

**MINUTES**  
**HIGHLAND CITY COUNCIL MEETING**

**Tuesday, February 5, 2008**

Highland City Council Chambers, 5378 West 10400 North, Highland, Utah 84003

**PRESENT:** Mayor Jay W. Franson, conducting  
Councilmember Brian Braithwaite  
Councilmember Brian Brunson  
Councilmember Larry Mendenhall  
Councilmember Kathryn Schramm  
Councilmember Claudia Stillman

**STAFF PRESENT:** Barry Edwards, City Administrator  
David Church, City Attorney  
Gina Peterson, City Recorder  
Lonnie Crowell, Community Development Director  
Matt Shipp, City Engineer  
Lynn W. Ruff, Finance Director  
Jody Bates, Administrative Assistant  
Kip Botkin, Police Chief

**OTHERS:** Christie Dalley, Lone Peak Press; Don Buhler, Dalan Buhler, Brendan Hernandez, Easton Ollerton, Dylan Hansen, Vern Hancock, Tim Stephens, Ross Mitchell, Ross Welch, Tony Peckson, Bryon Tarbet, Matthew Tarbet, and Jeanette Harris.

The meeting was called to order by Mayor Jay W. Franson as a regular session at 7:00 p.m., and notice of the time, place, and agenda had been provided the *Deseret Morning News*, *Daily Herald*, and *Lone Peak Press* on January 31, 2008. The prayer was offered by City Councilmember Kathryn Schramm, and those assembled were led in the Pledge of Allegiance by Mayor Jay Franson.

Approval of Minutes – December 18, 2007 (Agenda Item 4)

**MOTION: Brian Brunson moved to approve the minutes of the December 18, 2007 City Council meeting with minor amendments. Claudia Stillman seconded the motion. Those voting aye: Brian Brunson, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote of 3:0. Brian Braithwaite and Larry Mendenhall abstained from voting.**

Kathryn Schramm asked when the minutes from September 18, 2007, October 2, 2007 and October 10, 2007 would be approved. The Mayor indicated he has asked for review of the tapes and with the transition from the former City Recorder and the new City Recorder it has taken some time for that to occur.

Appearances (Agenda Item 5)

Mayor Franson invited comments from the public for items not on the agenda. No one desired to speak.

## Consent Calendar (Agenda Item 6)

The following items were **removed** from the consent calendar to be discussed with scheduled items:

- Approval of a 3% Cost of Living Increase for Planning Commission Wages
- Purchase of Provo Full Water Share

The following item from the consent calendar was **approved** by unanimous consent. Those voting aye: Brian Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman.

- Highland Square Subdivision – Request for Six Month Extension on Final Plat Approval. Subject to the same conditions from the previous approval. (copied for ease as follows):
  1. PUE. That a 10 foot public utility easement for each lot be included on the plat per ordinance;
  2. PARKWAY DETAIL. That the applicant install and improve the parkway detail along SR-74 consisting of 29 feet of landscaping (with berms) from the curb and includes trees, grass, plantings and a meandering sidewalk per Highland City specification;
  3. SR-74 IMPROVEMENTS. That the applicant be required to install (or bond for installation) any improvements along SR-74 in front of the property to be developed which are not existing (including medians);
  4. STREET IMPROVEMENTS. That the applicant complete a minimum of 50 feet (1/2 of 76' ROW plus 12' feet) of improvements along Parkway East as required by any development with a required right-of-way;
  5. MEDIANS. That the applicant bond for half of the medians along Parkway East in front of the property to be developed;
  6. CC&R's. Submission of CC&R's that regulate the uses, architecture, site planning, lighting, hours of operation, hours of deliveries and process of deliveries, signage, landscaping and landscaping maintenance which are consistent with the requests and requirements of the Planning Commission and City Council;
  7. NO NORTHERLY NUISANCE STRIP. That the applicant deed any remaining property to the north outside of the right-of-way for Parkway East to the property owner to the north; or deed the described property to Highland City to be given to the property owner to the north to eliminate any potential "protection or nuisance strip" per the Highland City Development Code which specifically will not permit this type of remnant parcel;
  8. NO WESTERLY NUISANCE STRIP. That the applicant deed any remaining property to the west outside of the subdivision but included with the parcel to the property owner to the west; or deed the described property to Highland City to be given to the property owner to the west to eliminate any potential "protection or nuisance strip" per the Highland City Development Code which specifically will not permit this type of remnant parcel;
  9. RECORDATION. That the subdivision must be recorded prior to site construction or issuance of building permits;
  10. DEMOLITION PERMIT. That the applicant obtain a demolition permit for existing structures on the property prior to their removal. Those structures which require a demolition permit shall be determined by the City Building Inspector; and
  11. INGRESS/EGRESS. That the applicant obtain approvals for all ingress/egress from UDOT for access from SR-92 or SR-74;
  12. SEWER CONNECTION. That the location for sewer connection has not yet been determined and shall be required prior to issuing a building permit; and

13. DUST/MUD PREVENTION. That the applicant strictly adhere to the Dust and Mud Prevention Plan during grading and construction of this subdivision.

## **PUBLIC HEARING**

### 2008 Fiscal Year Budget Amendments (Agenda Item 7.1)

Finance Director Lynn Ruff gave an introduction to the budget amendments. The City typically makes budget adjustments twice, midway through the fiscal year and at the end of the fiscal year. This is the public hearing for the mid-year adjustment for the FY2008 Budget. Mr. Ruff stated minor adjustments are being made to the revenue and expenditure accounts of the general fund. He highlighted some of the changes including retirement benefits for the former City Recorder and former City Building Inspector. He noted the Library Donation Revenue Account has been increased in anticipation of additional donations being received. A Debt Service Fund Account has been created to show payments on the bond for the new City building as well as park projects. Mr. Ruff also indicated the Capital Projects Park Fund was decreased since growth has slowed that the collected park impact fee will likely be lower than initially planned.

Mayor Franson opened the public hearing at 7:13 p.m. No one from the audience desired to speak and the Mayor asked for City Council comments.

Brian Brunson asked why there was a budgeted surplus in the amount of \$65,200 shown in revenues. Mr. Ruff indicated the surplus is being pulled from the General Fund surplus to offset what is paid in retirement benefits for the former City Recorder and Building Inspector.

Kathryn Schramm asked if the increase to the amount in Fund 106027 Utilities – Street Lights was enough to install additional streetlights. Barry Edwards noted that fund only covers utility costs to operate the streetlights. Mr. Ruff noted there is additional Class B&C road funds that could be used for streetlight installation if desired.

Kathryn Schramm then asked when the loans for the cemetery and pressurized irrigation would be paid off. Mr. Ruff answered the cemetery loan has an annual payment of \$80,000 with a payoff date of January 2012. The pressurized irrigation bond is due 2018, however it is callable this year therefore the City is putting together a plan to pay half the bond in June 2008 and refinance the balance. It was noted the annual payments for these bonds are budgeted each year in the General Fund.

Brian Braithwaite asked for clarification on what would cause certain funds to increase or decrease so dramatically. He gave the example of Fund 104334 – Building Maintenance which went from \$6,800 to \$20,800 after the proposed adjustment. Mr. Ruff indicated that after the initial budget was approved in June 2007 the scope of the maintenance contract changed to add the administrative trailer and public works building in addition to the main City Offices. The current service provider was unable to keep the contract and a new contract had to be bid which increased the cost due to the maintenance of three buildings rather than one. Mr. Ruff stated situations like that are the exception and Mr. Edwards stated there are some budget items that cannot be anticipated.

Brian Braithwaite requested information about the decrease in expenditures from the Trails Fund Account – 404076. Barry Edwards clarified that the City was awarded a grant from the State of Utah to

install a trail at the mouth of American Fork Canyon along SR-92 so the grant money was reflected in the budget even though it hadn't yet been received. UDOT then determined to widen SR-92 and will include a feature to accommodate the trail so the grant money will not be used. The City will also be reimbursed for the small amount that has already been expended on the project.

When Brian Braithwaite asked why the revenues for Park Impact Fees had such a large decrease, Mr. Ruff reiterated that the housing market nearly halted and these impact fees were adjusted down based on revenues that have been received the first 6 months of the fiscal year.

Claudia Stillman noted the overall budget is quite detailed and that the recommended adjustments are small compared to the budget as a whole.

Brian Brunson stated it was his understanding that the Library only had approximately \$27,000 in donations. He asked why the donation revenue was planned for \$150,000 and Mayor Franson stated information regarding significant donations would be forthcoming but is private at this point.

Kathryn Schramm asked about the changes in Funds 104310 and 104311 with regard to salaries. She asked if the City Administrator salary is being increased. Barry Edwards answered not at this time and explained that these two funds will be combined so the adjustments reflect that. He noted that for ease of understanding the budget document all departments have one account to cover salaries; however for some reason the Administration account still had the salary fund split.

Mayor Franson asked for any final comments from the public. Hearing none the public hearing was closed at 7:38 p.m. The Mayor encouraged the City Council to visit with staff about the budget amendments prior to the anticipated adoption on February 19, 2008.

## **ACTION ITEMS**

Ordinance 2008-03: An Ordinance Establishing a 3% Cost of Living Increase for Planning Commission Wages (Agenda Item 6.1)

**MOTION: Claudia Stillman moved to approve a cost of living increase for the Planning Commission at 3% a year over the last 4 years for a total of \$56 per meeting, effective the next payroll (Ordinance 2008-03). Brian Braithwaite seconded the motion.**

Claudia Stillman noted the City Council discussed this issue at the January 22, 2008 meeting and requested it be brought back for action. She stated it will be beneficial for the Planning Commission members to have this increase.

Brian Brunson clarified that the Planning Commission was paid \$50 per meeting and not \$50 per month. He expressed his feeling that a "per meeting" salary has the appearance that more money can be made if more meetings are scheduled. He believes it is more appropriate to have a flat monthly rate.

Barry Edwards stated there were times when getting a Planning Commission quorum was difficult. Since the payment per meeting was adopted they have not cancelled meetings for lack of a quorum. Staff is generally not anxious to schedule more meetings and it has not been a problem.

**SUBSTITUTE MOTION: Brian Brunson moved to approve a new Planning Commission salary of \$200 per month. The motion died for lack of a second.**

Larry Mendenhall noted that he served on the Planning Commission for a few years. He recognized the amount of time required and believes that the payment is compensation for performance. Whether it is two meetings per month or extra work sessions, he feels it is only fair that attendance and time be compensated.

Brian Braithwaite echoed Mr. Mendenhall's comments. He stated the situation is different from a City Council position because Planning Commissioners have been asked to serve and volunteered. The compensation is an encouragement for attendance.

**Mayor Franson called for a vote on the motion: Those voting aye: Brian Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.**

Purchase of Provo Full Water Share (Agenda Item 6.3)

The City has been contacted by Luella Day to purchase one share of Provo Reservoir Full water. Staff recommends the City purchase the water share for an amount not to exceed \$30,000.

**MOTION: Brian Braithwaite moved to have staff provide an update on the value of water shares and having additional shares purchased in light of the State Engineer's position on municipalities not using all of their water shares. The motion died for lack of a second.**

**MOTION: Brian Brunson moved to approve the purchase of one share of Provo Reservoir Full water from Luella Day in an amount not to exceed \$30,000. Kathryn Schramm seconded the motion.**

Kathryn Schramm stated based on the information she has received on water shares, the requested amount is a good price for this water.

Brian Braithwaite asked for an explanation of why this water is needed. Mayor Franson stated the City has a long standing policy which maintains that water on the bench should stay on the bench. Therefore, when this type of water becomes available the City purchases it to keep it there. He noted an engineering firm is currently doing a study on the City's water shares and may make other recommendations. Currently the City has sufficient culinary water for residential build-out; however the City does not own enough water for build-out of landscaping and outdoor use.

Barry Edwards added that when the pressurized irrigation system was implemented, many residents did not have water to contribute. Money is collected on a monthly basis from these residents and is used to purchase water shares when they become available.

**Mayor Franson called for a vote on the motion: Those voting aye: Brian Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.**

Consideration and Approval of (1) the vacation of Lot 8 from the Highland Town Center Business Park, Plat C; and (2) the Plat Amendment for the Highland Town Center Business Park Plat D (previously Plat A); and (3) the Plat Amendment for the Highland Town Center Business Park Plat E, Lot 6 Amended (previously Plat C) (Agenda Item 8.1)

Highland City is applying for an amendment, essentially constituting a lot line adjustment, of Plat C of the Highland Town Center Business Park Subdivision to provide for legal lots for City Hall and the Justice Center currently under construction. During the past year staff has had difficulty obtaining approval to record lot line adjustments from Utah County. Most of the difficulty has come from the County's interpretation of new legislation regarding "boundary adjustments" (which was previously referred to as a lot line adjustment). The County has informed staff that unless a Plat Amendment process takes place, the County does not recognize the "boundary adjustment" except for taxing purposes. This means that easements and property lines are not actually amended on the recorded subdivision plat unless a Plat Amendment takes place. Staff would like the city to approve this application to record lots where the City Hall and Justice Center is located as required with any other applicant within Highland City.

**MOTION: Brian Brunson moved to (1) vacate Lot 8 from the Highland Town Center Business Park, Plat C; and (2) approve the Plat Amendment for the Highland Town Center Business Park Plat D (previously Plat A); and (3) approve the Plat Amendment for the Highland Town Center Business Park Plat E, Lot 6 Amended (previously Plat C). Larry Mendenhall seconded the motion. Those voting aye: Brian Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.**

Plat Amendment – Highland Hills Plat D (Plat C Amended) (Agenda Item 8.2)

Alpine Homes is applying for a plat amendment of Plat C of the Highland Hills Subdivision. This action would typically require a lot line adjustment however with the recent events with Utah County staff is processing lot line adjustments as plat amendments for the purpose of actually having the lot lines recorded in their newly configured locations.

The purpose of the plat amendment (lot line adjustment) is to provide a more appropriate area for the open space trail area (Lot 132) previously located to the south of the open space park area (Lot 131). The original trail location presented topographical constraints that would not suit the grade needed for trails in Highland City. The lot line adjustment provides lots with equal configuration and square footage while maintaining the requirements of the open space ordinance.

**MOTION: Kathryn Schramm moved to approve the Highland Hills Plat D (Plat C Amended) to provide better trail alignment in Highland Hills. Claudia Stillman seconded the motion.**

When asked if any of the square footage on the lots changed, the applicant from Alpine Homes responded that Lot 92 had a very minimal change in square footage due to the configuration of the cul-de-sac radius.

Brian Brunson clarified that the 100 foot lot frontage requirement does not apply in this subdivision and Mr. Edwards replied it does not.

**Mayor Franson called for a vote on the motion. Those voting aye: Brian Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.**

Final Plat Approval – Katelyn’s Cove Subdivision (Agenda Item 8.3)

Katelyn’s Cove is a seven lot subdivision located at approximately 5830 West 11750 North. The subdivision is being developed by BP Developers. The 6 acre property is zoned R-1-40 and the proposed density for the subdivision is 1.154 units per acre. The lots range in size from 20,000 to 47,681 square feet, and meet the minimum frontage requirements of 130 feet.

On October 9, 2007, the Planning Commission granted preliminary approval of the subdivision subject to a condition of adding more square footage to Lot 1. The Commission felt that Lot 1 being next to a minor collector (Westfield Road) should be larger to allow for the home to be built further from the road if desired.

**MOTION: Brian Braithwaite moved to grant final plat approval for the Katelyn’s Cove subdivision subject to the following conditions:**

1. SEWER DEED RESTRICTION. That a deed restriction be placed on Lots 5, 6, and 7 and a note be added to the final plat stating: *“notice is hereby given that the purchaser/owner of Lots 5, 6, and 7 shall be required to use a TEMPORARY sewer septic system approved by the City Engineer and shall be required to connect to the main sewer trunk line within one year of City Engineer’s approval that the trunk line is operational, even in such case that a grinder pump is used”*;
2. IMPROVEMENTS / INFRASTRUCTURE STUB. The developer shall be responsible to install all of the improvements with this development to the south property line so these improvements may be connected if and when development to the south occurs;
3. FARMING/ANIMAL DISCLOSURE. That the final plat include a note stating *“Property owners adjacent to this subdivision have existing large animal rights which may include horses, cows and goats, or other approved animals. These rights are protected by both the Municipal and Development Codes of Highland City. There are noises, smells and other events associated with these animals that can occur all hours throughout the day and night, and prospective buyers of property in this subdivision should be aware of this prior to purchasing property”*;
4. DUST/MUD PREVENTION. That the applicant strictly adhere to the Dust and Mud Prevention Plan; and
5. EASEMENTS ON PLAT. That any easements shown on the title report should be clearly identified on the Final Plat; and
6. DEMOLITION PERMIT. That the applicant obtain from the City a demolition permit for any buildings to be removed;

**Claudia Stillman seconded the motion.**

Kathryn Schramm stated a septic system can be used until it fails even if there is a municipal sewer system nearby. She felt the condition regarding sewer connection might be confusing for future generations. Mayor Franson stated the proposed condition is more restrictive than what Ms. Schramm had stated.

Claudia Stillman asked if the conditions were suitable for staff which led to a brief discussion on the proposed condition for animal disclosure.

**MOTION TO AMEND: Brian Brunson moved to amend condition #3 of the motion striking the word “approved” before animals. Kathryn Schramm seconded the motion.**

**SUBSTITUTE AMENDMENT (#1): Larry Mendenhall moved to amend condition #3 to read as follows:**

- 3. That the applicant include a note on the Final Plat stating “*Property owners adjacent to the Katelyn’s Cove subdivision may have animal rights as allowed by the governing entity having jurisdiction over the property adjacent to Katelyn’s Cove subdivision.*”**

**Claudia Stillman seconded the motion.**

Brian Braithwaite said the intent of the disclosure is to quickly allow people that purchase lots in this subdivision to understand in plain English that a different type of animal than they may normally be used to may be next to their property. He feels it is more effective to list some larger animals by name in the disclosure to help communicate the type of animals.

**Mayor Franson called for a vote on the SUBSTITUTE AMENDMENT (#1). Those voting aye: Larry Mendenhall. Those voting nay: Brian Braithwaite, Brian Brunson, Kathryn Schramm, and Claudia Stillman. The motion failed with a 1:4 vote.**

Lonnie Crowell suggested some alternate language to expand on the disclosure regarding animals.

**SUBSTITUTE AMENDMENT (#2): Brian Brunson made a substitute amendment at the recommendation of staff that condition #3 read as follows:**

- 3. That the applicant includes a note on the Final Plat stating “*Property owners adjacent to this subdivision have existing farming rights and large animal rights which may include horses, cows and goats, or other animals. These rights are protected by both the Municipal and Development Codes of Highland City. There are noises, smells and other events associated with these farming activities and animals that can occur all hours throughout the day and night, and prospective buyers of property in this subdivision should be aware of this prior to purchasing property*”**

**Kathryn Schramm seconded the motion. Those voting aye: Brian Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The substitute amendment passed with a unanimous vote.**

Brian Brunson noted that it appeared this plat created double frontage for the Waterford Estates lots. Barry Edwards indicated that Waterford Estates is located in Utah County and the City only has jurisdiction over Katelyn’s Cove. He also noted that the street Waterford Lane, from which the Katelyn’s Cove lots will front, was already approved and in place.

**AMENDED FINAL MOTION: Granting final plat approval for the Katelyn’s Cove subdivision subject to the following conditions:**

- 1. SEWER DEED RESTRICTION. That a deed restriction be placed on Lots 5, 6, and 7 and a note be added to the final plat stating: “*notice is hereby given that the purchaser/owner of Lots 5, 6, and 7 shall be required to use a TEMPORARY sewer septic system approved by the*”**

*City Engineer and shall be required to connect to the main sewer trunk line within one year of City Engineer's approval that the trunk line is operational, even in such case that a grinder pump is used";*

2. **IMPROVEMENTS / INFRASTRUCTURE STUB.** The developer shall be responsible to install all of the improvements with this development to the south property line so these improvements may be connected if and when development to the south occurs;
3. **FARMING/ANIMAL DISCLOSURE.** That the final plat include a note stating *"Property owners adjacent to this subdivision have existing farming rights and large animal rights which may include horses, cows and goats, or other animals. These rights are protected by both the Municipal and Development Codes of Highland City. There are noises, smells and other events associated with these farming activities and animals that can occur all hours throughout the day and night, and prospective buyers of property in this subdivision should be aware of this prior to purchasing property";*
4. **DUST/MUD PREVENTION.** That the applicant strictly adhere to the Dust and Mud Prevention Plan; and
5. **EASEMENTS ON PLAT.** That any easements shown on the title report should be clearly identified on the Final Plat; and
6. **DEMOLITION PERMIT.** That the applicant obtain from the City a demolition permit for any buildings to be removed;

**Those voting aye: Brian Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.**

Final Plat Approval - Sunset Mountain – Plat C (Agenda Item 8.4)

Plat C of Sunset Mountain is a one lot subdivision located at 11150 North Highland Boulevard. The subdivision will be developed by Patterson Construction and is approximately one-half acre located in the PO Zone. The proposed density is 1.835 units per acre. On July 10, 2007, the Planning Commission granted preliminary approval.

**MOTION: Brian Braithwaite moved to grant final plat approval for Sunset Mountain – Plat C subject to the following conditions:**

1. **TRAIL EASEMENT.** That the applicant continue the trail easement from the earlier phase onto Plat C;
2. **OPEN SPACE DOCUMENTATION.** That the applicant provide documentation verifying that Plat C is consistent with the Sunset Mountain Properties Site Plan allowing the 35% open space required for the entire Subdivision;
3. **LANDSCAPING.** That the applicant provide a minimum of 35% of landscaping as required for the PO Zone per ordinance;
4. **BLVD IMPROVEMENTS.** That the applicant complete all required improvements along Highland Boulevard;
5. **DEVELOPMENT AGREEMENT COMPLIANCE.** That notes from the Development Agreement are in place for the entire subdivision and any conditions noted in that agreement should be included on the plat;
6. **DUST/MUD PREVENTION.** That the applicant strictly adhere to the Dust and Mud Prevention Plan;
7. **EASEMENTS ON PLAT.** That any easements shown on the title report should be clearly identified on the Final Plat; and

8. DEMOLITION PERMIT. That the applicant obtain from the City a demolition permit for any buildings to be removed.

**Larry Mendenhall seconded the motion.**

Brian Braithwaite asked if the applicant has provided sufficient documentation to verify the open space. Lonnie Crowell stated the City has not received a letter from the applicant. He noted the open space conditions are better suited for the site plan; however the City will require some type of open space verification before the plat can record.

**Mayor Franson called for a vote on the motion. Those voting aye: Brian Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.**

Ordinance 2008-04: Annexing an Area of 24.6 acres commonly known as the Buhler Annexation and Amending the Articles of Incorporation of Highland City (Agenda Item 8.5)

**MOTION: Larry Mendenhall moved to adopt Ordinance 2008-04: Annexing an Area of 24.6 acres commonly known as the Buhler Annexation and Amending the Articles of Incorporation of Highland City. Claudia Stillman seconded the motion.**

A petition for annexation was filed with the City Recorder on December 7, 2005 by Fred Buhler. In January 2006 the County Surveyors Office submitted concerns with the annexation area as submitted. An amended petition was filed which was cleared by the County Surveyors Office on April 25, 2006.

On March 23, 2006 the City Council adopted Resolution 2006-04 which certified the petition and allowed the noticing and protest period to begin. The protest period ended May 8, 2006 and no protests to the annexation were received. A public hearing was held on June 6, 2006 and no public comments were received. At the public hearing staff recommended the annexation not be adopted until the property was cleared of all trash and hazardous material, and that any existing zoning violations come into compliance.

Barry Edwards stated staff believes these conditions have been met and the annexation can now take place.

State Code allows property to be zoned at the time of annexation and staff is recommending a zoning of R-1-40. This is only a zoning designation and any subdivision approvals would be required to come through the subdivision process. Mr. Edwards noted that additional conditions can be placed on the subdivision during that time. He indicated that some people have expressed concern with contamination of soil on the property, however in talking with the City Attorney, the City does not assume liability for contamination and any soils clean-up would be the burden of the property owner.

Larry Mendenhall stated it is his understanding that since the City does not have a beneficial interest in the property the annexation can take place. He reiterated that approvals for the annexation and subdivision are two separate approvals.

City Attorney David Church briefly explained the City's lack of liability with regard to contamination.

Brian Brunson requested specifics of the City Council action regarding the property clean-up.

The City Council recessed briefly at 8:35 p.m. so a copy of the June 6, 2006 public hearing minutes could be pulled. Minutes from June 6, 2006 state “...*staff wants to go on record that the property must be cleaned of all trash, hazardous materials, and any existing zoning violations must be in compliance before it can be annexed.*” Other than comments repeating this requirement from the June 20, 2006 meeting, no other City Council action has occurred on the annexation since that time.

Kathryn Schramm expressed concern that the clean-up of potentially hazardous material had not adequately taken place. Mr. Edwards commented that legal counsel has indicated the City may move forward. He stated that knowing the nature of that soil it is unlikely anything will be found there.

When asked the benefits of annexing or leaving the parcel in Utah County, David Church answered that upon annexation the City gains the authority to be involved in what happens on the property. While that is a benefit, it may also be a drawback because then residents will expect the City to maintain City ordinances. David Church stated the annexation itself does not create any liability for the City. It may create moral responsibility and an expectation that the City should take a side, but there is no legal liability to annexing. The bottom line issue is whether or not the City Council wants jurisdiction over the property.

Brian Brunson noted that the property could be annexed and never come forward for subdivision approval if it is not developed. He has a concern for third party buyers and wondered if it would be appropriate to require a disclosure indicating the property was a former junkyard. David Church said he doesn't feel the annexation plat is the medium for that disclosure because no one would see it. With regard to a separate notice being recorded, Mr. Church did not feel it would do much good. He stated from the legal side, if the City wants to be involved in the property, it should be annexed. Otherwise, it can be left in the County.

**MOTION TO AMEND (#1): Brian Brunson moved to amend the motion to include a requirement of the applicant to record a separate notice with the annexation plat which gives disclosure of the former use of the property as a junkyard. Kathryn Schramm seconded the motion.**

Brian Brunson repeated his concern for the third party buyer that may be unaware of the former use of the property. He stated the City might not have a legal obligation, but he feels they have a political obligation to educate a potential buyer.

Kathryn Schramm concurred stating, even though it may not be supported by law it should be done from a moral and ethical standpoint.

Claudia Stillman asked if the Buhler property housed a commercial junkyard and the answer was no. She acknowledged the magnitude of items previously stored on the property but implied she was unsure if the disclosure would be beneficial. She mentioned there was previously a turkey farm where her home was built and asked if that should have been disclosed prior to her purchase.

David Church said the City should be very careful when requiring disclosures to be recorded that they are truthful and factual, otherwise an adverse situation could occur which would be the equivalent of

harming property values. He mentioned it would be one thing to reference a junkyard, and another to provide a warning to buyers of potential environmental hazards.

Mr. Edwards expressed concern with the junkyard disclosure because the property was never licensed as a junkyard. The applicant noted approximately 300 cars were removed from the property. Mr. Edwards requested any disclosure to be completely factual such as “this property stored up to 300 cars”.

**MOTION TO AMEND THE AMENDMENT (#2): Brian Braithwaite moved to amend the amendment to require the applicant to record a separate notice with the annexation plat which gives disclosure of the former use of the property as storing up to 300 cars. Brian Brunson seconded the motion**

Kathryn Schramm expressed concern with including a specific a number of cars and requested the specific number be left out.

**SUBSTITUTE AMENDMENT: Brian Brunson moved to approve the annexation and to require the applicant to record a separate notice with the annexation plat which gives disclosure of the former use of the property with language to be approved by staff. Kathryn Schramm seconded the motion. Those voting aye: Brian Brunson and Kathryn Schramm. Those voting nay: Brian Braithwaite, Larry Mendenhall, and Claudia Stillman. The motion failed for lack of a majority vote; 2:3.**

**Mayor Franson called for a vote on the AMENDED AMENDMENT (#2) to include a disclosure that the former use of the property stored up to 300 cars. Those voting aye: Brian Braithwaite. Those voting nay: Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion failed for lack of a majority vote; 1:4.**

**Mayor Franson then called for a vote on the initial AMENDMENT (#1) including the disclosure that the property was used as a junkyard. Those voting aye: Brian Brunson. Those voting nay: Brian Braithwaite, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion failed for lack of a majority vote; 1:4.**

**Mayor Franson then called for a vote on the MAIN MOTION: to adopt Ordinance 2008-04: Annexing an Area of 24.6 acres commonly known as the Buhler Annexation and Amending the Articles of Incorporation of Highland City. Those voting aye: Brian Braithwaite, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. Those voting nay: Brian Brunson. The motion passed with a majority vote of 4:1.**

## **FUTURE BUSINESS**

### Presentation of a Fee Study on Planning & Zoning Fees (Agenda Item 9.1)

The City has retained the services of Lewis Young Robertson & Burningham to review various fees charged by the City. Jeanette Harris was present from the firm to discuss the fee study done on Planning & Zoning fees. These types of fees include, but are not limited to, the following:

- Subdivision DRC Plan

- Open Space Review Fee
- Fence Permits
- Appeal Authority Applications
- Annexations

Ms. Harris explained the steps of the process used to determine services provided as well as direct and indirect costs of these services. Overall the City's current fees have been found to be extremely low. Ms. Harris reviewed the recommended maximum fees the City could charge to recover true costs to provide the services.

Barry Edwards stated staff would like to present an amendment to the consolidated fee schedule to reflect the changes in fees. He asked the City Council to contact him with questions. Mr. Edwards noted the study was extremely comprehensive and would be difficult for someone to challenge as not being accurate. He then expressed appreciation to Mr. Ruff for managing the project.

Brian Brunson asked if a public hearing was required to amend these types of fees. David Church replied no, but stated it is a good idea to inform the developers of any fee increases so they are not surprised.

#### City Council Assignments (Agenda Item 10.1)

Mayor Franson touched on City Council assignments to board and commissions for 2008. He stated it was his priority to provide continuity to the position; therefore many assignments remained the same as previous years. He will continue to work on additional assignments to standing committees and ad-hoc committees.

Brian Braithwaite stated he would like to see a list of all committee assignments, including those where employees are serving.

Brian Brunson asked about the City Council designation of a Planning Commission liaison. Mayor Franson stated the ordinance will likely be amended to remove the Planning Commission liaison since there is enough staff to cover the meetings.

#### Other Business

Mayor Franson noted the February newsletter included a call for interested residents to serve on the Transportation Advisory Commission. The newsletter seems to be working as interest has been received from residents in nearly all voting precincts of Highland City.

Mayor Franson then noted there will be a series of meetings being sponsored through Mountainland Association of Governments (MAG) regarding the North Utah County East-West Transportation study. These meetings will be used for fact finding to determine what types of transportation residents would like to use. Alternative alignments will be provided based on the input that is received.

### **ADJOURN TO A CLOSED EXECUTIVE SESSION**

**MOTION: Claudia Stillman moved to adjourn to a closed executive session for the purpose of discussing the purchase, exchange, or lease of real property, pursuant to Section 52-4-205(1) of the Utah Code, Annotated. Kathryn Schramm seconded the motion. Those voting aye: Brian Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.**

The meeting adjourned at 9:34 p.m.

#### **EXECUTIVE SESSION – Purchase, Exchange, or Lease of Real Property**

An executive session was held at 9:35 p.m. for the purpose of discussing the purchase, exchange, or lease of real property, pursuant to Section 52-4-205(1) of the Utah Code, Annotated. Those in attendance were: Mayor Jay Franson, Councilmembers Brian W. Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman; staff members Barry Edwards, David Church, Gina Peterson, Lonnie Crowell, Matt Shipp, Lynn W. Ruff, and Jody Bates.

The closed executive session adjourned at 10:10 p.m.

#### **ADJOURNMENT**

Kathryn Schramm moved to adjourn the regular session of the Highland City Council at 10:10 p.m. Claudia Stillman seconded the motion and it passed with a unanimous vote.

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Gina Peterson, City Recorder

Date Approved: February 19, 2008