

**TOOELE CITY PLANNING COMMISSION MINUTES**

**Date:** Wednesday, April 22, 2020

**Place:** Tooele City Hall Council Chambers  
90 North Main Street, Tooele Utah

**Commission Members Present:**

Shauna Bevan  
Melanie Hammer  
Tyson Hamilton  
Matt Robinson  
Chris Sloan  
Bucky Whitehouse  
Dave McCall  
Nathan Thomas

**Commission Members Excused:**

Ray Smart

**City Employees Present:**

Andrew Aagard, City Planner  
Jim Bolser, Community Development Director  
Roger Baker, City Attorney  
Paul Hansen, City Engineer  
Mayor Debbie Winn

**Council Members Present:**

Council Member Toy Graf  
Council Member Justin Brady  
City Council Chairman Scott Wardle

**City Council Members Excused:**

Council Member Hansen

Minutes prepared by Kelly Odermott

Chairman Hamilton called the meeting to order at 7:00 pm.

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Commissioner Thomas.

**2. Roll Call**

Matt Robinson, Present  
Melanie Hammer, Present  
Shauna Bevan, Present

Tyson Hamilton, Present  
Chris Sloan, Present  
Bucky Whitehouse, Present  
Dave McCall, Present  
Nathan Thomas, Present

Chairman Hamilton stated that the City has implemented Governor Herbert's and Mayor Winn's; Emergency Declarations regarding public gatherings for all public meetings. Public participation is still encouraged in the government process and citizens while not able to attend the meetings, will be asked to join the meeting electronically through Tooele City on Facebook. Comments may be made through email [pcpubliccomment@tooelecity.org](mailto:pcpubliccomment@tooelecity.org) at any time during the meeting.

**3. Additional Discussion and Recommendation on request by Tooele City for a text amendment to Tooele City Code Chapter 7-19 regarding the acceptance of public improvements.**

Presented by Chairman Wardle

City Council Chairman Wardle stated that he was in attendance to clear up some confusion that had taken place over Ordinance 2020-04. He thanked the Planning Commission for their debate on March 11, 2020 in regards to the ordinance. He stated that the City Council has been debating the ordinance and discussing the questions proposed by the Planning Commission and City Council Members at their subsequent meeting. City Council Chairman Wardle read the following from the minutes from the March 11, 2020 Planning Commission Minutes,

*"Commissioner Sloan stated that if the Council is in agreement that this is the right thing to do, he would appreciate an explanation, but part of the reason there are these problems is an ambiguous way of taking some of them on. In this particular case, he would be more than happy to forward a positive recommendation if the grey area was gone."*

City Council Chairman Wardle stated that he agreed with this statement and did not think there was grey area with the ordinance. From a policy making perspective he believes that there should be different ideas. The market place of ideas is one of the greatest ways to come to great policy; that when a clash of ideas comes together, it makes for better policy. He stated he also believes the form of government per the charter delineates policy making and executive responsibilities. The policy making responsibilities of the City Council and by extension of the Planning Commission, as a recommendation body, is to recommend and then create that market place of ideas. The administration also has that right. They have the right to propose ordinances and then those ordinances go through the approval process to be voted up or down by the City Council. If the City Council votes down an ordinance or for something other than the suggested ordinance and the administration finds that objectionable, there is a process in the City Charter for that. The ordinance or resolution would not be signed by administration and within 15 days the administration could send the ordinance or resolution back to the City Council with an explanation for reconsideration of a vote. At that point in the process of review of a returned ordinance or resolution, four votes from the City Council would override the administration signature or three votes from the City Council would leave the ordinance or resolution at what it was meant to be; an effective veto. City Council Chairman Wardle stated

that his concern for presenting during the evening is that the administration desired a particular policy than what was presented in Ordinance 2020-04, the avenue to bring that before the Planning Commission would have been a different policy than the one submitted by City Council. The legislative intent of this ordinance was outlined very clearly; from the moment it started, the intent was to streamline the process for staff and developers in the acceptance of public improvements. In the current process for acceptance of public improvements they are accepted by administration signature and City Council signatures. With Ordinance 2020-04 the proposal was to take the five current signatures of the City Council and minimize that acceptance to one designated Council Member to sign on behalf of the entire City Council and the Mayor would sign on behalf of administration on the acceptance of public improvements. With the signatures, the step of returning to the City Council meeting for voting of the City Council Members would be eliminated and the acceptance would release the bond. It was simply a matter of streamlining a process. City Council Chairman Wardle stated that how this discussion evolved into a separation of powers argument was perplexing?

City Council Chairman Wardle shared the history of how the original Ordinance 2010-04 was passed in June 2010, for public improvements. Ordinance 2020-04 was a process developed from lessons learned in the litigation of process of the Overlake litigation settlement. A judgment was entered into against Tooele City for \$22 million. The process of full City Council approval on the acceptance of public works as put in place in part because of the findings in the lawsuit judgment that the public improvement process fell short. This process was put in place to ensure that it didn't happen again.

City Council Chairman Wardle stated secondly, the changes with Ordinance 2020-04 were not intended to get rid of the safeguards established by Ordinance 2010-04. Not once was that suggested during the discussion for the Ordinance 2020-04 proposal. City Council Chairman Wardle stated that Tooele City administration may want that, the Attorneys Office may want that and he respects that, however that is a policy decision that needs to be brought before City Council. City Council Chairman Wardle stated that as he prepared his comments, he was reviewing minutes and he found the following statement in regards to Ordinance 2020-04 from the March 4, 2020 City Council meeting;

*“The proposal is a transition of the formal process, where it would largely remain the same for inspection, department heads, and engineer certification. Then with the Mayors’ and Chair of Council signature, infrastructure would be accepted administratively as of the date of the certificate of completion and acceptance.”*

City Council Chairman Wardle stated that the signature on the acceptance of public improvements was never intended to be the Council Chair. The signatures are a collaborative effort between executive and legislative branches of government to meet the intent of Ordinance 2010-04. City Council Chairman Wardle stated that he did not know how the conversation changed.

City Council Chairman Wardle further read from the March 11, 2020 Planning Commission minutes;

*“Commissioner Sloan asked what is the purpose of having a City Council signature if this change is being done because it is outside of the purview of the legislative branch?”*

City Council Chairman Wardle stated, there was no change intended. It was simply a simplification of the process. City Council Chairman Wardle further read from the Planning Commission minutes from March 11, 2020;

*“Commissioner Hammer stated that if we are making the change between branches, then we should make a clean change.”*

City Council Chairman Wardle stated that he would agree with the presentation presented. If the facts were, Ordinance 2020-04 was intended to take the City Council out of the public improvement process and taking away safeguards and lessons learned through the lawsuit, then City Council Chairman Wardle stated he would agree with Commissioner Hammer’s position statement, but that is not the legislative intent of the change.

City Council Chairman Wardle continued quoting from the Planning Commission minutes from March 11, 2020;

*“Commissioner Sloan stated that if the Council is in agreement that this is the right thing to do, he appreciates an explanation, but part of the reason there are these problems is an ambiguous way of taking some of them on. In this particular case, he would be more than happy to forward a positive recommendation if the grey area was gone. Commissioner Sloan asked for elaboration from the Council as to why the shift is not clear and he would like to have that discussion.”*

City Council Chairman Wardle stated that as Ordinance 2020-04 was presented it doesn’t make a lot of sense. City Council Chairman Wardle stated that that is why he is here and it is Commissioner Sloan’s fault.

City Council Chairman Wardle stated that it is his policy position that, checks and balances work in government and it is a limiting factor within offices. He stated that he tried to detail that in his statement of reply, written to the Planning Commission prior to the evening meeting, however it is not meant in limiting, there are operational ideas that do not coincide. It is built into the City Charter that there is consent between the two branches of government, so this is not an unheard principle. Chairman Wardle stated that in his reply statement, he stated that the City Charter allows the legislative body to create rules that protect the health, safety, and welfare of the City. City Council Chairman Wardle stated that Utah State Code became very clear in a prior City Council meeting and that a City Council can make those rules. If the administration disagrees with those rules, the administration is free to veto those rules or not sign the ordinance. If ordinances or resolutions are not signed as approved by all parties, then the City Charter delineates the process to start the review over. The administration is absolutely free to comment on these decisions. The administration is not allowed to create a policy and put that before the Planning Commission without legislative support. That is where the misunderstanding is. Not intentional, but Ordinance 2020-04 as presented to the Planning Commission, would be a policy that would take the legislative branch out of the approval of public improvement process. City Council Chairman Wardle stated the intent of Ordinance 2020-04 was to simplify the process and strike down the policy created through Ordinance 2010-04. City Council Chairman Wardle stated that he disagrees with Mr. Baker’s assessment of a separation of powers and he believes there are checks and balances within government that

do infringe on each bodies part role. It is intended to be that way. It is intended to watch over one another. Through that process there are appropriate channels to deal with segregation of duties.

City Council Chairman Wardle stated that he brought with him recommendations for the Planning Commission; the Planning Commission can recommend Ordinance 2020-04 to the City Council and send it back for City Council approval with the intent of the Ordinance by the City Council. The Planning Commission can recommend to not send the ordinance through as was done. Third, the Planning Commission can recommend that the City Council signature be taken off the acceptance of approval of public works for and the intent of the ordinance proposal would be amended. Lastly, the Planning Commission can recommend a completely different course of action, that can require a completely different course of ordinance, but the Planning Commission cannot take away the historic reasons for the ordinance and not let them be on the record and not protect the City. City Council Chairman Wardle stated that it is the Planning Commission and City Councils job to protect the citizens and in a recent meeting there was a discussion of why there are elections for these positions. City Council Chairman Wardle stated that if an electorate would like a different course of action, then they will vote for that, but the Planning Commission and City Council cannot change that because they disagree with the action.

Chairman Hamilton opened the meeting for questions and comments from the Commission.

Commissioner Sloan stated that he had a few questions and he appreciated that this discussion was brought before the Planning Commission because it is a conversation that needs to be had. He stated that most of the questions he has come from the narrative that was provided by City Council Chairman Wardle and was looking forward to the narrative to be presented by administration as well.

Commissioner Sloan asked if the level of oversight in this process of approving public improvements, is this consistent with all City ordinances relating to this type of development? City Council Chairman Wardle stated he didn't think all the ordinances had this level of oversight, but Ordinance 2010-04 was crafted for a specific problem that occurred in litigation. During discussions after the litigation the entire argument of separation of powers was never brought up. There had been no discussion between the City Council, administration, staff members, or outside legal council during the collaborative process for the oversight as dictated in Ordinance 2010-04. City Council Chairman Wardle stated that the oversight dictated by Ordinance 2010-04 was dictated proportionally to the award against Tooele City. The City Council may have corrected reasons for the lawsuit and did them so that the lawsuit and the issues that perpetrated the lawsuit would never happen again.

Commissioner Sloan asked City Council Chairman Wardle to explain how this policy Ordinance 2020-04, if it were to take place prior to the litigation, would it have prevented the litigation? City Council Chairman Wardle stated that it would have ensured that the Mayor would have been aware of what individuals and departments were doing. Department heads would have been more accountable to those actions and the Mayor's office and City Council would have held those accountable with addressing issues early on.

Commissioner Sloan asked if the problems that perpetrated the lawsuit are continuing today? Commissioner Sloan stated the response given by City Council Chairman Wardle indicates that he takes his responsibilities seriously, but are the problems from before, continuing in the City processes today? City Council Chairman Wardle stated no. Commissioner Sloan stated that the Planning Commission has to make a decision on the ordinance presented tonight and understands that current practices for the acceptance of public improvements are working, but the proposal is to streamline the process. City Council Chairman Wardle stated that Ordinance 2020-04 was simply a matter of making it more convenient to those who the City does business with. The problem that happened in the 2010 litigation is not a continuing problem, but there were two projects in 2019 where the bonds were not released in a timely manner after the project because the Acceptance of Completion was not forwarded to the City Council. City Council Chairman Wardle gave dates of 3/4/2019 and 1/21/19 for the completion of work and acceptance of the work 12/18/19 and 3/4/2020, respectively for the two projects, but stated that the dates may be incorrect.

Commissioner Thomas stated that he is still learning the process from being new on the Planning Commission, but asked how Ordinance 2010-04 or Ordinance 2020-04, would have prevented the delay in the bond getting released? City Council Chairman Wardle stated that what should have happened is that as soon as the construction and inspection process was completed, the Acceptance of Public Works should have been scheduled for a resolution to come to the City Council. If the Ordinances were not in place, the City Council would not have had any indication of the delay in releasing the construction bonds. As a check and a balance, the ordinance by virtue of having the acceptance resolution, the delay in releasing the bond was brought to light and corrected. If there was no ordinance, no one would be accountable for the acceptance of public works and that can be a slippery slope that led to the litigation.

Commissioner Sloan asked if the developer complained about having the bonds hanging out there, City Council Chairman Wardle stated that he did not know.

Commissioner Sloan asked what were some shortcomings in the findings of fact from the lawsuit? Commissioner Sloan asked City Council Chairman Wardle to elaborate on those and how Ordinance 2010-04 took care of that? City Council Chairman Wardle stated that there was a discrepancy from those who did the public inspections and whether or not those inspections were complete to a standard and whether that was a completed standard. He stated that he had not gone back and read the judgment statement for years. There were issues of employees who had taken actions that were outside either the review of the department head or the department head knew it and it created conflicting problems. City Council Chairman Wardle stated that there were other issues and the City can disagree from a jury finding, but what the City cannot dismiss it. That is the reality that we live in. Whether or not the City agrees with the jury, there is a new reality created because of it. The City Council must look at that reality in a preventative way.

Commissioner Robinson stated that he appreciated the discussion and this is a good forum to discuss it, he is curious as to why the City Council didn't just take the recommendation and make the decision based on that instead of returning it to the Planning Commission. City

Council Chairman Wardle stated that as he has stated, that it was intended to be a simple process that blindsided the Council. On March 4 in the City Council meeting, there was a signature for the Mayor and City Council Chair for acceptance and approval. The form that the Planning Commission was given only showed the City Council Chair. That was a change that he was not aware of and he knew that it was a preference of the administration, it had been talked about and he felt that there needed to be a check and balance of both. The debate that started to occur because of the change, is this even permissible in the City Charter and the laws of Utah and it forced the City Council to look at a broader question. City Council Chairman Wardle stated that he was more than content to not have it return to the Planning Commission because he is fine with the current accepted process, but there were other City Council Members that wanted it to be returned to the Planning Commission. City Council Chairman Wardle stated that it became imperative after reading the record that the record needed to be fixed as a statement was made in the March 11, 2020 Planning Commission meeting,

*“The chairman wanted a signature, so there is a signature.”*

City Council Chairman Wardle stated that, that statement could not have been further from the intention. That is one of the concerns that he had had. A decision with incomplete facts can go awry, and the Planning Commission has the right and the City Council has the duty to make the record clear.

Chairman Hamilton stated that he appreciated the transparency and the process. City Council Chairman Wardle stated that the recommendation from the Planning Commission was important. The City Council does not always have to adopt or negate the recommendations, but it created enough of a storm that it had to be looked into.

Commissioner Sloan asked what do other municipalities do in the same situation for acceptance of public works? City Council Chairman Wardle stated to be honest he did not know. The process hasn't been looked at for 10 years and that is a good reason to go look at it. Commissioner Sloan stated that some are familiar with the Cottonwood Mall decision and the issues with that, but the base argument in that opinion was delineating whether the action is legislative or administrative in nature. Commissioner Sloan stated that the Tooele City are the only ones that have been sued by Tooele Associates so what are the other 200 cities doing? City Council Chairman Wardle stated that whenever a policy consideration is taken like this, with understanding there is a difference between a simple change to a process that creates the same outcome or a change in process that changes the process in its entirety, there is a review on if it is a good process. City Council Chairman Wardle stated that he believed that the administration and Council have different roles and responsibilities in the executive versus legislative. Whose powers are whose, that is a good debate to have. City Council Chairman Wardle stated that he hoped everyone could understand that there can be two truths that are opposite and that is the paradox of this discussion. The executive and legislative branches have differing roles, but can either enter the world of the other and operate. City Council Chairman Wardle stated yes, with checks and balances. There is a precedent in the City Charter that shows this and is how this action takes place. City Council Chairman Wardle stated that he thinks it is a policy consideration that the Planning Commission can study and there are two City Council Members that can be asked to start looking at that.



Commissioner Sloan stated in response to policy item number 6, the City Charter reads that the Charter gives the authority to review, examine, and comment on anything, so doesn't that power already exist on every single item? Does the Planning Commission need to delineate on this particular item, Ordinance 2020-04, not only does the Planning Commission follow the charter, but specifically grant oversight authority to the City Council in this particular staff function? City Council Chairman Wardle rephrased Commissioner Sloan's question to ensure he understood the context, that by virtue of the City Charter, doesn't the City Council have authority to comment on these decisions all the time anyway. City Council Chairman Wardle stated yes, but that becomes very difficult, and he could not speak for the Mayor, but the Mayor has expressed that the staff is extremely busy and when the City Council is asking a lot of questions, it disrupts their normal day at work and what they need to get done. This process alleviates that. If not, then the question becomes how do would the City Council oversee all items, by sending an email every day or an email every two weeks on if there were any public improvements. City Council Chairman Wardle stated that when it comes to certain matters in the Overlake lawsuit, the issues with Overlake stand differently because of the cost to the City. If that cost in that lawsuit this year was to pay \$400,000, that is cost of three employees or two police officers; it is a bond cost of a fire station. The cost of the lawsuit causes the City Council to look at all the City costs and increased taxes, which the elected officials are accountable for that. City Council Chairman Wardle stated that he takes those matters very seriously. The \$400,000 cost of the lawsuit judgment should not be taken out of fund balances without some kind of report on whether the City staff and City Council are maintaining what was learned. Without that accountability the City is sliding back and it will be repeated if it's forgotten.

Commissioner Sloan asked if the Ordinance 2010-04 had been in place at the beginning of the Overlake process, would it have prevented the issues that arose? City Council Chairman Wardle stated that acceptance of public improvements was not the only issue of litigation. City Council Chairman Wardle stated that he would love to say that what happened was preventable, but the process implemented with Ordinance 2010-04 is working. The ordinance put into place processes and have helped development occur. The process may not be what the citizens wanted, but it is what the citizens were given after the litigation.

Chairman Hamilton asked the Commission if there were any comments or questions for City Council Chairman Wardle, there were none.

Mayor Winn stated that she received a copy of City Council Chairman Wardle written reply to the Planning Commission at 3:12pm this afternoon and she apologized that she has not had sufficient time to prepare an adequate response to the opinion given in his reply. She stated that she was at the Planning Commission meeting to state her opinion on the subject for the record. She stated that the issue is not a matter of which branch of government has what power and authority; this is a process of the City accepting public improvements that have been constructed by developers and or contractors, and ultimately accepted as part of Tooele City's infrastructure. City Code requires City infrastructure to meet standards set by the Council, that are examined by City building official and inspectors. These professionals rely on testing conducted by a third party on some improvements and also by visual inspection. These inspectors are educated, trained and hold certification to do such work. Signatures of two



department heads, also serve as an acknowledgment that inspections were completed. The Mayor's signature is not needed or required by law, unless the Mayor is a certified inspector and has a personal knowledge of whether the infrastructure meets City Code. The same can be said about City Council Members and a need for their signature. Mayor Winn stated that she takes her responsibility as Mayor very seriously. It is important that there are capable staff, who are qualified for their position. Mayor Winn stated that she is confident in the staff she supervises. They care about the city, their jobs, and their responsibility. Mayor Winn stated that she is not opposed to leaving this ordinance and the signature form as it is. She is also not opposed to the proposed change and allowing the Council Chair to sign the form as an acknowledgement that the work is done. Mayor Winn stated that her goal is to create an efficient process to accept public improvements that meet the code and to return the bonds paid by the developer, that have been secured by the City to cover the cost of construction. Mayor Winn stated during the current world pandemic unknown potential economic impact on our local businesses and the suffering of our residents are much more important for government leaders to addressing and solving, than discussing the roles of executive and legislative government branches.

Commissioner Sloan asked what do other municipalities do in regards to acceptance of public improvements? Mayor Winn stated that as this issue has turned into hours of research and discussion, she asked the Community Development Director to reach out to other communities to get an idea of how other communities accept public improvements. Mr. Bolser reached out to five municipalities and had four respond and without exception all four state that it is completely an administrative process and the City Council does not sign the acceptance. Mayor Winn gave a copy of the information to Chairman Hamilton.

Chairman Hamilton read a summary of the statement into record,

The City of Saint George, there is no City Council in the process of inspection and acceptance of public improvement. South Jordan City, there is no City Council In the inspection and acceptance of public improvements. Draper City, there is no City Council involvement in the inspection and acceptance of public improvements. Logan City, there is no City Council involvement in the inspection and acceptance in the inspection of public improvements.

City Council Chairman Wardle stated that he appreciated the research, but the City Council did not receive that information and it would have been nice to have. That is a point of discussion that should have taken place. City Council Chairman Wardle stated that he did not send his reply to the Mayor because we have not had a very collaborative process when it comes to this item. In fact, the discussion has shut down. City Council Chairman Wardle stated that he sent an email last Friday, asking if Mr. Baker's comments reflect the stance of the Mayor's Office for the simple reason of understanding the Mayor's reason. Also, to not go through an enormous amount of work, which he stated he had to go through. City Council Chairman Wardle stated that he heard the Mayor's position during this meeting and he is grateful for the acceptance of public improvements, but the Planning Commission was not given full policy options. The Planning Commission was given one. The legislative intent of the ordinance was not brought the Planning Commission. City Council Chairman Wardle stated that he took exception with a historical analysis from 2017 was not given to the Planning Commission during the discussion for Ordinance 2020-04. Further City Council Chairman Wardle stated that the moment that it was

stated Chairman wanted a signature and there is a signature, that is where it injected the crisis or the discussion of the separation of powers. Then the signature appeared to be an overreach by the legislative body. City Council Chairman Wardle stated he wanted to make sure that the record was clear that, that signature was not the intent and that is offensive. He stated that he has never operated that way when it comes to the legislative process. Furthermore, the City Council is involved in accepting City property when a donation in certain dollar amounts come to the City, the City Council accepts them by Resolution. When a bill is paid to someone over \$20,000 it is brought to City Council for approval. the City Council does that. If the City Council talks about buying a vehicle, that cannot take place without City Council approval and having it brought to the City Council. A signature on approval of public works is not without precedent. City Council Chairman Wardle stated that lastly, he agrees with the Mayor and this issue has taken way too much time during a very difficult time. These sorts of issues should be put to bed. It is not about the legislative body trying to intrude on the executive or the executive trying to intrude on legislative body. City Council Chairman Wardle stated that he tried to be clear in his reply, but he had to assume a position, because he was not told a position for which to reply to.

City Council Chairman Wardle stated to the Planning Commission, as a recommending body leave the process the way it is currently for public improvement approvals and he is content with that. The ordinance can be approved to streamline the process. As a Planning Commission, the recommendation can develop different policy considerations, but what cannot happen is a certain form be given to the City Council March 4 and that form changed prior to the meeting with Planning Commission on March 11. The Mayor did say she is okay with a City Council Chair having a signature. Only the City Chair signature violates the intent of Ordinance 2010-04. Ordinance 2010-04 was adopted to make sure the Mayor could not say, they didn't know what is going on. Mayor Winn is very good at watching over her staff, but the City Council and Mayor are elected. Our jobs could change on a dime. The City is two years from another election, one and a half. A new administrator could come in here and not pay attention. City Council Chairman Wardle stated that he didn't believe that is worth the risk and a law adopted should outlive those who are elected and hold those in office accountable.

Mr. Baker addressed the Planning Commission. Mr. Baker stated that he would like his two page summary be included in the record, as well as the packet sent by Chairman Wardle to be included in the record. City Council Chairman Wardle stated that he had made some grammatical errors to his statement. Mr. Baker stated that he respected grammatical errors, but what needed to be in the record, be what was sent to the Commission. If City Council Chairman Wardle would like both documents added to the record that is unobjectionable.

Chairman Hamilton stated that he would add the two-page reply statement that was sent to the Commission prior to the meeting to the record and the grammatically corrected statement could also be added to the record.

City Council Chairman Wardle asked if the reply stated above was sent to the Planning Commission today or was it the two page reply that was sent Friday. He had not seen a two-page summary today. Mr. Baker stated that he had not made a reply to Mr. Wardle's

statement, nor had he had time if he wished took, he is referring to his two page summary sent to the Planning Commission last week, on Friday.

Chairman Hamilton thanked everyone for their comments and questions.

**Commissioner Sloan moved to forward a positive recommendation of Ordinance 2020-04 to the City Council.** Commissioner Bevan seconded the motion.

Commissioner Thomas asked with the motion, what form of the ordinance does that include. Commissioner Sloan stated it includes the ordinance requiring only the City Council Chair signature in addition to the Mayor and department heads. Commissioner Thomas stated that he believed he understood this, but there was a suggestion on the form. Chairman Wardle stated the reason he did so, in looking at the form, he never anticipated this debate. He thought one would be acceptable enough. Chairman Wardle stated that the form he presented to the Planning Commission is the one that he would present. It needs the Mayors signature down by the Councils signature for acceptance.

Commissioner Sloan stated to be clear, the motion includes the item that was brought to Planning Commission in the packet, not the suggested one by Chairman Wardle. Chairman Wardle stated that there is a discrepancy in what was given in the packet and what was discussed on March 4. What was in the minutes on March 4 had the Mayor and Council Chair signatures.

Commissioner Robinson asked if the form has anything to do with the resolution and asked to move forward without the form. Chairman Wardle stated he thinks there needs to be a decision on which form the Planning Commission would like. Chairman Hamilton stated we needed clarification. Commissioner Robinson stated he didn't think it needed to be in there, there is a motion and a second. Commissioner Sloan stated that his understanding is in the body of the ordinance and what the City chooses to do the form is entirely up to them. Frankly there are people who are better at that. Chairman Robinson stated he agreed to that.

**Commissioner Sloan moved to forward a positive recommendation of Ordinance 2020-04 to the City Council.** Commissioner Bevan seconded the motion.

The vote as follows: Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Thomas, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner McCall, "Aye," Chairman Hamilton, "Nay." The motion passes.

Chairman Hamilton, stated that if it is not broke, why fix it. The City process in place can continue. He stated that he would like to a streamline of the process and be proactive rather and reactive, but there is a better way to go about this.

Commissioner Sloan stated that we need to take a look at this, and he applauds the efforts of everyone involved to streamline the process, that is not his issue. He apologized to those who misunderstood the intent of the ordinance, and to Mr. Baker who made the presentation. Commissioner Sloan stated that he did not believe the presentation he made was designed to hide anything from the Planning Commission. That being said he directed his comments to the City

Council and administration, you guys have got to get your crap together. This is out of hand and it has been happening in this building for years now and it has now bled into the public forum in front of everybody. Get your stuff together. As the Chairman said, the first place to do this is sit down is sit down and make this work.

**A verbatim transcription of this agenda item has been attached to the minutes with the other attachments requested by Tooele City Council and Mr. Baker. The request for verbatim transcription was made by the Tooele City Council and City Administration.**

Chairman Hamilton stated that he was opening the public hearings for agenda items 4, 5, 6, and 9, so the public can send comments to [pcpubliccomment@tooelecitey.org](mailto:pcpubliccomment@tooelecitey.org). Those responses will be read and attached to the agenda item discussed.

**4. Public Hearing and Decision on a Conditional Use permit to allow a “Business Office” use by Bottom Line Book Keeping in an existing building located at 272 North Broadway in the MU-B Mixed Use Broadway Zone.**

Presented by Andrew Aagard

Mr. Aagard stated this application is proposed for a multi-tenant office building located at 272 North Broadway, just south of Elton park. There is an existing multi-family development just south of the property. The property is currently zoned MU-B Mixed Use Broadway, as are the properties to the south and east. Properties to the west and north are R1-7 Residential. The applicant is leasing space within the existing business to operate a bookkeeping and tax preparation business. This business falls under the professional office and/or business office classification and in the MU-Broadway zone, all offices located within existing structures require a Conditional Use Permit. One of the main issues for businesses located within existing buildings is customer parking and whether there is sufficient parking for that business. This site provides 38 off street parking stalls in a large parking area. There is sufficient parking that would be utilized by this small bookkeeping business., in additional to business parking for the other businesses operating in the building. This item is a public hearing and notices were sent to property owners within 200 feet of the property boundaries. As of today, no comments or concerns were noticed by those in the noticing radius. Staff is recommending approval with the four basic housekeeping items listed in the Staff Report.

Chairman Hamilton asked the Commission if there were any questions or comments.

The audio for the meeting notes, that this agenda item was voted for after agenda item 9. The delay in voting was to allow time for public comment through electronic comment resources. No public comments were received.

**Commissioner Sloan motion to approve the Conditional Use Permit Request by Bill Brough, representing Bottom Line Bookkeeping & Tax to approve the use of “Business Office” at 272 Broadway, application number P20-254, based on the findings and subject to the conditions listed in the Staff Report dated April 16, 2020.** Commissioner McCall seconded the motion. The vote as follows: Commissioner Hammer, “Aye,” Commissioner Sloan, “Aye,” Commissioner

Thomas, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner McCall, "Aye," Chairman Hamilton, "Aye." The motion passes.

5. **Public Hearing and Decision on a Conditional Use Permit to allow an accessory garage to exceed 8% of total lot size located at 556 Mayor Drive by Dan Dow in the R1-7 Residential zoning district on approximately .3 acres.**

Presented by Andrew Aagard

Mr. Aagard stated this property is located within the Stonehaven subdivision. All surrounding properties are utilized as single family residential. As mentioned, the property is zone R1-7 Residential, as are all of the surrounding properties. Tooele City's accessory structure ordinance limits total structure lot coverage of detached structures to 8%. The code also grants the Planning Commission approval of Conditional Use Permits for structures which exceed the 8% lot coverage requirements. The applicant is proposing to construct a 36 by 46 foot accessory structure for purposes of storing recreational vehicles. There is also an existing 168 square foot shed on the property which also accounts in the 8% of coverage requirements and 8% of the lot is 1075 square feet. With the construction of the new building the total square foot of accessory buildings would be approximately 1600 square feet and closer to 11% of total lot coverage. The applicant is also proposing an attached lean to on the north side of the accessory structure which will be considered an accessory structure because it is covered and attached to the building. That will increase the total square footage to 2028 square feet and increase lot coverage to 15%. Staff does not anticipate that exceeding the lot coverage of 8% by the additional 4-7% will generate any impacts to neighboring properties. The site has plenty of room for the building to be constructed and necessary room for necessary setbacks and still maintain a sufficient back yard. This item is a public hearing and notices were sent to all property owners within 200 feet of the subject property. As of today staff has not received any comments from those in the noticing radius. Staff is recommending approval with the four basic housekeeping conditions in the Staff Report.

Chairman Hamilton asked the Commission if there were any comments or questions

Commissioner Thomas asked what the height of the storage shed will be? Mr. Aagard stated that it would be 15 feet measured to the point of pitch. Commissioner Thomas asked if that meets standards? Mr. Aagard stated it does.

Commissioner Sloan asked if the current shed on the property is a permanently affixed structure. Mr. Aagard stated that he has not physically looked at it.

As this was a public hearing item, the public hearing was opened by Chairman Hamilton prior to agenda item 4. The audio for the meeting notes, that this agenda item was voted for after agenda item 9. The delay in voting was to allow time for public comment through electronic comment resources. No public comments were received.

**Commissioner Thomas motion to approve the Conditional Use Permit Request by Dan Dow, to allow an accessory garage to exceed 8% of total lot size at 556 Mayo Drive, application number P20-267, based on the findings and subject to the conditions listed in the Staff Report**

**dated April 15, 2020.** Commissioner Robinson seconded the motion. The vote as follows: Commissioner Hammer, “Aye,” Commissioner Sloan, “Aye,” Commissioner Thomas, “Aye,” Commissioner Bevan, “Aye,” Commissioner Robinson, “Aye,” Commissioner McCall, “Aye,” Chairman Hamilton, “Aye.” The motion passes.

**6. Public Hearing and Decision on a Conditional Use Permit to allow a “Heavy Industrial Manufacturing and Assembly” facility by Geofortis Utah, LLC, located at the corner of K Avenue and Feldspar Road in the Industrial Zone on 6.88 acres.**

Presented by Andrew Aagard

Mr. Aagard stated this Conditional Use Permit is proposed for vacant property located in the Industrial Depot at the northwest corner of the intersection of K Avenue and Feldspar Road. Property is a currently undeveloped lot. The property is zoned I Industrial, as are all of the surrounding properties. A site plan was included in the Planning Commissions packet, but was included for reference only. The site plan will be reviewed as part of a separate application. The applicant is proposing to construct a heavy industrial manufacturing and assembly facility that produces a pozzolan product which is added to concrete to improve performance. Raw natural volcanic materials will be trucked to the site, stored temporarily on site, moved by conveyer systems, crushed in a ball mill, and stored in a silos, until taken to concrete manufacturers along the Wasatch Front. The applicant has indicated that they will have dust collection facilities inside the building to minimize dust from escaping the facilities. There is no water use in the process of producing the pozzolan and noise should not be a problem as the nearest residential structures are located nearly 1600 linear feet away. The process does not involve the use of hazardous chemicals and does not produce noxious fumes or odors. The only impact that could be noticeable to the community is the increased truck traffic bring product to the site and removing finished product to the manufacturer. Staff wants to ensure that truck traffic stays on established truck routes through the City, namely SR 36 and SR 112 to Lodestone Way. Trucks are not permitted on Utah Avenue. Staff has added one condition to the Staff Report that truck traffic adhere to all established trucks routes through all of Tooele City boundaries. This item is also a public hearing. Notices were sent out to property owners within 200 feet and staff has not received any comments. Staff is recommending approval with the five conditions in the report.

Mr. Aagard stated the applicant sent a comment to the Planning Commission. He read the comment into the record.

*“Good Evening,*

*My name is David McMurtry and I represent Geofortis, the project applicant for the subject Condition Use Permit tonight. I wish I could be with you in the room tonight, but I am watching online and am available to answer any questions in real time if you would like me to.*

*We at Geofortis look forward to joining the community of Tooele with our new facility. The plant will produce a natural pozzolan material to serve the concrete industry. The facility will provide jobs and revenue for the community as well as contribute to supporting businesses. We have reviewed the City’s Staff Report and concur with all of its recommendations.*

*I thank you for your time and look forward to your approval.*



*Sincerely,  
David McMurtry  
COO, Geofortis Utah LL*

Commissioner Thomas stated that pozzolan is an inert mineral. It is not that dangerous and is basically fossils that are crushed up.

Commissioner Sloan asked Commissioner Whitehouse if he saw any issues with the product. Commissioner Whitehouse stated no.

As this was a public hearing item, the public hearing was opened by Chairman Hamilton prior to agenda item 4. The audio for the meeting notes, that this agenda item was voted for after agenda item 9. The delay in voting was to allow time for public comment through electronic comment resources. No further public comments were received.

**Commissioner Robinson motion to approve the Conditional Use Request by David McMurtry, representing Geofortis Utah, LLC to allow the use of “Heavy Manufacturing and Assembly” at the north west corner of K Avenue and Feldspar Road, application number P20-259, based on the findings and subject to the conditions listed in the Staff Report dated April 14, 2020.**

Commissioner Hammer seconded the motion. The vote as follows: Commissioner Hammer, “Aye,” Commissioner Sloan, “Aye,” Commissioner Thomas, “Aye,” Commissioner Bevan, “Aye,” Commissioner Robinson, “Aye,” Commissioner McCall, “Aye,” Chairman Hamilton, “Aye.” The motion passes.

**7. Recommendation on the Peterson Industrial No 39 Minor Subdivision request to subdivide an existing lot of record, by Peterson Industrial Properties, located at approximately 1345 K Avenue in the Industrial zoning district on 6.8 acres.**

Presented by Mr. Aagard

Mr. Aagard stated this is a follow up to the previous application. This application proposes to subdivide the property upon which Geofortis will be constructing their plant. As mentioned, the property is located at the intersection of Feldspar and K Avenue. It is zoned Industrial, as are all of the surrounding properties. This application will subdivide an existing 33 acre lot of record and create a plated lot of 6.8 acres. There are no lot size minimum requirements in the Industrial zone and lot is far wider than the minimum 80 foot width requirement. K Avenue and Feldspar road are privately owned and will remain private, thus eliminating the need for right of way dedication. Staff is recommending approval with the basic housekeeping items listed in the Staff Report.

Chairman Hamilton asked if there were any comments or questions from the Commissioners

Commissioner Robinson asked if the Planning Commissions needs approval on the prior agenda item before approving this item? Mr. Bolser stated no, the Conditional use Permit does need a vote prior to this action as they are separate issues. This application creates the boundary lines for the property, the Conditional Use addresses the use of land.

Commissioner Sloan stated that he recognizes that the items or separate, but in the event that the Commission did not approve the Conditional Use Permit is the seller then bound to a new property line that they may not want. Mr. Bolser stated not necessarily, the property owner can still exist or not exist in its current configuration and it could still be used in its configuration.

**Commissioner Robinson moved to forward a positive recommendation to the City Council for the Peterson Industrial Depot No 39 Minor Subdivision Request by Brock Peterson, representing Peterson Industrial Properties, application number P20-268, based on the findings and subject to the conditions listed in the Staff report dated April 15, 2020.**

Commissioner McCall seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Thomas, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner McCall, "Aye," Chairman Hamilton, "Aye." The motion passes.

**8. Recommendation on the Tooele City Commercial Park Phase 1 Subdivision Plat Amendment by Tooele City located at approximately 111 South Millburn Street in the LI Light Industrial Zone on 4.1 acres.**

Presented by Paul Hansen

Mr. Hansen stated that he was asked to present this to the Commission. Tooele City has a well located at 111 South Millburn which is on a portion of this plat. The City is in need of reconstructing that well house entirely to bring it up to code for power and safety issues. In order to do that, there needs to be additional land. Tooele City is working in cooperation with the owner, Tooele County School District, of the adjacent surrounding property to acquire additional land to help the City construct the needed well house. It is only a lot line adjustment and the school district has agreed.

Chairman Hamilton asked the Commission if there were any questions, or comments, there were none.

**Commissioner Bevan motioned to forward a positive recommendation to the City Council for the Tooele City Commercial Park Phase 1 Subdivision Plan Amendment Request by Tooele City, application number P20-32, based on the findings and subject to the conditions listed in the Staff Report dated April 16, 2020.** Commissioner Sloan seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Thomas, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner McCall, "Aye," Chairman Hamilton, "Aye." The motion passes.

**9. Public Hearing and Recommendation on the East Bluff Zoning Map Amendment request to reassign approximately 57.33 acres of land from the R1-7 Residential zoning district to the R1-14 Residential zoning District located at approximately 150 South 1300 East.**

Mr. Bolser stated that this is a zoning amendment that is initiated by the City. The property in question is the eastern two thirds of the bluff area immediately south of the Oquirrh Hills Golf

Course clubhouse. The land use which is an important designation identifies it as a low-density residential area. This is important because it is a suggestion, the land use suggests how the land should be used for various pieces of property. This property is currently zoned R1-7 Residential. The low density land use classification does not identify the R1-7 Residential as a suggested zoning class designation. R1-7 Residential zone is listed under a medium density land use classification. The property is located on the eastern limit of City limits. The proposal is to reassign this property from the R1-7 Residential zone to the R1-14 Residential zone. This would change the minimum lot standard from 7,000 square feet to 14,000 square feet. The R1-14 Residential zone is identified in the low density category in the land use map as a suggested or preferred zoning classification. Properties to the south are identified as an R1-12 Residential zone and R1-14 Residential zone to the south east of that. Currently there is a gap in the Droubay Road alignment. Droubay Road stretches from Skyline Road north to this property and south from the north end of Tooele County where it stops at Vine Street next to the golf course club house. The gap in Droubay Road is at this property, where there is a large topographical elevation issue. Over the past several years, there have been multiple discussions on how to make the connection of Droubay Road. There is not a feasible cost effective way to make the connection. After this determination, a review of the other roads in the area was performed, to see what affects not having the Droubay Road connection would make on traffic loads. With the currently built residences, approved residential developments and the undeveloped properties, the most reasonable accommodations for future traffic needs is a down sizing of zoning on this property and possibly others. Communication has been made between the City and the property owners for the changes in land use and no negative feedback has been received.

Commissioner Thomas asked if there are any other subdivisions what also have the R1-14 Residential zoning on the map provided. Mr. Bolser stated that the property to the south is R1-12 Residential and the lots would be slightly bigger than those, and the property to the southeast is R1-14, but that subdivision is not built yet, so it is hard to see on the map.

Commissioner Thomas stated that he understands that there is not a comprehensive city trail plan, but he encouraged City staff to speak to the developer at the location of Middle Canyon, Droubay Road where there is a lot of recreation and it would be great to see a connection to the subdivision to the south with a trail system.

Commissioner Sloan stated that there is a notch at the north end of the map that is not included, is there a reason for that. Mr. Bolser stated that it is a City property and there used to be a water tank there that was recently demolished.

Chairman Hamilton stated he wanted to echo the comments of Commissioner Thomas and would like to see some trails in that area.

Chairman Hamilton stated this required a public hearing.

Mr. Bolser stated that he did receive an email for this agenda item and the neighbor did not state position for or against, but asked for clarifications for what is allowed in the R1-14 Residential zone. Mr. Bolser stated that he provided the same discussion that has been in this meeting.

**Commissioner Sloan moved to forward a positive recommendation to the City Council for the East Bluff Zoning Map Amendment Request by Tooele City Corporation for the purpose of reassigning the subject property to the R1-14 Residential zoning district, application number P20-283, based on the change is consistent with the general plan and general plan use, also that this is a good way to mitigate potential future traffic.** Commissioner Bevan seconded the motion. The vote as follows: Commissioner Hammer, “Aye,” Commissioner Sloan, “Aye,” Commissioner Thomas, “Aye,” Commissioner Bevan, “Aye,” Commissioner Robinson, “Aye,” Commissioner McCall, “Aye,” Chairman Hamilton, “Aye.” The motion passes.

**10. Review and Discussion on a proposed amendment to the adopted Tooele City Annexation Policy Plan to identify three new potential expansion areas and include them into the Adopted Annexation Policy Plan and accompanying Expansion Area Maps.**

Mr. Bolser stated that recently a group of property owners and representatives of property owners approached the City about the possibility of adding property into the Annexation Policy Plan. These would represent three new potential expansion areas. As the Commission is aware, the areas that are identified in the Annexation Policy Plan, do not mean that the areas are going to be annexed and also does not mean the areas won't be annexed, it simply means the conversation can happen. From those initial discussions with property owners, the City Council asked the staff to prepare an amendment to the Annexation Policy Plan in order to begin the discussion. There are a couple things to note with the application.

Mr. Bolser that that first this is an amendment to the existing adopted Annexation Policy Plan. Recently the Planning Commission had a discussion about the potential new Annexation Policy Plan, with the General Plan Amendment and update effort. This does not affect that update. This is an amendment proposal to the existing Annexation Policy Plan that was adopted by the City Council by Ordinance 2010-15 on October 6, 2010. This is the existing plan. The City's existing Annexation Policy Plan identifies potential expansion areas, A through G. Those are currently in the plan. Area F is already annexed into the City. It is the extension of open space property that the City already acquired and goes behind Settlement Canyon for the view shed and water shed areas. That is still listed in the current Annexation Policy Plan, but has been acquired and annexed into the City. This proposal would identify and include if it was adopted three new potential annexation expansion areas, identified as H, I, and J, to build off what the City already has.

Mr. Bolser stated this process does not mean that any properties, will or won't be annexed. It only allows the conversation to happen between the City and property owners down the road. State Code Section 10.2-401.5 sets out a very clear path in how to amend or adopt an Annexation Policy Plan. This is just a review and discussion because that is what the state code identifies. The first step after the plan draft is to issue notice to all defined affected entities, as defined in the state code at least 14 days in advance of a public meeting. Those were provided. The intent of this meeting is to present the potential amendment. Following this meeting and discussion, state code requires a 10 day window for defined affected entities, as defined by the state code, to provide written comment about this particular proposed amendment or adoption of the Annexation Policy Plan. That would happen as soon as tonight's meeting is over.

Following the conclusion of the 10 day window, a public hearing would be held by Planning Commission with a notice of public hearing again 14 days in advance. That notice can overlap with the 10 day comment period. The Planning Commission would review any written comment that is received and a public hearing from the general public. The Planning Commission would then have the ability to make a recommendation to City Council. The City Council would then hold their own public hearing to make a decision.

Mr. Bolser showed a map of the current Annexation Policy Plan Map, as well as the additional areas of H, I, and J. The first one, area H, is the very east end of 2400 North. This has been proposed by property owners. It is the east end of 2400 North and north east until the Brookfield Estates Subdivision, which is in Erda on the north side. Area I, is in the northwest corner of the community. It borders the current City boundary on the south. This property is directly north of the City's reclamation facility and the Overlake golf course. Area H is currently vacant lands with agricultural designations and Area I is mainly agriculture area. Area J is on the north end of the community and straddles SR 36. It extends to Droubay Road on the east and to a property line along Cochrane Lane on the west. It extends north from both the Tooele City's existing boundaries as well as the north end of expansion area B. This is an area of a combination of developed properties, both residential and commercially, vacant properties, and agricultural properties. At this point in time, there should be a discussion and a public hearing should be scheduled for the future and identify the window for the defined affective entities to provide written responses for 10 days.

Commissioner Robinson asked when it is stated that it was initiated by property owners, does that mean all the areas that have been identified as area H, I, and J requested this. Mr. Bolser stated not necessarily. There was a group of property owners, they do not represent every property, but represent a strong majority of the properties who approached the City about the willingness to have the discussion. Commissioner Robinson asked about the nicked out areas on the map, those owners did not approach the City. Mr. Bolser stated that the areas within the boundaries of H, I, and J were suggested to be considered. They were not left out because they are opposed, they were left out because they were not suggested to be included. Commissioner Robinson stated everything that is being considered is being spurred forward by a group of property owners within those areas, that represents a good portion of property owners, is that fair to say. Mr. Bolser, stated probably, a group of property owners represents a majority of property owners identified and approached the City about having this conversation. Commissioner Robinson stated that that he preferred straight lines for boundaries. Mr. Bolser stated that recommendation could be made.

Commissioner McCall stated he had noticed that Area J goes over Erda Way and a lot of the citizens in Erda are talking about forming their own City. Will this affect their incorporation efforts? Even though the City has been approached by the property owners, if the City pursues; this will take a large chunk of Erda and affect the possibility of incorporation of Erda. Mr. Bolser stated that is certainly an element for consideration and there are some competing interests. There is an active process underway for a sizeable chunk of Erda to possibly incorporate. There are the potential Tooele City annexation discussions. They are competing interests and there are a lot of legal issues that will need to be looked at in the future. Unfortunately, it must be started through this process.

Commissioner McCall asked if the City has water to support any type of development that would go in these additional areas. Mr. Bolser stated that any time the City deals with annexation or development, water is a requirement of the applicant. For the sake of discussion, if the City process starts talking about annexation and not the possibility of annexation, those requirements would be written into an agreement as required by state code, between the City and property owners. Those agreements would outline the City's requirements, including infrastructure, water, capacity of sewer, among others. Those are operations that need to be considered in the annexation agreements and mandate upon the applicant.

Commissioner Sloan stated another thing to consider, some of the commercial properties or proposed already in that area, that would make a huge difference in the viability of Erda's incorporation.

Commissioner Thomas stated that as this public hearing occurs, this was something that was brought to Tooele City. It is not something that was sought out.

Commissioner Bevan asked what economic benefit would it be for Tooele City. This is mostly vacant land and what tax base would it bring. It looks like mostly subdivision developments rather than business and that would be a drain on Tooele City rather than a benefit. Mr. Bolser stated that through the annexation process, the City gets to make those determinations. If the City were to get to the point of writing an annexation agreement, the City would specify the zones. If the City would like a larger commercial base, that could be specified through the zoning decisions of the annexation agreement. Property has to be zoned by the City as it is brought into the City. There would be a discussion to determine what the City would like to see.

Chairman Hamilton stated the strains on water and sewer will play it by ear as we get there, but it will be on the developer. Mr. Bolser stated those will be considerations that will be at the forefront of the discussion if the City gets there for annexation. As mentioned, Tooele City's historic policy has been that the annexed properties have to provide resources, such as water rights, and possibly infrastructure to store it depending on the scope. The developer may need to install transmission lines to deal with that infrastructure. Those discussion will be at the forefront, when and if the City gets to that point. Chairman Hamilton asked what strains will be put on the fire department. Mr. Bolser stated that public safety is a consideration, and one of the seven studies that is required through the annexation, that the applicant must provide to the City. Another is tax base. Public safety service will need to expand and areas in the community must have public safety. Police and fire both will take on additional areas if annexation is to occur. Infrastructure may require a satellite fire station or police station per the annexation agreement. These areas currently have public safety provided by the Tooele County Sherriff's Office and North Tooele County Fire Department. It could be a contract with them to provide mutual aide service. There are a lot of discussions that have to happen and could become incumbent on an applicant.

Commissioner Robinson stated that a couple meetings ago in the proposal drafting, is there anything that can be added to this amendment and save ourselves time later on? The second question being that we live in a litigious society, to make sure there is accessibility and



availability for public comment, in looking at the timelines, it needs to be discussed with the current health situation. Mr. Bolser stated to the first question yes. That draft was used to build this draft. Mr. Bolser stated that it is his opinion that the text draft, that was provided in the packets, was prepared compliant with state code requirements, if there was an amendment of the Annexation Policy Plan. There are a list of specifications that have to be done. The draft here meets those criteria. Mr. Bolser stated hopefully he has done the draft in a way that it could seamlessly add this information to the draft Annexation Policy Plan for the General Plan if this proposal were to be approved.

Chairman Hamilton asked if there needs to be a motion for the date to finalize the responses. Mr. Bolser stated that it does not need to be a specific motion, but he requested a statement for the record that per state code following tonight's meeting is the start of the 10 day mandated window for defined affected entities to provide written comment should they so choose. There does not need to be a motion but a clarified date for the record, suggested May 13, which is the next Planning Commission meeting, but there is also a 5<sup>th</sup> Wednesday this month, so it is three weeks away, instead of two.

Commissioner Thomas stated will there be any other notification or just what is posted to the Tooele City webpage. Do adjacent land owners get a letter? Mr. Bolser stated that the notification process is specific in the state code and it specifies each step along the way. There is tonight's meeting, Planning Commission public hearing and the City Councils public hearing, at each meeting there will be a 14 day notification that the defined affected entities. Commissioner Thomas stated that this is just to have the conversation, so there may be some concerns. Mr. Bolser stated that this conversation is one of several. The amendment to the Annexation Policy Plan is a requirement in order to have the conversation on whether Tooele City would like to act on annexation. If the Annexation Policy Plan does not get amended the discussion cannot happen. If the property is not within one of the identified expansion areas, the state code prohibits a City from entertaining an application for annexation.

Commissioner Thomas stated that it feels that there are further steps, but this is just to have a conversation. Commissioner Robinson stated a public hearing conversation. Mr. Bolser stated there are multiple conversations. Commissioner Thomas stated this is not a decision, just a let's start talking. Mr. Bolser stated that the Annexation Policy Plan does not annex property and does not specify when property will be annexed. Of the six or seven annexation expansion areas that are in the current plan, only two have been annexed since 2010.

Commissioner Robinson stated that the next time the Planning Commission has a discussion on this topic it should be a public hearing. Mr. Bolser stated correct, it must be a public hearing.

Commissioner Robinson stated that it is a big step and involves a public hearing.

Commissioner Hammer stated that Commissioner Robinson has a valid concern, should we wait to have our public hearing so that the public can be here. The City has Facebook, but not all citizens have Facebook and we should hear from them. Is this something that can be postponed until the current health situation is reduced? Mr. Bolser stated there is that option, but his understanding is that the City Council has stated there is a request to keep it moving, but not

necessarily rush it. The 13<sup>th</sup> of May would still provide the opportunity for virtual or emailed comment.

Commissioner Sloan stated that he didn't disagree, but there could be a middle ground, but there is an issue with technology. The City Council Chambers room is under tech. Mr. Bolser stated the next time the Planning Commission meets, the room will have the audio-visual technology updated. Commissioner Sloan stated that the comments on Facebook eight to one, are about the public inability to hear or see. The business still needs to happen, but it must be open and transparent because this will generate a lot of interest. The Planning Commission has to be able to do business as a city, but property owners have to have rights, to make their comments heard in a timely manner. The City needs to be prepared. Commissioner Sloan stated that the upgrades in process will hopefully solve the problems going forward.

Commissioner Thomas asked about the upgrades? Mr. Bolser stated that there will be a complete overhaul of the audio visual in the City Council Chambers. There will be a new projector, different audio systems, different screens at the desks, there will be different abilities through the camera systems to see. It will be easier to see and hear. The issues with covid-19 that changes hourly and the City is making every effort to provide an avenue for the public to participate without affecting general health. It is the City's position that they are providing an adequate avenue and will make every effort to allow the public to participate.

Chairman Hamilton added that the agenda and minutes can be found on the Tooele City webpage. Mr. Bolser stated that the agendas are prepared the Friday before a meeting for both the Planning Commission and the City Council. They are also published to the website. Chairman Hamilton stated that Planning Commission meetings are the second and fourth Wednesday of the month. Commissioner Robinson stated that part of his concern goes back to the agendas and the one for tonight was not listed on the website. Mr. Bolser stated that he would look into that.

Commissioner Robinson stated the Planning Commission has to pick a date and he is not comfortable with May 13, 2020. Commissioner Thomas stated that he didn't want the Planning Commission to overthink and be afraid of controversy. If the meeting is delayed then it needs to be only delayed for certain amount of time. It should only be pushed off a certain amount of time a week or two weeks.

Commissioner Robinson stated we can push it to discuss at date on May 13<sup>th</sup> and possibly set it for the fourth Wednesday in May. He is not comfortable with setting the date tonight. Chairman Hamilton stated that there needs to be ample opportunity for public comment and this will not be the first time it is discussed. There will be another public hearing and still discussed. There will be more public hearings after these two for annexation. Mr. Bolser stated that there would be multiple hearings. The Planning Commission will have a hearing and the City Council will have a hearing just to deal with the Annexation Policy Plan. Then should the Plan be approved, there will be public hearings to deal with the actual annexation should one come forward.

Commissioner Sloan suggested the public hearing be May 27<sup>th</sup>. Commissioner Robinson stated does the Planning Commission need to lock it in now, couldn't we set the date on the 13<sup>th</sup>? Mr. Bolser stated that there is a certain transparency that if a date is set, the public paying attention will know what that date is.

Commissioner Sloan stated that he understands the date issue, but we have to deal with what can happen, not what will happen. He shares the concerns. The folks that have come to the city have the right to be heard and personal opinion is five weeks strikes as good of a balance.

Commissioner Hammer asked when will this new technology be installed? Mr. Bolser stated that it is scheduled for the day after the next Council meeting. Commissioner Hammer stated that the Planning Commission will not have the opportunity to watch them use the new technology. The Planning Commission will be the first ones to test it. Mr. Bolser stated that May 13 will be the first meeting that is anticipated to have the technology, however the staff has an appointment with a mockup of the technology at the company facility before its installed. The Planning Commission will have their first experience on the 13<sup>th</sup>, but the staff will have experienced it. Commissioner Hammer stated that she has watched the last two City Council meetings on Facebook and she could not hear. She has been following the Facebook comments and they cannot hear us. If this delayed in anyway, May 27<sup>th</sup>, may not be feasibly either. She stated that she worries about people not being able to hear, but also about the older citizens and they do not do Facebook. She stated she worries about the older people having an opportunity to comment. She would like the process to be open and transparent. Commissioner Robinson asked the Council Members in the audience about their thoughts on timing of the hearing.

Council Member Brady stated that he agrees with what has been said and it is appropriate to push it off to the 27th. It gives enough time to get the equipment in and if it is not working well, there can be a discussion to look at it again. Council Member Graf stated that we all work for the public. He agrees that both sides need to be weighted and there is a right on both sides for the property owners and the city. May 27th gives cushion to make sure the technology is working and if it doesn't work then it should be on Facebook. If it does work and have the assurance that people are heard, the Planning Commission should move forward. If it is not working then push the pause button because that is not an effective hearing.

Chairman Hamilton stated that the Annexation Policy Plan hearing should be moved to May 27th, 2020. The date for response could be opened after this meeting and it gives the citizens almost a month to get responses in. Mr. Bolser stated that the state code requirement is for a window of time for what they define in the state code as affected entities. It is not an open period for a public hearing, but for defined affected entities to provide written comment. The City is required to offer a 10 day window, he would suggest not leaving it open all the way to the hearing, simply because, a response statement must be prepared for the comment received. There will need to be an avenue of closing the comment period to provide feedback for the comment for the Commission to review prior to the public hearing. With whatever recommendation the Planning Commission chooses to make, it can be written into the Annexation Policy Plan draft as a statement.

Commissioner Sloan stated that it can be opened tomorrow and then end it at the effective date and close that and the public still has time to weigh in. Mr. Bolser stated that it does not preclude an entity or anyone else from offering a statement at the public hearing. It is an added window for affected entities alone to provide a written comment. Mr. Bolser suggested that the window be extended past 10 days and that allows adequate response. Commissioner Sloan stated that the Planning Commission should take that recommendation and move the public hearing meeting to May 27, 2020 and use the affected entity window as originally planned and extend it 14 days into the future.

Mr. Bolser stated the written statement period could be pushed to May 14, and he believed it would not affect the City in their ability to provide response information. It would provide a greater window for comment.

Chairman Hamilton stated that at the conclusion of the Planning Commission meeting it will be a 21 day window for defined affected entities to provide written comment on this proposal to the City's currently adopted Annexation Policy Plan and that will begin at the conclusion of this meeting and close at end of day on May 14, 2020. That will give the Commission ample time to decide if the technology is sufficient on May 13 to hold the public hearing and the public hearing date which is currently set for May 27, 2020.

Mr. Bolser stated that the notice will have to have gone out for the 27<sup>th</sup> prior to the May 13<sup>th</sup> meeting so a decision on if the public hearing will have to be made. Chairman Hamilton stated the staff could inform the Planning Commission if there were any changes that need to be addressed with technology.

**Chairman Hamilton stated that it will be a 21 day window for the defined affected entities, which open April 23, 2020 and close May 14, 2020 and a public hearing will be held on May 27, 2020.**

Chairman Hamilton stated that public hearings from earlier in the agenda were closed

**11. Review and Approval of Planning Commission minutes for meeting held April 8, 2020.**

Chairman Hamilton asked the Commission if there were any comments or questions.

**Commissioner McCall moved to approve minutes from the meeting held on April 8, 2020, with the correction.** Commissioner Bevan seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Thomas, "Aye," Commissioner McCall, "Aye,". Chairman Hamilton, "Aye." The motion passes.

**12. Adjourn**

Chairman Hamilton declared the meeting adjourned at 9:15p.m.

*The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.*

Approved this 13th day of May, 2020

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Tyson Hamilton, Chairman, Tooele City Planning Commission