



HIGHLAND CITY COUNCIL AGENDA

Tuesday, March 2, 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: 852 5632 5615

Email comments prior to meeting: council@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Mayor Rod Mann

Invocation – Council Member Kim Rodela

Pledge of Allegiance – Brittney P. Bills

1. UNSCHEDULED PUBLIC APPEARANCES

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

2. RECOGNITION ITEMS

a. **Mayor's Award** – *Mayor Rod Mann*

The Mayor and the City Council will recognize Highland students for their acts of service and kindness to fellow students.

3. PRESENTATIONS

a. **Highland City Youth Council** – *Youth Council Representative*

Highland City Youth Council Representative will report on any recent and upcoming activities involving the Youth Council.

4. 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. **Approval of Meeting Minutes** *Administrative*

Regular City Council Meeting – February 2, 2021 and February 16, 2021

5. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - STORAGE FACILITIES IN THE PROFESSIONAL OFFICE ZONE *Legislative*

City Council will hold a public hearing to consider a request by Isaac Patterson to amend Section 3-4929 in the Development Code to allow the leasing of moving vehicles in storage facilities in the Professional Office Zone. The City Council will take appropriate action.

6. PUBLIC HEARING/ORDINANCE: GENERAL PLAN AMENDMENT - NEIGHBORHOOD OPTION TRAILS *Legislative*

The City Council will hold a public hearing to consider a request by the City Council to amend the General Plan to reclassify Neighborhood Option Trails to Neighborhood Trails in the Trails Master Plan. The City Council will take appropriate action.

7. RESOLUTION: COUNTRY FRENCH SUBDIVISION NO BUILD POLICY AMENDMENT *Legislative*

The City Council will consider a request by Guy and Marilyn Masters to amend the no build resolution for the Country French Subdivision. This amendment would allow below grade and ground-level structures, such as pools and sport courts, provided there is a 42-foot setback from the rear property line. The City Council will take appropriate action.

8. ORDINANCE: CHANGING PARK HOURS OF OPERATION *Legislative*

The City Council will consider a request by City Staff to amend Section 12.24.010. Hours of Public Use For Parks and Cemetery from 5:00 am to 11:00 pm to Dawn to Dusk. The Council will take appropriate action.

9. DISCUSSION: ORPHAN PROPERTY DISPOSAL AND VALUATION PROCESS *Legislative*

The City Council will discuss a policy for the disposal of orphan property and for determining the valuation of said property. This item is being presented for discussion and direction only.

10. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

The City Council may discuss and receive updates on City events, projects, and issues from the Mayor, City Council members, and city staff. Topics discussed will be informational only. No final action will be taken on communication items.

a. Timpanogos Special Sewer District Report - *Brian Braithwaite*

b. Council Committee Reports - *Nathan Crane*

c. Future Meetings

- March 10, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- March 16, City Council Meeting, 7:00 pm, City Hall
- March 23, Planning Commission Meeting, 7:00 pm, City Hall
- March 30, City Council Meeting, 7:00 pm, City Hall

ADJOURNMENT

In accordance with Americans with Disabilities Act, Highland City will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at (801) 772-4505 at least three days in advance of the meeting.

ELECTRONIC PARTICIPATION

Members of the City Council may participate electronically via telephone, Skype, or other electronic means during this meeting.

CERTIFICATE OF POSTING

I, Stephannie Cottle, the duly appointed City Recorder, certify that the foregoing agenda was posted at the principal office of the public body, at the Lone Peak Fire Station and Lone Peak Police Station, on the Utah State website (<http://pmn.utah.gov>), and on Highland City's website (www.hIGHLANDCITY.ORG).

Please note the order of agenda items are subject to change in order to accommodate the needs of the City Council, staff and the public.

Posted and dated this agenda on the 25th of February, 2021.

Stephannie Cottle, City Recorder

THE PUBLIC IS INVITED TO PARTICIPATE IN ALL CITY COUNCIL MEETINGS.



HIGHLAND CITY

HIGHLAND CITY COUNCIL MINUTES

Tuesday, February 2, 2021

Waiting Formal Approval

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: 841 6117 1266

Email comments prior to meeting: council@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Mayor Rod Mann

Invocation – Jason Ash, Intern

Pledge of Allegiance – Wesley Warren

The meeting was called to order by Mayor Rod Mann as a regular session at 6:58 pm. 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 Jason Ash, City Intern, and those in attendance were led in the Pledge of Allegiance by Wesley Warren.

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS

PRESENT: Timothy A. Ball, Brittney P. Bills, Kurt Ostler, 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, Engineering EIT Mike Burns, Police Chief Brian Gwilliam, Fire Chief Reed Thompson

OTHERS PRESENT: Scott Hart, Wesley Warren, Ken Beck, Joe Ham, Rob Donigan (electronically)

1. UNSCHEDULED PUBLIC APPEARANCES

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

There were no public comments.

2. 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. Approval of Meeting Minutes *Administrative*

Regular City Council Meeting – January 5, 2021

b. Minor Subdivision: Sunset Mountain Plat E *Administrative*

The City Council will consider a request by Berg Civil Engineering for minor subdivision approval of Sunset Mountain Plat E, a 1-lot subdivision. The City Council will take appropriate action.

Council Member Scott L. Smith MOVED that the Highland City Council approve consent items 2a and b. Council Member Kim Rodela SECONDED the motion. The vote was recorded as follows:

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

The motion passed 5:0.

3. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – PERMITTED USES IN CR ZONE *Legislative*

The City Council will hold a public hearing to consider a request by MNG Management LLC to amend Section 3-4351 in the Development Code relating to permitted uses in the CR Zone. The City Council will take appropriate action.

Planner and GIS Analyst Kellie Bronson gave a review of the text amendment request from applicant Joe Ham, who wanted to amend the permitted uses in the CR Zone. She explained that the CR Zone included 11 lots and noted that the applicant owned eight of the 11 lots. She expressed that the list of permitted uses in a CR Zone were specific, and that the overall goal was to make it more flexible in the types of retail. She noted that the permitted uses in other zones had a more generalized format for uses versus this more specific list of what was allowed. She showed the vicinity map and pointed out the affected lots. She explained that the text amendment added the permitted uses of nail salons, shipping, mailing, and pickup/return centers that did not exceed 2,500 sq ft. She noted that it also discussed general retail not otherwise prohibited to give it an overall flexibility for types of retail, and then general office use. She stated that another important detail of the text amendment was that all of these uses would be allowed on main and second level.

Planner and GIS Analyst Kellie Bronson relayed that the Planning Commission had held their meeting on 1/26/21 with no public comments. She said that the Planning Commission recommended approval. She explained what the applicant meant with pickup/return centers and noted that they currently were a trend due to an increase in online shopping. Mayor Rod Mann asked for clarification on the use of the pickup/return center, and whether it would function as a return center for Amazon packages. Planner and GIS Analyst Kellie Bronson confirmed that it would, and that it was dependent on who the tenant was. Mayor Rod Mann asked if whoever they contracted with would provide that service. He discussed how it provided a place to drop off or pick-up packages with more

ease. Planner and GIS Analyst Kellie Bronson noted that they needed more square footage than a kiosk because the service needed more capacity. She said that staff and Planning Commission recommended a 2,500 sq ft maximum. She relayed that the applicant had stated that it had become more common that retailers did not want to house pickup/return centers in their facilities. She said that zoning was designed to separate uses based on impact rather than specific types of retail. She restated that the goal was to generalize it and provide more flexibility to businesses. She expressed that the staff felt that the proposed uses were consistent with existing uses and intents. Planner and GIS Analyst Kellie Bronson discussed that they had provided proper notice for the public hearings and meeting. She said that staff recommended that City Council conduct a public hearing, accept the findings, and approve the proposed amendment.

Council Member Scott L. Smith asked if the pickup/return center generated any sales tax. Mayor Rod Mann expressed the opinion that they would receive the sales tax by virtue of the sales.

Joe Ham introduced himself and stated that he represented the developer MNG. He corrected that they currently owned six of the parcels with the option to purchase the two large parcels in the back, and that three parcels were owned by others. He noted that the pickup/return center had been evolving in the retail world. He stated that most malls now centralized all returns for all retailers for better convenience. He noted that he was not an attorney but expressed that he could not imagine that the pickup/return centers would generate sales tax. He thought it would be charged on the online sale in the jurisdiction for which it was sold.

Council Member Scott L. Smith said that a lot of the stuff was paid by zip code and noted that they shared a zip code with American Fork. He expressed that he had never been totally convinced that the sales tax for sales that happened in Highland all came to Highland. He asked if there was anything, they would do to help guarantee that. Joe Ham replied that they owned the property but did not operate the businesses, so they would not have any control over that.

Council Member Scott L. Smith inquired about the interest that had been expressed for a new grocery store. He asked Joe Ham if he thought the interest was strong. Joe Ham replied that he did. He noted that their real estate broker, Lance Pendleton, was present with him. Joe Ham explained that Lance Pendleton had contacted hundreds of retailers over the years this project had been in the works. Joe Ham also noted that supermarkets were stable and long-lasting tenants, and that they drove traffic to the area. He said that they had interest from three supermarkets, one local and two nationals. He stated that COVID had pulled back travel by the people who evaluated those things, but he was still confident in their interest. He communicated that they had spent the money to draw up preliminary plans that showed that use.

Council Member Scott L. Smith stated that businesses were required by law to be closed on Sundays and asked if the interested parties were aware of that. Joe Ham responded that they had made it clear to them what the restrictions were.

Council Member Kurt Ostler asked for further clarification about the return center. He asked if it was like a UPS store, or if it was simply for returns.

Joe Ham replied that it was an evolving business, so he could not tell him exactly how it would evolve. He expressed that they hoped they would be able to provide a lease space for a UPS or FedEx facility. He noted that Kohls now had Amazon return counters. He said that malls had group pickup/return centers. He clarified that they did not provide services for shipping because UPS did it well in their own retail stores. Mayor Rod Mann said that they could order and pick up at the center so as not to worry about items being stolen from porches. It was noted that it would be a staffed center.

Council Member Kurt Ostler asked about the grocery store. He asked about the condensed size of 45,000 sq ft versus the typical 65,000 sq ft. Joe Ham confirmed that it was slightly smaller than the larger grocery chains. He said that it was the right size for a Sprouts or Natural Foods. Council Member Kurt Ostler asked about the fitness component as well. Joe Ham replied that they had generated an interest from an investment company that wanted to build a performance training center on the main floor with offices on the main and top two floors.

Council Member Scott L. Smith inquired about what types of restaurants there would be, and if it would be fast food. Joe Ham replied that the current demand was for a drive-thru window, but that they hoped to be able to provide sit down restaurants and outdoor dining spaces. Council Member Scott L. Smith asked if there was interest from restaurants. Joe Ham replied that they have had some preliminary interest, and that they expected that some that had pulled back would respond after the pandemic.

Mayor Mann opened the public hearing at 7:18 pm. There were no public comments. Mayor Mann closed the public hearing at 7:19 pm.

Council Member Kurt Ostler MOVED that the City Council accept the findings and approve the proposed amendment based on the following findings in the staff report.

- *The proposed amendment is consistent with the purpose and intent of the CR Zone stated in the Development Code.*
- *It is consistent with the General Plan.*

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

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

The motion passed 5:0.

4. SITE/ARCHITECTURAL PLAN APPROVAL: HIGHLAND MARKETPLACE PHASE 2 *Administrative*

The City Council will consider a request by MNG Management LLC for master site approval for five (5) commercial buildings and architectural approval for the retail building located at northeast corner of Alpine Highway (SR74) and Timpanogos Highway (SR92). The City Council will take appropriate action.

Planner and GIS Analyst Kellie Bronson noted that this was the topic that had been discussed briefly during Phase 3, and that it was the Highland Marketplace Phase 2. She stated that the applicant was through MNG Management. She explained that it was a request for site plan approval and architectural plan approval for the retail building. She showed the vicinity map and pointed out that it was lots one and two in the Highland Marketplace Subdivision. She communicated that applicants owned eight of the lots, and that the applicants of lot one and lot two agreed of this plan.

Planner and GIS Analyst Kellie Bronson noted that there was a development agreement that the City entered into for the subdivision on 4/24/2007. She further noted that the site plan approval was attached to that development agreement and included one building on the entire vicinity that measured 118,250 sq ft, with only grocery and

retail. She communicated that this was a major change, which was why a new master site plan was submitted for approval. She explained that the overall site plan established overall circulation, building placement, access, parking, and landscaping. The architectural plan for the retail building established the architecture of the actual building, which included colors and materials.

Planner and GIS Analyst Kellie Bronson said that it went before the Planning Commission on 1/26/21, and that most of the concerns were about limited access along Timpanogos Highway and Alpine Highway. She stated that the Planning Commission added a stipulation to their recommended approval that staff contact UDOT with the master plan and take their recommendations under consideration.

Planner and GIS Analyst Kellie Bronson mentioned the nine stipulations. She outlined that number nine was to contact UDOT, staff added stipulation eight to make sure there was no access to the residential street 5800 West, number five was that the hours of operation and number of employees met the municipal code, and that the rest were standard to comply with City code. She showed the site plan, and communicated that there were buildings over 9.64 acres, which totaled out to be 124,500 sq ft of commercial and 524 parking stalls, which exceeded the required 498.

Planner and GIS Analyst Kellie Bronson explained that there were two existing access points on Timpanogos Highway and two along Alpine Highway. She showed the landscape plan and stated that they had met the requirements of the development code. She noted that they had added a few hardscape areas, which included picnic areas, benches, and walking space. She showed the architecture plan and communicated that the building height was 32 ft and 8 in, which did not exceed the maximum of 45 ft for a CR Zone. She stated that the materials and colors were consistent with the architectural design standards for the CR Zone. She said that they had included four-sided architecture, then showed the elevations from each side. She stated that this did not require a public hearing, but appropriate notices were sent for the Planning Commission and City Council meetings. Staff recommended that City Council approve the site plan and architectural plan of the retail building subject to the nine stipulations that were recommended by Planning Commission.

Council Member Scott L. Smith expressed concern about the intersection on Timpanogos Highway and Alpine Highway since it was the busiest in the state. He noted that UDOT had said it was a failing intersection and asked if they thought that the four access routes provided adequate access for the businesses. He further asked what they could do to improve it.

Joe Ham said that he had developed many shopping centers, and that he was delighted to have four access points. He noted that they could be wider but did not see any way to add that. He discussed that if drivers that went northbound on Alpine Highway had to go to the furthest north driveway to enter, because any earlier would cause traffic to penetrate where the queuing happened for southbound Alpine Highway turns. He could not imagine that UDOT would recommend that they shorten that queueing.

Council Member Scott L. Smith asked if he was happy with what they had. Joe Ham said that they were. Council Member Kim Rodela said that she wanted to hear from City Engineer Todd Trane. Council Member Kim Rodela acknowledged that one of the stipulations was that staff contacted UDOT, and she wanted to know if City Engineer Todd Trane felt it was safe.

City Engineer Todd Trane replied that they could always improve, and that he was not necessarily happy with the current four. He felt that some of them had design flaws and noted that they could try and address that during the site plan approvals. He said that all of UDOT traffic studies for the intersection had understood that this was a commercial zone. City Engineer Todd Trane further said that they would work with the developer to see if they could improve upon the entrances. He said that they currently had concerns about the accesses, but that they had been shared and were being worked through.

Council Member Scott L. Smith asked if there would be signage where the accesses were. Joe Ham responded that retailers were concerned about visibility and whether the people could find them. He explained that they tended to make decisions based on perception and not necessarily fact. He was confident that one of their conditions would be that there was effective signage on the highways. He said that they had spoken to staff about proposed sign ideas but would not be able to finalize that until they had specific tenants.

Council Member Kurt Ostler expressed that he was also nervous about circulation and the accesses. He mentioned the Quick Quack car wash and the dry-cleaning building and noted that there were visibility issues there. He was worried about potential accidents from cars that did not stop. He felt that the northbound traffic on SR92 would try to turn into the Quick Quack instead of further down. He also expressed concern that the Quick Quack exited out by the stop sign, and a backup from the shopping center may cause accidents. He thought it was a safety concern.

Joe Ham responded that the driveway for the Quick Quack was fortunately in the right lane. He said that the concern seemed to be stacked cars onto the highway from cars that wanted to get into the shopping center. He reminded them that the shopping center was developed with a long throat for the right lane that went northbound. He expressed the opinion that it was safe in regard to the movement of cars off of SR92. Council Member Kurt Ostler asked if they could work with Quick Quack to make a left to turn in.

City Engineer Todd Trane responded that they had expressed those concerns to the developer. He noted the access on the southwest corner of the visual and explained that it would be straight through into the development. He explained that there would be stop signs, and that the developer would ensure it was painted red to dictate a no parking zone. City Engineer Todd Trane said that they were working through the safety concerns.

Council Member Kurt Ostler asked if they had talked to Quick Quack. He was worried about accidents when cars came out of the tunnel to turn left. Joe Ham said that they could not pressure Quick Quack. Mayor Rod Mann stated that it may be more appropriate for a future meeting.

Council Member Kim Rodela MOVED that the City Council accept the findings and approve the site plan for Highland Marketplace Phase 2 and architectural plans for the retail building subject to the following nine (9) stipulations recommended by the Planning Commission.

1. *Development of the site shall comply with the site plan and building elevations dated January 7, 2021 except as modified by these stipulations.*
2. *All signage shall require a separate permit and meet the requirements of the Development Code.*
3. *Final civil engineering plans shall be reviewed and approved by the City Engineer. The site shall meet all requirements of the City Engineer.*
4. *Landscaping shall occupy no less than 20% of the total land area of the site, unless the requirements mentioned in Section 3-4362 of the Development Code are met, the landscaping shall occupy no less than 15%.*
5. *The hours of operation and number of employees will be in compliance with Highland City's Municipal Code.*
6. *All proposed buildings will be required to go through an architectural review by Planning Commission and Council.*
7. *The retail building shall include four-sided architecture. The rear side of the building will be required to be reviewed by staff prior to the issuance of a building permit.*
8. *5500 West will not be used as an access to the site.*
9. *The City share with UDOT a copy of the approved site plan and the phasing of the development.*

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>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.

5. SITE PLAN: LONE PEAK VILLAGE OFFICE 2 *Administrative*

The City Council will consider a request by Daniel Schmidt on behalf of WPI Enterprises, Inc., for approval of a Site Plan for an office building located at approximately 5457 W 11000 N. The City Council will take appropriate action.

Planner and GIS Analyst Kellie Bronson reviewed that this site plan was the one south of the existing office along Timpanogos Highway. She explained that Daniel Schmidt was the applicant on behalf of WPI. She showed an old site plan from 1997 when they had received their original approval and mentioned that the new plan was all very compliant with what had been approved in 1997. She stated that it was brought before Planning Commission on 1/26/21. She said that they had the responsibility to do the building architect approval, and she noted that there had been a request for a building height increase to 34ft 6in. She communicated that the maximum for the zone was 30ft, but the code stated that Planning Commission had the ability to approve it to be up to 36ft. She said that the Planning Commission recommended approval of the site plan, they approved the architectural plan, and they approved the height increase.

Planner and GIS Analyst Kellie Bronson explained that the lot was .984 acres, and the two-story building was 14,882 sq ft. She stated that they had the required 60 parking stalls, and there were two accesses from Town Center Boulevard and the other existing accesses from Lone Peak Village. She noted that they exceeded the landscaping requirement by 2.9% and that it was compliant with the code for a C1 Zone. She showed the architecture plan and stated that it had been approved based on the findings that the colors and materials were consistent with the C1 Zone, they had the four-sided architecture, and the approved request for height increase. She showed the elevations. She communicated that the proper notices were sent out for Planning Commission and City Council meetings, and that they had not received any written correspondence. Staff recommended that City Council approve the site plan and landscape plan, subject to the outlined stipulations.

Daniel Schmidt came to the podium.

Council Member Kurt Ostler asked for clarification that the parking backed onto a private road. He said that if drivers parked in the spots, they would back out into the private roadway on the southside and northside of the building. Planner and GIS Analyst Kellie Bronson confirmed that it was okay.

Council Member Scott L. Smith asked the developer if they owned the buildings in front. It was confirmed. Council Member Scott L. Smith asked if they anticipated similar office use or if there would be retail. Mr. Schmidt said that they mostly anticipated offices but noted that there may be some crossover from service medical.

Council Member Scott L. Smith asked if they felt that they had enough access. Mr. Schmidt replied that access was not a problem and noted that there would be storefront parking.

Council Member Scott L. Smith asked if there was a name for this architectural style. Mr. Schmidt replied that the original building remodel was thought through carefully because of the type of roof it had. He said that when worked within the City codes conjunction with a desire for a more contemporary slant. He said that the architects tried to find a good balance with the raw materials that were used in a lot of Highland architecture. He repeated that the original remodel of the first building was thought through very carefully in relation to how it would affect the new building and any other remodels at the center.

Council Member Scott L. Smith asked if they owned the rest of the center. Daniel Schmidt confirmed. Council Member Scott L. Smith asked if they planned to remodel the rest. Mr. Schmidt confirmed at some point in the future they planned to.

Council Member Kurt Ostler mentioned that WPI had had a user that was interested in office space. He asked if the thought process was to still have one user take the whole building. Daniel Schmidt replied that was not the case anymore. He explained that they were in discussions about 60%-65% of the space and felt confident about 50% of it. Council Member Kurt Ostler asked if it was heavily used for medical uses. Daniel Schmidt replied that there were medical uses in discussion. Council Member Kurt Ostler mentioned that Mr. Schmidt owned the property in front of Meiers. He asked if there were plans for a restaurant to be there. Daniel Schmidt replied that it was still being marketed. He referred to a building to the west side of Meiers near the Wendy's that was still being marketed.

Council Member Scott L. Smith MOVED that the City Council accept the findings and approve the site plan for Lone Peak Village Office 2 subject to the three (3) following stipulations recommended by staff.

1. *Development of the site shall comply with the site plan, landscape plan, and building elevations dated December 7, 2020 except as modified by these stipulations.*
2. *All signage shall require a separate permit and meet the requirements of the Development Code.*
3. *Final civil engineering plans shall be reviewed and approved by the City Engineer. The site shall meet all requirements of the City Engineer.*

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

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

The motion passed 5:0.

6. PRELIMINARY PLAT: TEN SEVEN HUNDRED (PREVIOUSLY APPLE CREEK) *Administrative*

The City Council will consider a request by McKay Christensen for Preliminary Plat approval of Ten Seven Hundred, a proposed 42-lot attached single family and a two-lot commercial subdivision. The City Council will take appropriate action.

Planner and GIS Analyst Kellie Bronson explained that this was the preliminary plat approval request from McKay Christensen. She showed the vicinity map. She communicated that it had been approved on 8/4/2020 as a PD district with 42 residential units and 23,000 sq ft of commercial space. She reminded them that the preliminary plat process was not a discretionary process, which meant that a property owner was entitled to any

of the approvals attached to the PD district. She informed them that Planning Commission held a public hearing on 1/26/2021 and they recommended approval with the stipulations recommended by staff. She explained that, after the meeting, staff had edited the fourth stipulation to clarify that there were three parking stalls per residential unit.

Planner and GIS Analyst Kellie Bronson presented the preliminary plat and stated that it was 5.84 acres with 4.33 as residential and 1.4 as commercial. She noted that the proposed setbacks met the requirements of the PD district. She mentioned that they had access from Alpine Highway as well as the shared access on 10700 North. She further noted that they had the emergency exit with bollards by Ace Hardware. Council Member Kurt Ostler asked about the access between them and UCCU, and whether it was a public or private access. City Administrator/Community Development Director Nathan Crane said that everything on site was private.

Planner and GIS Analyst Kellie Bronson showed the landscape plan and pointed out the parkway detail on the north. Staff stipulated that a berm be placed in the parkway detail along Alpine Highway because the locations of commercial buildings had moved closer to the residential area. She pointed out the green space with the pavilion in the center, as well as the tot lot. She communicated that they had held the DRC on 1/6/2020, which has since been removed as a requirement. She stated that they sent the proper notices for the Planning Commission and City Council meetings, and that they had received no written correspondence. Staff recommended that they accept the findings and approve the preliminary plat subject to three stipulations recommended by planning commission and the one stipulation recommended by staff.

Council Member Scott L. Smith noted that the plan had evolved and improved over time but inquired about the phasing. He asked when phase 1 of the commercial would start. Planner and GIS Analyst Kellie Bronson responded that the ten parking spots on the northwest side of the commercial lot would be built alongside phase four with the brownstone units on the north. She stated that commercial phases were separate from residential and would be done when the site plan was approved.

Council Member Scott L. Smith mentioned the commercial in phase one and two. He asked for clarification on the location of the three parking spots for each residential unit. He asked if they used commercial spots for residents. Planner and GIS Analyst Kellie Bronson explained that there were two garage spots and a concrete pad on the side of the home that was the visitor parking stall. It was confirmed that they would theoretically park off the street.

Council Member Kurt Ostler asked if the ten parking spots would be completed during phase four of the residential. Planner and GIS Analyst Kellie Bronson confirmed. Council Member Kurt Ostler asked about the playset and pavilion details. Planner and GIS Analyst Kellie Bronson responded that the plans for the pavilions would be presented before it was built.

Council Member Kurt Ostler MOVED that the City Council accept the findings and approve the Ten Seven Hundred preliminary plat subject to the four (4) following stipulations as listed in the staff report.

1. *The final plat shall be in substantial conformance with the preliminary plat date stamped January 6, 2021.*
2. *All public improvements shall be installed as required by the City Engineer and City Fire Marshall.*
3. *The civil construction plans shall meet all requirements as determined by the City Engineer.*
4. *All residential units shall meet the minimum parking of 3 stalls per unit which shall be constructed as when these units are constructed.*

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

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

The motion passed 4:1.

7. PURCHASE AND TWO CONSTRUCTION CONTRACTS: KITCHEN COUNTERTOP REPLACEMENT, DISHWASHER REPLACEMENT, AND ADDITIONAL ACCESS CONTROL DOOR FOR THE HIGHLAND FIRE STATION *Administrative*

City Council will consider a purchase contract to replace the existing dishwashers and two construction contracts for the replacement of the kitchen countertops and an additional access control for medical supplies for the Highland Fire Station. The Council will take appropriate action.

Fire Chief Reed Thompson gave a description of the fire station's needs. He explained that it had been conducted in 2007/2008 and noted that the kitchen countertops were the original ones. He said that they needed to be replaced in order to address some cracking and safety issues. He further said that their proposal was to replace the countertops with a solid surface material, and they had received two bids thus far. He showed pictures of the kitchen and the food prep areas and discussed how the fire station was in use 24/7, 365 days a year. He expressed that the dishwashers were at the end of their lives.

Fire Chief Reed Thompson stated that the other item addressed in the staff packet was the access control door and the hardware associated with an area in the basement. He explained they had an area that controlled where the server was for the fire department, as well as controls where the internet access was piped from the fire station to the City hall, police station, and justice center. He communicated that the current access control had a key access where there was also additional storage to hold some of their medical supplies. He noted that it was also a record retention area and housed the mechanical room, water heater, furnaces, and access to the emergency generator. He explained that the proposal was to turn it into a card access door. They had 40 plus employees travel in and out of there, in addition to the IT contract staff, and they needed some better access control on the door. He expressed that one of the challenges they had found was that current access control for the fire station had exceeded the number of door access points for the brain of the operation, and therefore they needed to add an additional control panel. He noted that the amount on the proposal was to address the hardware and the additional storage for door access control.

Council Member Scott L. Smith wanted to know the life expectancy of the countertops. Fire Chief Reed Thompson responded that they expected them to outlast the life of the cabinetry. They estimated that they had a minimum of a 15-year life span. He further stated that the cabinets themselves were still in decent shape, and he anticipated that they would be addressed at a later point in time when the space had to be remodeled.

Council Member Kurt Ostler asked if they proposed the funds to come from City general funds or fire department general funds. Fire Chief Reed Thompson replied that the proposal was for the City general funds. He explained that in the arrangement for the building, the City took care of anything over \$500.

Council Member Kim Rodela asked what the purpose of the card access control panel was and why they needed it now.

Fire Chief Reed Thompson replied that multiple people needed to have access because of the multiple uses for that area. He stated that the area was used for utility, water heater, furnace filters and access, and sewer grinder pump among other things, and that the firefighters needed to have access. He explained that they currently had a key that was hung on a hook. He noted that it also provided access for some items that they would deem to be differently access controlled, such as the medical records and the server room. He expressed that with a card access control they could better manage the access and not worry about the location of the key. He also stated that it was a way to allow the IT to access the server, but not other equipment in the space.

Council Member Scott L. Smith asked for clarification on what the final cost was. Fire Chief Reed Thompson answered that the final cost for all items was \$8,048.50. He said that it was roughly \$1,400 for the dishwashers, \$3,500 for the countertops, and \$3,150 for the access control.

Council Member Kim Rodela MOVED that City Council approve the replacement of kitchen countertops, kitchen dishwashers, and the addition of an electronic door access pad in the Highland Fire Station.

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

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

The motion passed 5:0.

8. ORDINANCE: REPEALING SECTION 4.12.050 WATER ADVISORY BOARD OF THE HIGHLAND CITY MUNICIPAL CODE *Legislative*

The City Council will consider a request to repeal Section 4.12.050 Water Advisory Board of the Highland City Municipal Code. The Council will take appropriate action.

Mayor Rod Mann summarized that for the last three years they had discussed with staff whether they should continue the Water Board. He stated that it had been somewhat mixed the last two years, but that this year staff and five out of seven of the board members felt that the water board had fulfilled its purpose. He noted that staff did an annual report to the Water Board on the PI and culinary systems. He felt that it would be more beneficial if it came directly to City Council, and when he asked staff they had agreed.

Mayor Rod Mann explained that in the first quarter of each year City Council would receive a report on the water systems. He noted that they went out when needed for third party opinions when necessary. He mentioned that there would be a few less residents involved in the Water Advisory Board but felt that if they brought the discussion into City Council meetings, they would have a broader audience. He said that he had talked to Brent Wallace, Water Advisory Board, about potential participation in the Sustainability Coalition of Utah County. Mayor Rod Mann stated that was a board that he had previously attended, and that most of the Cities in North Utah County participated in it. He explained that in the meeting, the Cities discussed what they did in their communities to help with conservation.

Mayor Rod Mann said that some of the items discussed in the Water Advisory Board meeting dealt with conservation as opposed to the systems. He communicated that he had asked Brent Wallace to attend the meetings for a few months and come back and report, where they would then decide if they should continue their participation. Mayor Rod Mann said they could then continue that aspect of what the Water Advisory Board

provided to them, such as with the Xeriscaping they had approved. He felt that it was a more effective use of staff time, and that they could receive beneficial information about conservation and water systems.

Council Member Kurt Ostler mentioned that they currently received feasibility studies. He asked how long the City had received those feasibility studies. Mayor Rod Mann asked for clarification on his question. Council Member Kurt Ostler clarified that it seemed as if feasibility studies drove what projects they needed to do in the future, such as the Capital plans. He asked if they did Capital plans back when the Water Board was founded.

Mayor Rod Mann replied that they had the Capital plans and said that one of the reasons the Board was created was to ensure that the City continued with those plans. He expressed it was 16 years later and the plans had been updated. He felt that they were solid on their Capital plans, and that need that was there had transitioned to the City. He asked City Engineer Todd Trane how often they updated the plans. Mayor Rod Mann speculated how long, and then stated that they just did it that year with impact fees. He said that the annual report would be informative for the Council.

Council Member Scott L. Smith MOVED that the City Council approve the ordinance repealing Section 4.12.050 Water Advisory Board of the Highland City Municipal Code. Council Member Kim Rodela SECONDED the motion. The vote was recorded as follows:

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

The motion passed 5:0.

9. PRESENTATION/DISCUSSION: TRAIL MAINTENANCE PLAN - Todd Trane, City Engineer

Mayor Rod Mann introduced the topic and explained that this was the first time they had heard the entire plan. He said that the point of the meeting was to introduce the plan and ask questions about it. He further said that if they had more detailed questions they would meet with staff in small groups or they could hold a work session. He expressed that he was excited to hear about the plan because they had talked about it a lot over the last few years.

City Engineer Todd Trane said that they had started the process a few years prior when Tara Tannahill was there. He explained that she had done trail inventory. He stated that they had felt like things had gone well with their roads and wanted to do the same thing with their trails. He further stated that they had taken it on internally with staff, while the work for the roads was done by an outside consultant. He praised Tara for the work she had done, as she had driven most of the trails, gotten video, and looked at the quality of trails. City Engineer Todd Trane said that after Tara had moved on, they hired Mike Burns.

City Engineer Todd Trane expressed that Mike Burns was a great asset to the engineering department. City Engineer Todd Trane relayed that Mike Burns had done most of the calculations and work on the trail plan, and he credited him for all the good work he had done. City Engineer Todd Trane said that he would give a broad overview and then they could jump into more details after that.

City Engineer Todd Trane reiterated that they used the same technique that had been used on the roads to look at the trails. He explained that they did an inventory of trails and categorized all of the trails into the following three categories: PCI value, trail usage, and cost of improvements. He said that they took all of that data and input it

into a spreadsheet to create a priority list for the trails. He stated that this plan was based on science. They gathered a lot of data, and every single trail had a condition value and they put traffic counters out on most of the trails.

City Engineer Todd Trane was asked to clarify the meaning of PCI. He explained that PCI was the pavement condition index, and looked at cracks, thickness, and the overall drivability. He stated that it was assigned a value 1-100, and that the higher the value the better. He noted 100 was a brand-new pavement while 0 was basically a gravel road. He then showed a map based on all of the data they had gathered that showed all of the trails and the years they planned to do the work.

City Engineer Todd Trane referred to the summary of all the information that was put onto one sheet. He explained that the left side was all of the trails lumped into general areas. Then, the second column had the prioritized scores. He noted that Highland Glen Park scored the highest because of the traffic count. Therefore, the highest priority went to Highland Glen, and he noted that the rest were detailed on the list. He stated that the next column was the cost for all repairs for each general section of trails.

Mayor Rod Mann clarified why they did general sections of trails. He said it was because it was easier when they brought people out to work on it as there was only one area to do it. City Engineer Todd Trane agreed. He said that it was especially true with trails. He further said that roads could be done in smaller segments, but that trails were more cost effective to do all together. He communicated that they took all 168 trail segments and broke them down into the general sections.

City Engineer Todd Trane reviewed that the total budget was roughly \$130,000 with the general fund money and the quarter cent tax. He described that they then looked at what they could do in 2021. He noted that it was a little high at \$151,000 because they wanted to do all of Highland Glen in one go. He said that they had done a few of the trails the last year, but it was prior to all of the data being obtained. He expressed that they hoped to get that estimate down to \$130,000 to \$135,000 when they went to get bids.

City Engineer Todd Trane said that according to the priority list all of the trails would be completed within the next six years. They would do reconstruction, pavement preservation, and crack seal, which was all included in it. He noted that they had kept it low because there were places in the City where they had small sections that had been left over time and had not had proper connectivity done. He said that they hoped to be able to capture those wherever possible.

Mayor Rod Mann referred to Canterbury North where it almost connected to the Murdock Trail. City Engineer Todd Trane replied that they had a couple small sections there as well as in the northwest area of the City. He expressed that they wanted to try and fix those issues over time while maintenance was done. Council Member Kurt Ostler asked City Engineer Todd Trane for clarification that those repairs were not included in the budget. City Engineer Todd Trane answered that it was just maintenance and not the connectivity.

City Engineer Todd Trane reminded them that it was similar to the road plan in the sense that it was general and broad, and each year they looked at the individual projects before they made any decisions. He expressed that this was similar, and they would go out and look at Highland Glen and determine which segments would be done. He mentioned that they had currently assigned a treatment to each of the segments based on the video they had taken and generalization. He repeated that they would create a detailed plan when they actually went out and did the project.

Council Member Kim Rodela asked if this was just for the trails and not the sides of the trails. City Engineer Todd Trane replied that was correct. He said that it was for the general maintenance of the preservation of the asphalts, and that the side improvements would be done internally as side projects. He expressed that staff felt

that the sides of the trails were something they could address themselves, and that as long as the trail corridor looked nice it would minimize complaints about the aesthetics of the native areas.

Council Member Kurt Ostler expressed support for Council Member Kim Rodela's comment. Council Member Kim Rodela responded that one of the main things that people referred to in regard to maintenance of trails was the aesthetics of the sides of the trails. She felt that it would be great if it were something that would be addressed by staff. City Engineer Todd Trane replied that it would take some time, but they would try and make sure it was done for all the trails where they planned to do surface treatments.

Council Member Scott L. Smith expressed his agreement with the fact that they prioritized Highland Glen Park. He noted that the Murdock Trail traffic went through the Highland Glen Park, and he assumed it would be eliminated in April or May. He questioned about changes in signage to re-route.

City Engineer Todd Trane replied that the appropriate signage would be left, but that there was also some new signage that would go up on the reroute for Murdock Trail. He expressed that the counts done for Highland Glen were done in late fall, and they were surprised by how much traffic they received independent from the Murdock Trail connection.

Council Member Scott L. Smith asked about the trail right next to the road down to the parking area, and whether it would be finished. City Engineer Todd Trane confirmed. He said that the plan covered every trail that they had in Highland in the next six years. He expressed that hopefully it could be done sooner so they could use some of the extra money to make connections.

Council Member Kurt Ostler referred to the Bull River Trail. City Engineer Todd Trane replied that they would get into some of those details later on, and that some of that still might change. He noted that the Bull River Trail had some details that needed to be worked out. He stated that if it were fixed, they would get a lot of usage. He noted that they may have some grading issues that needed to be taken care of.

Council Member Kurt Ostler thought it was great to look at the connections. He mentioned Canterbury North and some of the connection issues there.

City Engineer Todd Trane said that they could not do this project without Mike Burns, and that he was a great addition to the staff. City Engineer Todd Trane said that the purpose of the presentation was to receive feedback, and they would then put it into a final draft that they could get approval from City Council. He said that he would email a PDF to the City Council for them to zoom in and look over the map and document more thoroughly. After they sent in their feedback, City Engineer Todd Trane said they would come back with a final plan to be approved and adopted.

Council Member Scott L. Smith asked about the trail in blue off of 6000 West and 11800 that went up to the power station and dead ended. He asked if there was a plan to connect that trail. City Engineer Todd Trane replied that those were the connections in the northwest area that he had referred to earlier. He said that they had met with residents up there. He further said that funding and grading was being discussed, and that it was under consideration on how best to include it in the plan and take care of it. Council Member Scott L. Smith responded that part of the trail was in 2024, and he said it would be nice to connect it. City Engineer Todd Trane replied that the hope was to save enough money by that time to take care of the connections. He asked the City Council if they would prefer that they push it to a seven-to-eight-year plan in order to include the connection. Council Member Scott L. Smith answered that he wanted to see the connections. Council Member Kurt Ostler said that if it were spread to eight years it would provide a better long-term vision about what was to be taken care of.

Wesley Warren asked about the manmade, crowdsourced trails in Highland Glen. He said that at one point there were stairs done by a department in BYU. He asked if there were any considerations for improvements on that hillside.

City Engineer Todd Trane explained that they did not own the park at the time when the stairs were done. He noted that they had funding every year that went to Highland Glen specifically, and that the last few years the money was spent on extra parking. He reviewed a few of the improvements they had done with the funding, and he said that they would love input about what else people wanted to see down there. He mentioned that he had not walked down that walkway in a long time and did not know how dangerous it was.

Wesley Warren acknowledged that there was an automatic allocation when an immediate safety concern was present. He asked if those took precedence, and further asked if they noticed any areas that had obvious safety concerns. He inquired if the phases with safety concerns would be moved to a sooner phase. He also informed them that there was constant erosion on the west side of the pond at Highland Glen and questioned if it would affect the integrity of the trail.

City Engineer Todd Trane answered that they treated trails similarly to roads. He gave the example of Stephen Lane. He explained that it was an end project on their seven-year road plan, but that they had gone in and completed some patches because there were safety concerns. He said that they had done a temporary fix until they could actively address it at a later point in time. City Engineer Todd Trane stated that if there was a safety issue, they used some of the pothole money to address those emergency situations. He said that they were aware of the erosion problem, and that they would completely rebuild the western piece with proper drainage when they got to that phase.

Council Member Scott L. Smith asked if there had been discussion with any companies about donations to help fix the park, since the surrounding developments would use the park heavily.

City Engineer Todd Trane replied that it was a non-engineering question, but he agreed that Highland Glen Park was a great amenity that was well used. He mentioned that was why they had done improvements such as replacement of the restrooms. He hoped that the Dry Creek would take some of the burden off of Highland Glen. However, he agreed that the Boyer development would use it heavily.

Council Member Scott L. Smith asked if there had been discussion about a non-resident fee. City Engineer Todd Trane replied that he would let them discuss it as Council and City Administrator/Community Development Director Nathan Crane since it was a non-engineering related topic.

Council Member Kurt Ostler mentioned that the question of a usage fee had come up with Dry Creek Lake as well. He noted that if they took funds from Utah Tourism, they could not charge fees. Council Member Scott L. Smith asked if they took funds from Utah Tourism. Council Member Kurt Ostler replied that he did not know what the agreement was. Council Member Scott L. Smith said he was curious if there had ever been any discussion since the park would be so heavily used. He expressed concern about where they would receive funds to maintain it. Council Member Kurt Ostler agreed.

Mayor Rod Mann informed them that the Tourism Tax Board put money towards regionally significant projects, and they also did match. He said that if they came up with a project to improve the park, they could go to the board and ask for funds. He stated that Shawn Smith was on that board.

Council Member Kurt Ostler asked if it had to be a new improvement. Mayor Rod Mann replied that it had to be a capital improvement and not a maintenance improvement. He suggested that they worked with each other if they had thoughts on capital improvements to do in order to get funding and said that they could go from there. He

said that it was something that could be done with staff support. Council Member Scott L. Smith said that they could brainstorm and get new ideas. Council Member Kurt Ostler said that he did not think it was a bad idea to ask Boyer. Mayor Rod Mann replied that Patterson already donated \$10,000 each year to Highland. He said that Boyer may do donations now that they were in Highland.

Council Member Brittney P. Bills mentioned that when they have that discussion, they needed to address the vandalism.

City Administrator/Community Development Director Nathan Crane replied that City Engineer Todd Trane had a meeting with a contractor about cameras. City Administrator/Community Development Director Nathan Crane said that one of the concerns was that they needed to have a camera that was detailed enough to recognize the individual and zoom in on license plates. He also said that one of the challenges was that they needed to finish the restrooms so that they could get the power up in order to mount the cameras. He noted that Police Chief Brian Gwilliam and himself had discussed the installation of gates at the top on both sides. City Administrator/Community Development Director Nathan Crane said that they had discussed a plan to install the gates and create a curfew. He said that they would have to work out how that happened, but solutions for the issues were being considered. He noted that when the vandals knew the police were on their way, they would just leave and wait for the police to leave before they returned.

City Engineer Todd Trane expressed that it had gotten worse with COVID, and that people were just bored. He said that at that point the amount of money being spent would far outweigh any camera costs, which was why they had met with the contractor and were given a quote. He informed them that they hoped to do a trial to see if it was worth it.

Council Member Kurt Ostler noted that fences in Alpine had been smashed recently and asked if this was the same group. Brain replied that there was nothing that indicated it was the same group. He said that kids were bored and that there was a lack of supervision. Council Member Scott L. Smith asked if there were any ideas about a park watch or neighborhood watch. Police Chief Brian Gwilliam said that they had not contacted neighbors but had enacted extra police patrols in the area. Council Member Scott L. Smith said that there were some neighbors that might be interested in a watch. Council Member Kurt Ostler thanked staff for their presentation on trails.

10. PRESENTATION/DISCUSSION: MOUNTAIN RIDGE PARK PLAN AND BUDGET - *Erin Wells, Assistant City Administrator*

Assistant City Administrator Erin Wells introduced Rob Donigan from BluLine and said that he was available via Zoom for any questions.

Assistant City Administrator Erin Wells discussed Mountain Ridge Park and reminded them that they had spoken about it 9/8/2020. She recapped that the priorities that the City Council had wanted to see in the park were all abilities playgrounds, pickleball courts, parking lot and road improvements, and the restroom and pavilion. She said that Council allocated about \$2,500,000 and listed some of the sources for the funding. She showed an old rendering, and summarized that Council had wanted areas A, B, and C to be top priority. Staff had worked with Rob Donigan to get an updated bid, but they came in high. She noted that it was not a formal bid, but that the estimated cost was \$4,400,000, and they were \$1,900,000 short.

Assistant City Administrator Erin Wells said that staff took that information and tried to come up with a phase one recommendation that they could afford within their current budget. She referred to the documents in front of them and clarified that the document without red and the title Phase One was their proposal. She outlined that the proposal included all of the 10400 North improvements, a third of the necessary parking areas in front of the

amenities, the first phase of an all-abilities playground, four of the pickleball courts, and a restroom but separate from a pavilion. She informed them that the estimated cost was roughly \$2,300,000 which gave them wiggle room at about \$142,000.

Council Member Scott L. Smith asked what made it so expensive. Assistant City Administrator Erin Wells answered that it was mainly because it was completely raw ground. She said that a good chunk of the money was just spent on the 10400 North improvements and all of the site improvements necessary to bring utilities and proper grading.

Council Member Scott L. Smith noted that it was five times what Spring Creek cost. Assistant City Administrator Erin Wells replied that the infrastructure and the road were enormously expensive to put in. Mayor Rod Mann asked for confirmation that it included piping of the canal. Assistant City Administrator Erin Wells said that was correct.

Assistant City Administrator Erin Wells communicated that the 10400 North improvements and site improvements alone were \$1,100,000. City Administrator/Community Development Director Nathan Crane asked for clarification that the funds would be from a separate fund. Assistant City Administrator Erin Wells replied that she allocated the \$2,500,000 from qualifying enterprise funds and the B&C road money.

Assistant City Administrator Erin Wells explained that they put together some “additives” that could possibly be included if the budget changed. She listed them as follows: the large pavilion for \$73,000, the additional pickleball courts for \$416,000, additional parking along 5600 West for \$202,000, and the second phase of the all-abilities playground for \$600,000. She reminded them that the money spent in each area included all of the site preparation as well as the tangible items such as playground equipment.

Council Member Scott L. Smith noted that four pickleball courts were the same size as one tennis court and asked for clarification that it would cost \$416,000 to put in the equivalent of one tennis court because of the required ground preparation. He said he was amazed by the prices.

Rob Donigan stated that they were not trying to overinflate the prices. However, they had found that prices had escalated in the last couple years, and they would rather be more conservative and build alternates into the design and bid package, and then if bids came in more favorably, they could add the additional elements. He said that they did not want to undersell the expense and then have the bid come in way higher than what was expected. He mentioned that they had worked with a contractor who had built a number of parks to ensure the price was at market rate. He noted that the market rate was expensive.

Council Member Kurt Ostler referred back to the point about the pickleball courts. He implied that the price of \$416,000 was significantly higher than expected and stated that when it had been discussed two to three years prior the estimated cost was only \$40,000-\$70,000 for one pickleball court. He acknowledged that there was site preparation that had to occur but felt that over \$100,000 per court was unexpected.

Assistant City Administrator Erin Wells explained that it included gates, fencing, benches, trash cans, and other similar expenses. She informed them that the majority of the cost was site preparation, and that the concrete itself was estimated at \$365,000. She reminded them that also included the concrete around the courts and not just the courts themselves.

Council Member Scott L. Smith asked about the gentleman who had just spoken. Assistant City Administrator Erin Wells communicated that Rob Donigan was part of BluLine, and that they had done all of the drawings and worked with them for the last few years through the process. She mentioned that he had come and presented at

the September meeting, and the only reason he was there virtually was because she had told him not to come as she thought they would not get to the topic until much later at night.

Council Member Scott L. Smith asked if the work would be bid out. Assistant City Administrator Erin Wells confirmed that it still needed to be bid. She stated that Rob Donigan had done all of the drawings and worked with a vendor who built parks to receive a general estimate given the current market rates. She explained that the next step was to go out and receive formal bids. She expressed that the idea was to do a base bid, but to include the aforementioned additives if they had additional or excess funds.

Council Member Scott L. Smith asked what amenities were in the all-abilities park. Assistant City Administrator Erin Wells explained that it was an accessible playground, but asked Rob Donigan to clarify further.

Rob Donigan said that they recommended they work with the neighborhood to see what specific features they wanted. He gave the examples of special seats for accessible swings, equipment for wheelchairs, transfer stations between different playground structures and activities, and surfacing other than wood chips. Ultimately, he said that they wanted to get creative to make things accessible and still meet the budget that they had. Council Member Scott L. Smith said that the price for the other half of the playground seemed expensive, and he wanted to see a breakdown of the expenses. Rob Donigan reiterated that it included all the site preparation and landscaping among other things.

Mayor Rod Mann asked what they wanted from City Council at the end of the discussion. Assistant City Administrator Erin Wells replied that they wanted feedback on phase one, and then at the next point that it was brought to City Council they hoped that they would be ready to act on it so it could go to bid. She said that they needed to know what other information they needed in order to be ready for that.

Rob Donigan said that they planned to do construction drawings for the entire park. They proposed the identification of a phase one base bid, as well as additional alternatives to maximize their money. He said that their design fee was not based on the inflation of the prices, but they simply wanted to give them realistic market-based prices, so they were not taken aback when the bids came in. He expressed that they would rather them be shocked now than come in with a bid that they could not afford.

Council Member Scott L. Smith asked about the area that had been set for the parks' maintenance building on the west side, and said he was under the understanding that the building would not go there anymore. He asked if they planned to design it.

Assistant City Administrator Erin Wells referred to the area in question on the drawing. She replied that the area was designed initially to be more of a flex space for whatever they decided would be good in the future. She expressed the opinion that the whole area had morphed into a flex space that included the space that the maintenance building would have gone but likely would not anymore. She stated that with the change to the maintenance building it did not make sense to do a whole redesign, so it was left as it was for the time being.

Rob Donigan said that they may put additional parking in that area and an open lawn area. Council Member Scott L. Smith mentioned that it could be a dog walking park as they had a lot of requests for that.

Mayor Rod Mann summarized that staff wanted feedback over the next week with comments, questions, and prioritizations, so they could resolve them. That way they were more prepared when it came time to decide. He told the City Council to let Assistant City Administrator Erin Wells know what they wanted to see on it.

Council Member Kurt Ostler asked when the best time to get bids was. Rob Donigan replied that everyone was pretty busy, and that fall was probably better.

Mayor Rod Mann asked if the grass they had now was anticipated to be sod if they did the bid in the fall. He said that if they did it in the fall, maybe they could do disc grass instead of sod to save some money. He explained the process was a way to seed and then do furrows.

Rob Donigan replied that they could save quite a bit of money if the grass were seeded versus sod. He noted that they currently had blue grass sod in the plan. Mayor Rod Mann said it might make sense for sod there, but they might look into seeded grass for the fields.

Council Member Kurt Ostler asked for clarification about when the bid should go out. Rob Donigan replied that they could bid it as soon as possible as long as they did not plan to start it until the next year. Assistant City Administrator Erin Wells said it would be on the 2022 schedule. She asked Rob Donigan if it would be better to bid sooner because prices would continue to rise if they waited. Rob Donigan said that they could do that, but the contractors would only hold the price for a certain amount of time. He informed them that lumber, and steel prices had both increased. He expressed that if they built in 2022, they should finish the design and get the bids locked in with favorable prices sooner rather than later.

Council Member Scott L. Smith commented that he really liked phase one. He wanted to see a detailed breakdown of the costs so he could explain better to constituents. Assistant City Administrator Erin Wells said that she could provide them what they had now but reminded them that they were only estimates. She said that they would see best when the bids came in and whether or not they were true to the estimates.

Council Member Scott L. Smith also asked if they could get specifics for the all-abilities park because the Highland Foundation had received donations of over \$7,000 for that. He thought they could do some fundraising, and also noted that they had roughly \$11,000 in the Foundation for the pickleball courts.

Assistant City Administrator Erin Wells reviewed that they wanted more specifics on the finances and details on the all-abilities park. Council Member Scott L. Smith said that Highland Foundation would meet later that month, and they could possibly start to fundraise if they had enough information.

Council Member Kurt Ostler asked if there were grants available. He also asked who could help fundraise and what donors there were. He said that they should look at other Cities.

Assistant City Administrator Erin Wells replied that they had looked for a couple of grants but said that they did not fully qualify. She said they would continue their search, especially for the all-abilities park. She expressed that they needed to understand the maintenance costs of the park as they moved forward. She said she did not have full details in terms of costs, but they felt that they would most likely need to hire a new full-time employee in the parks department. She said that they also needed to consider the additional costs in seasonal workers and general maintenance.

City Engineer Todd Trane said that they had grown a lot in the last 15 years, and that the staff in 2000 was bigger than the current staff. He expressed the strong opinion that they needed extra staff already. He said that they had looked at many different scenarios. He explained that this extra person would take over all of the pruning and fertilizing. He outlined that the current full-time parks staff was only three people: the superintendent, a person overseeing sprinklers, and a person overseeing all of the mowing. He reiterated that the extra person would take care of fertilizing and tree pruning in native areas. He expressed that was the hope, because their level of service went down as their parks increased disproportionately to staff numbers.

City Administrator/Community Development Director Nathan Crane stated that the annual cost with the inclusion of benefits was roughly \$70,000.

Council Member Kurt Ostler reminded them that they had brought up the park the previous year and were worried about the funds to maintain it. He said they had run rough numbers that the extra maintenance for that park would cost \$80,000. He asked if that included \$70,000 for the new employee and stated that they needed to be aware of annual costs.

City Administrator/Community Development Director Nathan Crane answered that they had not done calculations for maintenance for phase one but said it would be quite a bit less than that because it would not have a lawn to mow and fertilize.

Mayor Rod Mann said that maybe residents would support a RAP tax. He mentioned that he had done an estimate a few years prior and that small tax could add \$100,000. Council Member Kurt Ostler replied that sales tax had increased with COVID because everyone bought online. He said that retail went down but online sales went up, and that Highland had a lot of internet sales.

Mayor Rod Mann said that they had some options to look at for ongoing funding for maintenance, and that was what the RAP tax was for. He expressed the view that because it was a sales tax, it captured people besides the residents. He mentioned that maybe the commercial by Boyer would pick up Highland Glen. He further mentioned that Alpine residents shopped at the Highland grocery stores, and that the RAP tax could spread the burden beyond just the Highland residents. Council Member Kurt Ostler said that they also needed to find out about transportation fee before they did a RAP tax, which could give them some guidance.

Council Member Kurt Ostler asked for clarification that there was \$2,500,000 that could be spent right then. Assistant City Administrator Erin Wells said that was correct.

Mayor Rod Mann told City Council that they had a couple weeks to discuss it and provide feedback before they needed to be ready to act on it. He also told Council Member Kurt Ostler that they should talk about the fields.

Assistant City Administrator Erin Wells said that they had Brian Braithwaite online, and that there were some comments from participants on YouTube. She said that people were interested in the park. She relayed that one individual online commented that they could do all of the pickleball or all the playground as phase one to have a complete activity. Somebody else showed interest in fundraising while another had questions about the timeline. Assistant City Administrator Erin Wells clarified that they could hope for 2021, but 2022 was more realistic.

Rob Donigan replied that the prices they saw represented all of the work being done by a general contractor. He acknowledged that the City was understaffed but said that there was the ability to have a general contractor do the main infrastructure, and then the City contract directly with a court and playground contractors to do the individual projects, that could save some money. However, that option did put more burden on City staff time, but it would save some money.

Council Member Scott L. Smith expressed his thanks to staff. Assistant City Administrator Erin Wells expressed thanks to Rob Donigan. Mayor Rod Mann expressed thanks to all others who had helped over the years.

11. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

a. Budget Calendar – Tyler Bahr, Finance Director

Finance Director Tyler Bahr provided information with regards to the budget calendar and mentioned that there were some key dates to keep in mind. He said that staff was working on projections and figures that would go into the working draft to be distributed to staff near the end of March. He informed them that they planned to

have a work session on 4/13/2021, and then the adoption of the tentative budget on 5/4/2021, followed by a public open house on 5/6/2021. He said there was another work session penciled in for 6/1/2021, and then the adoption of the budget on 6/15/2021.

Mayor Rod Mann asked when the public safety budget would be finalized.

Finance Director Tyler Bahr replied that the LPPSD would align with the schedule. He said that there was a meeting with Lone Peak the following week.

Council Member Kurt Ostler expressed appreciation that they looked so far out to help keep them on schedule.

b. Future Meetings

- February 10, Lone Peak Public Safety Board Meeting, 7:30 am, City Hall
- February 16, City Council Meeting, 7:00 pm, City Hall
- February 23, Planning Commission Meeting, 7:00 pm, City Hall
- March 2, City Council Meeting, 7:00 pm, City Hall
- March 10, Lone Peak Public Safety Board Meeting, 7:30 am, City Hall
- March 16, City Council Meeting, 7:00 pm, City Hall
- March 23, Planning Commission Meeting, 7:00 pm, City Hall

Mayor Rod Mann asked if there were any more comments.

- North Pointe Waste Transfer Station – Scott L. Smith

Council Member Scott L. Smith mentioned that he met with the North Pointe Waste Transfer Station, and there had been some discussion that the City of Orem had a software program that the North Pointe Waste Transfer Station had considered adoption of. Council Member Scott L. Smith said that they wanted to work with the Cities to see if any were interested. He mentioned that the software program would help find out exactly what could and could not be recycled, as well as the services available to the public. It also could text people to remind them to put out their recycle can, and it had reminders and integrated education.

Council Member Scott L. Smith said that the transfer station would put the software program in after they picked a vendor. He asked the City Council if there was any interest in the software. He noted that he could work with Assistant City Administrator Erin Wells to see if there was any interest. Council Member Scott L. Smith said that it could provide a lot more information to residents. Mayor Rod Mann thanked Council Member Scott L. Smith for the information and commented that it could be useful for them. Council Member Scott L. Smith agreed because it would help people know about recycling, with the inclusion of technology and green waste. He noted that he would get more information to see if the City were interested, and he did not think that the price was terrible. Council Member Kim Rodela said that she was interested in it. Council Member Kurt Ostler also agreed that it would be helpful. Council Member Scott L. Smith also mentioned that they had talked about the possibility of an auxiliary transfer station being put in closer.

12. CLOSED SESSION

The Highland City Council may temporarily recess the City Council meeting to convene in a closed session to discuss the sale of real property, as provided by Utah Code Annotated § 52-4-205.

At 9:31 pm Council Member Kurt Ostler MOVED that the City Council recess to convene in a closed session to discuss the sale of real property, as provided by Utah Code Annotated § 52-4-205. Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

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

The motion passed unanimously.

Council Member Kurt Ostler MOVED to adjourn the CLOSED SESSION and Council Member Scott L. Smith SECONDED the motion. All voted in favor and the motion passed unanimously.

The CLOSED SESSION adjourned at 10:56 pm.

ADJOURNMENT

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

The meeting adjourned at 10:57 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 February 2, 2021. This document constitutes the official minutes for the Highland City Council Meeting.

Stephannie Cottle
City Recorder



HIGHLAND CITY

HIGHLAND CITY COUNCIL AGENDA

Tuesday, February 16, 2021

Waiting Formal Approval

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: 837 2743 0041

Email comments prior to meeting: council@highlandcity.org

6:30 PM REGULAR SESSION

Call to Order – Mayor Rod Mann

1. 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, as provided by Utah Code Annotated §52-4-205.

At 6:32 pm Council Member Kurt Ostler 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 Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	Absent
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 unanimously.

Council Member Timothy A. Ball arrived at 6:40 pm.

Council Member Scott L. Smith MOVED to adjourn the CLOSED SESSION and Council Member Timothy A. Ball 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 6:45 pm.

7:00 PM MEETING OPEN TO PUBLIC

Invocation – Council Member Kurt Ostler
Pledge of Allegiance – Timothy A. Ball

The meeting was called to order by Mayor Rod Mann as a regular session at 7:02 pm. 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 Timothy A. Ball.

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS

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

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, 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, Fire Chief Reed Thompson, Library Director Donna Cardon

OTHERS PRESENT: Scott Hart, Tyrell Grey, Brian Balls, Jeremy Ackley, Kelli Jensen, Bryce Westcott, Tony Johns, Dave Card, Courtney Belcher, Brannon Patrick, Jenny Patrick, Kevin A. Pace, Eric Toolson, Ron L. Peck, Tom Williams, Wesley Warren

2. UNSCHEDULED PUBLIC APPEARANCES

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

There were no public comments.

3. RECOGNITION ITEMS

a. Mayor's Award – Mayor Rod Mann

The Mayor and the City Council will recognize Highland students for their acts of service and kindness to fellow students.

This item will be moved to the March 2, 2021 meeting because the family is being quarantined due to COVID-19.

4. PRESENTATIONS

a. Recreation/Fitness Center – Community Development Partners

Tony Johns with Community Development Partners will present to the City Council a proposal for a future recreation/fitness center.

Tony John recognized Dave Card and Callin Jones who were with him that evening. It had been five months since they had been before the Council and they still very interested in working with the City of Highland and providing this type of amenity. They partnered with municipalities across the State in bringing community centers to cities similar to Highland that were 10-15 years out from being able to bond for these types of projects. They had spoken to numerous cities in the area that the facility would service and had good initial feedback. They focused on family and community involvement that was safe, clean, monitored, and supervised. Council Member Scott L. Smith had suggested a pool and they had incorporated that to an extent. He stated that they had been working with the County to purchase six acres of the equestrian center to create some open space and improve

some of the equestrian center. However, that had been turned into a mobile vaccination site, so they had to consider other areas.

Mr. John stated that in a very active community like Highland residents would have multiple passes to multiple facilities. Their model brought all the different activities into one center. It was about 165,000 to 170,000 square feet: 75,000 square feet would be a fitness center and 85,000 square feet would be a multipurpose turf field. Outdoor events cancelled due to weather could be held indoors in the versatile turf area and served a wide segment of the population. He showed a rendering of the space and talked about the wide array of activities offered including guided online services offered through an app.

Council Member Scott L. Smith asked how much acreage was in the equestrian park area. Mr. John replied 38, explaining that their footprint would have been around six acres, but they were no longer going to use that site. Council Member Scott L. Smith asked where they were going to put that now. Mr. John replied they were still looking but were still very interested in Highland.

Council Member Kurt Ostler asked what their vision for partnering with the city was. Mr. John replied that they would become the de facto fitness and community center for Highland City. This saved \$25 to \$35 million of bond funds that would be required to build it; they personally financed it. In exchange for the exclusivity rights, they would give a percentage of the net proceeds to Highland for a dedicated purpose such as trail preservation. Council Member Kurt Ostler asked if they were asking the City for a certain amount of money. Mr. John replied that one of the initial proposals was that in exchange for saving the community over \$20 million in construction costs, that the City reassess impact fees. However, they needed to find a site before they got into any of those discussions.

Council Member Kurt Ostler asked if their request was different than a 24-Hour Fitness and if they would want to have that in a residential setting. He suggested looking into a site that would not impact the residential component of the City. Mr. John replied that that was their intent, but they did not think it would be wise to put it in a residential setting. Council Member Kurt Ostler suggested a site by the Quick Quack Car Wash. Mr. John stated that they had looked at that property and were concerned about traffic. Council Member Kurt Ostler commented that they might have some zoning challenges in other areas but there were areas to look at.

Callin Jones spoke about the need for the intermediate athlete. They looked at the project as an investor when the site became available and it was not one that penciled the highest yield for them; however, this was a perfect yield for community impact. Initial negative feedback had been about preservation and keeping the area open and instead of stiff straw and narrow trails they wanted to create some really green, open space that was adjacent to some fields they could all enjoy. From a financing perspective, the project penciled well enough to make the commitments that they had as capital partners. They hoped that all of it could happen right there from a demand perspective and a support perspective.

Mr. John stated that as part of their proposal to the County with the land was that they said they would match any funds that the County would put forward to improve the site of the equestrian center. Additionally, they had gone in front of the County tax board and requested \$500,000 to match for the open space. However, it didn't look like that spot was going to work anymore. They were still interested in matching funds at another spot to improve and offer green space.

Council Member Kim Rodela commented that there was no space for her kids to practice basketball or play soccer in the wintertime because there were no indoor facilities, and it was something that lacked in the whole area. If there was an option for them to partner and complete this project then they should try to work with them to find an area for it.

Mr. John stated that people had suggested Saratoga Springs and Eagle Mountain, but they had intentions of putting one out there in addition to the Highland facility. There was a serious need that the City had that they were hoping to fulfill.

Council Member Scott L. Smith commented that something like this would be nice north of the high school. Mayor Rod Mann replied that those were lacrosse fields and the band used them to practice sometimes.

5. 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. Approval of Meeting Minutes *Administrative* Regular City Council Meeting – January 19, 2021

Council Member Scott L. Smith MOVED that the Highland City Council approve the January 19th meeting minutes.

Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

6. PUBLIC HEARING: PLAT AMENDMENT - HIGHLAND MANOR ESTATES

Administrative

The City Council will hold a public hearing to consider a request by M Brannon and Jenny Patrick to amend the Highland Manor Estates subdivision by adjusting the lot line between lots 14 and 15. The properties are located at approximately 11030 and 11060 N Manor Circle. The City Council will take appropriate action.

Kellie Bronson gave background of the plat amendment. Highland Manor Estates was approved in county in 1975, the request was to adjust the lot line between lots 14 and 15. She showed a vicinity map. The suggested amendment would give lot 15 a little bit more side lawn space. The amendment was compliant with the R-1-20 zone and the northern lot stayed over 20,000 square feet. Staff recommended Council accept the findings and approve the amendment.

Council Member Scott L. Smith asked if there had been any comments from the neighborhood. Ms. Bronson replied that she had not received any comments.

Brandon and Jenny Patrick spoke on their proposal. They had bought their neighbor's house on a cul-de-sac and wanted to extend their backyard for their kids and dog to run around. They also wanted the extra space to add

onto their home in the future. They had spoken to their neighbors and all the comments they had received had been positive.

Mayor Mann opened the public hearing at 7:29 pm. There were no public comments. Mayor Mann closed the public hearing at 7:30 pm.

Council Member Kim Rodela MOVED that the City Council accept the findings and approve the proposed plat amendment subject to the following two stipulations recommended by staff.

1. *The recorded plat shall be in substantial conformance with the final plat received January 12, 2021.*
2. *Prior to recording, the recorded plat shall be revised as required by the City Engineer.*

Council Member Kurt Ostler SECONDED the motion.

Council Member Scott L. Smith asked if they needed to delineate between the two plat amendments on the agenda. Mayor Rod Mann replied that that was a good idea.

Council Member Kurt Ostler offered a friendly amendment to approve the proposed plat amendment for Highland Manor Estates. Council Member Kim Rodela accepted the amendment.

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

7. PUBLIC HEARING: PLAT AMENDMENT - HIGHLAND MEADOW ESTATES

Administrative

The City Council will hold a public hearing to consider a request by Courtney Belcher to amend the Highland Meadow Estates subdivision to amend Lot 11 located at 5359 W Woodland Drive. The City Council will take appropriate action.

Planner & GIS Analyst Kellie Bronson gave background. The originally approved plan was part of a subdivision called Alpine Meadows from 1994. The lot with the dwelling on it was from Highland Meadow Estates, which was approved in 2000. There was an annexation in 2016 to bring the northern lot into Highland and was approved. The request was to add the annexed lot to the existing Highland lot which was already owned by the same person. She showed a vicinity map and the proposed plat. Staff recommended Council accept the findings and approve the amendment subject to 2 stipulations.

Courtney Belcher, the applicant, approached the podium.

Council Member Scott L. Smith commented that it was an unusually shaped lot and asked why she wanted it. Ms. Belcher replied that there was a quarter acre that was right behind her house and all they had was a side yard, so this would give them a backyard. She had done the work of getting it from Alpine into Highland and was now trying to consolidate the properties.

Mayor Mann opened the public hearing at 7:35 pm. There were no public comments. Mayor Mann closed the public hearing at 7:35 pm.

Council Member Scott L. Smith MOVED that the City Council approve the final plat amendment allowing the southern portion of Alpine Meadows Lot 3 to be combined with Lot 11 of the Highland Meadows Estates Plat B subdivision.

Council Member Brittney P. Bills SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

8. FINAL PLAT: THE HOLLOWs *Administrative*

The City Council will consider a request by Millhaven Development for final plat approval for a 68-lot subdivision located at approximately 10250 N 6531 W to be known as The Hollows Subdivision. The City Council will take appropriate action.

Kellie Bronson presented the final plat request from Millhaven, explaining that it was approved by City Council on September 15, 2020, with nine stipulations. Notable ones included no front access would be given from the Madison Canal Boulevard connector. Additionally, there would be a conservation easement along the wetlands in the northeastern part with fences. The developer would be allowed to include the wetland square footage in the total square footage. Finally, an irrigation ditch would be abandoned so Millhaven would have to work with Lehi Irrigation Company for that. The final plat process was not discretionary, and it shall be approved if the application complied with the requirements of the development code and the approved preliminary plat. The property owner was entitled to develop according to those standards.

Ms. Bronson discussed the changes made from the preliminary plat to their final submittal. There was an asphalt trail put in for the sewer and water connectivity and the City Engineer requested that they add a stipulation to have a road connection from one of the southern portions to Canal Boulevard. Mayor Rod Mann asked if having the road would eliminate the need for the asphalt trail. Mr. Trane replied that at that location, yes it would.

Council Member Scott L. Smith commented that it looked like there were only two places for a south connection. Mr. Trane replied that the requirement came from their general plan which gave five reasons for why there shouldn't be a cul-de-sac in certain situations. The only reason they allowed for cul-de-sacs was if there was no way to connect to an existing road so they could put it anywhere on that south side for connectivity. The developer

was proposing that Council approve the plan as it was without the connection. They didn't want to plan it until the City required it.

Council Member Kurt Ostler expressed concern about the sight line view off of 10250 North.

Ms. Bronson continued with the presentation and spoke on circulation and access. There had been special attention placed on the 10250 West. Staff had concluded that it met engineering design standards and once this was put in, the road would be widened to the standard 56-foot public right-of-way. At the time it was at 33 feet and there was a lot of vegetation up against the side that reduced visibility; however, it would be removed during construction. There had been several traffic studies on 10250 North. The Hales traffic study was done in August of 2020 and they stated that a road connection was needed for circulation. The study also projected that the subdivision as a whole would generate 750 trips per day on average, with 74 trips during evening peak hour. CRS Engineers traffic study emphasized that 225 additional trips over the week would be 23 vehicles during the peak hour: one vehicle every three minutes. CRS Engineers did a traffic count which came out to 689 trips per day on average. They recognized that might be a little high because residents were encouraged to drive more to influence the results of the study. Staff had performed their own test over a two-week period and their average came out to 563 trips per day.

Ms. Bronson noted that there had been some concerns about headlights in the intersection. They had concluded that there were many T-intersections throughout Highland. The one on 10250 was angled downwards causing the headlights to angle down. 10250 North had the capacity to serve the proposed development and the development met the standards of the R-140 zone. 25 lots were between 20,000 to 30,000 square feet, which exceeded the maximum of 25%. However, because of the wetlands they were allowed the higher percentage in that threshold and the wetlands would be given to Highland City after the approval.

For citizen participation, they were not holding a public hearing, but the appropriate notifications had been sent out. Staff recommended Council accept the findings and approve the plot with stipulations.

Council Member Kurt Ostler asked about 10250 North, and clarified that headlights would angle down. He asked if they had considered that the lights would be pointed down on the site view. Mr. Trane replied that the site distance issue had been verified by both engineering studies that had been done and the current intersection was adequate for sight distance in both directions. There would be grading done along the south edge of the road and all of the vegetation would come out.

Council Member Kurt Ostler asked if they would need to put any stipulations in for landscaping along the road. Mr. Trane replied that the current code required them to keep vegetation out of the sight triangle already. They could enforce it if they needed to, but they could put a stipulation in that Lot 15 would have some sort of grading or vegetation easement to make sure that there was sight distance.

Council Member Scott L. Smith commented that one of the road studies showed that 60% of the people traveled 5 mph above the speed limit on that road. He thought that was a concern for the neighborhood and asked about the speed limit on the road. Mr. Trane replied that according to the study the average speed was 26 mph in a 25 mph speed zone and the average speed of a speeder was 29 mph. Council Member Scott L. Smith asked if signs would be well posted. Mr. Trane replied that they would continue to post the speed as 25 mph and the biggest issue was connectivity. The requirement was that they tie into 10250 and the studies showed that the current design was adequate.

Council Member Scott L. Smith commented that they had changed the configuration of the roads and asked if that was to mitigate speeding. Mr. Trane replied that the stipulations from the general plan for culs-de-sac said they wanted to eliminate culs-de-sac wherever they could for connectivity. They also wanted to avoid long

stretches of local roads. They had made it so that people in the subdivision would be encouraged to travel out to collector roads and not travel within the subdivision. Council Member Scott L. Smith commented that the developers had done a lot to mitigate the concerns of surrounding neighbors and donated the wetlands to the City. He was very impressed with how well they had worked with Staff. Mr. Trane commented that this was not the first project that they had worked with the developer on and they had always done a wonderful job of listening and trying to meet them in the middle.

Council Member Kurt Ostler had some concerns with speed on Canal Boulevard. He asked what the speed was going to be and if there was going to be any traffic mitigation. Mr. Trane replied that they were proposing that they leave Canal Boulevard at 30 mph. The one mitigation effort they were doing was to put in concrete bulb outs at the trail crossing to protect crossing pedestrians. There were some things that were done on collector roads that acted as natural traffic mitigation such as curves, but they were going to leave the speed limit posted as 30 mph.

Council Member Kurt Ostler asked if there would be any more traffic stops put in along 6000 West. Mr. Trane replied that they did not anticipate putting in another stop. All of the local roads that connected in would be with a stop sign.

Council Member Scott L. Smith clarified that all of Canal Boulevard would be 30 mph to help move traffic along. Mr. Trane replied that they wanted to post the entire length at 30 mph.

Council Member Kurt Ostler commented that this road was going to be called the Costco road. He was concerned that this would turn into a main thoroughfare to get to the commercial area. Mr. Trane replied that there were several options for east-west connections and the hope was that traffic would disperse and people would go where it made sense.

Council Member Kim Rodela wanted to make sure that 10250 could handle the trip count. Mr. Trane replied that the concern they had was that the developer had the legal right to develop. They felt like that they had gotten that subdivision as low density as they could within the code. The developers had been great to work with, and the concern was that if they didn't connect to that road, they didn't have another option. The alternative was not making a connection and as the City Engineer he did not feel like that was an option. The trip counts for the two studies showed there would be more traffic placed on 10250 but the alternative was putting it on just one road instead of two. If they listened to residents and put in a cul-de-sac, they would be making the situation even worse and they wanted more connectivity.

Council Member Kim Rodela stated that the access was better for all Highland residents not just people along that stretch of road. Mr. Trane replied that they had sat down with the developer and had tried to eliminate a connection. They didn't want it to become a thoroughfare and wanted it to feel more like a residential road. The hope was that that access point would only be used by people who lived on the north side of the subdivision.

Council Member Kim Rodela asked for clarification on the 4th stipulation about access from Madison Avenue. Mr. Trane replied that they would not allow driveways onto Madison Avenue.

Council Member Scott L. Smith asked where the water ditch that was being eliminated was located. Mr. Trane replied that the ditch being eliminated only serviced this subdivision. It was being filled in because it would no longer be used for irrigation.

Council Member Kurt Ostler asked if they would be grading down the property. Mr. Trane replied that they would try to follow existing grades as much as possible. The current grade of the Rhinehart property was what the backyards of the new development would be.

Tyrell Grey, Millhaven Development, commented that this was a product that they were really proud of and they weren't trying to force high density. They had conceded on a lot of points and had given control of the wetlands over to the City. They adjusted the trail corridor, and the roads through the subdivision. The one thing he wanted to address were the two cul-de-sacs on the bottom and they had designed that specifically for a couple reasons. One reason was eliminating traffic on the road and the other was that it was something that the residents wanted. They were trying to develop within the code and everything that had been presented was within the code as it was written. They loved the design but understood that there was a lot behind it because of safety issues and traffic. They would like to eliminate the road if Council would allow it. There was a trail on the south that would allow the residents to access the trail across Mitchell Hollow.

Council Member Kurt Ostler asked about 9810 North. Mr. Trane replied that the road existed and they would be trying the cul-de-sac into existing roads. The proposal met the code as far as the layout was concerned but it did not meet the intent of connectivity in the general plan for public safety. He stated that it was a double-edged sword because it took out the cul-de-sac but put more traffic onto 10250. Council Member Kurt Ostler commented that he loved the new design and that the meandering through the subdivision mitigated even more concerns.

Jeremy Ackley, Millhaven Development, commented that 10250 was a hot topic and wherever they could mitigate it, not only from that subdivision, they could eliminate traffic from going straight through. He thought that over time this connector would be considered the quickest route through.

Council Member Kurt Ostler asked for an estimation of lot prices. Mr. Ackley replied \$390,000 to \$450,000 in that area.

Fire Chief Reed Thompson echoed Mr. Trane's concerns for connectivity and said wherever they could connect would be a better option for them. He said that with what American Fork was proposing with their new station was to be better able to travel east west along Canal Boulevard. If there was an emergency in that area where there would be multiple units responding it pushed them onto a different street to make that connection which could present some challenges from a response perspective. It could be mitigated but connectivity was a better option from a public safety standpoint.

Kevin Pace, a resident that lived on 6530 West, commented that if the Council was going to mandate a connection from Madison Avenue to the lower 15 lots, that the connection be offset from one of the two north roads the connected into Madison Avenue. It would mitigate traffic going north because it would create an impediment and it would disperse in an equitable manner the traffic coming south onto 6530 West.

Council Member Scott L. Smith asked if they would have to eliminate a lot to allow for connectivity. Mr. Trane replied that there might have to be an elimination of a lot and his concern with doing it in the center was that they would be creating a direct access down the road. They were trying to offset it so that people had to make turns to get down into the subdivision. There was discussion of road width and utilities. In the current code, every intersection needed to be offset by 150 feet. Mr. Trane was nervous about creating a straight thoroughfare.

Council Member Scott L. Smith commented that the Millhaven Development had made a lot of concessions, but he didn't know how they would be able to have the connectivity without eliminating another lot. He wasn't sure that the need for connectivity and safety balanced it out and the people really didn't want the connectivity. Mr. Grey commented that everyone wanted a cul-de-sac. Council Member Scott L. Smith asked if he thought they would have to eliminate a lot to put a road in. Mr. Grey replied that he hadn't looked at it, but they probably would.

Council Member Scott L. Smith commented that it would be hard for him to vote when he didn't have an idea where the road would be put. Council Member Kim Rodela asked if this was something that they could come back to later. Council Member Kurt Ostler commented that it was part of one of the stipulations, so they had to decide on it then. Mayor Rod Mann stated that they could continue the item, stipulate a road had to be put in, or not require a road.

Mr. Trane stated that there were pros and cons and that postponing it was unnecessary because if Council decided that they should move forward, they would work with Millhaven if they needed to decide where to put a road in. He recommended that Council approve without the road connection as Millhaven had requested or dictate with stipulations that they make the connection.

Council Member Timothy A. Ball wanted to hear more about the public safety issue Chief Thompson had discussed. Chief Thompson stated that anytime they could connect it was optimal. When they had structure fire assignments, they pulled resources from multiple entities coming from different directions. It was safer for the public and staff to be able to access locations from multiple points. Travel distance was also a factor and they were on the far end of the community here. The further they were from the station, the shortest route possible was the best route; therefore, having a connection eliminated would present some challenges for them. He saw this as a dividing line for them being able to travel south. Anytime they had a cul-de-sac it presented a problem for them with regards to turning around so connector streets were better for the large equipment.

Council Member Scott L. Smith commented that the developers had redesigned north of Canal Boulevard and the roads curved around and asked how changing that was any different from keeping the cul-de-sac. Chief Thompson replied that he didn't have concerns with the north side of Canal Boulevard, and it was more about connecting the two streets. Council Member Scott L. Smith commented that residents liked to live in cul-de-sac and he was opposed to the 5th stipulation.

Mr. Grey asked if 30 feet was wide enough to put a crash gate for emergency services on the trail. Mr. Trane asked what asphalt lip would be needed. Chief Thompson replied 26 feet, but that he was opposed to gates because it slowed their response time, and they would generally look for another way to get around it.

Council Member Brittney P. Bills commented that her initial instinct would be to let them keep the two cul-de-sacs. The developer had jumped through a lot of hoops already and she appreciated the safety concerns. However, he wasn't sure they would come up with a solution that would make everyone happy. Council Member Kim Rodela agreed.

Council Member Kurt Ostler brought up lot 15 and asked about a vegetation height restriction. Mr. Trane replied that he would feel comfortable if they wanted to add something to the motion about not impeding sight line, but it shouldn't be an issue and they had already discussed it with the developer.

Council Member Brittney P. Bills MOVED that the City Council approve the final plat for The Hollows Subdivision subject to the four (4) following stipulations recommended by staff and one (1) additional stipulation that there be a height restriction on vegetation for lot 15.

1. *The recorded plat shall be in substantial conformance with the final plat received February 9, 2021.*
2. *The final plat and final civil engineering plans shall be reviewed and approved by the City Engineer. The site shall meet all requirements of the City Engineer.*
3. *All required public improvements shall be installed as required by the City Engineer.*
4. *The Developer may include the wetlands as part of calculating lot sizes for lots 46-53 for purposes of plat approval, subject to developer entering into a development agreement with the City that provides that the*

wetlands and adjacent buffer property be dedicated to the City at or before final plat recordation and lots 46-53 and 56 will not include any delineated wetlands.

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>No</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed 4:1.

9. ACTION: RON PECK - PRESSURIZED IRRIGATION CONNECTIONS OUTSIDE OF CITY LIMITS *Administrative*

The City Council will review a request by Ron Peck for two pressurized irrigation connections located outside City limits. The City Council will take appropriate action.

Todd Trane gave background on the item. He stated that they had talked about these connections for several years and had worked with the applicant on several issues that had come up. The applicants were requesting two pressurized irrigation connections along 6800 West. They already had an existing connection off of 9600 North and the current request was to irrigate roughly 12 acres and a residential area of about one acre. There was a concept plan that would eventually bring six to eight lots that could be annexed into Highland. The applicant would provide water and additional shares to satisfy the water demand. The current requirement for irrigation was three acre feet of water per acre of irrigated property. The requirement for a normal development would be 36 acre feet, possibly up to 50 acre feet depending on the sprinklers used. The current proposal was that they would bring in 140 acre feet of water right to the City, and the City would pass that water through the system and provide the water. 90 acre feet of that would be stored water, which meant it would be Provo reservoir water and it would come through the Canal pipeline.

Mayor Rod Mann asked if during a bad water year their allocation ever dropped below 40%. Mr. Trane replied that it didn't drop as low as 40% but there were reductions in what they would get. The Lehi Irrigation Share generated around two acre feet of water which generated at the mouth of the canyon, and on a bad water year it could generate as low as one acre foot. Mayor Rod Mann asked if their needs would be met even on a bad water year. Mr. Trane replied yes, they had already talked at length with Mr. Peck and Mr. Williams and had made it clear they would be under the same restrictions as any other shares. During the life of the agreement, they would need to coordinate with Mr. Williams and Mr. Peck about the shares.

Council Member Scott L. Smith commented that there was 90 acre feet in the canal and that he had never seen the Murdoch Canal dry up, and asked if that was water in reserve. Mr. Trane replied that that was correct and that they used their stored water as water insurance. They used water out of the canyon as their number one source, but late in the season they had to supplement with wells and water out of the CUP line. If they ever lost their stored right in Deer Creek, then the 90 acre feet would be low, and everyone would have restrictions. They managed their water a lot better now that they had been working with Jordanelle because they always kept Deer Creek full. Council Member Scott L. Smith commented that the 90 acre feet seemed good for the City. Mr. Trane

replied that there were people in the City that didn't use all of their stored water right. The City would rent it as water insurance and use it when they needed to. This was similar to what they did with other agreements.

The current proposal was to provide 25 Lehi Irrigation shares and 22.5 Provo shares which equaled 140 acre feet of water on paper, 90 of that from the Provo shares. The applicant would use the PI system at off-peak hours between 10am and 8pm which would allow the City to better run the water through their system. Applicants would be paying \$40 per acre feet of metered usage to cover system impacts, staff time, and pumping costs. The applicant would also cover the costs of making the connection to the system.

Council Member Kurt Ostler asked if they would be paying a connection fee. Mr. Trane replied that part of the connection fee was for the meter itself. There would also be an impact fee that would not be assessed to them until they developed the property into lots and then the lots would pay the impact fees. The agreement would do two things. First, it would abandon the Harmon ditch which only supplied water to three users and had always been a problem. They would have to negotiate with the third user to also abandon the ditch before they could fill it in. Second, they were in the final stages of acquiring property for the 6800 West road project and they would have to do some piping down there for the irrigation ditch. They were currently in negotiations with Mr. Williams and Mr. Peck about the road and were waiting to finalize this agreement before finalizing a right-of-way easement for their properties.

Council Member Scott L. Smith clarified that earlier that year they had approved a third pump into the reservoir. Mr. Trane stated that that was correct, and that the Kidney pond had always had two pumps. They had an orifice plate on the Murdock Canal connection which had been removed allowing them more of an ability to put water into the pond. They didn't want to do that until they had overflow so by putting in the third pump and the overflow, they had a better ability to put water into the pond and pump it back out.

Mr. Trane said they would be eliminating the ditch and all of the water that ran through it would flow to the mouth of the canyon where they would pump it back out. Mayor Rod Mann commented that another advantage was that they would lose less water to evaporation and seepage from the ditch and so would preserve more water by running it through the pipes.

Mr. Trane stated that the staff report showed the full length they would be abandoning if they could get Mrs. Wilson off of the ditch as well. It was well over a mile of ditch and there were definitely pros to agreeing with this. If the City moved forward with the approval, they would meet with an attorney and right up an agreement with all of these terms outlined and get it finalized. Council would have to approve the agreement in its finality.

Council Member Brittney P. Bills stated that back in the March, the City had put a moratorium on requests for outside users to use their PI system for agricultural use and asked if that applied to this situation. Mr. Crane replied that that was correct because this request had been made before the moratorium had been put into place. Council Member Brittney P. Bills stated that they needed to figure out if this would have negative effects on Highland residents. She commented that the reservoirs filled during the day for use at night. If the Pecks used the water during the day, she asked how they could be sure that there would be enough water to regenerate for evening use. Mr. Trane replied that the idea was that the Pecks already had water that they weren't putting into the Highland system. They would be bringing in water to use so they would not be diminishing the output. Council Member Brittney P. Bills stated that there always seemed to be two problems with water: supply and distribution. She said this was confusing.

Mr. Trane stated that water was complicated, but the point was that the current proposal did not come with costs. The hope was that the water coming in from the Pecks was the same that would be going out to their property and the \$40/ac would cover the costs associated. Several years ago, when this was brought to the City there were not

all of these benefits but now the pros and the cons were very close. The thought was that as long as it was not impacting the current water rights then it wasn't impacting the current residents of the City.

Council Member Brittney P. Bills asked if there was a contingency plan for what would happen if things didn't go according to plan. Mr. Trane replied that if they didn't follow the agreement the City would treat them like any other resident in Highland and shut them off. Council Member Brittney P. Bills asked who would get water first if there was a shortage. Mr. Trane replied that their water rights would be treated as any other water rights.

Council Member Smith commented that it seemed they were giving excess water. Mr. Trane replied that all of these figures were assuming that it was a good water year. Council Member Kurt Ostler commented that residents used 1.5 acre feet to water their lawns and it took four acre feet to water alfalfa fields. Mr. Trane replied that they had taken that into consideration and that the Peck's were water 12 acres of alfalfa which was between 36 to 50 acre feet of water which was pretty much 3Xs. The Pecks were providing 140 acre feet of water on paper and all of the connections would be metered so they would know how much they were using.

Council Member Rodela asked if there was an ability to revise the \$40 per acre feet fee as needed if that didn't cover the actual cost. Mr. Trane said that they had come up with the \$40 figure after looking at the pumping costs for the current PI system and they rounded up for time and maintenance. Mr. Peck felt that this was a fair compromise. Mayor Rod Mann stated that if they had to raise the City's water rates in general, they would be subject to that as well.

Council Member Rodela asked what was going to happen to the abandoned ditch. Mr. Trane replied that it could be filled in. Council Member Rodela asked who would be responsible for filling it in, to which Mr. Trane said they would have to discuss it.

Council Member Scott L. Smith asked Mr. Peck what his watering schedule would be. Ron Peck, Highland resident and owner of the Peck Ornsby construction company, wanted to build in Highland but couldn't because of sewer lines. He had 25 shares of Lehi water, which the City could get in without pumping, and 22.5 Provo shares, which had a much higher value, and nine Highland City shares. All of this was valued at over a million dollars and 4 times more water than they would use, and they would pay the fee of \$4K/year. He wanted to farm and they had horses. In December 2019, he had brought this to Council and 12 different citizens from Highland had come because they wanted to get rid of the ditch. He was going to have to spend \$5,000 to \$10,000 to put in lines and sprinklers. This would save the city around \$100,000 on the 6800 West project.

Mr. Peck stated that they would probably water every eight days and he didn't think alfalfa was any worse than normal grass and the roots went down three to four feet so they held water. He stated that they would water a different section each day for about eight to nine hours. It helped everyone to not have the ditch and since they were giving a lot of water and he didn't know they he would need to pay for the connection from the road to meter he asked that instead of a \$40/acre fee. Could that fee be lowered to \$25/acre since the City would not have to pump his Lehi shares.

Council Member Smith asked if he developed the land, would he develop on the Highland side. Mr. Peck replied yes, he would like larger lots in Highland. He hadn't decided if he was going to develop or not but when he died his kids would because they weren't farmers. He had done 50 lots in Lehi on the south side of the farm.

Council Member Ostler clarified that Mr. Peck would put six to eight lots in Highland. He commented that this property was outside of Highland boundaries and was within the Lehi annexation plan and part of the Highland plan. He stated that if they supplied water to someone outside of Highland then they would have to enter into an agreement stating they would come into Highland and that they would pay impact and connection fees at the time of connection. Mr. Peck replied that he didn't know if he could get eight, but potentially yes. Council Member

Ostler asked if Mr. Peck was willing to follow through with that kind of agreement. His concern was that Mr. Peck would not be paying any impact fees. Mr. Peck replied that he was fine to flood irrigate but felt that this was win win situation.

Council Member Ostler commented that Lehi had irrigation lines on Mr. Peck's property and asked where they were. Mr. Peck explained the layout of the lines. He stated that he had spoken to Lehi and if he annexed into the City, then he could use their lines. However, he didn't want to annex into anything until they did the development.

Council Member Smith commented that it was easy to get hung up on annexation and it was easy to lose land in the process. Council Member Ostler asked if Mr. Peck would be okay with bringing six lots into Highland. Mr. Peck replied that it was three acres and it depended on what was available because he didn't want to pump the sewer lines.

Council Member Bills asked about the reservoir regenerating at night. Mr. Trane replied that he could not say 100% that it wouldn't create an issue. If a pump went down at Canterbury Pond, then they wouldn't be pumping as much as they should into the system and regenerating the ponds. There were all sorts of situations in which adding a 12-acre parcel of alfalfa could cause an issue. However, with the plan that they had in place they felt they could supply the water and still not create an impact on existing residents because it was water in and water out.

Council Member Smith commented that the Pecks would have their water metered. A lot of residents wouldn't be metered so they would be watching the Peck's more closely. It seemed they were being stricter with the Pecks. Mr. Trane replied that it was a give and take because they weren't charging impact fees. The Pecks were in charge of putting in their own meters and so they had tried to find a happy medium between the impact and the benefits.

Council Member Ostler asked about the three connections. Mr. Trane replied that there was an existing connection and that they would be adding two new connections.

Tom Williams, applicant, stated that part of dealing with farming and water was that it was a give-give all the time. He watered when it was available to him to water, he didn't demand it. This gave both parties more flexibility to water when needed and they could set up a schedule so that they didn't put a great demand on the system. Mr. Trane commented that they would treat this like they were irrigation shares, late season they would end their season short based on the water availability. They would give the City an allocation and everything would be written into a contract.

Council Member Smith commented that Mr. Peck and Mr. Williams had bent over backwards to make this work and the City staff had done a lot of work. He was in favor of eliminating the ditch because there was always a risk when there was water running pretty fast that there would be an accident. He thought that they should support the proposal to bring some property into Highland and eliminate the ditch and that it was a benefit for everyone. Mr. Peck commented that people had been cutting into the ditch and watering their gardens illegally.

Council Member Bills clarified that this wouldn't bind them to anything in the future. Mr. Crane replied that they would have to update certain sections of the code, but each individual request would have to be reviewed and stand on its own merits and the Council had discretion.

Council Member Ostler wanted it to be fair to Highland residents. He asked how many Highland users that watered over seven acres. Mr. Trane replied none, the highest user they had was close to five acres. He stated that the Pecks would be restricted to the amount that they proposed, 36-50 acre feet of water.

Mr. Williams commented that they were taking the biggest risk because they were eliminating their delivery system and would be counting on the City that the system could deliver. If Mr. Peck did the development, then he would be committing himself to the City and that he was going to develop anyway. At the time he pumped up the hill with Mitchell Hollow ditch that came through county property. Council Member Ostler asked what water shares he had in the Mitchell Hollow Ditch. Mr. Williams replied American Fork. Council Member Ostler asked if Mr. Williams planned on annexing into Highland. Mr. Williams replied that his property sloped on the back and if he did develop, he could develop on one lot but everything behind him sloped down so the natural thing to do would be annex into Lehi on the back end of the property. His house was on the road would naturally come into Highland. Mr. Trane replied that that would make sense because they would be providing pressurized irrigation to the home. It was currently on Highland culinary water and on the septic for sewer.

Council Member Smith commented that the properties on 6800 could annex into Highland and could have larger lots in Highland. Mr. Trane commented that everything south of 9600 in the current zoning was R-120.

Council Member Ostler asked if he would be okay with putting this into the agreement. Mr. Peck commented that 25 years ago they only had wells and so they had a Highland water line that went down to three houses on his property.

Council Member Ostler commented on water pressure and stated that they needed to evaluate if this would be benefit or a detriment to Highland residents. Mr. Trane stated that in theory this shouldn't impact residents because they were requiring them to water between 10m and 8pm. There were some residents in town allowed to pump during the day because they couldn't get enough pressure but that was an isolated situation where there were very small pipes. So yes, it would impact the system, but they were bringing in the water and eliminating a ditch and piping and they needed to weigh the pros and cons. As staff they felt they had reached a solid agreement that benefited both parties. 6800 West was a serious road issue and they needed that property.

Mayor Rod Mann commented that watering during the day wasn't an issue for him because they weren't setting a new precedent.

Council Member Smith commented that if a child drowned in the ditch all of this became a moot argument. Council Member Ostler replied that it wasn't rushing water but that there was still a safety concern.

**A comment was made from an unknown audience member expressing concern over the safety of the ditch. Mayor Mann informed the individual that they were not in a public hearing and he was out of order.*

Council Member Ostler asked how the \$40 fee was calculated. Mr. Trane replied that they had looked at daily pumping and Rocky Mountain Power costs for different irrigation locations to average what it cost to pump one acre foot of water. Council Member Ostler stated that Lehi charged outside users twice the fee, but they weren't allowing any outside users to connect at that time.

Council Member Scott L. Smith MOVED that the City Council approve the request by Ron Peck for Pressurized Irrigation Connections Outside of City Limits with the condition that when they decide to develop property they bring 6-8 lots on the east side into Highland City.

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*

<i>Council Member Kurt Ostler</i>	No
<i>Council Member Kim Rodela</i>	Yes
<i>Council Member Scott L. Smith</i>	Yes

The motion passed 4:1.

The meeting recessed at 9:40 pm.

The meeting reconvened at 9:50 pm.

10. ACTION: FUNDING FOR ADDITIONAL PARK EMPLOYEE EXPENDITURES *Administrative*

The City Council will consider a request to add an additional full-time employee to the Parks Department and funding to allow for the training of a new employee to replace an employee who is retiring. The City Council will take appropriate action.

Todd Trane explained that with the expansion of parks and the proposal to put money into Mountain Ridge and move forward with the project. The City's parks staff had actually gotten smaller over time while the service area was getting larger. The level of service was getting worse with time and this was trying to get back to a place where they could provide the level of service they wanted to. This proposal would create a new full-time position that would be over fertilizing and pruning which had typically been a seasonal employee.

Mr. Trane stated that for winter work they utilized their staff for what their needs were. They plowed snow and were assigned winter projects, so they did other things in the winter. In the future they would try to do more trail maintenance in the winter, maybe ditch filling.

Council Member Kurt Ostler MOVED that the City Council authorize the funding for a new Public Works Operator I in the parks department and the funding for the hiring of an employee to replace our retiring sprinkler repairperson.

Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

11. SERVICE BID: LIBRARY CATALOG MANAGEMENT SYSTEM *Administrative*

The City Council will consider a request to approve a service bid with ByWater Solutions to provide the Koha open-source library management and authorize the City Administrator and City Recorder to execute the necessary contract documents. The City Council will take appropriate action.

Mayor Rod Mann offered his endorsement of this service bid. Donna Cardon, Library Director, stated that since 2016 they had been using a Sirsi Dynix called workflow to manage the library catalogue system. It was expensive and cost around \$12,000/year and they had not been pleased with their customer support, so she had been looking into a newer catalogue system called Koha. This was an opensource software, but they could contract through a company called ByWater to manage the system for them. After initial migration costs of about \$8800, it would cost around \$3,000/year. Spanish Fork and Wasatch County had both migrated and were happy with the customer support through ByWater and that the migration had gone smoothly. She had contacted the City's IT people and the NUCLC to see if there would be any problems and they were all okay with the decision. There was some unallocated money in the budget adjustment that could cover the migration costs.

Council Member Rodela asked if they would lose any features that they currently had. Ms. Cardon replied that the functionality was equivalent but the only hit they would take was the appearance of the online catalogue. However, it was an opensource product and so it was constantly being developed. Council Member Rodela commented that she liked that it was opensource and that that was an advantage. Ms. Cardon replied that it was, Sirsi held their data hostage and once it was in open source, they would have complete control over their own data.

Council Member Kim Rodela MOVED that the City Council approve the service bid and authorize the City Administrator to sign a contract with ByWater Solution to provide the Koha open source library management. Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

Council Member Ball wanted to know if the library was still accepting book donations. Ms. Cardon said that the old book drop had been refurbished and was in front of the library doors for donations.

12. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

The City Council may discuss and receive updates on City events, projects, and issues from the Mayor, City Council members, and city staff. Topics discussed will be informational only. No final action will be taken on communication items.

a. 2021 Annual Citizen Survey

Mr. Crane stated that last Thursday they had emailed out a copy of the proposed annual survey to the Council. They wanted to put it out with the March newsletter, so the final draft needed to be completed the following week.

Council Member Ostler commented that questions 11 and 12 covered the library and asked if those questions were covered in the library survey that had recently been done. Ms. Harden replied that the survey from the library that had gone out was specifically related to spaces that might included in a community center and didn't cover anything about programming.

Council Member Rodela commented that she would like the survey to be per adult, not per household. Council Member Smith agreed. Council Member Ostler asked how they would be able to monitor that. Mayor Rod Mann replied that you would look for outliers and that they currently didn't have an issue with that. Council Member Smith suggested one per voter. Mayor Mann stated that some people weren't registered to vote so adult was a better word. Council Member Smith asked what age they defined adult. Mayor Mann replied that they would leave it up to people. Mr. Crane stated that they could put the wording on the first page and that they asked for demographics and the results were a snapshot in time and not statistically valid. Mayor Mann commented that they promoted the survey online.

Council Member Bills asked about open space. She stated that question 7 explained open space subdivisions and how they were charged \$20/month, but she wasn't sure it should be phrased as it was, and she was concerned that residents would have a hard time deciphering how question 7 was different from question 9. She thought question 16 was interesting and wondered how many people knew about that open space fee. She also wondered if they needed to be crafty how they framed questions about changing road and open space fees into taxes.

Council Member Smith agreed with her concerns and said that they were beating around the bush. He wondered if there was a way to word a question about losing fees and raising taxes. Mayor Mann asked what bush they were beating around. Council Member Smith replied about fees and taxes.

Council Member Ostler stated that they needed to educate before because everyone was going to vote no on a property tax increase. If they had to go out for the road then they needed to be careful with their message to residents. The safety fee and open space were other separate issues.

Council Member Ostler commented that the court case wasn't lost on the fee, but how Pleasant Grove had charged it. He thought they should educate before they presented the question. Council Member Bills stated that she thought they just needed to frame the question the right way so if they needed to have a discussion on property taxes later, they would have presented the question appropriately. Council Member Rodela suggested they put all of the open space questions together.

Council Member Bills asked what they wanted to get out of question 16. Council Member Rodela commented that it would be interesting to know whether people in the open spaces knew they were paying a \$20 fee.

Mayor Mann said that there had been an open space question on the last survey and that the percentage of respondents almost matched the actual. Mr. Crane said that that told them who was responding to the surveys and it told them who they needed to educate.

Council Member Ostler commented on the open space fee and because it was a City fee it was not disclosed. He asked if there was a way to let people moving into open space know about this fee. Mr. Crane replied that they were informed when they signed up for utility fees. Council Member Rodela commented that she thought people know that they were paying a \$20 fee, but they didn't know that not everyone was paying it. Council Member Ostler commented that question 7 helped explain that and stated that he wanted to ask a question specifically about Mountain Ridge Park. The Council agreed.

Council Member Bills commented on questions 4, 5, 7, and 9 and how they offered 4 different funding options. She wondered if the average voter would be able to distinguish between the 4 different sources and decide which one was better. Council Member Ostler commented that on a good survey you asked the same question 3 different times at the beginning, middle, and end to see if the answers came back consistent. He thought that wording the questions correctly was important. Mayor Mann stated that question 9 was redundant of question 4. Mr. Crane said that the idea was to try to capture issues that the Council had talked about. Council Member Ostler

suggested asking about maintenance in a way they explained what they had done and ask if a change was noticed. Mayor Rod Mann said they asked question 6 year after year to compare responses.

Council Member Ostler asked if the survey was reflective of what they were trying to focus on as a Council. Mayor Mann said there were key questions that they had every year and he thought that keeping those was good so they could compare each year's response. The other questions were for Council about policy.

Council Member Smith said he didn't understand the purpose of question 8 if people were going to be voting on it in November. Mayor Mann replied that he had heard from multiple people asking that the Council make that decision early because having it go to vote again would create dissension in their neighborhoods again. Council Member Smith said he supported the first referendum and the petition said to put it to public vote. However, Council circumvented the issue, and his concern was setting a precedent for circumventing the referendum process. Mayor Mann stated that if they got a large enough sample size then the poll would be accurate and if it came back 90/10 Council would have to decide if it was better to let it go to vote to preserve the process or settle it right there. It would be up to them, but a petition wasn't necessarily representative of the City as a whole and he thought the question had value.

Council Member Smith commented that when people went through all the work with a referendum and then Council circumvented it, it didn't feel right to him. Mr. Patterson commented that Council could always undo its own decisions unless there were contracts and rights invested. It was legal to do but as a policy matter it was their call. There was a lot to be about going to a vote and if they looked at it as a purely statistical question, it would be interesting to see what kind of split they would get on the survey versus the actual vote.

Council Member Smith stated that from a procedure standpoint it would be nice to go to public vote to allow the people to decide and he didn't know the purpose of this. Mayor Mann replied that the purpose was to get a sense of where the people were and give the Council an opportunity to decide if it made sense to go to a vote or not.

Council Member Smith asked that when the referendum was put to a vote, could Council decide that they weren't going to do that. Mr. Patterson replied yes, the referendum was a request and by the nature of the petition it was people who were challenging the City Council's action. The Council can take that into consideration and repeal their own ordinance or decide to proceed and wait for the vote to come out. Council Member Smith asked about the legality of a referendum. Mr. Patterson replied that they had to go to vote unless Council undid the ordinance that was being referred to, but they couldn't proceed with what they were doing until an election was held.

Mayor Mann asked when the deadline to get the bill out to print was. Mr. Crane replied that they had to have the draft to the printers on Monday. Mayor Mann proposed that any revisions or eliminations be shared with Nathan and Erin and copy the Council on the email so that on Thursday it could be finalized and ready to send to the printer on Monday.

Council Member Smith said that if he was someone in the City and read question 8 it would sound like the City had surplus all of the parks and trails in Wimbledon, which was not what had happened. He thought there should be some explanatory information. Mayor Mann read the question. Council Member Ostler suggested "outer part of the trails," Mayor Mann suggested adding the percentages into the question.

Wesley Warren asked what the purpose of question 8. He suggested posing a hypothetical question. Mayor Mann replied that this question was related to this specific issue.

b. Future Meetings

- February 23, Planning Commission Meeting, 7:00 pm, City Hall
- March 2, City Council Meeting, 7:00 pm, City Hall

- March 10, Lone Peak Public Safety Board Meeting, 7:30 am, City Hall
- March 16, City Council Meeting, 7:00 pm, City Hall
- March 23, Planning Commission Meeting, 7:00 pm, City Hall

ADJOURNMENT

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

The meeting adjourned at 10:43 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 February 16, 2021. This document constitutes the official minutes for the Highland City Council Meeting.

Stephannie Cottle
City Recorder



CITY COUNCIL AGENDA REPORT

ITEM #5

DATE: March 2, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Kellie Bronson
Planner and GIS Analyst
SUBJECT: PUBLIC HEARING/ORDINANCE: Text Amendment - Storage Facilities in the Professional Office Zone *Legislative*

PURPOSE:

City Council will hold a public hearing to consider a request by Isaac Patterson to amend Section 3-4929 in the Development Code to allow the leasing of moving vehicles in storage facilities in the Professional Office Zone. The City Council will take appropriate action.

BACKGROUND:

The applicant's property includes Highland Hideaway Storage and the Highland Business Park located in the Sunset Mountain subdivision. These properties are in the Professional Office (PO) Zone.

The PO Zone was approved in 2003. The zone was written to accommodate the storage facility and a number of office buildings along Highland Boulevard. A Development Agreement was also approved in 2003.

The Development Code states that the purpose of the PO Zone is to define a "range of goods and services" to be offered to the community not found elsewhere in the city. The intent is to "establish a standard for professional office and storage facility development" while maintaining Highland City's "open, rural atmosphere".

A development code amendment is a *legislative* process.

SUMMARY OF THE REQUEST:

1. The proposed amendment allows for the leasing of moving vehicles as part of storage facilities in the P-O Zone.
2. Up to two (2) moving vehicle may be displayed outside of the enclosed storage facility. A maximum of six (6) moving vehicles may be stored *inside* the storage facility, meaning they are stored in structures containing a roof with no side walls where screened from outside views.

CITIZEN PARTICIPATION:

Appropriate notice of the public hearing was posted on February 11, 2021. The City Council meeting notice was published in the Daily Herald on February 27, 2021 and posted on the state and city websites February 25, 2021. No written correspondence has been received.

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on February 23, 2021. There was no citizen comment. The Commission clarified that the leasing of moving vehicles is only being allowed for the storage facility, not the rest of the PO District. The applicant also shared that the leasing will be a service for the public, not just for renters of the storage units. The purpose of allowing two vehicles to be visible and for easy pickup/ drop off. The Commission voted unanimously to recommend approval of the text amendment.

ANALYSIS:

- Section 3-4901 of the Development Code specifies that the PO Zone's purpose is "to define a range of goods and services which may be offered by professional and service entities within the community". Storage sheds have been included in this purpose.
- The PO Zone includes a section dedicated entirely to what is to be permitted in storage facilities (see Attachment 3).
- The proposed amendment allows six (6) moving vehicles to be stored in structures containing a roof with no side walls where screened from outside view. This is similar to the existing requirement for storing boats and trailers (see Attachment 3).

FINDINGS:

The proposed amendment appears to meet the following findings:

- It is consistent with the purpose and intent of the PO Zone.
- It is consistent with the General Plan.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends that the City Council conduct a public hearing, discuss the issues, and **APPROVE** the proposed amendment.

I move that the City Council accept the findings and **APPROVE** the proposed amendment to allow the leasing of moving vehicles in storage facilities in the PO Zone based on the following findings: (The Commission will need to draft appropriate findings.)

ALTERNATIVE MOTION:

I move that the City Council **DENY** the request for a text amendment in Section 3-4929 of the Development Code based on the following findings: (The Commission will need to draft

appropriate findings.)

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

ATTACHMENTS:

1. Ordinance
2. Narrative
3. Development Code Section 3-4902 Conditional Uses, 3-4903 Prohibited Uses, and 3-4929 Storage Facilities

ATTACHMENT 1:

**AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING
HIGHLAND CITY DEVELOPMENT CODE SECTION 3-4929 AS SHOWN
IN FILENAME TA-21-02.**

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the "Commission") and the Highland City Council (the "City Council") were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Commission held a public hearing on this Ordinance on February 23, 2021 and

WHEREAS, the City Council held a public hearing on this Ordinance on March 2, 2021.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1. ADOPTION "3-4929 Storage Facilities" of the Highland City Development Code, is hereby *added* as follows:

3-4929 Storage Facilities

The following articles shall apply to the storage facilities within the Professional Office zone.

1. All goods and wares shall be stored within an enclosed building, except that boats and trailers may be stored in structures containing a roof with no side walls where screened from outside view. This provision shall not be interpreted to permit the storage of partially dismantled, wrecked or inoperable vehicles.
2. No storage facilities shall be used for the storage of hazardous materials in violation of the provisions of the Uniform Fire Code or the Uniform Building Code.
3. The repair, reconstruction or construction of any boat, vehicle, small engine, furniture or other items which require the use of gasoline, paint remover or similar materials is prohibited.
4. It shall be unlawful for any owner, renter or operator of a storage facility or any unit located therein to offer for sale or sell any item of personal property within the storage facility, or to conduct any type of commercial activity on the premises, other than the leasing of the storage units, leasing of moving vehicles, or to permit the same to occur.
- 4.5. A maximum of two (2) moving vehicles may be displayed outside the enclosed storage facility, with the ability to store an additional maximum of six (6) moving vehicles inside the storage facility, provided that said vehicles are stored in structures containing a roof with no side walls where screened from outside view.
- 5.6. No other residence or dwelling structure is allowed, except as is provided in 3-4903(2). No storage facility shall be used for permanent or temporary living quarters.

6.7. The applicant shall provide to the Planning Commission for their approval rules and regulations governing the use of the storage units. Said rules and regulations shall become a condition of approval in the conditional use process and shall include as a minimum rules governing hours of operation and a traffic circulation and mitigation plan.

SECTION 2. That the Mayor, the City Administrator, the City Recorder and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose of this Ordinance.

SECTION 3. REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 4. SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 5: EFFECTIVE DATE This Ordinance shall be in full force and effect from March 2, 2021 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, March 2, 2021.

HIGHLAND CITY, UTAH

Rodney W. Mann, Mayor

ATTEST:

Stephannie Cottle, City Recorder

COUNCILMEMBER	YES	NO
Timothy A. Ball	<input type="checkbox"/>	<input type="checkbox"/>
Brittney P. Bills	<input type="checkbox"/>	<input type="checkbox"/>
Kurt Ostler	<input type="checkbox"/>	<input type="checkbox"/>
Kim Rodela	<input type="checkbox"/>	<input type="checkbox"/>
Scott L. Smith	<input type="checkbox"/>	<input type="checkbox"/>

Narrative for Amending Code Section 3-4929

The Professional Office Zone was originally created and approved in the early 2000's to allow for "a range of goods and services" to be offered to the community not found elsewhere in the city. Specifically, the intent was to "establish a standard for professional office and storage facility development" while maintaining Highland City's "open, rural atmosphere."

It is very common for moving vehicles to be leased from self-storage facilities. Adding this service opportunity to the code will likely benefit many members of the community when moving themselves or for family members. The proposed limit on displayable vehicles maintains the flavor for which the Professional Office Zone is authorized, as does the requirement to store additional vehicles in a screened, roofed, and out of view location. We respectfully request your support for the proposed amendment.

3-4902 Conditional Uses

The P.O. Zone is intended to allow the provision of professional services, and not general retail commercial. As noted in the following sections, the only uses allowed within the P.O. Zone shall be Conditional Uses which satisfy the primary intent or purpose for the Zone and which are subject to special conditions as may be imposed by the planning commission or city council. All such conditional uses are subject to additional conditions considered appropriate and necessary by the Planning Commission and City Council. Those uses which are incompatible with the desired land use for the P.O. Zone are prohibited. Following is a list of conditional uses for the P.O. Zone, subject to the standards and procedures established in this Code.

1. Professional offices and services including but not limited to: architects, engineers, contractors, real estate offices, property managers, and mortgage and title offices.
2. Financial or legal offices consisting of but not limited to: banks, insurance offices, and law or accounting offices.
3. Medically related offices/services consisting of but not limited to: doctor's office, dentist's office, pharmacy, physical therapy, optometrists, chiropractors, counselors, and psychiatrists.
4. Other types of Professional Services including but not limited to: information technology services, marketing, travel and employment agencies, journalists, collection agencies, educational services, music studios, photography studios, churches, colleges & schools (academic, pre-schools, special education, indoor instruction only).
5. Art and craft galleries, and studios for the teaching of arts and crafts.
6. Storage sheds not exceeding nine (9) acres as set forth in Exhibit "A".

(Adopted: 12/16/2003)

3-4903 Prohibited Uses

In the P.O. Zone, any use not expressly listed as a conditional use shall be evaluated by the planning commission for compatibility.

1. Residential occupancy is not allowed in the professional offices or storage sheds themselves, but living quarters for full-time employees having onsite responsibilities for this storage facility may be permitted as part of the conditional use process.

(Adopted: 12/16/2003)

3-4929 Storage Facilities

The following articles shall apply to the storage facilities within the Professional Office zone.

1. All goods and wares shall be stored within an enclosed building, except that boats and trailers may be stored in structures containing a roof with no side walls where screened from outside view. This provision shall not be interpreted to permit the storage of partially dismantled, wrecked or inoperable vehicles.
2. No storage facilities shall be used for the storage of hazardous materials in violation of the provisions of the Uniform Fire Code or the Uniform Building Code.

3. The repair, reconstruction or construction of any boat, vehicle, small engine, furniture or other items which require the use of gasoline, paint remover or similar materials is prohibited.
4. It shall be unlawful for any owner, renter or operator of a storage facility or any unit located therein to offer for sale or sell any item of personal property within the storage facility, or to conduct any type of commercial activity on the premises, other than the leasing of the storage units, or to permit the same to occur.
5. No other residence or dwelling structure is allowed, except as is provided in 3-4903(2). No storage facility shall be used for permanent or temporary living quarters.
6. The applicant shall provide to the Planning Commission for their approval rules and regulations governing the use of the storage units. Said rules and regulations shall become a condition of approval in the conditional use process and shall include as a minimum rules governing hours of operation and a traffic circulation and mitigation plan.

(Adopted: 12/16/2003)



CITY COUNCIL AGENDA REPORT

ITEM #6

DATE: March 2, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Kellie Bronson
Planner & GIS Analyst
SUBJECT: PUBLIC HEARING/ORDINANCE: General Plan Amendment – Neighborhood Option Trails Legislative

PURPOSE:

The City Council will hold a public hearing to consider a request by the City Council to amend the General Plan to reclassify Neighborhood Option Trails to Neighborhood Trails in the Trails Master Plan. The City Council will take appropriate action.

BACKGROUND:

The Highland City General Plan was adopted in 2008 and included a Trails Master Plan. In 2013, the Council amended the Trail Master Plan and included six different types of trails as follows:

<i>Proposed Trail Types</i>	
Main City Trails	Trails that serve as both a transportation and recreation purpose and have a high use. These trails provide connections to parks, schools, employment areas, and to existing or planned trails regionally or in surrounding cities such as the Utah County Equestrian Park, American Fork Canyon, and Bonneville Shoreline.
Murdock Canal Trail:	This trail is the main spine of the trail system. Providing connections to this trail is a priority. The trail will be owned and maintained by Utah County.
Neighborhood Trails:	These trails are an integral part of the open space area and/or park, typically serve a neighborhood and have a low to moderate use.
Connector Trails:	These trails connect parks, schools, neighborhoods, and open space to the main city trials. They serve as both a transportation and recreation purpose, have a moderate use, and are typically short in length.
Neighborhood Option Trails:	Typically part of open space neighborhoods and serve the local neighborhood. These trails may be removed if determined by the neighborhood/subdivision without an amendment to the Trails Master Plan.
Dashed Light Blue	Trails identified in either open space neighborhoods or on the existing trail master plan that are not yet constructed and should be eliminated.

After months of deliberation, changes, input from the Planning Commission, and residents, the City Council implemented an ordinance on February 3, 2013, that created a

process and conditions for city property within an Open Space subdivision to be sold which included the removal of Neighborhood Option Trails. This enabled the Neighborhood Option Trails to be removed and sold without needing a General Plan amendment.

On January 14, 2020, the City Council placed a one-year moratorium on the removal of Neighborhood Option Trails. The Council has discussed this issue since that time. The Council directed Staff to begin the process to eliminate the option of removing Neighborhood Option Trails.

In January, Staff began the process to amend the Trails Master Plan to remove the Neighborhood Option Trails classification and reclassify these trails as Neighborhood Trails. This amendment requires public hearing(s) before the Planning Commission and City Council.

A general plan amendment is a *legislative* process.

SUMMARY OF THE REQUEST:

1. The proposed General Plan amendment is to reclassify Neighborhood Option Trails to Neighborhood Trails.

CITIZEN PARTICIPATION:

Notice of the public hearing was published in the Daily Herald on February 6, 2021 and posted on the state and city websites on February 4, 2021. On January 25, a notice of intent was mailed to affected entities including public utility facilities (Rocky Mountain Power, Comcast, Dominion, etc.), Utah County, neighboring cities, and the Alpine School District. No written correspondence has been received.

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on February 23, 2021. There was no citizen comment. The Commission voted unanimously to recommend approval of the General Plan amendment.

ANALYSIS:

- The reclassification to Neighborhood Trails means that in order to remove a trail, the City must go through a General Plan amendment. This will require a more extensive review of the removal and public hearings before the Planning Commission and the City Council.

FINDINGS:

The proposed General Plan amendment appears to meet the following findings:

- It is consistent with the goals and policies found in the *Parks, Recreation Facilities and Trails* section of the General Plan.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends the City Council hold a public hearing and **APPROVE** the proposed General Plan amendment.

I move that the City Council accept the findings and **APPROVE** the proposed General Plan amendment to reclassify Neighborhood Option Trails to Neighborhood Trails in the Trails Master Plan.

ALTERNATIVE MOTION:

I move that the City Council **DENY** the proposed General Plan amendment to reclassify Neighborhood Option Trails to Neighborhood Trails based on the following findings: (The Council will need to draft appropriate findings).

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING THE HIGHLAND CITY GENERAL PLAN RELATING TO NEIGHBORHOOD OPTION TRAILS AS SHOWN IN FILENAME (GP-21-01).

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the “Commission”) and the Highland City Council (the “City Council”) were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Commission held public hearing on this Ordinance on February 23, 2021; and

WHEREAS, the City Council held a public meeting on this Ordinance on March 2, 2021.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1. That the Highland City General Plan is hereby amended as shown on “Exhibit A”, attached and incorporated herein by reference.

SECTION 2. That the Mayor, the City Administrator, and the City Recorder are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose of this Ordinance.

SECTION 3. This Ordinance shall take effect immediately after posting.

SECTION 4. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct, and independent of all other provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Highland City Council, March 2, 2021.

HIGHLAND CITY, UTAH

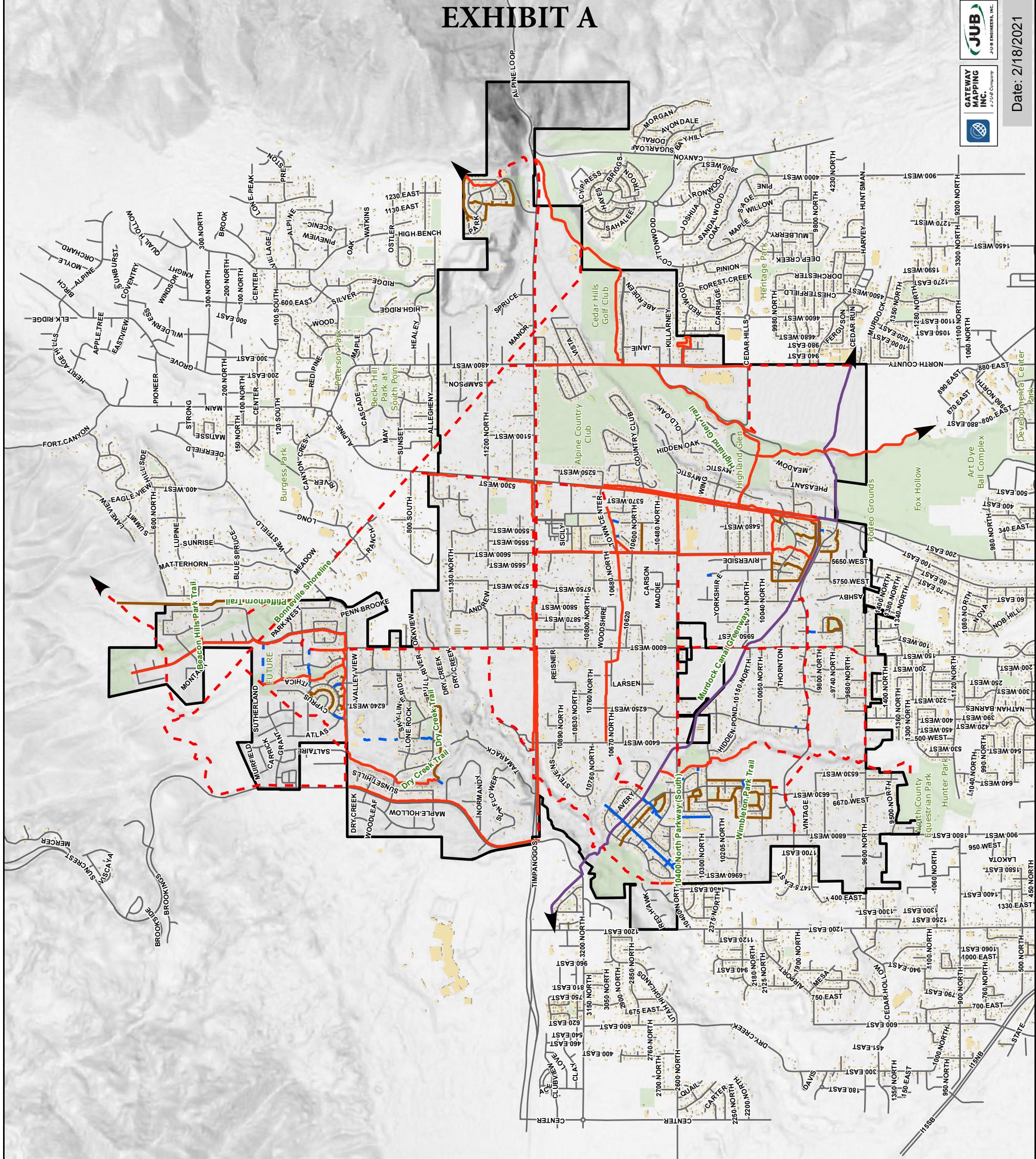
Rodney W. Mann, Mayor

ATTEST:

Stephannie Cottle, City Recorder

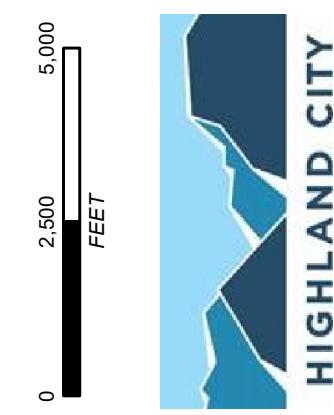
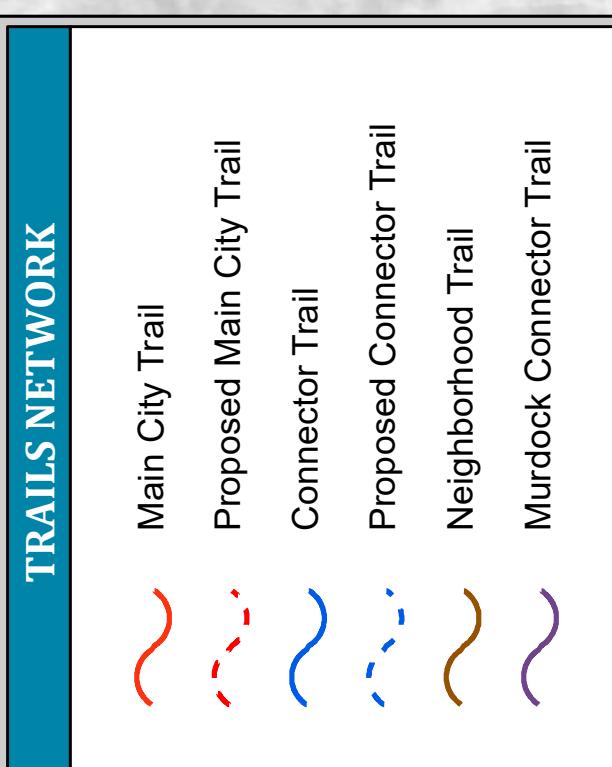
COUNCIL MEMBER	YES	NO
Timothy A. Ball	<input type="checkbox"/>	<input type="checkbox"/>
Brittney P. Bills	<input type="checkbox"/>	<input type="checkbox"/>
Kurt Ostler	<input type="checkbox"/>	<input type="checkbox"/>
Kim Rodela	<input type="checkbox"/>	<input type="checkbox"/>
Scott L. Smith	<input type="checkbox"/>	<input type="checkbox"/>

EXHIBIT A



CITY OF HIGHLAND

Trails



HIGHLAND CITY

Date: 2/18/2021





CITY COUNCIL AGENDA REPORT

ITEM #7

DATE: March 2, 2021
TO: Honorable Mayor and Member of the City Council
FROM: Kellie Bronson
Planner & GIS Analyst
SUBJECT: RESOLUTION: Country French Subdivision No Build Policy Amendment
Legislative

PURPOSE:

The City Council will consider a request by Guy and Marilyn Masters to amend the no build resolution for the Country French Subdivision. This amendment would allow below grade and ground-level structures, such as pools and sport courts, provided there is a 42-foot setback from the rear property line. The City Council will take appropriate action.

BACKGROUND:

In 2005, an 80' no-build restriction was included in the final approvals for the Country French Subdivision along lots 1-11 on Plat A and lots 42-52 on Plat B.

In 2017, the property owners for Lot 6 began the construction of a pool and a 14' retaining wall without receiving a building permit.

On October 3, 2017, after three Council meetings and one public hearing, the Council adopted a policy related to the issuance of building permits for below grade and ground level structures in the no build easement. The policy allows for below grade and ground-level structures, such as pools and sports courts, provided there is a 50-foot setback from the rear property line (see Attachment 4). Retaining walls over four feet as well as vertical structures such as garages, workshops, pool houses, etc., are not permitted in the 80' restriction.

The Council also approved a Development Agreement between the City, the owner of Lot 6, and the Bull River HOA. This Development Agreement allowed the owner, to keep the retaining wall, and finish construction of the pool which was 30' from the rear property line.

Resolutions are a *legislative* process.

DISCUSSION:

In December 2020, the Masters, the property owners of Lot 5, approached the City about building a pool in their backyard. After Staff researched the history of the subdivision, the Masters were told they could not build their pool closer than 50' from the property line. As neighbors to the Bowmans, they asked how their neighbors managed to get a permit for their pool. Staff shared the history of the no build easement.

The Masters are now requesting to amend no build policy to allow them to build their pool with a setback of 42 feet from the rear property line.

CITIZEN PARTICIPATION:

Courtesy notifications were sent to residents within a 500-foot radius of the applicant's property.

STAFF RECOMMENDATION:

The City Council should hold a public meeting, take public input, discuss the issues, and approve or deny the request to amend the no-build policy. To amend the policy a new resolution will need to be adopted.

PROPOSED MOTIONS:

I move that the City Council **APPROVE** the proposed amendment to Resolution No. R-2017-26 to allow building permits to be issued for below grade and ground-level structures up to 42 feet from the rear property line based on the following findings: (The Council should state appropriate findings).

OR

I move that the City Council **DENY** the proposed amendment to Resolution No. R-2017-26 subject to the following findings: (The Council should state appropriate findings).

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

ATTACHMENTS:

1. Resolution
2. Vicinity Map
3. City Council Minutes
 - a. July 18, 2017
 - b. September 5, 2017
 - c. September 19, 2017
 - d. October 3, 2017
4. Resolution No. R-2017-26
5. Development Agreement

**A RESOLUTION OF THE HIGHLAND CITY COUNCIL IMPLEMENTING A POLICY
FOR THE ISSUANCE OF BUILDING PERMITS IN AREAS DESIGNATED "NO
BUILD" IN THE COUNTRY FRENCH ESTATES SUBDIVISION**

WHEREAS, the recorded plat for Country French Estates contains an 80-foot restriction labeled "No Build Easement" and "No Build Zone"; and

WHEREAS, over the years there has been confusion as to the interpretation of what "No Build" means; and

WHEREAS, the City Council adopted Resolution No. R-2017-26 on October 3, 2017; and

WHEREAS, the City Council held a public meeting on March 2, 2021 and received comments from residents of Country French Estates and Bull River and finds a need to modify the policy; and

WHEREAS, the City Council desires to implement a policy that is clear which will be consistently applied by staff in the future for the issuance of building permits in the No Build area;

WHEREAS, the City Council finds that the following regulations preserve the original intent of the developer and City and protects the interests of those impacted;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF HIGHLAND, UTAH, THAT THE FOLLOWING POLICY AND RESTRICTIONS APPLY TO THE NOBUILD AREA AS FOLLOWS:

BE IT RESOLVED that fence permits are permitted.

BE IT FURTHER RESOLVED that building permits may be issued for below grade and ground-level structures, such as pools and sports courts, provided there is a **42-foot setback** from the rear property line.

BE IT FURTHER RESOLVED that minor pool accessories, such as slides and pumps, are permitted when placed between the pool and the home.

BE IT FURTHER RESOLVED that no building permits shall be issued for vertical construction or structures, such as garages, workshops, home additions, pool houses and sheds, which should be built outside of the No Build area.

BE IT FURTHER RESOLVED that lighting is permitted adjacent to permitted uses, such as pools or sports courts, only if the lights illuminate downward full cut-off lenses or face the home in a manner that minimizes light distribution towards the residents of Bull River.

BE IT FURTHER RESOLVED that retaining walls four feet or less are permitted, but no future building permits shall issue for retaining walls in excess of four feet.

BE IT FURTHER RESOLVED that this resolution hereby replaces Resolution R-2017-26.

ADOPTED AND RESOLVED by the City Council of Highland City, Utah, this 2nd day of March, 2021. HIGHLAND CITY, UTAH

Rodney W.
Mann Mayor

ATTEST:

Stephannie Cottle
City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Brittney P. Bills	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kurt Ostler	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kim Rodela	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott L. Smith	<input checked="" type="checkbox"/>	<input type="checkbox"/>



Neal Evans, a resident, requested that Items 3 and 9 be discussed together, as they both involved in the R-1-30 zoning. He also said it would make more sense to hear Item 9 prior to Item 3.

CONSENT ITEMS:

1. Approval of Meeting Minutes for the City Council Regular Session – June 20, 2017

MOTION: Councilman Ed Dennis moved the City Council approve the consent items on the agenda as corrected.

Councilman Brian Braithwaite seconded the motion.

Unanimous vote, motion carried.

ACTION ITEMS:

2. Amend Country French Subdivision Plats A and B – No Build Restrictions

BACKGROUND: In 2005, the Country French Estates Final Plat was approved by the City Council. The plat includes an 80 foot no build restriction along the south and east side of the development adjacent to Bull River. The City has enforced this restriction by not issuing building permits with this area. Building permits are required for any structure greater than 200 square feet in size and swimming pools.

Nathan Crane, City Administrator, presented the background information above and showed an aerial map of the area. He identified the 80 foot no-build zone and stated that 22 lots were affected by this restriction. Only two of the 22 lots remained vacant. The concept for Country French began in July 2004 and it was originally proposed to be an open space subdivision with a 25 foot trail corridor along the south and east side. In response to some concerns raised by the Planning Commission in regards to compatibility between the two developments, the developer proposed to include the 80 foot no-build restriction. Mr. Crane said that all minutes relating to this development were included in the staff report. Staff had received seven letters of opposition to the proposal to remove the no-build restrictions, and those letters had been given to the City Council Members.

Nathan Crane said that the code outlines four criteria upon which the City Council must base their decision when changing a plat. Those four criteria are:

1. Neither the public interest nor any person will be materially injured by the proposed vacation, alteration, or amendment;
2. There is good cause for the vacation or amendment;
3. No public street, right-of-way, or easement has been vacated or amended; and
4. The proposed amendment meets all the requirements of the Development Code.

Matt Bowman, the applicant, gave his address as 6699 West Normandy Way in the Country French development. The neighbors felt that the main reason for the no-build zone was to protect the view shed, for which the City does not have an official definition. This had created a

lot of angst and confusion for those residents that have purchased one of these 22 lots and intended to utilize the back yard area. Mr. Bowman outlined four complaints surrounding the no-build zone. The first was simply fairness. There were other subdivisions adjacent to Bull River that only had 10 to 30 foot easements, so the 80 foot restriction seemed excessive. Mr. Bowman commented that if the Bull River residents wanted to preserve their view shed, they should have purchased more property. The second complaint was regarding how the City has gone about executing this restriction. When the issues were raised during the first Planning Commission meetings, only one Commissioner made comments about the view shed. He was disconcerted that the City was acting on the concerns of only one Commissioner. The third concern was how the City course corrected around rules and regulations that have been implemented. He said that most rules begin with good intention, but then practicality starts to set in. Mr. Bowman said that his intention was to install a below-grade swimming pool on his property, but anything that requires a building permit is restricted in the no-build zone. This did not make sense to him, as a grade level pool would not disturb the view shed. The final complaint was that the one Commissioner that was pushing for the 80 foot no-build zone was part of the Bull River community. The developer was just trying to get his subdivision off the ground and he made concessions relative to that. Mr. Bowman reported that an email had been sent to the Bull River residents stating that the Country French residents were willing to maintain the 80 foot no-build zone as it has been enforced, with the exception of allowing items that are surface level or below grade that require a building permit. A few residents engaged in the conversation, and he said that hopefully they can continue to have a civil discussion.

Mayor Thompson opened the public hearing at 7:18 p.m.

Mike Card stated that he was the President of the Bull River HOA, and he was present representing the property owners. The HOA was in opposition of the plat amendment request. He explained that taking away the no-build zone would strip the Bull River residents of their property rights as adjacent property owners, and it would be in violation of the provisions of the Highland City development code. The amendment would also amount to bad public policy. Mr. Card said that the original Planning Commission had determined that the easement would protect the adjacent land owners' property interest while permitting the Country French developer to fully maximize his requested lot density. Because the Bull River residents have a vested property right in the 80 foot no-build easement, the easement cannot be removed or reduced without their approval. He also believed that the property value of the adjacent lots would be reduced if the easement were removed or reduced. Mr. Card argued that the applicant's claim of "unfairness" was not a good cause to amend the plat. The easement had been in place from the start, and all of the owners had been made aware of the easement at the time of purchasing. They cannot claim that the easement was a hardship placed on them after they took title. Mr. Card and the HOA urged the City Council to deny the application.

Councilman Ed Dennis asked Mr. Card to clarify how this proposal would materially impact the residents of Bull River, particularly since the proposal made by Mr. Bowman was to only allow things that were at surface level or below. Mr. Card said that allowing pools would set the City on a slippery slope, and it would lead to many other unwanted items being allowed.

Councilman Ed Dennis said that Mr. Bowman's proposal was to continue to prohibit items that affected the view shed. He said that seemed to be a reasonable compromise.

Councilman Rod Mann asked if the Bull River residents wanted to protect more than the view shed. Mr. Card said that it was more about maintaining the undeveloped space between properties.

Councilman Rod Mann said that the initial proposal made, and the one that was advertised on the agenda, was to completely eliminate the no-build restriction. He assumed that Mr. Card was responding to that proposal rather than the compromise Mr. Bowman had proposed during the meeting. Mr. Card confirmed that this was the case. He had not yet had a chance to discuss this new proposal with the Bull River residents.

Councilman Ed Dennis said that he personally did not feel that removing the no-build zone was right, but he did believe that a compromise could be made if the residents worked together.

Jerry Abbott, a Bull River resident, said that he also served on the HOA board. Mr. Abbott wanted to clarify that most of the Country French residents have kept the spirit of the no-build zone, but there are two cases where retaining walls have been permitted and constructed. This is a direct violation of the no-build restriction. Mr. Abbott insinuated that the City should utilize Webster's Dictionary to define "no-build zone" since the City does not have one. That would simply mean that nothing can be built or constructed in that area. Mr. Abbott said that the no-build zone was not only about the view shed.

Councilman Brian Braithwaite asked Mr. Abbott if he wanted to prohibit items such as swing sets in the no-build zone. Mr. Abbott said he was suggesting that nothing at all could go in that zone. He would prefer that this area be kept in its natural state.

Councilman Rod Mann said that it was his understanding that there was a significant grade difference between the two developments. He lived on the other side of Bull River and they did not need to have no-build zones because there wasn't such a grade difference. Mr. Abbott confirmed that his understanding was correct and he said this was why those two Country French residents had to install retaining walls when they put in their pools.

Taylor Jackson, a resident of Country French, stated that he was the one who sent the email out to both communities to see if a compromise could be found. The minutes from the original meetings indicate that the purpose of the no-build zone was the view shed, not preserving the undeveloped land. He understood that the view shed was important to Bull River and he respected the matter. Mr. Jackson noted that there were some items currently permitted in the no-build zone that did block the view shed, such as large sheds, play grounds, and pergolas. He did not see an issue with allowing something that was surface level or below grade. Mr. Jackson explained that he works in valuation, and he believed that allowing Country French to potentially put pools in their back yards would increase the value of the Country French properties, and subsequently increase the value of the surrounding homes. It would be good public policy to ensure that the general public is better served by the policies that are in place. If the policy isn't working, it should be adjusted to help everyone.

Bob Hansen, a Bull River resident, stated that he had been a developer for the past 30 years, and 11 of those years as a building inspector. He said that pools may not have any elevation to them, but the terrain and slope of many of these back yards is such that it would require some form of retention. If everyone was allowed to put in retaining walls, it would make the Bull River community feel like they were living in a tunnel. He said grading is the real problem here. He encouraged the City Council to maintain the no-build zone.

Anne Sward Hansen, a Bull River resident, said that good public policy is having confidence in the City, the development code and the rule of law. They should be able to trust that the City was complying with and enforcing those codes and laws. Mrs. Hansen attended many meetings surrounding the Country French development, and she felt that many concessions had already been made by Bull River. The no-build restriction was not just for the view shed, but it was meant to preserve the natural habitat and wildlife, and to protect the steep slope. She also briefly mentioned lighting issues related to the view shed.

Josh Gigger stated that he was not a resident of either community, but he was an acquaintance of Matt Bowman. After reviewing the relevant documents and hearing the opinions on both sides of the issue, Mr. Gigger felt that the biggest problem was that the City did not have a clear-cut definition of "no-build". The interpretation of it was ambiguous and it was causing a lot of friction. Mr. Gigger felt that enforcing the 80 foot easement on such small lots was an unreasonable imposition to the owners' property rights. He encouraged coming to a compromise.

Audrey Tiberius, a Bull River resident, said that she purchased her home in Highland and in this particular location because of the large lots and the natural landscape. Although pools would not impede the view shed, other things came along with pools like coverings, screens or curtains, pool sheds, outdoor eating areas, diving structures, and so on. She felt that allowing any construction in the no-build zone would lead to bigger and more problematic issues. She then echoed Mrs. Hansen's comments about lighting problems. Mrs. Tiberius was opposed to the removal of the no-build zone, but she was also leery about trying to reach a compromise. Bull River has already given up a lot trying to compromise with other developers.

Gary Smith, a Bull River resident, said that the whole community knew that change and development was inevitable, but they had sacrificed a lot for other developments. He agreed with the comments made by his neighbors, and he agreed with the existing Bull River policy.

Day Christensen, a Bull River resident, said that he had owned his property since 1990. At the time that Country French was proposed, Mr. Christiansen served as Chairman of the Architectural Committee, so he was involved in the discussions about density. The discussions about the no-build zone were about creating a transition between the high and low density developments. During those meeting, two things were agreed upon: the 80 foot no-build restriction, and the walking trail. Mr. Christiansen reminded everyone that the trail was never installed. He also reiterated that the owners who purchased the Country French lots knew about the no-build restriction at the time of purchase. He encouraged denial of the application.

Robert Uzelac, a Bull River resident, stated that he purchased his property in 1978. He believed that removing the no-build restriction would “open a can of worms” for this and other developers who work with Highland City.

Hearing no further comments, Mayor Thompson closed the public hearing at 8:12 p.m. and brought the discussion back before the City Council.

Councilman Ed Dennis thanked the residents for their comments and recognized their sincere concerns. He suggested that the item be continued so that the residents could discuss the newly proposed compromise.

Councilman Brian Braithwaite said that the proposal before them, and what they could vote on, was full elimination of the no-build zone. He felt it would be more appropriate if the applicant dropped his request or if the Council denied it. This would allow the residents time to come up with a compromise and bring another proposal back to the City Council.

Matt Bowman, the applicant, explained that he had started construction on a pool in his back yard because he was originally told by the City that it was allowed. Now he has a hole in his back yard, but no pool. He wants to be a good neighbor, and he felt like a compromise was possible. Mr. Bowman’s preference was to table the issue or for the City Council craft a motion around the compromise that was put forward.

Councilman Brian Braithwaite again stated that the decision before them was to eliminate the no-build restriction or to maintain it. He thought that the City Council should provide some clarity to staff and the residents as to what the no-build restriction really entails. Personally, he wanted to see the residents come back with some concepts that would be helpful for the City Council. Councilman Ed Dennis agreed.

Councilman Dennis LeBaron said that the meaning of “no-build” seemed to be pretty clear to him. From the Country French point of view it seems ambiguous, but from the Bull River side it was crystal clear.

Councilman Rod Mann suggested that the City Council vote on the proposal before them, because he was sure that none of them wanted to remove the 80 foot no-build restriction. This would allow the residents to come back with a proposal that was a compromise. He also asked staff to find out how the retaining walls had been approved so that the City would not make the same mistake again.

MOTION: Councilman Rod Mann moved the City Council Deny the Application for an Amendment to the Country French Subdivision Plats A and B.

**Councilman Dennis LeBaron seconded the motion.
Unanimous vote. Motion carried.**

Councilman Rod Mann recommended that the residents of the two subdivisions meet together to discuss the issue, and he offered to have the City host the meeting, if necessary. If they could put

Councilman Brian Braithwaite seconded the motion.

Those voting aye: Rod Mann, Ed Dennis, Tim Irwin, Dennis LeBaron, and Brian Braithwaite.

Those voting nay: None
Motion carried.

9. MOTION: Issuance of building permits for pools in a “No Build Zone” – Country French

BACKGROUND: On July 18, 2017, the City held a public hearing regarding a plat amendment to allow for constructions of pools within Country French's "No Build Zone." After hearing comments from the residents of Bull River and Country French subdivisions, the City Council unanimously denied the application for a plat amendment, but suggested the neighborhoods meet to discuss the matter further. The 80' No Build Zone listed on the plat is a restrictive covenant. The Utah Supreme Court has stated, "Generally, unambiguous restrictive covenants should be enforced as written. However, where restrictive covenants are susceptible to two or more reasonable interpretations, the intention of the parties is controlling." *Swenson v. Erickson*, 229 P.2d 807, 811 (Utah 2000). Historically, Staff has not issued building permits within the "No Build Zone", interpreting the restrictive covenant using its plain language meaning. The Highland City Planning Commission discussed pools in the No Build Zone on February 26, 2008 in a meeting where notice had not been given to impacted residents. The Planning Commission recommended at that time to allow pools, but the matter was never brought before the City Council for final determination. Because the City does not have any property interest in the restrictive covenant, and there is no written easement document, the City's involvement in this matter is merely in the issuance of building permits. Therefore, the Council should direct Staff whether building permits may be issued for pools in the "No Build Zone".

Attorney Merrill presented the background information above.

Councilman Rod Mann asked if the code outlined specific setback requirements for pools in general, and Mr. Crane said that the setback was 10 feet from the rear property line.

Attorney Merrill said that the packet included minutes from the 2008 Planning Commission meeting where they discussed this issue, and he emphasized that there was no unanimity. That issue did not come before the City Council for final decision, so staff chose not to issue permits in the "no build" area. If the City Council wanted to allow pools but still respect the easement, staff could create an overlay for the area and outline requirements that would address these specific issues.

Councilman Brian Braithwaite said that they should head in that direction, because a simple "yes or no" was not appropriate for this area.

The City Council briefly discussed the original intent of the 80-foot "no build" easement, which was to act as a buffer between the large lots in Bull River and the smaller lots in Country French

Estates. Councilman Tim Irwin opined that this was not fair to the residents at Country French, even though the developer agreed to it. Councilman Brian Braithwaite argued that the removal of the “no build” easement would devalue the properties in Bull River and the City would have to compensate for the loss.

Larry Mendenhall, a resident, said that he was on the Planning Commission at the time that this was discussed, and he was a resident of Bull River. Mr. Mendenhall explained that there was a similar buffer between his home and the Dry Creek neighborhood, but it was only 40 feet wide because the developer of Dry Creek chose to include a park in the development. The 80-foot easement was compensation for the lack of an interior park in the Country French development, and to preserve the viewshed for the homes along that easement.

During the previous meeting, Councilman Ed Dennis asked the two neighborhood groups to work together to come to an agreeable solution. He had received the proposal made by Bull River and asked how Country French felt about it.

Josh Gigger, representing Matt Bowman (the applicant), said he had knowledge of the negotiations that had gone on, and it was his understanding that some of Bull River’s requests were not an appropriate compromise. It was not fair to Mr. Bowman to ask him to push the rear fence six feet into the property. Mr. Gigger referenced the 2008 Planning Commission minutes and said that they had determined that the “no build” easement did not preclude a swimming pool area.

Jerry Abbot, representing the Bull River HOA, first identified Mr. Bowman’s property on the aerial map and stated that there was a large elevation difference between his property and the rear neighbor. Mr. Bowman had already installed an eight-foot retaining wall, and any fencing placed directly on top of that retaining wall would be too imposing. That was the reason they requested the fencing be pushed back off the property line. They also asked the fencing be solid and trees be installed to act as a landscape buffer. Mr. Abbot had spoken with staff, and Mr. Crane said that the residents could enter into a management agreement to keep the fencing and trees in place even with subsequent owners.

Mr. Grigger argued that Mr. Bowman did not have a full understanding of the issue before he dug the hole for his pool. Based on the 2008 Planning Commission meeting and other information given to him by the developer and City staff, the “no build” easement did not preclude swimming pools.

Councilman Brian Braithwaite explained that Mr. Bowman can build a pool, but it has to be the right size and in the right location on the property. His building permit was denied because the final plans show the pool within the “no build” easement.

Mr. Grigger argued that Mr. Bowman was told by the Planning Commission that he could do it and so he acted on their direction. He stated that an appeal had already been filed.

Attorney Merrill said that the legal department would handle the appeal, but the decision tonight was whether the City Council would accept or reject the Planning Commission’s

recommendation from 2008. This would give staff better direction on granting building permits for pools in this area.

Councilman Rod Mann liked the 30-foot pool setback that was suggested by the Bull River HOA, and he asked if that could be included in the approval.

Councilman Dennis LeBaron asked if it was an oversight that this issue was not brought to the City Council in 2008, and Mr. Merrill answered affirmatively.

Mr. Grigger said that the 2008 Planning Commission believed they were the deciding body on the issue. Mr. Abbot argued that the minutes also show that the Bull River residents were not notified of the hearing and therefore not present to discuss or give their input.

Attorney Merrill explained that the Planning Commission operates as the advisory body to the City Council. However, they do have the final decision on certain types of issues.

Councilman Brian Braithwaite commented that this issue had moved forward with each property owner negotiating with the property owner behind them, but he did not think that was the right way to be going about this. It was confusing for the City and for the property owners. They need to adopt a policy that will exist across all the properties in the area, not just one specific property.

There were more back-and-forth arguments between Mr. Abbot and Mr. Grigger about fencing and trees. Councilman Dennis LeBaron asked the parties if they could come to an agreement if they were given more time. Mr. Abbot said that not all the Bull River residents wanted to pursue the issue, but the HOA Board voted to continue trying to resolve the issue.

Councilman Brian Braithwaite suggested that the City Council invite the Bull River and Country French residents to come and discuss the issue. This would provide more information for the City Council, and they would be able to see who was actually interested.

Mr. Grigger felt that this was a private property owner dispute rather than a City issue. The suggestion to have a neighborhood meeting made it sound like the City would be mediating the issue. Councilman Brian Braithwaite said that the City would not be mediating. It would simply provide an opportunity for the City Council to hear the residents' opinions.

Mr. Grigger wanted the record to show that they did not believe there was an enforceable easement or an enforceable zone, and they did not believe that there was a restrictive covenant.

Councilman Ed Dennis said that the City does not have a vested interest in the property. The issue at hand was to determine whether building permits should be granted for pools. He suggested that they table the issue and let the residents continue to negotiate.

Attorney Merrill said that the City cannot simply step away from this matter because the City's building code requires a permit for permanent pools. The permit has already been denied, which

is why the applicant has filed an appeal, but there was still room for the City Council to direct staff in future permits.

There was continued discussion regarding Mr. Abbot's proposal for fencing and landscaping, as well as Mr. Bowman's existing retaining wall.

Mayor Thompson commented that to obtain development approval, the developer of the Country French subdivision agreed to the 80-foot restricted easement. This is not a zone, it's simply an area. He urged the City Council to make a decision on the issue before them.

Councilman Rod Mann said that the involved parties had already requested time in order to try and find a compromise. He did not think that holding an extra neighborhood meeting would provide any new information. He was in favor of the recommendation and conditions proposed by the 2008 Planning Commission, and he was comfortable requiring a 30-foot setback for pools.

Ann Sward Hansen, a resident, believed that no one else from Country French was present because they had already built their pools and they complied with the 80-foot "no build" restriction. This seemed to be the only case out of compliance.

Regarding the retaining wall, Attorney Merrill said that it was not uncommon for people to build without permits and then later come to the City "asking for forgiveness". However, if the retaining wall does not meet the established code requirements, Mr. Bowman will have to bring that into compliance.

MOTION: Councilman Dennis LeBaron moved the City Council direct staff to not allow building permits for pools for the Country French Subdivision that would be located in the no-build zone.

Motion failed due to the lack of a second.

Councilman Brian Braithwaite said that he was looking for something that would affect the entire subdivision rather than just this one property. He wanted to have more time to research the issue and see the other properties that would potentially be affected by this decision.

MOTION: Councilman Brian Braithwaite moved the City Council continue this item to next regular meeting.

Councilman Rod Mann seconded the motion.

Those voting aye: Brian Braithwaite, Tim Irwin, Ed Dennis, and Rod Mann.

Those voting nay: Dennis LeBaron.

Motion carried.

10. ORDINANCE: Amending the Highland City Municipal Code Section 12.32.040 – Disposal of Open Space Property

Councilman Tim Irwin seconded the motion.

Those voting aye: Brian Braithwaite, Dennis LeBaron, Tim Irwin, Ed Dennis and Rod Mann

Those voting nay: None

Motion carried.

3. MOTION: Issuance of building permits for pools in a “No Build Zone” – Country French Subdivision

BACKGROUND: *On July 18, 2017, the City held a public hearing regarding a plat amendment to allow for constructions of pools within Country French's "No Build Zone." After hearing comments from the residents of Bull River and Country French subdivisions, the City Council unanimously denied the application for a plat amendment, but suggested the neighborhoods meet to discuss the matter further. The 80 foot "No Build Zone" listed on the plat is a restrictive covenant. The Utah Supreme Court has stated, "Generally, unambiguous restrictive covenants should be enforced as written. However, where restrictive covenants are susceptible to two or more reasonable interpretations, the intention of the parties is controlling." Swenson v. Erickson, 229 P.2d 807, 811 (Utah 2000).*

Historically Staff has not issued building permits within the "No Build Zone", interpreting the restrictive covenant using its plain language meaning. The Highland City Planning Commission discussed pools in the "No Build Zone" on February 26, 2008, in a meeting where notice had not been given to impacted residents. The Planning Commission recommended at that time to allow pools, but the matter was never brought before the City Council for final determination. Because the City does not have any property interest in the restrictive covenant, and there is no written easement document, the City's involvement in this matter is merely in the issuance of building permits. Therefore, the Council should direct Staff whether building permits may be issued for pools in the "No Build Zone".

Tim Merrill, City Attorney, presented the background information above and explained that the City Council had previously requested more time to allow the residents to communicate and offer their feedback on the issue. The City Council still needed to make their final determination on allowing pools in the restricted "No Build" area.

Councilman Brian Braithwaite reported that he had met with Jerry Abbott, representing the Bull River HOA, and toured the neighborhoods. He had also spoken with the applicant, Matt Bowman. Councilman Braithwaite's primary concern was being consistent with any policy that they put in place. Until now, these two subdivisions have worked out problems individually and things have been piecemealed together. One item that needed to be addressed was the inconsistency of approving retaining walls. He commented that retaining walls, sports courts, and pools all require building permits, and all of them have been constructed within the "No Build" area. The City needed to address all those issues that are current in place and out of compliance. Regarding the "No Build" area, Councilman Braithwaite thought that the 80-foot easement should not be altered, but the term "no build" better defined. He suggested that anything ground level or below should be allowed within the easement/zone, while maintaining a

setback of 50 feet from the rear property line. He also suggested that any pool accessories be allowed only outside of the 80-foot easement. Lighting would also need to be limited in some way.

Councilman Ed Dennis said that he struggled with this initially because he wasn't sure if Country French had made any concessions for what they were losing with the "No Build" zone. He felt that the City's decision should only be whether to grant permits for pools or not, and it was not their place to modify the "No Build" zone. Bull River had presented two options and the applicant needed to determine if either of those was going to be acceptable to him. If he accepts those terms, then the City should issue the building permit.

Councilman Brian Braithwaite clarified that his proposal would not change the "No Build" zone; it would just better define what "no build" means. Councilman Ed Dennis wanted to let the two subdivisions come to terms without the City Council's intervention.

Attorney Merrill said that it was unrealistic to require the residents to come to an agreement because this was a private property interest. It wouldn't be a negotiation because the property owners have entitlements in their property.

Councilman Ed Dennis clarified that he was suggesting that the issuance of a building permit would be contingent upon whatever the two subdivisions agree to. The City Council would be defining the rules based on the input of the subdivisions. Once the subdivisions came to an agreement, the City would formalize a change in the restrictive covenants. Councilman Ed Dennis was prepared to act tonight based on the Bull River's proposal.

Attorney Merrill said that the only way they could alter the restrictive covenants was to amend the plat. That request was before the City Council a few weeks ago and it was denied. The purpose of the discussion was to determine if staff would grant building permits for pools in this area. Attorney Merrill clarified that Councilman Brian Braithwaite's proposal was to better define the "no build" designation on the plat.

There was a discussion regarding the existing retaining walls in the area. Mr. Crane presented a map depicting the retaining walls that had been permitted.

Todd Trane, City Engineer, explained that he went to the neighborhood and did his best to verify the existing retaining walls. For the most part, the fencing followed the existing terrain, but there were two very large retaining walls on the east and north.

Councilman Ed Dennis brought the conversation back to Councilman Braithwaite's proposal and asked how that would not be an amendment to the easement. He wanted any changes made to be as permanent as possible, and he was willing to amend the easement if necessary. Attorney Merrill reiterated that the proposal would provide the City staff with a definition of "no build" for internal processes. No resolution or ordinance would be needed for this decision; rather, it would just be an administrative decision.

Councilman Ed Dennis said that he would still like resident feedback on how the City structures their administrative action in defining the “no build” zone. Councilman Brian Braithwaite asked if the proposal from Jerry Abbott and Bull River was enough resident input. Councilman Ed Dennis said that he would rather use the two options proposed by Mr. Abbott than have the City Council come up with their own.

Councilman Dennis LeBaron commented that Councilman Braithwaite’s proposal would allow ground level or below ground construction within 50 feet of the property line. He asked how that would affect Mr. Bowman’s property and his requested building permit.

Councilman Brian Braithwaite explained that the two issues on the Bowman property were the retaining wall and the hole for the pool had already been dug. Mr. Bowman would still have to adjust the hole to meet the 50-foot requirement he proposed because it currently goes 20 feet beyond that.

Councilman Ed Dennis said that Bull River had proposed two options from which to choose, and both of those should be included in the definition. Councilman Rod Mann asked if a definition could include two options.

Attorney Merrill said that the City Council had four options before them. The first was to continue the issue for additional resident input. The second would be to direct staff not to issue any permits within the “No Build” area. The third option would be to direct staff to issue permits under limited conditions as defined by the City Council. And the fourth option was to go back to considering a plat amendment or vacation of the easement.

Councilman Ed Dennis said that he was not proposing an amendment to the easement. What he was trying to establish was an administrative action to define what is appropriate for the 80-foot “No Build” zone. He was simply proposing to include two options, as proposed by Bull River.

Councilman Brian Braithwaite commented that the definition needed to be clear and simple. When the language becomes complicated it becomes harder for people to remember and understand the intent. He did not think that including two options was the right choice, but he was willing to continue the item again for further resident input, if the City Council desired. His concern with the Bull River proposal was the requirement to move the fencing six feet into the property and planting trees on both side. He felt that this would create more issues than it would resolve.

Councilman Rod Mann did not believe it was good policy to take an individual circumstance and build a rule around it. It would be better to create a policy based on how it benefits every property owner. He was willing to pursue a 30-foot setback, as proposed by Bull River, if all parties were agreeable to that. Councilman Mann commented that he also wanted the retaining wall issue resolved. Attorney Merrill explained the process of bringing something into compliance.

Councilman Rod Mann then asked if the City Council could include a stipulation that no permits could be granted until any outstanding compliance issues were resolved on the property. Attorney Merrill advised against such a stipulation.

Councilman Brian Braithwaite said that he had given his proposal to Jerry Abbott, of the Bull River HOA, but did not have time to receive any feedback. He asked Mr. Abbott to come forward and give his input.

Jerry Abbott, a resident, explained that the Bull River HOA came up with the second option because it was the cleanest and easiest way to resolve the issue at hand and it could be applied across the board. The purpose behind requiring the trees was to break up the solid wall and provide some privacy for the rear neighbor. Mr. Abbott said that he would prefer that the City Council make a decision on the issue rather than table it.

Councilman Ed Dennis asked if the City Council had the ability to grant Mr. Bowman an exception in this case, and Attorney Merrill said that he did not think an exception could be justified. He reminded the Council that Mr. Bowman had already filed an appeal that would be heard next month. He believed that the appeal could be the individual remedy for his situation. Whatever the Council decides would be uniform for everyone.

The City Council asked if Bull River would be agreeable to removing the requirement for a six-foot setback of the fence.

Mr. Abbott said that they would consider a three-foot setback. Their intention with the setback was to break up the retaining wall.

Matt Bowman, the applicant, said that the six-foot fence setback and the requirement to put trees on both sides were difficult conditions for him to accept. He was already planning on putting landscaping on his side of the fence, and it would be difficult to maintain the trees on the other side without installing a gate or gaining access through the neighbors' properties. Mr. Bowman would like to use all of his property. Reducing the requirement to three feet did not diminish his concerns.

Mayor Thompson suggested that the City Council take action or postpone the item, and allow Mr. Bowman to continue with his appeal. The appeal will result in either an exception for Mr. Bowman or it will require him to adjust the hole for the pool.

Councilman Ed Dennis said that Bull River seemed to be willing to allow Mr. Bowman to put the pool within 30 feet of the property line, but restrict all other lots to 50 feet. He asked how the City could impose that legally. Attorney Merrill said that he did not think it was necessary for the City to make an exception for Mr. Bowman because the appeal process was already in motion. It was possible to do what Councilman Ed Dennis was suggesting, but it was not advisable. He explained that the City would be creating a different rule for just one property, which is arbitrary. Mr. Crane said that Mr. Bowman would have to enter into a development agreement.

Councilman Rod Mann supported the setback of 50 feet and was willing to let the appeal process play out. The City Council could visit this again if the appeal wasn't favorable for Mr. Bowman.

The City Council briefly discussed the 50-foot setback proposal and how it would affect other property owners.

Councilman Ed Dennis asked if it would be beneficial to continue the item until after the appeal was settled and Attorney Merrill answered negatively.

Councilman Brian Braithwaite hesitated to make a motion because some details had not been discussed and he thought that it would be difficult capturing all of that tonight.

Mike Card, Bull River HOA President, explained that they met with the Bull River community and there wasn't a mutual agreement regarding the 30-foot allowance. Many residents had strong feelings about leaving the "No Build" zone as it was. But the HOA feels comfortable with the proposal and they want to be good neighbors.

The City Council discussed the language of the motion and reemphasized the need to resolve the retaining wall issue. They decided to direct staff to draft language reflecting Councilman Brian Braithwaite's proposal to further define "no build".

MOTION: Councilman Brian Braithwaite moved that the City Council direct staff to draft a Policy for the City to use in managing a "No Build Zone/Easement" based up on the direction given to staff. The Policy should include a 50-foot easement allowing only allow ground level or below ground improvements, which would allow building 30 feet into the 80-foot "No Build" area. The improvements would include pools and sports courts, and any lighting tied to these improvements would be required to face toward the resident's home and away from the neighbors' homes. A fence would also be required if those improvements and made between 80 feet and the 50-foot easements.

Councilman Rod Mann seconded the motion.

Those voting aye: Brian Braithwaite, Dennis LeBaron and Rod Mann

Those voting nay: Ed Dennis and Tim Irwin

Motion carried, 3 to 2.

4. RESOLUTION: Adoption of the Revised Personnel Policy and Procedures Manual

BACKGROUND: The City's Personnel Policy Handbook was last adopted in 2000 and amended in 2006. Since adoption there have been changes to the City's organization, operations, and ordinances as well as State and Federal Law. The City contracted with a human resource attorney from Snow, Christensen and Martineau to review and update the document. In addition, the document was reviewed internally and by the City Attorney. This updated Handbook addresses those changes and has been edited from beginning to end.

Councilman Tim Irwin commented that it didn't seem appropriate to put someone in jail for not taking care of their front yard and being unable to pay the fine. He felt that this was a step in the right direction. He said he didn't see how this would bring in less money for the City. Judge Schaeffer-Bullock responded that she was simply giving the City Council the information so that they would not be surprised if there was a large financial effect. She was not sure if they would see a difference or not, since the law was still new.

Tim Merrill, City Attorney, commented that everything was going very well in the Highland/Alpine Justice Court and he was impressed with how Judge Schaeffer-Bullock counselled and admonished defendants in the cases she hears.

APPEARANCES:

There were none.

CONSENT ITEMS:

1. **MOTION: Approval of Meeting Minutes for the City Council Regular Session – September 5, 2017**
2. **MOTION: Approval of Meeting Minutes for the City Council Regular Session – September 19, 2017**
3. **RESOLUTION: Adoption of the Revised Personnel Policy and Procedures Manual**
Pulled by Councilman Ed Dennis

MOTION: Councilman Tim Irwin moved the City Council approve the consent Items 1 and 2, as listed on the agenda.

Councilman Brian Braithwaite seconded the motion.
Unanimous vote, motion carried.

ACTION ITEMS:

RESOLUTION: Adoption of the Revised Personnel Policy and Procedures Manual
Pulled by Councilman Ed Dennis

Councilman Ed Dennis said that he had emailed a few edits to staff that afternoon and wanted to be sure they were incorporated into the document before final approval.

Nathan Crane, City Administrator, said that he and Attorney Merrill had briefly reviewed the edits and felt that they were not substantial enough to delay approval.

Councilman Ed Dennis stated that some the suggested corrections were significant, and he gave the example of maternity leave and FMLA. The City Council decided to continue the item so that all of the Councilmembers could also review the edits.

MOTION: Councilman Dennis LeBaron moved the City Council continue this item to the next regularly secluded meeting.

Councilman Brian Braithwaite seconded the motion.

Unanimous vote, motion carried.

4. RESOLUTION: Adoption of a Resolution Implementing a Policy for the Issuance of Building Permits in areas designated "No Build."

BACKGROUND: *On September 19, 2017, the City Council discussed the circumstances under which a building permit may appropriately be issued in an area designated "No Build" to address the 80-foot restriction recorded on the plat of Country French Estates. The proposed Resolution includes:*

- *Fences are permitted*
- *Below-grade and ground-level structures, such as pools and sports courts, are permitted with a 50-foot setback.*
- *Minor pool accessories, such as slides and pumps, must be located between the pool and home.*
- *Retaining walls over four feet are not permitted.*
- *Vertical structures, such as garages, workshops, pool houses and sheds, are not permitted in the 80-foot area.*
- *Lighting must point downward or towards the house.*

Tim Merrill, City Attorney, presented the background information above and said that the proposed language was taken from feedback given during the previous meeting.

Councilman Brian Braithwaite wondered if the language was too vague and asked the Councilmembers if they felt the need for further definition.

Councilman Rod Mann felt that the proposed language was fine and anything further would be too prescriptive.

Attorney Merrill asked staff if there was anything in the Building Code that was considered "ground level" that required a permit, aside from a sports court. Nathan Crane responded that he could not think of any at the time, but he would research the matter.

Councilman Brian Braithwaite suggested that the language regarding lighting include the term "shielded lighting". This was something often required in business or commercial districts and the term was used often in the Planning Commission. He wanted to be sure that the language was clear and consistent with other code requirements. Nathan Crane read the standard code language for lighting in commercial and business districts.

Councilman Ed Dennis felt that including such language would be far too descriptive. Councilman Brian Braithwaite stated that the intent was to prevent light from bleeding over into the neighboring properties.

Councilman Ed Dennis said he was under the impression that both parties in this issue were agreeable to the proposal given during the last meeting, and now it seemed that the City was trying to impose more regulations that would only complicate the process. He would prefer going forward with the language as it was proposed with the understanding that everyone was comfortable with it. He also felt that what Councilman Brian Braithwaite was proposing would be too difficult to enforce.

Councilman Brian Braithwaite stated that the proposed regulation would make enforcement possible.

MOTION: Councilman Ed Dennis moved the City Council adopt a Resolution of Implementing a Policy for the Issuance of Building Permits in areas designated “No Build” as presented.

Councilman Tim Irwin seconded the motion.

Councilman Rod Mann commented that having something to measure against was advisable and he was favorable toward Councilman Braithwaite's suggestion about lighting.

Councilman Ed Dennis said that the City should not be fixing things that they have tried to fix in the past. The more they implement regulation, the more opportunity there will be for dispute. He felt that the language proposed by Attorney Merrill was more than adequate.

Councilman Dennis LeBaron said it was possible that the previous City Council foresaw this consternation of details and that's why they simply said, “no build”.

Those voting aye: Dennis LeBaron, Tim Irwin, Ed Dennis and Rod Mann

Those voting nay: Brian Braithwaite

Motion carried.

5. MOTION: Approval of Development Agreement – City, Bowman's and Bull River HAO

BACKGROUND: *Matthew Bowman has filed an application for a building permit for a pool and retaining wall on his property in Country French Estates. The Bowman parcel is subject to the 80 foot No Build Easement and would not qualify for a building permit absent a Development Agreement. The easement is private, not public, and therefore Bowman has consulted with the Bull River Property Owners Association, and as a result of their negotiation the parties have reached a proposed settlement memorialized in the attached Development Agreement. The City is involved insofar as a building permit is necessary for the pool and retaining wall.*

Attorney Merrill presented the background information above and explained this agreement between Mr. Bowman and the Bull River HOA would allow the City to issue the permits necessary for Mr. Bowman's retaining wall and pool.

Councilman Ed Dennis commended both subdivisions for their efforts to work together to resolve this issue. He felt that this was the solution they had all been looking for.

MOTION: Councilman Ed Dennis moved the City Council approve the Development Agreement with the City, Matthew Bowman, and the Bull River HOA.

Councilman Rod Mann seconded the motion.

Unanimous vote, motion carried.

MAYOR, CITY COUNCIL & STAFF COMMUNICATION ITEMS

(These items are for information purposes only and do not require action or discussion by the City Council)

• Snow Plow Vehicle Update – Justin Parduhn, Operation & Maintenance Director

Mr. Parduhn reported that staff had been examining their trucks and plowing equipment in preparation for the upcoming snow season. Currently, the City has six trucks, and five of those are used for plowing the City streets. One is used strictly at the cemetery because it cannot pass safety and emissions inspections and cannot be driven on the roads. Their newest truck is nine years old. Mr. Parduhn said that the biggest problem they are facing is that at least one of the trucks breaks down or has some other problem nearly every snow storm. The trucks are also suffering from excessive salt damage to the wiring and electrical systems. He asked the City Council how they would feel about obtaining new snow plows. A new truck with a plow would cost roughly \$150,000. Mr. Parduhn said that they had the option of buying outright or leasing a truck. They could also buy new or used vehicles.

In response to a question from the Council, Mr. Parduhn said that they were spending roughly \$40,000 on repairs annually. Staff has been doing their best to make repairs in-house and in order to keep costs down, but eventually the vehicles will have to be replaced.

Councilman Dennis LeBaron asked if staff could perform a trade study so that the City Council could compare all the information regarding leasing costs, buying new versus used, and continuing to make repairs.

Councilman Brian Braithwaite said that any study would also need to include the cost of man hours, since most of the repairs are being done in-house. It was important to know how much time was being spent on the repairs.

Mr. Parduhn added that they needed to consider the level of service they wanted to maintain. Currently, it takes 13 hours to clear the City on a big snow storm. As the City continues to grow, they are putting a lot more miles on the vehicles than before. He commented that during a storm they have one truck that runs up and down Highland Boulevard all day long. They could justify getting one more truck simply to keep up with the service demand.

RESOLUTION NO. R-2017-26

A RESOLUTION IMPLEMENTING A POLICY FOR THE ISSUANCE OF BUILDING PERMITS IN AREAS DESIGNATED "NO BUILD."

WHEREAS, the recorded plat for Country French Estates contains an 80 foot restriction labeled "No Build Easement" and "No Build Zone"; and

WHEREAS, over the years there has been confusion as to the interpretation of what "No Build" means; and

WHEREAS, the City Council has held public hearings on July 18, 2017 and September 5, 2017 and September 19, 2017, receiving comment from residents of Country French Estates and Bull River; and

WHEREAS, the City Council desires to implement a policy that is clear which will be consistently applied by staff in the future for the issuance of building permits in the No Build area;

WHEREAS, the City Council finds that the following regulations preserve the original intent of the developer and City and protects the interests of those impacted;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF HIGHLAND, UTAH, THAT THE FOLLOWING POLICY AND RESTRICTIONS APPLY TO THE NO BUILD AREA AS FOLLOWS:

BE IT RESOLVED that fence permits are permitted.

BE IT FURTHER RESOLVED that building permits may be issued for below grade and ground-level structures, such as pools and sports courts, provided there is a 50 foot setback from the rear property line.

BE IT FURTHER RESOLVED that minor pool accessories, such as slides and pumps, are permitted when placed between the pool and the home.

BE IT FURTHER RESOLVED that no building permits shall be issued for vertical construction or structures, such as garages, workshops, home additions, pool houses and sheds, which should be built outside of the No Build area.

BE IT FURTHER RESOLVED that lighting is permitted adjacent to permitted uses, such as pools or sports courts, only if the lights illuminate downward full cut-off lenses or face the home in a manner that minimizes light distribution towards the residents of Bull River.

BE IT FURTHER RESOLVED that retaining walls four feet or less are permitted, but no future building permits shall issue for retaining walls in excess of four feet.

PASSED AND ADOPTED THIS 3rd DAY OF OCTOBER, 2017.

MAYOR OF HIGHLAND:

Mark S. Thompson
Mark S. Thompson

ATTEST:

JoD'Ann Bates

JoD'Ann Bates
City Recorder

COUNCILMEMBER YES NO

Brian Braithwaite	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Dennis LeBaron	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tim Irwin	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Dennis	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rod Mann	<input checked="" type="checkbox"/>	<input type="checkbox"/>



DEVELOPMENT AGREEMENT

This Development Agreement (this “**Agreement**”) made and entered into as of the date of the last signature below by and among the Bull River Property Owners Association, Inc., a Utah corporation with an address at 11021 North Gambil Dr., Highland, Utah 84003 (“**Bull River**”); Matthew and Katrina Bowman, individuals with an address at 6699 W. Normandy Way, Highland, Utah 84003 (“**Bowman**”); and Highland City, a municipal corporation of the State of Utah with an address at 5400 W. Civic Center Dr., Suite 1, Highland, Utah 84003 (“**the City**”). Bull River, Bowman and the City are sometimes hereinafter referred to collectively as the “Parties” and individually as a “Party.”

WHEREAS, Plat A for the Country French Estates subdivision includes a note, stating “80’ NO BUILD EASEMENT ALONG BACK OF LOTS 1-11”, as shown in attached Schedule 1 (the “**Note**”);

WHEREAS, Bowman purchased and built a home on lot number 6 in the Country French subdivision (the “**Bowman Property**”);

WHEREAS, disputes have arisen between Bull River, Bowman, and the City regarding the meaning of the Note, including, without limitation, whether the City will issue Bowman building permits for a swimming pool (and minor accessories such as a slide and pumps) (the “**Swimming Pool**”) and the existing retaining wall (the “**Retaining Wall**”) in the area identified by the Note on the Bowman Property, and what rights or obligations, if any, each Party has with regard to the Note;

WHEREAS, concurrently with the execution of this Agreement, the City passed a resolution, entitled “A Resolution Implementing A Policy for the Issuance of Building Permits in Areas Designated ‘No Build’”, to implement a policy for the issuance of buildings permits in areas designated on a plat as “No Build” including, for example, the Note on Plat A for the Country French Estates subdivision (the “**Resolution**”);

WHEREAS, the Parties have, in consultation with their respective counsel, negotiated in good faith and have reached a mutually satisfactory resolution of the disputes as more particularly set forth herein; and

WHEREAS, in reaching the mutually satisfactory resolution the Parties deny liability but have taken into account the uncertainty of litigation and the costs and expenses thereof.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby stipulated and agreed by and between Bull River, Bowman and the City as follows:

1. **Bowman’s Obligations.**

a. **Improvements.** Bowman will use reasonable efforts to take, or cause to be taken by his designee, such actions as are necessary to complete the following development work (the “**Improvements**”):

i. **Planting Trees on the Bowman Property.** Planting two inch (2”) caliper deciduous trees (e.g., Ash, Maple, Honey Locust, Hack Berry trees) (“**Deciduous Trees**”) and eight to ten foot (8-10’) tall evergreen trees (e.g., Colorado Spruce, Austrian Pine) (“**Evergreen Trees**”) in an alternating pattern and spaced no more than approximately twenty (20) feet apart between each tree near the southern property line of the Bowman Property.

ii. Planting Trees on Mark Fisher's Property. Within thirty (30) days of the Effective Date, Bowman will contact Mark Fisher, a Bull River resident with an address at 6672 W Sunflower Dr., Highland, Utah 84003 ("Fisher") to arrange for the planting of three (3) Deciduous Trees on Fisher's property (the "**Bull River Deciduous Trees**"). At a time mutually agreeable to Bowman and Fisher, but subject to Fisher granting Bowman reasonable access to Fisher's property, Bowman or his designee will plant the Bull River Deciduous Trees at a location on Fisher's property that is adjacent to the South East corner of the Bowman Property, as reasonably directed by Mr. Fisher at the time of planting (the "**Bull River Deciduous Trees**"). Bowman does not assume any liability arising out of, resulting from or relating to the planting of the Bull River Deciduous Trees on Fisher's property and, as between the Parties, Bull River will be solely responsible for the maintenance and replacement of the Bull River Deciduous Trees following planting by Bowman.

iii. Planting Ivy on the Bowman Property. Planting ivy along the back of the Bowman Property in a manner intended to reasonably cover the retaining wall on the southern property line of the Bowman Property.

iv. Installation of Brown Trex Fence on the Bowman Property. Within sixty (60) days of the Effective Date, Bowman or his designee will install a six foot (6') brown fence made of composite materials, such as manufactured by Trex Fencing, at least one foot (1') from the southern property line of the Bowman Property.

b. Building Permit Application for the Retaining Wall. Bowman will submit an application to the City for approval of the Retaining Wall, including, without limitation, plans approved by a licensed engineer (the "**Retaining Wall Application**"). The City acknowledges that, on September 27, 2017 Bowman filed the Retaining Wall Application with the City.

2. Bull River's Obligations.

a. Consent to the Swimming Pool and Retaining Wall. Bull River hereby consents to Bowman's construction, installation and maintenance of (i) the Swimming Pool anywhere within the area identified by the Note, provided that the Swimming Pool is not built within the thirty foot (30') setback from the southern property line of the Bowman Property; and (ii) the Retaining Wall (which the Parties acknowledge is greater than four feet (4')) within the area identified by the Note.

b. Representations. Bull River hereby (i) expressly waives and releases Bowman from any and all claims, now known or hereafter known, arising out of, attributable to or relating in any manner to Bowman's planting of the Bull River Deciduous Trees on the Bull River property in accordance with Section 1(a)(ii) of this Agreement, and (ii) agrees to indemnify, defend and hold Bowman harmless from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interests, awards, penalties, fines, costs or expenses of whatever kind, including attorneys' fees, arising out of or relating to the Bull River Deciduous Trees.

3. The City's Obligations.

a. Building Permits for the Swimming Pool and Retaining Wall. Notwithstanding the Resolution, within fourteen (14) days of the Effective Date, the City will issue a building permit to Bowman to construct, install and maintain (i) the Swimming Pool anywhere within the area identified by the Note, provided that the Swimming Pool is not built within the thirty foot (30') setback from the southern property line of the Bowman Property, and (ii) the Retaining Wall, subject to review and approval of the plans approved by a licensed engineer included with the Retaining Wall Application.

b. **No Additional Building Permits.** The City will not issue Bowman any building permits for structures within the area identified by the Note other than as expressly set forth above in Section 3(a) or as otherwise permitted by the Resolution.

4. **Liability Contested and Denied.** This Agreement settles and resolves claims which have been contested and denied by the Parties hereto and none of the provisions of this Agreement and nothing contained in this Agreement shall be construed as an admission whatsoever by any Party hereto.

5. **Release of Claims.** As of the Effective Date, each Party hereby mutually releases, relinquishes, acquires, waives and forever discharges each of the other Parties, and all of their successors and assigns, from claims, liabilities, demands, and causes of action for (a) the City's denial of a building permit for the Swimming Pool, and (b) Bowman's construction, installation and maintenance of the Swimming Pool, Improvements and Retaining Wall, whether known or unknown, matured or unmatured, foreseen or unforeseen, regardless of whether such claims should have been asserted in any lawsuit, from the beginning of time until the date of this Agreement ("Released Claims"). The foregoing releases and waivers do not apply to any claim for breach of this Agreement.

6. **Representations and Warranties.** In order to induce the Parties to enter into this Agreement, the Parties hereby make the following representations and warranties:

a. **No Assignment of Claims.** Each Party hereby represents and warrants to the other Parties that (i) it has not heretofore assigned or transferred or purported to assign or transfer to any third party all or any part of any of the claims released herein, and (ii) no third party has any legal or equitable right of subrogation to all or any part of any of the subject released claims.

b. **Authority.** Each Party hereby warrants and represents to the other Parties, without any limitation or qualification of any kind whatsoever, that (i) it is duly authorized and empowered to enter into and sign this Agreement, (ii) this Agreement is a binding obligation of each Party, and (iii) there exists no physical or mental condition known to either Party hereto that would preclude it from executing this Agreement.

c. **Absence of Representations.** Except as expressly set forth in this Agreement, no Party has made any representations or statements of material fact to another Party, and the Parties have not relied and shall not rely upon any such representations or statements in connection with the negotiation, execution, delivery or effect of this Agreement. No statement or inducement has been made to any Party contrary to or in addition to the statements contained herein. Each Party has read this Agreement, fully understands its contents and voluntarily accepts the terms of this Agreement. There is no agreement or promise by or on behalf of any Party to do or omit to do any act or thing not expressly and specifically mentioned in this Agreement.

7. **Force Majeure.** The Parties or any other person obligated under this Agreement shall be excused from performing any obligation set forth in this Agreement, financial inability excepted, so long as (but only so long as) the performance of such obligation is prevented or delayed by an act of nature, weather, avalanche, fire, earthquake, flood, explosion, act of the elements, war, invasion, insurrection, riot, malicious mischief, vandalism, larceny, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, order of government or civil defense authorities or any other cause reasonably beyond the control of the Parties or other person prevented or delayed.

8. **Expenses of the Parties.** Each of the Parties hereto shall bear its own fees, costs, and expenses incurred in connection with the authorization, preparation, negotiation, and execution of, and performance under, this Agreement, including but not limited to all fees and expenses for agents, attorneys and accountants.

9. **Term: Right to Cure.** The term of this Agreement will begin on the Effective Date and will continue for a perpetual term. If any Party reasonably believes that another Party is in violation of any provision of this Agreement, it shall provide written notice of such violation before initiating legal action to enforce this Agreement. The other Party shall then have sixty (60) days to provide evidence in writing that it has taken corrective action such that it is no longer in violation of the Agreement. Should the defaulting Party fail to fully cure the violation at the conclusion of the sixty (60) day cure period, or if the violation cannot be cured, the Party may initiate legal action to enforce this Agreement.

10. **Notice.** All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be sufficient if delivered personally or mailed postage prepaid by first class, registered or certified mail posted in the United States, or by overnight delivery service, and addressed to the Parties as set forth in the introduction of this Agreement. Any notices and other communications provided as set forth above shall for all purposes of this Agreement be treated as being effective or as having been given when delivered if delivered personally, or, if sent by mail, at the earlier of actual receipt or seventy-two (72) hours after the same has been deposited in a regularly maintained receptacle for the deposit of United States mail, addressed as aforesaid, with postage prepaid.

11. **Assignment.** Bowman may assign this Agreement to any subsequent purchaser of the Bowman Property and any subsequent purchaser of the Bowman Property may likewise assign this Agreement to any other subsequent purchaser of the Bowman Property. This Agreement is binding upon and will inure to the benefit of the Parties hereto and their respective successors and assigns.

12. **Scope; No Third Party Beneficiaries.** This Agreement is for the sole benefit of the Parties hereto and their respective permitted successors and assigns, and nothing herein, express or implied, is intended to or shall confer on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. Without limiting the foregoing, the Parties acknowledge and agree that no third party (including, without limitation, any third party property owner in Country French Estates) shall be entitled to, and the City shall not grant to any such third party, a building permit for any structure within the area designated by the Note except to the extent expressly permitted by the Resolution, without Bull River's prior written consent.

13. **Miscellaneous.** The captions which precede the paragraphs of this Agreement are for convenience only and shall not be deemed to be part of this Agreement and in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts of this Agreement. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any parts thereof, and any gender shall include other genders. The invalidity or unenforceability of any portion of this Agreement shall not affect the validity or enforceability of the remainder hereof. Each Party to this Agreement agrees that the provisions contained herein shall not be construed in favor of or against any Party because that Party or its counsel drafted this Agreement, but shall be construed as if all Parties prepared this Agreement, and any rules of construction to the contrary are hereby specifically waived. This Agreement and the Schedule(s) attached hereto contain the entire agreement and understanding of the Parties concerning the subject matter hereof and this Agreement supersedes and replaces all prior negotiations, proposed agreements, agreements or representations whether written or oral. In the event of any inconsistency between the statements made in the body of this Agreement and the Schedule(s), the statements in the body of this Agreement will govern. The terms of this Agreement were negotiated at arm's length by the Parties hereto. This Agreement shall be liberally

construed to effect all of its purposes, and shall be governed by and construed in accordance with the laws of the State of Utah. This Agreement may be amended or modified only by an agreement in writing signed by the Party against which enforcement is sought. This Agreement may be executed in counterparts, all of which taken together shall constitute one agreement, binding on all the Parties hereof and their successors and assigns, notwithstanding that all the Parties are not signatories to the original or the same counterpart. This Agreement may be executed by original or by signatures transmitted electronically, which shall have the same effect. The above recitals and the attached exhibits are incorporated in, and made a part of this Agreement by this reference.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

BOWMAN

By: _____
Matthew Bowman

Date: _____

By: _____
Katrina Bowman

Date: _____

BULL RIVER

By: _____

Print Name: _____

Title: _____

Date: _____

HIGHLAND CITY

By: _____

Print Name: _____

Title: _____

Date: _____



CITY COUNCIL AGENDA REPORT

ITEM #8

DATE: March 2, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Nathan Crane, AICP
City Administrator/Community Development Director
SUBJECT: Ordinance: Changing Park Hours of Operation *Legislative*

PURPOSE:

The City Council will consider a request by City Staff to amend Section 12.24.010. Hours of Public Use For Parks and Cemetery from 5:00 am to 11:00 pm to Dawn to Dusk. The Council will take appropriate action.

DISCUSSION:

City Parks and the Cemetery are currently open from 5:00 am to 11:00 pm. While there is vandalism and use of parks outside of these hours, recently, we have had an increase in vandalism in Highland Glen Park. Staff has taken a comprehensive approach in order to try and address the issue throughout the City. Administrative, Police and Park staff met to discuss a number of options. One of the recommendations is to change the hours that a park is open from 5:00 am to 11:00 pm to Dawn to Dusk except for cemetery burials. Staff did discuss changing the hours for only Highland Glen Park, however, there are issues at all of the parks and we felt it was important to be consistent. Further, staff believes the revised hours are more compatible with the adjacent residential uses of the parks. The Council does have the ability to extend the hours of operation for special events.

Field reservations end at dusk and pavilion reservations are from 7:00 am until 10:00 pm. However, based on our experience with the renters, pavilions are typically not used after dusk. Fields can be reserved from March 1 to October 31 and pavilions can be reserved from May 1 to September 30.

As calculated by the US Naval Observatory dusk means 30 minutes after sunset. The flowing chart is provided for illustrative purposes only:

Month	Dawn	Dusk
January	7:15 am	6:00 pm
February	6:45 am	6:30 pm
March	7:00 am	8:00 pm
April	6:00 am	9:00 pm
May	6:00 am	9:30 pm
June	6:00 am	10:00 pm
July	6:00 am	10:00 pm
August	6:30 am	9:00 pm
September	6:45 am	8:00 pm
October	7:00 am	7:00 pm
November	7:00 am	5:45 pm
December	7:15 am	5:30 pm

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget.

RECOMMENDATION:

Staff recommends the Council **APPROVE** and **ADOPT** the proposed amendment.

PROPOSED MOTION:

I move that the City Council **ADOPT** the ordinance amending the park and cemetery hours of operation from 5:00 am to 11:00 pm to Dawn to Dusk except for cemetery burials.

ALTERNATIVE MOTION:

I move that the City Council **DENY** the proposed changes to the Municipal Code.

ATTACHMENTS:

1. Proposed Ordinance

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL ADDING HIGHLAND CITY MUNICIPAL CODE SECTION 12.24.010.A HOURS OF PUBLIC USE FOR PARKS AND CEMETERY FROM 5:00 AM TO 11:00 PM TO DAWN TO DUSK. AS SHOWN IN THE OFFICAL FILE.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Council (the “City Council”) were given in the time, form, substance and manner provided by Utah Code; and

WHEREAS, the City Council finds that the adoption of this Ordinance is in the best interest of the residents of Highland; and

WHEREAS, the City Council held a public meeting on this Ordinance on March 2, 2020.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1. The Highland Municipal Code Section 12.24.010.A Hours of Public Use For Parks and Cemetery from 5:00 am to 11:00 pm to Dawn to Dusk.is hereby amended as follows:

...

A. Highland City park and cemetery shall be available to the use of the public ~~at all hours after five a.m. in the morning and before eleven p.m. each evening~~ FROM DAWN UNTIL DUSK. This time restriction does not apply to parks designated as campgrounds OR CEMETERY BURIALS.

...

SECTION 2: Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 3: This Ordinance shall be in full force and effect from March 2, 2021 or after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, March 2, 2021

HIGHLAND CITY, UTAH

Rodney W. Mann, Mayor

ATTEST:

Stephannie Cottle, City Recorder

COUNCILMEMBER YES NO

Timothy A. Ball	<input type="checkbox"/>	<input type="checkbox"/>
Brittney P. Bills	<input type="checkbox"/>	<input type="checkbox"/>
Kurt Ostler	<input type="checkbox"/>	<input type="checkbox"/>
Kim Rodela	<input type="checkbox"/>	<input type="checkbox"/>
Scott L. Smith	<input type="checkbox"/>	<input type="checkbox"/>



CITY COUNCIL AGENDA REPORT

ITEM #9

DATE: March 2, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Rob Patterson
City Attorney

SUBJECT: Discussion: Orphan Property Disposal and Valuation Process. *Legislative*

PURPOSE:

The City Council will discuss a policy for the disposal of orphan property and for determining the valuation of said property. This item is being presented for discussion and direction only.

DISCUSSION:

Under the direction of the City Council, staff has prepared a policy to address the disposal of public property and a method for determining the value of the property. The intent of this policy to establish such terms and conditions as the Council deems desirable, fair and appropriate for any sale or other disposal of orphan property and not significant real estate.

ATTACHMENTS:

1. Draft Resolution

**A RESOLUTION DESIGNATING CERTAIN PUBLIC PROPERTY AS SURPLUS AND
AVAILABLE FOR DISPOSAL AND ADOPTING A POLICY REGARDING THE
METHOD AND FORMULA FOR THE VALUATION OF SUCH PROPERTY**

WHEREAS, the Highland City Council is authorized under State law and Highland City Code 2.44.030 to designate real public property as surplus property that is eligible to be sold, leased, conveyed, and/or otherwise disposed of;

WHEREAS, the Highland City Council is authorized under State law and Highland City Code 2.44.030(C) to establish such terms and conditions as the Council deems desirable, fair and appropriate for any sale or other disposal of such surplus property, considering intended use, property tax value, and the interests of the city in such property;

WHEREAS, the City Council has reviewed potentially sellable real public property owned by the City to determine whether such property can or should be disposed of, based on the following non-exclusive criteria:

- a. Property should not be disposed of if it is associated with a trail, unless the Council determines the trail is not used and does not have infrastructure in the ground below;
- b. Property should not be disposed of if it adds to the open space feel of an open space neighborhood;
- c. Property should not be disposed of if there are potential future City needs for the property;
- d. Property should not be disposed of if the transfer of property would result in an increase of irrigable acreage that would unduly strain or burden the City's pressurized irrigation system;
- e. Property should not be disposed of if the transfer of property would result in the creation of orphan parcels;
- f. If property adjacent to a trail is disposed of, the City must be able to maintain ownership of the trail with a five foot buffer on both sides of the trail;

WHEREAS, the City Council finds that the property being designated as surplus property that may be disposed of under this resolution are eligible to be disposed of under the criteria described above, are not public rights of way, and have issues regarding access, connectivity, usability, and/or location that render the parcels unsuitable for City purposes;

WHEREAS, the City Council finds that the issues of access, connectivity, usability, and location make normal auction or appraisal efforts difficult or unsuitable for the parcels being designated as surplus under this resolution, because such efforts inordinately and

disproportionately increase the cost of disposing of the parcels, and there are limited numbers of potential buyers;

WHEREAS, the City Council desires to establish a uniform method for handling the valuation and disposal of such property that protects the interests of the City and its residents and produces a fair return, which method is as follows:

- a. The City Council reviewed the county assessed value of three different lots from four different areas of the City (Avery, Eagleview, 11350 North, View Pointe);
- b. Five of the twelve lots reviewed were open space lots, to reflect the average subdivision makeup within the City;
- c. The lots were chosen based on location, diversity, and size in order to obtain a reasonable, average, per square foot valuation;
- d. The City Council calculated the average price per square foot for the sample lots and applied a 25% multiplier to the average in order to account for the fact that the property being designated as surplus are not buildable lots, have issues that impede development or access, and/or have a limited number of potential buyers.

NOW THEREFORE, BE IT RESOLVED by the Highland City Council as follows:

1. The City Council designates the following properties as surplus property that may be sold in accordance with this resolution and policy:
 - a. See Exhibit A attached hereto for the list of surplus properties.
2. The City Council designates the valuation of such surplus property as follows:
 - a. Based on the average 2020 county assessed value of sample properties, at a 25% multiplier, the 2021 valuation of surplus property is **\$2.74 per square foot**.
 - b. This valuation shall be in effect for the properties declared as surplus pursuant to this resolution and policy for the year 2021. Sales and other disposals of property that are not approved within 2021 are not entitled to rely on the \$2.74 valuation and may be subject to different and higher valuations.
 - c. The potential buyer may, at their own cost and expense, conduct an appraisal to challenge the valuation provided above. The parcel shall be valued at the higher of the two values.
3. The City Council shall review the properties and valuations established by this resolution and policy annually and at such other times as the Council deems appropriate, including in response to a request for the sale of public property. The City Council may as part of such review:
 - a. Designate additional property as surplus;

- b. Cancel or remove the designation of property as surplus;
- c. Update the valuation to reflect more recent or more accurate data; and
- d. Designate different valuation methods for surplus property.

4. Nothing in this resolution and policy shall be construed as an offer of sale by the City of any real property. The disposal of any property designated herein as surplus shall require final approval by the City Council prior to such disposal.

5. Nothing in this resolution and policy shall be construed as establishing a right to have other or additional City-owned property be declared as surplus and disposed of. The City Council reserves the right to review, approve, or deny any request for disposal of other or additional public property as the City Council deems appropriate.

6. Nothing in this resolution and policy shall affect or supersede any existing agreement regarding the sale, lease, exchange, or other disposal of City-owned property.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF HIGHLAND CITY, UTAH, this _____ day of _____, 2021.

Mayor

ATTESTED:

City Recorder

PUBLICATION DATE: _____