

MINUTES
HIGHLAND CITY COUNCIL MEETING

Tuesday, October 7, 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
Lonnie Crowell, Community Development Director
Gina Peterson, City Recorder
Kip Botkin, Chief of Police
Lynn Ruff, Finance Director
Jody Bates, Executive Secretary

OTHERS: Ross Welch, Patterson Construction; Willard Spykes, Jeannie Spykes, Lynn Ritchie, Chris Dalley, Lone Peak Press; Brent Wallace, Roger Dixon, Steven Finch, Todd Driggs, Dave Lewis, Joel Thunell, Edwardo Nixon, Taylor Almond, Christian Lyman, Roah Biesinger, Justin Blacker, Jonathan Willden, James Bullington, Dan Baxter and Chris Gamvroulas.

The regular session of the Highland City Council was called to order by Mayor Jay W. Franson at 7:01 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 October 2, 2008.

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

Approval of Council Minutes – September 16, 2008 Regular Meeting

Discussion took place on the minutes.

Kathryn Schramm explained why she added information to the minutes after the meeting, stating she wanted the correct figures regarding the remaining park bond to be in the minutes rather than what was incorrectly stated during the meeting. After the September 16 meeting she had clarified with Lynn Ruff that at the end of FY2008 there was \$4.1 million in the park capital improvement fund and of that, there was a \$1.1 million balance from the park bond proceeds. After the Town Center is complete the park bond money will be expended and the remaining funds to finish the project will come from the park capital fund.

MOTION: Brian Brunson moved to approve the minutes from the September 16, 2008 City Council meeting with amendments as noted and that the addition that was made to Lines 21 through 24 on Page 8 be deleted and paragraph end with “Lynn Ruff reviewed general budget numbers”. Brian Braithwaite seconded. Those voting aye: Brian Braithwaite, Brian Brunson, Larry Mendenhall and Claudia Stillman. Those voting nay: Kathryn Schramm. The motion carried with a majority vote of 4:1.

Appearances

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

Luella Day commented that the City’s cemetery fees, including lot prices, are the highest of any other city. She requested the City Council change the fees.

CONSENT CALENDAR

There were no items on the consent calendar.

ACTION ITEMS

An Ordinance Amending Several Sections of the Development Code, Eliminating Conditional Use Processes for Business Uses that have Previously Existed in Highland and are Locating in Approved Commercial Buildings (Agenda Item 8.1)

Staff would like the City Council to consider whether a Conditional Use Permit should be required for businesses within a structure that has already been approved, particularly when that use is considered desirable. In the past, typical concerns related to businesses have been number of employees, hours of operation, and sign ordinance compliance. Staff believes these concerns can be handled through existing ordinances. Elimination of the conditional use permit requirement will alleviate the process constraints on business owners who want to locate in, and provide services to, Highland.

Currently the CR zone does not require a conditional use permit for a permitted use. The business tenant is required to obtain a business license and comply with the ordinance defining hours and days of operation.

It was noted that currently this amendment is not proposed to cover the Town Center Overlay. This Overlay has been discussed for over a year in various meetings. The new text within the Town Center Overlay will reflect the changes discussed with the proposed code amendments

MOTION: Claudia Stillman moved to adopt an Ordinance Amending Several Sections of the Development Code, Eliminating Conditional Use Processes for Business Uses that have Previously Existed in Highland and are Locating in Approved Commercial Buildings. Kathryn Schramm seconded the motion.

Brian Braithwaite expressed concern with removing Planning Commission review of conditional use permits because if a use is approved but determined undesirable in the future, there would be no review of the use since it was once approved and would continue on.

Mr. Church commented that a use may be appropriate in one area of the City but not another. He noted that business owners feel like they are running through additional processes that are not necessary. It was his recommendation, because of nature of conditional use law that if the City Council wanted to continue using the conditional use process that any conditions of approval be specifically defined in the ordinance. He stated the conditional use process should not be used as a way of screening business types.

Brian Braithwaite said a conditional use is intended for a specific reason and by eliminating the process it seems like it is creating a permitted use. He expressed concern that it may create loopholes.

Lonnie Crowell talked about the substantial process of site plan approval and architectural review with the Planning Commission. Many uses are determined at that point and this proposal would simplify the end of the process for potential business owners. He noted that typical conditions for a conditional use permit include following the sign ordinance, maximum number of employees and hours of operation which are already established in the development code. Mr. Crowell clarified that if a use is not listed as a “permitted use” in the zone it would not be allowed to move into that zone.

Brian Brunson stated he understood the positive objective to facilitate businesses; however he suggests the City Council move some of the uses to permitted uses in the development code.

SUBSTITUTE MOTION: Brian Brunson moved to continue the item for two weeks to allow further discussion at the next work session since the City Council is discussing the Town Center Overlay. Kathryn Schramm seconded the motion. Those voting aye: Brian W. Braithwaite, Brian Brunson, and Kathryn Schramm. Those voting nay: Larry Mendenhall and Claudia Stillman. The motion carried with a majority vote of 3:2.

Adoption of Ordinance 2008-19: Amending Several Sections within the Development Code for the Purpose of Providing for Basement Apartments in Residential Zones (Agenda Item 8.2)

The City Council requested the Planning Commission review a basement apartment ordinance to determine what should be permitted and required for this use. During meetings in April through June the Planning Commission discussed opinions and concerns regarding basement apartments. Based on these meetings an ordinance was drafted. The proposed ordinance was reviewed and modified by the Planning Commission on June 24, 2008. This proposed ordinance with Planning Commission modification has been provided to the City Council at a previous meeting with a request to give comments or concerns to staff prior to adoption.

The ordinance allows basement apartments in residential zones as long as the home is owner occupied. It limits the apartment to one per single family residence, defines utility requirements such as garbage service fees, and parking requirements.

MOTION: Larry Mendenhall moved to adopt Ordinance 2008-19: An Ordinance Amending Several Sections within the Development Code for the Purpose of Providing for Basement Apartments in Residential Zones, based on finding of fact that staff has reworked the ordinance and it appears to be consistent with meeting a need for legitimizing some of the basement apartments that currently exist in the City. Claudia Stillman seconded the motion.

Larry Mendenhall feels it is time to take this step to approve basement apartments. He said the ordinance gives staff an opportunity to make sure basement apartments meet safety requirements and requires the owner notify Utah County.

Claudia Stillman stated this will be a way to provide affordable housing as discussed with the General Plan. She noted there are people living in basement apartments now and the ordinance will be a benefit to Highland City.

Brian Brunson expressed concern with the requirement that the apartment be in the basement. He stated some elderly people may not be able to handle stairs from the basement. He was also surprised not to see a square footage limit on the apartment.

Barry Edwards noted that the Planning Commission recommended the ordinance address basement apartments only. If apartments are allowed on the main level it effectively turns the home into a duplex. It was the intent of staff and the Planning Commission to create additional housing options without impacting neighborhoods. He stated the issue of square footage restrictions did not come up but could be addressed by the City Council if desired.

Brian Braithwaite commented that the basement apartment is essentially restricted to 50% or less of the total house size since it is the basement. He also expressed concerns with the finding of fact in the motion. He thinks the ordinance should be passed because it is right and not to legitimize something that people have been doing wrong.

MOTION TO AMEND: Brian Braithwaite moved to amend the finding of fact in the motion to strike out the verbiage “for legitimizing some of the basement apartments that currently exist in the City” Claudia Stillman seconded the motion. Those voting aye: Brian W. Braithwaite, Brian Brunson, Kathryn Schramm, and Claudia Stillman. Those voting nay: Larry Mendenhall. The motion carried with a majority vote of 4:1.

Kathryn Schramm asked Mr. Church about the owner occupancy requirement and if the City could dictate whether both the upstairs and basement apartment could be rented. Mr. Church stated ordinances that limit accessory apartments to being owner occupied have been upheld by the Court and can be enforced. He noted there is a perception of better preservation of property values when a home is owner occupied.

MOTION TO AMEND: Brian Brunson moved to amend the motion to include a requirement that no accessory unit can exceed 33% of the total living space. The motion died for lack of a second.

Kathryn Schramm asked for clarification if a property owner with an approved apartment could sell their home and advertise that they have a rental. Lonnie Crowell stated that the deed restriction required by the property owner would help notice future purchasers that the apartment use is conditionally approved with the seller. He stated the new buyer could go back through the process to get the basement apartment approved.

AMENDED MOTION: To adopt Ordinance 2008-19: Amending Several Sections within the Development Code for the Purpose of Providing for Basement Apartments in Residential Zones,

based on finding of fact that staff has reworked the ordinance and it appears to be consistent with meeting a need. Those voting aye: Brian W. Braithwaite, Larry Mendenhall, Kathryn Schramm, and Claudia Stillman. Those voting nay: Brian Brunson. The motion carried with a majority vote of 4:1.

Ordinance 2008-20: Amending Several Sections within Chapter 5: Subdivisions for the Purpose Giving Staff the Authority to Approve Initial six-month Subdivision Extension Requests as well as Clarifying Language Regarding Plans and Plats (Agenda Item 8.3)

The City Council directed a code amendment to be drafted that would allow staff the opportunity to extend a subdivision approval for six months if it was a first request. Currently the ordinance requires legislative approval of all extensions. The existing Development Code specifies that approvals expire after 180 days. There are situations that arise where an applicant is not ready to record a plat within that time period. As an example, developers of the Buhler Ranch Subdivision requested an extension because the required clean up of the property took longer than expected. Other examples also exist, particularly with the current real estate market where it is not prudent to record a subdivision due to financial obligations that occur when a property is developed.

The Planning Commission has recommended approval of the amendment. In addition, staff has made amendments to language to clarify the difference between Final Plans (to Planning Commission) and Final Plats (to Council) to make this easier to understand for applicants and residents.

MOTION: Kathryn Schramm moved to not adopt the ordinance. The motion died for lack of a second.

MOTION: Larry Mendenhall moved to adopt Ordinance 2008-20, Amending Several Sections within Chapter 5: Subdivisions for the Purpose Giving Staff the Authority to Approve an Initial six-month Subdivision Extension Request as well as Clarifying Language Regarding Plans and Plats. Claudia Stillman seconded the motion.

Larry Mendenhall believes under current economic circumstances there will be a number of requests for extensions. He has confidence in the staff and their ability to determine whether or not such an extension should be granted.

Claudia Stillman noted the ordinance includes language that explains an extension will not be granted if the subdivision no longer meets current zoning ordinances as well as other conditions.

Brian Braithwaite concurred and stated the developer should get at least a first extension, particularly if nothing has changed.

Kathryn Schramm expressed concern that allowing administrative approval of the extension removes interaction between the citizens and the City Council. She stated staff is not accountable because they are not elected and she would rather keep this as a City Council responsibility.

Brian Brunson stated his feeling that based on previous discussions with staff, he thought a comprehensive plan dealing with all extensions would be reviewed by the City Council. He would still like to see a policy on second, third and other extensions. He noted there was a statement in the

background indicating State Code would require an unlimited amount of extensions as long as nothing changed. He asked why it was only the first extension that could be administratively approved.

Lonnie Crowell stated it was the request of the City Council that it be only the first extension but staff would be in favor of removing language limiting administrative approval to the first extension. He said case law does not support denial of an extension unless something has changed.

At the request of Brian Braithwaite, Mr. Church explained that State statute on subdivisions indicates the city *shall* approve subdivisions if it meets city ordinance. He said subdivisions are not like zone changes where the City Council has discretion of approval. He believes there needs to be a lapse time for the approval; however six months is a short lapse time.

Barry Edwards stated the greater issue for the City Council to address in the future is how long subdivision approvals should last. Six months today is not long enough for a subdivision to be constructed. He stated that even though the ordinance is not as comprehensive as it could be, it is a start. He recommended action be taken on the ordinance and that staff and the Planning Commission could review the issue to see how other cities handle extensions and time periods.

MOTION TO AMEND: Brian Brunson moved to amend the approval of the ordinance to include instruction to staff to bring back a comprehensive plan that would address issues regarding length of time, number of extensions and examples of how it is handled by other cities. 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.

Larry Mendenhall stated the City Council needs to consider the volatility of the economy. Fees set aside; he believes it is appropriate to look at approved subdivisions every six months to determine whether an extension is appropriate in this economic environment.

Kathryn Schramm referenced two previous applications for extension and that staff had recommended approval on one and disapproval on another with no explanation even though both had paid their applicable fees. She stated she is aware of the economic problems and would still like the City Council to approve extensions.

AMENDED MOTION:

- 1. To adopt Ordinance 2008-20: Amending Several Sections within Chapter 5, Subdivisions for the Purpose Giving Staff the Authority to Approve an Initial Six-month Subdivision Extension Request as well as Clarifying Language Regarding Plans and Plats; and**
- 2. To instruct staff to bring back a comprehensive plan on extension of subdivision approvals that would address issues regarding length of time, number of extensions and examples of how it is handled by other cities.**

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

Approval of a Six-Month Extension for Sunset Mountain Final Plat C & D (Agenda Item 8.4)

Scott Dunn from Patterson Construction is requesting a six-month extension for Sunset Mountain Plats C and D. Final approval for Plat C was granted on February 5, 2008 making the original expiration on August 5, 2008. Due to staffing changes in the planning department the applicant was not notified prior to expiration as is typical.

Patterson Construction obtained Final Approval for Plat D on April 15, 2008 making the expiration date October 15, 2008. This extension request would continue the approval of both plats until April 7, 2009. The Applicant has contacted the Planning Secretary, submitted a written request, and has paid the applicable extension fees.

MOTION: Based on finding of fact that no changes have been made to the plats, Brian Braithwaite moved to grant a six-month extension for the Sunset Mountain Final Plats C & D subject to the previously approved conditions as follows:

Sunset Mountain Plat C - Conditions of Previous Approval

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.

Sunset Mountain Plat D - Conditions of Previous Approval

1. **STREET IMPROVEMENTS.** That the applicant complete all required improvements along Highland Boulevard; and
2. **LANDSCAPING.** That the applicant provide a minimum of 35% of landscaping as required for the P.O. Zone per ordinance; and
3. **TRAIL LOCATION & IMPROVEMENTS.** That the applicant and City Engineer work together to acquire a proper location for the 8' public trail and that the exact trail alignment for the whole trail along the east portion of the P.O. Zone be surveyed and marked prior to issuing a building permit for Plat D. Because this is the last plat along the easterly portion of the P.O. Zone that includes the trail, that the entire portion of trail required to be installed by Patterson Construction be improved by the applicant with the improvements of the plat and a bond be in place for the trail construction to be held for a period of 2 years after the City Engineer has accepted its initial construction.

4. **DUST/MUD PREVENTION.** That the applicant strictly adhere to the Dust and Mud Prevention Plan; and
5. **EASEMENTS.** That any easements shown on the title report be clearly identified on the Final Plat; and
6. **DEMOLITION PERMIT.** That the applicant obtain a demolition permit from the City for any buildings to be removed; and
7. **OPEN SPACE DEED.** That Parcels A & B (Public Open Space & Trail Easements) be conveyed to the City by warranty deed with title insurance and not only by plat dedication.

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.

Approval of a Six-Month Extension for the Avila Final Plat (Agenda Item 8.5)

Francisco Avila is requesting a six-month extension on the final approval of the Avila Final Plat. The City Council gave final approval to subdivide Bull River Lot 27 on March 20, 2007. An initial six-month extension was granted by the City Council on October 2, 2007 as well as a second extension on April 1, 2008. The applicant is requesting a third six-month extension which would continue the approval until April 7, 2009. The Applicant has contacted the Planning Secretary, submitted a written request, and has paid the applicable extension fees.

MOTION: Kathryn Schramm moved to grant a six-month extension for the Avila Final Plat subject to the previously approved conditions (listed as follows):

1. **DRIVEWAY LOCATION.** That the existing driveway be moved inside the property line of proposed Lot 101 to mitigate any concerns that the subdivision contains two lots that are a minimum of two acres in size per the requirements of the Bull River Planned Unit Development when it was approved (a possible alternative option would be to split the driveway along the property line for access to both lots); and
2. **POND NOTATION.** That a note be placed on the final plat indicating that a pond existed on the property which may have some engineering requirements if a home is built over that location; and
3. **EASEMENTS.** That any easements shown on the title report should be clearly identified on the Final Plat; and
4. **PAYMENT OF TAXES.** That if any greenbelt taxes are associated with the property they will need to be paid and the applicant will need to provide evidence from Utah County that they have been paid for the entire parcel prior to any dedication of land.

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

Approval of a Six-month Extension for the Spruce Estates Final Plat (Agenda Item 8.6)

The Spruce Estates Subdivision was granted City Council Final Approval on March 6, 2007. The applicant was granted a six-month extension by the Council on October 2, 2007. The applicant appeared before the Council on April 15, 2008 and was granted a second six-month extension. The six-month extension that was approved on April 15, 2008 will expire on October 15, 2008, making this the third request for extension. This extension will continue subdivision approval to April 7, 2009. The Applicant

has contacted the Planning Secretary, submitted a written request, and has paid the applicable extension fees requesting an additional six-month extension which is permitted by ordinance.

MOTION: Claudia Stillman moved to grant a six-month extension for the Spruce Estates Final Plat subject to the previously approved conditions (listed as follows):

1. **PARKWAY DETAIL.** That the parkway detail along SR-92 be constructed by the applicant in addition to any required improvements along this right-of-way; and
2. **REAR SETBACKS ALONG PARKWAY.** That the applicant indicate an additional 30 foot rear setback from the parkway detail for building setbacks; and
3. **MASONRY WALL.** That the applicant construct a masonry wall along the parkway detail line; and
4. **ROAD CONNECTION.** That the developer provide a right-of-way connection to allow access to the west (at the north end) for better traffic circulation and service; and
5. **DUST AND MUD.** That the applicant strictly adhere to the Dust and Mud Prevention Plan and not track debris in to the Highland City right of way; and
6. **EASEMENTS.** That any easements shown on the title report be clearly identified on the Final Plat unless they are located in the right of way; and
7. **PAYMENT OF TAXES.** That the applicant pays any greenbelt taxes associated with the property and provide evidence from Utah County that they have been paid for the entire parcel prior to any dedication of land.
8. **DEDICATION OF PROPERTY WITH NOTATION OF FUTURE DENSITY.** That the property south of Lot 1, between Spruce Drive and the adjacent property to the west, be deeded to the adjacent property owner prior to or at the time of recordation of the plat and that the deed contain a restriction noting that the density relating to the property has previously been calculated with Spruces Subdivision and therefore cannot be applied to further development of the grantees property.

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.

Adoption of Resolution 2008-12: Amending the Consolidated Fee Schedule regarding Cemetery Fees (Agenda Item 8.7)

During early summer of 2008 the City Council reviewed a fee study from Lewis Young that outlined actual costs of service to provide cemetery use to residents. Fee increases were adopted on May 6, 2008 (Agenda Item 8.2) and implemented on July 1, 2008 to reflect actual costs.

Since that time questions have been asked about how residency is determined. The Municipal Code (13.48.210) clearly identifies residency is determined at the time a burial right is purchased.

The remaining fee is charged at the time of burial and pays for the opening/closing. Under the fee structure effective July 1, the City was subsidizing resident fees for opening/closing and charging the actual cost of service to the non-resident. Many people felt this fee was high, particularly if a person had lived in Highland for some time, already purchased a burial right and then moved for medical or other reasons later in life then died while living elsewhere. Several cities in Utah County charge a universal fee for grave opening because it doesn't cost more to open and close a grave for a non-resident versus a resident. Staff proposes that one fee be implemented for opening/closing regardless of residency and that

the fee be \$600 for weekday and \$850 for weekend. Fees for double burial will also be universal and are recommended at \$750 weekday and \$1050 weekend because of the increased depth (time to dig).

This solution will also alleviate the need for staff to ask difficult questions about residency and money at a difficult time. The City Engineer has indicated that a system is currently underway to increase the effectiveness of finding grave locations which will in turn decrease the actual manpower needed for opening/closing. For this reason also, the Mayor and staff feel comfortable recommending the lower, universal rate for opening/closing fees. Staff also recommends the amendments be made retroactive to July 1, 2008 and that the difference of any non-resident opening/closing fees that have been paid be refunded to the person who paid the fee.

MOTION: Brian Brunson moved to adopt Resolution 2008-12: Making Amendments to the Highland City Consolidated Fee Schedule Regarding Cemetery Fees and Making the Fees Retroactive to July 1, 2008. Brian Braithwaite seconded the motion.

Barry Edwards reported that even though he is not a voting member, this resolution has a direct impact on his family as his mother was recently buried in the Highland City Cemetery.

Brian Brunson stated the City has tried to make user fees a true fee that pays for itself. He believes it is a beneficial approach to consolidate the fees and asked the approximate total that would be refunded if the fees were made retroactive. City Recorder Gina Peterson indicated it was likely no more than \$1,500 total.

The Mayor and members of the City Council commented on the benefits of the change, including the fact that it prevents staff from being in a difficult situation at a difficult time. Appreciation was expressed to staff for their work as well as citizens for bringing it to the attention of the City Council.

Kathryn Schramm stated she feels the prices are still very high, but they are based on actual costs of service. She clarified that there would be no need to ask residency questions at the time of burial.

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.

Adoption of Resolution 2008-13: Declaring Surplus Property for Purpose of Disposal (Agenda Item 8.8)

Due to purchase of furnishings in the new City Hall there are various office furnishings no longer used and currently being stored. These office furnishings and equipment are no longer needed for City use and are in good working condition. Staff recommends surplusing the items to benefit the community. Once declared surplus the items will be disposed of at a public sale.

MOTION: Brian Braithwaite moved to continue a decision to declare surplus property based on the finding that the City Council has not determined the status of the old building and there may be reason to use some of the furniture in whatever purpose the building may be used. Kathryn Schramm seconded the motion.

Mayor Franson stated the proposed use of the old city hall is currently being addressed and Barry Edwards noted another motivation to surplus the items was to clear out the building so it could be used.

Brief discussion took place about which items could be reused in the building. It was noted that staff has determined the phone system is not viable for the building.

SUBSTITUTE MOTION: Brian Braithwaite moved to adopt Resolution 2008-13: Declaring Surplus Property for the Purpose of Disposal with the only surplus item being the phone system. Kathryn Schramm seconded the motion.

Brian Brunson feels there still may be some use for the phone system. He asked the value of it and Barry Edwards guessed between \$10,000 and \$20,000. He indicated a couple of parties have already expressed an interest in the phone system.

Brian Braithwaite stated from his experience it would be more cost effective and less expensive to extend the new phone system from the new City Hall or have a very small system installed rather than use the old system.

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.

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 applicant would like to alter housing stock on Phase 5 (of five) within the Dry Creek Highlands subdivision. The previous four phases have been recorded and substantially developed.

Chris Gamvroulas from Ivory Homes addressed the City Council. He stated the market has adjusted considerably over the last several years which led Ivory Homes to look at the opportunity of alternative housing stock in Highland. He stated he is not asking for approval, rather a feel from the City Council about the concept before Ivory puts considerable work into the changes. Mr. Gamvroulas stated Phase 5 of the Dry Creek Highlands is an ideal place for alternative housing because it is the furthest northwest corner of the City, on the Lehi/Highland border and at the corner of Micron. He distributed renderings of various Ivory Homes that may be proposed, including affordable townhomes with a starting range between \$150,000 and \$160,000.

Ivory would suggest a feathering of the density with the far northwest corner of Phase 5 designed for townhomes, then zero lot line homes with common area (similar to an affordable version of the Ivory Homes Pepperwood Creek project in Sandy City) and then buffering with standard single family lots.

Brian Brunson asked if Ivory Homes would be willing to utilize the Open Space overlay zone instead of constructing a Planned Unit Development with privately owned common areas. Mr. Gamvroulas stated Ivory Homes is not a fan of Highland's open space ordinance because they don't think it works. He doesn't believe the requirements balance the benefits to the developer or homeowner and he outlined the benefits of having it remain private.

Kathryn Schramm asked if compaction studies have been done in the area and collapsible soils have been taken into consideration. Mr. Gamvroulas answered that a study was done when Ivory acquired the property and mitigation would be done for any problem areas.

Larry Mendenhall noted that affordable housing is a moving target. He feels that Highland City really needs an option for housing stock that addresses the issues of truly affordable housing. He added that it is a great location to have a mix of homes. Mr. Gamvroulas stated Ivory would use the HUD definition for moderate income to determine the starting price point.

As a comparison, Claudia Stillman asked the cost of the townhomes in Ivory Ridge project in Lehi. Mr. Gamvroulas said they range from \$180,000 to \$240,000.

Kathryn Schramm requested more townhome models be developed with a master bedroom on the main level and that Ivory consider making wider hallways to accommodate ADA requirements. Mr. Gamvroulas stated they currently have ADA accessible plans.

Mayor Franson expressed his feeling that the City Council may be interested in seeing more information on the concept.

Authorization for Gravel Extraction Request for Proposal (Agenda Item 9.2)

With the passage of the Natural Resource Extraction Zone the City will be requesting proposals from firms to remove the gravel under the water tanks. After proposals are received, staff will bring them back for City Council action.

Mayor Franson noted that three design build contractors will be submitting bids for the SR-92 reconstruction and the gravel extraction use will tie in nicely with the reconstruction.

Alpine/Highland Boundary Adjustment (Agenda Item 9.3)

Brian Oaks owns a one acre lot with a Highland address of 11382 North 5710 West. This is Lot 305 from Plat C of the Alpine Shadows Subdivision. Anthony Ivins owns the one acre parcel next to Mr. Oaks at 11387 North 5710 West. Mr. Oaks contacted the Records Office inquiring why he was getting two property tax notices from Utah County for his one lot. It was discovered that both the Oaks and Ivins properties cross the Alpine City border and both backyards are actually located in Alpine.

Utah Code Ann. § 10-2-419 establishes a procedure for adjustment of the common boundaries between adjacent municipalities. The first step in the process is for each city to adopt a Resolution of Intent. This will begin the noticing period and set a public hearing no less than 60 days after the resolution's adoption as required by State Law.

For ease of tax notices as well as providing water services on a parcel, staff recommends a boundary adjustment be pursued. This will clean up the issue of tax noticing. After the boundary adjustment takes place, the property owner can do the work to have the two separate parcels combined. Alpine City will be required to adopt the same Resolution of Intent and follow the process. Ted Stillman and the planning staff from Alpine City have indicated pursuing this, as well as similar dissected properties in the future, is a beneficial idea.

An Ordinance Amending Section 3-4355, Site Coverage, in the CR Zone (Anchor Tenant) ~ Code Amendment (Agenda Item 9.4)

Applicants Frank Tusieseina, owner of Newport Sports Club, and co-owners Tom Hulbert and Mike Morley have begun plans to be the anchor in the CR Zone. The plans are to construct a world class fitness and athletic training facility. The owners have requested that Highland consider allowing a larger building to accommodate the needed square footage for this operation. In December 2007 the Planning Commission held a public hearing to consider an increase in square footage for a potential grocery anchor from 70,000 square feet to 97,000 square feet and recommended the Council approve this amendment conditionally based upon a potential grocery anchor.

During the original approval of the CR Zone, the existing text limiting the anchor pad size was requested by the City Council to hinder the opportunity for a very large typical big box user. The square footage for this type of user is typically between 125,000 and 250,000 square feet. This proposed Code Amendment would permit the opportunity for more options for the potential user (as well as other users if needed), while continuing to prohibit the usual, well-known, large big box users from locating in the CR Zone. This change will require revisiting the previously approved Site Plan for the Anchor and In-line Buildings and a revisit to the Architecture of the In-Line Retail Building and architectural approval for the Anchor. This will come before the Council in the near future per the ordinance.

Originally the combined square footage for the anchor and attached in-line tenants with the Approved CR Zone Site Plan was equal to 118,250 square feet. The proposed footprint is equal to 97,913 main floor with an additional 1,963 upper floor for a total of 99,876 square feet which is substantially lower than the square footage originally approved with the CR Zone.

The ordinance specifically provides for “Sports and Fitness Centers” as a permitted use (3-4351(1)(b)). Mr. Tusieseina and Mr. Hulbert were invited to attend the Town Center Committee by the Committee. During these meetings the proposed project was presented with positive responses. It is the Town Center Committee’s unanimous and professional opinion that the success of the Newport Sports Club is directly related to the success of the Town Center and the potential businesses that result from this proposed use may be very beneficial to the Town Center and Highland.

Brian Brunson asked if there was a way to tie this amendment strictly to the Newport Sports Club, so that if the sports club does not go in, the text reverts back to what it currently states.

Barry Edwards stated the City Council will know fairly soon if the use will continue and if it doesn’t the ordinance can be brought back to be amended. He stated there is no guarantee the use will stay forever. When questions were asked if the developer has secured financing for the sports club project, it was indicated that staff has been told the funding is secure, but the City is never really certain.

Kathryn Schramm asked if Highland City would be asked to subsidize the development. Barry Edwards indicated that staff has thought about partnering with the facility to provide things that don't exist in the City or are too expensive for the City to provide, but may be beneficial for residents.

Brian Brunson expressed concern that if the sports club left in the future, a building of this size would be too small for a grocery store and the size would lend itself to a manufacturing use. He suggested a dividing wall be constructed so future uses could be split if needed in the future. Barry Edwards stated the layout of the building is fairly partitioned.

INFORMATION

REPORT – North Utah Valley Animal Services Special Service District (NUVASSD) (Agenda Item 10.1)

Kathryn Schramm provided a brief report on the NUVASSD which included the following information:

- The current economic situation has affected the shelter as some people decide to get rid of their pets to save costs.
- She encouraged pet owners to be responsible and not dump pets out in parks or neighborhoods. She requested responsible pet owners needing to get rid of a pet to first try and find another home and then, if unsuccessful, bring the animal to the shelter.
- The facility has a great director and a lot of high-quality programs to adopt pets and teach people about being responsible pet owners.
- The district has been working on developing a County-wide licensing program with the South Utah Valley Animal Control branch. They have also created a license that does not expire for three years.
- They have been developing an employee handbook for the shelter.
- The Vineyard connector is planned to be built on the property where the current shelter is housed, however UDOT will be constructing a new building for them. Staff has learned a lot working in the old building and will implement features to provide better services in the new building.

Brian Braithwaite stated he has seen a huge decline in animal licensing in Highland since it has been turned over to the shelter. He feels it is due to a lack of communication on the part of the shelter and it is a huge loss of revenue. He stated his feeling there are many proactive ways to persuade residents to license animals. Kathryn Schramm noted that this topic is a frequent discussion at shelter meetings.

OTHER BUSINESS

Mayor Franson detailed the following:

- He recently met with the newly reorganized Arts Council. He has invited them to make a presentation on the arts in Highland during the information portion of the next City Council meeting.
- He had discussions with Brian Braithwaite regarding holiday decorations at the new City Building. Brian Braithwaite noted he connected with a vendor at the ULCT conference that can design a proposal that could be added to over the coming years as budget allows. He feels

having decorations and activities around the holidays enhances the sense of community which is one of the purposes of the Town Center.

- A reminder that no City Council meeting is scheduled on the first Tuesday of November due to Election Day. The next City Council meeting is October 21, 2008 and a special meeting may be scheduled for Wednesday, November 5.
- November 11 is Veterans Day. The City will be holding a program with dedication of the cemetery and a commemoration for Veterans.
- He requested the City Council brainstorm ideas that were obtained from the ULCT meetings to share with the City Council at a future meeting.
 - Brian Brunson commented that he and Larry Mendenhall attended a meeting discussing programs to provide a safety net for struggling families. He feels the community can be more aggressive in educating staff and the public about resources that are available to help families in trouble.

Mayor Franson stated at the beginning of the year the City Council developed some two-year goals. He reviewed a power point presentation which outlined goals that been accomplished and goals that are still in progress.

Mayor Franson then addressed the role of the City Council to oversee the vision of the community. He stated it is very easy to get caught up in day to day operations of the City, but that is what the staff is for.

The Mayor cited the example of the vision of the Highland City Council for SR-92 which has been very beneficial in meetings with UDOT and getting a more desirable design. He noted that this vision has carried over to other UDOT projects in the County.

The Mayor then specifically addressed the minutes process and the City Council agenda. He noted there were no consent calendar items on the agenda because of the last 50 consent items nearly 90% of them have been pulled and then over half of those were approved by a unanimous vote. He is unsure why processes of efficiency are getting stuck. He outlined that minutes are a record of what happened in the meeting, not a record of trying to get credit for what is going on. He stated he is not going to propose a minutes policy because he feels it's counterproductive. He requested the City Council think about why the consent calendar and minutes are an issue. He concluded by stating the City Council put together excellent goals and there is a lot that has been accomplished.

Mayor Franson then invited comments from the City Council.

Brian Braithwaite said there is an art in doing motions and he is working on figuring it out. He noted that many of the items he has pulled from the Consent Agenda are due to lack of background information and the motion. He doesn't feel minutes have been an issue recently. In the past with staffing changes the minutes got behind.

Brian Brunson stated one of his concerns with consent items is that public deliberation needs to be in public. There has been a lot of desire for the City Council to do as much homework behind the scenes and that is hard for him. He has pulled items off the Consent Agenda because he feels that questions or clarifications are needed publicly. He stated he understands the Mayor's comments on the minutes and has felt that for a long time minutes have been used as a campaign tool. Currently he feels like there is a good balance and he is grateful not to have really long meetings. He does feel there is too much restriction on public comment.

Kathryn Schramm felt like a lot of the comments were directed toward her. It has always been her belief that if citizens could not attend the City Council meeting, they deserved to know through the minutes that there was discussion and different opinions expressed. She said she requests her own comments have her name attached because she doesn't want anyone else to be blamed them. She expects to be responsible and accountable for her own comments. If the rest of the City Council disagrees then it is up to them to put in a comment. She stated she does not use the minutes to campaign.

Mayor Franson stated the City Council has a difficult job and the reality is that citizens that do not attend don't pick up the meeting minutes most of the time. These citizens elected the Mayor and City Council to do the job for them. He expressed appreciation for the feedback and requested that the City Council continue to build on what has been accomplished.

ADJOURNMENT

Brian Braithwaite moved to adjourn. Brian Brunson seconded. The meeting adjourned at 10:07 p.m.

Gina Peterson, City Recorder

Date Approved: October 21, 2008