

**MINUTES
CITY OF FALLON
55 West Williams Avenue
Fallon, Nevada
March 18, 2019**

The Honorable City Council met in a regularly scheduled Council meeting on the above date in the Council Chambers, 55 West Williams Avenue, Fallon, Nevada.

Present:

Mayor Ken Tedford
City Councilman, Robert H. Erickson
City Councilman, James D. Richardson
City Councilwoman, Kelly Frost
City Attorney, Michael F. Mackedon
Director of Emergency Management, Steve Endacott
Deputy Public Works Director, Ryan A. Swirczek
Deputy Public Works Director, Adrian Noriega
Police Chief, Kevin Gehman
Deputy City Attorney, Leonard E. Mackedon
Legal & Administrative Director, Robert Erquiaga
Deputy City Clerk, Elsie M. Lee
Director of Tourism & Special Events, Jane Moon
Public Works Director, Brian A. Byrd
Marketing & Communications Coordinator, Kaitlin Ritchie
Deputy City Attorney, Trent deBraga

The meeting was called to order by Mayor Tedford at 9:00 a.m.

Mayor Tedford led the Pledge of Allegiance.

Mayor Tedford inquired if the agenda had been posted in compliance with NRS requirements.

Deputy City Clerk Lee advised that the agenda was posted in compliance with NRS 241.

Public Comments

Mayor Tedford inquired if there were any public comments. He noted that comments are to be general in nature, not relative to any agenda items. No action may be taken on a matter raised under this item until the matter has been specifically included on an agenda as an item upon which action will be taken.

No public comments were noted.

Approval of Warrants

- A) Accounts Payable
- B) Payroll
- C) Customer Deposit

Mayor Tedford inquired if there were any comments regarding the accounts payable, payroll and customer deposit warrants.

No comments were noted.

Councilwoman Frost motioned to approve the accounts payable, payroll and customer deposit warrants and authorize the Mayor to sign the same; seconded by Councilman Richardson and approved with a 3-0 vote by the Council.

Consideration and possible adoption of Resolution No. 19-02: A resolution to annex approximately 16.66 acres of contiguous territory owned by the City of Fallon pursuant to the Purchase and Sale Agreement dated the 20th day of December 2018, entered into by the City of Fallon, as purchaser, and E&C Schank Properties, LLC, as seller, and authorize the Mayor, pursuant to the terms of the Purchase and Sell Agreement and NRS 268.670 (alternate annexation procedures), to execute any and all documents, including but not limited to maps necessary to annex the territory to the City of Fallon

City Attorney Mike Mackedon explained the matter before the Council is whether to annex property that was approved for purchase by Council action taken on November 5, 2018; and at that time the Council approved the acquisition of approximately 16.5 acres of property from E&C Schank Properties, LLC for a purchase price of \$165,000. At the time the Council took action on November 5, 2018, the exact acreage was not known. The survey later established that the actual acreage was 16.66 acres. The next step after purchase, would be to annex the property to the City of Fallon, which is what staff is recommending through this agenda item. When the purchase was completed and the agreement was signed, the City Attorney's Office worked to finalize the transaction and had the surveyor, Steve Bell, prepare a parcel map, which would have created a parcel for this particular 16.66 acres. That was completed and then the Churchill County Planning Department and other members of Churchill County called a meeting in January 2019. City Attorney Mike Mackedon and Deputy City Attorney deBraga met with the Planning Department and Deputy District Attorney Ben Shawcroft, as he is the legal advisor to the Planning Commission. At that meeting, it was determined, based on their recommendation, that we proceed not with a parcel map, but with a boundary line adjustment map. The purpose of the boundary line adjustment map is to accommodate the wishes of Churchill County and avoid the need to ask for any exceptions to the Churchill County Planning Rules which require proof of legal access and roadways and other attributes that need to be included on any parcel map; but in our case, we were going to annex this property and at that point, the City would have jurisdiction over the property. We are annexing the property because it is adjacent to our sewer treatment and water treatment facilities and the purpose of it is for future expansion of those facilities. It did not suit the City's purposes to put roadways in and things of that kind. City Attorney Mike Mackedon referred to the title insurance policy that states an exception to legal access. The legal access to this property is

irrelevant to the City because the City has its own jurisdiction to make access if it pleases, and where it wants it, for the purposes of the utility it is intended to serve. This transaction is closing, and Western Nevada Title Company is recording now; this meeting and this resolution have been timed to coincide with the closing of that transaction. When the transaction is closed and the boundary line adjustment map is recorded, then we will have a single large parcel, a portion of which is in the City, and a portion of which is in Churchill County. This is highly offensive to everybody, especially the Churchill County Assessor, who wants to know how to tax the property. We agreed to make this resolution to have this annexation coincide as nearly as possible with the closing of the transaction and it has worked perfectly. He recommended adoption of this resolution that would annex this property and give the Mayor the authority to sign the annexation map.

Mayor Tedford inquired if the Council had any comments or questions.

Councilman Richardson asked if the property would be partly owned by the City and Churchill County.

City Attorney Mike Mackedon clarified that it would be owned by the City, but part of the property would be in Churchill County and the moment they record the boundary line adjustment map, a portion of this parcel is owned by the City but is in Churchill County; then the annexation map brings the 16.66 acres into the City.

Councilman Richardson confirmed that was the total parcel.

City Attorney Mike Mackedon noted that the City is annexing the 16.66 acres that we purchased, not the total parcel. It is confusing and he would not recommend it as a standard of practice in the future, but he assured that this has been done properly.

Councilman Erickson stated that everything we are purchasing will be in the City of Fallon.

City Attorney Mike Mackedon replied affirmatively. When the transaction closes, the City of Fallon owns that 16.66 acres, and when the map is filed, it will be annexed to the City of Fallon. We are making annexation coincide with purchase and bringing the parcel into the jurisdiction of the City. He added that the City has a sewer easement across the property that E&C Schank owns on the north side, and the title report did not show an easement, but we know it physically exists, we have a force main within that easement. He could not understand why the title company did not show it and why the surveyor was not including it on the boundary line adjustment map and we learned that there was an easement granted by the owners of the property, predecessors in title back in time to E&C Schank, and the legal description for that easement is incorrect, so the title company read the legal description and they did not put it on the map. We will reform the description of that easement by agreement and correct that. He added that the authorization for the procedure we are following is NRS 268.670, which is an alternative procedure – a short cut procedure – that is available to the City when the City is 100% owner of the property to be annexed or the private party is 100% owner and petitions for annexation. We could have had E&C Shank ask for annexation, but it was decided not to involve them in the City's business and to acquire the property and then annex it since the City as the owner of the property; which is true today.

Mayor Tedford stated that, for a little history, the City was interested in this property during Mayor Erickson's term, back in the 1980s; we made an offer to purchase this property from the Kent family which did not work out, so being able to purchase this property in December 2018 was a good deal. It is located at the end of the two plants and the business park

eastward. All we are doing today is annexing that property that we purchased in December 2018.

City Attorney Mike Mackedon noted that it was entirely prudent for the Council to approve the purchase and include it in the annexation because we know there is an application pending, on the part of the Schanks, to have this property, which was presently – until we purchased it – agricultural property, to subject it to a conservation easement, the money for which would be paid by the federal government, and if that were to be true, then the City would never be able to acquire this parcel through condemnation or purchase; now was the time to purchase it, if it was going to happen at all. He wanted to add that to the record.

Mayor Tedford inquired if there were any public comments or questions.

No comments were noted.

Councilman Richardson motioned to adopt Resolution No. 19-02: A resolution to annex approximately 16.66 acres of contiguous territory owned by the City of Fallon pursuant to the Purchase and Sale Agreement dated the 20th day of December 2018, entered into by the City of Fallon, as purchaser, and E&C Schank Properties, LLC, as seller, and authorize the Mayor, pursuant to the terms of the Purchase and Sell Agreement and NRS 268.670 (alternate annexation procedures), to execute any and all documents, including but not limited to maps necessary to annex the territory to the City of Fallon; seconded by Councilwoman Frost and approved with a 3-0 vote by the Council.

Public Comments

Mayor Tedford inquired if there were any public comments.

No public comments were noted.

Council and Staff Reports

Mayor Tedford inquired if there were any Council or staff reports.

Councilwoman Frost thanked City staff for coordinating the celebration of the State Championship basketball teams, especially the crews for setting up and tearing down. The look on the faces of kids and parents was well worth it. She believed they were very appreciative of everyone's efforts in celebrating their championships.

Councilman Richardson echoed Councilwoman Frost's comments and thanked everyone for their efforts.

Councilman Erickson stated that it is a wonderful thing when the City recognizes the achievements of our young citizens and he complimented the Mayor and City staff for their vision and their efforts.

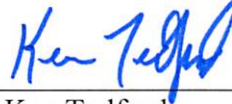
Mayor Tedford thanked the Council for their comments. It was a good effort on behalf of staff, and he thanked everyone for their help. They did a nice job and it really turned out well. He was pleased to sit on the dais with two parents of the State champions (Councilman Richardson and Councilwoman Frost) and he added that Deputy City Clerk Lee is a parent of a player too. We are fortunate that we can celebrate our youth, parents, and fans. He thanked everyone for their help in making the celebration a success.

Executive Session

Mayor Tedford tabled the executive session, as it was not needed at this time.

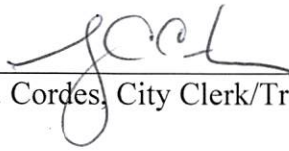
Adjournment

There being no further business to come before the Council, Mayor Tedford adjourned the meeting at 9:27 a.m.



Mayor Ken Tedford

Attest:



Gary C. Cordes, City Clerk/Treasurer