

**MINUTES**  
**HIGHLAND CITY COUNCIL WORK SESSION**

**Tuesday, January 13, 2015**

Highland City Council Chambers, 5400 West Civic Center Drive, Highland, Utah 84003

**PRESENT:** Mayor Mark S. Thompson, conducting  
Councilmember Brian Braithwaite  
Councilmember Dennis LeBaron  
Councilmember Tim Irwin  
Councilmember Jessie Schoenfeld  
Councilmember Rod Mann

**STAFF PRESENT:** Aaron Palmer, City Administrator  
Nathan Crane, Community Development Director  
JoD'Ann Bates, City Recorder  
Justin Parduhn, Public Works O&M Director

**OTHERS:** Linda Walton, Robert Uzelac, Bill Bennett, Johathan Myres, Curtis Smith, Brian Kap, Trista Willardson, Tanya Colledge, Coby Kap, Tyler Kap, Steve Hulet, Deanna Golden, David Golden, Anne Sward Hansen, Larry Mendenhall, George Harris, Vickie Harris, Garrett Lyman, Robert Holmes, Julainne Taylor, Braden Taylor, Harold Glade, Day Christensen, Steven West and Jeff Davis.

The meeting was called to order by Mayor Mark S. Thompson as a work session at 6:01 p.m. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Dennis LeBaron

**WORK SESSION: Dry Creek Neighborhood Option Trail**

Nathan Crane stated the trail was built in approximately 2003 as part of the Dry Creek Subdivision. There are several areas where the trail extends outside the boundaries of the easement and they would like to discuss and address some of the issues related to the trail. Nathan presented a map showing the area.

Anne Sward Hansen a Bull River resident stated she was present during the construction phases and walked the property as it was being graded. She feels the roads were not constructed in the proper place and that pushed the homes further back towards the conservation area.

Day Christensen a Bull River resident stated it was his understanding the trail and the conservation area was to help with the mitigation between the subdivisions and the conservation area to preserve the hollow. He does not know why the easement is not in the correct place but

feels it is an important asset to have a trail in that area and the city should do what it takes to rectify the issue in order to keep the trail.

Brian Kap a Dry Creek Highland resident, stated he is a property owner where the trail is on his property and not in the easement. The development originally did not have the trail there until later in the building phase after most the homes were built. The developer did not inform the home owners of the easement and conservation area. The development was well under way and the trail was constructed towards the end of the development. He had tried to get this corrected with Ivory early on and was sent right to their lawyers. The city was notified time and time again, this is the third Mayor and the third City Administrator that has been notified and he has discussed this issue with all of them.

Vickie Harris a Dry Creek Highland resident, stated she also agrees the trail should be there. She doesn't understand why the city was not more diligent in making sure the developer do what they should have done per the plans. She feels the city needs to correct the issue, take responsibility and maintain it better.

Linda Walton a Bull River resident, stated she feels they need to identify what it is that they are trying to accomplish with the session. Highland has changed over the years and she feels that some of what has transpired is history and they need to move forward from here.

Brian Braithwaite stated those individuals that the trail is on their personal property feel a sense of liability and as a city it is their responsibility to fix that issue. He feels the options are to purchase an easement on the property of those infringed upon, negotiated some kind of common benefit in order to leave it where it is, move it at a large cost or abandon the trail. There can be numerous variations of those choices, the city needs to choose what is important and best for the city as a whole.

Garrett Lyman a Dry Creek Bench resident, commented they were in their home prior to the trails being in place. The trail has an unfortunate past, the trail was placed on his property and they went through a process to have the trail fixed and moved to where it was supposed to be. He would like to know if the city has any intention of maintaining the trail properly if it is kept and maintain the safety of the trail and who would be liable if someone got hurt.

Several comments were made regarding the maintenance and safety of the trails and possible options the city can do to help mitigate those issues along the trails.

Jonathan Myers a Dry Creek Highland resident, stated this trail encroaches on his property and this is an undue burden and feels he has lost property and it's a liability for him having it on his property. There is an economic impact and it has impeded them the ability to use their property as they would like. They appreciate the Mayor and Council taking the time to walk the property and hold this meeting that will hopefully benefit the area in the future.

Harold Glade a Dry Creek Highland resident, stated the trail is in the easement on his property and just had a questions regarding the liability if something happens to someone while on the trail.

Mayor Thompson stated he is not prepared to answer that but will get a legal determination and make it available

Braden Taylor a Dry Creek Highlands resident, stated he walked the trail with previous administration and Mayor and asked the same question regarding liability for which he did not get an answer that he was comfortable with. He continued that he has protected himself through insurance policies. He has two concerns 1) safety, and 2) liability. He has multiple situations of people on the trail doing things that shouldn't be happening. Not matter what he does if they are on his property he will be held liable and that doesn't set well with him. He questioned where the trail gets very steep, does it need to meet the disability act and if so, he feels it does not meets those needs. He feels it needs to be removed.

Anne Sward Hansen supports the use of the trail. At the time of the planning she feels it was a compromise with the home owners in order to allow a buffer between varying sizes of lots between the Bull River subdivision and the Dry Creek Highlands subdivision. They went to the City Administrator at the time and had concerns of the trails and drainage issues. It would be a mistake to abandon the trail. She feels it was never built to code and feels it should have never been passed off by the city. If the trail is moved the city would need to build retaining walls and work with the Bull River ditch company to ensure it doesn't disturb the drainage.

Larry Mendenhall a Bull River resident, stated this is a community asset and the city should keep the trail. He was on the Planning Commission at the time the Dry Creek subdivision was platted. One problem they have is they don't know exactly the number of properties that are directly impacted. He suggested they ask the Community Development Director to take a look at each lot and determine what needs to be done and respectively what it would cost to correct those issues He feels it might not be worth the cost to fix the trail. If the city needs to purchase easements, can it be purchased or will that property owner allow that easement to be moved. He would like to keep this trail in tact but feels there needs to be more information before something can be done.

Brain Braithwaite commented they started down that direction and do have some of that information but felt they needed to know how the residents felt about keeping the trail or not.

Nathan Crane indicated that a portion of the trail is a neighborhood option trail which can be removed and the other is a city trail that is based on the general plan.

Discussion continued regarding the options and locations of the neighborhood option trails.

Bob Uzelac a Bull River resident, stated when he first bought his home, Highland lots were one acre lots, now they are allowing half acre lot sizes if the developer gives space for parks and trails. He is concerned that if they start abandoning these areas, developers are going to want to come in and get the half acre lots without giving the city open space areas. He feels the city keeps backing down, in other areas of the city things have changed from what was originally promised.

Tanya Colledge a Dry Creek Highland resident, stated she doesn't feel there is a consensus about keeping the trail simply due to the concerns voiced. She also has a concern with the property owner's liability not only for those homes that back the trail but as residents and tax payers. She also has a concern regarding the maintenance and safety of the trail. She would like some assurance if the trail stays, there be better maintenance.

Curtis Smith a Dry Creek Highlands resident, stated he feels they all love the idea of a nice trail. The fact is, does the city have the money to fix and maintain the trail. The city hasn't had the funds for the last 9 years and he doesn't see anything changing. If there is money to fix and maintain the trail great but if there is not they could talk all night and nothing will ever get done.

Steve Hulet a Dry Creek Highlands resident, stated he feels Ivory should be responsible for some of the costs, they are the ones that recorded the plat map showing the easement and the trail where it was to be. If they didn't do it the way they designed it to be, they should be responsible. If the trail goes away the easement remains and it still gives into the possibility of people walking thought that area.

Brian Kap commented on his ordeals with past administration and Ivory regarding the trail and the easement and the lack of faith he has with this being resolved.

Day Christensen feels that the alignment of the easement was never placed in the right place. Part of the responsibility of the city is to have more foresight than the property owners. He stated it's frustrating to see the city not follow through with and deal with issues like this one being discussed.

Anne Sward Hansen agrees that this is a public trust issue. She was involved before any homes were built or lots sold. Highland City committed themselves to this project and didn't follow through with what they said was going to happen and to abandon it now years later is not right.

Brian Braithwaite stated he doesn't thing they can go back to the developer at this stage and require them to fix the issue. The city has to fix it and this council is working towards a resolution. Not everyone is going to be happy with the decision that will be made but they are trying to make sure they are making the best decision for the city as a whole. They can't go back, previous administration is not here, and they have to deal with what they have. He continued that this is not an easy issue, the city does not have money to maintain trails, fix roads or other things residents would like the city to do. They tried to get additional funds which were voted down in the last election which means there are a portion of residents that would prefer to have the roads and trails maintained as they are rather than have them improved. There is a balance they are struggling with.

Julainne Taylor a Bull River resident, stated she feels most people moved to Highland due to the rural quality, the good people and she feels the trails add to that. She feels the trail increases the quality of the community all around.

Harold Glade commented he does value trails but questions ways to be able to get those trails in the easements and the cost and code compliance that it would take. He feels whatever needs to be done needs to be done quickly it is overdue.

Rod Mann excused himself from the meeting at 7:20 p.m.

Jonathan Myres commented he feels the numbers regarding the cost to fix this issue that have been lightly discussed is way under estimated, and feels it is the residents that are the ones that are truly paying the cost for the mistake. He feels there is a certain amount of reasonableness that has to be assumed that is long overdue. It needs to be resolved in a timely manner that benefits the city and its residents today and in the future.

Bob Uzelac stated he thinks the issue really needs to start higher up, and one of those things is how the council is going to get more money coming into Highland. They need to work on businesses bringing in tax dollars which will help give them money to fix the roads and take care of the open spaces not just for now but in the future. We have got to get some business coming in to bring the tax dollars into Highland.

Mayor Thompson stated he appreciates the comments made, they understand by having this type of meeting the ideas are diverse. He is not sure where they are heading yet but feels they do need to protect people's property rights. He feels at this time the violation is from the city to the homeowners by continuing to not work on a solution for this issue. He continued he feels they are going to find a solution and a balance. He feels they need to gain that trust back and they are working on making a discussion that will allow that trust to be rebuilt. He feels the issues they need to keep in consideration are money, personal property and, maintenance.

Rob Holmes a Bull River resident, stated it seems to him that the city builds its infrastructure off one time fees and the city will not make it on that. There is no way to do this without recurring fees. He likes trails but not at the expense of other property owners and feels there needs to be a compromise.

Brian Braithwaite stated the city population doubled from 2000 to 2010 and they learned a lot and made a lot of mistakes as a city. City's would like to build it with one time fees but you have to be thinking about the re-accruing maintenance cost and that was not considered. They are paying the price and they are trying to make adjustments. There are a lot of positive things prior administrations did for this city but there are still issues that need to be fixed that weren't thought of at the time.

Trista Willardson a Dry Creek Highland resident, inquired what the process was going forward after the close of this meeting.

Mayor Thompson stated he would like to set a goal to have an answer within the next three months. He unofficially asked those in attendance to raise their hands in answer to the following:

Those in favor of removing the trail – 8 responded

Those in favor of keeping the trail – 7 responded

Those interested in making it a private trail – 3 responded.  
Mayor again thanked all those that attended and participated in the discussion.

Work Session concluded at 7:41 pm



*JoAnn Bates*  
JoAnn Bates, City Recorder

Date Approved: February 3, 2015