Highland City Planning Commission
January 24, 2012

The regular meeting of the Highland City Planning Commission was called to order by Planning Commission Chair, Chris Kemp, at 7:01 p.m. on January 24, 2012. An invocation was offered by Commissioner Abe Day and those assembled were led in the Pledge of Allegiance by Commissioner Chris Kemp.

PRESENT:
Commissioner: Chris Kemp
Commissioner: Jay Roundy
Commissioner: Sherry Carruth
Commissioner: Abe Day
Commissioner: Tim Heyrend
Commissioner: Scott Temby
Alternate Commissioner: Lance Garrett

EXCUSED:
Commissioner: Steve Rock
City Engineer: Matt Shipp

STAFF PRESENT:
City Administrator: John Park
Community Development Director: Nathan Crane
Secretary: Jill Stewart

OTHERS: Chris Dalley, Roger Mickelson, Dave Christensen, David Beck, Jay Worthington, Mark Beesley, Paulette Santiago, Michael Littledike, Jeff Davis, Amy Davis, Aaron Wagnor, Laura Mortenson, Ben Williams, Gloria Williams, Brian Ashton, Ed Dennis, Rob Holmes, Douglas Cunningham, Corey Christensen, Michelle Cunningham, Brent Pugh, Chad Copier, Ed Barfus, Deanna Holland.

A. OATH OF OFFICE

The City Recorder administered the oath of office to new Planning Commission Member Scott Temby and new Alternate Planning Commission Member Lance Garrett. The oath was also administered to Commissioner Sherry Carruth and Commissioner Tim Heyrend due to their recent re-appointment as full time Commissioners. Commissioner Kemp welcomed the newest Commissioners and asked for a brief introduction.

Commissioner Scott Temby introduced himself. He lives at 5898 Park West Road in the Beacon Hills subdivision area. His family has lived in Highland for about 4 ½ years. Commissioner Temby works for GE Capital in their regulatory compliance department. He has worked with various city councils in the past both in the state of Utah and elsewhere as a citizen and representing clients. Commissioner Temby stated he has a strong interest in the development and design of the city. He plans to be living here for the rest of his life.

Commissioner Lance Garrett introduced himself. He and his wife have lived here since 1999. He has raised five children here and really loves Highland. After all of these years, he decided it was his time to take his part. Commissioner Garrett has been in real estate since 1985. He is a real estate broker. He is interested maintaining the real estate values, the atmosphere, and the appearance that drew his family to

Highland. Commissioner Garrett expressed that he does not have his own agenda, but is hoping to represent the resident's interests in this capacity and he is grateful to have the opportunity.

B. APPEARANCES

Commissioner Kemp read an opening statement which was handed down from the previous Planning Commission Chair Tim Irwin.

> "This Planning Commission is composed of Highland City citizens who have been appointed by the City Council to serve on the Commission as a civic responsibility. In the interest of maintaining a fair and efficient hearing, the Commission adheres to the following steps:
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> The Chair calls the agenda item;
> Staff gives a brief report and recommendation;
> Applicant then may give a presentation;
> Opposition and support give testimony, no more than three minutes per speaker;
> Applicant may give a response, and
> The Commission has a discussion and makes decision.
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> Anyone wishing to speak before the commission must fill out a speaker information form and hand it to Nathan Crane, Community Development Director. We expect all that participate will be civil in their public discourse and that they will be respectful of others whether they agree or disagree with any action taken. The Commission will stand against any incivility when we see it.
>
> We thank you in advance for your participation."

Commissioner Kemp invited comments from the public regarding items not on the agenda. Hearing no comments he continued with the scheduled agenda items.

C. PUBLIC HEARING AND LEGISLATIVE ACTION

1. GP-11-03 A request to amend the General Plan Existing and Future Trails Map to create a new Trails Master Plan. *Legislative.*

Nathan Crane, Community Development Director, introduced this item and explained that the hope is to pick up where we left off from the Planning Commission meeting on December 13, 2011. The last time the trails master plan was updated was in July of 2009. Since that time we have received several complaints from citizens regarding trails behind homes and things like that. The Open Space Committee was formed to address some of the issues. Mr. Crane expressed that it was felt that we needed to address some of these issues on a macro level or a citywide level and try to identify those things that are important to the city as a whole versus some micro issues.

We have received a lot of public comments about the trails. All written comments have been provided for the Commissioners. Those items are all available for the public in the Planning Commission packet for this item. Tonight will be a second public hearing by the Planning Commission. In the future there will be a public hearing by the City Council; one, maybe more.

Mr. Crane reviewed the categories on the trails map. They are: Main City Trails (Red), Murdock Canal Trail (Purple), Neighborhood Trails (Brown), Connector Trails (Blue), Neighborhood Option Trails (Gold), and the category of Planned Trails, but are recommended for elimination (Light Blue). Mr. Crane

explained that the idea behind the neighborhood option trail is that it is up to the neighborhood to determine if those stay without a future General Plan amendment. There are two trail maps. One was developed by City Staff and the other by the Trails Committee. A couple of the differences are in the Country French area and the Wimbleton area.

At the last meeting, there was a lot of input on the Windsor Meadows subdivision. One of the unique items associated with this subdivision is the lack of sidewalks. The trails, as we heard, are really used for internal circulation. Options that the Commission has with this are to keep the trails as a neighborhood option trail or identify them as a neighborhood trail.

Mr. Crane explained that he is discussing trails that had recurrent comments from the previous Planning Commission meeting. He identified the Country French trail. The staff recommendation was elimination. Mr. Crane reviewed the overhead map to show the trail area. He explained that trying to have a connection point for the trail is problematic. He also indicated that one of the issues for staff was to eliminate redundancy. Staff felt this could be considered one of those redundant issues. The other thing that staff did was look at options for this subdivision as to whether something else could be done. He referenced an area on the overhead map. It is a drainage easement that the City owns. It is used for drainage and includes a pipe. One option would be to extend a trail through that area and connect to the sidewalks and either go north or in an alternate direction. Patterson Construction owns a lot of property in the area of this trail. Mr. Crane indicated that he spoke with them today and they feel that if it is in the benefit the community and overall, but may or may not impact the sale of future of homes, they may be willing to begin discussions of lot line adjustments to allow for a connection of the trail. Mr. Crane clarified that staff's recommendation was to remove that trail connection. The Trails Committee is recommending that it stay. The Commission's recommendation to City Council will be to whether this stays or is eliminated. Mr. Crane indicated this trail corridor is key in the Commission's recommendation to the Council.

Mr. Crane reviewed the Wimbleton subdivision area. There is an existing trail on the east side of homes. Staff's recommendation was that this become a neighborhood option trail because of part of the Mitchell Hollow and a future connection to the south. The Trails Committee felt that it provided a good loop. This is therefore an area that the Commission needs to provide a recommendation to City Council on.

Mr. Crane identified the Pugh alignment as another area that needs a recommendation from the Commission. The name was given based on the property owner. The idea for this area is to connect to the Murdock Connector trail. The idea is to the use the Murdock Connector as the spine to provide connections all throughout the community. One concern that has been raised is that a home has been constructed in the easement. Mr. Crane stated that staff feels that this area provides the only connection to the Murdock Connector and the alignment should be left as is. Then when development occurs, address the alignment at that time for this area.

Mr. Crane expressed the importance of working with adjacent cities in the planning of trails. He indicated that he spoke with Alpine, American Fork and Cedar Hills in reference to the trails.

Mr. Crane explained that one area that staff does disagree with the Trails Committee on is the Phifferhorn Trail corridor which was planned for by Alpine City, as well as Highland City. Alpine City has approximately 20 feet and Highland has approximately 20 feet, making for a 40 foot corridor. Phifferhorn connects quite a ways as indicated on the Alpine City maps. Mr. Crane said that one of the requests is to change this to a non-city trail. He explained that one of the reasons it was named a main city trail is that Highland City contributed toward the paving of the trail and felt like it should be on our maps. The corridor is also in Highland. Changing a label would allow for future abandonment of that corridor and

not knowing what the desired corridor width is for the community at this time, we have had a lot of complaints and concerns about 20 foot corridors not being wide enough. A decision needs to be made on how wide we want our trail corridor should be. Mr. Crane explained that if we have enough room for a trail corridor, then we do not want to abandon property at this point. One of the conversations has been about having a joint use trail where more than just bike and pedestrians are allowed; something like equestrians and things like that. That is a decision down the road, but if that is done, there needs be more than 20 feet to get the separation for the multi-use path users. For those reasons, staff feels it should be left as is for now.

Mr. Crane stated that the Planning Commission has the option that if they are ready, they can make a recommendation to City Council or if they feel additional time is needed, that is another option. One of the decisions is what base map should be used; the staff recommendation or the Trails Committee recommendation. The areas discussed will need some additional direction from the Planning Commission and a corridor width needs to be determined.

Commissioner Kemp opened the public hearing at 7:23:32 PM . He indicated that each area needing additional direction will be discussed individually and a motion will be made for each of those. The first area for discussion will be Windsor Meadows. Commissioner Kemp invited comments from the public concerning this area.

Roger Mickelson, Windsor Meadows, explained that this trail was originally classified as nuisance trails. As mentioned there are no sidewalks in the neighborhood. Those trails are used for the children to go to bus stops, as well as to go from house to house. The staff recommendation was changed to make this trail a neighborhood option. Mr. Mickelson expressed that he thinks it is a great idea. He said that it preserves maintenance of the trails, gives the neighborhood the ability to make changes, and it preserves the trail for the neighborhood. He feels this is a good recommendation.

Commissioner Heyrend stated that he went and toured all of the trails. He does agree with the comment that if these trails are removed it removes a significant transportation corridor for this neighborhood. Commissioner Heyrend read in the comments that these residents are already paying $20 a month to maintain these trails; he indicated that he imagines that some kind of reimbursement would be in order if the trails were to be eliminated. Commissioner Heyrend expressed he sees a real benefit to the trails; they are beautiful and the homes are well back from the trail corridors. He is in favor of keeping the trails.

Commissioner Temby said that in reviewing the file that it was apparent to him that the overall community comments regarding this area were to keep the trails in some form as opposed to losing them in their entirety. He stated that he unfortunately he did not have the opportunity to hear the Trails Committee opinions on why some of the trails were identified the way they were. He invited someone to come up from the Committee to explain the process a little further.

John Park, City Administrator, stepped in and explained the definitions of some of the trails. The category identified in red are the main city trails and staff feels they are very important to get from one part of the city to the other, to connect parks, recreation, and all kinds of things. Mr. Park stated that the neighborhood trails are meant to be a very integral to the neighborhood. The neighborhood option trails are integral to the neighborhood, but if the neighborhood themselves wanted to change or eliminate one, they would not have to go through the General Plan amendment process again. Part of the reason they are identified as what they are is because they are really isolated within the Windsor Meadows area. Mr. Park clarified that we are not suggesting to get rid of them, but suggesting that we leave it up to the neighborhood.

Dave Christensen, member of the Trails Committee, explained that the Trails Committee was basically responding to what the staff planned. There was quite a bit of discussion; some of the members were concerned with eliminating trails in open space easements when the open space easement subdivisions were given benefits such as higher densities because they were providing other things. Then to come later and say we are going to eliminate those benefits, but we are not taking any houses out or removing that density. Mr. Christensen said that staff expressed to the Committee that there were some problems or frustrations by some of the neighbors and different things. The Committee tried to look at it as what are the most important trails. Then in some of the smaller neighborhoods see if there are some other options. Mr. Christensen stated that it was not terribly definitive. The Committee was having to look at this in a fairly short time period due to the Planning Commission public hearing date in December.

Commissioner Heyrend asked if there was ever an issue of cost brought up by the Committee. Mr. Christensen said he did not believe so. He stated there was a real concern of individual property owners benefitting at the expense of the whole community. So in subdivisions where trails were part of the original subdivision plat, the people bought their properties with the trail or easement as a part of their plot. Mr. Christensen said then to eliminate that, it is giving the property owners a value that will increase their property value at the expense of the city. There was a discussion of in some cases the city would need to be compensated. Mr. Christensen said he is aware there are different situations.

Commissioner Day asked about the neighborhood option trails on how that would be done, as well as what will happen with the funds. Mr. Crane explained that at this point there has been no determination; this is the first step in a lengthy process. He said that the next point is then how is it defined what the neighborhood is. Mr. Crane said that staff's opinion is that a neighborhood is an entire subdivision. Commissioner Day asked if a good idea would be to have those residents in an area who have been paying the monthly open space fee to be the ones who are able to have input on what is done to the trails if they become a neighborhood option trail. Mr. Crane said that is an idea; it is still early in the process and these are details that will need to be determined along the way and there are all kinds of different options. Mr. Crane clarified that the decision is the Council's to make. This is one reason we are going through this process; to determine which ones are city trails, neighborhood option trails, as well as how funding will work, etcetera.

Mr. Park explained that if a trail was deemed a neighborhood option trail, there would be some sort of process set up; such as a petition where 50% of the neighborhood has to be in favor of what is being proposed or some other method for going about changes to a trail. Mr. Park stated the goal here is just to eliminate the process of a neighborhood having to go through a General Plan amendment if they want to make a change to a neighborhood trail.

Commissioner Day asked if the trails are part of a development contract for a subdivision. Mr. Crane said that they generally are not a contract, but part of the development plan approval.

Roger Mickelson reiterated that Windsor Meadows subdivision likes their trails and they would like to have the status quo remain where the City maintains the trails and the neighborhood can continue to enjoy them. He said they like their trails, they are not after money back or a reimbursement and they do not want them removed.

David Beck, lives near Windsor Meadows, asked what will be done with that trail property if it were to be eliminated. Mr. Park explained that is part of the process that staff is referring to on what will need to be determined. He said that in some cases those trails are owned by the City and the City would have to decide whether that property is sold to adjacent land owners or what. In others cases, that property is an easement. There are many different scenarios and it will be decided on what is done in each of those

through the process. Mr. Park said that in the case of Windsor Meadows, he would assume they would be planted with grass because of their design and locations.

Commissioner Day asked if when these developments were put in place if the land was deeded to the City. Mr. Crane clarified that when an open space subdivision is done, a higher density and smaller lots is being traded for open space areas. The City is not physically purchasing land in these instances, but there is an economic benefit to the developer to trade the open space for higher densities and smaller lots.

Jay Worthington, Windsor Meadows, stated that he has lived in this subdivision for 11 years; since the creation of the subdivision. He stated has not or does not begrudge giving to the City $20 a month for 11 years. He said that the trails have not been maintained by the City. He stated that he has been maintaining them. Mr. Worthington said that it is being discussed to create a city within a city. He is very opposed to that. There are about 60 homes in the subdivision. He does not know why control would want to be given to the subdivision unless it is the goal to have them purchase the equipment to maintain the trails. He expressed he has no desire to do that and does not think the Commission or City wants that to happen. Mr. Worthington said it is the City's responsibility to maintain the trails and asked that Windsor Meadows be kept a part of the City and have their trails remain.

Commissioner Carruth asked if the Commission is deciding only what the trails will be identified as, not what will happen to the trails. Mr. Crane said that is correct. He clarified that what is before the Commission is what is the trails master plan for Highland City. He said that who owns and maintains the trails is an entirely different matter to be dealt with in the future.

Commissioner Day moved that Windsor Meadows trail system stay as designated as a Neighborhood Option Trail as per staff recommendation. Seconded by Commissioner Carruth. Those voting aye: Commissioner Temby, Commissioner Day, Commissioner Carruth, Commissioner Roundy, Commissioner Kemp. Those voting nay: Commissioner Garrett, Commissioner Heyrend. The motion carried with a majority vote; 5:2.

Comments were made by Dave Christensen and Mark Beesley that some people may want the rules established before classifications of the trails are changed so they know what exactly the classification change may entail. Commissioner Kemp said these concerns would be passed on to the City Council.

Mr. Park clarified that if any changes want to be made to a neighborhood option trail, there would be a process (which is yet to be determined) that would be taken to the City Council for a decision since the property is owned by the City.

Commissioner Kemp indicated the next area for discussion would be the Country French area. Mr. Crane clarified that in this area, there are two trails to talk about. One trail is the Dry Creek trail which is a neighborhood option trail as recommended by staff. The trail, as recommended by the Trail Committee, is a main city trail.

Paulette Santiago, owns a lot next to proposed trail easement, stated she is in favor of a trail in the area. She is the third lot from the south on Normandy. She said she thought that Patterson owns about 7 abutting lots to the trail area.

Mr. Park explained that one of the trail areas shown on the overhead map came from a request at the previous Planning Commission meeting. The problem was how to get back down to the trails system from the top in this area. Mr. Park said we are still trying to determine this and are talking to land owners about possible options. He indicated there are problems with both alignments.

Michael Littledike, owns a couple of properties in Country French Estates, stated he would like the easement on his property to be taken away. He is not a fan of having a trail run through his backyard. He said he had a baby a couple of months ago and is not excited about creating landscape buffers in his backyard from the trail. The easement will take up a large section of his lot. His lot is pie shaped and if 20 feet were taken off the back, that would take a lot of the property. Mr. Littledike said although there is some benefit to having the trail there, the negatives outweigh any benefit to having a potential trail run through backyards. He would like to have it removed completely. Commissioner Kemp asked if when Mr. Littledike purchased the property if he was aware of the easement. Mr. Littledike expressed that he was not and said he can take the final blame on that, but it was not super clear based on the plat map he saw. He said he had an email from the City saying that the trail was not going to be there anymore.

Mr. Littledike said that having a trail behind the homes is not going to be easy to maintain and there will be a lot of erosion problems. Commissioner Kemp said that he did have an opportunity to tour the trails and there are some contours issues in this area.

Jeff Davis, Country French Estates, stated his support of the staff recommendations; either abandoning the trail or looking at the second option of running it through the existing open space. He said there is quite a bit of redundancy having that trail in Country French. Mr. Davis indicated that the property he owns has the easement that runs through the back of the property. He said that the question of whether these property owners knew about the easements when they purchased the property is a valid question. He explained that when he purchased the lot, he knew there was a no build zone area, but even that was confusing. He said he thinks it is 80 feet, but even then it is hard to get clarification. Mr. Davis said he thinks there are some other options that make sense. He stated that abandoning the trail in Country French makes the most sense in his mind. There is the existing trail that runs along Highland Boulevard that gives great access to the other neighborhoods and he thinks would work just fine. Mr. Davis stated that he does not understand all of the laws of how an easement works entirely, all he knows is that he bought a lot that is 0.90 acres and he made a poor assumption that he would be able to use the 0.90 acres that he paid for. He said what it looks like to him is that the City is saying you pay for it and we will use it. He expressed that he just must be misunderstanding how that works. He said he knows it is a tough decision for the Planning Commission. He appreciates the input. The Bull River people from what he understands they have been the ones who want the trail and he appreciates that, but as a neighborhood, the folks that he talked to they want the trail generally abandoned that runs along the back of the lots.

Amy Davis, owns a lot in Country French, stated her and her neighbors are in favor of the staff recommendation of abandoning the black trail and looking at an option like the purple trail. She said that the trail easement runs along Country French and none of those residents want it, but she understands Bull River does. She thinks there is a way to come to a solution that both parties will be happy with. She hopes that the Planning Commission would look for an option that accomplishes what both neighborhoods are looking for.

Aaron Wagnor, Country French Estates, said his property borders the easement and he is in favor of staff's recommendation to eliminate the easement. Mr. Wagnor, who works in real estate, indicated that a lot of the time buyers are not totally informed of easements or other things with pieces of property. He said that even with his experience, he was confused on the easements in Country French. He said since there was no trail there that it was hard visualize the impact and the way people talked, it was like the trail was going to be done away with. Mr. Wagnor stated that if the trail were to be put in, there would be a massive impact on some of those lots and to the point where you would not even want to live on some of these lots. He said that where there is nothing in place; it would give the residents a lot of peace of mind and the ability to go forth and develop the neighborhood and add to the city and the growth and property values. Mr. Wagnor stated that until something happens with this, he and other property owners really

cannot landscape or put a fence in or other things in their backyards. The resistance that they are getting from Bull River is that this easement really affects the people of Country French's lives, property values, and wallets. For the Bull River residents, it may affect their quality of life if they wanted to use one of the trails. The impact on Country French versus Bull River has so much discrepancy. Mr. Wagnor finished by stating that this trail is redundant and there are too many negatives that affect people heavily.

Laura Mortenson, Country French Estates, stated that she owns a home that backs on to the public open space. She said the trail is just fine with her. It is public owned land and she does not feel there is a problem with putting a trail in there.

Mark Mitchell, Country French Estates, said he owns a piece of property where the trail is not yet built. He stated that the purple line appears to be a good solution. There seems to be a lot of redundancy in trail usage. Mr. Mitchell indicated that his biggest issue is when will the trail be built if it is going to be built. Also, how well the trail is going to be maintained. He said having walked the trails in this area to the north, maintenance seems to be a big issue and this is a concern for him as a property owner. Egress and the redundancy seem to be a problem. He stated that he is in favor of the purple line and finding a good solution with the Bull River residents.

Dave Christensen, Trails Committee member and Bull River resident (on the other side of Bull River), stated that his understanding is that what is being discussed is more than the Country French; that this also includes the Dry Creek trail to the north. The Dry Creek trail is essentially in right now. Mr. Christensen said as he is understanding it, staff is recommending that it be removed. He said that the Trails Committee felt very strongly that the Dry Creek and Country French trails are probably two of the best trails in Highland. They did not feel a trail along Highland Boulevard, essentially a sidewalk, was equivalent in any way to the experience anyone would have on the Dry Creek or Country French trail. He said if it is running along a highway, it is a totally different kind of trail experience. Commissioner Kemp asked about the alternate trail option through the wash. Mr. Christensen said that was not presented to the Committee. He stated that his thoughts are that he would be very concerned as a Trails Committee member to give up an easement without having the other one in place.

Mr. Christensen stated that from his personal experience, there was a lot of work and history to achieve these trails. The first one was the Dry Creek Bench, which was the Ivory development. He said they met with the City several times, met out on the property, and met with the City engineer several times and there was a lot of work put in to get these trails on the plats. In the process of those subdivisions being approved by the City, part of it was how did it impact the adjoining neighborhoods, specifically Bull River. Part of the reason for the 80 foot no build area and the 20 foot trail easement in Country French was to give a buffer for Bull River because the density is so much lower than any of the adjoining property. He said that he knows that was not a legal contract except that it was made a part of the plat and was part of the discussion when those plats were being approved. Mr. Christensen indicated he is disturbed with the whole process the City established to develop the land in Highland, to do a subdivision, that it then can be amended, that is a concern. He indicated that the Trails Committee tried to look at what serves the whole community for trails.

Ben Williams, recent homeowners in Country French, said that here we have a trail that is redundant in nature. He stated that if the objective of trails is to allow homeowners to navigate through the area, this is very much redundant and do we have the resources to build and maintain it. He said there are other ways to get to the Dry Creek, especially with the solution that was proposed with the purple line. Mr. Williams stated his concerns of general safety nature and the wooded area if it is constructed in the back of their property. He said there is a huge buffer between his property and Bull River. He stated it seems like a solution has been put forth. Mr. Williams indicated that they had tried to participate in the Trails

Committee, so other options could be heard. He did not think anyone from his neighborhood was invited to participate. He said they are in favor of the staff proposal. As a secondary option would be the trail that went through the city owned property. Mr. Williams said his family walks Highland and feels it is completely wonderful.

Gloria Williams, Country French, backing up Mr. Wagnor said that she has real concern about the safety in her backyard. She has four children and a granddaughter living with them. Also, the insurance liability is a concern for people who may be utilizing the trail. Ultimately, those people would still be on her property and who would pay for those liabilities is a concern. Ms. Williams said she thinks there are great options and the negatives outweigh whatever experience someone might have walking back there with foliage and woods.

Brian Ashton, Country French, said that he wants to see the easement eliminated and agrees with the staff recommendation. There are the issues of safety. The ability to put up a fence is difficult because this easement takes up 20% of the backyard. Mr. Ashton said he agrees with all of the issues that have been brought up. He addressed the issue of property rights. He does not feel this easement should have ever been put in place. It was done because certain existing property owners did not want to have other houses there. Mr. Ashton expressed that the 80 foot no build zone creates the desired buffer that has been mentioned. Putting in a trail does not help create anymore of a buffer. He stated that if people do not want people there, then they should buy the property. Mr. Ashton said he thinks we believe in individual property rights in this country and what originally happened was that we said that individual property rights are not that important. He said that he thinks that is the real issue tonight. What is decided about these trails, will determine whether or not we think the people have rights to their own property that they paid for. The final thing Mr. Ashton addressed was there has been an argument made that we should not get rid of the easement until we have a perfect solution to this other proposal through the wash. He said we are pretty close to being there, but as long as we keep the easement in place, there is not as much incentive to get that done because people keep fighting and saying we should just keep the easement. The easement was the wrong thing in the first place; it should have never been put in place. Let's get rid of it and then we an incentive to find another way to solve this problem.

Commissioner Kemp asked if the easement done away with if the 80 foot no build zone will stay in place. Mr. Crane indicated it will remain.

Ed Dennis, resident & Chairman of the Open Space Committee, stated that the Committee has been looking at the open space issues for almost two years. One of the most common issues they have encountered as they have listened to residents is the maintenance of the trails within Highland City. There are trails that are almost unable to be navigated due to vegetation. Some trails are deteriorating and causing safety concerns. Other trails create what Mr. Dennis would call alleys. Mr. Dennis said in support to the City's recommendation to eliminate this trail, he would offer his support and the support of the Committee to eliminate this trail because 20 feet is too narrow for this trail, it is on private property, there are insurance issues, as well as privacy issues. Mr. Dennis strongly encouraged the Planning Commission to eliminate this easement and allow their residents to use the property the way they would like. He reiterated the safety issue with the trail running behind homes.

Mr. Dennis said that the Committee also had a proposal that they wanted to present. He indicated that the Committee is a little late coming to the party on this matter as they only met last night, but they would like to make a counter proposal to staff and the Trails Committee in regard to some of the trails, as well as the proposed trails master plan. Commissioner Kemp asked that Mr. Dennis keep the proposal short.

Mr. Dennis stated that the Committee is working from the City staff map that was proposed. He indicated the two areas, among other things, that they disagree with the Trails Committee on are the Country French and Wimbleton areas. In Country French, the Committee agrees with the staff recommendation. With Wimbleton, the Committee feels there is the redundant problem with the Hidden Pond trail going behind that property. The Committee recommends staying with the staff recommendation of the Neighborhood Option Trail.

Mr. Dennis stated that in addition, the Open Space Committee, propose that on the Phifferhorn Trail be designated as a Neighborhood Option Trail rather than a main city trail. He said there are a number of issues that relate to that property. The first is that it is only 20 feet wide that belongs to the City, which creates a trail that is too narrow for safety reasons. Mr. Dennis said that Alpine has not been very helpful or cooperative in working with that trail. He said consequently, there are some homes on the Alpine side of the trail that have fences that are up to 11 feet tall. He stated that even if a dual trail behind there that was 40 feet, we have created a fairly narrow corridor. Mr. Dennis said that the recommendation of the Committee is to designate that as a neighborhood option trail. Commissioner Kemp said that as he understands it, the City has already give Alpine some money toward paving that trail. Mr. Dennis said they gave Alpine approximately $17,000 which would go toward the paving of the Alpine City side of the trail, not the Highland City side. Mr. Dennis said the issue then becomes what are we going to do with the Highland property that is adjacent or running parallel with that trail. He indicated the Committee's recommendation would be to designate that as a neighborhood option trail so that the neighborhood has the option to determine how that is going to be used, which would have to be agreed to by this Committee and the City Council in terms of how that would be used or what the disposition of that property would be.

John Park stated he is confused and asked for clarification. He said that Mr. Dennis's argument is the fact that trails should be more than 20 feet wide and right now it is a 40 foot wide trail because half of it is in Highland and half in Alpine and you say there are large fences on the Alpine side and so your proposal is to narrow the trail just to the Alpine portion of the trail. Mr. Park said that it seems to him that if anything, you would want a wider trail if that is the case and you just argued a minute ago about Country French that 20 feet for a main trail was not wide enough. He said he does not understand the difference in the proposals or the difference in the areas. Mr. Park feels it is wonderful trail because we have a 40 foot trail and only providing half of it.

Mr. Dennis stated that from the Committee's perspective is that they met with residents and some of the City staff and even 40 feet seems too narrow, so that whole trail seems somewhat problematic in terms of its width as it relates to the residents on either side.

Mr. Park said that the trail will still be there no matter what we do. If we get rid of our 20 feet, it means it is a 20 foot wide trail. He said that, yes it is in Alpine, but it is still going to be used by as many if not more Highland residents than Alpine. That is why we worked cooperatively with Alpine to provide that trail. Mr. Park stated that he does not understand the reasoning behind all of that.

Mr. Dennis continued that as a point of clarification for delineating what is in city property and what is not in city property, the Open Space Committee suggested that the trails that are not in Highland City proper be designated with some type of trails color code as trails of interest outside of city limits, so that it is clear that those trails were not under our jurisdiction even though they were a trail of interest. They would have to be dealt with by the adjoining city in terms of the disposition of those trails. Mr. Dennis used the Canal Trail as an example. He said that we show it as a main city trail and it is actually not in Highland City proper. It is a further delineation that those trails will have to be determined by another governing agency

or governing organization. Mr. Dennis expressed that this is a clarification in terms of identification within the city master plan.

Mr. Dennis moved on to the Canterbury North subdivision for discussion. He said that area was designated as the Pugh Trail; it is on the southeast side of the Canterbury North subdivision. He stated that it again is a trail behind homes that is only 20 feet wide. The Committee's recommendation is that the trail be designated as a neighborhood option trail. Mr. Dennis said that in its place, use 6400 West as a path to get back down to the main canal trail rather than wrap back through those subdivisions behind those homes. He said there are easement problems along the canal itself; there is a home built there. The alternative would be to run it directly south at 6400 West and down 10400 North which would adjoin the canal trail.

Mr. Dennis expressed there is an additional problem, as an Open Space Committee, they have wrestled with variances to the use of open space. The scope of the Committee is to look at the use of open space. There are a number of areas where there are violations of the city code. One of those happens to be the Pugh Trail. One of the Committee suggestions was to put some type of lien on the properties where those variances occurred. Mr. Dennis said they are not recommending that anyone from the City go in and start tearing things up. There would need to be some type of protection for the City in the event there was a decision made that those would have to be removed, so that the homeowner that violated the city ordinances would have a liability to fix those. This would provide some remedy for the City that those were eliminated or removed.

Mr. Dennis expressed the Committee's endorsement of the name change from a Nuisance Trail to the Neighborhood Option Trail.

Rob Holmes, Bull River, explained that his property borders Country French Estates. He is president of the homeowners association for Bull River. He said that he has listened to all of the arguments and he has heard property rights and has open space easements on his property; he understands that we want to control our own property. Mr. Holmes said there is a balance and that is why we have rules and regulations that govern architectural plans; we do not want neighbors moving in putting in pink barns and dumping old dumpy cars in our neighborhoods. He said he understands everyone's point in trying to come up and fight for personal property rights. Mr. Holmes said he also understands the fear we have over trails and that it might open us to all kinds of people or creatures that want to come and spy on us and our homes. He stated that at the same time, this is the main issue for him, on top of the things that they have argued for in the past to try and create a border and a feeling of sustaining the Bull River uniqueness that we try to create an environment where by fence lines and everything else would not encroach upon that open feeling in that community that all the residents like; even more than that, it is an element of trust. Mr. Holmes asked what happens with the people's trust for the community when agreements are met or come to or because of those agreements we have easements put in place and there are certain restrictions on properties that we might maintain some value in our community and then just get rid of them. We do not want to recognize that they are not there anymore. Mr. Holmes stated that he thinks that would be a mistake. He asked what do we do for arguing for things in the future now; can we do this in trust, where we can make arguments, come to agreements, where we can see the community come together and try and maintain this feeling of continuity throughout. He expressed that he thinks we do that; the effort to try and live in peace with one and other and at the same time honor those agreements. Mr. Holmes said he thinks those agreements prime of fascia evidence of this being in place is the fact that easements are in place and that people have these easements on the title to their property. He expressed appreciation for the Commission's time and hoped that they will take all of these things into consideration.

Mark Beesley, Bull River, stated that he has some good neighbors that live in the Dry Creek area and the Country French Estates area. He said they tell him they love trails, except for the 100 feet they go approximate to their property. Mr. Beesley said what he really irritated with the city of Highland that they developed a city plan with trails in it and then four years later they come to us and say maybe we want to change things around and it has caused problems with Mr. Beesley and his Country French Estates neighbors. He said he does not like that. Mr. Beesley stated that this is about property rights, but it is about the property rights of all Highland City residents. When the City acquired easement rights in the Country French Estates and the Dry Creek areas, they did that at a cost. Those easements cost the City something. They had to negotiate away other rights to get those easements. Now the City wants to say let's give those away, let's abandon those. Mr. Beesley said what that has done for the Country French Estates people is allow them to say great, we got a windfall. The Davis family values that easement at $25,000 and they are only one of 25 or 30 homes in that area. He said those easements are valuable rights and once the City gives them away, they cannot get them back. Mr. Beesley urged the City not to give them away. He expressed that the City should never abandon an easement with the hope that another trail might be developed. He said it would be ludicrous to abandon one easement before something else is in place and finalized. Otherwise no one has any incentive to work on a new plan. Mr. Beesley stated that these trails are not redundant. A sidewalk up Highland Boulevard is not the same experience as walking through the trail that the Commission walked through this afternoon. It is a natural area, a peaceful environment, a place where people can go and get exercise. One of the things the Trails Committee considered is a good trail is a loop; there can be one starting point, walk a nice loop and come back to where you started. That is one of the characteristics of a good trail. That is what these trails provide. Mr. Beesley said the other thing is that the Country French trail leads to the Dry Creek trail; if you do not have the Country French trail, what happens to the Dry Creek trail. If that gets torn out, it will be a half mile of pavement torn out. Then the gravel underneath would be removed and topsoil brought in and the area reseeded; it is not a cheap process. Mr. Beesley said that these trails do have a purpose. Kids in his neighborhood can walk from his neighborhood to Ridgeline Elementary School if they access the trail by only crossing one street. Otherwise they have to walk up Highland Boulevard, a busy thoroughfare, and cross five streets to get to the school. People from the Dry Creek area can walk from their neighborhood clear down to Smith's with only crossing one street. He expressed that those trails really provide a purpose.

Mr. Beesley said that one thing here that Mr. Holmes talked about, that he wants to tell his personal experience, is that the city of Highland approached Mr. Beesley and they said we want to allow Patterson Development to develop this neighborhood and asked if he was in favor or opposition the idea. He told the City he was opposed to the idea. The City asked what some of the things were that could be done so that Mr. Beesley would not be opposed this development. They asked if they put in a setback, trail easements, the things to create buffers between your neighborhood and higher densities. Mr. Beesley agreed with the City that those were good things and support the development of the neighborhood if those things are put in place. Mr. Beesley said that now it is three or four years later and the City is coming in and saying Country French Estates residents purchased the properties knowing those easements were there, they knew about it, but now they do not like it, so let's allow them to have their way and let's turn our back on you. He stated that he is sitting in his house looking at the proposal of fences strewn along 13 or 14 different lots on the Country French Estates and 4 lots on the Bull River side. Mr. Beesley expressed that it decreases his property value. He asked to consider his property value as long as we are considering other property values. He stated that the City should honor their agreements, they said there would be setbacks, trail easements, and the City should honor their agreements.

Commissioner Kemp indicated that the Commission has heard several comments on this area and there are other items for the Commission to get to.

Commissioner Garrett explained his experience; he built a house in Highland and bought a property and it was disclosed to him that there was an easement on the back. There was no trail at that time. The lot was wider than it was deep. There was a canal that ran along the back of the property. Between the canal and the house was a trail easement that ended up with a trail on it. Commissioner Garrett said they still had the right to put a fence on the back of the property near that trail so his family could still have a private backyard if they wanted to and reserve that right. He stated that he had five young children and lived there for six years and it was never an issue. There were friendly people who used the trail. It did not get nearly as much use by trail users as it did his own children, as well as neighborhood kids. He said he does not know if there are stories of liabilities, accidents, break-ins, or any dangerous things that have happened as a result of any other trails in Highland. He expressed his experience was a good one. Commissioner Garrett said his concern with abandonment is that concessions have been made and were made to obtain this trail easement and now to go a different direction and dismiss this easement without a viable replacement option does not sound like a sound decision to be made. He stated that he believes this trail provides more than a buffer. They provide access and enjoyment to all of the Highland residents as it was discussed. Commissioner Garrett said that he would assume or hope that anyone who purchased one those affected lots that the trail easement was disclosed to them, if not certainly the title company or real estate agent would have some liability because that should have been disclosed.

Commissioner Temby said there have been have some compelling arguments here with respect to the magnitude of impact to the property owners on which the easement crosses, as well as to the uncertainty with respect to the future for the easements and how they would be used, as well as with respect to the safety and visibility and security associated with those property owners. He stated that getting to the point of balance has compelling arguments as well. There is a lot of benefit derived from having master planned certainty. He indicated that a point of clarification is if it were the case that the master plan was amended to remove the proposed trail on this location that the easements would be reconveyed or extinguished. Mr. Crane said that would allow the opportunity, but again, that would be a Council decision. Commissioner Temby expressed that he is a firm believer as well and thinks there has been some commentary here tonight about the need for relying on the promises and representations of the City and the desire to move forward with the initial vision and not necessarily change it sporadically or more occasionally. He said with that in mind, he is certainly is sensitive to the concerns and arguments of those who are within where the property easement is impacted. His recommendation is that the Commission considers not adopting the staff recommendation and keep the easements in place.

Commissioner Heyrend said that as he drove through both areas, he noticed a distinct difference in ambience and general neighborhood feel between the two neighborhoods. He stated that the standard upscale neighborhood of mega home property of the Country French Estates, this is a difficult decision that the Commission is reaching tonight. It does put neighborhood against neighborhood. Commissioner Heyrend said he can see both sides of the argument. He admitted that he is partial to trails, as he runs a lot and rides his mountain bike, this is one of the reasons he enjoys the Highland area. He said as he looked at where the easement exists now, there is a little road and several parking spots where someone could come up and park and take a mountain bike out and go through the easement behind Country French Estates and on up to the Dry Creek area and continue on. Commissioner Heyrend pointed out that this trail continues to the elementary school and across the road up to an adjoining trail at the Highland border. He said in looking at the trail and walking parts of it, this is a very unique and beautiful area. He stated that this is to not be taken lightly because of the wonderful area that it is. Commissioner Heyrend expressed that he believes it should be open to all Highland residents and why he believes the trail easement was considered in that location. He is also a firm believer in buffer zones; there is a big difference between Bull River's landscaping, which is all natural, and Country French Estates landscaping. Commissioner Heyrend asked if the residents in Country French can put up fences. Mr. Crane indicated the current fence regulations would prohibit a fence on the easement. Next to the easement, they would

be allowed to have a 6 foot fence with the lower 4 feet being solid and the upper 2 feet being at least 55% open.

Commissioner Heyrend stated that he saw a comment from one of the Bull River residents in regards to equestrian access. He said he can see that would be a vital concern. Commissioner Heyrend indicated that it looks as though Country French has several ATV trails going right from the homes to the Dry Creek area. He said that is the only way he can figure out why there is such a specific dual track there. He said that he thinks they are using the area there and that is great, that is what it is there for. Commissioner Heyrend stated that he does not see a good access point for Bull River residents to the Dry Creek area, even through the purple line. That is a sunken down ravine with a storm water pipe through it. He said it appears to him to be a drainage area, because it is low, and because of that and to be worthwhile, maybe 50% of the time whenever it is not bogged down. He said the trail could be built higher up, but that is another issue. He expressed from an engineering point of view, looking at the concerns of build-ability of the trail, he does not see a real big issue there. Trails in these kind of areas area always difficult to build. Commissioner Heyrend indicated he is in favor of staying with the Trails Committee recommendation for the Country French Estates and Dry Creek Bench areas.

Commissioner Day stated that he has to go back to the purpose of government which is to secure the rights of the individual and their property. He said his personal property he purchased, he thought it was intended to be called High Valley Estates, was supposed to have a trail going through it and the developer went out of business and he was able to build a custom home and that was a benefit of not having to have a trail through his backyard. Commissioner Day said if he chose to, he and his neighbors could choose to build a trail through their backyards if they wanted and he likes being able to have that option. He stated that it has been addressed that the City does not have money to maintain these trails, so the big concern is well we should have one here, but we do not know if we can create one on this side, but if the City does own it, it could be put here, plus there is already a corridor through it. He said that the enjoyment of a few minutes of not seeing some trees through someone's backyard does not seem to outweigh the fact that you are going through someone's property that they paid for and they want to do what they want to do with it. Commissioner Day stated that he highly supports that we get rid of the trails as per the recommendation of staff and that we respect people's private property. He said that in this case it makes the most sense. He said that the other thing he has heard is that this is going to ruin people's property value; well if it increases the property value of the residents here, well it will increase all of the values of properties here. He said that is how you get estimates. He said he does not see a property value issue here. Commissioner Day stated the fact that not one person from Country French, from what he has heard tonight, wants it through their property; so that trumps anybody's neighboring viewpoint.

Commissioner Carruth said that it is not City owned property, it is owned by the residents. She said when we lose sight of that, it is a sad scary moment. She stated she gets the trail thing and understands how important that is, but she is in favor of the staff recommendation.

Commissioner Roundy stated he is in favor of the staff recommendation.

Commissioner Kemp expressed that he understands both sides of the issues; it is hard to make everybody happy. He said he is probably in favor of the staff recommendation to remove the easement, keeping the 80 foot no build zone, and make some type of recommendation that if fencing was put up on the back that it would be consistent fence material and color to minimize the impact on Bull River as much as possible.

Commissioner Garrett moved to follow the Trails Committee recommendation in leaving this designated as a Neighborhood Trail. Seconded by Commissioner Temby.

Commissioner Garrett indicated we are clarifying the section of trail that runs along Normandy through the Dry Creek section that it continue to be a neighborhood option trail. Mr. Park stated that the proposal from the Trails Committee is that is stay citywide trail, not a neighborhood trail, so you can agree with the Trails Committee and say it should be a citywide trail or you can designate it a neighborhood trail. Commissioner Garrett said he agrees with the Trails Committee recommendation.

Those voting aye: Commissioner Garrett, Commissioner Temby, Commissioner Heyrend. Those voting nay: Commissioner Day, Commissioner Carruth, Commissioner Roundy, Commissioner Kemp. The motion failed without a majority vote; 3:4.

Commissioner Day moved that the Planning Commission should adopt the recommendation by the City as per the City, that residents of the Country French Estates have the corridor abandoned as per recommendation of the staff and the Dry Creek per the staff recommendation. And to allow for the City owned property adjacent to that Estate be considered as a future trail. Seconded by Commissioner Carruth. Those voting aye: Commissioner Roundy, Commissioner Carruth, Commissioner Day. Those voting nay: Commissioner Heyrend, Commissioner, Temby, Commissioner Garrett. The motion carried with a majority vote, 4:3.

The Commission moved on to discuss the Wimbleton area trail. Mr. Crane explained that the Trails Committee recommended that this be a Citywide trail. The staff recommendation was for the trail to be a neighborhood option trail. Mr. Park also explained that the area along the east side is owned by the City and there is a trail that is 20 feet wide. There is an irrigation ditch running down there; part of the reason staff did not particularly like the trail is due to the irrigation ditch.

Ed Dennis, Wimbleton resident, stated he is in favor of the staff recommendation to make it a neighborhood option trail because of the irrigation ditch, as well as the narrow trail, its condition, and the redundancy issue with the trail that goes back behind the Hidden Pond area that is a more natural walkway. He stated his additional reasoning would be because it runs behinds homes and creates some privacy issues.

Commissioner Temby moved that the Planning Commission accept the staff recommendation for the Wimbleton subdivision. Seconded by Commissioner Heyrend. Unanimous vote, motion carried.

The Commission reviewed the Phifferhorn Trail.

Douglas Cunningham, Beacon Hills resident, said that he is also a member of the Open Space Committee. He expressed his support of the Open Space Committee's recommendation on the Highland alignment here as becoming a neighborhood option trail. He stated that he is a daily and avid trail user all throughout the city. His property borders the Phifferhorn Trail. Mr. Cunningham said he would like to speak tonight on that trail and how it is currently misrepresented by the proposed trails master plan. He offered a brief history of the trail. The trail is currently a gravel trail that sits within a 20 foot open space that lies entirely within the Alpine city limits. Alpine has had plans to pave the existing gravel trail. Several years ago they applied for a grant with the Utah Department of Natural Resources to obtain the funds to do so. Alongside the Alpine corridor, just inside the Highland city limit, there is an additional 20 feet of open space strip. Highland's original plan was to construct an additional duplicate trail running parallel and adjacent to the Alpine trail; the plan did not make any sense, but persisted for years. Finally, just last year, Highland gave Alpine $17,600 toward the completion of the paving of the Alpine trail. Alpine has allocated $70,000 in their 2012 fiscal year budget to do the paving. Since Highland has given Alpine money to complete the trail, it is a clear indication that Highland has no plans or need for an adjacent trail

on the 20 foot adjacent Highland open space and they have essentially abandon the 20 foot open space strip within Highland. Mr. Cunningham said he has spoken with the Alpine City planner in regards to their plans and Alpine wants to lay pavement on the existing gravel road base and keep the trail entirely within Alpine city limits. Their grant paperwork talks about there being a paved and equestrian trail and they planned to keep that within a 10-12 foot area all within Alpine. He stated that they do not want to enter into a maintenance agreement with Highland and they want to build and maintain it themselves. Alpine will not landscape the trail, leaving it with natural vegetation. Alpine has no expectation of Highland other than the financial gift that was given toward construction.

The proposed Highland trails master plan represents this trail as a main city trail, but this designation is false and misleading since the trail does not exist at all within the city limits of Highland. This designation leads to misunderstandings between the City and residents when the residents inquire about the use and maintenance of the unused and abandoned Highland open space. It implies the responsibility of Highland toward the trail that does not exist. Residents that live along this Highland open space dislike the weeds and several have entered into open space maintenance agreements to improve and beautify this land. Since the land has essentially been abandoned by the City, the residents would like to have the property declared orphaned and eventually disposed of by the City. For two years now, the Open Space Committee has been looking for solutions to various open space problems throughout the city. Every subdivision has unique problems with unique proposed solutions. The Committee's recommendation for this subdivision is to declare this 20 foot Highland strip as orphaned and eventually let the City dispose of it to adjacent residents. This recommendation has already been made to the Mayor and the City Council in the City Council meeting on September 6, 2011. Many subdivision residents and property owners were in attendance of this meeting and expressed their agreement of this recommendation. Of the 17 Highland properties along this trail and open space, there are 13 homes. Mr. Cunningham said he has signatures of the 13 residents in support of the Open Space Committee's recommendation made to the City Council back in September. The subdivision developer and the owner of two vacant lots spoke on that night and their comments are on the meeting minutes. Of the remaining two lots, both owners are out of state; one has no plans to build until he retires in 15 years, and the other has been trying to sell his lot on and off for a few years now. Of the 13 homes that exist along the alignment, 7 have already spent their own time and money to landscape the open space. At least four of those have disclosed that they have open space maintenance agreements in place. Another has plans to landscape this year and another currently maintains and mows the weeds down himself. All of them have expressed the desire to eventually control the use of that land. Mr. Cunningham expressed that the main point he is trying to make is that more than half of the homeowners have taken matters into their own hands with how that land is used and many of the improvements have been in place for almost five years. The solution is straightforward and simple, the existing Alpine trail already serves the basic needs of the neighborhood and will continue to exist and be improved. The residents will be happy to gain control of the unsightly and unsafe abandon strips of land and Highland can divest itself of the liability and responsibility of this land. They can focus their efforts on more productive areas.

Mr. Cunningham continued, the problem now is that the City staff wants to maintain the status quo and now they say the trail corridor must remain 40 feet wide, in some cases, 50 feet wide. He stated that every time he has asked for their rationale, they can provide no justification other than citing safety concerns. They have no studies or documentation to back up that it must be that wide. The fact is that the corridor width has already been narrowed, as Mr. Cunningham noted earlier, a number of the residents have already landscaped the unused Highland open space. He said in essence, the train has already left the station on that issue. In reality, the local residents feel that a wide trail is actually unsafe. When a trail is that wide, it becomes a road rather than a trail. The location of the trail is such that the very north end of the trail leads to the extensive networks of trails up into the hills. This creates an attractive nuisance in that illegal motorized vehicles are driven up and down this area to gain quick access to and from the hills. It

endangers the legitimate users of the trail, as well as occupants in their own back yards. The local residents believe that the excessive width of the trail encourages this behavior and that it is a nuisance and safety hazard. Many calls are made to the police about the every year. The residents desire a narrower trail that would be more pedestrian friendly and make illegal motorized vehicles less inclined to be there. Of course the final determination of the open space rests with the City Council. Mr. Cunningham said he has had several City Council members and candidates and several Open Space Committee members in his backyard to personally show them these circumstances. Every one of them felt that the existing situation was a ridiculous mistake made by the City years ago and they pledged to do something to correct it. Everyone that has visited there agrees that the existing Alpine trail corridor within the Alpine city limits is sufficiently wide and it meets the needs of the area. They also see all the abandoned Highland open space serves no greater good to anyone in the city other than the neighboring residents. The definition of this trail on the trails master plan must be changed from being a main city trail. It is not even in our city and in spite of the money we have given Alpine, Highland has no control over what Alpine does with their trail. Additionally, Alpine has no expectation of cooperation from Highland beyond the money. The Open Space Committee recommendation for the trails master plan is to designate this abandon Highland open space strip as a neighborhood option trail so that the residents that live with it every day will have the ability to determine its eventual fate. Mr. Cunningham strongly encouraged the Planning Commission to also apply that recommendation to the trails master plan. He said please do not leave this trail on the trails master plan with a false and misleading label of a main city trail. Everyone benefits from a plan that is accurate and reflects reality. Leaving these kinds of errors only makes it more difficult for the residents to accomplish their desires and for the City Council to make informed and appropriate decisions for their constituents.

Corey Christensen said that he agrees with everything that Mr. Cunningham said. Mr. Christensen indicated that his property backs up to the Phifferhorn Trail. He stated that one day his family, including 4 children, were in the backyard and saw driving up the corridor, which is about as wide as this room, 4 teenagers in Toyota Camry to head up to the hills. Another example would be a razor, it has two seats, a steering wheel, and is four wheel drive, with two guys in full helmets, five point harness, gloves and are all ratcheted into this thing going up the trail at 35-40 MPH. Mr. Christensen said he has flagged multiple people down and called the police numerous times. He thinks of his 5 year old daughter versus one of these 35 MPH vehicles. He said a number of the houses on the Alpine side have fences and the reason they say they put up the fences were because of liability issues. Mr. Christensen stated that we are so close to the hills that it has been the playground of everyone from American Fork to Highland with their four wheelers for decades. He said that he agrees with Mr. Cunningham's recommendation that a neighborhood option trail would be great.

Michelle Cunningham agreed with everything Doug Cunningham said. She stated that there were two neighbors that were here, but had to leave to go pick up their kids, they were Todd Whiting and Colleen Jemmett. Those individuals shared with Ms. Cunningham some thoughts they wanted shared with Commission. Colleen said if a 40 foot trail is going to be built that a barrier needs to be put up between the homes and the trail. She also said that the City Council would lose votes, so remember that they are in there with votes.

Ms. Cunningham also stated that when she lived in Spokane, Washington, they had 20 foot trails with huge trees and there was never a safety issue and they had equestrian riders, bikes, hikers and more. She lived there four years. She expressed that she loves the trails and the Planning Commission. She said when she heard you guys were going to be formed, she was really excited because she hikes, bikes, runs the trail. She said they have had a problem with their neighbor in Alpine building a 13 foot wall as their fence and this is the view they have every day. Ms. Cunningham stated that Alpine is very hard to work with; if you have a 40 foot trail that Alpine is responsible for, there are going to be the jeeps and ATVs up there. She does

not want to be a part of Alpine and wants to be separated. She stated that the trail needs to be only an Alpine trail and the 20 feet in Highland needs to be neighborhood option trail. She said also that the trail Alpine has behind them is 27 feet and then another 20 feet is almost 50 feet. She invited the Commission to come out to her property and look at the situation.

Mr. Cunningham clarified that the Open Space Committee recommendation for the trail was that it be a neighborhood option trail. He said his personal opinion is that 40 feet is good in some places of the city, but does not work here because it becomes a road.

Commissioner Kemp asked if this property is disposed of whether it would be sold or given away. Mr. Crane explained that state law requires that anytime the City disposes of property that it has to be at fair market value. He said that he is working with Alpine to determine what their plans for the trail are; what they need for the corridor and what the use is. He thinks that those define what we should do. Mr. Park explained that a good number of the residents along this trail have a maintenance agreement with the City to take care of the open space area. This benefits them as well as the City. If the trail is not put in place, it would allow these residents to potentially obtain that property and they could then put a 6 foot privacy fence up if they chose to.

Commissioner Temby indicated that the CCRs do not allow for a privacy fence; it would have to be somewhat open. Mr. Crane said the City regulations allow it, but the CCRs are a private and the City does not enforce those.

Commissioner Temby said that why he thinks there would be fewer motor vehicles is that Alpine is paving it and that alone will help with that, but as well as if we can reduce it down to 20 feet, then people would use it more as a pedestrian type trail.

Commissioner Kemp said that it could be suggested to Alpine to put in some bollards at the entrance to the trail. Mr. Park said that is what needs to be done. Commissioner Temby suggested signage too.

Mr. Cunningham said that he has heard discussion today of contracts and said that the open space maintenance agreement is kind of written like a contract in that it requires a notary signature and lots of proof where property lines are and everything to be able to do that. He said that a lot of people have landscaped into that area and in essence entered into a contract with the City. Mr. Cunningham stated that the corridor in several places is already less than 40 feet. He is saying it is too late for the City to come in and say it has to be 40 feet because for five years or more it has already been given up. Commissioner Kemp said if it is City property, they should be able to go in and make changes. Mr. Cunningham said, yeah, but do you want to have a City where you nullify those types of agreements and anger the residents, he does not think so. Commissioner Kemp said those agreements would need to be looked at by the City Attorney, but that is not why we are here tonight.

Mr. Christensen asked if in regards to the funds that were given to Alpine for the paving if there were any promises or obligations made by Highland City with respect to their portion of the trail. Mr. Crane stated not that they are aware of.

Commissioner Carruth asked if the City intends to remove all that was put in by the residents that have open space maintenance agreements and put a trail through that. Mr. Park said that the City does not intend to anything with it. The recommendation is to maintain the trail corridor as it exists. He said we agree that the entire trail is built on the Alpine side. The recommendation on the trails map is that we keep that there, where there are open space agreements in place, those are binding contracts. Mr. Park stated that he does not see that we will ever have a trail through the Highland side; this is about

maintaining a corridor width. The proposal is that we think we should maintain a corridor alongside their trail.

Commissioner Carruth addressed the three residents that spoke concerning this trail and verified that their concern is that if the Alpine portion gets paved and there is still the open area on the Highland side the people with motorized vehicles will abuse the trail. Mr. Park said the residents have a lot of good arguments. He thinks unless we do something else, there will still be problems with the vehicles up there.

Commissioner Day asked what the perceived reason why we want to maintain that corridor with 40 foot area. Mr. Park said it was pointed out earlier that the feeling is that the kind of trails we are trying to create in this area is a wider trail. He said we get more complaints about narrow trails in people's yards than we do wide trails in people's backyard. Mr. Park stated we are creating the feel of what we want our trails to look like. He said this is entirely the Commission and Council's call, staff is just making suggestions.

Commissioner Heyrend moved that the Phifferhorn Trail be made into a Neighborhood Option Trail. Seconded by Commissioner Temby. Unanimous vote, motion carried.

The Pugh Alignment was reviewed. Mr. Park said staff's view is we are trying to find a way to get a trail through the area that is conducive to everyone. The main thing that we want is connection. This alignment will connect the Town Center Trail and the Murdock Trail and staff considers those to be two focal points of trails in the city. He said this would be a high priority to make this a connection.

Brent Pugh stated that this easement is very difficult to use. Mr. Pugh explained that there is a house and a corner of a driveway on this easement. He said that he does not know how that happened. He explained that along that area, there is a fast moving canal that would have to be fenced off. Mr. Pugh said he feels like there are several other options to consider. He went over a few suggestions on the overhead map with the Commission. Mr. Park stated there are options and we need to find a good connection here. He explained that the option with a bridge discussed is kind of fun for staff because there is a lift station right there and staff would like to build a bridge one day and attach a sewer line to it and this would allow us to get rid of a lift station. Mr. Park said the staff recommendation would be that we recognize that the connection and we are good with that on the master plan, but the intent is to get the connection somewhere in there. Mr. Pugh stated that they agree with the Open Space Committee and every house, five houses, along that easement has signed saying that they agree with this easement that it should be a neighborhood option trail.

Mr. Park explained that recommending to make it a neighborhood option trail is not an option because the main Town Center Trail needs to connect with the Murdock Trail, so a recommendation of how to do that is what needs to be done. Commissioner Kemp said the staff and Trails Committee's recommendations are the same and are proposed as a main city trail, so if we leave it that way, we know that we have to address the concerns and the alignment, but if we make it a neighborhood option trail, we might lose the ability or focus on the area. Mr. Park said it is an important area to work through.

Commissioner Heyrend moved to reroute the Main City Trail along the Pugh Alignment which would be north of the canal and connecting into the blue connector trail. Seconded by Commissioner Temby. Unanimous vote, motion carried.

The Commission discussed the remainder of the trails map. Commissioner Heyrend reference a letter that was included in the Planning Commission packet about someone who owns property that also works for American Fork City that wants a trail along 6000 West and 150 East American Fork Highland route. They felt that was a better bike route than going down Highway 74. Commissioner Heyrend posed the question

as to whether it would be worth it for a trail like this. Commissioner Kemp indicated that is something he could make a motion for.

Mr. Park showed the Commission that area on the overhead. He stated that on the original master plan that 9600 North was designated as a trail. The trail came off of 9600 and then back behind houses and eventually connected over to the Murdock Canal. Mr. Park said that was a trail that was in there, but now is being recommended for removal. He indicated that we have the Murdock Canal Trail and the Canal Road that has been designated to be built out as a trail system. He referenced the area that is being discussed, which is a connection from the Merlin Olsen Park area down to 9600 North. Commissioner Heyrend said that for anyone who has run the 5K in Highland, that is the route that is used. Mr. Park explained that road would have to be basically rebuilt in order to put a trail in there. He said reasons like this are why they Commission and Council are being asked to look at the trails map and make a recommendation. Commissioner Heyrend asked if it is planned to have a bike path. Mr. Park said that whatever is put in will require a wider road, so that is probably the intent eventually of the City as they rebuild it, some of it will have to be widened. Commissioner Day asked what type of curb/sidewalk is planning on being used if a trail is put in or if it would be an asphalt type of trail. Mr. Park said he has no clue at this point in time.

Commissioner Kemp called for a motion on the remaining portions of the trail map.

Commissioner Garrett moved that the balance of the trails map be approved as per recommended by staff. Seconded by Commissioner Roundy. Those voting aye: Commissioner Roundy, Commissioner Garrett, Commissioner Temby, Commissioner Day, Commissioner Kemp. Those voting nay: Commissioner Heyrend, Commissioner Carruth. The motion carried with a majority vote, 5:2.

Commissioner Heyrend moved to recommend a bike path along 6000 West. Seconded by Commissioner Temby. Those voting aye: Commissioner Garrett, Commissioner Temby, Commissioner Heyrend, Commissioner Day, Commissioner Carruth. Those abstaining: Commissioner Kemp, Commissioner Roundy. Unanimous vote, motion carried.

Commissioner Kemp closed the public hearing at 10:15:43 PM.

2. TA-12-01 A request to amend the Highland City Development Code Section 3-4102 and 3-4202 to reduce the minimum lot size requirements for the keeping of small animals. *Legislative.*

Commissioner Kemp opened the public hearing at 10:16:16 PM.

Mr. Crane gave some background on this item. He explained that this initiative is a City Council amendment. It is not coming from staff. Staff did help in some of the drafting of this to address some of the concerns. Mr. Crane expressed that this is an issue for the community. He said he really believes that animal issues that were discussed when the large animal amendment was done was a community value issue. Mr. Crane said it determines what Highland is. He posed the question of whether Highland is a suburban community or a rural community. One of the challenges we have is that there are two residential zoning districts; one is R-1-40 and the other is R-1-20. R-1-20 is hardly ever used and R-1-40 is primarily used. That zone allows both agricultural and suburban development. There is an inherent conflict between the two. In rural areas, people expect animals, noises, smells and all of those kinds of things. In a

suburban area, people do not necessarily expect that. Mr. Crane explained that in this amendment, large animals are included; the only change made though was formatting to make it read easier. He expressed that one of the key things to remember here is that some of the conversation may be focused on chickens, but this includes all small animals. Small animals include ducks, geese, turkeys, pheasants, rabbits, or any other similar sized animal. He stated that in looking at these issues as it relates to Highland, the key issue is compatibility and how are these uses compatible. Mr. Crane said that he understands the private property rights, but also the need to ensure compatibility between different uses. He stated that what people do on property can affect others negatively. One of our roles is to address compatibility. Roosters may be discussed. On the research we have done, roosters can be quite a nuisance. We have gotten some emails that explain roosters a little bit. Staff talked to the animal control officer and there have been quite a few complaints in Alpine and Highland regarding roosters. They are noisy, wake people up, and things like that. The other thing as far as compatibility is the location of the shelter. Mr. Crane said when he originally drafted this ordinance he put in the same requirements for a shelter as for large animals. He said if those want to be reduced, that is the role of the Planning Commission and City Council, not staff. The other reason being that if people want to join structures to build one structure that would create an enforcement issue for staff, so that is why we did that. One of the key issues is the number of small animals. At what point does keeping chickens become a commercial use? Another consideration is whether there are alternative standards on larger lots.

The existing regulations require a minimum lot size of 20,000 square feet in the R-1-40 zone. Twelve animals per 20,000 square feet are permitted. A minimum lot size of 14,000 square feet is required for the R-1-20 zone. Twelve small animals are also permitted. The proposed amendment has the minimum lot size at 10,000 square feet, except for the Town Center. Mr. Crane indicated there are smaller lots out there. Roaming is addressed in this amendment. Roaming can occur as long as it is in an enclosed rear yard behind a fence. The amendment does prohibit roosters and a commercial use would be prohibited as well.

Mr. Crane explained that staff did some research and tried to get an average of eggs a family consumes a week. In Highland, the average number of persons per household is 4.2. The recommended weekly allowance for eggs, including baking, is 3 to 4 a week per person. Mr. Crane did some brief math estimating that a household would use about 20 eggs a week plus or minus. He expressed as an example, if a resident had 40,000 square feet, they could have up to 24 chickens and those chickens will produce on average about an egg a day. This would yield between 55 to 189 eggs per week. That gives a generous surplus of eggs and leaves a resident with figuring out what to do with those. Mr. Crane explained that is the reason why he brings up the issue of this as a commercial use. It goes back to what is Highland; whether is a rural community, an agricultural community, or a suburban community. He stated that if we want to encourage residents to have a business selling eggs, then that is fine, but that is a conscious decision that the Commission and Council need to make. Mr. Crane reviewed on the overhead his chart in the proposed amendment and examples of chicken coops.

He expressed that in reviewing the large animal amendment last year, a concern that came up is that there can be a lot with two animals were the owner is very engaged in taking care of them and keeping the area clean or there can be other lots where they are a nuisance and not taken care of. Mr. Crane explained that the same thing can happen here with small animals. If the coops and animals are well taken care of, they may not be a nuisance at all, but if they are not well kept, they very well can be a nuisance. Mr. Crane stated that staff cannot regulate how someone takes care of an animal shelter. He indicated that he would be happy to answer any of the Commission's questions. There were three comments received in which the Commission has for review and consideration. Mr. Crane reiterated that staff is bringing this proposal as directed by City Council and this really is a community value issue and what the Commission wants to do.

Commissioner Roundy asked where peacocks fall. Mr. Crane said they would be a small animal. Commissioner Roundy asked if they would be permitted. Mr. Crane said yes. Commissioner Temby asked if pigeons would be permitted. Mr. Crane stated they would be. He expressed that pigeon coops can be a real issue; he has dealt with them a lot. Commissioner Roundy expressed that he is aware of an area where people have dumped off a lot of peacocks and they have thrived. He said they were more noisy than a pack of wolves. Mr. Crane stated that a small animal is classified as a duck, geese, turkey, chickens, rabbits, and other animals of similar size. Commissioner Roundy asked where dogs fall under this. Mr. Crane explained that dogs and cats are regulated separately. Commissioner Temby asked if we have information of what adjoining communities do. Mr. Crane said that we do; it is all over the board. Some communities like American Fork only allow them in agricultural districts. Some communities, like Cedar Hills, allow them anywhere. He explained that there are different setbacks as well. In Orem, the setback is 85 feet from another adjacent residence. Mr. Crane said if someone wants a chicken coop right under their window, that is fine, we need to be mindful of where it is in relation to other properties.

Commissioner Kemp opened the public hearing at 10:27:15 PM and invited comments from the public.

Chad Copier stated that he is a lifelong resident of Highland. He said that in regards to the amendment Mr. Crane has made, in speaking with some of the members of the City Council and reading what was initiated it seems like Mr. Crane has far exceed what the Council asked him to do. The intent was to allow smaller lots to have small animals. What he has done is come back with a regulation that significantly limits the current use of small animals in the city. Mr. Copier indicated that he has about 15-20 chickens at any one time and lives on 1.2 acres. He has a rooster. Every year they replace their own chickens with roosters or chickens they hatch in an incubator. Some of the chickens are raised for food; not because they have to, but because they want to and it is enjoyable. Mr. Copier said that he does not receive complaints from the neighbors about the rooster because they live on a large enough lot. He indicated that a good number of his neighbors have chickens and roosters as well. Mr. Copier said they are jealous of his chickens because they stay alive, so his family must be doing something right. He said that as he looked over the regulations, they make a feeble attempt to allow 6 or 9 chickens on the smaller lots that were not previously allowed, but then it has the setback rules that Mr. Crane alluded to in his opening comments that actually prohibit effectively to put the small animals on the smaller lots with the setbacks he has included. So a horse can be 20 feet from a home, but based on the size of the chicken coops reviewed most of them are extremely small, yet they have to be 75 feet from a home. Mr. Copier stated that additionally, Mr. Crane made the comment that he did not care if there is a chicken coop under someone's window and if he does not care, he should not have written it in the proposed amendment. Mr. Copier posed the question as to why animals should only be allowed to roam in an enclosed rear yard. He indicated that some of the residents have larger yards and pastures that run up to the front property line with fences and enclosed spaces. He stated that he understands roosters in a smaller suburban neighborhood, they would not be welcome. He said that regulating for smaller lot he appreciates, but for those who have had animals for years, it is now offensive to impose such regulations. Mr. Copier said that in regards to Mr. Crane's comments for commercial use that he does not believe that was within the scope of what the City Council asked him to do. He asked why it matters if he has an extra 10 eggs a week to sell. Mr. Copier stated that generally he does not have extra eggs to sell, but if he does want to sell a dozen or two a month, what is the harm to the city that this needs to be enforced. Mr. Copier said he agrees with the concept to allow smaller lots to have a few small chickens in a small coop, especially hens that would not be a nuisance, the way this proposed amendment is written is utterly unworkable in this current form. He indicated that he has goats and because he has over an acre, it is not a big deal, but a goat, especially a pigmy goat, to call them equivalent to horses is silly. The goats take up very little space. Mr. Copier said that if we are going to look at amending the ordinance, we probably ought to make it a little more useful to

folks. If people that want to have a milk goat, it actually requires very little space compared to a milk cow, but under the amendment and current regulation, they are treated the same.

Ed Barfus stated he lives over on Country Club Drive in the Cottages on the Green HOA. He said that why he wanted to speak tonight was to tell the Commission a little about chickens and his experience with them. He expressed that he thinks we need to allow people to give their children every opportunity to care for animals. Mr. Barfus said back in 1976 he hated birds; his wife had a parakeet. It did not end up lasting too long, but he hated that bird with a passion and had a similar feeling about chickens. He said that his wife prevailed that they should have some chickens. They fenced off part of the backyard and got some chickens, had a garden, some rabbits and eventually some goats his son raised for 4H. They had four children. Mr. Barfus explained that this was in Fullerton, California which is in north Orange County which is southern California. Up to his house, there was curb, gutter and sidewalk, but from his house on, there was none of that. You parked on the lawn if you parked in front of his house. He said that it was kind of a rural mindset. His lot was 50 feet wide and 189 feet long, just under a quarter acre. Mr. Barfus said that if he was going to put up with chickens, he was going to have some fun. They got some araucana chickens that lay green and blue eggs. They also had a Rhode Island red rooster that lays brown eggs. Mr. Barfus explained that they cross bred their chickens and roosters and raised baby chicks. Low and behold, an araucan mixed with a Rhode Island red will lay pink eggs with brown speckles. He said that one day a neighbor kid came over and saw the eggs in the refrigerator and asked if they colored their eggs. Mr. Barfus explained to him that they come that way. He expressed that after a couple of years of this, he grew to absolutely love this. He said he would have chickens today if it were not for the HOA regulations of his community. Mr. Barfus encouraged the City to make for every opportunity for parents to be able to create an environment where children can learn to love these animals and take care of them. He strongly recommended that peacocks not be allowed.

David Beck explained that he did some mathematics on what was said earlier about the current proposal and figured that a half acre lot is about 141 feet by 141 feet if it was square and a 30 foot setback and a house 36 feet deep, if you had to keep animals 75 feet from a house, they would be in a neighbor's yard. Mr. Beck said this is just a basis for consideration. His remarks for today come from a lot of personal experience. He stated that as a front, Highland historically in our pioneer heritage has always had animals as a vital interest. He said it is a vital interest that we as a community keep some connection to that history and our ability to raise animals. Mr. Beck expressed that he feels connected to the earth when he raises animals. He wants his children to develop that same kind of feel. He said that his love of animals goes even deeper than this though. When he and his wife had their first child, a month after he was born, they discovered that he was starving and the breastfeeding his wife was doing was not sufficient. Being very natural people, they went on a crusade very quickly to find an option they could have to raise him without putting him on a sugar formula and so forth. The only option they found was to put him on goat milk. At that point, the only source they could find was not Mr. Beck's favorite source, but he and his wife were ever so grateful that was there. Mr. Beck stated that after that experience, they became very dedicated to that possibility. On their fourth child, they came across the same situation. By that time, they had purposely moved to Highland and bought horse property, or so it was advertised, and had put some goats on it and they were milking them and able to feed their fourth child with that. At a point after that, someone reported them to the City and the City looked into it and said that he did not have enough land to have the goats anymore. Mr. Beck said it was a little strange because the previous owner had kept horses on it and historically our understanding was that anything over a half acre was a viable option. He explained that they went through a lot of things with the City to see when the regulations had changed and could come to no conclusion as to how or when it had been altered. Mr. Beck expressed that since that time he has been very interested and waiting for the opportune moment to look at this issue from a better perspective, more of an animal science perspective because he thinks that a lot of times things get devised in cities based on misinformation and whim and so forth. He said that he saw the ordinance that was

proposed would actually hurt the animal owners and he really wants to be involved. Mr. Beck expressed his desire to form a committee, be on a committee, be involved in a committee to revamp the ordinance so that it is not written by a person, but has input from a variety of people who have kept some of these various animals and can give real information. Mr. Beck said he has only had experience in goats and chickens and a little in ducks and then just dogs and cats. He said if we could coagulate some information. Knowing that takes some time and committees can be difficult, he wanted to spearhead this and actually for the last couple of days has written possible revamps of the ordinance. He thinks he has come up with a format that is simple, flexible and has some safeguards against neighbors and so forth and also stays fairly in line with the animal ordinance that is written. Mr. Beck proceeded to hand out a copy of this ordinance to the Commission and went over it. He indicated that it is not meant to address every possible conflict at this point because he did not want it to be anything already said. Mr. Beck included something he found several years ago when this issue came up from New Hampshire. They had printed this and the very last page of it is a graph or rubric that shows relative sizes for different animals, how big a pen should be, how much is needed inside of a shelter, whether the shelter should be opened or closed. He said that he used this in formulation of his amendment proposal. The first paragraph says according to agricultural numbers there would be three sizes of animals; small, medium, and large. The second one is meant to keep some kind of restrictions so that the animals would be farther away from the neighbors. For small animals he said 50 feet, medium 75 feet, and large 100 feet from a neighbor.

Mr. Beck stated that having kept chickens, he keeps them cleanly, he has never had any sort of problem with odor or anything that would make those distance requirements necessary. He said that for a community like ours, it gives some kind of peace to neighbors who would be worried about such things. Mr. Beck referenced the back rubric where each animal is given an amount, a chicken is recommended to have 10 square feet of roaming space. A goat is recommended to have 50 feet and a horse to have 200 feet. He then assigned a point value for each size of animal. For small animals 1 point, medium is 5 points, and large animals 20 points. Mr. Beck then explained for various sized lots assigned a certain number of points that people could mix and match that would let them have some flexibility for the things they desire, but keep things in the same restrictions. He said for example, if someone wanted to have 25 chickens, it would require approximately 250 square feet of space. The equivalent to that if they had 5 goats or sheep, they would need the same size pen, therefore equaling the same amount of points. That amount of space is an enclosure of 15'x17'. He said that is not particularly big and that would be a maximum type of thing people would look at doing on a smaller lot. Mr. Beck explained that as he worked on assigning the point values on as a starting; residents on three quarters of an acre may still only have 3 horses, if a horse is worth 20 point values, therefore if they have 3 horses, they would have 60 points on a lot that allows 75 points. Then in addition, several small animals would be allowed. If a resident was on one acre, they would be able to have 4 horses; which is a total of 80 points out a possible 95 points. The idea is to mirror what we already have to a certain extent, but to do what was indicated by the City Council to allow smaller lots to have more opportunity for those smaller animals.

Mr. Beck said that situations are always different with where a house location is on a lot and may restrict a resident from being able to have animals, he still felt like that was a necessary requirement even if they had a proper lot size because lots are not always laid out for animal care and management. He stated that he is wishing to develop a proposal that would be a model that other cities would follow based on real numbers. He is not asking for any action to be taken tonight other than for some input to be gathered and look at this in a very real way and a group of residents to look at a real proposal. Mr. Beck added that he has what could be described as a cranky and in their rooster situation, they put their rooster into its enclosed pen every night and leave them in there throughout the timeframe in which then noise ordinance is in effect, 10pm to 7am. So if anyone were to go out and listen, he really does not want to crow anymore because it is dark in there, he kind of knows it is day, but the sound is so muffled there is no way that the distance he is from his neighbors and their windows there is no way a rooster is going to cause a problem. Mr. Beck

said he is very reticent to begin outlawing things when there are solutions where people have discovered in a variety situations. He expressed that he feels very strongly that on a person's property, within reason, people should be able to pursue those things that bring them happiness. He said this is one of the things that brings his family great happiness and teaches his kids responsibility and care. Mr. Beck said in regards to the grandfathering idea, he believes that in any animal ordinance is done that people that have lived here should have the ability to keep at least what they came with. He indicated that he spoke with the mayor just outside before the meeting and stated that if this proposal were to go through that he would be okay under the existing ordinance and the mayor seemed to indicate that Mr. Beck would not be able to have chickens anymore. Mr. Beck said that is not a route that we want to go.

Mr. Crane added a couple of comments. He said that Mr. Copier has lots around him that are larger and there are many people with animals nearby and that highlights one of the challenges that we have. We have areas that are large and people have animals and they expect them. We then have smaller lots and balancing those issues is something we are trying to do. Mr. Crane indicated he did his best with the proposed amendment and realizes that in regards to the setbacks on a small lot, they may not work. That is something that can be modified. As Mr. Crane stated earlier, this is a community value issue. He said when dealing with roosters, it may not be a big deal where residents have large lots, but on smaller lots, it really becomes an issue. He indicated that based on his experience and working with other communities, it becomes an issue on smaller lots. This is the dilemma we have. He posed the question of how do we balance a community that has large lots with all of these animals with smaller lots. As far as the commercial aspect goes, Mr. Crane does not think anyone has an issue if 10 extra eggs are being sold; under the proposal, an organic egg farm cold theoretically be opened. If that is what the Commission and residents want, then that is fine, but he thinks we need to go into this with our eyes open. Mr. Crane expressed that it is the role of staff to inform the Commission what the issues of other communities have been and then leave it up to the Commission to make a recommendation.

Mr. Beck expressed that in his experience with chickens, it takes 6 months before a chick starts to lay an egg. So there is this dead time where they are being fed with no production. His family has gone to where they buy chickens one year and keep them for two years and then bring in a new set of chicks while eggs are still coming from the previous ones. Sometimes it can be said that 24 chickens will bring in x amount of eggs, but the truth is you are generally using half to two thirds of that at a time. In addition, the idea that a chicken lays an egg a day is based on a lot of factors and is usually in a commercial kind of situation where there are heated and lighted environments where the chickens are encouraged to lay a lot. When those things are not done and it is cold outside, the chickens spend a lot of their time just trying to stay warm. Mr. Beck expressed there are a lot of factors that mitigate on how someone were to organize themselves.

Deanna Holland said that she has seen Mr. Beck's chicken coop and based on his proposed ordinance, it would be absolutely doable on her property. She indicated that she lives on just under a half acre. Right now, she does not have access to anything. She does live in an older neighborhood, her house is 38 years old, and it is in an area that is friendly toward that so that no one would be upset if they parked their trailer on the street during the summer. She expressed that the feel of her area is more of the feel of the older Highland feel. Ms. Holland said that she has lived in Highland since 1994 and lived in three different homes. She feels that in about the last ten years newer subdivisions have come in that have CC&Rs and the City Council has kind of taken the view as this is where the city is going and made the ordinances to reflect what those neighborhoods would want. She stated that when that has happened, the other neighborhoods have kind of gotten the shaft. Ms. Holland said her neighborhoods are friendly to that. She had a neighbor kiddy corner to her at one point that had three or four roosters. They worked together so that there were not issues where animal control or anyone ever had to be called. Her puppy would bark when the rooster crowed, but they worked that out together. She feels like those are types of things where

neighbors should work out on a one on one basis. She said that out her family, she is the only one who has been able to work things out with a neighbor in regards to a barking dog, not even a matter concerning chickens. Ms. Holland said that it feels like the regulations and ordinances make it so that neighbors do not even have to talk to one and other anymore. She said that Highland should be a place where neighbors can talk to one another. She expressed that the more regulations we get the less we are having to talk to each other. The newer subdivisions are great, but they have their ordinances that people have moved in and want those restrictions and there is no need to make the adjoining or older neighborhoods have such stringent restrictions. Ms. Holland expressed that she would be very happy to have some small animals on her lot and she would make sure she is kind to her neighbors when she does it. She stated that when she read Mr. Beck's proposal, it felt as though she would have some freedom with her property; she does not want to be mean or have trouble with her neighbor, but she does not need regulations that if she has troubles with her neighbor that they can call the police before even attempting to talk to her.

Ms. Holland expressed that there are property owners of under half an acre that would really like to have some opportunities to do some things with animals that are function-able. Commissioner Kemp asked what the size of her lot is. She stated it is about 0.44 of an acre and it is more wide than deep.

Ms. Holland stated that a lot of the time as citizens, they come to the City and expect the City to solve their problems. She expressed that she said there are people out there who would like to be able to solve their own problems. Mr. Crane stated that staff would very much appreciate that as well.

Mr. Copier said that it is a little concerning to him that the default seems to be to severally limit the existing rights rather than to try to craft something accommodates the different situations, the default was to run over land owner rights.

Commissioner Roundy expressed that he lived on 2 ½ acres and grew up on a farm and noticed that it was discussed about milking goats. In his mind there is a big distinction between that and billy goats. A billy goat can be smelled from very far away. Growing up on a farm he understands that and does not have a problem with animals. He thinks if he were in a subdivision he would have a big problem with a billy goat. The milking goats experience he had did not seem to have the same smell. Mr. Crane added that because goats are classified as a large animals right now and we are not dealing with those and the notice was not advertised for those, we do not have to address these types of animals. Mr. Crane said that if the Commission wants to reevaluate the large animal ordinance, that is something that can be visited a later date. Commissioner Roundy acknowledged the difference and then indicated that he would like to see peacocks outlined in the ordinance. One other concern he stated was for the treatment of the animals. He had a neighbor that would chain an animal to a tree for hours in the day. At no time did animal control approach the resident. He expressed that if we err, it needs to be on the side of making sure we are not bringing in something offensive. He said there are different areas and that is why things are zoned different and we need to keep that in mind.

Commissioner Garrett asked if it would be possible to make a motion to continue this discussion. Commissioner Day asked if this is even recommending this ordinance or is it recommending that it is worthy of hearing. Mr. Crane stated that the Commission is recommending an ordinance.

Commissioner Kemp indicated he was fine with the majority of the ordinance. The only changes he would make is the setback distance from a resident's home to 20 feet from 75 feet and he would remove the wording about rear yard in regards to the roaming of the animals in an enclosed yard. Commissioner Kemp said that fences are not allowed in front yards, so that would not be an issue.

Commissioner Day clarified that the reason this was brought before the Commission was to allow smaller animals on smaller lots. Commissioner Kemp said that it was requested by a City Council member. Mr. Crane explained that one resident in a subdivision approached the City Council to allow small animals specifically chickens on smaller lots. It was sponsored by two members of the City Council, so that is why it is before the Commission.

Commissioner Kemp said that peacocks may be okay on an acre or two and if there are larger lots, he would be fine with roosters. Commissioner Day asked if a peacock would be considered larger than a chicken or small animal. Commissioner Kemp said they would probably be small animals.

Commissioner Day said that he has an issue banning roosters. Every case is different and every neighbor is different. He said that when his neighbor had roosters, it was annoying. He talked to the neighbor and the neighbor killed the roosters. Mr. Crane asked from a staff perspective how do we choose which roosters stay and go. Commissioner Day said he guesses that you let neighbors deal with it. Mr. Crane stated that he cannot write an ordinance that says if your neighbor is okay with it then you can have them; that is not fair to everyone. Commissioner Day said that his request would be that if it is encroaching on someone's property that the noise ordinance be used to address such concerns. Mr. Crane said that the noise ordinance as it already is would prohibit them during the hours of 10pm to 7am. Commissioner Kemp said he would be in favor of one acre of larger lots being allowed to have roosters. Mr. Crane said that he believes one of his roles is to address compatibility and this is one of those issues and that is why it is included in the ordinance. Mr. Crane indicated again that the option is up to the Commission.

Commissioner Heyrend said that he would agree with most of what Commissioner Kemp said. He would add to the code that offspring under the age of 12 months would not be counted on any of these. He said that is a fairly typical addition. When he looked at the West Jordan City code, they used the point system as Mr. Beck provided. Commissioner Heyrend said that it seems to work pretty well. This code is okay too.

Commissioner Temby stated that there have been some members of the community here tonight that have offered to provide some additional input. He suggested that we come back at the next meeting with an edited revision of the existing ordinance. Commissioner Kemp said that some direction would need to be given to Mr. Crane on what to change. Commissioner Temby said that he is suggesting that a committee of the community bring that to the Commission or Mr. Crane. Commissioner Kemp said he is not sure that we have the ability to form a committee. The community members can go talk to Mr. Crane any time they would like. Commissioner Temby indicated that he thinks we are trying to edit this on the fly and he does not think that it works.

Commissioner Garrett said that he would tend to make several amendments to this proposal as well. He indicated that he would not be opposed to continuing this discussion to a different time when the Commission has had additional time to research it. He stated that regarding the proposal by the City, he does not have an issue as far as structures and how close they are to resident's home. The 100 foot setback on small lots certainly does not work and needs to be adjusted to 50 feet. Eliminate altogether the setback requirement from the owner's house.

MOTION: Commissioner Roundy moved to continue this item to the next Planning Commission meeting. Motion seconded by Commissioner Carruth. Unanimous vote, motion carried.

E. APPROVAL OF MEETING MINUTES FOR DECEMBER 13, 2011 – REGULAR MEETING

MOTION: Commissioner Roundy moved to approve the Meeting Minutes for December 13, 2011. Motion seconded by Commissioner Heyrend. Unanimous vote, motion carried.

F. PLANNING STAFF REPORT

Mr. Crane stated that the PD District was approved by the City Council with just a couple of minor changes. The amount of recreation area in a commercial setting was changed to 10% and then just a couple of formatting issues.

Mr. Crane informed the Commission that the banning of roosters did not come only from staff. It is a common thing throughout the valley and it came from other elected officials.

Mr. Crane expressed that as staff, this is a difficult role. Staff does not have a dog in this fight. He said he feels like in some instances people are attacking staff and the role of staff is to provide the Commission with the best information that we can. It is up to the Commission to make that recommendation. If the Commission feels roosters work or have any other changes, that is fine; the role of staff is to provide information based on experience and research.

G. ADJOURNMENT

MOTION: Commissioner Day moved to adjourn. Motion was seconded by Commissioner Temby. Unanimous vote, motion carried.

Meeting adjourned at 11:17:51 PM.