



HIGHLAND CITY

HIGHLAND CITY COUNCIL MINUTES

Tuesday, December 1, 2020

Approved January 5, 2021

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

VIRTUAL PARTICIPATION

 YouTube Live: <http://bit.ly/HC-youtube>
 Zoom: Call 1-346-248-7799 Meeting ID: 825 4804 2834
 Email comments prior to meeting: council@highlandcity.org

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS

PRESENT: Timothy A. Ball, Brittney P. Bills, Kurt Ostler (electronically), Kim Rodela, Scott L. Smith

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, Assistant City Administrator Erin Wells, City Engineer Todd Trane, Planner & GIS Analyst Kellie Bronson, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, Police Chief Brian Gwilliam

OTHERS PRESENT: Ron Burt, Sam Brady, Ryan Bartholomew

7:00 PM REGULAR SESSION

Call to Order – Mayor Rod Mann

Invocation – Council Member Kurt Ostler

Pledge of Allegiance – Council Member Brittney P. Bills

The meeting was called to order by Mayor Rod Mann as a regular session at 7:00 p.m. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Council Member Kurt Ostler and those in attendance were led in the Pledge of Allegiance by Council Member Brittney P. Bills.

1. UNSCHEDULED PUBLIC APPEARANCES

Please limit comments to three minutes per person. Please state your name.

Mayor Rod Mann asked for those who wished to speak to limit their comments to three minutes per person, and to state their name for the record. There were no public appearances.

Mayor Rod Mann thanked the City staff and Council for a great year and for all of their hard work in such a difficult year, and Council Member Scott L. Smith agreed and extended his thanks as well.

2. PRESENTATIONS

a. Highland City Youth Council – Youth Council Representative

Youth Council Representative Ryan Bartholomew spoke about the food drive for Tabitha's Way, and reported that they had received more donations than they had expected. They had also held a Zoom meeting with the police department and had gotten the chance to ask first responders questions about their jobs. Mayor Rod Mann thanked the Youth Council for all that they had done that year and noted particularly the success of the Senior Dinner.

3. CONSENT ITEMS (5 minutes)

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

a. Purchase Contract for a Front-End Loader Administrative

The City Council will consider a purchase contract to replace the front-end loader in our streets department and authorize the Mayor or City Administrator and City Recorder to execute the necessary contracts for the purchase. The Council will take appropriate action.

Council Member Scott L. Smith asked to pull consent item 3a for further discussion. He said that he was not opposed to the purchase of a front loader but commented that since item 3a. constituted a significant portion of the General Fund budget, it would be good in the future if they could do an inventory of the equipment. He commented that it would be nice to know what equipment needed to be replaced, and then they could budget for those. He thought it seemed like they were often surprised by those expenses, and then needed to pull from reserves.

City Engineer Todd Trane said that they did have a list of equipment, that noted how many years old they were as well as how much life they had left. He explained that each year they tried to put equipment in the budget but said that since they had been asked to cut the budget those purchases were the first to be taken out. Thus, when they did buy equipment it was only in emergency cases because the equipment had completely failed. Mayor Rod Mann asked if they could share the list of equipment and note what pieces would be likely to fail in the near future, and City Engineer Todd Trane said that he would be happy to do so. He also said that the next thing they would likely need was a new snowplow.

Mayor Rod Mann clarified that the front-end loader in question was used to load salt into the salt trucks, and that since theirs had failed, they currently had an interim loader. City Engineer Todd Trane added that they had used the loader once that year, and that while they had been able to temporarily fix it, it needed to be replaced. He said that the new one should arrive in January.

Council Member Scott L. Smith MOVED that the Highland City Council approve the purchase contract for a Front-End Loader as delineated in the agenda.

Council Member Kim Rodela SECONDED the motion. The vote was recorded as follows:

Council Member Timothy A. Ball Yes

Council Member Brittney P. Bills Yes

Council Member Kurt Ostler	Yes
Council Member Kim Rodela	Yes
Council Member Scott L. Smith	Yes

The motion passed 5:0.

4. CONDITIONAL USE PERMIT AND SITE PLAN APPROVAL: AUTOMOTIVE LUBE FACILITY (SP-20-03 AND CU-20-02) *Administrative*

The City Council will hold a public meeting to consider a request by Burt Brothers for approval of a Site Plan and Conditional Use Permit for a Lube Center located approximately at 10908 North Town Center Blvd. The City Council will take appropriate action.

Planner and GIS Analyst Kellie Bronson said that she was a representative of Burt Brothers, who had asked for approval of a Site Plan and Conditional Use Permit. She stated that Burt Brothers had purchased lot five in 2018, and recently had purchased lot six as an expansion of their current business. She showed that in the overlay of Town Center that the lots in questions were in the flex use zone, and she showed a map with the site plan. She explained that the site plan was a one-acre lot, and the proposed structure would be 4,856 square feet. She added that the hours of operation for the business would be the same as the existing service, which were 7:00 AM to 6:00 PM Monday through Friday, and 7:00 to 5:00 PM on Saturdays. Planner and GIS Analyst Kellie Bronson explained that there would provide access from the northwestern side of the lot, from the private road near Macy's service drive. She stated that the City staff had recommended that the drive isle go in between lots five and six in order to mitigate the amount of traffic on the private road and to increase the connectivity between their businesses.

She also showed the overall landscape plan and states that everything was according to code. She said that they provided 15% landscaping, and that City staff had requested that the number of trees on the southern and eastern lots lines be increased in order to mitigate the sound that might travel to residential areas. She did clarify that this was a conditional use, which meant that it was permitted in the flex use zone but allowed them to get more details on the project and to manage the impact. She noted that Highland Vista would construct a six-foot-tall solid fence along the southern and eastern lot lines. Mayor Rod Mann clarified that would be a masonry kind of wall and Planner and GIS Analyst Kellie Bronson said that it would be concrete.

Planner and GIS Analyst Kellie Bronson showed the elevations and explained that the elevations had been changed and updated to be more in line with the design standards of Town Center. They had also updated colors to earth tone in order to better match the existing color scheme. She said that the only lighting would be mounted on the structures, which she mentioned had been asked about in a neighborhood meeting. She added that there would be lighting in parking lot in order to mitigate impact on nearby residential areas. Kellie Bronson recalled that the neighborhood meeting had been held on November 5th, and they had posted public notices. They had held the public hearing at the Planning Commission meeting on November 17th, and one resident had voiced concerns about noise and timing since the business opened early at 7:00 AM. Planner and GIS Analyst Kellie Bronson said that the resident had later reported that most of her issues had been resolved after she heard the details of the proposed plan. She also added that as the quiet hours as stated in the Development Code were 10:00 PM to 7:00 AM that they were following the code. She reported that the plan had passed at the Planning Commission for recommendation to the City Council with a vote of five to none.

Planner and GIS Analyst Kellie Bronson said that since they had received one complaint about potential noise, they had done more research on the structure to determine how they had decided to approve it, and they had found that the air wrenches would not emit any more than 85 decibels. Therefore, City staff had suggested that the proposed plan be approved by the City Council with that same stipulation. She said that it was written in the

City's development Code that in all commercial areas there was a limit of 65 decibels, which was about the level of a normal conversation. She said that the City staff and the Planning Commission had recommended that the plan be approved and noted that the architect was present to answer any questions that the Council might have.

Council Member Scott L. Smith asked when they would build the structure, and Ron Burt, owner of Burt Brothers replied that they wanted to have it constructed as soon as possible, and ideally, he wanted to be open before the summer. Council Member Scott L. Smith also asked if Ron Burt thought there was enough traffic access with the existing roads, and Ron Burt said that he believed that there was, and they had ample parking as well. He thought his business would be a great addition to the area.

Council Member Kim Rodela MOVED that the City Council accept the findings and approve cases CU-20-02 and SP-20-02 a request for site plan and conditional use permit approval for an automotive lube facility subject to the six following stipulations:

- 1. Development of the site shall comply with the site, elevations, and landscape plan date stamped November 2, 2020 except as modified by these stipulations.*
- 2. All signage shall require a separate permit and comply with the Development Code requirements.*
- 3. The site plan shall be modified to show a drive aisle between lot five and six. Further, a cross access agreement shall be recorded between lots five and six prior to the issuance of a certificate of occupancy.*
- 4. Final civil engineering plans shall be reviewed and approved by the City Engineer. The site shall meet all requirements of the City Engineer.*
- 5. In accordance with Section 4-109, the Conditional Use Permit will expire if a building permit is not issued within one year of approval by City Council.*
- 6. Noise standards shall meet the same standards as the existing tire center.*

Council Member Scott L. Smith SECONDED the motion. The vote was recorded as follows:

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>Abstain</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed 4:0.

5. ORDINANCE 2020-33: AMENDING CHAPTER 12.02 FREE EXPRESSION REGULATION AND RESOLUTION 2020-33: DESIGNATION OF AREAS FOR LIMITED USE OF EXPRESSIVE ACTIVITIES *Legislative*

The City Council will consider a request by City Staff to amend Title 12, Chapter 02 of the City's Municipal Code related to the regulation of free expression, and to adopt a resolution designating certain areas within Highland City for limited use for expressive activities. The Council will take appropriate action.

City Attorney Rob Patterson stated that last September, the City Council had passed an ordinance that banned impeding or obstructing cars, to ensure that people did not impact the flow of traffic on city streets. At the time, they had debated what should happen if people wanted to use city streets for expressive activities, such as a march or a protest of some kind. He added that per state law the City needed to have a permitting process for people who wished to apply for an exemption to that rule. He said that while they did have a general special event permit currently, there was no specific process in place for the application, so they needed to provide a process for people

to obtain authorization to use City streets for expressive activities on a limited basis. He said that there were two items that had to be addressed: one was the actual ordinance for permitting, and secondly, City Council would have to designate areas that would be presumptively allowed to be used for such activities, and that item would pass by resolution. City Attorney Rob Patterson had suggested that they consider the loop near Town Center that wrapped around City Hall, as well as the public safety building and the park, and he stated that the Council could chose to amend those. He also clarified that the proposed ordinance would be added to code 12.02, and that if they adopted the ordinance, then they would need to adopt the resolution as well.

Council Member Scott L. Smith thought that they needed to have a public hearing about the issue and asked why it was written in the ordinance that they would hold a public hearing if they were not actually going to hold one. City Attorney Rob Patterson said that it was general language, but that they did not need to hold a hearing since it was not a development code issue. Council Member Scott L. Smith also noted that there had been social unrest events and issues in other nearby cities and asked if people in Highland had inquired about holding similar styled protests, or if this was a preemptive measure in case people ever did want to protest. City Attorney Rob Patterson explained that state law required that they set some sort of process, but that this had not been a significant issue in Highland to date.

Council Member Scott L. Smith clarified that if someone wanted to have a protest march officially, they would have to apply for the permit first, and then the City Council would have the authority to tell them where they could hold their march. City Attorney Rob Patterson confirmed that but noted that there were certain areas that were considered “public forum” so if the event were held in an area such as a sidewalk or in a park then no permit would be needed. Council Member Scott L. Smith asked if people could picket in the Town Center park without a permit, and City Attorney Rob Patterson said that they would be able to. He reiterated that the amendment in question was primarily about City streets.

Council Member Brittney P. Bills thought that what they had talked about in September was more in response to people soliciting and panhandling and asked how the ordinance from September related to the idea of marches or protests. City Attorney Rob Patterson replied that the language in September was geared towards people who obstructed traffic by panhandling in the streets, and this amendment would provide an exemption to people who were holding events that blocked traffic from being in violation of that ordinance.

Brittney P. Bills asked Police Chief Brian Gwilliam if he thought the City block in question was the best place to hold such events, and Police Chief Brian Gwilliam thought it was the best area of the available options. He added that in his experience, most protesters typically wanted to be in an area with high visibility. He thought that it was a good block to designate since it was close to City Hall as well as the police department, and due to its location, it would be easy to shut down. Mayor Rod Mann added that there were also parks to the north and the south of the block that people could picket in. City Administrator/Community Development Director Nathan Crane also noted that it would disturb as few residents as possible while still allowing protesters to have access to public officials.

Council Member Brittney P. Bills asked if they could charge for such a permit, and City Administrator Rob Patterson said that they could charge if they wanted to. Assistant City Administrator Erin Wells commented that they did not currently charge for special event permits unless they used the police or fire departments.

*Council Member Scott L. Smith MOVED that 1. City Council **ADOPT** the ordinance 2020-33 establishing section 12.02(G)., and 2. City Council **ADOPT** the resolution 2020-33 designating certain areas for limited use for expressive activity, and designate the following areas for such activity with the following conditions:*

- a. A loop from Town Center West and Town Center East from Town Center Parkway to 10890 North*
- b. No more than one event per day.*
- c. No overlapping events in the same area.*

- d. No events during rush hours, 7-9 AM, 4-6 PM, or after 10 PM.
- e. No event to last within a specific area for more than 2 hours.

Council Member Brittney P. Bills asked if they could limit the number of people that could congregate. City Attorney Rob Patterson agreed that it could be a safety concern if there was a protest and then a counter-protest, so they had proposed that only one permit could be passed per day, and it would be on a first come first-served basis.

Council Member Kim Rodela said that she was fine with those conditions and that they limit the permits to one per day instead of two as she did not foresee that there would be two protests in a day in Highland.

Assistant City Administrator Erin Wells clarified that Council Member Scott L. Smith would move to accept the stipulations that had been suggested by staff and add the rule of only one permit be passed per day.

Council Member Brittney P. Bills SECONDED the motion. The vote was recorded as follows:

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed 5:0.

6. ORDINANCE 2020-34: MUNICIPAL CODE AMENDMENT PROHIBITING TARGETED RESIDENTIAL PICKETING *Legislative*

The City Council will consider a request by City Staff to adopt Title 9, Chapter 06 of the City's Municipal Code to prevent and impose a criminal punishment for targeted residential picketing. The Council will take appropriate action.

City Attorney Rob Patterson said this was another free speech-related item, and that Police Chief Brian Gwilliam had recommended this ordinance be passed. He said that there had been incidents of protests and pickets at residential homes, including the homes of the State Epidemiologist and the Governor. He said that these instances ran the risk of going beyond free speech and turning into harassment. He explained that this would criminalize a narrow set of behaviors that would mitigate people's ability to picket or protest near residential homes. He commented that it was unfortunate that they lived in a state where people felt it was okay to harass civil servants. Mayor Rod Mann noted that there had been a recent incident at Cedar Hills that had nearly gone sideways.

Police Chief Brian Gwilliam said that the recent incident at Cedar Hills had bled into Highland. He explained that a Highland resident had bought a home in Cedar Hills, and there had been a discrepancy about the legality of the home ownership and so the previous owners had picketed the new resident in his home. He said that while that incident had not gotten violent or extreme, he wanted to prevent that from ever happening. Mayor Rod Mann said that this would give them a tool to address such an instance from taking place.

City Attorney Rob Patterson said that whenever a law was passed that limited free speech, they needed to ensure that it was constitutional. He discussed the Supreme Court case of *Frisby v Schultz* and said that the Supreme Court had voted to limit the ways in which people could protest in front of someone's home. He said that this ordinance was modeled on existing ordinances in Salt Lake City, Salt Lake County, Orem, and Holladay.

Council Member Kim Rodela clarified that that a protester would have to be at least 100 feet away from the property line. Council Member Timothy A. Ball asked if that would place protesters too close to the neighboring homes. City Attorney Rob Patterson acknowledged that was an issue and said that the ordinance would ensure that protesters were at least across the street. While it would annoy the neighbors, it was the least restrictive means to ensure that no one was being harassed or targeted.

Council Member Timothy A. Balls said that he could see both sides of the issue and discussed a case in which a radical group had picketed a bank and ended up going into someone's home and had terrified the kids who had been home at the time. He said that it was a tricky balance between protecting rights of protestors and respecting property rights. He thought both sides were protected with the ordinance, so it seemed like a good compromise to him. City Attorney Rob Patterson agreed that there had to be a balance. He said that they needed to balance people's rights to be safe in their home with protester's rights to use sidewalks to express their opinions. Council Member Timothy A. Ball asked if the ordinance prohibited protestors from blocking city streets and City Attorney Rob Patterson explained that had been banned with the ordinance that had passed in September.

City Attorney Rob Patterson commented that 100 feet from the property line was a fairly limited restriction, and that people would still be able to go door to door or walk up and down the streets without being in violation of the ordinance. If someone had a complaint about an elected official, they could go to the Council or the Planning Commission to speak directly with officials.

Council Member Timothy A. Ball asked if there was a noise restriction outlined in the ordinance, and what the maximum decibel level would be if so. City Attorney Rob Patterson said that there were public nuisance laws already in place that discussed noise amplification devices such as a megaphone. He said that it was hard to specify a certain decibel level, but they had mandated that residential areas would have to be quieter than commercial areas.

Council Member Scott L. Smith asked if 100 feet away from the property line was standard. He thought that would put protesters right in front of the neighbors. While he did not want people to be closed in, he thought it put protesters far away. City Attorney Rob Patterson said the number somewhat arbitrary, but 100 feet was similar to what other cities had done in the past. He said that he did not recommend that they make it any farther away. He thought 100 feet was a reasonable distance away.

Council Member Brittney P. Bills asked if there had been any issues in Orem since they had passed their ordinance, and City Attorney Rob Patterson said that he had not heard of any. He added that the ordinance was intended to be a preventative measure. He specified that the ordinance was limited to private residence and excluded businesses that were run out of a residential home. Council Member Kim Rodela was glad that they were acting proactively rather than reactively.

Council Member Kim Rodela MOVED that the City Council adopt the ordinance 2020-34 establishing Chapter 9.06 Targeted Residential Picketing based on the findings and proposed described therein.

Council Member Timothy A. Ball SECONDED the motion. The vote was recorded as follows:

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed 5:0.

7. ORDINANCE 2020-35: AMENDING CHAPTER 2.36 COMMUNITY TREES

Legislative

The City Council will consider a request by City Staff to amend Title 2, Chapter 36 of the City's Municipal Code related to the management of trees within Highland City. The Council will take appropriate action.

City Attorney Rob Patterson said that there had been a recent review in regard to public trees, in which the Council had handled an appeal of trees planted in a public park. There had been some discrepancies in the code section as to if City staff members or another entity had responsibility over those trees. In the recent case, a right to an appeal had been granted, which he noted took significant time and resources as it essentially gave residents the right to challenge routine staff decisions at any time. Since then, the language in the code had been clarified. He then highlighted a few examples of the contradictions in the document.

City Attorney Rob Patterson said that the Council had created the Parks Trails and Trees Commission earlier that year to replace an older, defunct commission, and the code as currently written gave certain powers to the old commission. City Attorney Rob Patterson and the staff had changed the code and had given those powers back to the City Forester, and the Parks Trails and Trees Commission could make recommendations to the Council although they would not be a decision-making authority themselves. He also stated that in the current code, appeals were divided between the City Forester, the Parks Trails and Trees Commission, and the right to appeal some decisions went to the City Council. He recommended that these appeals be left for the City staff to handle, and to remove the ability for people to appeal to City Council, as long as there were no extenuating circumstances such as a nuisance abatement issue or criminal procedures. He also recommended that the Council designate the City Forester as the person responsible for issuing permits for City trees, and that they make it clear that the Parks Trails and Trees Commission was only an advisory body. Mayor Rod Mann clarified that this was in regard to any tree in a public area, and City Attorney Rob Patterson said that it was and that was another thing that they had clarified in the code.

Council Member Brittney P. Bills asked if the City Forester was Josh, and City Attorney Rob Patterson said that it was, and that they needed to have the title in place so that they had a point person for the public to go to if they had an issue or a question about a tree. He added that the City Administrator could make final decisions as well.

Council Member Scott L. Smith asked why City Attorney Rob Patterson had recommended that the ability to appeal to the City Council be eliminated. He thought a citizen should always have the right to appeal to the Council since they were elected officials. City Attorney Rob Patterson replied that this did not take away the ability to talk to City Council, but he thought the actual administration of the City should be carried out by the staff. He also pointed out that this type of decision did not always warrant the City Council's involvement, and that residents still had the options of talking to the Parks Trails and Trees Commission to have their voices heard. Council Member Scott L. Smith thought that this took away the influence of the Council and asked if they could set up a process for people to come before the Council. City Attorney Rob Patterson answered that most staff decisions did not get taken to the City Council. He said that the Council made important decisions and adopted policies, and then it was the job of the Mayor or City Administrator to enforce those rules and oversee the daily administration of the City. The way that the old code was written, a resident could appeal any staff decision to remove trees, which then would require a hearing and that took a lot of time. He said that the appeal process could take up to three or four months, so this update to the code would give staff the ability to do their jobs in a more streamlined manner.

Mayor Rod Mann commented that per the old code, trees were the exception, not the general rule, since most other smaller staff decision also did not come before the Council. He thought this would make the code more consistent and so this seemed like a reasonable decision.

Council Member Kim Rodela thought it did not take away the right for residents to appeal decisions that they did not agree with and added that residents could still email the Council to let them know about issues. She commented that she got many emails from residents, and this would take away the lengthy process for staff to be able to do their jobs.

Council Member Scott L. Smith agreed but thought that if they removed a formal appeal process it could generate anger in the citizens and he still advocated that there should be a way for people to approach the City Council. City Attorney Rob Patterson replied that this was limited to public trees only, so anything that touched on trees planted on personal property would be handled in a different way.

Council Member Kim Rodela said this would essentially take away the length of time that it took for the City to enforce their own code and pointed out that people who made appeals were essentially appealing for their right to violate the code. She did love the fact that residents could still reach out to the Council Members and they could empathize with them and explain the code in more depth.

Council Member Scott L. Smith said that the City had struggled with open space issues in the past, and they had yet to come to a resolution. He thought that people should have the right to appeal if they want. He added that everyone should follow the development code, and that enforcement had been a challenge for them for many years. Council Member Kim Rodela replied that if the Development Code did not work then they needed to figure that out.

City Attorney Rob Patterson informed them that the Council could create policies as to how Open Space and public trees should be dealt with. He explained that they could do something similar to how encroachments were handled. Even if they removed the right to appeal, the Council could still give detailed guidance on how to handle those issues. Council Member Brittney P. Bills asked if they had had any issues in the past with changing the code. City Administrator/Community Development Director Nathan Crane said this was the only issue that he had dealt with. He also explained that this would not go to the appeal authority, so people would not have to pay the appeal fee in order to raise issues. Council Member Brittney P. Bills also commented that the document was hard for her to read, and there were some typos. She asked them to make sure that the final document was correct.

Council Member Kim Rodela MOVED that the City Council adopt the ordinance amending certain provisions of Title 2, Chapter 36 Community Trees.

Council Member Brittney P. Bills SECONDED the motion.

City Administrator/Community Development Director Nathan Crane said that Fire Chief Thompson had recommended that they change section f.2.d that required that hanging branches be 13 feet from the curb to be 13 feet and 6 inches, as 13 feet 6 inches was the height of the ladder trucks.

City Engineer Todd Trane said that another section in the code required that branches be at least 14 feet straight from curb so they could get snowplows in. Mayor Rod Mann asked if they should adopt 14 feet in that case. City Engineer Todd Trane said that they might as well just leave it at 14 feet in order to be consistent.

Council Member Kim Rodela AMENDED the motion to include in F.2.d hanging limb and branch growth shall be maintained fourteen feet above streets and eight feet above sidewalks.

Brittney P. Bills SECONDED the amended motion.

Council Member Scott L. Smith asked if someone who wanted to plant a tree on city property would have to remove it as well if there was a complaint about the tree. City Attorney Rob Patterson said that the rules would be the same as before, so someone who wanted to plant on City property would have to get permission, and if they were denied then they would not be able to appeal that decision to the City Council.

Council Member Brittney P. Bills said it would be better to address those kinds of things in the code from the start, so that they would not have to make a lot of exceptions that would then be hard for the staff to enforce. She thought they should make it easier for the staff and make changes in the code so that things could be more streamlined. Council Member Scott L. Smith replied that they knew that there were problems in code and with enforcement. He asked if the staff or the City Forester would have the right to determine if trees encroached on public spaces and elect to remove them. Council Member Brittney P. Bills thought it would be better to have those rules outlined in the code so that it was less subjective. Council Member Scott L. Smith replied that they should have a permitted process for planting but said that they would have to change the code. He said that many people encroached on the conservation areas, and they never really acted about it.

City Attorney Rob Patterson said that there was an entire index in the City code that listed planting guides, what tree species were permitted, and the permit process. He said that encroachment and enforcement was more of the issue than the code itself. Mayor Rod Mann added that any standard they had in place could be violated, either out of ignorance or an unwillingness to go through the formal process.

The vote was recorded as follows:

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>No</i>

The motion passed 4:1.

8. CONSTRUCTION CONTRACT: RECONSTRUCTION OF CULINARY WELL HOUSE #3 *Administrative*

The City Council will consider a request to approve a bid with VanCon Inc. for the reconstruction of Culinary Well House #3 and authorize the Mayor or City Administrator and City Recorder to execute the necessary contract documents. The Council will take appropriate action.

City Engineer Todd Trane said that last year, they had done construction on Well House number two, near the Mouth of the Canyon. He reported that the project had been completed and had gone well. He said Well number three was on the southwest corner and was the most used culinary well along with Well number two. He added that it was in the General Plan to be updated and improved and said that the fence was in disrepair and needed to be repaired. He showed a diagram of what the new Well House would look like. Once three wells were equipped, they would be ready to chlorinate the whole system. He said that they had gotten bids that had actually come in far under the amount that they had budgeted. City Engineer Todd Trane and City staff recommended that the Council go with the lowest bid, which was the same company that had renovated Well House number two. He clarified that the process could start as soon as they got contacts underway, so they would likely start in January.

Council Member Scott L. Smith MOVED that the City Council approve and authorize the City Administrator to sign a contract with VanCon Inc. to proceed with the reconstruction of Culinary Well House #3 for \$339,335.00.

Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed 5:0.

Council Member Kurt Ostler commented online that City Engineer Todd Trane had done a great job getting the bids.

9. PROPOSAL APPROVAL: 2021 UTILITY RATE STUDY UPDATE

Administrative

The City Council will consider a request to approve the proposal from Lewis, Young, Robertson, and Burningham, Inc. (LYRB) for the preparation of the 2021 Utility Rate Study Update for the for the amount of \$17,150 and authorize the Mayor or City Administrator and City Clerk to execute the necessary contract documents for the project. The Council will take appropriate action.

Finance Director Tyler Bahr explained that utility rates needed to be updated every five years to ensure that rates were still appropriate. The last study had been performed by Zion's Public Finance in 2016, at a cost of \$40,000. They had received bids to update the study from two firms, one from Zions Bank for \$24,000, and a bid from Lewis, Young, Robertson, and Burningham at a cost of \$17,000.

Mayor Rod Mann clarified that this was just an update and they would still be using the existing model.

Finance Director Tyler Bahr discussed the scope of work that would be included in the study. He said that it would look at demand projections, the requirement needed to cover costs, replacement of infrastructure, and the debt service. They would also review and determine what rates would need to be updated. He explained that the advantage of Zions Bank was that they had direct experience with the data as they had worked with the City before, and the advantage of working with Lewis, Young, Robertson, and Burningham was their lower cost. He also mentioned that the project manager from Lewis, Young, Robertson, and Burningham was only about an hour away from Highland, and the project manager from Zion's was based in Idaho. He suggested that it would allow for diversity to have another firm do their updates, so he recommended that they award the contract to Lewis, Young, Robertson, and Burningham.

Mayor Rod Mann commented that the Well House would cost less than what had been anticipated. He said that the utility rate update would look at things that they had already spent money on, and that would be factored into the new recommended rate structure. He noted that the recommendation could either go up or down.

Council Member Scott L. Smith asked if this had been put on the public City website, and it was confirmed that the website had been updated and had been posted on the public notice website as well.

Council Member Kim Rodela MOVED that the City Council approve the proposal from Lewis, Young, Robertson, and Burningham, Inc. (LYRB) for the preparation of the 2021 Utility Rate Study Update for the amount of \$17,150.

Council Member Brittney P. Bills SECONDED the motion.

The vote was recorded as follows:

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed 5:0.

10. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

a. Park Maintenance Building

City Engineer Todd Trane reported that construction on Canal Boulevard was well underway, and so far, they had taken down two homes which had previously housed parks equipment over the winter. That equipment was currently stored by Harvey Boulevard, in a property that had been purchased with county funds. He added that they were going to widen Harvey Boulevard and add a traffic signal at the location. To complete that project, they had actually torn the main house on the south side on the property down, but there were two buildings on the north side of the property that remained, that the parks equipment was currently stored in. He showed a map that depicted what the property looked like from the street view.

City Engineer Todd Trane also stated that the county had entered into negotiations with American Fork since American Fork wanted to buy the property to build a fire station. He reported that the inside of the building was in good shape on the inside, and that he had approached Utah County about the possibility of using the building to store the equipment. City Administrator/Community Development Director Nathan Crane had gotten storage units lined up, and they would move the parks equipment soon so that the negotiations with American Fork could be finalized.

City Engineer Todd Trane proposed that they use some of the unused property by Old City Hall. He recalled that they had thought about putting a park maintenance building near Old City Hall about five years ago but had gotten significant pushback from a resident. Himself and Mayor Rod Mann had met with that resident last week, and the resident had stated that he would be supportive of the idea as long as certain things were done. He clarified that there were no final plans for the building yet, and his purpose to communicate the idea to the Council. He also impressed upon them the importance that they find a suitable storage space for the equipment before the spring came. He suggested that they relocate the old building on the County property to the Old City Hall property and clarified that they would need to entirely reconstruct the footing and foundation if they did that. He thought that this would be the best use of building and would require the least amount of money to fix up, so it would be a good permanent solution for the equipment. They did not have the money to construct an entirely new building, but they did have it in the budget to relocate and renovate an existing building.

Council Member Kim Rodela asked if the county was willing to give them the building, and City Engineer Todd Trane replied that Utah County supported the idea, and they still needed to work out the details of price. He added that they could use the existing access and add a secondary access closer to the west side that would create a

loop. He also had thought about placing the building further on the east side to allow for more parking which would help to accommodate the bigger events that sometimes took place in the evenings. This additional parking would allow them to fully utilize the community center. Council Member Kim Rodela appreciated his willingness to think outside the box.

Mayor Rod Mann thought it was currently hard to get in and out of the building and agreed there should be a second entrance.

Council Member Scott L. Smith recalled that years ago, the Council had voted to put a new maintenance building in the west side of Mountain Ridge Park and asked why the building would not be put there. City Engineer Todd Trane replied that they had already committed to do a lot of projects with the building at Mountain Ridge Park, and he noted that the area by Old City Hall was more secluded. He said that the building would look nice once they replaced the outside and commented that there were two similar buildings down Alpine Highway. He pointed out that since that building already had utilities and parking space, it would be much cheaper than putting a whole new building at Mountain Ridge Park. He also explained that placing the building closer to the Community Center, it could be utilized as shared space. Council Member Scott L. Smith said that he thought it was an agreeable compromise and clarified that Mountain Ridge Park would then be developed as a park. City Engineer Todd Trane said that would be their first choice, and if they waited for that to happen, they would have to find another solution to have the park equipment moved by the spring. He reiterated that he thought it was important to get something done by the spring, and that the resident who had originally been opposed to the idea was supportive of the plan. He added that they would be able to fence off the east side and make site improvements within their budget of \$300,000. City Engineer Todd Trane also explained how the building would have to be raised up at the foundation, and would need a new roof, siding, and doors in the building. Council Member Scott L. Smith agreed that they needed to make the building as attractive as possible since it was in a residential area, while still remaining within the budget.

Council Member Kurt Ostler asked via an online comment if there would be fencing around both the building and the parking lot. City Engineer Todd Trane replied that it would be, and they would shift the entire building to the east and fence it off. They would also extend the parking lot to the north and have a concrete panel wall along the side that faced the highway.

Council Member Scott L. Smith asked if he had already talked to the neighbor on the north side, and City Engineer Todd Trane said that they had not reached that stage yet, and he wanted to finalize the negotiations with Utah County first. Council Member Scott L. Smith pointed out that if they moved the building east, the neighbor's home would be right next to where the proposed building would be. City Engineer Todd Trane said that it would be next to an outbuilding, not his home, and since the outbuilding was fairly tall, he did not foresee any problems.

Council Member Kurt Ostler asked via an online comment if the paneling meet the code for the area, and City Administrator/Community Development Director Nathan Crane said that there were no design standards for the area.

City Engineer Todd Trane clarified that no official decision had yet been made but explained that he wanted to discuss it with the Council now since if they did pursue that option it would come back before them for approval.

b. 2021 January-April Workload

City Administrator/Community Development Director Nathan Crane stated that he and the staff looked forward to November and December as a time to catch up on projects and begin to look ahead to the next year. He said there would be many key decisions that the Council would have to make next year, so he had created a graphic for them to help them visualize some of the upcoming projects. He said that they tried to break it down by department, but there was a lot of overlap with some of the items. He explained that in the slide shown, the yellow

stars represented meetings, Council decision points, or bids due, and items colored in green were other key times or kickoffs. For example, he said that 6800 West would come in the second half of January.

City Administrator/Community Development Director Nathan Crane said that the City staff and Council would need to work closely together to work through some of the major decisions. They would need to communicate well and be prompt in responding to emails and texts, as well as having meetings together when needed. For things to be clear and concise questions, he said that he and the staff were happy to sit down with the Council and discuss details about things like budgets and utility rates. He stated that the staff was there for the Council to make sure they understood key aspects of the decisions that needed to be made, and that they wanted to get them all the information they needed to make those decisions. He emphasized the importance that they did not fall behind in the timeline, and that their workload would be heavy. He explained that because of that, they did not currently have the capacity for other large projects. He thought they might have to bring in consultants for some items in Parks and Trails.

Council Member Scott L. Smith asked what the Broadleaf Channel was. City Administrator/Community Development Director Nathan Crane explained it was the drainage channel that was located by 11800 N South. Council Member Scott L. Smith also asked what the Wildland Fire Deployment was, and City Administrator/Community Development Director Nathan Crane answered that the Lone Peak Public Safety Department was deployed to California and other states to raise revenue for some capital expenditures. They had been asked to look at the expense and revenue component of that to determine if it made fiscal sense. He added that they were working with their auditors to help with that task. He thought it was helpful in some ways, but they wanted to make sure that the cost to the district made sense. Council Member Scott L. Smith also asked about the General Fund capital analysis, and City Administrator/Community Development Director Nathan Crane said they had not planned that out.

Council Member Brittney P. Bills wanted to go back to the General Fund financial plan, since it went through City Engineer Todd Trane's needs were more specifically. She asked why there were not going to go through the General Plan. City Administrator/Community Development Director Nathan Crane reminded her that they had had a work session where that issue had been discussed, and they had decided at the time that the General Plan was more of a Band-Aid approach and had not included everything. It had been the direction at that time, but they wanted to update it.

City Administrator/Community Development Director Nathan Crane asked the Council how these items fell in with the urgency of other items that needed to be completed, and in what order they would like things to be completed. Council Member Scott L. Smith thought they should look at the General Fund before they looked at tax increases, and City Administrator/Community Development Director Nathan Crane agreed and said that they may face a mandate from the state that would make them change some fees into a tax.

Mayor Rod Mann asked about the colors in the graphic, and City Administrator/Community Development Director Nathan Crane explained that things in gold represented a Council action meeting. Green represented something else, like another organization or a bid. He said for example, the Open Space moratorium would need to be extended by the second meeting in January, and no later. Mayor Rod Mann commented that they would all have to be on board and do their homework. City Administrator/Community Development Director Nathan Crane reiterated that he did not need anything from the Council right then, and his purpose that evening was just to make them aware that a lot needed to get done and the Council would have a lot coming at them in the coming months. They needed to know what time commitment the Council could give for the upcoming work sessions. He said that the staff would need to have responses when they pushed communications out. Mayor Rod Mann said he was open to any suggestions that would make things more efficient and suggested that they put time estimates for each item. Mayor Rod Mann said the next meeting would be January 5th so they had a whole month off, and staff would not have to do reports.

Council Member Brittney P. Bills discussed the desire to have Christmas lights in the City. Assistant City Administrator Erin Wells said that she understood that while people wanted Christmas lights and events, they were limited by power resources and where they had access to power. They had six outlets in the tree planters on the southeast corner of the splash pad. She had heard that some people were interested in decorating, so she suggested that they could pick families and groups to decorate an area of the park, and they could have an event similar to how they had done their trick-or-treat event in which families could tour the park. She explained that guests could enter through one side of the park and leave through another, and there would be a sign-up sheet for timeslots to allow them to do contact tracing and ensure that people stayed six feet apart. They could also potentially leave up the display, although she expressed concern about personal property being stolen. She added that they would also have to keep the sidewalks clear, so she thought it would be best if they just did it in the park one night, and then keep decorations up outside of the park for the rest of December. Assistant City Administrator Erin Wells clarified that these plans were very tentative. The Council discussed where the decorations should go.

Council Member Kim Rodela commented that the Tree of Life in Draper was amazing, and suggested they do something like that. Council Member Brittney P. Bills added that should have some kind of decoration that they did every year. Assistant City Administrator Erin Wells added that the Mayor had wanted something like this for a while. Council Member Scott L. Smith also liked that idea, and suggested they put Christmas decorations on Highland City signs. He also thought solar powered lights would be nice. Council Member Kim Rodela thought a Main Street feel would bring the community together. Council Member Scott L. Smith and Council Member Kim Rodela both said they would be willing to donate lights. Assistant City Administrator Erin Wells said they would work with Public Works for a power source and said that they would have some lights for the year. She thought the biggest restraint would be time, since the parks crew had a couple other things that they had to work on.

c. Future Meetings

- December 8, Planning Commission Meeting, 7:00 pm, City Hall
- January 5, City Council Meeting, 7:00 pm, City Hall
- January 19, City Council Meeting, 7:00 pm, City Hall
- January 26, Planning Commission Meeting, 7:00 pm, City Hall

11. CLOSED SESSION

The Highland City Council may temporarily recess the City Council meeting to convene in a closed session to discuss pending or reasonably imminent litigation and the character, professional competence, or physical or mental health of an individual, as provided by Utah Code Annotated §52-4-205.

At 9:22 pm Council Member Scott L. Smith MOVED that the City Council recess to convene in a closed session to discuss pending or reasonably imminent litigation, as provided by Utah Code Annotated § 52-4-205. Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed unanimously.

ADJOURNMENT

Council Member Brittney P. Bills MOVED to adjourn the CLOSED SESSION and Council Member Kim Rodela SECONDED the motion. All voted in favor and the motion passed unanimously. All voted in favor and the motion passed unanimously.

The CLOSED SESSION adjourned at 10:17 pm.

Council Member Brittney P. Bills asked about the ordinance regarding Bridal Veil Falls that American Fork, Cedar Hills, and Pleasant Grove would be voting on that evening. Mayor Rod Mann explained that a developer wanted to put a drug rehabilitation facility at the top of the Bridal Veil Falls. The county commission owned that land and could choose to sell it to him, although the opposition said it was public land and should not be closed off to public access. Highland could not vote on the issue since they did not have enough time to place it on tonight's agenda, however Council members could email the commission to express their views.

Council Member Scott L. Smith MOVED to adjourn the regular meeting and Council Member Timothy A. Ball SECONDED the motion. All voted in favor and the motion passed unanimously.

The meeting adjourned at 10:20 pm.

I, Stephannie Cottle, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on December 1, 2020. This document constitutes the official minutes for the Highland City Council Meeting.



Stephannie Cottle
City Recorder



Welcome to the Highland City Council Meeting

December 1, 2020



7:00 PM REGULAR SESSION

Call to Order - Mayor Rod Mann

Invocation - Council Member Kurt Ostler

Pledge of Allegiance - Council Member Brittney P. Bills



UNSCHEDULED PUBLIC APPEARANCES

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



PRESENTATIONS

2a. City Youth Council - *City Youth Council Representative*



CONSENT ITEMS *(5 minutes)*

- Item 3a. - Purchase Contract for a Front End Loader
Administrative



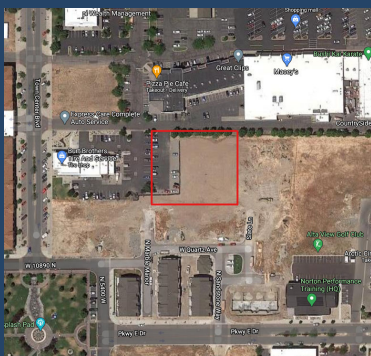
CONDITIONAL USE PERMIT AND SITE PLAN APPROVAL: AUTOMOTIVE LUBE FACILITY (SP-20-03 AND CU-20-02) ADMINISTRATIVE

Item 4 - Action
Presented by - Kellie Bronson
Planner & GIS Analyst

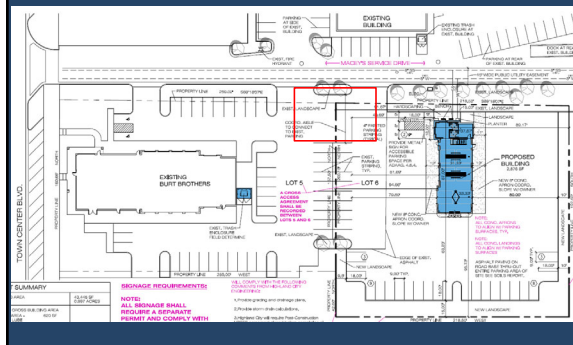
Background

- Burt Brothers acquired the previously known Timpanogos Tire Service Center on Lot 5 in 2018
- They purchased Lot 6 and are requesting to build a lube center
- These lots are part of the Flex-Use zone

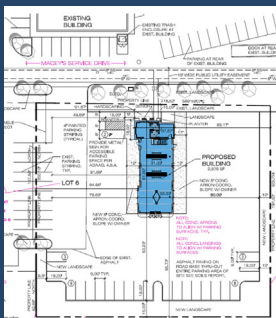
Vicinity Map



Site Plan

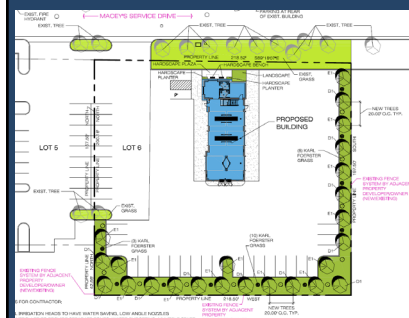


Site Plan



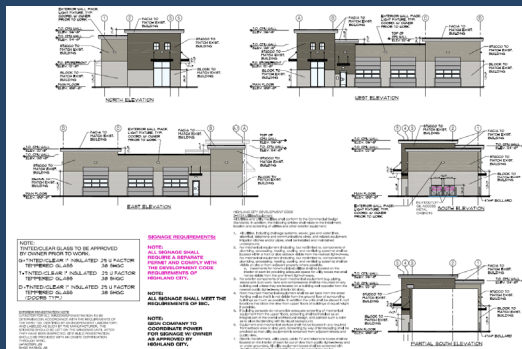
- 0.997 acres
- 4,856 sq. ft.
- 25 Parking Stalls, 1 Handicapped Stall
- Hours of Operation: M-F 7am-6pm, Sat 7am-5pm
- Access from the Macey's service drive
- Drive aisle between lots five and six

Landscape Plan



- 15% Landscaping
- Revised to include trees placed 20 feet on center adjacent to Highland Vistas
- Existing fence between Lot 6 and Highland Vistas

Elevations



Citizen Participation

- Neighborhood Meeting Nov 5, 2020 - One resident attended
- Planning Commission Notice:
 - Daily Herald
 - Public information site
 - Mailed to property owners within 500'

Planning Commission Action

- Public Hearing on November 17, 2020
 - One resident of Highland Vista voiced their concern for the noise
- Voted 5-0 to recommend approval of the project

Noise Ordinance

- A study was performed by Spectrum Acoustical Engineers before the approval of the existing building
- The project was approved on May 1, 2001 with the stipulation that air wrenches do not emit more than 85 dB of noise at the source
- Staff recommends the city use the same stipulation as the existing building

Recommendation & Proposed Motion

The City Council should approve the Site Plan and Conditional Use Permit as recommended by the Planning Commission subject to the six stipulations in the staff report.



REGULATION OF FREE EXPRESSION AND DESIGNATION OF AREAS FOR LIMITED EXPRESSIVE ACTIVITIES

Item #5 - Ordinance and Resolution
Presented by - Rob Patterson, City Attorney

BACKGROUND

- The proposed code amendment and resolution provide guidance and a process for city staff and the public to use to determine how, where, and when people can use non-public forums for expression (e.g., city streets)
- Does not address or limit how people can use traditional public forums for expression (e.g., parks, sidewalks)

HISTORY

- September 1, 2020 – City Council adopted Ordinance 2020-27 creating Municipal Code section 10.08.100, which prohibits people from impeding or blocking traffic
- Utah Code requires the City to “create a permitting process for granting a person an exemption” in order to “grant a person a temporary exemption ... for a specified location or time.”

Current Process

- Requests for special events or use of non-public areas for free speech activities (e.g., marches, parades, protests, demonstrations, etc.) handled through special event permits
- City Code does not currently address how special event permits are to be handled or whether any particular areas are to be permitted/not permitted

Proposed Ordinance 2020-33

- Amends Municipal Code Chapter 12.02 Free Expression Regulation by adding a process for granting a permit
- Provides that the City Council will designate the areas that are available to be used for expression through resolutions
- Requires applicants to comply with terms of special event permit and conditions adopted by City Council

Proposed Section 12.02

G. The council may designate areas such as public streets, the interior of public buildings, and other limited or nonpublic forums for limited use for expressive activities as set forth below:

1. The designation of areas for limited use for expressive activities shall be done by resolution of the council.
2. The council may establish restrictions and conditions on the use of such areas in accordance with the requirements and limitations of this section, state law, and constitutional law.
3. Persons seeking to use an area designated for limited use for expressive activities shall first apply for a special event permit authorizing such use for a specified location and time.
4. A permit shall be granted to any applicant who agrees to comply with the terms and conditions of this section and the resolution designating the area for limited use for expressive activities. Applicants seeking to use the same area at the same time shall be granted permits on a first-come, first-served basis. In no event shall a permit be denied based on the content or subject of the expression. Requests seeking to use other areas may be submitted.
5. A person that is lawfully engaged in expressive activities pursuant to this section shall be exempt from City ordinances related to obstruction of public ways or the impeding of traffic.

Proposed Resolution 2020-33

- If Ordinance 2020-33 is adopted, then Resolution 2020-33 should be adopted
- Resolution designates the areas and any terms or conditions the Council wants to impose on the activities.
- Restrictions must be content-neutral and reasonable time, place, and manner restrictions

Proposed Resolution 2020-33

- Areas to be opened:
 - Staff recommends Town Center loop
- Potential terms or conditions of permit approval (examples)
 - No more than two events in the same area per day.
 - No overlapping events in the same area.
 - No events during rush hours, 7-9 AM, 4-6 PM, or after 10 PM.
 - No event to last within a specific area for more than 2 hours.

Proposed Motions in Favor

- I move that the City Council **ADOPT** the ordinance 2020-33 establishing section 12.02(G).
- I move that the City Council **ADOPT** the resolution 2020-33 designating certain areas for limited use for expressive activity, and designate the following areas for such activity with the following conditions:
 - A loop from Town Center West and Town Center East from Town Center Parkway to 10890 North
 - [The City Council will need to describe limitations or conditions]



PROPOSED CODE AMENDMENT TO PROHIBIT TARGETED RESIDENTIAL PICKETING

Item #6 – Ordinance
Presented by – Rob Patterson, City Attorney

BACKGROUND

- There have been a number of incidents in Utah where protesters have targeted particular private, family residences for protests and demonstrations
- Chief Gwilliam suggested passing an ordinance similar to that of other communities that protects both the right to protest and the right to private peace

Example – State Epidemiologist

- Private address leaked online in connection with mask mandate
- "It's scary and wrong that someone would feel comfortable sharing my personal information."
- "It's taken a really big toll on my family and myself and they're supposed to be there again tonight. I think it's really unfortunate that we live in a state where people feel that it is OK to harass civil servants. It's wrong."
- Many doctors, advisors, and public officials across the nation have been targeted, including Governor Herbert and Lt. Governor Cox

Legal Standard

- US Supreme Court, *Frisby v. Schultz*, 487 U.S. 474 (1988)
 - "The First Amendment permits the government to prohibit offensive speech as intrusive when the 'captive' audience cannot avoid the objectionable speech. The target of the focused picketing banned by the Brookfield ordinance is just such a 'captive.' The resident is figuratively, and perhaps literally, trapped within the home, and because of the unique and subtle impact of such picketing is left with no ready means of avoiding the unwanted speech."
- Salt Lake City & County, Orem, and Holladay have adopted similar laws

Proposed Ordinance 2020-34

- Adopts Municipal Code 9.06 to prohibit targeted residential picketing
- Prohibition is content-neutral, restricting only a particular method of expression – protests within 100 feet of the targeted residence
- Limited to private residences and excludes residences used for public meetings or as sole places of business
- Does not restrict the ability of people to go door-to-door, present complaints during public meetings, protest on nearby sidewalks, or any of the other existing ways of expression

Benefits

- Narrow restriction on speech that encourages safer and more effective means of communicating ideas
- Gives law enforcement officers a new tool to protect against harassment

Proposed Section 9.06 Text

9.06.010 Purpose

The protection of the home is of the highest importance. The public health and welfare and the good order of the community require that citizens enjoy in their homes and neighborhoods a feeling of wellbeing, tranquility, and privacy, and enjoy freedom from being a captive audience to unwanted speech in their homes. The practice of targeted picketing in residential areas causes emotional disturbance and distress to residents, and has the potential to incite breaches of the peace, result in unlawful harassment, and prevent residents from being able to access, use, or leave their property safely. Full opportunity exists for individuals to exercise their rights of free speech without resorting to the specific practice of targeted residential picketing, including but not limited to picketing, marching, or gathering in nearby public spaces, presenting grievances during city council meetings, communicating directly with government officers, sharing information through handbills or fliers, and other means. The provisions of this section are enacted for the purpose of protecting the significant public interests stated above and not to suppress free speech rights or any particular viewpoint.

Proposed Section 9.06 Text

9.06.020 Definitions As used herein, the following terms are defined as follows:

"Picketing" means the stationing or posting of one or more persons to apprise the public, vocally or by standing or marching with signs, banners, sound amplification devices, or other means, of an opinion or a message.

"Residence" means any single-family, duplex, or multi-family dwelling that is not used as a targeted occupant's sole place of business or as a place of public meeting.

"Targeted Residential Picketing" means picketing that (1) is specifically directed or focused toward a residence, or one or more occupants of a residence, and (2) takes place within one hundred feet (100') of the property line of that residence.

9.06.030 Prohibition It shall be unlawful for any person, acting alone or in concert with others, to engage in targeted residential picketing in Highland City.

9.06.040 Enforcement; Penalty Any violation of this section is a class B misdemeanor.

Proposed Motions

- I move that the City Council **ADOPT** the ordinance 2020-34 establishing Chapter 9.06 Targeted Residential Picketing based on the findings and purpose described therein
- I move that the City Council **DENY** the proposed changes to the Municipal Code.



PROPOSED CODE AMENDMENT CLARIFYING AND UPDATING CODE ON COMMUNITY TREES

Item #7 – Ordinance

Presented by – Rob Patterson, City Attorney

BACKGROUND

- Municipal Code 2.36 provides standards and processes for planting, maintaining, and removing trees in public places
- Current code is contradictory regarding authority over public trees and grants a right to multiple appeals over staff's decision to remove unwanted trees.
- City Council was required to conduct an appeal in September over staff's removal of illegally planted trees in a city park, which required significant time and costs

Examples: Current Code Issues

- Forester and Parks, Trails, and Tree Commission (PTTC) each given authority to grant permits for removal, planting, or pruning of trees, with no rules for who is ultimately responsible
- PTTC is given authority under tree code to decide to remove trees, even though PTTC is specifically denied any decision-making or approval authority in its organic statute
- Zoning administrator is responsible for code enforcement, but forester/PTTC are responsible for determining whether an action is approved, and residents can appeal decisions of forester/PTTC (but not zoning administrator) to Council

Proposed Ordinance 2020-35

- Removes the authority of the Parks, Trails, and Tree Commission to issue permits and make final decisions regarding the placement, modification, or removal of public trees. The Commission retains its role to support, recommend, and advise, consistent with the City Council's creation of the Commission earlier this year.
- Clarifies that the City forester is the person responsible for making decisions on how, where, and when to plant, modify, or remove public trees, and to issue permits to residents for these purposes.
- Clarifies that public trees includes trees in any public space, not just park strips or rights of way.
- Removes the ability of residents to appeal staff actions regarding public trees to the City Council. Appeals regarding the City forester's denial of a permit to modify or remove a public tree would be appealed to the City administrator. Appeals regarding citations or civil nuisance actions would still be handled and appealed according to the normal processes for those actions.

Selected Proposed Amendments

2.36.080 City Forester The office of city forester is created for the purpose of administering the provisions of this chapter and such policies, recommendations, rules, and regulations of the community Parks, Trails, and Tree Commission as are approved by the city council. The city forester:

1. Shall have supervision of all public trees;
2. Shall, or direct staff to, plant, trim, spray, preserve, and remove public trees to promote safety and preserve the beauty of such public trees;
3. Shall direct the care of all the trees in the city that have been designated by the city council ~~as community public trees and tree commission~~ as historical or notable trees;
4. Shall review all applications for permits for removal, planting, or pruning of public trees and shall act on the same ~~at the request of the city council or the city administrator~~. Such permits shall be issued only if applied for in writing, and all applications shall contain such information as the city forester shall find reasonably necessary for a fair determination as to whether a permit should be issued. All permits may include such reasonable conditions as the ~~community Parks, Trails, and Tree Commission~~ city forester may require in order to carry out their duties and responsibilities under this chapter;

- The city forester shall attend the ~~community~~ Parks, Trails, and Tree Commission meetings ~~and serve as an ex-officio member of the community Parks, Trails, and Tree Commission.~~

Selected Proposed Amendments

2.36.090 Parks, Trails, and Tree Commission Planting Regulations

The ~~community~~ Parks, Trails, and Tree Commission shall make recommendations to the City Council and city forester regarding policies, plans, rules, and regulations for the management, maintenance, planting, and removal of public and private trees as set forth in Section 4.12.080(F). ~~shall prepare a document designating the species of trees and shrubs that may be planted on each public street within the city. Upon approval of such a list by the city council no trees or shrubs, other than the kind designated, shall be planted on any public street or public place without the consent of the community Parks, Trails, and Tree Commission. The community Parks, Trails, and Tree Commission shall also prepare and submit to the city council rules and regulations establishing standards for the planting of trees and shrubs on public streets and public property. After approval of such rules and regulations by the city council, no trees or shrubs shall be planted other than in accordance with the standards established, unless the written consent of the community Parks, Trails, and Tree Commission is obtained.~~

Selected Proposed Amendments

2.36.100 [Reserved] Removal Of Trees By The Commission

1. The city, through its community Parks, Trails, and Tree Commission, shall condemn and remove or order the removal of any public tree where the same is dead, diseased, or for any reason whatsoever deemed undesirable by the community Parks, Trails, and Tree Commission.
2. The city, through its community Parks, Trails, and Tree Commission, shall have authority to condemn and remove or order to be removed any nonpublic tree when the community Parks, Trails, and Tree Commission shall find such action necessary to the public safety or to prevent the spread of disease or insects to public trees and places.
- The community Parks, Trails, and Tree Commission shall have authority, with notice to the abutting property owner, to remove, or order the removal of any public tree, which has been planted upon any right-of-way or on any public property in violation of this chapter.

Selected Proposed Amendments

• 2.36.130 Review ~~By The City Council~~

1. The city council shall have the right to review the acts and ~~decisions~~ recommendations of the community Parks, Trails, and Tree Commission ~~and the city forester.~~
2. Any person may appeal any ruling or order regarding a permit to be issued pursuant to this Chapter from ~~the community Parks, Trails, and Tree Commission or the city forester~~ by submitting a written appeal to the city council administrator, and the city council administrator shall ~~hear~~ review the matter, with or without a hearing, and make a final decision.

Selected Proposed Amendments

2.36.140 Violation And Penalty

The requirements of this Chapter may be enforced by civil or criminal penalty against any person, firm, or corporation violating any of the ~~code~~ provisions of this Code, not to exceed ~~shall be guilty of a class C misdemeanor~~ for each violation thereof shall be punishable by a fine of not to exceed seven hundred fifty dollars or by imprisonment for up to a term not to exceed ninety days. In addition to such ~~criminal~~ penalty, the city may, in addition to any other remedy that may be provided by law, institute any appropriate proceeding to prevent, restrain, or abate any ~~construction or alteration~~ act in violation of this code.

2.36.150 Procedure For Violation

Whenever it becomes necessary to take action or to obtain compliance with one or more provisions of this code, the zoning administrator, in consultation with the city forester, ~~may planning administrator or city engineer~~ may issue a citation, institute abatement proceedings, or take other appropriate action as provided by law.

*NOTE: Does not alter appeal rights for criminal citations, nuisance abatement

Proposed Motions

- I move that the City Council **ADOPT** the ordinance 2020-35 amending certain provisions of Title 2, Chapter 36 Community Trees
- I move that the City Council **DENY** the proposed changes to the Municipal Code.



RECONSTRUCTION OF CULINARY WELL HOUSE #3 ADMINISTRATIVE

Item 8 - Construction Contract
Presented by - Todd Trane, PE
City Engineer

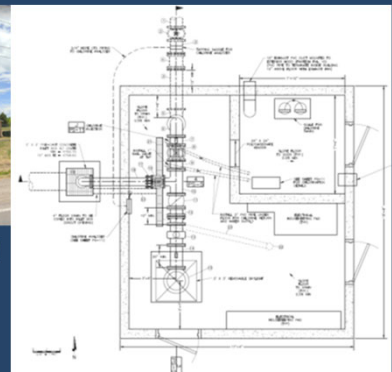
Culinary Well #3



Existing Well House



Proposed Well House





2021 UTILITY RATE STUDY UPDATE

ADMINISTRATIVE

Item 9 - Proposal Approval
Presented by - Tyler Bahr, CSM
Finance Director

Background

- Utility rates should be updated every five (5) years to ensure they reflect current cost & growth
- Zions Public Finance, Inc. performed the last study in 2015-2016 at a cost of \$40,000
- Two proposals received to update study:
 - Zions (\$24,000)
 - Lewis, Young, Robertson & Burningham (\$17,150)

Scope of Work

- Demand projections & modeling
- Revenue requirement & cost allocation
- Replacement funding
- Debt service
- Public hearing & meetings with Council

Assessment of Proposals

- Zions
 - Completed previous study
- LYRB
 - Competitive pricing
 - Local project manager
 - Additional staff assistance
 - New perspective

Recommendation and Proposed Motion

Staff recommends that the City Council approve the proposal from Lewis, Young, Robertson, and Burningham, Inc. (LYRB).

“I move that the City Council approve the proposal from Lewis, Young, Robertson, and Burningham, Inc. (LYRB) for the preparation of the 2021 Utility Rate Study for the amount of \$17,150.”



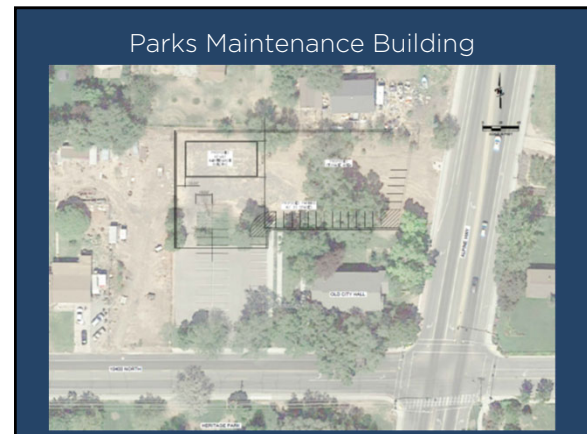
MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

Item 10a. - Park Maintenance Building

Item 10b. - 2021 January-April Workload

Item 10c. - Future Meetings

- December 8, Planning Commission Meeting, 7:00 pm, City Hall
- January 5, City Council Meeting, 7:00 pm, City Hall
- January 19, City Council Meeting, 7:00 pm, City Hall
- January 26, Planning Commission Meeting, 7:00 pm, City Hall



CLOSED SESSION



The Highland City Council has recessed the regular City Council meeting to convene in a closed session to discuss pending or reasonably imminent litigation and the character, professional competence, or physical or mental health of an individual, as provided by Utah Code Annotated §52-4-205.

The regular City Council meeting will be adjourned immediately following the ending of the closed session.