

MINUTES
HIGHLAND CITY COUNCIL MEETING

Tuesday, September 16, 2008

Highland City Council Chambers, 5400 West Civic Center Drive, 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
Matt Shipp, Public Works Director
Gina Peterson, City Recorder
Kip Botkin, Chief of Police
Lynn Ruff, Finance Director
Jody Bates, Executive Secretary

OTHERS: Alex Mortezaadeh, Brayden McLelland, Hayden Nimer, Kody Rasmussen, Parker Rasmussen, Joel S. Hinckley, Tony Peckson, Kyle C. Wight, Christie Dalley, Lone Peak Press; Sawyer Hendrickson, Derek Wise, Gary Laird, Bridger Caldwell, Kytan Caldwell, Preston, Josh, and Steve Shrader.

REGULAR SESSION

The regular session of the Highland City Council was called to order by Mayor Jay W. Franson at 7:03 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 September 11, 2008.

The prayer was offered by Larry Mendenhall, and those assembled were led in the Pledge of Allegiance by Brian Braithwaite.

Approval of Council Minutes – September 2, 2008 Regular Meeting

MOTION: Larry Mendenhall moved to remove the following addition by Kathryn Schramm from Page 12, Lines 1 and 2: *“She had asked the City Administrator Barry Edwards to read the ordinance before charging the nonresident fee to the Perkins Family representative.”* as he did not believe it was said during the meeting. Brian Brunson seconded.

Larry Mendenhall stated the minutes should be a record of things said in the official meeting and anything extraneous should be added as an addendum.

Kathryn Schramm referred to the minutes of August 5, 2008 where the City Attorney had stated that what any Councilmember wants in the minutes has to be included in the minutes. She requested the statement be allowed in the minutes as she feels it was the substance of what was said and based on the City Attorney's statement from August 5, anything a City Councilmember wants in the minutes has to be included in the minutes whether it was said in that meeting or not.

Claudia Stillman indicated she did not recollect the statement being said either, and would support it being added as an addendum to the minutes.

SUBSTITUTE MOTION: Brian Braithwaite moved to have the September 2, 2008 minutes sent back to the City Recorder for review of the tapes to determine if the comments in question were made. If the comments were made they will be left and if not they will be attached as an addendum. Brian Brunson seconded the motion.

Kathryn Schramm asked where the addendum would appear and Mayor Franson stated it would be attached behind the minutes in the official minute book.

Mayor Franson asked for a vote on the substitute motion. Those voting aye: Brian W. Braithwaite, Brian Brunson, and Claudia Stillman. Those voting nay: Larry Mendenhall. Kathryn Schramm abstained from voting. The motion carried with a majority vote of 3:1.

MOTION: Claudia Stillman moved to approve the September 2, 2008 minutes as amended and pending the City Recorder's review of the discussion on page 12. Brian Braithwaite seconded the motion. Those voting aye: Brian W. Braithwaite, Brian Brunson and Claudia Stillman. Those voting nay: Larry Mendenhall. Kathryn Schramm abstained. The motion passed with a majority vote of 3:1.

Appearances

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

Mayor Franson then noted the Highland Junior Miss program was held over the weekend. He listed the 12 girls participating as Megan Braithwaite, Summer Brooks, Emily Carter, Suzie Fluckinger, Kelsey Fox, Lorraine Hilton, Cassie Maxwell, Kylie Moe, Alicia Morley, Emily Nielson, Julia Westwood and Kailee Worton. Emily Nielson and Emily Carter were the winners and will represent Highland at the State level.

CONSENT CALENDAR

All items were removed from the consent agenda to be discussed with action items.

ACTION ITEMS

Approval to purchase 6 Shares of Highland Conservation Irrigation Water (Agenda Item 6.1)

Evan Johnson offered to sell six shares of Highland Conservation Irrigation Water to Highland City. Each share is valued at \$6,500 per share for a total of \$39,000.

This item was reviewed as future business at the September 2, 2008 Council meeting. The City Council requested the Water Advisory Board review water purchase requests and give recommendations to the Council. The Highland Water Advisory Board met on September 10, 2008 and made a motion reaffirming the policy of accepting or purchasing water when available.

MOTION: Brian Braithwaite moved to approve the purchase of six shares of Highland Conservation Irrigation Water from Evan Johnson in the total amount of \$39,000 based on following finding of facts:

- 1. Highland City has created a Water Advisory Board.**
- 2. The Water Advisory Board has met and made a motion to reaffirm a policy of accepting or purchasing, when available, any surface water rights that can be used in the Highland City Pressurized Irrigation System.**

Claudia Stillman 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.

Brian Braithwaite stated he wanted it on record that the approval came as a recommendation from the Water Advisory Board.

Approval to Accept Water Rights for 48 Acre feet of Ground Water (Agenda Item 6.2)

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.

At the August 19, 2008 City Council meeting the City Council requested the Water Advisory Board also review this request.

MOTION: Kathryn Schramm moved to accept water rights for 48 acre feet of ground water as recommended by City Staff and the Water Advisory Board. Larry Mendenhall seconded the motion.

At the request of Kathryn Schramm, Barry Edwards clarified the involvement of the Water Advisory Board recommendations. He stated their motion was an affirmation of a policy statement on general

water purchases and acceptances, rather than an individual review and recommendation of each request. He also noted there are not many ground water sources left, but the acquisition of ground water was also reaffirmed.

Brian Brunson asked questions about the change application process and whether this water had been used in Highland before. Barry Edwards stated this approval allows the developer to begin the change application with the State Engineer who will review it to determine how much water will be available. There will not be any money transferring at any time and once it is moved into the City's name, the City retains ownership. Known as water banking, it is then up to the developer to find a buyer for future development. Mr. Edwards stated he does not feel the City's water needs are in the area of ground water so the change application to surface water would be preferred.

MOTION TO AMEND: Brian Braithwaite moved to amend the motion to include the following findings of fact:

- 1. Highland City has created a Water Advisory Board.**
- 2. The Water Advisory Board has met and made a motion to reaffirm a policy of accepting or purchasing, when available, any underground water right that has historically been used in the Highland City limits.**

Brian Brunson 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 accept water rights for 48 acre feet of ground water as recommended by City Staff and the Water Advisory Board based on the following findings of fact:

- 1. Highland City has created a Water Advisory Board.**
- 2. The Water Advisory Board has met and made a motion to reaffirm a policy of accepting or purchasing, when available, any underground water right that has historically been used in the Highland City limits.**

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 4 Shares of Highland Conservation Irrigation Water (Agenda Item 6.3)

Lone Peak Development Partners has offered to sell four shares of Highland Conservation Irrigation Water to Highland City. Each share is valued at \$6,500 per share for a total of \$26,000. The Highland Water Advisory Board met and affirmed the policy of purchasing surface water.

MOTION: Larry Mendenhall moved to approve the purchase of four shares of Highland Conservation Irrigation Water subject to the following findings of fact:

- 1. Highland City has created a Water Advisory Board.**
- 2. The Water Advisory Board has met and made a motion to reaffirm a policy of accepting or purchasing, when available, any surface water rights that can be used in the Highland City Pressurized Irrigation System.**

Brian Braithwaite 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.

Set Work Session for the Town Center Ordinance (Agenda Item 6.4)

There has been much discussion among the City Council and Planning Commission regarding a proposed Town Center ordinance. Discussion began after a moratorium of six months was placed on the zone on December 5, 2006. Since the moratorium ended, various work sessions have been held over the last couple of years where it was determined a revised ordinance should address the following items:

- (1) A desire for combining residential with commercial,
- (2) Identifying a gateway for the Town Center,
- (3) Access points in and out,
- (4) Both sides of SR-92 to be the same with the need to drive north and south,
- (5) Types of use. (what do people want to see?)

As part of this process Mayor Franson requested creation of Ad Hoc Committee to work through the Town Center ordinance. This committee has met nearly every week beginning in April 2008 discussing all of the perceived needs within the Town Center, including equity, proposed ordinances, guidelines, and marketing strategies. The Committee has identified many items that need to be addressed for the success of the Town Center.

The Town Center Committee has requested a Joint Work Session with the City Council and Planning Commission for Tuesday, October 7, 2008 from 6:00 to 7:00 p.m. to present the documents and recommendations for the Town Center Overlay Zone.

MOTION: Claudia Stillman moved to set a joint work session with the City Council and Planning Commission for Tuesday, October 7, 2008 from 6:00 to 7:00 p.m. to present the documents and recommendations for the Town Center Overlay Zone. Brian Braithwaite 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.

Kathryn Schramm noted that the staff report listed one of the Town Center Committee members as Richard Mendenhall and clarified that it was Councilmember Larry Mendenhall attending the meetings.

Mayor Franson noted the work session is an open and public meeting that anyone can attend.

Approval to Purchase Park Mowing Equipment (Agenda Item 8.1)

Staff has worked with the State contract bid list to purchase park equipment that was outlined in the adopted FY2009 budget. An expenditure of \$139,048 is requested to purchase the large mowers for the maintenance of the larger open area parks. These mowers will increase the efficiency of service since the large mowers presently owned by the City are designed for large weed control.

MOTION: Kathryn Schramm moved to approve the expenditure of \$139,049 for the purchase of park mowing equipment as it was included in Account #40-40-75 of the adopted FY2009 budget. Larry Mendenhall 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.

Claudia Stillman indicated she spoke with Matt Shipp who stated that \$375,000 was originally budgeted to purchase equipment. After this purchase and other smaller items that have been purchased, this leaves a balance of \$131,341 unexpended.

Approval to Purchase Equipment to Update the SCADA System (Agenda Item 8.2)

Highland City has numerous facilities to manage Public Works operations including well houses, booster stations, culinary water tanks, and lift stations. Each of these facilities must be monitored 24 hours a day for operations, levels and flows, security and any breakdowns. The system that monitors these functions is known as a SCADA (*Sensory Control And Data Acquisition*) system.

The City's current SCADA system functions as a monitoring system only. It does not have the capability to detect a problem type; rather it can only detect when there is a problem and notify staff via telephone. It then takes time to find where the problem exists and the type of problem. The current system is also proprietary which means that if the City decides to change programs or add to the system, there is only one type of equipment/software that can be used.

Staff requests approval to upgrade to a non-proprietary system capable of expanding as the system and budget allow. The proposed system also allows for remote monitoring of facilities via the computer. Staff has visited other groups that use this system and have heard positive feedback on operating, support, and ease of use. Staff believes it is the best program available for current and future needs.

Part of this approval includes updating the lock system on all Highland City facilities as recommended in the Vulnerability Assessment for added security and monitoring. The new lock system gives the ability to log use of the facilities (time and date of entries) and instead of replacing keys and locks, it also the ability to change codes when someone leaves the City's employment or if keys are lost.

Funding for the upgrade was budgeted in the approved FY2009 budget to be equally dispersed from the sewer, pressurized irrigation, and culinary water funds.

MOTION: Claudia Stillman moved to approve the expenditure of \$200,000 for the upgrade of the SCADA (Sensory Control and Data Acquisition) system and updated electronics for the facilities from the approved FY2009 budget. Brian Braithwaite seconded.

Brian Brunson asked if there would be annual maintenance fees associated with the system and if this system would have prevented the recent issue with water tanks in the View Pointe subdivision. City Engineer Matt Shipp stated the View Pointe issue involved readings on bacteria test and from a notification standpoint or potential breach of security, it may have helped. He also indicated there would be no ongoing fees.

Larry Mendenhall stated the City has had some failures with sewer lift stations. In looking at this system, he believes the alarm notification would have prevented some backflow into homes which in turn caused claims against the City's insurance policy. This has been costly to the City to supplement additional costs of these claims.

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

Award of Bid and Approval of an agreement with Jacobsen Construction for the construction of the Town Center Park (Agenda Item 8.3)

Staff was directed to design and develop a park north of the new City Hall on the two acres owned by the City. The park was designed to be an attraction for gathering events and families using the new civic center areas. The park is not to be used for any sporting events.

Bids were submitted by three contractors that were pre-qualified based on their experience with this type of project. The bids were as follows:

Jacobsen Construction:	\$ 1,639,709
Big-D Construction:	\$ 1,650,376
KBR Construction:	\$ 1,931,327

The Engineer’s Estimate for this project was approximately \$1,500,000 and with an approved budget amount of \$1,300,000. There are two components to the project, 1) the actual park, and 2) the road to the east and north of the park. The low bid on the park component of the project totals \$1,217,127 and the road portion is \$422,582. While the proposed contract amount is over budget, staff recommends that the project be fully funded. The park component of the project could come from park impact fees and park bond. The remaining road component could come from the Town Center road exaction fees.

A detail of how funds are proposed to be expended is as follows:

	<u>Bid</u>	<u>with 15% Contingency</u>
	\$1,639,709	\$1,885,665
<i>Park Component of Project</i>	\$1,217,127	\$1,399,696
Amount From Park Impact Fee:	\$390,000	\$390,000
Amount From Park Bond Fund	\$827,127	\$1,009,696
<i>Road Component of Project</i>	\$422,582	\$485,969
All From Town Center Road Exaction Fee	\$422,585	\$485,969

MOTION: Larry Mendenhall moved to award the bid and approve the agreement with Jacobsen Construction for the construction of the Town Center Park in the amount not to exceed \$1,639,709 and authorize a 15% contingency and authorize the mayor to sign the agreement. Claudia Stillman seconded the motion.

Larry Mendenhall stated the park will enhance the beauty of City Hall since it will be constructed on the entire block to the north. The City Council has talked about having this park be a gathering place to fan into a spoke system of trails throughout the city. He noted the park will have a water feature and significant vegetation. He likes the appearance and concept and supports the park 100%.

Claudia Stillman concurred and stated it will be a beautiful feature for the city. She noted the water features and splash pool will allow kids to keep cool during the summer months. She also feels the park will attract retail uses and help develop the Town Center.

Brian Brunson stated he supports the park but would like to speak to the contingency. Even though it is authorized by the City Council, he would like to safeguard the contingency as best as possible. Brian Braithwaite agreed.

Mayor Franson noted the reason for the higher contingency from 10% to 15% was because of market costs associated with the asphalt and road component.

Barry Edwards clarified that the road component would be paid from the Town Center Road Exaction Fee, however since the fee has not been collected at this time, money will be transferred through an inter-fund loan and paid back when the exaction fees are collected. When asked if it was anticipated that the entire amount would be recovered, Mr. Edwards stated that was the intent, but based on development and the economy it is difficult to predict. He also clarified that the City has not assessed itself any exaction fees even though it is part of the Town Center.

Kathryn Schramm stated she is not against the park but wants to make sure the City can pay for the project without raising taxes. She asked how much money would be left of the park bond after this project. Lynn Ruff reviewed general budget numbers.

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

Adoption of Ordinance 2008-18: An Ordinance Adding Article 3.52 Natural Resource Extraction Overlay Zone to the Development Code (Agenda Item 8.4)

Highland City has the need for a Natural Resource Extraction Zone for the purpose of crushing rock as part of removing a large gravel deposit on City property along SR-92. Currently there are three existing water tanks that were gained during acquisition of the Highland Water Company. These water tanks are no longer needed. This proposal does not affect or incorporate the Westroc gravel operation but would be established entirely on City owned property that would be monitored and maintained by the City. The final intended use of the property is to construct a ground water recharge pond facility. A new zone is not required for the removal of the gravel or for a ground water recharge pond facility; however, the City would not be able to utilize a rock crusher to process gravel without creating the new zone.

As drafted, the overlay zone requires a Conditional Use Permit with a public hearing rather than the usual General Plan amendment and rezone.

The Planning Commission held a public hearing on May 13, 2008 and recommended Council approval of an amended proposal subject to certain minor conditions.

Since Council review on June 17, 2008, Staff specifically added text to clearly identify the use of equipment for rock crushing. During previous City Council review it was also specifically requested that the Water Advisory Board provide a recommendation regarding the water tanks and the Natural

Resource Extraction Zone as proposed. At their meeting on September 10, 2008, the Water Board made a motion to recommend surplus of the water tanks in the Westroc Pit and that they supported the proposed Natural Extraction Zone Ordinance.

MOTION: Brian Braithwaite moved to adopt Ordinance 2008-18: An Ordinance Adding Article 3.52 Natural Resource Extraction Overlay Zone to the Development Code based on following findings of fact:

- 1. The Planning Commission held a public hearing and recommended City Council approval;**
- 2. The Water Advisory Board recommended surplus of the water tanks in the Westroc Pit;**
- 3. The Water Advisory Board expressed support for the Natural Resource Extraction Overlay Zone as proposed.**

Larry Mendenhall seconded the motion.

Brian Braithwaite stated there is a benefit to the new ordinance and Larry Mendenhall concurred, stating the benefit has far reaching impact. He noted one benefit is that when extraction is complete the area will become a water recharge basin which could raise the water level at the canyon up to 30 feet. This would substantially reduce the need to pump water for the culinary system.

Brian Brunson asked about the potential to use the property in its current condition as a recreational facility. Barry Edwards replied that access to the property is designed for the water tanks and not for public or pedestrian use. There would be safety issues with a gravel type use and it is his feeling it would not be an appropriate place to mingle heavy equipment and children.

City Attorney Dave Church arrived at 8:04 p.m.

Mayor Franson called for a vote on 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 strongly recommended that in the future a master plan for the mouth of the canyon be drafted. This would include reclaiming the existing pit, water recharge, opportunity for open space and recreational developments that tie and fit in with those uses.

FUTURE BUSINESS

Amendment to the Ivory Development Agreement to Allow Alternative Housing Stock (Agenda Item 9.1)

In March 2003 the City signed an Annexation Development Agreement with the Siggard and Taylor families and their representatives to annex property on the northwest boundary of Highland City. The Agreement identifies that the property owner is entitled to 199 single family homes. The property identified in the Development Agreement refers to the "Dry Creek Highlands" subdivision. To date, the Dry Creek Highlands Subdivision has recorded 111 lots. The property the applicant would like to alter housing stock on is Phase 5 (of five) within the Dry Creek Highlands subdivision. The previous four phases have been recorded and substantially developed.

There were no representatives from Ivory Homes present and Mayor Franson suggested the item be carried over to another future business agenda until Ivory representatives could be present.

INFORMATION

REPORT – Lone Peak Public Safety, Fire & EMS (Agenda Item 10.1)

Brian Brunson indicated the Lone Peak Pubic Safety District has not met since the last time an update was given and he had nothing new to report.

When Mayor Franson asked the time frame of the move to the new Justice Center, Chief Botkin replied that limited operations will start next week. Over a three to four week period the remainder of the police operations will be moved.

REPORT – Monthly Financial Report (Agenda Item 10.2)

Finance Director Lynn Ruff gave an update of the financial standing of the City through August 2008 with a detail of revenues and expenditures.

OTHER BUSINESS

Mayor Franson detailed the following:

- The City Council will officially adjourn and conduct a brief tour of the new facilities. He invited the public to come.
- He noted the City is trying to make Council meetings user friendly. He believes the City buildings have turned out better than expected in terms of functionality. He detailed which departments were housed in various parts of the building, including the interim library on the east side of the building.
- The City Council meetings will be recorded digitally and will be available on the City's website. The meetings will also be televised. These functions will be available shortly, but were not ready for this meeting.

Claudia Stillman stated the Library Board is planning a VIP reception for the new Library on Friday, October 24. She invited City Council and staff. The community open house will be held on Saturday, October 25.

ADJOURNMENT

Kathryn Schramm moved to adjourn. Brian Braithwaite seconded. The meeting adjourned at 8:27 p.m.

Gina Peterson, City Recorder

Date Approved: October 7, 2008