

**TREMONTON CITY
CITY COUNCIL MEETING
August 19, 2008**

Members Present:

David Deakin
Roger Fridal
Jeff Reese
Byron Wood
Max Weese, Mayor
Richard Woodworth, City Manager
Darlene Hess, Recorder

CITY COUNCIL WORKSHOP

Mayor Weese called the August 19, 2008 City Council Workshop to order at 6:00 p.m. The meeting was held in the City Council Meeting Room at 102 South Tremont Street, Tremonton, Utah. Mayor Weese, Councilmembers Fridal, Reese, and Wood, Manager Woodworth, Director Paul Fulgham, Steve Bench of Building Zoning, Police Chief David Nance, City Attorney Dustin Ericson, and Recorder Darlene Hess were in attendance. Councilmemeber Holmgren was excused from the meeting. The Council reviewed the agenda with the following items discussed in detail:

- ▶ Mayor Weese informed the Council of complaints the City had received of kids climbing on the new stature at the Library. The Council discussed the possibility of installing a fence around the statue.
- ▶ Mayor Weese asked the Council if anyone wanted to serve on the Board of Directors for Utah League of Cities and Towns? No one volunteered at this time.
- ▶ The Council asked when the old Senior Center building will be brought down. Manager Woodworth and Zoning Administrator Steve Bench informed the Council they are waiting until the County declares the fire season over for the year.

The meeting adjourned at 6:50 p.m.

CITY COUNCIL MEETING

Mayor Weese called the August 19, 2008 City Council Meeting to order at 7:00 p.m. The meeting was held in the Tremonton City Council Meeting Room at 102 South Tremont Street, Tremonton, Utah. Mayor Weese, Councilmembers Deakin, Fridal, Holmgren, Reese, and Wood, City Manager Woodworth, Steve Bench of Building and Zoning, Public Works Director Paul Fulgham, Police Chief Dave Nance, and Recorder Darlene Hess were in attendance. Councilmembers Holmgren and Deakin were excused from the meeting.

1. Opening Ceremony:

Mayor Weese informed the audience that he had received no written or oral requests to participate in the Opening Ceremony. He asked anyone who may be offended by listening to a prayer to step out into the foyer for this portion of the meeting. The prayer was given by Byron Wood, and the Pledge of Allegiance was led by Roger Fridal.

2. Approval of agenda:

Mayor Weese asked if there were any corrections to the agenda? **Motion by Councilmember Reese to approve the August 19, 2008 agenda with the following deletion:**

5a Consider Conditional Use Utilities - Steve Bench

Second by Councilmember Fridal. Vote: Councilmember Reese - aye, Councilmember Fridal - aye, Councilmember Deakin - aye, and Councilmember Wood - aye. Motion approved.

3. Introduction of guests:

Item omitted during the meeting.

4. Common Consent:

- a. Approval of the monthly expenditures as written on the 13th Period Warrant Register
- b. Approval of the monthly expenditures as written on the July Warrant Register
- c. Approval of the 13th Period Financial Statement

Mayor Weese asked if there were any questions on the Common Consent items? Hearing no comment, Mayor Weese asked for a motion. **Motion by Councilmember Reese to approve the Common Consent items as listed.** Motion seconded by Councilmember Wood. Vote: Councilmember Reese - aye, Councilmemeber Wood - aye, Councilmember Deakin - aye, and Councilmember Fridal - aye. Motion approved.

5. New Council Business:

- a. Consider Conditional Use Utilities - Steve Bench. Item deleted from the Agenda.

6. Unfinished Business:

- a. Consider revoking and reinstating Resolution 08-28 accepting the Petition of Annexation presented by Ben Brough

Mayor Weese reminded the audience that Mr. Brough contacted the City regarding this Annexation Petition - the City did not pursue Mr. Brough to annex property. Mayor Weese asked Curtis Brough, representing Ben Brough, to come to the podium with his request.

Councilmember Wood declared a conflict of interest with this issue, and was excused from chambers.

Curtis Brough stated that he had been asked to represent the landowners regarding this petition. Mr. Brough informed the Council that revisions had been made to the boundaries on their Annexation Petition. They have since met all requirements with the County and City, therefore, they are asking for approval from the Council on their Annexation Petition.

Councilmember Reese asked City Attorney, Dustin Ericson, if he would explain City policies and regulations regarding annexation procedures?

Dustin Ericson informed the audience that this request is only a petition to the City for annexation. No property will be annexed into the City, even with a vote to accept this Petition tonight. State Law requires the City not allow any unincorporated peninsulas be created when annexing property into the City. The City has been concerned with this issue in regards to the Brough Petition. It has been found that no peninsulas exist in this proposal. All State Laws regarding this issue have been satisfied. It is now the City's responsibility to accept or reject the petition.

Councilmember Deakin asked Mr. Ericson the status on land currently listed under the Ag Protection Program? Mr. Ericson stated that Recorder Darlene Hess had researched this issue and found the City had received misinformation from the County stating certain landowners were not in the Agricultural Program. After a more thorough search, it was found that, in fact, they were still in the Ag Program. Recorder Hess has received documentation from the County stating the corrections. Manager Woodworth informed the Council that the City is going to make up a checklist for the County to go through so this type situation does not happen again. Those parcels of land that are still in the Ag Protection Program have since been removed from the Annexation Petition. The Council viewed the plat of the new Annexation Petition with the parcels removed. Manager Woodworth informed the Council that he had received a letter from Carmen Andreasen requesting their names be taken off the Annexation Petition.

Brandon Baxter, attorney representing residents opposed to this annexation, stated he had been contacted by landowners with property just outside this Annexation location with a number of concerns with this petition. Tonight is the first time he had to actually look at the Petition in its new form. He would like to bring these concerns to the attention of the Mayor and City Council. The substance of concerns require the technicalities of Utah State Law be met. The technicalities of concern are the clear instructions of Utah State Code 10-2-402 as it is stated in the subsection, "annexation will not leave or create an unincorporated island or peninsula." Our concern, based on what you are seeing on the map to the common eye, is there are at least two peninsulas being left.

Mr. Baxter told the Council that Mr. Ericson has explained to the Council that there are technical definitions as what constitutes a peninsula, and what doesn't constitute a peninsula. Now that we have an actual map that we can work with, it is our intention to go back to the drawing board and actually measure to see if these things constitute peninsulas under Utah State Law. The concern of the property owners surrounding this annexation area is that there is a clear policy within Utah State Law that these peninsulas

not be created.

Mr. Baxter told the Council that the annexation area as outlined in Utah State Code Section 402 states that annexations should not create a peninsula. Also as outline in 403, there are several policy concerns that the petition and area proposed for annexation facilitate the delivery of resources to the area in question. The annexation area as proposed on this map appears that this is an area of the City where roads have intentionally been left out. I don't know how anybody with a straight face can come before the Council and argue for annexation leaving the primary arteries leading to these areas and how it is intended to facilitate the delivery of City Municipal Services to these areas out of the annexation. The Council has a duty tonight to insure that the requirements of the petition are met. Under Utah State Code Section 10-2-403 it states "the boundaries for annexation shall be drawn to eliminate islands and peninsulas, also to promote the efficient delivery of services to that area." If this body were to accept this petition tonight without insuring the boundaries as proposed and promote the efficient deliver of services to this area, that would be an error by this body.

Again, tonight is not the time to touch on the substance of concerns, but I council you as City Council Members and Mayor to be very cautious in accepting this petition without being absolutely sure that it complies with the requirements of 402 and 403. If you look at the map, it appears more to be a gerrymandering issue from a political science class, than a straight up annexation.

One of the concerns that we have is how signatures were obtained as part of this petition. Letters sent by the Andreasens and Morrisons to the Council indicating that representations were made to them that sewer and other municipal services were going to be delivered. There was a misrepresentation in that regard. There are a lot of wells, there are irrigation ditches, and other substance of concerns that I could go on for hours and hours talking and bringing to the City Council's decision. Our position tonight is that the petition is flawed on its face. I would encourage the Mayor and City Council to be very cautious and be very careful in accepting the petition.

My understanding is that it was filed and presented to the City only Friday. You guys may work a whole lot harder than I have, but to accept the petition on its face for further consideration by the City basically with just one day's consideration, I think would be an error on the City's part. With respect to the technicalities and the actual matter before the body today, I would again counsel you members of the City Council, Manager, and the Mayor to respectfully not accept the petition at this time and to further consider and make sure the petition complies with the technicalities of Utah State Law before it proceeds further. Thank you.

Mayor Weese asked for comments from City Attorney Dustin Ericson.

Mr. Ericson asked if there were any questions from the Council. Manager Woodworth asked Mr. Ericson if he felt the City had actually reviewed the Brough Annexation Petition? Mr. Ericson told the audience that the City has reviewed the petition and has gone to other council outside of the City. Manager Woodworth asked Mr. Ericson to summarize actions taken to review the petition. Mr. Ericson

stated that the City had been aware of this petition for quite some time and knew it was coming. Mr. Ericson stated that he wanted to touch on a couple of things: 1) The County has accepted this petition so it is not like Tremonton is acting independently on accepting or rejecting the petition. The County as a whole has accepted the petition. 2) To estimate the number of hours researching this petition would be difficult, however, there has been due diligence by the City on behalf of the Recorder's Office, my office, and the Land Use Authority Board. There have been several hours of research done to make sure the City has complied with all laws necessary if they should decide to accept this petition. I would be happy to answer any questions regarding this matter. I would also like to point out that the City is, also, very concerned with complying with the law. The City is not advocating one way or the other. Just merely making sure that the petition is in compliance with the law. What I can advise you is that this petition, as presented to the City, is in compliance with the law.

Mayor Weese asked if there were any questions from the Council. Hearing no questions, Mayor Weese thanked Mr. Ericson for his comments. Mayor Weese then asked the Council for a motion on Resolution 08-28. A member of the audience started to make a comment, and Mayor Weese reminded the audience that this is not a public hearing. **Motion by Councilmember Fridal to accept Resolution 08-28, revoking and reinstating Resolution 08-28 accepting the Petition of Annexation presented by Ben Brough.** Motion seconded by Councilmember Deakin. Vote: Councilmember Fridal - aye, Councilmember Deakin - aye, and Councilmember Reese - aye. Motion approved.

Councilmember Deakin commented on the Petition stating this has been a contentious issue and the City has been very thorough and cautious. The majority of property owners required have agreed to this annexation. The City cannot deny rights to a property owner, and must follow City policy and regulations.

- b. Consider Resolution 08-29 accepting a Petition of Annexation presented by Calvin Osborn and Jeff Madsen

Mayor Weese asked Zoning Administrator, Steve Bench, if this was the same Petition from last meeting. Administrator Bench informed the Council that this petition had previously been presented to the Council August 5, 2008, and had been tabled to request the property owners include a section of land that would have created a peninsula. Mr. Bench pointed out on the City map the location of the petition. Councilmembers were concerned about opinions from the adjacent property owners. It was decided that a letter should be sent to adjacent property owners, Mr. Beeches and Mr. Hernandez, informing them of the Annexation Petition. Mayor Weese asked for a motion on this Petition. **Motion by Councilmember Deakin to approve Resolution 08-29 accepting a Petition of Annexation presented by Calvin Osborn and Jeff Madsen, with the stipulation that the adjacent property owners, Mr. Beeches and Mr. Hernandez, be notified of the petition and an acknowledgment of their notification given to the City.** Motion seconded by Councilmember Reese. Vote: Councilmember Deakin - aye, Councilmember Reese - aye, Councilmember Wood - aye, and Councilmember Fridal - aye. Motion approved.

7. Comments

a. Administration/City Manager Advise and Consent

1) 800 West Street Plans

Manager Woodworth informed the Council of the situation at 800 West and south on Main Street. One of the developers at this location, Mr. Higley, is not proceeding with the next phase of his subdivision due to the housing market slowing down. The other developer, Marc Allred, is proceeding with his commercial development. We want to draft a letter indicating the City wants to proceed with the first 150 feet of roadway at 800 West from Main Street 150 feet South on 800 West, or up to the manhole at this location. Then Mr. Higley will take the remaining 150 feet to his development to finish the road. Manager Woodworth told the Council that discussion on this arrangement began eight months ago where it was found that this is an unimproved dedicated roadway. Through discussions with the Mayor and City Attorney, it was decided the City could contribute \$22,000.00, Marc Allred would contribute \$22,000.00, and Mr. Higley contribute \$44,000.00, to finish this roadway

2) Indigent Attorney - request for proposal

Manager Woodworth informed the Council of the need for an indigent attorney to represent defendants not able to obtain their own legal counsel. City Attorney, Dustin Ericson, estimated the City has approximately 12 cases a year. The Court expressed a desire to have a local attorney to facilitate immediate needs of defendants.

3) Compensation/Flex Time Policy concept

Manager Woodworth informed the Council of the need to restructure the current policy on City Employee Flex Time. Flex time is to accommodate employees who need to take time off for appointments, etc. that cannot be taken care of outside normal working hours. With Flex Time, they can make up time off at another time. It cannot just be make up work. It must be regular work the employee normally would perform. Flex Time cannot require the need for two or more people to accomplish an assignment, for safety reasons. Flex Time can also be used to make up hours taken for emergency situations, after the fact. Flex Time must be mutually beneficial to the employee as well as the City. Flex Time will be paid out at regular straight time. Storing or banking Flex Time will not be allowed and time must be used approximate to the period when it is earned. Comp time is time requested by the City of employees and is paid at time and a half. Flex Time should be an exception to the rule, and should be used to accommodate employee hardship.

4) Hospital Trail update

Manager Woodworth informed the Council that IHC Hospital is going to give the land for the Trail to the City instead of just allowing the City to use their

land. The Trail head will start at the north end of the parking lot of Jeannie Stevens Park and run along the roadway past the golf course to the edge of hospital property, then west to the end of the Hospital property then north along the Hospital property to 10th West, then across Iowa Sting Road, along the berm of the road, and back to the point of beginning. The Planning Commission will have to discuss the need for a crosswalk and possibly a stop sign at the roadway crossing. We would appreciate any input the Council may have regarding the Trail. The Hospital is being very generous and pleasant to work with. The Council asked about liability and maintenance of the trail. Manager Woodworth explained that the City was planning to accept maintenance and liability from the beginning and will make that part of the Trail Contract with IHC. If future development occurs along the highway access, proper access accommodations will be made available to those developments.

5) City Logo - new one needed

Manager Woodworth informed the Council that the current City Logo is outdated, and he is requesting the City contact an artist to make up a new Logo to represent current City and Community values.

6) 1200 South repairs

Manager Woodworth informed the Council that road work on 1200 South has been made, however, the City is still in negotiations with the contractor on uneven laying of the asphalt in certain areas. A chip/seal layer may need to be applied. Public Works Director, Paul Fulgham, and City Engineer, Chris Breinholt, are in negotiations with the contractors.

7) Manager Woodworth informed the Council that Councilmember Holmgren is requesting additional direct lighting at Shuman Park, and would like to obtain cost estimates for this new lighting. They will bring those estimates back to the Council for approval.

8) Water bill inserts

- a) Expo - Fiber
- b) New hours for the Library

Manager Woodworth informed the Council that the City will be helping to sponsor a Health/Expo Fair for the Community. Flyers advertising the Expo will be put in with the City's October Utility bill.

Manager Woodworth informed the Council that a flyer listing new hours for the Library was included in their packets.

9) Selman's request for their property to be removed from the Declaration Policy

Manager Woodworth informed the Council that this item is information only. Fred and Laura Selman have requested their property be removed from the

Annexation Policy Declaration Plan. The Planning Commission will be taking care of this, then getting back to the City Council. **Mr. Selman** asked why his property was put in the City Annexation Declaration Policy Plan. Mayor Weese and Manager Woodworth explained that the State requires each City set up a Declaration Plan. Tremonton City chose boarders that worked best for the City and outlying communities along with following State Regulations which included the Selman property. The Declaration Policy had previously been posted as a Public Hearing, therefore, the public was noticed.

Manager Woodworth informed the Council they will be conducting a walk-through of the old Senior Center building on August 26, 2008 at 6:00 p.m.

Manager Woodworth informed the Council that Recreation Director, Rhett Ogden, will be presenting a cost analysis on the Recreation Program at the next meeting September 2, 2008.

Manager Woodworth informed the Council that the Utah League of Cities and Towns Convention is coming up soon. We need your reservation information for the conference and for dinner on Thursday night.

b. Council Reports

Councilmember Reese commented on response from the public concerning the annexation issue, stating he felt good about the Council's decision as they should follow and uphold City Policy.

Councilmember Wood felt concerned about complains from landowners wanting to dictate the rights of other landowners. Councilmember Wood asked when the new streetlight at 1000 West Main Street would be installed? Manager Woodworth informed the Council that he had received a letter from UDOT stating it has been postponed until September 2008. Councilmember Wood asked what the status of completion was on the Food Pantry? Manager Woodworth told the Council that several groups have offered to help with moving into the Food Pantry, and it will be functioning by Monday, August 25, 2008. UTOPIA will be connecting phone lines for the Pantry within the next few days. An Open House for the Pantry will be scheduled in the near future.

Councilmember Deakin asked what would be required to satisfy the Selman's request? Zoning Administrator Bench informed the Council that they would have to repeat the Public Hearing Progress again. Councilmember Deakin asked if the La-Z-Boy property had been sold. Manager Woodworth stated he heard there was some interest, but did not have any specifics.

Mayor Weese reminded the Council of the County Fair Parade on August 20, 2008. The Council is to meet at 4:30 p.m. at 665 South Tremont Street. There will be four-wheelers and a fire truck for the Council to ride on in the Parade. The Mayor will be out of town to a meeting with Rocky Mountain Power on the day of the Parade.

Mayor Weese stated the closing on the new Senior Center Building will be August 21, 2008. Modifications and remodeling will begin as soon as possible.

Mayor Weese informed the Council that the City Fire Department will be donating an ambulance to the Garland Fire Department on August 28, 2008 at 6:30 p.m. An invitation was extended to the representatives in the audience from the newspapers to attend this meeting.

Mayor Weese informed the Council that Garland has a sign posted at their park which states "Welcome to Garland City where we don't charge \$5.00 for non-residents". Manager Woodworth stated this is one of the reasons we are putting together the cost analysis.

- 8. Public Comments: This is an opportunity to address the Council regarding concerns or ideas. Comments limited to three minutes.

Nancy Fuller asked if the decision had been made as to where new the new Rocky Mountain Power lines will be installed? Mayor Weese stated there has been several meetings, but no decision has been made.

- 9. Adjournment:

Motion by Councilmember Wood to adjourn the meeting. Seconded by Councilmember Deakin. Vote: Councilmember Wood - aye, Councilmember Deakin - aye, Councilmember Fridal - aye, and Councilmember Reese - aye. Motion approved. The meeting adjourned at 7:59 p.m.

The undersigned duly acting and appointed recorder for Tremonton City Corporation hereby certifies that the foregoing is a true and correct copy of the minutes fo the City Council meeting held on the above referenced date. Minutes were taken by Shirley Colvin.

Dated this _____ day of _____, 2008.

Darlene S. Hess, RECORDER