kaleb Kunzler

Council Member Kunzler was not present the meeting.

8. Mayor's General Correspondence and Information

Mayor Braegger did not have anything to report at this time.

9. City Manager's Report

Mr. Davis was excused from the meeting.

11. Adjourn

With no further business coming before the Council at this time, Council Member Braegger moved to adjourn the meeting. Council Member Seamons seconded the motion. The meeting adjourned at 7:26 p.m.

Minutes were read individually and approved on: October 28, 2021.


Recorder


Mayor