

Tonight, City Council will vote the funds necessary to settle the City's financial obligation caused by the reckless legal policies advocated by Mr. Ebersole and others because they believed that they understood the legal rights of Powell property owners better than the City Attorney, special counsel, and the Courts. I want to review the history of the legal policies Mr. Ebersole advocated, and contrast his predictions with the facts, because the public needs to know why the City is now forced to pay a developer nearly \$1M dollars.

In July of 2014, Mr. Ebersole led a small band of citizens in a misguided effort to prevent a Powell landowner from developing his land according to the established zoning laws of Powell. Having failed to convince City Council to ignore its own comprehensive plan and existing law, these residents drafted a Charter Amendment that unlawfully delegated legislative power to an unelected body, some of whom were to be chosen by people who don't even live in Powell. It sought to restrict the property rights of a Powell landowner without lawful authority and without paying the landowner just compensation, merely because the residents didn't like the landowner's development proposal.

City Council unanimously rejected the proposed Charter Amendment because it was unlawful, unconstitutional, and unamerican. When the vote occurred, several Council members warned Mr. Ebersole and the City that, if adopted, the Court would strike down this Charter Amendment as an unlawful governmental seizure of private property rights, and that the City of Powell would end up paying "hundreds of thousands of dollars" for this folly. Mr. Ebersole and his group scoffed at those statements, assured City Council and the residents of Powell that the Charter Amendment was on solid legal ground, and accused City Council members of being in the pocket of developers.

More than three years later, the Courts have spoken. The Charter Amendment that Mr. Ebersole's group drafted and foisted upon the residents of Powell is an unlawful and unconstitutional delegation of

legislative power to an unelected group of citizens, some of whom would not even be Powell residents.

Mr. Ebersole and his group have lost every legal challenge to the constitutionality and legality of the Charter Amendment they championed - but they are not paying the price for their hubris. Instead, the residents of Powell are paying nearly \$1M because Mr. Ebersole and his group believed that landowners should only be allowed to rely on zoning laws if Mr. Ebersole and his group approved of those laws.

I moved to Powell in 1995, and was first elected to City Council in 1996. I had the honor and privilege of serving as a Council member for 20 years. When I first joined Powell City Council, one of the things that most impressed me was that City Council had started a "rainy-day fund," to protect the City against unforeseen economic calamity. I think that fund had \$50,000.00 in 1996. Strong leadership, fiscal responsibility, and a healthy respect for the legal rights of all Powell landowners and residents allowed the City to grow that rainy-day fund. When I left City Council in 2015, the rainy-day fund balance was just over \$1.1M. Tonight, Council will vote to expend \$950,000 - nearly all of the City's rainy-day fund - to pay for the failed policies Mr. Ebersole and his group foisted on Powell residents.

I expect Mr. Ebersole to urge Council to reject this settlement and to continue his hopeless quest to vindicate a failed legal strategy. If Mr. Ebersole and his group wants to continue to gamble on their failed legal strategy, let them pay for it - not the residents of Powell.

Tonight, the City votes to pay nearly \$1M to settle the City's liability for pursuing a meritless legal position. That money could have been used to help fund construction of the Seldom Seen Park. That money could have been used to help fund vital infrastructure improvements around the City. That money could have been used to attract new businesses to Powell. Those things cannot happen, because

Mr. Ebersole and his group recklessly gambled on a failed legal strategy -and left all of Powell's residents holding the marker for their debt.

Enough is enough. I urge Council to pay this settlement, put this lawsuit behind us, and get on with the business of providing Powell residents with the high-quality service they have come to expect from Powell. Thank you for hearing me out, and thank you for your service to the citizens of Powell.