



HIGHLAND CITY

## HIGHLAND CITY COUNCIL MINUTES

Tuesday, January 9, 2018  
Approved February 6, 2018

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

**PRESENT:** Mayor Rod Mann, conducting  
Councilmember Brian Braithwaite  
Councilmember Ed Dennis  
Councilmember Tim Irwin  
Councilmember Kurt Ostler  
Councilmember Scott L. Smith

**STAFF PRESENT:** Nathan Crane, City Administrator/Community Develop. Director  
Erin Wells, Assistant City Administrator  
Todd Trane, City Engineer  
Tim Merrill, City Attorney  
Cindy Quick, City Recorder

### **6:30 P.M. WORK SESSION** (CITY COUNCIL CHAMBERS)

#### **Training on Electronic Voting System**

The work session was called to order by Mayor Rod Mann at **6:37 p.m.** The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting.

Mayor Rod Mann provided a brief review of the benefits of an electronic voting system and turned time over to Erin Wells, Assistant City Administrator.

Erin Wells, Assistant City Administrator, instructed the City Council Members how to log into the electronic voting system and presented sample questions so that the Council could practice submitting their votes. She also demonstrated how the votes would be displayed and explained how the system generated reports of the votes taken.

There was a discussion regarding how Mayor Mann would vote in the case of a tie, and Council Member Brian Braithwaite suggested that the Mayor always be included as a voter but have him abstain from the vote unless his vote was needed.

The work session adjourned at **6:53 PM**

**PRESENT:** Mayor Rod Mann, conducting  
Councilmember Brian Braithwaite  
Councilmember Ed Dennis  
Councilmember Tim Irwin  
Councilmember Kurt Ostler  
Councilmember Scott L. Smith

**STAFF PRESENT:**

Nathan Crane, City Administrator/Community Develop. Director  
Erin Wells, Assistant City Administrator  
Gary LeCheminant, Finance Director  
Todd Trane, City Engineer  
Justin Parduhn, Public Works O&M Director  
Tim Merrill, City Attorney  
Cindy Quick, City Recorder

**OTHERS:** Devirl Barfuss, Steven Rowley, Wayne Tanaka, Jennie Woolley, Vanessa Sutton, Amber Daley

**7:00 P.M. REGULAR SESSION** (CITY COUNCIL CHAMBERS)

The regular meeting was called to order by Mayor Rod Mann at **7:01 p.m.** The prayer was offered by Councilman Brian Braithwaite and those assembled were led in the Pledge of Allegiance by Tate Godwin, a scout.

**1. UNSCHEDULED PUBLIC APPEARANCES**

Mayor Mann explained that he would be allowing public comment for any item on the agenda after the formal presentation had taken place. Unscheduled public appearances was a time for residents to comment on items not on the agenda. He asked that speakers keep their comments to three minutes.

Brent Wallace, a resident of the Canterbury Subdivision, opined that Council Member Scott Smith had a conflict of interest for Items 5 and 6 on the agenda, and Mr. Wallace requested that he recuse himself from participating in the discussion and voting on those items. Mr. Wallace explained the Council Member Smith was currently a member of the Utah Developmental Center Board, which was the subject of Item 5. The Council Member was also a resident of the Pheasant Hollow neighborhood, which borders the proposed Murdock Connector, which was the subject of Item 6.

Doug Peck, a resident, said that he was a Webelo Den Leader for his area. There were 40 Webelo Dens in Highland City with scouts that needed to meet with a government leader in order to obtain their Arrow of Light. Mr. Peck proposed that some of the Council Members meet with Webelo Dens on a quarterly basis in the Council Chambers before a scheduled City Council meeting.

Council Member Brian Braithwaite explained that he had been meeting with scouts on a weekly basis at their church building, and he believed that other Council Members had been doing the same. The City website contained contact information for the City Council Members and Mayor. Council Member Braithwaite encouraged Mr. Peck to contact the Council Members for potential meeting dates and times.

Nathan Crane, City Administrator, stated that staff also met with scouts for that purpose. Mayor Mann added that he would begin holding a meeting on the second Thursday of every month in the Library to allow residents and scouts to meet the Mayor.

Nathan Crane said that there were comment cards available at the back of the room, and he asked Mr. Peck to fill in his contact information so that staff could follow up with him.

**2. PRESENTATIONS**

**a. INTRODUCTION OF REED THOMPSON, FIRE CHIEF**

Reed Thompson introduced himself as the new Fire Chief. As a former Highland City resident, he was excited to be serving in his hometown. He had been serving in American Fork for 20 years. Chief Thompson reported that he had a forecast plan for the first 120 day, and the three main focus items would be to establish consistency, making sure they were in regulatory compliance, and to determine and maintain adequate staffing levels. His overall goal was to “astonish the customer”.

Council Member Scott Smith welcomed Chief Thompson to the City. He pledged his support for the Fire District and expressed his willingness to get the funding that they needed to be fully staffed.

#### **b. SWEARING IN CEREMONY FOR YOUTH COUNCIL**

Civic Events Director Julie Tapusoa introduced herself along with the new 2018 Youth City Council. She voiced excitement regarding the plans they had made for the upcoming year.

Youth City Council Mayor Miranda Mugelston described the setup of the Youth Council. The 2018 Youth City Council Members were Anabelle Sutton as Youth City Council Deputy Mayor, Brianna Burt, Zora Mina Brunson, Brenna Doyle, Daniel Gardanier, Jakob Gertler, Tayton Godwin, Brooklyn Harris, Kennedy Jenson, Paul Johnston, Brennon Jones, Jessalyn Killpack, Landon Lowder, Laura Mabey, Lizzie Matthews, Anna Nelson, Lily Trampleasure, Blakeley Whiting as a Jr. Advisor and Brooke Woolley as a Jr. Advisor.

The City Council expressed their congratulations.

#### **c. FY 2016/2017 AUDIT REPORT**

Steve Rolley, with Keggs and Christensen, presented the final Fiscal Year 2016-17 Audit Report. He briefly explained State requirements and the purpose of the audit. Regarding the report, Mr. Rolley reported that they did not find any deficiencies or concerns when looking over the internal controls; however, two insufficiencies had been discovered. The first finding was in relation to the Open and Public Meetings Act, as insufficient notice was given for the budget hearing. The second finding was that the fund balance limitation of 25% had been exceeded by 4%. Mr. Rolley explained that it can be difficult to predict as the fund balance changes consistently. His recommendations were included in the report.

Upon request, Mr. Rolley expounded on the fund balance and stated that the funds could be assigned to a specific budget. There should be a plan for the extra money.

Council Member Ed Dennis recommended that Gary LeCheminant, Finance Director, put together an analysis of the fund balance as they near the end of the fiscal year so that could be better monitored by the City Council, and allocate the fund based on the needs of the City.

Gary LeCheminant explained that if the City chose to move that 4% out of the fund balance, they would be moving more than \$1 million.

Council Member Smith requested that a physical copy of the report be provided in the box at the office, in addition to the digital copies.

Council Member Brian Braithwaite explained that part of the reason that the fund balance was so high was because the City was going to use that money to build a much-needed storage facility for the Public Works Department. The City Council chose to keep the money in the balance rather than spend it on something else.

Council Member Ed Dennis said that the money could be allocated to a capital project fund rather than remain in the fund balance.

Mr. Rolley concluded his presentation.

### **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 Meeting December 5, 2017

**b. ORDINANCE: STORM DRAIN MANAGEMENT AND DISCHARGE CONTROL ORDINANCE**

City Council will consider a new Storm Water Management and Discharge Control Ordinance. The Council will take appropriate action.

**c. RESOLUTION: COMMITTEE APPOINTMENTS**

The City Council will ratify the Mayor’s appointment to serve on various boards and committees. The Council will take appropriate action.

*Councilman Tim Irwin MOVED to approve the consent items as listed on the agenda and that the City Council ratify the Mayor’s Council appointments as presented, including the appointment of Rod Mann and Tim Irwin to the Lone Peak Public Safety District Board, Kurt Ostler as an alternate to the Lone Peak Public Safety District Board and Scott L. Smith to the North Pointe Solid Waste Special Service District Board.*

*Councilman Brian Braithwaite SECONDED the motion.*

*The vote was recorded as follows:*

*Councilman Brian Braithwaite Yes*

*Councilman Ed Dennis Yes*

*Councilman Tim Irwin Yes*

*Councilman Kurt Ostler Yes*

*Councilman Scott L. Smith Yes*

*The motion passed unanimously.*

Council Member Kurt Ostler asked if the City was not moving forward with the Social Media Committee, and Mayor Mann responded affirmatively.

**4. DISCUSSION: PARKING RESTRICTIONS AND TOWN CENTER BOULEVARD**

Nathan Crane, City Administrator/Community Development Director presented the staff report and explained that staff had been approached last fall by a resident regarding on-street parking along Town Center Boulevard during the winter months. The reason for prohibiting parking during the winter was to allow safe passage for the snow plows. The road has a median, and the lanes on either side are about 14 feet wide, while the snow plows are 12 feet wide. There was also the concern about trapping vehicles in with snow from the plows. Nathan Crane noted that the prohibition of on-street parking during winter months was a City-wide regulation.

Council Member Ed Dennis said that one side of Town Center Boulevard was marked with 24-hour parking signs, which seemed confusing. Council Member Brian Braithwaite explained that the signs prohibit vehicles from parking longer than 24 hours, and the purpose of that was to free up parking spaces for the local businesses. It was stated that this was not consistently enforced.

Council Member Brian Braithwaite commented that there was a similar issue on the other side of the Toscana development.

Mayor Mann opened the meeting for public comment.

Amber Daley, a resident, commented that most of the residents were not aware of the 24-hour parking restriction. The reason she has approached staff about this issue was because she and other residents had received parking tickets, and

accompanying Class C Misdemeanors, for parking by the water park. Ms. Daley said that there was an unspoken agreement that residents could park in that area because parking at Toscana was not sufficient. They had been parking there for a long time without any problems. Ms. Daley hoped that the City Council could review the parking ordinance and specify a lesser penalty.

Council Member Ostler asked about the cost of the ticket, and Ms. Daley said that it would be a \$50 fine. She was more concerned about having the misdemeanor on her record.

Wayne Tanaka, a resident, said that there needed to be good communication with the residents if the ordinances change or agreements are made.

In response to a question from Mayor Mann, Nathan Crane said Toscana had a private parking ordinance, so the City wouldn't be able to enforce anything within the development. However, they could address the City-wide parking regulations.

Council Member Scott Smith believed that the Toscana development received final approval through the Planning Commission, and the City Council did not have any final input. The development was severely under-parked. Regarding Town Center Boulevard, he thought that removing the median strip would allow for snow plows and on-street parking.

Nathan Crane said that staff had explored that option, but there was still the concern of blocking cars in with snow piles.

Justin Parduhn, Public Works O&M Director, added that the traffic speed would increase with the removal of the median.

Council Member Ed Dennis suggested that they change the ordinance to prohibit parking only when there is snow on the ground rather than outlining specific months. Nathan Crane said that decision was entirely up to the City Council.

Council Member Kurt Ostler commented it would be difficult for residents to predict when it would snow overnight. Council Member Ed Dennis suggested that the development allow parking permits near the splash pad and park.

Council Member Kurt Ostler asked why the fence around the park was locked. Nathan Crane explained that the park had started to become a dog park and it had a negative impact on the splash pad.

Council Member Brian Braithwaite was concerned that this issue would continue because there was nowhere for people to park within the development. He suggested allowing on-street parking during certain hours, which may provide time for snow plowing and commercial parking. He also felt that the residents should be allowed to park around the splash pad during the winter, because it wasn't being used.

Council Member Tim Irwin suggested that the residents get together with staff to discuss possible solutions.

Mayor Mann asked if any of the City Council Members would be willing to meet with the residents as well. Council Members Brian Braithwaite and Ed Dennis volunteered.

There was a question about ticketing, and Justin Parduhn explained that the Public Works Department has stickers that can be placed on cars who are causing issue to the plows. Many of the tickets issued are complaint based.

Council Member Tim Irwin was in favor of changing the charge from a misdemeanor to an infraction.

## **5. RESOLUTION: MURDOCK CONNECTOR ROAD**

Mayor Mann asked City Attorney Tim Merrill to explain State regulations regarding Conflict of Interest. Attorney Tim Merrill explained that under Utah Law, an elected official needs to disclose either in writing or before the vote is taken

if there will be any economic benefit to them or they have business interactions relating to the issue. A person is not required to recuse themselves, but they can recuse themselves voluntarily.

Mayor Mann proposed the adoption of a Resolution supporting the construction of the Murdock Connector. He explained that he had listened to the vote that approved the Connector road with restrictions, which included a limit of 25 MPH, no median or turn-lane, and bike lanes on either side of the road. The purpose of the proposed resolution was to present information based on the road study that had been completed last year and how it would benefit the community. Mayor Mann wanted to present the approved resolution to the State to persuade them to authorize the building of the road.

Council Member Tim Irwin mentioned that there was a clause regarding the City's efforts to mitigate impacts to the community.

Council Member Scott Smith addressed the possible "conflict of interest" by stating that he had no intention of recusing himself from this issue because it would not benefit him financially. As a member of the Board, he felt that he had a lot of pertinent information to share regarding the Developmental Center and the Murdock Connector. Council Member Smith then detailed his involvement on the Board and gave a brief history of the project. He stated that he supported the completion of the Murdock Connector, but he was also an advocate for property rights.

Regarding the information contained in the Resolution, Council Member Scott Smith asked Mayor Mann where he gathered the statistics from. Mayor Mann said that they were national standards. The data was posted on his blog with links to the information sources.

Mayor Mann opened the meeting for public comment.

Craig Shields, a resident of Pheasant Hollow, said that the proposed Murdock Connector was proposed to run right next to his driveway and commented that he would be the most negatively impacted. Mr. Shields reported that he had obtained appraisals on his home in its current state and after the road was installed, and it was roughly a \$100,000 difference. The road would have a serious financial impact on him and his family. He hoped that there would be a commitment from the City Council that they would continue to mitigate that impact.

At the request of Council Member Scott Smith, Mr. Shields briefly described the impacts to the neighborhood when the new siphon for the Murdock Canal was installed.

Council Member Tim Irwin commented that there had been many changes to staff since the project was first proposed, and the current staff would be much more involved in mitigating those types of issues. The current City Council would also be more sensitive to the needs of the neighborhood. Council Member Irwin noted that he wanted Council Member Scott Smith to be involved in the vote for this Resolution.

*Council Member Tim Irwin MOVED to adopt resolution no. R-2018-05 supporting the construction of the Murdock Connector road, sale of the right-of-way, and the design of the road meeting collector road standards.  
Councilman Brian Braithwaite SECONDED the motion.*

Mr. Shields requested that he and his wife be included on the committee that helps to create the design and discuss mitigations efforts. Mayor Mann agreed to the request and asked that he speak with Todd Trane about getting involved in the process.

Todd Trane, Engineer, suggested that Mr. Shields speak with his HOA representative and attend meetings with him. He further explained that they would not be moving forward with a design until the State legislative body made a decision regarding the road.

Council Member Kurt Ostler questioned the wording of the resolution and asked if they were supporting the leave of the ground. Attorney Tim Merrill said that the resolution was just for the road itself.

There was a discussion regarding the lease or sale of the land, and Council member Scott Smith said that there had been no solid decision made by the State. Council Member Kurt Ostler commented that the ground was included in a special trust. It was explained that the trust was created to guarantee that any money collected for that property would go into the trust rather than the general fund.

Council Member Ed Dennis said that the City Council voted on a resolution in support of the construction of the road on December 6, 2016. Since that time, he has been part of a committee that had met with the Pheasant Hollow HOA trying to mitigate negative impacts to the subdivision. One of the items they had discussed was the current design of a three-land with a passing lane in the middle.

Todd Trane commented that the original design was done by Civil Science, a local engineering firm. They have since removed the medians, as an attempt to alleviate some of the cost, but the turn lane in the middle still existed on the plans.

Council Member Ed Dennis referenced a letter from Mr. Andrew Jackson and the completed engineering study by UDOT. He recommended that the Council acknowledge the road study in the resolution and use that as part of their mitigations efforts. He also suggested removing the turning lane, which would allow the road to be built at least 10 feet to the south. There was also a trail on the other side of the propose road, and if that were relocated onto the property where the golf course was located, the road could be moved another 10 feet to the south. Utilizing these two suggestions, the road could potentially move 20 feet away from the existing residences and possibly save one of the two homes that would need to be demolished. Council Member Ed Dennis wanted those and other mitigating factors to be acknowledged in the resolution itself so that the residents can see that the City was coming up with ideas to mitigate the impacts while still allowing for an acceptable road as designated by the UDOT road study. Council Member Ed Dennis expressed a concern with some of the reporting statistics in the resolution, as some of them are not directly from the road study. He wanted those to be removed or referenced simply as additional information relative to the road.

Mayor Mann commented that the road study referenced a two-lane road and compared it to 700 North. He said that 700 North was designed and built to American Fork standards, but the MAG may have to follow a different set of standards for the Murdock Connector. The Connector would be at least 50% busier than 700 North, so it wasn't an accurate comparison.

*Council Member Ed Dennis MOVED to amend the resolution to specifically pull out of the statistics anything that isn't specifically called out in the UDOT managed study. Secondly, specifically reference the UDOT study which proposes the connection between Alpine Highway and North County Blvd. as a two-lane major collector and omit the left turn lane in the spirit of trying to provide some mitigation for the Pheasant Hollow subdivision.*

Todd Trane cautioned against making decisions about the road design before they get into the design process because they don't have all the necessary information to make those decisions yet. He assured them that all of these concerns would be addressed as part of the process.

Council Member Scott Smith agree with Todd Trane, but he also agreed with Council Member Ed Dennis in referencing the UDOT study in the resolution, and the items that should not be contributed to the study at all. The other concerns, such as removing the turn lane, could be worked out later.

Mayor Mann requested that Council Member Ed Dennis provide some specific wording for his amendment to the resolution.

*Council Member Ed Dennis MOVED that Council amend the motion to remove "will have reduced CO2 emissions by over 8.7 million metric tons" from its current paragraph and add an additional paragraph specifically referencing the CO2 emission savings as additional information. He also moved to amend the motion to include a WHEREAS statement, referencing the vote of the USDC Board approving the development of the road on May 17, 2017 approving the*

development of the road. In addition, he recommended that they amend the final paragraph to state “...by engineers to meet the standards associated with major collector roads as defined by the USDC UDOT road study. Council Member Scott Smith *SECONDED* the motion.

Mayor Mann asked if there was further discussion on the amendment.

Council Member Scott Smith said that the UDOT study, which was commissioned by MAG, was actually titled Alpine Highway to North County Boulevard Connector Study. This suggests that the Murdock Connector will eventually connect those two major roads. The study also calls out the road as a “major collector”.

Mayor Mann called for a vote on Council Member Ed Dennis’ motion to amend the resolution.

*The vote was recorded as follows:*

|                                     |            |
|-------------------------------------|------------|
| <i>Councilman Brian Braithwaite</i> | <i>Yes</i> |
| <i>Councilman Ed Dennis</i>         | <i>Yes</i> |
| <i>Councilman Tim Irwin</i>         | <i>Yes</i> |
| <i>Councilman Kurt Ostler</i>       | <i>Yes</i> |
| <i>Councilman Scott L. Smith</i>    | <i>Yes</i> |

*The motion passed unanimously.*

Council Member Scott Smith suggested an additional amendment to the resolution. He read the following from the proposed resolution: “NOW, THEREFORE be it resolved that on this 9th day of January 2018 the City of Highland supports the sale or lease of state land for the construction of the Murdock Connector road and requests that it be designed by engineers to meet the standards associated with collector roads.” He suggested there be another statement added that states that the City of Highland will take steps to reasonably mitigate the impact.

Council Member Tim Irwin felt that the definition of the word “reasonably” could cause problems because it was subject to interpretation. He believed that the current statement regarding mitigation was sufficient.

Council Member Scott Smith asked Attorney Tim Merrill if the current language had the same impacts as a WHEREAS as it would as a THEREFORE statement. Attorney Tim Merrill said that the language in a resolution was lofty and aspirational, but the language was not binding. Putting the mitigation language in the THEREFORE statement would give some added emphasis.

Nathan Crane noted that the agreement between the City and Pheasant Hollow requires mitigation measures. Council Member Brian Braithwaite reported that the agreement only requires the City to talk with Pheasant Hollow. The Council was committed to doing more than just talking.

After continued deliberation, Council Member Scott Smith withdrew his amendment.

*Council Member Tim Irwin MOVED to approve the amended resolution.*

*Council Member Scott Smith SECONDED the motion.*

*The vote was recorded as follows:*

|                                     |            |
|-------------------------------------|------------|
| <i>Councilman Brian Braithwaite</i> | <i>Yes</i> |
| <i>Councilman Ed Dennis</i>         | <i>Yes</i> |
| <i>Councilman Tim Irwin</i>         | <i>Yes</i> |
| <i>Councilman Kurt Ostler</i>       | <i>Yes</i> |
| <i>Councilman Scott L. Smith</i>    | <i>Yes</i> |

*The motion passed unanimously.*

## **6. RESOLUTION: DEVELOPMENT OF STATE OWNED LAND SOUTH OF LONE PEAK HIGH SCHOOL**

Council Member Scott Smith explained that this resolution involved 170 acres of State-owned land that was potentially being annexed into American Fork. He emphasized the need to have a transparent process when dealing with this issue. Any decision needed to be accompanied by public hearings, and both cities needed to be in some sort of agreement. The subject land had not yet been released for development and there had not been any RFPs received, which makes any resolution difficult. Council Member Scott Smith said he fully believed that Highland should not subsidize this development, but before they allow it to be annexed into another City they should have more information on the potential benefit to the City. He therefore proposed a resolution supporting the development of property south of Lone Peak High School within Highland City, unless, after properly analyzing the final approved RFP for the Master Plan Development, it was determined that it was neither financially sustainable nor beneficial for Highland City to provide the essential services required.

Mayor Mann agreed to the proposed resolution. He reported that he had met with Mayor Frost, and he was not sure that the land would be beneficial to American Fork if the State retains ownership.

*Councilman Tim Irwin MOVED to adopt resolution no. R-2018-06 outlining support for retaining the current Highland City boundaries that include the Utah State Developmental Center Master Plan development.*

*Councilman Ed Dennis SECONDED the motion.*

Council Member Kurt Ostler asked if this resolution committed the City to anything financially. Attorney Tim Merrill reiterated that a resolution outlined what the City hoped to accomplish, but it was not financially binding.

Council Member Ed Dennis felt that this was a practical approach to the situation. Council Member Brian Braithwaite also liked the resolution because it showed a consistency on the City Council's intentions.

*The vote was recorded as follows:*

*Councilman Brian Braithwaite      Yes*

*Councilman Ed Dennis                Yes*

*Councilman Tim Irwin                Yes*

*Councilman Kurt Ostler              Yes*

*Councilman Scott L. Smith         Yes*

*The motion passed unanimously.*

## **7. DISCUSSION: CIVIL VERSUS CRIMINAL INFRACTIONS**

Tim Merrill, City Attorney, led a discussion regarding the differences between civil and criminal infractions. Using the aid of a PowerPoint presentation, he first addressed civil remedies, which include a temporary restraining order, nuisance abatements, civil lawsuits, and small claims court. He commented that civil lawsuits were costly and could be dragged out over long periods of time, and usually both parties are not satisfied by the final judgement.

Attorney Tim Merrill then addressed criminal penalties and presented a slide showing the classification and fine amount for each offense. For instance, a Class B Misdemeanor had a maximum fine of \$1,000 with possible jail time of 180 days. He commented that the judge does not normally require the maximum penalty, and they are rarely given jail time.

Council Member Ed Dennis asked why a parking ticket would be considered a misdemeanor. Attorney Tim Merrill responded that it was previously a state requirement, but those had recently changed. In 2015, the code was amended so that all traffic violations would be infractions, with a few exceptions. The City Council could amend the code to reflect those changes, if they desired. He reminded the City Council that the prosecutor can always charge an offence at or below the level ordained.

In response to a question from the Council, Attorney Tim Merrill stated that zoning violations were a Class C Misdemeanor. Council Member Tim Merrill suggested reducing these to infractions as well. Attorney Tim Merrill discouraged that and explained there were some situations that would warrant a Class C, and the City would want a penalty that was more than just a fine.

Attorney Merrill continued his presentation by defining the criminal processes. He also addressed plea and abeyances, diversions, and dismissals.

Council Member Tim Irwin asked if a parking violation would be on a person's criminal record. Attorney Tim Merrill said that a Class C Misdemeanor would not be included on a criminal record.

Attorney Tim Merrill said that both the civil and criminal options were important and necessary tools to the City. He also commented that misdemeanor enforcement was preferable for offences that are not traffic related.

There was some discussion about escalating to higher penalties for repeat offences.

The City Council decided that parking violations should be infractions rather than misdemeanors, and Attorney Tim Merrill said that he would present a draft amendment at a subsequent meeting.

## **8. MAYOR/COUNCIL AND STAFF DISCUSSION AND COMMUNICATION ITEMS** (20 min.)

- **Citizen Survey – Erin Wells, Assistant City Administrator**

Erin Wells, Assistant City Administrator, presented information regarding a Citizen Survey and explained that they had been conducting resident surveys twice a year for the past two years. She described the purpose of the survey and how the City utilizes the information. She asked for direction on how the City Council wanted to move forward with the upcoming survey. To get the survey into the February newsletter, it needed to be finalized by January 22<sup>nd</sup>.

Council Member Tim Irwin expressed his concern that the survey could lead residents to believe that the City could do something that they weren't able to do. Erin Wells stated that this was the reason she removed the option for a recreation center.

Council Member Ed Dennis said that an economic study would shortly be presented that may have important information that could affect the survey design. Nathan Crane said that the first work session for the economic study would be on February 13<sup>th</sup>. Council Member Ed Dennis wanted to be sure that they were giving validated information to the residents.

Council Member Scott Smith commended Erin Wells for her work on the survey. He felt that the questions were good, but there should be more educational information included along with the questions. For instance, there were questions about large lots, but no definition was given of a large lot. He also suggested that the results of the survey drive the agenda, so that the City can address issues raised. Council Member Scott Smith was in favor of having an outside consultant review the survey so that it wasn't leading, too lengthy, or repetitive.

Wayne Tanaka, a resident, felt that it was critical for the Council to conduct the resident survey, and it should be done thoughtfully. He also believed that they should consider consulting a professional market research company. Mr. Tanaka volunteered to assist the City, as he had professional experience.

Council Member Kurt Ostler felt that Erin Wells had done a good job with the survey. The purpose of the survey was to see if the residents were happy with how the City was running overall rather than focusing on specific issues. However, he said he did feel the survey was too long.

Council Member Tim Irwin did not want to hire a consultant.

Council Member Brian Braithwaite was happy with the survey presented, and he felt that two surveys a year was not too much for the residents. He did feel that the survey should be limited to 20 questions. Council Member Scott Smith agreed. He also suggested that they include Paramedics when they referenced the Fire Department, since that was the service the residents were more likely to use.

Mayor Mann agreed to shortening the survey to 20 questions. He asked that the City Council communicate any changes with Erin Wells between now and January 20<sup>th</sup>, so that the survey would be ready for the February newsletter.

- **Public Meeting Etiquette Training – Mayor Rod Mann**

Mayor Mann provided a brief training regarding meeting etiquette and how City Council meetings should operate. He wanted to ensure that meetings were welcoming and comfortable, so he planned to provide public comment opportunities during each item after the initial presentation was given. This would not be a public hearing, but a public comment option. Mayor Mann stated that Council Members should not interrogate or challenge members of the public when they make comments, but they should ask clarifying questions. They can also ask staff to follow up on public items.

Council Member Brian Braithwaite said that they should be responding to the residents' questions and concerns, but it wasn't very inviting when the City Council is unresponsive. They didn't have to provide answers, but the residents should know that the City Council was listening to their concerns. Mayor Mann said that comment cards would be available at the back of the room, and residents would be able to provide their contact information for easier follow up.

Nathan Crane presented the comment cards and said that they were preparing an opening statement about how the meetings would operate.

Mayor Mann reminded the City Council Members to refrain from making direct, personal remarks. It was also inappropriate to clap, boo, or stand in support of a position. The City Council should not be making decisions based on public clamor.

Council Member Ed Dennis asked about dress etiquette, and Mayor Mann said that business casual was appropriate.

- **Park Maintenance RFP Discussion – Mayor Rod Mann**

Mayor Mann explained that the City would soon be losing their ability to store Public Works equipment at residents' properties, and they needed to look into other options. The City could construct their own storage building to house the equipment, or they could outsource some or all of the park maintenance. Mayor Mann asked staff to put together an RFP so that the City Council had more information regarding potential costs.

Council Member Brian Braithwaite did not have any concerns about doing it in-house or outsourcing; he simply wanted to cover all of the issues. Council Member Scott Smith agreed. It made sense to bring the maintenance in-house a few years ago, but things could change. Council Member Tim Irwin added that doing the maintenance in-house saved the City money, but the quality of work diminished because the funding was not sufficient.

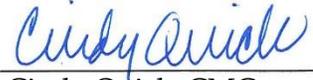
## **ADJOURNMENT**

Mayor Rod Mann called for a motion to adjourn.

*Councilman Tim Irwin MOVED to adjourn the meeting and Councilman Scott L. Smith SECONDED the motion. All voted yes and the motion passed unanimously.*

*The meeting adjourned at 9:51 PM.*

*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 January 9, 2018. This document constitutes the official minutes for the Highland City Council Meeting.*



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Cindy Quick, CMC  
City Recorder

## Welcome to the Highland City Council Meeting



## 6:30 PM WORK SESSION

Training on Electronic Voting System



## 7:00 PM REGULAR SESSION

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



## UNSCHEDULED PUBLIC APPEARANCES

Time set aside for the public to express their ideas and comments on non agenda items. Please limit comments to (3) three minutes and state your name and address.



## PRESENTATIONS

- Item 2a. – Introduction of Reed Thompson, Fire Chief
- Item 2b. – Swearing in Ceremony for Youth Council
- Item 2c. – Fiscal Year 2016/2017 Audit Report



## CONSENT ITEMS

- Item 3a. – Approval of Minutes from December 5, 2017
- Item 3b. – Storm Drain Management and Discharge Control Ordinance.
- Item 3c. – Committee Appointments
- Item 3d. – Committee Appointments (Resolutions)

## APPROVAL OF CONSENT AGENDA

|                    |     |
|--------------------|-----|
| Braithwaite, Brian | Yes |
| Dennis, Ed         | Yes |
| Irwin, Tim         | Yes |
| Ostler, Kurt       | Yes |
| Smith, Scott       | Yes |

5 / 5    Yes = 5    No = 0    Abstain = 0    **Pass**



## PARKING RESTRICTIONS AND TOWN CENTER BOULEVARD

Item 4 – Discussion  
Presented by – Nathan Crane, City Administrator/  
Community Development Director




## MURDOCK CONNECTOR ROAD

Item 5 – Resolution  
Presented by – Rod Mann, Mayor

## APPROVAL OF AMENDMENT TO MURDOCK CONNECTOR ROAD RESOLUTION

|                    |     |
|--------------------|-----|
| Braithwaite, Brian | Yes |
| Dennis, Ed         | Yes |
| Irwin, Tim         | Yes |
| Ostler, Kurt       | Yes |
| Smith, Scott       | Yes |

0 / 5    Yes = 5    No = 0    Abstain = 0    **Pass**

## APPROVAL OF AMENDED MURDOCK CONNECTOR ROAD RESOLUTION

|                    |     |
|--------------------|-----|
| Braithwaite, Brian | Yes |
| Dennis, Ed         | Yes |
| Irwin, Tim         | Yes |
| Ostler, Kurt       | Yes |
| Smith, Scott       | Yes |

5 / 5    Yes = 5    No = 0    Abstain = 0    **Pass**



**DEVELOPMENT OF STATE OWNED LAND SOUTH OF LONE PEAK HIGH SCHOOL**

Item 6 - Resolution  
Presented by - Scott L. Smith, Council Member  
Ed Dennis, Council Member

**APPROVAL OF USDC HIGHLAND CITY BOUNDARIES RESOLUTION**

|                    |     |
|--------------------|-----|
| Braithwaite, Brian | Yes |
| Dennis, Ed         | Yes |
| Irwin, Tim         | Yes |
| Ostler, Kurt       | Yes |
| Smith, Scott       | Yes |

5 / 5    Yes = 5    No = 0    Abstain = 0    **Pass**



**CIVIL VERSUS CRIMINAL INFRACTIONS**

Item 7 - Discussion  
Presented by - Tim Merrill, City Attorney

**HIGHLAND CITY CODE ENFORCEMENT**

**CIVIL REMEDIES**



**CIVIL REMEDIES**

1. TEMPORARY RESTRAINING ORDER
2. NUISANCE ABATEMENT
3. CIVIL LAWSUIT
4. SMALL CLAIMS COURT

### TEMPORARY RESTRAINING ORDER

- File a Verified Complaint in District Court
- Must have or expect “immediate and irreparable injury, loss, or damage”
- Expedited hearing
- City posts a bond
- Case is litigated

(see Rule 65A URCP)



### NUISANCE ABATEMENT

- “Nuisance” is something which is injurious to health, indecent, or interferes with the enjoyment of property. Utah Code 78B-6-1101
- A city may abate a nuisance for:
  - The growth and spread of noxious weeds
  - Garbage and refuse
  - A public nuisance (drug houses, brothels, etc.)
  - An illegal object or structure

(Utah Code 10-11-1)

### NUISANCE ABATEMENT (cont.)

- The City fronts the costs for the abatement
- We file a lien on the property and file notice with the county treasurer (Utah Code 10-11-4)



### CIVIL LAWSUIT

- File Complaint
- Serve Defendant with Summons
- 21 Days to Answer
- Depositions and interrogatories and subpoenas (Fact Discovery)
- Experts and Rebuttals
- Mediation
- Trial occurs 1 to 3 years after filing

### SMALL CLAIMS COURT

- File Complaint in Highland Justice Court
- Maximum award possible is \$11,000.00
- Loser can appeal to district court and request a jury trial



### CRIMINAL PENALTIES



## Classification of Offenses

| CLASSIFICATION      | MAXIMUM FINE | STANDARD FINE | POSSIBLE JAIL |
|---------------------|--------------|---------------|---------------|
| Class B Misdemeanor | \$1,000      | \$680         | 180 Days      |
| Class C Misdemeanor | \$750        | \$340         | 90 Days       |
| Infraction          | \$750        | \$150         | None          |

- Prosecutor can charge below, but not above
- We are presumed innocent until proven guilty
- State law makes zoning violations class "C" misdemeanors (Utah Code 10-9a-803)



## Criminal Process

- Defendant receives a ticket
- Defendant appears in Highland Justice Court
- Defendant either 1) retains a defense attorney, 2) is appointed the public defender, or 3) chooses to represent themselves.
- Defendant and/or their attorney meets with Prosecutor and discusses settlement
- Parties agree to a resolution or case is set for a trial



## Prosecutorial Discretion

- Prosecutor assesses each case, weighing the public's interest, victim's input, mitigating factors, criminal history of defendant, and strength of the evidence against the accused.
- Prosecutor offers a plea bargain:
  - Reduce the charge
  - Plea in Abeyance
  - Diversion
  - Dismissal



"When they ask, you say 'not not guilty.'  
It'll be hilarious!"

## CIVIL vs. CRIMINAL

- | CIVIL                                    | CRIMINAL                          |
|------------------------------------------|-----------------------------------|
| • Due Process                            | • Due Process                     |
| • Rules of Civil Procedure               | • Rules of Criminal Procedure     |
| • Takes months or years                  | • Right to a speedy trial         |
| • Preponderance of the evidence standard | • Proof beyond a reasonable doubt |
| • Costs = high                           | • Costs = low                     |



## MAYOR/COUNCIL AND STAFF DISCUSSION COMMUNICATION ITEMS

- Citizen Survey - Erin Wells, Assistant City Administrator
- Public Meeting Etiquette Training - Rod Mann, Mayor
- Park Maintenance RFP Discussion - Rod Mann, Mayor