HIGHLAND CITY COUNCIL MINUTES

Tuesday, December 4, 2018

Approved January 22, 2019

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

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS PRESENT: Brian Braithwaite, Kurt Ostler, Scott L. Smith – Ed Dennis and Tim Irwin participated electronically

CITY STAFF PRESENT: City Administrator/Community Development DirectorNathan Crane, Assistant City Administrator Erin Wells, Finance Director Gary LeCheminant, City Engineer Todd Trane, Planner Tara Tannahill, City Attorney Tim Merrill, and City Recorder Cindy Quick

OTHERS: Natalie Ball, Devirl Barfuss, Corwin Harmon, Tyson England, Ginger Harris, Kyle Pettit, Kye Tanner, Karalee Pettit, Colby Gibson, Darin Mano, Scott Thompson, Layne Shelley, Rosalie Shelley, Becky Juchau, Dave Stone, Robert Rolapp, Helene Paskrus, Brady Mather, Braden Mather, Cameron Lackey, JJ Thurman, Michael Martin, Derric Rykert, Tricia Mendenhall, Heather Schow, Don Merrell, Michael McKendrick, Wade Hadlock, Boyd Timoth, Grant Chandler, Alisha Gray, Brent Wallace, Lori Blakesley, Lorna Reid, Bruce Tucker, Andrew Ford, William Roberlt, Katie Hatch, Chet Smith, Shonnie, Smith, Jennifer Nielson, Mike Jensen, Mark Hafen, Lucie Holman, Kristen Bradshaw, Regan Reichert, Evelyn Jankovich, Cori Ollerton, Mark Thompson

7:00 PM REGULAR SESSION *(CITY COUNCIL CHAMBERS)*

Call to Order – Mayor Rod Mann
Invocation – Council Member Kurt Ostler
Pledge of Allegiance – Council Member Brian Braithwaite

The meeting was called to order by Mayor Rod Mann as a regular session at **7:00 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 Council Member Kurt Ostler and those assembled were led in the Pledge of Allegiance by Council Member Brian Braithwaite.

Mayor Mann requested that City Attorney Tim Merrill speak to the concerns raised about the potential conflict of interest of Council Member Ed Dennis. City Attorney Merrill had examined State Law and felt that there was no conflict of interest in this case. Council Member Ed Dennis lived in the neighborhood involved in the request, however, any personal benefit he would derive was equally offered to every resident of that neighborhood.

Mayor Mann supported his conclusion.

Council Member Brian Braithwaite disagreed and explained that he based his opinion on the size of the impact. An increase in taxes or fees affects everyone in the City but this was a specific application and affected a

specific group of people. He felt that Council Member Dennis would benefit financially from the proposed change and that conflict should be disclosed.

Mayor Mann explained that Council Member Dennis had already disclosed the possible conflict.

Council Member Kurt Ostler agreed with Council Member Braithwaite. He read from the Ordinance regarding a conflict of interest, which stated that "officials may not use a position to influence a governmental decision to which they have a financial interest or to secure an economic benefit for themselves or another."

Council Member Scott L. Smith disagreed. He noted that the concern raised was exactly why he had opposed the new ordinance that was passed regarding conflicts and felt it was now being used as a political weapon. He did not believe that Council Member Dennis would get any more benefit than others in his neighborhood and he may not see any financial gain until the distant future.

Mayor Mann felt that each Council Member made a fair point. He explained that a Council Member can declare a conflict of interest and still vote on an issue. There was no obligation for a Council Member to recuse themselves from voting.

1. UNSCHEDULED PUBLIC APPEARANCES

Time has been set aside for the public to express their ideas, concerns, and comments. (Please limit comments to three minutes per person. Please state your name and address.)

Natalie Ball provided an update on the recent open space conflict within her neighborhood. In May, the Council approved a sale of open space properties for the price of $1.40 per square foot. Some residents added nearly half an acre to their properties for around $30,000. The case that was presented to the Council was that the property in question was both an eye sore and a fire hazard and she felt the $20 monthly open space fee was not being used correctly. The Council made no stipulations for improvements to the property and gave no deadlines. The owners would be able to install fences. The owners would pay to move City pipes and they had a certain period of time to pay the City, depending on how much their final bill would be. Six months after the approval, not much had changed on the property and it was still an eye sore. What concerned her the most was that many of her neighbors refused to speak to or interact with her because of her opposition to the proposal. She felt it was tragic to see neighbors harbor such negative feelings towards each other and she did not want to see that happen in the Wimbleton subdivision. Ms. Ball said that two years ago she knocked doors for the R-1-40 referendum and found that many residents had negative feelings about the trails. She believed this was not simply a neighborhood issue. One thing she wanted to point out was that there were many different opinions about what a "well-maintained trail" should look like, ranging from natural dirt trail to paved and landscaped areas. She urged the Council and residents to respect the rules that were set forth for the open space neighborhoods and stop trying to change them halfway through the process. She alleged that open space "disposal" was basically City-subsidized and City-financed equity offered only to the lucky few. Ms. Ball also opined that Council Member Dennis should recuse himself from voting in the issue.

2. PRESENTATIONS

a. YOUTH CITY COUNCIL –*Youth Council Member*

There were no Youth City Council Members present to give a report. Mayor Mann expressed appreciation for the Youth Council and all of their efforts over the past year.

b. ROAD PROJECTS UPDATE – *City Engineer Todd Trane*

City Engineer Todd Trane provided an update of the road projects throughout the City. They were in the process of finalizing the 2018 projects and working on plans for the 2019 project. He presented the seven-year road plan and specifically addressed the 6000 West project. That project had unforeseen conditions with soft soils, so they had incurred some unanticipated costs. The entire project ended up costing over $1 million. He showed photographs of the finished road. All of the road projects for 2018 came to roughly $1.5 million. He then presented a list of roads they planned to work on in 2019 which they planned to send out for bid in January.

Council Member Scott L. Smith commented that he had heard nothing but positive feedback from the residents about 6000 West. He had not heard any complaints about the road fee. He asked if American Fork would be assisting Highland City when they worked on 9600 North. City Engineer Trane explained that staff was reaching out to American Fork to see if they would participate.

Mayor Mann asked for an update on the East-West connector, and City Engineer Todd Trane reported that the bid was awarded to Horrocks Engineers. The road could connect between SR74 and North County Boulevard below Lone Peak High School. There would be an open house sometime in February where Horrocks Engineers would present their design. The road could be under construction as early as next summer.

City Engineer Trane reported that the City had applied for funding for 6800 West which had been granted. Highland, Lehi, and Utah County would have to match 6% of the $2 million project.

3. CONSENT ITEMS

Items on the consent agenda are of a routine nature or have been previously studied by the City Council. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

a. ACTION: Approval of Meeting Minutes

Regular City Council Meeting November 13, 2018

b. ACTION: Approval of the Creation of a Library Page Position

City Council will consider approving the creation of a new page position for the Library. The Council will take appropriate action

c. ACTION: Ratification of Water Advisory Board Member

City Council will consider ratifying the reappointment of Tavis Timothy to serve as a Water Advisory Board Member for a term of four years beginning on January 2019 – December 2023. The Council will take appropriate action.

Council Member Ed Dennis requested that the name of the person giving the invocation be corrected in the minutes from the November 13, 2018 meeting and noted that Ms. Pettit did not reside in the Wimbleton subdivision and should be corrected in the minutes.

Council Member Brian Braithwaite MOVED to approve consent items a., b. and c. as listed on the agenda. Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

Council Member Brian Braithwaite	*Yes*
Council Member Ed Dennis	*Yes*
Council Member Tim Irwin	*Yes*
Council Member Kurt Ostler	*Yes*

Council Member Scott L. Smith Yes

The motion passed.

4. PUBLIC HEARING/ACTION: CONDITIONAL USE PERMIT FOR A COMMUNITY PARK KNOWN AS MOUNTAIN RIDGE PARK – *Continued*

The item was continued.

5. DISCUSSION/ACTION: REGARDING THE PURCHASE PRICE FOR ORPHAN OPEN SPACE PROPERTY

Council Member Ed Dennis restated his personal interest regarding the purchase price for orphan open space property. He stated that he was a resident of the Wimbleton subdivision and lived adjacent to the neighborhood option trail. He also noted that he signed the petition attached to the disposal request. He believed the personal interest was incidental and did not present a conflict of interest or violate the Municipal Officers' and Employees' Ethics Act, which would allow him to vote on the petition based on the following facts: 1) the solution and method to remove and dispose of the Neighborhood Option Trail was approved by a previous City Council; 2) the purpose of the petition was to address a problem that goes back over 16 years; 3) the process for the removal and disposal of the Neighborhood Option Trail was identical for all eligible residents, including himself, which includes no special privileges for him; 4) the same process to remove and dispose of a Neighborhood Option Trail had previously been approved by the City Council in other neighborhoods; and 5) as an adjacent property owner and resident of the Wimbleton Subdivision, all adjacent property owners were entitled to the First Right of Refusal to purchase the adjacent property, which again includes no special privileges for me. He noted that he was unsure whether he would vote on the issue or not but would reserve that until after the discussion.

Council Member Kurt Ostler began the discussion by voicing his objections to the fair market value that had been established for orphan properties which was $1.40 per square foot. By law, the City must sell their property for fair market value. He felt they needed to make sure that they had an accurate way of determining that amount. When the $1.40 amount was established a few years ago, County Assessor Susan Dunbow had told the City that orphan parcels were valued at $1.00 per square foot. Council Member Ostler contacted Ms. Dunbow about the cost and she reported that the value was now at $3.00 per square foot. Most orphan parcels sell for anywhere between $1.60 and $2.80 per square foot. The value would be difficult to determine with so many different assessments out there. In his research, he found that many determined the value of an orphan parcel at 25-30% of the appraised value of a buildable lot. The County Assessor uses 10-15% below true market value. Council Member Kurt Ostler proposed that the City establish the value of orphan parcels at 25% of the County Assessors' market value of the residential real estate. He further proposed that on November 1st of each year the City Council revisit the value and determine if it reflects current market value for orphan parcels.

Council Member Scott L. Smith appreciated the research presented; however, he was not comfortable using the County assessment because it fluctuates depending on the economy. The County Assessor also bases their appraisal on several things, including the structures on the property and the location. He thought that the County assessment could be a factor in determining fair market value but they should have a professional appraiser assess orphan properties in the City. There were 18 open space neighborhoods in Highland City and the City did not have enough revenue to maintain them. Council Member Smith reported serving on the Open Space Committee for several years and noted it was always a concern. Many residents had chosen to maintain the City's property at their own cost rather than let the properties be

overcome by weeds. Additionally, they were charged a $20 monthly fee for the maintenance of open space but the open space was still not being maintained.

Council Member Ostler noted that there were two values on the County appraisal and one was the value of the property without the improvements. The reason he recommended 25% of the County assessment was that the County would look at different areas of Highland and work that into their assessment. It would not be cost effective for the City to have each orphan piece appraised. If they established the 25% rule and a resident felt the appraisal was unfair, they could go to the County and appeal it.

Council Member Dennis asked why Ms. Dunbow's recommendation of fair market value had increased so much over a four-year period. Council Member Ostler said that he had asked her the same question and she explained how the changing economy had altered values over the past few years.

There was a brief discussion regarding the assessment of Council Member Dennis's home and how it had changed 30% over the past few years. He wanted to speak with the County about the significant changes. He spoke of the trail deterioration in the Wimbleton subdivision and the easement surrounding the ditch owned by Lehi Irrigation Company. He felt that their situation was unique and that their properties could not be properly valued using the standard process. Council Member Dennis wanted to allow people the option to get their own appraisal.

Council Member Kurt Ostler noted that this decision would not just affect the Wimbleton subdivision, but it would apply to all orphan properties in the City. He was trying to present an option that would work overall.

Council Member Scott L. Smith said that the City sold some property to the Alpine School District for approximately $300,000. The cost per square foot would have been roughly $1.50. He asked if the property was appraised at that time. City Administrator Nathan Crane noted that it was appraised for more than $400,000. It was noted that the City and the School District came to an agreement to share parking for the school and the soccer fields there.

Council Member Ostler was concerned that the City had a pattern of selling property far below fair market value.

Council Member Smith wanted all properties to be appraised by a professional appraiser rather than just going with the County assessment. Council Member Ostler noted that the County was full of professional appraisers.

Council Member Dennis restated the unique points of his property and the Wimbleton subdivision and said that it would be appraised again.

Council Member Ostler was concerned that they would never be happy choosing an appraiser because someone would complain about whoever they chose. He believed he had suggested a solution that would fit most circumstances. Council Member Dennis wanted to ensure the there was an option for residents to seek another appraisal to factor in the unique nature of each property.

The Council continued to discuss independent appraisals vs. the County assessment. Council Member Brian Braithwaite reported that when they talked about the price originally, they decided on $1.40 because $1.00 felt too low. It was difficult to pinpoint a price because the appraisals all came in differently. Now, they were trying to find a solution that would simplify the process. They never thought that $1.40 would be

the best price forever. He felt that Council Member Ostler's proposal could work but it may not fit every situation. It was important to have a standard but there would be exceptions.

Council Member Smith said that the next agenda item was based on a petition from the Wimbleton subdivision for the City to dispose of orphan parcels. When they submitted their petition, they believed there would be a specific price for the land. It would be unfair to the residents for the Council to change that price now. Council Member Ostler was fine moving forward with the Wimbleton application. He suggested that the 25% was something they should set for petitions moving forward.

Council Member Braithwaite said that the Council had an obligation to the rest of the residents to decide on a fair price for property. He did not think it was fair to vote on $1.40.

Council Member Smith felt that the problem with open space neighborhoods was the design and the fee charged to residents. When they moved into the open space subdivision, the residents were told that they would be charged an open space fee because their property taxes would be lower than other residents with larger lots. That simply was not true. The residents had been treated like second-class residents. He suggested that the Council consider charging a fee for parks to all residents in the City. He did not feel comfortable changing the price for the Wimbleton subdivision at the last minute.

Council Member Ed Dennis stated that the procedure to sell neighborhood option trails would not set a precedence for property owners who had encroached on City property to buy that property.

Mayor Mann opened the floor for public comments.

Grant Chandler, a resident of the Wimbleton Subdivision, commented that there were many neighbors that signed the petition that did not want to purchase the City property but felt it was their only option after 17 years of struggling. Their desire was not to develop the property or make their lots larger and more valuable. They simply wanted the ability to maintain the property in a way that the City could not. The residents had already spent thousands of dollars trying to keep the weeds down with the harassment of the City. He did not think it was fair to change the price right before hearing the residents' petition.

Council Member Braithwaite admitted that the City had not been good neighbors in their situation. They simply did not have the budget to maintain the trails at the level the residents expect. The problem extended beyond this one trail in Wimbleton. Even if they dispose of the property in this location, there were many other trails that were not being maintained. He felt this was a City wide issue.

Ginger Harris, a resident and realtor, noted that she had a house listed, three houses from the Wimbleton subdivision that had an appraisal of $1.00 per square foot. She mentioned to the appraiser that the City was charging $1.40 per square foot at a home that was only three houses away. The appraiser said that because of the variety of house types and lot sizes in Highland that they go by the house and that the values do not change as much. She noted that she lives next to the detention basin and did not sign the petition; she did not want to own more land nor spend $35,000. She did not think if she sold her home that she would get that $35,000 back.

Council Member Kurt Ostler questioned whether she was stating that if someone had a third acre lot and they added another third acre that the value would not change greatly on that lot?
She responded that the appraiser told her that he determines the value of the home on the house size, specs of the house and quality of the materials and then he would take the third acre lot and add a $1.00 per square foot for the rest of the property.

Council Member Ostler stated that he was not a real estate developer but was a buyer and manager of properties. He noted that he would assess the values of properties. He had purchased seven properties that year and had to value that extra property. He mentioned that the County was showing the value different and his data was showing the value differently as well. He felt the lot size did matter. He mentioned the value of a third acre lot was assessed at $168,000 and an acre was being assessed at $230,000 and in Beacon Hills it might be assessed for more. He felt that their community was beautiful and suggested that they should not sell their property or trails.

Don Merrell, a resident, said that he had suffered through the weeds on the City property for years. The truth was that the price of the land was what people were willing to pay for it. He questioned whether the City had a vested interest in selling the property. They would get revenue that the City needed and the properties sold would not have to be maintained by the City any longer. Mr. Merrell did not have a vested interest in buying the property but believed the property was not worth $3.00 per square foot. He felt that if the City raised the price they would no longer have any buyers. He again reiterated that he believed the value of the property was $1.40 per square foot.

Boyd Timothy, a resident, encouraged the Council not to have one fixed price for all orphan properties, because each subdivision was unique. Each situation should be valued individually.

Laren Harley, a resident, felt that the entire situation was crazy. He did not live near a trail and did not have to pay $20 a month like other residents had mentioned. He believed raising the price of the property now was another blow to the residents who had been struggling with the property for 17 years. He asked where the $1.40 per square foot amount came from.

Council Member Ostler responded that the number was established in 2014 when the issue was brought up previously by another subdivision. Residents of Wimbleton were under the impression that would be the price they would pay for the property when they submitted their application.

Mr. Harley said that the trail system was a joke and the City should not have trails if they could not afford to maintain them.

Andrew Ford, a resident, said that they needed to consider what the property was worth to the City or to another owner. These residents purchased their homes with no intent to buy the trail. The value of the property may drop because of selling/buying the property.

Kristen Bradshaw, a resident, asked if the Council would be discussing the Spring Creek property tonight. She had received a notice of the hearing but did not see it listed on the agenda.

City Administrator Nathan Crane said that there was an error in noticing and the Spring Creek application would be discussed in January. The Council apologized for the error.

Colby Gibson, a resident, was frustrated that the item was being discussed before the Wimbleton subdivision petition. He believed the order of the items should have been switched. He suggested that they table the discussion until after discussing the petition.

Council Member Smith agreed.

Council Member Kurt Ostler MOVED that any disposal of open space orphaned parcel be valued at 25% of the Utah County assessed market value on the residential real estate. Furthermore, on November 1st of each year, the 25% value is adjusted to reflect the County assessed value concerning orphaned parcels.

Also, as proposals come in, if there was an exception for their open space subdivisions, they can submit that for further discussion.

Council Member Brian Braithwaite asked to modify the motion by allowing the City Council to consider any appraisal brought by the residents, or any other concerns they may bring forward as part of their petition.

Council Member Kurt Ostler accepted the modification.

Council Member Brian Braithwaite further stated that it was important to establish a base line and if a resident felt that there was something unique about their situation, the Council should listen to understand the issue and then make an educated decision.

Council Member Smith asked if he was suggesting that the neighborhood could bring in an independent professional appraisal for the Council to consider, as well as, considering the County assessed value. Council Member Braithwaite answered affirmatively.

Council Member Brian Braithwaite MOVED to amend the motion to include that a petitioner can bring in an independent appraisal as part of their petition or any other items they feel is important to them.
Council Member Kurt Ostler SECONDED the amended motion.

Council Member Scott L. Smith asked to further amend the motion to state that the change would not apply to the Wimbleton subdivision application but for all future applications. Council Member Dennis seconded his amendment.

Mayor Mann asked the Council to vote on Council Member Kurt Ostler's motion with Council Member Brian Braithwaite's amendment. Council Member Kurt Ostler reiterated the motion.

Council Member Kurt Ostler MOVED that any disposal of open space orphaned parcels be valued at 25% of Utah County's assessed market value on residential real estate and further propose that on November 1st of each year the 25% value is adjusted to reflect the County Assessor's value on orphaned parcels. In addition, if any petition that is submitted from a subdivision can supply an independent appraisal and any supporting evidence of items that would have an impact on that price.
Council Member Scott L. Smith SECONDED the motion.

There was a brief discussion regarding the process of making motions, amendments, and voting. City Attorney Tim Merrill clarified that Council Member Kurt Ostler effectively withdrew his original motion and replaced it with the modified motion. This would become the only motion.

Council Member Scott L. Smith MOVED to amend the motion that it would not go into effect until after the meeting.
Council Member Ed Dennis SECONDED the amendment.

Council Member Ed Dennis explained that he seconded the amendment because he felt that the fair market value would be a moot point for the next item. He wanted the residents to have an option for the Council to consider an independent appraisal or other issues. Council Member Braithwaite felt that they already had that option without the latest amendment. Council Member Smith asked if the original motion would allow the Council and residents to discuss the $1.40 option. Council Member Ostler confirmed that they could bring forward other options.

Council Member Braithwaite said that it might be fair, to both sides, to continue the item. He was struggling with the $1.40 price and the proposal from the subdivision suggests further discounts. Council Member Smith asked if he was suggesting continuing the item or the Wimbleton subdivision application. Council Member Braithwaite responded that he wanted to continue the Wimbleton subdivision application because he wanted more information.

Council Member Scott L. Smith MOVED to amend the motion that it will not go into effect until after the meeting.

Council Member Ed Dennis SECONDED the amendment.

The vote was recorded as follows:

Council Member Brian Braithwaite	*No*
Council Member Ed Dennis	*Yes*
Council Member Tim Irwin	*No*
Council Member Kurt Ostler	*No*
Council Member Scott L. Smith	*Yes*

The amended motion failed.

After continued discussion, Mayor Mann asked the Council to vote on the original motion made by Council Member Kurt Ostler.

Council Member Kurt Ostler MOVED that any disposal of open space orphaned parcels be valued at 25% of Utah County's assessed market value on residential real estate and further propose that on November 1st of each year the 25% value is adjusted to reflect the County Assessor's value on orphaned parcels. In addition, if any petition that is submitted from a subdivision can supply an independent appraisal and any supporting evidence of items that would have an impact on that price.

Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

Council Member Brian Braithwaite	*Yes*
Council Member Ed Dennis	*Yes*
Council Member Tim Irwin	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Scott L. Smith	*No*

The motion passed.

6. PUBLIC HEARING/RESOLUTION: DESIGNATION OF OPEN SPACE PROPERTY FOR DISPOSAL AND REMOVAL OF NEIGHBORHOOD OPTION TRAILS IN WIMBLETON SUBDIVISION

Planner Tara Tannahill oriented the Council with the proposal to designate open space property for disposal and removal of neighborhood options trails in the Wimbleton subdivision. She presented a map outlining the subdivision and identified the trails, ditch basin, sewer easements, and manholes. She noted that Lehi Irrigation Company owned and maintained the ditch and the easement around it. In the application, the residents were proposing a price of $1.30 per square foot because of the trail and other constraints. They were also proposing to purchase the property around the detention basins would like to fence off the whole area. The City would still retain ownership of the detention basin and the residents would maintain it.

Council Member Dennis noted that there was a stipulation in the proposal that the detention basin was not available to sell but they wanted to be able to fence the property. There would be a monument placed in the detention basin identifying it as City property that cannot be modified. Planner Tannahill confirmed that proposal and added that they would only be allowed to put grass on the property.

Planner Tannahill reported that 74% of the property owners of the Wimbleton subdivision signed the petition and 100% of property owners adjacent to the trails or other proposed properties signed the petition. Staff had received nine public comments via email, with six in opposition, two in support, and one with inquires. Some of the outstanding issues included the purchase price reduction, the potential alterations to essential detention basins, the loss of City sewer easements, and the suggestion of City financing. Lehi Irrigation Company also had concern about accessing the ditch if the properties were sold. If the properties were sold, they suggested piping the ditch.

Council Member Dennis asked for clarification on the sewer easements. City Administrator Nathan Crane explained that there was 435 feet of sewer lines between the Westwood subdivision and the Wimbleton subdivision. He noted three manholes along for access. He identified these locations on a map. Staff's concern was the ability to access and clean the sewer lines if the property was sold. When the sewer has a backup, they would need to access the problem in a timely manner.

Council Member Dennis was concerned that the City would create islands by maintaining easements. Every residential property had easements for utilities and an anticipated inconvenience. He said that there was a 15-foot easement around the ditch which should allow for vehicular access for maintenance.

Mayor Mann opened the public hearing at 9:29 PM and called for any citizens who would like to speak on the item to come to the podium and state their name for the record.

Citizen Comments:

Mark Haffen, a resident, read a written statement expressing his support of the proposal. He did not feel that the City was asking for fair market value. He was willing to purchase the property but only if the price was more reasonable.

Scott Thompson, a resident, urged the Council to deny the application. The petition was submitted with 74% of the neighbors' signatures but he assured the Council that the neighborhood was not united. There were several ways that they could handle the situation and the neighborhood could not agree on just one. He commented that some of the individuals that signed the petition only did so because they felt pressured or because they could not see any other option. Mr. Thompson said that they needed more information before making a decision on the proposal. Selling the trails could detract greatly from the neighborhood. He would rather find a way to maintain the trails and open space.

Mayor Mann read a statement from Johnny Walters, a resident, expressing his opposition to the proposal.

NOTE: Police Chief Brian Gwilliams left the meeting at 9:42 PM.

Rosalie Shelley, a resident, said that she had emailed the City Council when she found out about the proposal and hoped that they took her words into consideration. She appreciated the open trails and knew that many other people felt the same way. She thought it would be a travesty to close them off.

Jason Hawkins, a resident, said that the property was a huge mess. He tried to maintain the property behind his home but gave up and let the weeds grow. He would like the City to maintain the property but understood that people had different ideas of what it meant to be well-maintained. He felt the issue had continually been kicked down the road hoping someone else would fix the problem and everyone was frustrated.

Alisha Gray, a resident, agreed with the comments that had been made and said that the City should be maintaining the property. The money open space fee they had been paying was not doing anything for the subdivision. She recently learned that the park behind her home was a public park but there were no bathrooms and no facilities. She suggested that the situation was unacceptable.

Corwin Harmon, a resident, did not feel that the Council should vote on the issue at the meeting. They needed to have a better understanding of the value of the property. He noted that he purchased his property but did not build on it for seven or eight years. During that time, he received several notices from the City to clean up the weeds on his property. However, the City did not do anything about the weeds on its own property. Mr. Harmon was against the property being sold and fences going up. He wanted the open space to remain.

Mayor Mann spoke about the City's lack of revenue and the recent process to enact a road fee to maintain City roads. It was possible to do a fee for parks and recreation as well. Alternatively, they could increase property tax to pay for parks maintenance.

Colby Gibson, a resident, spoke about the garbage that he had to remove from the property behind his home. He understood the funding issue but had been trying to resolve the issue for 17 years and it was time to try something new. Mr. Gibson commented on the honest character of Council Member Ed Dennis.

Craig Pavich, a resident, said that raising taxes to pay for maintenance seemed like double taxation for those paying the park fee. He liked parks but hated being a neighbor to the City. He was motivated to purchase the property simply to get rid of the City as a neighbor.

Nicole Westcott, a resident, was ashamed of the City for making the residents deal with this problem for so long. She preferred the open space but she hated that the City was not taking care of it. She wanted to resolve the issue.

Kyle Pettit, a resident, was opposed to the proposal and said that he would prefer another solution be found. He urged the Council to deny the request and asked the Council to place a six-month moratorium on petitions such as this one. He noted that the trails in Wimbleton were used by students going to school.

Brent Wallace, a resident, agreed that this was a viable route for children to get to school. He also agreed that the City should be maintaining the property so that it did not become a fire hazard. Trails were a public safety issue.

Julia Nielson, a resident, said that she and her kids used the trails every day. She did not feel like the area was as bad as some people were making it out to be. She felt that many people who signed the petition had done so out of sheer exhaustion and peer pressure. Ms. Nielson suggested putting together a neighborhood committee to clean up the area, or recruit volunteers.

Grant Chandler, a resident, did not want to wait around for a solution that may never come. He felt the best solution was to allow the residents to take care of the property. He also noted that State Law outlines safe

travel guidelines for students and the path was not on the list. He did not feel that it was necessary to maintain the trail because it was not used that often.

Malina Parkriss, a resident, spoke about her experience on the committee to get a cemetery and a lot of that was done with volunteers. She suggested doing the same thing with the problem being discussed. They could put together a committee and have volunteers help maintain the property. She suggested that they all quit bellyaching and get to work.

Kye Tanner, a resident, said that everyone agrees that there was a problem, even if they did not agree on the solution. He liked the idea of keeping the trails but was unsure if it was plausible. He supported selling the property.

Mike Jepson, a resident, expressed his frustration about the entire meeting. The residents had spent thousands of dollars to fix what the City had done. He appreciated the comments from the neighbors and their efforts to make a change.

Mayor Mann closed the public hearing at 10:27 PM

Council Member Scott L. Smith appreciated the residents' comments. He felt that the only way to maintain the trails in the way the residents want would be to find the funding. The proposal may not be the best option but it was an option to resolve the long-standing problem. He noted that staff was hardworking and did everything they could with the budget they had. He did not blame staff for the maintenance issues. He supported the proposed resolution.

Council Member Scott L. Smith MOVED that the residents of Wimbleton subdivision have met all the requirements required by the Highland City Municipal Code 12.30 and 12.32. Move to approve Resolution R-2018-27 a resolution of Highland City Utah designating open space property for disposal in the Wimbleton subdivision with the following stipulations.

1. *The cost should be determined by a qualified real-estate appraiser and approved by the City Administrator and the residents of Wimbleton subdivision.*
2. *The property owner adjacent to the sewer line easement shall be allowed to purchase the property within the sewer line easements subject to all limitations and restrictions as associated with the easement including the right for the City to inspect the easement when requested.*
3. *Leave all detention basins intact with ownership retained by Highland City but allow the adjacent property owner to purchase and fence the surrounding property around the detention basin with a monument installed, flush with the ground, adjacent to the inlet pipe through the detention basin with the following quotation: "This detention basin is owned by Highland City and cannot be modified or removed."*
4. *Property owners adjacent to the detention basin also agree to maintain the detention basins with grass and will not be allowed to put in structures or obstructions within the detention basin.*
5. *All property owners adjacent to the Lehi Water Company ditch accept the easement with all its limitations and restrictions.*
6. *The property owners agree to discontinue using and cap all City water lines associated with the property disposed.*
7. *The property owners adjacent to the trails disposed of in the Lehi Water Company ditch assume all costs associated with improvements associated with the ditch and removing the trails disposed.*

8. *The City agrees to finance the purchase for a period of two to four years depending on the purchase price and consider a hardship financing option.*
9. *The Wimbleton subdivision shall be allowed to use the purchase proceeds to improve the City parks and trails in that subdivision.*
10. *The purchase price shall include the first right of refusal from all adjacent property owners within the subdivision.*
11. *All selling costs shall be shared equally between the City and property owners.*
12. *The City shall repair a sink hole directly south of Lot 9 prior to the purchase.*

Council Member Ed Dennis SECONDED the motion.

Council Member Brian Braithwaite said that he had been on the Council the longest and he carried the biggest blame for not resolving the issue before. He apologized for the way the residents had been treated. As a Council Member, he had tried to address what was most important to the City, and this had made its way to the bottom of the financial priorities list. He agreed that staff was doing the best they could with the funding they had. Most of the residents in Highland were conservative and they did not like bonding or increasing taxes. Council Member Braithwaite expressed his concerns with the proposal, most importantly the suggestions of City financing. He was concerned that the City did not have proper recourse for those that did not pay.

City Attorney Tim Merrill said that the City did not legally enforce any default. When someone defaults on a loan, the City could take them to court and collect a judgement, but it was possible that the City would not get any money from them if they were not collectable. He suggested that they secure the financing with real property as collateral.

Council Member Kurt Ostler suggested setting up an escrow account. Instead of transferring the title at the time of purchase, they would put it in escrow for 24-36 months. Council Member Braithwaite did not feel that would solve the issue. He would rather tie the financing to the property owner. City Attorney Tim Merrill said that the only way to secure payment would be to do so through the primary residence, such as a lien.

Council Member Braithwaite addressed his concerns regarding the sewer access. The City would get a lot of pushback from residents when the City accesses their property for emergency situations. They need to have that access. City Engineer Todd Trane said that staff would prefer that the City retain ownership of all utility easement.

There was a discussion regarding the detention areas in the neighborhood, which were in place to retain water in the case of a 50- or 100-year flood. Council Member Scott L. Smith said that there was nothing in the neighborhood's request that suggested the detention areas would be altered or removed. Staff was concerned about residents installing fencing in these areas, because it would inhibit the City's ability to access the detention areas.

City Engineer Todd Trane said that he would like to see the property sold to the residents, if it made sense to the residents and the City, but there were issues with the property on the east side of the ditch. From an engineering standpoint, he did not see how they could sell that part of the property. Council Member Ed Dennis said that the residents were prohibited from fencing the property within the easement around the ditch. City Engineer Todd Trane noted that the City was working toward the abandonment of the ditch, and all ditches in the City.

Council Member Braithwaite reiterated that he was not in favor of City financing and the sewer line access needs to be there. He also was concerned with the proposed price for the property. He asked if the Council was ready to move forward with the proposed price.

Council Member Ed Dennis said that the neighborhood had spent years trying to get this resolution to the City Council and postponing it would be an unwanted delay. Part of the approval of the resolution would be for the subdivision to present factual documentation to support a different price. He would prefer to make a motion contingent upon the Council accepting whatever appraisal information the neighborhood could provide. He wanted an appraiser to physically come to the property for an appropriate assessment of the value.

Council Member Scott L. Smith asked if Council Member Ed Dennis wanted to make that an amendment to the motion, and he answered affirmatively. Council Member Smith seconded the amendment.

City Administrator Nathan Crane briefly addressed the sink hole and said that it may be very costly for the City to adequately repair it.

Council Member Kurt Ostler was fine with allowing another appraiser to assess the property, but the cost should be agreed upon by the City and the neighborhood. They discussed whether that would have to come back before the Council during an open or closed session. The sewer access issue was a concern, and the residents should not be allowed to fence the detention area. He was also not comfortable with City financing. He also felt that the open space feel of the community was desirable, and the trails should remain if they were being used.

City Administrator Nathan Crane reported that Council Member Tim Irwin had to disconnect to address an emergency. There was a discussion regarding whether to continue the item.

Council Member Scott L. Smith Moved the Question.

Council Member Scott L. Smith MOVED that the residents of Wimbleton subdivision have met all the requirements required by the Highland City Municipal Code 12.30 and 12.32. Move to approve Resolution R-2018-27 a resolution of Highland City Utah designating open space property for disposal in the Wimbleton subdivision with the following stipulations.

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5. *All property owners adjacent to the Lehi Water Company ditch accept the easement with all its limitations and restrictions.*
6. *The property owners agree to discontinue using and cap all City water lines associated with the property disposed.*

7. *The property owners adjacent to the trails disposed of in the Lehi Water Company ditch assume all costs associated with improvements associated with the ditch and removing the trails disposed.*
8. *The City agrees to finance the purchase for a period of two to four years depending on the purchase price and consider a hardship financing option.*
9. *The Wimbleton subdivision shall be allowed to use the purchase proceeds to improve the City parks and trails in that subdivision.*
10. *The purchase price shall include the first right of refusal from all adjacent property owners within the subdivision.*
11. *All selling costs shall be shared equally between the City and property owners.*
12. *The City shall repair a sink hole directly south of lot 9 prior to the purchase.*
13. *The price shall be contingent upon an appraisal that is acceptable to residents and City Council*

Council Member Ed Dennis SECONDED the motion.

The vote was recorded as follows:

Council Member Brian Braithwaite	*No*
Council Member Ed Dennis	*Yes*
Council Member Tim Irwin	*absent*
Council Member Kurt Ostler	*No*
Council Member Scott L. Smith	*Yes*
Mayor Rod Mann	*No*

The motion failed.

NOTE: Council Member Ed Dennis was excused at 11:33 PM (1:33 AM eastern standard time) because he had to get up to catch a flight back to Utah in three hours).

The Council took a brief recess at 11:34 PM and reconvened at 11:47 PM. Mayor Mann noted that there was now only three Council Members present, so votes needed to be unanimous for any motions to pass. He requested that Item 8 and the Closed Session be continued. Council agreed.

7. PUBLIC HEARING/ACTION: REZONE FROM R-1-40 TO PROFESSIONAL OFFICE (P.O.) ZONE

Planner Tara Tannahill presented the staff report regarding a request from Eternal Springs to rezone property from R-1-20 to PO. The applicant had requested similar changes to the property in 2013 and 2016, but both of those requests were denied. The current proposal was for an 8,400 square foot building that meets all setbacks of the PO Zone. The maximum height of the zone was 35 feet, which was the same as a two-story residential home. The Planning Commission requested setbacks of 80 feet from the east side on the lower floor, and 100 feet for the second story. She presented the four stipulations suggested by the Planning Commission. There was a neighborhood meeting and the residents expressed their concerns with property values, dumpster locations, and the use.

Mayor Mann didn't like the term "as far as possible" because it wasn't specific enough. Council Member Brian Braithwaite agreed. There was a discussion regarding the potential location of the dumpster, and it was noted that this would be better addressed during the site plan process.

Mayor Mann opened the public hearing at 11:58 PM and called for any citizens who would like to speak on the item to come to the podium and state their name for the record.

Citizen Comments:

Wade Hadlock, a resident, liked the commercial use that was proposed now better than the previous applications, and he was not opposed to the rezone request. He was concerned about the effect this would have on residential home values. Mr. Hadlock said that there was a City trail behind this lot, and he wanted to ensure that this was left open. It was used quite frequently by students getting to the high school. He was concerned that the trail and open space would be fenced off.

There was some discussion and it was determined that the development would not negatively impact the trail.

Mayor Mann closed the public hearing at 12:02 AM

Greg Neild, the applicant, said that he had pushed the development to the north and put parking to the south, and they pushed the second story as far west as they could. He noted that this was just a concept plan and it hadn't been engineered yet.

The general consensus among the Council was in favor of the building design.

Council Member Brian Braithwaite MOVED that the City Council approve that the property be rezoned from R-1-40 to Professional Office (P.O.) zone with the stipulations and recommendations from the Planning Commission and modify stipulation number three to read that the dumpster will be no closer than half way between the east and west property lines.
Council Member Scott L. Smith SECONDED the motion.

Stipulations:

1. *The building shall not exceed a total of 8,400 square feet.*
2. *The building setback is at least 80 feet from the rear property line and no second story shall be closer than 100 feet from the rear property line.*
3. *The dumpster will be no closer than half way between the east and west property line.*
4. *The number of parking stalls for the assisted living and the office space be reviewed as part of the site plan and conditional use permit review.*

The vote was recorded as follows:

Council Member Brian Braithwaite	*Yes*
Council Member Ed Dennis	*absent*
Council Member Tim Irwin	*absent*
Council Member Kurt Ostler	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed.

8. ACTION: ETHICS COMMISSION INTERLOCAL AGREEMENT

The item was continued.

9. ACTION: ACCEPTANCE OF A PROPERTY DONATION FROM CLINT MARTIN

City Administrator Nathan Crane explained that Clint Martin wanted to donate approximately 13.33 acres of land adjacent to the Cedar Hills Golf Course. The property did not have frontage on a road, which means access was problematic.

Clint Martin, the applicant, said that this would be a conservation contribution. The purpose of donating the land was so that the City could keep it as open space. The property would be donated in its entirety with all taxes paid and current through the end of 2018.

The Council thanked Mr. Martin for the donation.

Council Member Brian Braithwaite MOVED that the Council accept the generous donation from Clint Martin to the City for the property identified for 13.33 acres.
Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

Council Member Brian Braithwaite	*Yes*
Council Member Ed Dennis	*absent*
Council Member Tim Irwin	*absent*
Council Member Kurt Ostler	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed.

10. FUTURE MEETINGS

a. Future Meetings

- December 11, Planning Commission Meeting, 7:00 pm, City Hall
- January 8, City Council Meeting, 7:00 pm, City Hall

11. CLOSED SESSION – CONTINUED

The closed session was continued.

ADJOURNMENT

Council Member Brian Braithwaite MOVED to adjourn the regular meeting and Council Member Kurt Ostler SECONDED the motion. All voted yes and the motion passed unanimously.

*The meeting adjourned at **12:16 AM**.*

I, Cindy Quick, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on December 4, 2018. This document constitutes the official minutes for the Highland City Council Meeting.

Cindy Quick

Cindy Quick, CMC
City Recorder