

The City Council of Willard City met on October 26, 2023, at 6:30 pm in the Council Chambers of the Willard City offices, located at 80 W 50 S, Willard UT 84340.

**Present:** Travis Mote, Mayor  
Mike Braegger, Council Member  
Rod Mund, Council Member  
Kaleb Kunzler, Council Member  
Fred Ward, Council Member

**Excused:** John Seamons, Council Member

**Staff Present:** Chris Davis, City Manager  
Bryce Wheelwright, City Planner  
Theron Fielding, Police Chief  
Colt Mund, City Attorney  
Tyler Bell, Police Officer  
Susan K O Bray, City Recorder  
Van Mund, Fire Chief

**Others present:** Ruth & Ken Ormond, Chad Braegger, Jordan Hulsey, Travis & Lindsee Wells, BJ Wells, Jeff Wells, Laura Wells, Brad Wells, Brad Sweet, Gordon Sleeman, Lynn Murphy, Diana Baker, Marvin Neff, Jimmy Wells, Aimee Wells, Brody Wells, Sherrie Wells, Cami Moss, Rew Wiley, Briton Neff.

## **1. Call to Order**

- a. Mayor Travis Mote called the meeting to order.
- b. Invocation offered by Council Member Mund
- c. Pledge of Allegiance led by Council Member Braegger
- d. Conflict of Interest Declaration  
None.

## **2. Open Comment Period**

**Brad Wells:** As one of the property owners of the gravel pit, there are a few facts that I would like to share. Number one, the gravel pits in the mouth of the canyon are private property. Number two MSHAW regulations and active mining operation must secure the property for public safety. The fence was used to secure the property and keep people safe. Number three, the city knew earlier this summer that the fence was going up and they knew the reason that the fence was going up, but for some reason they did not notify the city. I'm not sure why. Number four access to the canyon has not changed. Let me repeat that access to the canyon has not changed. Whether there is a fence, a sign or line on a map. It is still trespassing on private property. Thank you.

**Gordon Sleeman:** On April 11, 2022. discussion with the Wells family. No access to the canyon. June 9, 2022, no access to the canyon. August 30, 2022. No access to the canyon. September 22, 2022. No access especially during active mining. November 14, 2022, no public foot traffic no public access October or November 24, 2022. The Wells family were adamant no public access well in active mine sight. Without an agreement to mine Willard land there will never be given access to the canyon. April 25, 2023. Wells Canyon access is a nonstarter. September 14, 2023, City Council meeting BJ Wells discussed the public notice the city refused to publish no access to the canyon. September 28, 2023, John Seamons referred to a Wells family member said access to that canyon is never going to happen. Immediately after John Seamons comments, Travis Mote quoted "I didn't hear BJ say that". Now this did not come as a surprise to the city, especially to the Mayor. And I think it's disingenuous to stand up in a city council meeting and say, I didn't hear him say that when there's 10 instances when the family gave plenty of notice that there would be no access to the canyon. Thanks.

**Lynn Murphy:** I would like to thank the city council and especially Mayor Mote for their efforts to explain the issues with Granite Construction, Well's Brothers Investments, land, and access to our canyon. I would also like to thank Mr. Sleeman for the concerns that he expressed a few weeks ago about property rights. Most of us want our property rights protected and would be upset if those rights were taken away from us. And I realized he still has those concerns. I would like to assure Mr. Sleeman and others with the same concerns that taking away property rights isn't really what this contention is about. When a landowner's rights and public access to long established and Historic Trails conflict. Usually, a compromise can be found. I don't think most of us who use the Canyon for recreation are looking to take property rights away from the property owners. We simply want a way to get to the canyon. Before I moved back to Willard several years ago, I lived below the foothills in Ogden. I've watched many of our beloved trails were taken over by subdivisions. This turned out to be for our benefit, however, the city of Ogden established two very nice Trailhead amid, the new houses, the trailheads, and the trails they accessed were a big draw to those moving into that area. Our situation here is a little bit different. But I think there can still be a safe way to access the canyon trails without being endangered by gravel mining. Granite Construction has said they are planning to mine the northern side of Willow Creek, there is still plenty of access to the canyon on the south side of that creek. That area is not being actively mined right now. And if you look at the hills over there, they have brush growing on them that's been there for a very long time. They occasionally go in there and bulldoze stuff over. I don't know if that's what they call active mining or not. But there is no active mining going on there. I would like to know why Wells Brothers Investments and Granite are opposed to hiking on that side of the canyon. Does Granite plan to start mining that side? When will they finish with the north side? Has there been any talk about what plans either Granite or the property owners have for that area in the future? I believe there is a way to work out a reasonable compromise with the Wells Brothers that would allow us to continue to enjoy our canyon without having to violate their property rights to do it. Thank you for letting me express my views. Thanks.

**Brad Sweet:** I'm with Granite Construction. I want to go back to a couple of weeks ago and refresh the memories of a collaborative conversation that we had with Wells family, city members, and myself at Jimmy Wells house. And this is something that Mayor, I believe you

neglected to share with the public. The other week, last week. We talked about a several year long closure for the act of mining on the south boundary of the property. And what the Wells family shared with you. They gave you their personal commitment that when that mining was complete, and they felt like the hazards had been removed, and the public could be spared any safety issues. They would consider opening that backup to foot traffic like it had been before. I don't believe that was shared very well with the folks at the town meeting last week. So, when they go on record as me discussing that putting that into the record. Because I think that's a very important factor in the animosity that we have going on here. And if everybody is patient enough to let the mining company and the landowners manage the liabilities that we carry, and ensure everybody up, they will be able to work this out in a matter of time. I think it's important that be shared publicly. As opposed to any other thing or statements that come true that construe otherwise. The last thing I'd like to say is, Granite does a really good job of building public projects for the State of Utah and beyond. And I think that our vision for this canyon property, this mining property, ultimately, the reclamation of this, and what I would say is an integral piece to your community. If you'll let us proceed through this big picture project for you. I think it'll be something that the city is very proud of, ultimately. But we have a period where we're not getting along with what people want. And we need your help to let them understand that there's a time to get through.

Mayor Mote responded to Brad Sweets' comment he said because of the conversation, at Jimmy's house and thank you for inviting us. I didn't walk away from that feeling there was a solid, something I could share as a factual. I tried to keep that meeting as factual as I could. And so, I didn't feel like if I said, five to seven years, would that be a lie? Would it not? I mean, there's no actual commitment to that. And I thought I did express that towards the front of the meeting, but I may have missed it. And if I did, I apologize. I didn't put it in as a bullet point because I wanted to walk away with something solid, that I felt like I could share as a fact.

**Brad Sweet:** Due to the sensitive nature of this topic. The rest of them are deal points. Complicated in some cases, maybe not others. But there is a business deal between the city, the landowner, and the mining company. The contention revolves around this public access that people feel has been taken from them. And what we've asked for, repeatedly, is the support from the municipality, to help explain why, I don't feel like that's been done very well. Because no party involved in this can indemnify each other or anyone from the lawsuit that could come from some issue that may arise. And because of that, we have a time when we just need to close it. There are too many moving parts, too many variables to deal with, to leave intermittent closures to let them go around a different location. There are too many liabilities associated with that. So, the issue needs to be closed temporarily. I'll be there maybe longer than people would like. But this got to happen. Because we live in the world we live in today. If you'll just be patient with us, think it'll work itself out. And that's important. I think you're going to hear from some family members that will help reinforce and confirm what I'm saying. And supporting that would be recorded. Thank you. Appreciate that.

**Diana Baker:** just want to say I've been going to almost every meeting for the past five plus years. There's been a lot of closed-door meetings, this administration, and past administrations. A lot of us, a lot of me or a lot of us probably thought that it was a closed-door session. So, this

thing about informing the public. I don't get that it's closed doors. It means you don't want the public to know. So it wasn't until a couple of meetings ago that the Mayor decided that he did want to open this up and let the public know. And that's what's happened. And that's what's brought all this up to the forum. But there's been meetings and I even know what the county commission meeting where there was a closed-door session, and the public is asked to leave. So as far as informing the public, I don't get it. It's all closed door, everybody just assumes that closed door means they don't want the public to know. So, like I said, it wasn't until a few meetings ago that the Mayor decided this needs to be transparent. That the public know. And that's what's coming about.

Chris Davis, City Manager asked Colt Mund, City Attorney to explain what the State Code says about Closed Meetings, and what are the specific purposes that you can close your meeting for.

**Colt Mund:** The Utah Code allows the City Council to go into a closed session for any number of reasons to discuss the competency of an individual employed by the city to discuss strategy to have a strategy session discuss the purchase exchange or lease of real property, including water rights, water shares, Strategy Session to discuss security issues. There are a few reasons why the city council has the right to enter a closed session. A lot of ways the policy behind that is to allow the city when it comes to bargaining or negotiation to try to get the best deal possible to try to have that flexibility to be able to negotiate on behalf of the city, the best possible outcome depending on the circumstance. So that is the policy behind it in the Utah State code does allow those to occur.

**Marvin Neff:** I would like to say a few words about the agreement between the three parties and the benefits to Willard. I appreciated the presentation that we had on Monday, it was good information. But I do have a few follow up questions about some expenses on there. The first one is water. We talked about that Granite Construction would pay for the relocation of this pipeline is brought up that they thought about a million dollars. I have looked at it and, in my opinion, I think it is twice that by at least 2 million. In the meeting I brought that up and asked the Mayor if they didn't sign an agreement on Granite, how is the city going to come up with the 2 million to remove that line. His response was that the actual water was not worth that much. He gave several options as to just let it go. One was to let just run down into the rocks. One was there was not that much water anyway. And the other was perhaps it was not good enough quality water. When you do some calculations of what the water was, he calculated out someone from the meeting came up and said it is at least worth 21 million gallons. And then if you go to the other end of the spectrum when it is running high. There are at least 15 million to 160 million gallons running off that spring. I would assert that the response Mayor is very alarming. Water is liquid gold, and it's good for everything. for heaven sakes. I have never been to a city council where we didn't talk about water, the water is conditioned on the size of a lot, how many developments we can make, how many people we can serve and even as tied to the billing of sewer.

In my mind, water is imperative, and we don't want to make mistakes, I was involved with some stuff for Honeywell and Tran, when they let the water run down off a screen. And a year later, it was long gone, kind of like what the Mayor said, and it cost him millions to come back and drill

wells and try to find the water and get water, because I just didn't want that to happen. Capturing that water, I think, is of the utmost importance. Let's not be irresponsible, and let that natural resource be wasted. I think if we can't pay for doing that, we need to let Granite move the pipeline, and make sure every bit of that water is included in that pipe. Even if there's a spring rehabilitation, that's very important. The second thing I have real quick is the value of the agreements, I don't think people realize the value that the city is going to get the items listed by the Mayor there as a grant to move the waterline reclamation bond 2.6 million, conditional use permit, vote against the gravel proceeds, proceeds from \$1 million dollars, there's all these items, two or three things stuck out in my mind. One is a year ago, when we had these meetings, we talked about it. And they were supposed to be million gallon or million cubic yards of gravel in the Willards own pit. It was worth \$1 per yard the other night; he says there's 1.5 million. So, I'm thinking we negotiate that with Granite, it gives a million dollars or 1.5 million as it comes into the city. The other thing I've heard several times, that not only was Granite going to supply or give this city the land and build a couple of tanks. One for secondary water, one for the regular water, plus access to the pipe, and the water and so forth. I don't want to take time to go over each of them. But I put figures to them. And I don't argue with anybody about how much it is. And some I just guessed. If we say the conditional use permit and dust control how much is that costs. I know that running a water truck every day for eight hours on the job laying pipe and so forth, runs me over \$200,000 a year. So, I don't know what it's going to cost for Granite or what they do. It's a lot. It goes 10 years, 20 years, times 200,000 or 100,000, whatever. I mean, that's a huge amount of money. So, I put this together myself. And I think that this city is going to get about seven to \$9 million worth of things from this deal. And that is a lot of money. And it has huge value to Willard. And I can't figure out why we're not just jumping on this thing. Immediately. Most of the city meetings we go to the city tries to persuade the developer to go ahead and give him some open space, or given a path, or all kinds of these things that the developers are supposed to do to their project, which I don't really agree with, by the way. But in this case, Granite is offering all this stuff. And I can't figure out why we just haven't jumped on it. I mean, what in the world is hesitation? I mean, Jump on it. The third thing I want to talk about, and they see....

Mayor Mote stated his time was up.

**Marvin Neff:** these five different things were the things I asked you about in the meeting. And you wouldn't answer them. And he told me to come here. So that's why I'm here. I'm speaking as fast as I can. It takes a couple extra minutes because you asked me to come here. Okay.

Mayor Mote told Mr. Neff you can come and provide comments, but he may not answer his questions.

**Marvin Neff:** The third thing there was an error is a question brought up about the timeline of getting this, this done. And the Mayor answered that there is no timeline. And it may take a while, but it didn't matter how long it took. That is incorrect. He also mentioned that he would not sign the agreement without review and there's plenty of time to do it. I have talked to both the other parties and both the other parties and said there is a timeline and there always has been a timeline and there's not plenty of time and time is of the essence. I know that in

throughout the nation agreements made up and 1000s of deals made that are a lot more magnitude money wise than here and they get them done and executed in a few days, they just get their attorneys to work. They make up drafts and review them and red lines when they're done. I think this is an easy, easy resolution. All we need with the attorney sitting right here, all the City Council or the Mayor has to say, get to work. Give me a draft in 24 hours, and then you call up Granite's Attorney and say get a draft and pray for us by that time they get a draft, then you come a red line of Monday, Tuesday they meet and look at it. And by the end of the week, you've got to get the thing done. We have been talking about this and all these things for a year. What in the world is the holdup? I just saying get the thing done quit wasting time. And there are some questions in the meeting that people brought up about different provisions. We can include the provisions of airship transfer, ability, continuation, all those things, and how to have them in the contract and ready to go. The city can even go as far as to as to sign it and have it all one with a contingent provision that when so paid by the county, you said done deal. I'm just saying why not. The next thing quick is a trespassing of the Canyon access. This has been talked about I don't need to really go about that too much other than the fact that I believe that. In the meeting the other night, it sounded like the city was condoning trespassing. And I think that is. One irresponsible disregard for private property. I would ask for the Mayor to be professional. And he should issue a statement apologizing to the Well's family thanking them for the use of the entry in the past and can appreciate a safety reason for restricting entry now at the canyon. Citizens respect the wishes of landowners. Just as a footnote, that is private property, and they can do it whenever.

The coordinates of the US Supreme Court it says ownership of property implies the right to possession and control and includes the right to exclude others that is a true owner of land, exercise full dominion and control over it and possessing the right to expel trespassers. So, two questions and conclude in conclusion. There is a great deal. This is a great deal for the city and should be moved on without hesitation as explained earlier. I would think that the mayor should be carrying a torch and leading us to take advantage of these monies and infrastructures and this great opportunity to build the infrastructure of this city. Is there something that the mayor knows that we don't? Is there some other ratification that he hasn't didn't give us in a meeting? I want to know one. Please answer the reason why you're not leading us to hearing this. And number two, is if this deal goes south, are you prepared to write a check to the city for the \$79 million that was lost?

Council Member Fred Ward said regarding Marvin Neffs comment that he did not recall the City taking the position to run over private property owners. He said it may have been someone elected by the citizens of the city's opinion, but it was not the City Council.

**BJ Wells:** I'm going to bring up a couple issues. And we're not going to do the dead horse about the hiking trail. We've gone through that. But my point there is, since April, thanks for those dates. We said there's two issues. There's the hiking trail, and then there's a pit expansion. They've never been tied together since day one. We've said there are two separate things. We got to minus outside, it's not tied, the pit goes, don't go. That doesn't matter. They're two separate things since day one. We said that. I don't think I've ever deviated from that in our conversations. Um, the next thing there is, I think it's important for people to know that was not

the Wells's that brought this pit expansion forward and was Granite and Willard trying to help better the community and said, you just happen to have the access for that gravel through us. The Wells don't care if this goes or doesn't go, it does not matter. We've made that decision as a family. And said, if it goes great if it doesn't, so be it. But just know, Willard City will never access that trail through Wells ground if this does not go. That's just how it is. We're gone. We're moving on. And there is a timeline. That timeline is October 15, for one part of it, and we said we move it a few months, we're moving forward, the minute we feel this is going back, and we're not making forward progress again, that's when the walls are down. So, if that's January, and suddenly, all we got to go back to square one now there's no roll back. That's when we call that the three-way deal as much as it is Willard City as much as it is Granite. It's also in Wells as all three are tied together. So, we lose one of those, the whole deals done. So that's my comments there. And then as far as the hiking path, I am going to say trespassing is trespassing. We're mining. Both sides of the mountain. Both have active CUPs on them. We're pulling groundwater on the south side as much as we are on the north side. And as I told the news channel today, as we were up there talking and looking at things, you can see the gravel rolling right down on that hiking path. It's not safe. So, 100% life safety. Mayor, we did say five to seven years in that meeting. I thought it was clear. I'm sorry that it wasn't. But we said we would do limited walk in access, no vehicles, no ATVs, no motorcycles, but limited walk-in access. It might not be there. We might have to move the truck. But we're not giving you a legal easement to split the property. Wherever that trail goes is going to go. Who knows? So that's what I got to say. Thank you.

**Jeff Wells:** I just want you to know just how lucky you are to have Granite working with you. When my father and Roger and Dean negotiated with Granite going to pit what was brought up what's the environment? You got to reclaim it when you're done? When my grandfather and Clyde had the pit going when the state came in and said no, we're going to put the pit here because we need to build a freeway down there. Grandpa wanted it to be reclaimed. They wanted to run cow backup. Didn't want to do no gravel pit. But the environment wasn't a big thing back then. And the state as we're building or your road, we're taking your ground, shut up and live with it. If you were to reclaim it back, then we wouldn't be having this problem. But we've got it now we've got it. Let us go in mine it out. It's like when you remodel your house, it sucks while it's going on. But once it's done, it's going to be a lot better. And I wish everybody would understand that. We don't want to kick people off the mountain, we want them there to enjoy it. I go up there and enjoy it. But what safety is safety. We don't let people ride 100 miles an hour through town. But we could. There's a reason there's a speed limit sign there. And it's the same reason for this. Thank you.

### **3. Planning Commission Report**

**Diana Baker**, a member of the Planning Commission reported on the consideration of a Preliminary Plat of the Peacock Subdivision. It was unanimously approved for Preliminary approval. Consideration of Conditional Use Permit for Jackie Surrage for food truck, and Conditional Use Permit for issued to Jean Loveland for a home occupation auto repair business.

**Kami Moss**, with Child, Richards CPAs gave a report on the September 30<sup>th</sup> financial

The

statements. She said 25% of the year has passed, the overall revenues to date are at 28.6%.

expenditures to date in the general fund are at 20%. Most of the revenues are within where she would like them to be. The taxes have exceeded the planned budget to date. There have been an increase in the City's sales tax. She said there is also the addition of the gravel tax.

The city operates on a fiscal year from July 1<sup>st</sup> to June 30<sup>th</sup>. She said the audit is underway and Typically takes several months to complete. The state requires it to be complete in six months. She said the city is at 22.9%. She said there is additional one-time government funds of \$37,000 that has been received. The court fines are 28.8% of the budget, which is good. General building is at 27.9%. She said she would monitor these areas. The parks are at 35.7% of the budget. She said this is not alarming because it is seasonal. The streets are at 8.1%, planning and zoning is at 12% of the budget, and everything else is close or below the 25% of expenditures within the general fund. Kami said overall the revenues are at 30.3%, expenditures are at 19.6% of budget. She said water is sometimes higher because you must put some money away for a big project. Sewer funds are under budget 23.8%, expenditures are at low at 18.2%. She reported the city is in a good position. Kami said one item she will continue to monitor the garbage fees.

The revenue for garbage is \$39,700 and the expenditure is \$33,900. She will continue to monitor this budget item.

#### **4. Action Items/New Business**

##### **a. Follow-up on 200 west road pipeline.**

Nothing to report.

##### **b. Follow-up on manholes**

All the manholes in question are all covered.

##### **c. Follow-up on 600 S of Hwy 89**

The Mayor stated the manhole on 600 south is covered. He didn't understand that was a private road. He said it has never been dedicated to the city, it would not count as a second access for Deer Run. Mayor Mote state there is a water bow that sticks up in the road, and someone is going to take out their transmission.

Council Member Braegger reported there is a PRV valve that needs to be replaced and that is critical.

##### **d. Follow-up on Jake Brake Ordinance**

Chris Davis, City Manager stated he is working with the state and getting the signs. He said He reported the State wanted the mile markers for Willard City. He sent an updated ordinance To UDOT engineer and an updated ordinance that Colt had drafted. He is waiting to hear back from UDOT. Chris will ask the UDOT engineer, now the city has annexed one piece of property how that will work.

##### **e. Review Title 8 Licensing, Control and Regulation of Businesses.**



Mayor Mote stated he talked with the Staff and told them he would like to get the codes on Line. He stated there is not a timeline for an appeals process. Colt Mund, City Attorney Stated the intent was and is to include an appeal process. He thought that was an oversight. Mayor Mote stated it does talk about appeals process it took the timeline out. Mayor Mote continued to say it was a good Ordinance, except half of it was regarding Sexually Oriented Businesses. Cole replied most of the language in the ordinance is governed by state code, and felt it could be condensed down significantly, but didn't want to do it until we receive the council's input. The City Council agreed that it need to be condensed. Council Member Ward asked how the city determines the impact a business will have in the city.

## **5. Minutes**

- a. Approval of the September 28, 2023, City Council minutes.
- b. Approval of the October 12, 2023, City Council Minutes.

**Motion:** Council Member Mund moved to approve the minutes with corrections. Council Braegger seconded the motion. Motion carried.

The October 12, 2023, minutes will be put on the next agenda.

## **6. Financials**

The financials were approved and signed.

## **7. Department Reports**

### **Public Works**

Chris Davis, City Manager reported Payden Vine, Ken Braeger, and Zac Burke are going to hike up to the Springs. Payden got one of his 550s back and waited for the other one to get the dump bed. The flat bed is back and has a plow on it. The leak on Granite Ridge has been fixed. The pipeline that goes into the fishing pond needs to be cleaned out. Mayor Mote stated the head gate between the ponds someone needs to turn the valve and see if the gate came be lifted with o water pressure on it before the water comes in next year.

Chris Davis stated the VAC truck is being fixed and is not sure if it will fit within the sewer budget this year. It may cause a slight increase in the sewer budget this year.

Mayor Mote said the members of the sewer board should consider how that would operate. If someone borrows it and breaks it, it should come back fixed.

Council Member Kunzler reported the sewer board has had conversations where Perry City said it is the two cities. The truck was purchased to share between the two cities. It might be a conversation between the Mayors.

Council Member Mund stated he was there when the VAC truck was bought. He commented it was split between the two cities. He said it was bought with Willard City grant money. He said at one time the board talked about putting a policy in place, but the policy was squashed. The policy was you take it and break it you fix it, but the general maintenance was split by the two cities.

Chris Davis stated Payden, Public Works said he wanted both cities to be trained on how to use the VAC truck. IT would be inexpensive.

**b. Police Department**

Chief Fielding said pricing on a vehicle replacement of a lease truck, it is not better than anything else. Chris Davis said we are planning on doing surplus on several vehicles. Payden has talked with Young Automotive Group and one of the vehicles that was surplus, Young's will take \$3,000 credit towards taking the white truck they have been using at the parks, it will apply towards the Chief's vehicle. Chris said he has been looking to see if there are any 2023 trucks still available. The Chief said he has a cost but does not know if they have any 2024 in stock. He may have to wait until the end of October to order it.

**c. Fire Department**

Chief Mund said he has three bids for side by side. Frank May \$31,488, ABS \$33,004, and One from Young, (Big Boys Toys) theirs is a Polaris, \$31,000. The Chief said he prefers the Can-Am. He said Polaris has had some problems. The Can-am is heavier and more reliable.

Mayor Mote said he received an e-mail to do a survey on the fire study They did for the County. He wants to see if he can get more specific information on what they are looking for. They want all the elected officials to take this survey. Mayor Mote talked with Commissioner Perry about the situation where we have on the medical calls where you can't really pull those without disclosing HIPAA data. And, and he says, I know the guy that is over that. He was going to investigate if he could poll, maybe the whole county. If somehow the headquarters at the state could filter it and could pull it so that we could just get a data poll for some of that.

The Mayor asked Chief Mund to pull the calls together in an Excel Sheet and get it to him.

**8. Council Member Reports**

**Mike Braegger**

Council Member Braegger asked about the employee policies that were sent as an Attachment. He asked if it was sent for review. He was told that it was just for review and will be on the agenda later. He said the State is pushing hard for a drain line to go down 750 North SR15 when they build their new rebuild on 89. It will be a big

project.

He explained the State asked if the city had any money to go towards the project. They figured it was going to cost 2.5 million and now it is over 4 million. The want to put a 36 inch line and go clear off the road and go clear down and go under and bore under the railroad. The location that it goes from 89 to seven, south all the way down 750, it's going to go down the south side of the road right alongside the road, and then it goes down, and they're going to bore the railroad. And then when they come off the off ramp for the Willard exit, there's a section of land there, between there and the railroad, that they're going to look at putting in a retention pond retain the water there, release it into

the creek to the South after it's been filtered. The State is waiting for entities that will benefit from these lines.

Council Member Braegger said we looked at the lease agreement for the gravel pit. He asked where the council is with this.

Chris Davis said we have the lease agreement for the gravel itself, we have had the easement agreement for quite a while, and we have gone back and forth on that, and the water purchase and the water agreement, but the lease to be able to sell the gravel we just had. This was a separate agreement.

Council Member Braegger said the council has discussions about it in council meetings whether to take the money or take it later and how we put that in the lease agreement, he would like to see the council move forward with the agreement and make it contingent on the approval from the county. Council Member Mund said maybe there are other things that need to be put in the lease agreement.

Mayor Mote explained his concern with a lease agreement being the instrument for this is that they have a lot of things tied to it, like dust control and other things that we need to maintain teeth, then, if you do a lease agreement, the second that they're no longer interested in leasing our property. They're all in there's no teeth because you can't pull the lessors. I felt like a contract is the instrument, I'm thinking we had a discussion on development agreements, and how those have teeth into the future, because that development was built on certain agreements. The city has teeth in perpetuity, kind of with those. And I think that's the tool we need up there. Because with the lease agreement, if Granite sells, or if, if they finished mining out the Willard section, and they're no longer interested in it, then the questions of the pipeline, mitigate, we need the lease. That pipeline needs to be taken care of in perpetuity. Not just while they're leasing, the agreement was that they replace it, which doesn't appear, they're going to, they're going to avoid it. These items need to go on in perpetuity, or for the entire operation of the plant. All these contracts need to come together at the same time. I'm a little uncomfortable with the lease being the instrument that we do this through because it would terminate the lease. If Granite finishes mining and no longer desire to lease Willard property. All these other things might not be enforceable.

Council Member Braegger said with a normal lease you can get all this information put into the lease, and it has the same teeth as a contract. A lease usually has an out, where either party can get out. You must spell in the lease agreement. This is where the teeth are put in there for the city and for Granite. This needs to be put on the next agenda and talked about. IF we sit on our hands the deal is going to go away. I feel we need to move forward.

**b. Council Member Mund**

Council Member Mund said regarding 750, the one thing we need to make sure is that the city is good on the crossing we have for waterline going under 89. He said all he had under there was an old, abandoned conduit that Clyde used to run gravel under the road. He stated if the State is going to do this it may be the time to put a sleeve underneath there for the future, instead of having to go back and redo.

Mayor Mote stated that Chris Breinholdt said the State has made an offer to let us run some new pipes across their upsize pipe. We have never decided on if there were specific lines that we wanted to upsize.

Bryce Wheelwright said Zac Burke has identified several crossings throughout the city. The sleeve was brought up if we want to do that.

Mayor Mote asked Chris Davis to get the list from Zac Burke.

**c. Council Member Ward**

Council Member Ward said he doesn't think the city has an ordinance on natural disasters, like what happened here a few months ago. You look at some of the properties throughout the town. And I'm just thinking of property that's up by the park. I think they probably sit on maybe a little over an acre in the one house that got damaged. He thought the party wanted to tear it down and put up a new one there. There's not an ordinance that supports that because if they tore it down, they don't have enough frontage. Because I would like to see an ordinance have this city consider putting together an ordinance to cover such cases like that, because you got them throughout the city to where if something happens, and after something's destroyed, why shouldn't they be able to replace it.

**d. Council Member Seamons**

Absent.

**e. Council Member Kunzler**

Nothing to report.

**9. Next Agenda Items**

Policies & Procedures

Lease Agreement for Granite

Annexation & MPZ ties

**10. Mayor's General Correspondence and Information**

Mayor Mote reported with the potential annexations coming. And potentially wanting MPZ, our current land use doesn't extend to there, but our MPZ ordinance ties it to the future land use map and being consistent with that. He was wondering especially since it sounds like we're making a few edits to the MPZ ordinance, if we could just add in there, If it's an annexation, that's not within our current land use map. The base acres are like half acre because there's no way to calculate an MZ. He is a little worried, it puts the city at risk of whatever the developer wants or might put them at risk of us being unreasonable, either way, when we get this planning done, and then a month or so will matter. We can at least throw some land use or some potential future land use. How does MPZ work under those conditions?

Colt Mund, City Attorney responded the City Council and Planning Commission determine if you have, so the MPC zone says that the density is based on the goals of the General Plan, which is determined by this body and the planning commission with their recommendations. He felt the City Council could say no, that is not consistent with our goals and policies of our general plan. If that's what the city council wants to do, so I don't think there could be any problem for the City Council and Planning Commission if they didn't like the density of getting any other product across development to say, this isn't consistent or there's this issue it isn't. It's not what we're trying to accomplish in our general plan.

Council Member Ward agreed if you are going to be an island, annex island, which is starting to be, you would want that community to look like the community that is developed down there. As he sees it, they are not part of the city.

Colt Mund stated this ordinance gives a lot of discretion and latitude to this body to determine whether a development is mutually beneficial for the city and has guiding as guideposts along the way on what we should be looking at it and reviewing and so I think that's the idea.

Council Member Braegger said the way he sees it is the MPZ is our contract between us and that developer. And when we sign that contract, and we finalize it, then we're in control of what happens there. When we make sure that it fits the parameters that we want, and we sign a contract, then there's no way for him to back out of that any more interest for us.

Mayor Mote stated even at that a development agreement, you must start over if anything changes the way it's development.

Colt Mund explained that what the city needs to be mindful of is just as we go through development agreements, is that I think most developers will have the opinion. What I have to comply with is what's in this agreement, your MPZ zone doesn't matter. That is something that both the planning commission, staff, and the city council must be mindful of, are we getting all our long high notes from the NPC zone to make sure that those are known by the developer.

Mayor Mote asked if Zac Burke went and looked at Betty Davis's house.

Bryce Wheelwright said it is city property.

Mayor Mote said 300 East goes through and goes past Betty Davis's house and natural gas line went through there. The city took a water line through there, and since those two have happened she is losing property and losing half the slope was a lot more gradual slope. She is losing her front yard to erosion. His idea is to rip wrap to stabilize the slope. When the Flood Control excavates that spot there might be big enough rocks to stabilize it. He just wants to make it a safe situation.

#### **11. City Manager Report**

Chris Davis said he has been talking with our friends at the Transit authority in the Division of Water Resources. And they want to have a corridor that goes along the west side, east of the current UP tracks. That affects the current greenspace that Deer Run has that Old Farm has the Orchards here and the Orchards South. The conversations that we had this past week, both of those entities indicated and they would have liked to have been here tonight. They are willing to pay the fee in lieu of what we have in the MPZ Ordinance. The Ordinance says if you are taking green space if you don't have enough that you pay a fee in lieu of. There might be a presentation in the future from UTA and the Division of Water Resources.

Council Member Mund asked about the sewer line that is proposed to go along there.

Chris Davis said we have an agreement with UTA it is going I that 10-foot area. The appraisals are about done for Willard and Perry.

#### **12. Closed Session**

None.

#### **13. Adjourn**

**Motion:** Council Member Kunzler moved to close the meeting. Council Member Ward seconded the motion. Motion carried.