

MINUTES
HIGHLAND CITY COUNCIL MEETING
Tuesday, August 19, 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
Matt Shipp, Public Works Director
Lonnie Crowell, Community Development Director
Gina Peterson, City Recorder
Kip Botkin, Chief of Police
Lynn Ruff, Finance Director
Jody Bates, Executive Secretary

OTHERS: Tony Peckson, Glen Vawdrey, Ginger Harris, Brett Mortensen, Roger Dixon, Alice Andersen, Roy J. Andersen, Matt Mecham, Joel Wride, Grant Thayne, Craig Parry, Lygia Johnson, Minon Francis, Jack Blodgett, Russell Skousen, Jill Darrington, Jay Darrington, Mike DeCarlo, Marianne DeCarlo, Wendy Asay, David Park, Gabriel Waters, Matthew Sadler, Brett C. Johnson, Dean D. Carrell, Deanne Dixon, LaRee Stephens, Jessie Boren, Matt Miller, Peggy Karns, Deb Hillner, Kristie Welch, Nancy Sperry, Brent Anderson, Tom Urgan, Jill Hodgson, Dorian J. Carrell, Barbara Barry, Joe Barry, B-J Scherer, Matthew Barlow, Gary Wright, Rebekeh Kaylor, Jack Carruth, Jason Hawkins, Liz Macfarlane, Jeff Bitton, Manuel Bueno, Brett Burns, Scott Proctor, Janelle Waters, and Rick Mitchell.

WORK SESSION – OPEN SPACE IMPROVEMENT PLAN

The work session of the Highland City Council was called to order by Mayor Jay W. Franson at 6:08 p.m., and notice of the time, place, and work session agenda had been provided the *Deseret Morning News*, *Daily Herald*, *Salt Lake Tribune*, and *Lone Peak Press* on August 14, 2008.

An Open Space Study Plan was distributed to each City Councilmember which gave an overview of open space areas in 18 subdivisions that could use improvements. These 18 subdivisions, approved at various times, were awarded bonus densities for providing additional open space. The dilemma facing staff is there are more open space areas that can be improved than available funding for the improvements. The purpose of the work session was to get City Council comments on the Open Space Plan, prioritization of the improvements and how they will be funded.

Barry Edwards stated the total cost to fund all improvements listed in the open space plan would be \$4.5 million. He suggested the following options for accomplishing the improvements:

1. It could be done gradually over a period of time as funding is available.
2. The City could issue debt and increase the Open Space Maintenance/User Fee. The capital portion of the Open Space User Fee could be used to guarantee the debt.

Brian Braithwaite clarified the misconception that these property owners gave their property to the City. He noted the open space was dedicated to the City when the subdivisions were recorded, before anyone actually owned any lots. He stated he believes the intent of the work session is to resolve some of the mistakes that were made in the past when the City went through growing pains. It is a separate discussion from raising the fees and should be a discussion about improving property that was intended to make Highland better through open space.

Brian Brunson gave history of a process regarding open space that was met with a lot of concern in April 2005. There have been some subdivisions that wanted to help design their open space in conjunction with the process. He feels the City Council should prioritize and discuss the open space plan, and afterward get feedback and ideas from the residents that live in those areas. He suggested a committee be formed that would interact with the Planning Commission and City Council.

The open space plan is set forth as "Exhibit A" to these minutes

The City Council then reviewed the following subdivisions in the Open Space Plan comparing existing open space areas and natural vegetation to a proposed plan for improvements:

1. Apple Blossom – Recorded June 6, 2000.
2. Dry Creek Bench – Recorded June 6, 2000
3. Windsor Meadows – Recorded July 18, 2000
4. Wimbledon – Recorded July 18, 2000
5. Canterbury North – Recorded September 15, 2000 (*It was noted the figures provided for this subdivision on turf and fencing may not be accurate and will need to be checked.*)
6. Canterbury Circle – Recorded September 15, 2000

The one hour allotted for the work session was finished and the City Council decided to reconvene the work session at 6:00 p.m. prior to the next City Council meeting on September 2, 2008

Mayor Franson called a recess of the Work Session at 7:01 p.m.

REGULAR SESSION

The regular session of the Highland City Council was called to order by Mayor Jay W. Franson at 7:02 p.m., and notice of the time, place, and agenda had been provided the *Deseret Morning News*, *Daily Herald*, *Salt Lake Tribune*, and *Lone Peak Press* on August 14, 2008.

The prayer was offered by Kathryn Schramm, and those assembled were led in the Pledge of Allegiance by Mayor Franson.

Approval of Council Minutes for May 6, 2008
Approval of Council Minutes for June 3, 2008
Approval of Council Minutes for July 15, 2008
Approval of Council Minutes for August 5, 2008

Mayor Franson postponed discussion on the minutes until later in the meeting.

Appearances

Mayor Franson invited comments from the public regarding items not on the agenda.

Julie Hendricks asked questions regarding the recent real estate purchase agreement the City entered into with S & M Farms which purchases property adjacent to Mountain Ridge Junior High School. She indicated the property was originally zoned with a parkland overlay for bonus density and the developer was required to dedicate a portion of the property to the City for a park. She expressed concern that the City is paying way over market value for the remainder of the property to be used as a park. She asked for clarification on details of the property purchase and how taxpayer dollars are affected.

Mayor Franson stated the Riverside property to the south of the S & M Farms property has been foreclosed with bankruptcy. Originally both parcels would dedicate open space to be combined as one large park. Highland City will not allow the Riverside property to be recorded until the City receives its portion based on the bonus densities given with the overlay zone. Because the two properties have different owners, the owners of S & M Farms donated their required portion for the bonus densities and allowed the City to purchase a portion to equal the large park needed. Mayor Franson stated that the \$2.5 million in tax dollars being used to purchase the other half of the park from S & M will be repaid in the future through the sale of the donated portion from the Riverside parcel after recording. He noted that the City tried to negotiate between the two owners and were unable to finalize anything due to bankruptcy and other non-City related issues. Mayor Franson stated his feeling that the City is protected in getting what the City originally agreed upon.

No one else desired to speak.

CONSENT CALENDAR

The following items were **removed** from the consent calendar for discussion during scheduled items:

- Award a Cleaning Contract for the City Buildings to First Choice Cleaning, LLC (Agenda Item 6.1)
- Approval of Furniture, Fixtures and Equipment, Lounge Furniture for the Library East Reading Area (Agenda Item 6.2)
- Approval to Purchase 5 Shares of Provo Late Irrigation Water (Agenda Item 6.3)

PRESENTATIONS/PUBLIC HEARINGS

Presentation of Highland Fling Parade Grand Marshals Plaque (Agenda Item 7.1)

The Mayor presented an award of appreciation to Glen Vawdrey and his wife for serving as the Highland Fling Parade Grand Marshals.

Public Hearing – Proposed Increase to the Open Space Maintenance Fee (Agenda Item 7.2)

As a background, the first recorded Open Space subdivisions, Apple Blossom and Dry Creek Bench, were completed in June 2000 after at least one year of meetings between the developers and the Highland City Council. Following the initial approval there were two moratoriums, many amendments to the original text, and one addition of the Parkland Bonus Overlay (April 4, 2006). The current Parkland Bonus Overlay was created in response to the negative feedback of existing open space subdivisions over time and incorporated the positive aspects of the Open Space Bonus Density Overlay. The initial theory on creating the open space subdivisions was to balance the existing “rural” town feel with the ability to have smaller lots. These lots would be surrounded by a small percentage of improved/landscaped open space with a larger portion of the open space remaining “native” as pre-developed orchards, wheat grass, pasture, wild flowers, sage brush, etc.

When the original open space subdivision concept was developed the intent for maintenance of the open space areas would be through the establishment of homeowners associations. The City had difficulty developing maintenance plans that protected the intent of the open space zone by maintaining significant portions of native vegetation. It was at that time developers approached the City and requested the City take over maintenance. It was felt that residents of each subdivision would be the primary beneficiaries of the open space amenities. Due to this fact it was determined that these residents should be more responsible for maintenance costs than residents who didn't live near the open space and the Open Space Maintenance Fee was established. The \$20 fee is assessed to residents living in the 18 open space subdivisions. This was viewed as a positive step for all involved since it would save the resident considerable money in homeowners dues as well as save the developer money by not owning the property and maintaining insurance on these community parcels.

During this time Highland experienced tremendous growth. New residents moved in quickly and possibly did not fully understand the City's previous interests for the open space zone. Some of these residents became frustrated with the encroaching native vegetation. Residents began to cut wildflowers that had not fully developed and attempted many alternatives to remove the weeds from their yards which in some instances included improving public property at their own expense. In May 2005, the City Council adopted an open space improvement plan that was created by an open space improvement committee and City staff. The plan outlined several future improvements to a more significant portion of open space than was originally intended. This process also provided an open space improvement agreement option which allowed residents to enter into a contract to install grass and/or trees at their cost and risk until such time that the City may improve those areas. In addition the City hired an outside contractor to mow the existing native plants and grasses to a specified height to keep the visual impact of the weeds to a minimum. These costs were not considered when the original fee was established and rising costs in fuel, sprinkler lines, and other items have increasingly altered the costs of the original contract. The General Fund currently subsidizes 33% of the contract costs to maintain these open space

areas in the 18 open space subdivisions. The Open Space Maintenance Fee has not been increased since its inception in June 2000.

Staff has proposed the maintenance fee be increased by \$5 a month. Even though the increase will not generate enough money to cover costs, administration believes there are enough other people using the parks that to some degree it is appropriate for the City to subsidize a portion.

Mayor Franson outlined procedures for the public hearing and indicated that a decision on the Open Space Fee would not be made tonight. For those that did not speak, the Mayor encouraged residents to email their comments to City staff and they would be included with the next agenda packet. He then opened the public hearing.

Mr. Brent Wallace, North Canterbury, stated that all residents of Open Space subdivisions know, or should know, they are charged a fee to maintain their parks, trails, etc. He does not feel residents are questioning the fee, but they question how it is being spent and what they get for their money. He stated his park has a pavilion and play equipment and for the first few years it was mostly North Canterbury residents that used the park. He uses the park frequently and has gotten in the habit of asking people at the pavilion where they are from. The pavilion is used nearly every night for various events and by people coming from miles away. He distributed photographs showing the American Fork 8th Grade football team using the fields for practice for two hours at a time. He also distributed photos of the trail system that starts and ends, jokingly called the “trails to nowhere”. He talked about trail maintenance and the walls of thistle that line the trails. Numerous requests for signs at both ends of the road have gone unanswered. Mr. Wallace then talked about the natural vegetation and that it should be at the very least a neutral impact to neighboring properties. He noted that June grass and thistle are not native vegetation but actually noxious weeds which present an extreme fire hazard. In conclusion he stated that since the dynamics of park usage have changed, residents only ask that the cost be equitably distributed. They ask that implied promises be fulfilled and that rather than committing to more debt in acquiring new parks, that the City finishes what was started.

Matt Mecham, Town Center Subdivision, presented a petition of residents adamantly opposed to the increase. These residents feel Highland is a city and not individual subdivisions. He requested the City Council not create division in the community because of the fees they are paying. He outlined figures detailing that he believes that 27% of the total Highland population (those that live in Open Space subdivisions) are paying 77% of the beautification for Highland. He concurred with Mr. Wallace and stated everyone uses these parks because there is no restricted access. City leagues for soccer, T-ball and football have all utilized this field and the majority of the children that participate in these sports are not members of his neighborhood. He feels the fee is inequitably applied and should be abolished.

B-J Scherer, Wild Rose, noted she hasn't been able to use the Wild Rose Park this summer because the sprinklers are always on. She stated many Cedar Hills residents use the park and suggested installing a gate and fencing across the park and selling keys to Cedar Hills residents to help pay for maintenance. She does not mind paying the fee increase as long as she gets what she pays for.

Rebekah Kaylor, Wild Rose, indicated she spoke with Barry Edwards last fall concerning proposed improvements for the park. She distributed this list of improvements to the City Council. Residents pay their own money to maintain and spray the fruit trees in Wild Rose and Mr. Edwards had indicated to

her that it may be possible to lease the orchard. Since they are paying for the tree spray, they would like to reap the majority of the apples. She agreed with what others stated and added that whatever the initial reasoning behind assessing the \$20 fee, these parks have truly become city parks. She requested that the fee assessment be broadened.

Roger Dixon, Canterbury South, stated the same issues others have raised regarding usage apply to Mitchell Hollow Park. He stated fairness is a great American value and it does not seem fair to charge one group for something everyone uses. He asked if the fee would go up again since the proposed increase will only cover part of the costs. He suggested getting rid of the fee and taking care of maintenance the same way funds are normally appropriated through the General Fund. He requested preparation of very clear documentation that would allow residents to follow the money. He questioned what percentage of the Open Space Maintenance Fee is being spent for regular city parks versus parks in open space subdivisions.

Wendy Asay, Town Center, concurred with other comments and requested the City concentrate on development of existing parks.

Brett Mortensen, Canterbury North, said his subdivision went through the improvement issue three years ago and over a period of months was able to get a playground in the park with residents of his subdivision providing all the labor. He enjoys the park and commented it is used by all. He feels the density bonus is an unfair burden put on a small portion of the community. He said these are truly community parks that take pressure and usage off other parks. He commended the City Council for being proactive in getting open space areas for the future and suggested the fee be eliminated and a more equitable solution implemented.

Ginger Harris, Wimbleton, stated she was told in a City Council meeting four years ago that the \$20 fee was never intended to go toward maintenance. It was intended to cover the loss of property taxes received by the City since the lots in the open space subdivisions are smaller. She stated the City collects more tax from the open space subdivision because they have higher density. She feels like the City has been addicted to impact fees and the growth of the past five years and is sticking it to the new people with this extra tax. The open space area near her house is full of noxious weeds. The trails cannot be used by bikes or strollers because the tires will pop. Ms. Harris noted the park strip in front of some homes is owned by the City but maintained by the homeowners. She would like the area cleaned up and suggested deeding the property back to the HOA but allowing the public to use it.

Russell Skousen, Canterbury North, expressed appreciation for Brian Brunson's suggestion that the City get the residents ideas regarding open space improvements. The City could also see what residents are willing to do as far as volunteering labor. He has been mowing open space near his home for over two years and his neighbors have done the same. He noted that the City's contractor does not mow the area, or if they do it's not done carefully. He requested accountability on how the fee money is spent.

David Park, Town Center Meadows, concurred with previous statements that the fee should be abolished and then distributed throughout the City. He has lived in his subdivision for six years and the entrance from 5600 West has never been improved and is full of weeds. He asked if there are plans for this to be improved. Mayor Franson noted the City Council is working on prioritization of improvements. Mr.

Park suggested this property be deeded to adjacent property owners because Highland residents are very responsible in maintaining their yards.

Stan Mead, Town Center Meadows, reviewed figures he calculated showing the inequity of 27% of residents in Highland paying 75% of the maintenance costs. He feels it is more equitable to divide the cost across the entire City.

John Darrington, Canterbury North, asked where his \$20 goes. He stated he and his wife called the City numerous times to get the weeds sprayed. The neighbors got many weeds because of the delay. He noted the small park strip to the northeast of his subdivision is full of sod worms from over watering. He feels like residents pay \$240 annually for absolutely nothing and requested equity across the board.

Gary Wright, Wild Rose, indicated he has dealt with similar problems. He reiterated that Cedar Hills residents use their park because of the close proximity to Cedar Hills. There is even an entrance for the Cedar Hills students to walk through the park to the Lone Peak High School. He stated golf carts and four wheelers drive on the trails and there has been talk of installing bollards to alleviate this problem. The apple orchard mentioned earlier is taken care of by residents but the apples are picked by the Cedar Hills residents because they consider this their park. He requested more maintenance as well as education on the part of the Cedar Hills residents. He wants it clear that it is a Highland City park.

Manuel Bueno, Canterbury North, expressed appreciation for the work that was done to get the Canterbury North park amenities. He is curious about the accounting of the \$358,000 required to maintain these parks and stated it would seem easier to cut costs rather than increase the fee to cover more costs. If he saw an accounting of how the money was spent, it would be helpful to see if costs could be decreased.

Mayor Franson asked several questions to determine the core issues of the residents. The following issues were given by a raise of hands:

1. Usage of subdivision parks by people outside the subdivisions.
2. Equity issues on the park fee since people outside the subdivisions use the parks.
3. Maintenance standards.
4. Improvements. (This was not quite as common but still a concern.)

The Mayor requested any residents that had additional comments send them to staff so they could be noted as part of the public hearing. He stated the City Council does not take this issue lightly. Recently many other cities had to raise taxes and Highland did not. The City Council is very diligent at keeping costs under control yet costs of services keep going up.

Barry Edwards requested the residents advise staff about maintenance issues because the City has a contract and these issues can be reviewed with the contractor. He requested specific information be sent to publicworks@highlandcity.org The Mayor committed that some type of response would be given to these maintenance concerns. Barry Edwards indicated that contract specifications would be posted on the City's website by Friday so residents can view the frequency and requirements of various maintenance items.

Jared Hunt, Canterbury North, stated many of the maintenance issues stem from frequency and length of watering. He noted the Utah State University has a great irrigation engineering program and it may be

worth having an intern monitor efficiencies and give suggestions. He stated it is apparent from the comments that residents highly value open space and parks. He doesn't mind paying the extra \$20 because he appreciates the space. Instead of maintaining the budget at its current level, he suggested finding a way to increase the budget to accomplish projects everyone would like to see. One way of increasing revenue would be to charge the \$20 fee to all Highland residents. He also talked about the trails that may have looked good on paper but go nowhere.

Kristie Welch asked for clarification on the statement that the City cannot sell open space. Mayor Franson stated recent legislation does not allow the City to deed or sell open space to property owners, but perhaps it could be leased.

Russell Skousen asked where residents should direct inquiries about entering into Open Space Agreements. Barry Edwards responded they should contact the City and fill out an open space agreement.

Dave Monsen, Wimbleton, asked if everyone has a problem with puncture weeds. The majority of residents indicated they do. He commended staff for the increase in the quality of care since he noticed weeds were sprayed this year. He suggested more regular maintenance to stay on top of the weeds.

Marsha Price, Highland Hills, asked if the City planned for more trails. If they do, she suggested the trails be constructed slightly bowed to allow a natural channel for water. The trail in her area is convex and tips toward her house so drainage goes onto her property.

The Mayor ended the public hearing at 8:25 p.m. and requested additional written comments.

Mayor Franson invited the public to return in two weeks when the City Council deliberates on a decision for the Open Space Fee.

ACTION ITEMS

Award of a Cleaning Contract for the City Buildings to First Choice Cleaning, LLC (Agenda Item 6.1)

The City received bids from three separate companies for cleaning of the following new city buildings: 1) City Hall, 2) Justice Center, and 3) Highland Fire Station, as well as the current Public Works Building at the mouth of the canyon. These bids were separated into four separate areas based on specific daily, weekly and monthly duties required for each building. The City also required information regarding insurance and bonds. Staff recommends entering into a contract with First Choice Cleaning, LLC as they were perceived to be the lowest responsible bidder. This item was reviewed by the City Council at the August 5, 2008 meeting and continued so the scope of the contract could be narrowed.

The original bid from First Choice Cleaning, LLC was \$4,350 per month. Now that Staff has met with First Choice and refined the scope of work requested at each location the bid has been reduced to \$3,980 total per month. The monthly fee breakdown of each facility is as follows: City Hall/Library - \$1,720; Justice Center - \$1,420; Highland Fire Station - \$355; Public Works - \$485.

MOTION: Claudia Stillman moved to approve a contract with First Choice Cleaning as it is well within the budget. Brian Braithwaite seconded the motion

At the request of Brian Braithwaite, Jody Bates detailed cleaning of the Justice Center including security measures that will be taken. Barry Edwards reviewed the insurance and background requirements from the City.

Kathryn Schramm asked questions for clarification of where funds are budgeted and will be paid from.

Members of the City Council discussed establishing a set daily cleaning fee in case there is a need to go to five days of service. The fact that cleaning for the fifth day may not be as intensive as the other days due to small staff and lower traffic was also brought up. Clarification of the services to be provided took place. Concern was expressed that if the contract is amended after approval the City loses room for negotiation. It was noted that the inclusion of the optional fifth day for cleaning would be helpful in figuring the cost savings for the 4-10 work week.

MOTION TO AMEND: Brian Brunson moved to amend the motion that the contract with First Choice Cleaning, LLC include a provision to add a fifth day for cleaning at the option of the City. The fifth day will be in the event the City goes back to a 5-day work week and will be proportional to the services performed. Larry Mendenhall seconded the motion. Those voting aye: Brian W. Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The amendment passed with a unanimous vote.

AMENDED MOTION: To award a contract to First Choice Cleaning, LLC that will include a provision to add a fifth day for cleaning at the option of the City. The fifth day will be in the event the City goes back to a 5-day work week and will be proportional to the services performed. Those voting aye: Brian W. Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.

Approval of Furniture, Fixtures and Equipment, Lounge Furniture for the Library East Reading Area (Agenda Item 6.2)

Approval of furniture for the Library East Reading Area will complete furniture for the library. All other furniture for the library has been previously approved.

MOTION: Brian Braithwaite moved to approve the purchase of the lounge furniture for the Library's East Reading area in an amount not to exceed \$18,936.91. Claudia Stillman seconded the motion.

Brian Brunson repeated his concerns he made about the material and color of the furniture from the August 5, 2008 meeting. Barry Edwards indicated he would talk to decorator to ensure the color is more stain absorbing. Kathryn Schramm suggested a different kind of fabric be used.

MOTION TO AMEND: Brian Brunson moved to amend the approval making it conditioned on Staff verification that the furniture is an appropriate color and material. Kathryn Schramm

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

AMENDED MOTION: To approve the purchase of the lounge furniture for the Library's East Reading area in an amount not to exceed \$18,936.91 and subject to Staff verification that the furniture is an appropriate color and material. Those voting aye: Brian W. Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.

Approval to Purchase 5 Shares of Provo Late Irrigation Water (Agenda Item 6.3)

Highland City has been approached separately by Lone Peak Development and Ron Christensen with an offer to purchase a total of five shares of Provo Late Irrigation Water. Each share is valued at \$15,000 per share for a total of \$75,000.

MOTION: Brian Braithwaite moved to continue the item until the next City Council meeting so the Water Board can give the City Council their recommendation and justification on the City's need for this water. Brian Brunson seconded the motion.

Brian Braithwaite stated there is a lot of talk about water and he believes the function of the Water Board is to provide input on these needs. He stated he feels inadequate passing something for which he does not have enough information and wants someone that has more experience to tell him if and why it is needed.

Kathryn Schramm asked if the water purchase was time sensitive and Barry Edwards replied that water is a commodity that may or may not be available in two weeks. He explained the type of water it is and that it is generally considered better because it is stored water with a delivery system. He noted the Water Board is not scheduled to meet within the next two weeks, but a meeting could be called. He also clarified money for the purchase would come from the water funds.

Mayor Franson called for a vote on the motion to continue. Those voting aye: Brian W. Braithwaite and Brian Brunson. Nay: Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion failed for lack of a majority vote (2:3).

MOTION: Kathryn Schramm moved to approve the purchase of five shares of Provo Late Irrigation Water from Lone Peak Development and Ron Christensen in the total amount of \$75,000 since it is good water. Larry Mendenhall seconded the motion.

Brian Brunson stated he is not convinced the City knows it needs this water.

Claudia Stillman noted the City Council has been discussing additional improvements to open space areas which would require more water.

Mayor Franson said the Council has set a policy which has been in place for years to try to provide and maintain as much water as possible on the bench. When water leaves the bench it likely doesn't come

back. He agreed that \$75,000 is a lot of money but he does not feel it is enough to change the policy. It was his strong recommendation that the City purchase the five shares.

Larry Mendenhall stated the City Council has a fiduciary responsibility to look after the interests of the citizens and there is no such thing as too much water.

Brian Brunson expressed appreciation for the clarification of the type of water and its benefit, yet he is still concerned that there is no recommendation from the Water Board. It was also noted the Bowen & Collins water report is being reviewed and will probably be finalized within a few weeks.

Mayor Franson stated staff will get a recommendation from the Water Board for any future purchases. He then called for a vote on the motion.

Those voting aye: Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. Nay: Brian Braithwaite. The motion carried with a majority vote of 4:1

Decision on a Proposal to Participate in the Stoneshire Fence

At the August 5, 2008 City Council meeting the City Council had a discussion on the Stoneshire fence. The Stoneshire Trail is located near the Stoneshire subdivision by 6000 West. As the developer began making preparations to install the fence numerous calls and emails were received from the residents on the south side of the trail concerning the height of the fence. The topography at the back of these lots would effectively shorten the height of the fence from the residents' yards. If the fence was placed at the toe of the trail slope (on property line) then the five foot fence from the trail would be two to three feet tall. This has caused a concern to the residents with lack of privacy.

The developer feels he has met the obligation for the fence if the five foot fence is installed. He has agreed to contribute money to install an eight inch riser under the fence for height, but any additional changes that cost money would need to be funded from another source. The eight inch riser is still unacceptable to the residents. Some residents in the area have offered to pay the difference to make the fence taller, but not all have made this offer. There is also an existing fence on the far east of this subdivision (Kim Olsen property) that was granted a variance in 2006 to have a six foot solid fence.

At the last City Council meeting staff was asked to provide cost estimates for a retaining wall. Matt Shipp indicated the cost would be no more than \$40/foot for a total of \$25,000. If approved, funding for the fence would come from the Trail Impact Fees. Since the last meeting Staff has also looked into the minutes from the Stoneshire approvals which provided no clarification on these concerns and only stipulated the developer was required to install the five foot fence. The minutes did indicate the purpose for fencing lower than six feet was to avoid an alleyway on the trail. Although the fence approved on this trail does not meet the current ordinance, at the time, Planning Commission had the authority to grant this fence type.

MOTION: Larry Mendenhall moved to approve the expenditure to elevate the property south of the Stoneshire trail to be level with the trail since it will protect the citizens. Kathryn Schramm seconded.

Kathryn Schramm stated it was her understanding that the City forced the trail to be installed. She asked if the City Council could take action on this since it recently refused to participate in the Stice Acres fence. Mayor Franson clarified the City would only be participating in elevating the property and not installing the fence.

MOTION TO AMEND: Claudia Stillman moved to amend the motion that the costs paid by the City would be no more than \$40 a foot. Brian Brunson seconded the motion.

Brian Brunson asked if the elevation problem was made worse with installation of the trail. Matt Shipp indicated the irrigation company's requirement to pipe the ditch elevated the trail higher than it would have been originally. When Brian Brunson asked the difference of participating in this issue and not the Stice Acres fencing, Matt Shipp answered that the homes south of Stoneshire were already existing and the large debate became the privacy issue. The difference with Stice Acres is that those were new homes and the road and park strip along 10400 existed prior to the homes. This would be trying to meet the expectation set during the initial review of the Stoneshire subdivision regarding privacy.

Matt Shipp then detailed specifications of the fence and that the alignment would be straightened. He noted there are some fences that have been installed on City property which will be removed and the new fence installed. The northerly fence has been surveyed and is correct. The \$40 allowance is for a concrete lineal wall. Due to lack of space it may be difficult to install a stone wall, but Staff will work with the contractors and homeowners to get a consensus of what they would like to see on the property line, including accessibility issues to the trail.

Mayor Franson asked if there were comments from the public.

Janelle Waters owns property to the north of Stoneshire. She stated that she, Kim Olsen and Tom Holdman were part of the development by allowing portions of their property to be included in the subdivision. She would like her finished fence on the north side which she feels has nothing to do with the south side.

Scott Proctor lives in the area and stated he would be more than happy with a concrete retaining wall.

Rick Mitchell lives on the corner and noted the level of the trail affects his property. He would appreciate some type of retaining wall and indicated concrete would be okay as long as it got done.

Craig Parry is also an affected resident. He stated he understands the reason the ditch was piped but he has been waiting two years for the fencing to be complete. He is open to the cement retaining wall. He noted that Chuck Haden is also a neighbor that may want to work with the fencing contractor.

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

Mr. Waters indicated they wanted a six foot fence along their property to the north of Stoneshire. Matt Shipp noted that City ordinance does not allow this along a trail unless a portion is 66% open.

Discussion then took place about how a six foot fence could be granted through the process of obtaining a variance with the Appeal Authority. Frustrations were expressed by Ms. Waters and her father for the processes that seem never ending.

Mayor Franson stated these delays had nothing to do with any resident personally. Rather, it is unintended consequences with the City putting installation of the southerly fence on hold and the contractor wanting to install both sides at the same time.

Mr. Waters expressed frustration about being required to pay an additional \$300 application fee to the Appeal Authority. Mayor Franson stated he would pay the fee personally.

SUBSTITUTE MOTION: Brian Brunson moved to approve the expenditure to elevate the property south of the Stoneshire trail to be level with the trail since it will protect the citizens and that costs paid by the City would be no more than \$40 a foot. The approval is based on the finding of fact that development of the City trail and piping of the ditch created the trail to be raised which caused an issue with the elevation and privacy. Kathryn Schramm seconded the motion. Those voting aye: Brian W. Braithwaite, Brian Brunson, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. The motion passed with a unanimous vote.

Mayor Franson recessed the meeting at 9:38 p.m. The meeting reconvened at 9:42 p.m.

FUTURE BUSINESS

Request for a Street Name Change (Agenda Item 9.1)

The City Council has the ability to change an existing city street name by following certain criteria. Claudia Stillman and Kathryn Schramm have submitted a request to change a street name due to residents concerns about the difficult spelling and pronunciation.

Brian Brunson stated policies and procedures should be developed for street name changes before any action is taken. Brian Braithwaite concurred and stated he would like to make sure all residents that live on a street with a proposed name change unanimously agree to the change.

Kathryn Schramm stated that of the four homes on the street, two are unoccupied. The other two families are requesting the name change.

Country French Estates Plat C (Agenda Item 9.2)

Patterson Construction has requested preliminary approval for a two lot subdivision at 11038 North Highland Blvd. It is proposed that two LDS churches will be constructed on the property.

Code Amendment - Eliminating the use of Accessory Structures for Home Occupations (Agenda Item 9.3)

There have been recent events and discussions with the Planning Commission that have led to concerns regarding home occupations being conducted within accessory structures. The proposed code

amendments would create consistency between the Development Code and current state law while eliminating home occupation practices within accessory structures. It is staff's intent that this ordinance may help alleviate current practices of constructing several accessory structures for the purpose of home business operations. This section of the Development Code is currently very similar to portions of Chapter 5.08 of the City Municipal Code and Staff recommends the Municipal Code also be amended to reflect these changes.

Development Code Amendment - Swimming Pool Definition (Agenda Item 9.4)

On July 15, 2008 the City Council approved a Code Amendment that defines accessory structures and assists staff with the implementation of building permits associated with these structures. During this meeting there were concerns with the inclusion of swimming pools when calculating the percentage for maximum coverage that accessory structures may use on a property. It was requested that staff move forward with a Code Amendment that may provide for swimming pools while including the necessary regulations that are needed by the City. Staff is proposing language for an addition to the R-1-40 and R-1-20 zones that will provide for adequate flexibility when constructing a swimming pool and related facilities.

Request to Accept Water Rights for 48 Acre Feet of Water (Agenda Item 9.5)

The developer of Highland Hollow obtained permission from the City Council to use an underground water right to meet part of their water requirement. The change application was approved by the State Engineer. Since the developer did not deed all of his water rights to the city at that time, he would now like to deed the rest of the water and have the ability to use it on Highland projects in the future. The developer would be required to pay all costs associated with this exchange. If the water is approved by the City Council it would also be contingent on approval for use by the State Engineer. The State Engineer would also determine the amount of wet water available which may be less than the amount of underground water. The risk that the change in the type of water might reduce the available amount is borne by the developer.

Brian Braithwaite requested the Highland Water Advisory Board give a recommendation on this issue before it comes back for City Council approval.

Approval of an Ordinance Providing for City Council Election by Districts (Agenda Item 9.6)

The Mayor would like to have the City Council consider the use of election districts pursuant to UCA 10-3-205.5. He feels council district elections make sound policy because it reduces the cost, expands representation, softens the impact of special interests groups, and provides for electoral participation at each election. There are no municipal elections this year and it is the Mayor's opinion that this would be a good time to reopen this discussion to see if minds have changed.

Contract Renewal for City Administrator (Agenda Item 9.7)

City Administrator Barry Edwards contract expires at the end of 2008. The contract allows for renewal anytime during the term of the contract. The Mayor is proposing the term of the contract be removed allowing the contract to become open ended and subject to the will of the City Council. This contract

has been amended at various times by adding additional years, changing different terms and amending the severance.

Brian Braithwaite and Kathryn Schramm requested a copy of the contract and Kathryn Schramm specifically requested a copy of the severance policy.

Benefits for City Council Members (Agenda Item 9.8)

Brian Brunson stated that as Highland City grows, the demands placed on the time of the City Council increases. He also noted that insurance is becoming increasingly difficult to obtain if a person is not affiliated with an organization. He recognized that City Council authorized insurance benefits be made available for Councilmembers if the premium was paid for entirely by the Councilmember and added that some cities also pay a stipend for health benefits. Brian Brunson requested Staff do an analysis of the benefits provided by other cities, particularly in lieu of cash. He expressed concern that because of the amount of time serving on the City Council takes, it might limit people in the community from serving unless they are independently wealthy.

INFORMATION

Financial Report (Agenda Item 10.1)

Lynn Ruff presented a financial report which included information regarding property and sales tax and revenues for the year.

REPORT – North Pointe Solid Waste District (Agenda Item 10.2)

Claudia Stillman provided a brief report on the North Pointe Solid Waste District and noted that landfill revenues are up 5%.

OTHER BUSINESS

Mayor Franson detailed the following:

- **UPCOMING PUBLIC HEARING.** There will be a public hearing on the property that was swapped with the County for expansion of 4800 West to cover proper procedure. Brent Anderson from the Alpine Country Club expressed appreciation for working with the City and Utah County.
- **MINUTES.** The Mayor noted there was a lengthy discussion on minutes at the last meeting. He stated minutes will be pulled from the agenda until the next meeting and a policy will be brought forth at an upcoming meeting regarding approval of the minutes.
- **ROLE OF THE COUNCIL, MAYOR and STAFF:**
 - *Overall Processes.* The Mayor and staff have worked over the last 2.5 years to improve efficiency and customer service. One of the results of this was the establishment of a handbook detailing the processes in the City. Reality dictates that processes are constantly changing and the City has an obligation to improve performance. One of the functions of the Administrative Team is to constantly ask the question “is it working the way it was intended to?” The move to the new building may bring about some changes

in processes. The Mayor indicated the process manual will be updated by the end of the year.

- *Role of Communication to the City Council.* As outlined in the process book staff tries to respond to requests, comments and complaints within 24 hours. Follow-up is then assigned to another staff member to respond in detail within two weeks. He acknowledged there are some issues that need better coordination. He is contemplating sending the City Council a copy of the two week follow-up letter, not for action, but for information. That way if a resident doesn't get an answer they like, the City Council will be equipped with the background on the issue.
- *Role of City Council with Staff.* The Mayor acknowledged that there have been times he and the staff need to do a better job of informing the City Council of certain issues. Once this has been done he requested City Councilmembers follow their role and let Staff do their job. The Mayor stated it is very appropriate for the City Council to make inquiries, but it is not appropriate for an individual Councilmember to give direction to Staff. As the collective City Council body is appropriate to give direction. The Mayor expressed concern that Staff spends a great deal of time on requests from individual Councilmembers that might be time that could be spent dealing with other issues.
- *Advocacy for citizens.* This is very much a part of the Mayor and City Council role. The Mayor cautioned the City Council to determine a few factors before the City Council takes a citizen's cause on:
 - Is it best for the city as a whole or is it just best for the resident?
 - Is their request to help the city or help themselves?
 - Are there rules that need to be changed? There is a process for that as well.

ADJOURNMENT

Brian Brunson moved to adjourn. Claudia Stillman seconded. The meeting adjourned at 10:34 p.m.

Gina Peterson, City Recorder

Date Approved: September 2, 2008