



## CITY COUNCIL MINUTES

**Wednesday, March 22, 2023**

**Approved July 12, 2023**

The following are the minutes of the City Council meeting of the Herriman City Council. The meeting was held on **Wednesday, March 22, 2023**, at 5:30 p.m. in the Herriman City Council Chambers, 5355 West Herriman Main Street, Herriman, Utah. Adequate notice of this meeting, as required by law, was posted in the City Hall, on the City's website, and delivered to members of the Council, media, and interested citizens.

**Presiding:** Mayor Lorin Palmer

**Councilmembers Present:** Jared Henderson (electronically attended), Teddy Hodges, Sherrie Ohrn, Steven Shields

**Staff Present:** City Manager Nathan Cherveski, Assistant City Manager Wendy Thomas, City Recorder Jackie Nostrom, Finance Director Kyle Maurer, Director of Operations Monte Johnson, Communications Manager Jonathan LaFollette, City Planner Michael Maloy, Police Chief Troy Carr, Deputy Chief Cody Stromberg, Community Development Director Blake Thomas, Unified Fire Authority Assistant Chief Anthony Widdison, City Attorney Todd Sheeran, City Engineer Bryce Terry, Assistant City Attorney Matt Brooks, Building Official Cathryn Nelson, HPD Operations Commander Brent Adamson, HPD Chief of Police Troy Carr, Streets Manager Ed Blackett, and Public Utilities Engineering Manager Jonathan Bowers.

**5:30 PM – WORK MEETING:** (Fort Herriman Conference Room)

**1. Council Business**

Mayor Lorin Palmer called the meeting to order at 5:32 p.m.

**1.1. Review of this Evening's Agenda**

Council and staff briefly reviewed the agenda.

### **1.2. Future Agenda Items**

There were no future agenda items requested.

### **1.3. Council discussion of future citizen recognitions**

Mayor Palmer indicated he invited Mountain Ridge Hockey to a meeting to be recognized for taking state for the second time.

## **2. Administrative Reports**

### **2.1. 2022-2023 Snow Report – Justun Edwards, Public Works Director & Ed Blackett, Streets Manager**

Streets Manager Ed Blackett presented a snowplow zone map, breaking down the City into four areas for snow removal which totaled 336 lane miles. He added there was also an additional 70 miles of sidewalks and asphalt trails which are plowed after each snow event.

Manager Blackett touched on the maintenance cost and anti-icing salt brine used to help in a snow or ice event. He summarized the expended budget for the 2022-2023 fiscal year. Finance Director Kyle Maurer interjected the monies used to cover the deficit would come from other budget line items. The Council expressed appreciation.

### **2.2. A discussion regarding current city ordinance(s) related to parking, winter on street parking and sidewalk snow removal – Brent Adamson, HPD Operations Commander & Greg Shaver, Sergeant**

HPD Operations Commander Brent Adamson reported the Community Services division had worked through its full winter season which recognized several areas which could be improved to be more effective including on-street parking during winter months as well as the removal of snow requirements following a snow or ice event. The team wanted to ensure people have adequate places to park while allowing adequate space for snowplows to clear the roadways.

Councilmember Sherrie Ohrn expressed concern the snow removal ordinance placed unrealistic requirements on the homeowners and stated she didn't want to make an exception for the City to remove snow from sidewalks and asphalt trails. Commander Adamson responded he would work with legal counsel to draft language to help clarify requirements and expectations for the community. Councilmember Ohrn asked about snow removal on sidewalks behind individuals homes questioning if they would be required to remove the snow there. Commander Adamson indicated the focus would be more on the areas in front of homes and observed there could be isolated cases which would need to be addressed individually. He suggested trying to get neighborhoods involved to help with snow removal for homeowners who may be facing difficulties in getting it removed. Councilmember Ohrn was supportive of the suggestion.

Mayor Palmer asked for staff recommendations for parking. Commander Adamson suggested during a defined snow event, parking in the public right-of-way be allowed on one side of the road. Council consensus determined they would be supportive of the direction. Commander Adamson reported he would bring an updated ordinance back to Council for consideration.

### **2.3. City Dumpster Rental Program Discussion – Justun Edwards, Public Works Director**

Public Works Director Justun Edwards indicated the City offered a dumpster rental program; however, the program was not very popular. In July 2021, the program was revamped to have the program information on the website providing residents with the ability to submit applications online. Since this change, the program has been heavily utilized.

Director Edwards explained this program was similar to the one Wasatch Front Waste and recycling District runs and thought it duplicated efforts. The allocated budget for the program is \$70,000 and takes three hours of staff and equipment time for delivery and pickup. He observed the cost of the program, and with the extra tipping fees, he stated the current charge did not cover all costs associated with the program.

Councilmember Ohrn agreed duplicate efforts were being made and suggested to redirect patrons to the program offered by Wasatch Front Waste and Recycling District and eliminate the service through Herriman City. The Council agreed.

### **2.4. Discussion Regarding Changes to the City's Policy on Public Infrastructure Districts – Blake Thomas, Community Development Director**

Community Development Director Blake Thomas offered a brief background of the Public Infrastructure District (PID) policy. He recognized some amendments could be warranted to require letters of intent to have more information and to be able to consider a mill levy.

Councilmember Ohrn iterated her concern with having PIDs on residential property and residents having to pay higher property taxes to cover the infrastructure bond. She recognized the difference for commercial property and suggested the policy needed to be solid prior to considering an amendment.

Councilmember Steve Shields stated when the policy was developed there was a collective understanding of the PID function was not robust and the City would in general, not allow them. Since the adoption of the policy and with continued discussion, Councilmember Shields stated he had done a lot of research, discussion, and consideration on PIDs in general and believed they had evolved in a way to realistically install infrastructure. It would be a mechanism where actual growth pays for growth and recommended the Council consider the proposed amendment with the caveat that excessive management fees and soft costs should be justified and limited.

Councilmember Teddy Hodges touched on the expense for impact fees collected once to pay for growth and observed it would not cover the needed infrastructure. He felt the PID would be a good tool to use to ensure adequate infrastructure was installed.

Mayor Palmer the determination to utilize the PID tool should not be driven by a certain development but needed to consider if there was a benefit to the City. City Manager Nathan Cherpesci added he had reached out to the financial advisor for this proposal; however, had not heard back. Councilmember Ohrn expressed her feeling of spot zoning and reiterated the need for a thoughtful policy discussion to happen. Councilmember Shields recognized this was not a perfect solution but was a better option.

Director Thomas offered an example of a development with the infrastructure being installed first. City Manager Cherpesci interjected having a PID could narrow the window of people to be able to purchase the home. Councilmember Ohrn stated this method of funding infrastructure was untested and she didn't want to change the policy without the full understanding behind the decision. She felt a more in-depth conversation was warranted prior to considering an amendment as there would be decade-long effects of the decision. Councilmember Shields supported having the discussion.

Councilmember Henderson referenced the proposal letter and acknowledged the request did not fit the policy. He recognized all methods of funding infrastructure had limitations and the City should look at all options and set a policy moving forward. The process would entail fine tuning details. This discussion item would be brought to a future meeting.

#### **2.5. Request from Olympia Development Team to amend PID Governing Document to allow the imposition of up to 4 mills to pay for certain public infrastructure – Nathan Cherpesci, City Manager**

City Manager Cherpesci indicated there was a proposed request to amend the PID Governing Document to allow the imposition of a mill levy for the Olympia Development. Councilmember Shields indicated for the Council to come to a consensus more discussion was needed. Councilmember Ohrn added she did not want to create a policy based on a project. City Manager Cherpesci indicated he would start working on it.

#### **2.6. Legislative Update – Todd Sheeran, City Attorney**

City Attorney Todd Sheeran tracked over 70 bills this past legislative session. In addition to attending LPC, he attended ULCT's daily briefings and a weekly small group negotiator's meeting. Furthermore, met weekly with the Utah State Bar since he's a member of the Government Relations Committee.

Before getting into certain bills that were passed that affect Herriman, he pointed out a couple of bills that were not passed:

- HB 136 - Allowed schools to submit safe walking routes to municipalities to consider.

- HB 173 - Allowed plaintiffs to recover attorney fees and expert witness fees if they win a case against a municipality. The substitute removed the language and required a study to be done on removing barriers when a municipality is sued or being sued.
- HB 196 - Prohibits cities from using eminent domain for parks.
- HB 291 - Defines short-term rentals and allows cities to enter into an amnesty program with several conditions.
- HB 496 - Requires cities that allow short-term rentals to include in their regulations that an owner has a local contact, take classes, and safety requirements (such as limiting the number of people in a home, having appropriate smoke/fire detection, prohibit multiple nightly rentals in one home).

Notable bills that passed this legislative session that were highlighted:

- HB 21 - Initially drafted to require “public bodies” to hold public hearings except for Planning Commission meetings or a City Council work meeting. The final draft approved only applied to school board.
- HB 406 - Modified annexations for private rural real properties. “Any vote by a [city council] to deny a petition [of annexation] may be recalled as set for reconsideration by a majority of the voting members of the [city council.]” Standardized residential roadways. For example, a city cannot require more than 32 feet of roadway for residential roads, with certain exceptions. Clarified that subdivision amendments are not needed for single lots in a subdivision even if the changes affect the subdivision’s boundaries. Development Agreements will need to clearly point out any restrictions to “applicant’s rights under clearly established state law.” Prohibits cities from charging bonds for private landscaping.
- HB 265 - Requires areas adjacent to military use to submit a compatible use plan to ensure that the permitted and conditional uses are “compatible with the military operations on military land.”
- SB 174 - Last year, the legislature passed a moderate-income housing plan, which requires municipalities to submit plans of housing affordability to the state. Well, one county refused to submit a plan. Requires municipalities to pay \$250 per day to the Olene Walker Housing fund until compliant. Clarified that IADUS includes an apartment above a detached garage. Provides for a standardized process for cities to run plats through. Herriman currently has this process in place with the exception that the City requires neighborhood meetings, which will need to be changed.
- SB 271 - Prohibits municipalities from regulating “co-owned homes” differently than other residential units.
- SB 158 - Originally required the city to create a base water exaction for the different types of dwelling units, such as, a single-family home, one bedroom apartment, two-bedroom apartment, etc. Now, requires the city to make its water exaction methodology public and to consider various other things.

- SB 199 - Originally stated that land-use regulations passed by 2/3 vote was not referable. Now, states that land-use regulations passed by unanimous votes are not referable.
- SB 231 - Only requires “reasonable” searching for documents in a GRAMA request. Gives the city an option to request relief from a vexatious GRAMA requestor.

City Manager Cherpesci reminded the Council of the lobbyist contracts and asked if they would like to see any changes. Council consensus determined to revisit expectations and revamp the legislative approach.

### 3. Adjournment

*Councilmember Shields moved to adjourn the City Council meeting at 7:00 p.m. Councilmember Hodges seconded the motion, and all voted aye.*

### 7:00 PM – GENERAL MEETING:

#### 4. Call to Order

Mayor Palmer called the meeting to order at 7:08 p.m.

#### 4.1. Invocation/Thought/Reading and Pledge of Allegiance

Ms. Rebecca Dansie led the audience in the Pledge of Allegiance.

#### 4.2. City Council Comments and Recognitions

Councilmember Shields indicated early last spring, the Council was going through the budget discussion when it was discovered the City was spending over \$70,000 annually to rent sound equipment for productions and Herriman Towne Days. He reached out to a resident expert in sound systems and asked if the City would be able to procure equipment around the same budget. This resident helped design and compile a sound system which functions for the biggest sound needs such as the summer musical productions but was also configurable and modular enough to be used for a single speaker and a microphone stand. The total cost was less than one budget cycle allocation for rental and would save the community over \$300K over the next five years. He applauded resident Jesse Edgal for his willingness to donate his time and expertise to the community.

Mayor Palmer recognized Jaxon Allen for the toy drive he organized. Jaxon, a 6<sup>th</sup> grader at Butterfield Canyon Elementary, organized a toy drive during the month of February in honor of his brother, Evan, and all the children who must visit Primary Children’s Hospital. Evan has cystic fibrosis, a chronic lung disease and is frequently hospitalized. Seeing the joy that new toys can bring to a child while hospitalized, Jaxon took the initiative in reaching out to local schools to see if they would like to participate in his toy drive. With the help of the students at Butterfield Canyon Elementary and Oakleaf Elementary, Jaxon was able to collect and donate 16 large boxes of toys this year to Primary Children’s Hospital. Mayor Palmer

indicated he reached out to the Friends of Herriman non-profit group, and they were interested in helping this toy drive become bigger in honor of Jaxon and Evan Allen. He expressed appreciation to Jaxon for his initiative to start the toy drive.

## 5. Public Comment

The Herriman Youth Council thanked the Council for the opportunity to be able to attend the Leadership Conference as they were able to learn more about local government and the importance of being connected.

Herriman Culture and Diversity Committee liaison Antonio Valbuena indicated he was working with Jordan School District to open more opportunities in Herriman through an employment center project.

## 6. City Council Reports

### 6.1. Councilmember Jared Henderson

There was no report.

### 6.2. Councilmember Teddy Hodges

Councilmember Hodges thanked staff for their efforts in the USU Leadership Conference for the Youth Council.

### 6.3. Councilmember Sherrie Ohrn

Councilmember Ohrn thanked the Youth Council who participated in the Leadership Conference and highlighted the benefits for the youth. She thanked Youth Council advisor Destiny Skinner for her help with the group.

She indicated she attended the Utah Water Users Conference and would like to have a report at the next meeting.

### 6.4. Councilmember Steven Shields

Councilmember Shields reported on the Salt Lake Valley Mosquito Abatement District and reported the District was soliciting applications for a new director.

He informed the group of his participation in the “We the People” mock congressional hearing event. He applauded the principal, teachers, and students involved in putting the event together.

## 7. Mayor Report

Mayor Palmer reported on the Friends of Herriman nonprofit group and noted Kevin Allred reached out to every high school and is working to create a Student Advisory Board within the Friends of Herriman.

## 8. Reports, Presentations and Appointments

### 8.1. Introduction of the Justice Court Judge Lisa Garner

City Manager Nathan Cherpinski and City Recorder Jackie Nostrom introduced the incoming Justice Court Judge Lisa Garner. Judge Garner offered a brief background of her career. The Council expressed their appreciation for what she would bring to the community.

### 8.2. ESGR Award Recognition for Police Chief Troy Carr and Commander Brent Adamson – Kim Watts, State Chairman

Utah Employer Support of the Guard and Reserve Training Director Bill Rappleye introduced himself and explained his office was under the Department of Defense. He also introduced State Chairman Kim Watts, Region II Chair Mr. Allen, Committee Members Ms. Amy Mower, Mr. Ben Williams, and Ms. Danielle Tomkinson. He turned the time over to State Chairman Mr. Kim Watts for the award presentation. State Chairman Watts indicated the Employer Support of the Guard and Reserve was created to help develop cooperation between civilian employers and their employees who serve in the National Guard Reserve. Half of the National Defense is organized in the National Guard and Reserve. Those who serve in this capacity are civilians with civilian employment or are currently going to school. Soldiers in the National Guard and Reserve have the responsibility to respond to call-ups to protect our nation and preserve national defense. He recognized Police Chief Troy Carr and Commander Brent Adamson for the support they offer and turned the time over to Ms. Amy Mower to preside over the award presentation.

Ms. Mower recognized two members with the Patriot Award. These employees were recognized through a nomination from Officer Rugebregt thanking his supervisors for supporting him during his time serving the country. Officer Benjamin Rugebregt read his nomination statements for Chief Carr and Commander Adamson.

## 9. Public Hearing

### 9.1. Public Hearing and consideration of a resolution to approve filing eminent domain action – Bryce Terry, Assistant City Engineer

Assistant City Engineer Bryce Terry indicated the City had been working on acquiring property for the Herriman Main Street Widening project. He offered an overview of the project and a timeline of the process. Assistant City Engineer Terry stated as per City Council direction offered during previous discussions, the project right-of-way was narrowed where possible to limit the impact on adjacent properties.

As part of the design, the City hired a professional surveyor to identify where the existing right-of-way is, where the proposed right-of-way should be, and where the City would need to acquire property. Assistant City Engineer Terry indicated there were different types of acquisitions needed for the project including property acquisition, perpetual easement, and a permit to enter and construct.

The City offered to purchase the land based on fair market value and several properties were able to be acquired for the project. However, there were some properties needing to be acquired where negotiations stalled, the property owner and the City could not agree on the acquisition price or area, or the property owner had been unresponsive which was the reasoning behind why some properties would be on the eminent domain notice. Assistant City Engineer Terry indicated there were some deadlines which needed to be met for the project. The first milestone would be the reinstallation of private irrigation systems for the irrigation company because the roadway would impact their facilities. Additionally, Rocky Mountain Power is looking to relocate powerlines and the easement needs to be in place prior to the work being conducted. The City is also working with Jordan School District to construct a safe walk route for the school, and some of these properties would need to be secured to meet the deadline of August 2023.

Assistant City Engineer Terry indicated each parcel listed on the eminent domain notice had a professional appraisal conducted and the City has offered over the appraised value. The original offers were sent to property owners January 18, 2023, which exceeded the Utah State Code negotiation timeline by more than double. Moving forward with eminent domain proceedings would enable the project to move forward and would not stop negotiation attempts if the property owner was willing to discuss. He asked the Council if there were any questions.

Councilmember Shields asked if it could be certified all steps outlined in Utah Code Annotated 78B-6 were followed. City Attorney Todd Sheeran confirmed and reiterated the filing of the eminent domain action would not stop attempts to negotiate with property owners. Councilmember Shields then questioned the large price gap for a specific property. Assistant City Engineer Terry explained there were issues relating to the appraised amount due to the property owner claiming ownership of property beyond what had been outlined in the appraisal. He added determining where the roadway ends and begins was the largest dispute between property owners and the City. Councilmember Shields asked how it would get resolved. Attorney Sheeran responded the Utah Property Rights Ombudsman would mediate the arbitration hearing or it would go through a judge to make the determination if arbitration was not requested. Councilmember Shields clarified there would be an unaffiliated individual who would be making the determination and added the Council was not being asked to decide the actual property description. Attorney Sheeran confirmed.

Mayor Palmer opened the public hearing.

Chad Dansie requested to refute almost everything stated. He read a statement he prepared to share his frustration with Herriman City's lack of transparency and pressure placed on the property owners who abut the Herriman Highway road widening project. He recalled his previous statement made at the March 8, 2023, meeting to relieve the pressure placed on the property owners by Herriman City's Engineering Department by acquisition agents to sign

vague paperwork. Misleading promises by engineers to obtain grants and a lack of communication needed to create any sort of compromise. Due to these concerns with how the project was being done, he requested the Council to put the Herriman Highway expansion project on hold until property owners were fully informed and paid for their land. On March 10, 2023, he received a letter from the City notifying him the Mayor and City Council would be voting to condemn property. He relayed his disappointment in the decision despite concerns being brought forth and the lack of compassion toward constituents with whom you represent. He could not believe the Council was unjust leaders who do not care about who they represent; therefore, he believed the Council was being misinformed by the Engineering Department and others in charge of the Herriman Highway road widening project. Mr. Dansie attempted to explain why the Council should not vote to condemn the properties, but instead work with him and his neighbors who are concerned with how the project was being handled. First, he and his neighbors live on Herriman Highway and they have witnessed the traffic increase on the road and understand the need for improvement. He stated he was not against the project, but how it was being done. He suggested the Engineering Department did not properly inform neighbors of the street widening project initially as they were told by acquisition agents who wanted them to sign vague paperwork to give Herriman free access to their property for two years or have their property condemned. Mr. Dansie stated this tactic had no place in city government and it was the City Council's responsibility to ensure the City acts in an ethical and responsible manner. Second, when the neighborhood coalition demanded Herriman City have an open house, it took a month from the initial request to decide to meet with them as a group. By this time the excavation company had already started the project. Mr. Dansie questioned why the Engineering Department waited so long to publicly inform neighbors of the project and suggested it should have been conducted a year in advance to provide an opportunity for property owners to get their questions answered. He said the Engineering Department has not been able to tell property owners what areas are needed for the taking and had not staked any of the properties being considered for condemnation. Mr. Dansie said in one case, the City had not sent paperwork telling the property owner their property was being considered for condemnation. Herriman City Council must be responsible to their constituents and be transparent in decisions. He opined by not sharing information by those affected by the decision it was akin to having a closed-door meeting and this was undemocratic and against the founding principles of transparency. Third, Herriman City should have purchased all properties needed prior to approving the bid and starting the project. When Herriman City staff came and talked to a few property owners about the project seeking willing sellers and they were told they would pay for the property and not try to find loopholes or ways to take the ground without compensation. When the City originally requested grants from Salt Lake County, funding was appropriated, but when WCG Engineering conducted the appraisals without property owner's input and knowledge, they attempted to find any loophole and way not to pay property owners appropriately. Due to this tactic, Herriman City lost out in over \$500,000 in appropriated funding and instead ended up with many angry property owners if the Council votes to move forward with condemnation. If the properties are condemned,

the City will lose out on these funds permanently. By voting against the condemnation, the City could request new appraisals with the property owner's help and reapply for the funds with Salt Lake County creating a win-win situation rather than just vote for a lose-lose situation for everyone involved. Mr. Dansie indicated the property owners had a desire to work with the City and wanted the roadway improved, but wanted it done in a responsible, ethical manner. He indicated they did not want to be bullied, but rather informed about what was going on and wanted to be properly compensated and have input in what appraisals are being done on the properties. This process does not need to be a lose-lose situation for all involved, we can win together by being creative and making it a successful project and voting against the condemnation. He said the Council must actively work towards meeting property owners' needs and compromise. He suggested the property owners would work with the City. He asked if the Council would like to have a discussion on the issues that were brought up during the presentation. Mayor Palmer responded at this time; they could not pursue the discussion.

Shantelle Kenney indicated she lived on Herriman Highway turned the time over to Mr. Chad Dansie to speak. Mr. Dansie indicated it was important to talk about some of the reasons for condemning the ground due to the private irrigation company and stated the property being considered had no effect and didn't know why that would be a purpose for condemning. Secondly, the safe-walk route to school. Currently, there is no development on the side being condemned so there would be no reason for the safe-walk route to be installed. He said there were many other ways to be able to accomplish the goal, but the Council needed to talk with the property owners, and it didn't need to be a lose-lose situation. Ms. Kenney agreed and encouraged the Council to ask questions. Mr. Dansie said the Council talked about continued mediation and said once eminent domain action is files, it would force property owners to go to the Ombudsman and hire a lawyer moving towards litigation creating a lose-lose situation for everyone involved due to being heavy-handed. In many cases, property owners have been asking questions and Mr. Dansie stated Herriman City had not been helpful. He said there was a list of action items which have not been followed up on clear back from January.

Boyd Dansie indicated Blake Thomas and Jonathan Bowers came and visited with him at his home and said they would like to widen the road in two or three years. He said they asked him to sign a willing agreement to sell the property to be able to widen the road. In response, Mr. Dansie responded he would sell the ground to widen the road and signed the agreement. The agreement was signed so the City could receive grant money from the County and State to be able to help purchase the property. After everything was signed, they reported they didn't want to purchase the property because it was determined the ground was part of the roadway. He said he had been paying taxes on the property and they had surveys showing the property line was at the center of the road. He stated he has information to show that in a 10-year period they had used the road for 24 hours continuously. Mr. Dansie knew the situation would end up in court, but wondered why can't people just sit down and openly talk. He expressed his frustration and feeling the City should have been honest and said they never

intended to purchase the property, the plan was to take it and that is exactly what was happening. He felt like the initial conversation misrepresented the intent and hoped the City didn't get grant funding.

James Kenney complained the Engineering Department was allowed to speak for longer than five minutes and dialogue could happen back and forth, why wouldn't a resident be given the same courtesy.

Josh Butterfield indicated he was working with the City to purchase a little bit of his property to install a sidewalk to go on, but some of the information for the roadway create an issue with the homeowner. He said he felt the City tried to talk through the process with him, but some more clarity would bring some resolution to concerns. He believed half of the fence on his property would be purchased. This would change things on their property, and he didn't feel the City had taken that into consideration when discussing compensation. He agreed it was being pushed through fast and understood why eminent domain action exists as people can be stern and not wanting to give up their property. He indicated property owners didn't see the whole plan and why so much property was needed for beautification. He understood the easement for utilities, but he was unclear of his actual rights and rather not end up in litigation, just to work together and move forward. He said the property owners are upset for a reason and the City should help them understand the process. He opined the situation could be resolved without eminent domain action.

Doug Shivers said he called and complained about the road as it has been a nightmare at times with all the development. He recalled safety issues he had encountered when trying to turn off the road into his driveway and relayed his excitement about the widening project and the incorporation of a center turn lane. Mr. Shivers said it was a little bit of dirt needing to be given up so that little children can walk to school safely.

*Councilmember Ohrn moved to close the public hearing. Councilmember Hodges seconded the motion, and all voted aye.*

Councilmember Hodges thanked residents for attending and offering public comments. He agreed eminent domain was not an easy thing to consider or appraise, which was why the City utilizes third party appraisers. He said he has a close friend who lives on Main Street who started talking about the process he has been going through which was a vastly different story than the one that was painted tonight by the citizens in some aspects. He was in negotiations for a while to figure out his transaction. The appraisers used are one of the best in the State that deal with this type of land transaction. Councilmember Hodges believed the information staff presented was very clear and concise and didn't feel Council was led astray at any point in time, especially with the Main Street project. He recalled one comment given tonight affirming the process had been going on for at least two years. Councilmember Hodges expressed confusion on why the comments offered suggested there was a lack of

transparency as the only time it had been discussed was during public meetings. He acknowledged there could be some things in the in-house process that could be cleaned up, but a lot of the steps followed are part of the processes. Councilmember Hodges empathized with the residents.

Councilmember Ohrn and asked for clarification on the statement offered by Mr. Chad Dansie regarding one of the property owners were not notified of the condemnation proceedings. Claudia Dansie approached the lectern and reported she owns a few properties being considered for condemnation. She indicated 6672 West was the property she was not given any information on it being condemned. City Attorney Sheeran responded that parcel was not part of the proposed condemnation action. Assistant City Engineer Terry indicated the property was mistakenly shown on the map and confirmed it was not part of the condemnation consideration.

Mr. Chad Dansie approached the lectern and noted a dispute on the 6607 West property and explained Herriman City was supposed to deed the ground to his parents two years ago and it still has not been completed. Community Development Director Blake Thomas indicated the property currently is owned by Ivory Homes which was acquired from the Dansie family when the Hidden Oaks development was being developed. He noted staff have been working with Ivory Homes to purchase the property.

Councilmember Ohrn said she's heard all the time that government closest to the people is the best. She said as an elected official, it's not because she was looking out at people she knows, respects, and appreciates which makes it hard to make these kinds of decisions. She acknowledged interacting with many of the individuals being affected by the project and relayed her appreciation for those communications and hoped everyone could keep this situation as an issue and not personal. Councilmember Ohrn was saddened when she heard terms such as threatening, heavy-handed, and lying because she had been open and responsive to everyone who reached out to her. She added she tries very hard to be informed when asked to decide and doesn't assume information given has been thoroughly vetted which is why she asks so many questions. Councilmember Ohrn expressed her appreciation to staff for their willingness to answer questions and provide the information needed to be informed. She highlighted the hours she spent on this issue to understand the differences on both sides, and it has gotten to the point where negotiations have stalled.

Councilmember Ohrn said the discrepancy on where the property line is located would need to be determined by a judge or Property Rights Ombudsman, not by the City. Councilmember Ohrn stated the City would not "take" the property, it's illegal. The City would have an appraisal done and pay fair market value as required. She recalled comments surrounding the \$500,000 Corridor Preservation grant funds and observed the industry experts who have looked at the appraisals. The City does not want to be unfair, but the property needs to be reasonably priced. She suggested the property owner conduct their own appraisal if that is

the place of contention and reiterated the City could not pay hundreds of thousands of dollars above an appraisal.

Councilmember Ohrn spoke to the comment offered regarding the safe walk route and noted there were properties on both sides of the road and the cost of the project would continue to increase exponentially. She did not feel good about kids crossing the road at 7300 West as there was not enough site distance without a light being installed. Councilmember Ohrn felt it was not doing the children justice and it needed to be completed prior to the commencement of school.

Councilmember Ohrn affirmed the City would continue to negotiate with the property owners if they were willing to continue the discussions with the City. She recognized the corridor preservation funds could not be used to purchase properties having condemnation action and recognized the City funds were extremely limited.

Councilmember Shields recalled one of the first meetings he attended as an elected official had a training conducted by the Ombudsman's Office which talked about rights and responsibilities for property owners. He recalled the Salt Lake County Assessor's Office map currently shows the road as a designated right-of-way, and if it is determined the assessment was incorrect, the property owner would be compensated accordingly. He encouraged the residents to engage with the Ombudsman's Office as they are a great source of information. Councilmember Shields indicated the Council did not have the authority to resolve the dispute, just to determine if the process set forth in state code should progress.

Councilmember Henderson talked about the purposes behind the process and stated it was not a negative process and it was not being heavy-handed. The process in place has been exhausted, the condemnation action is not a final decision, it is one step in moving the process forward as there was a fundamental gap in the price for the property purchase. He reiterated it was not for the City to decide where the actual property line is located and it was clear the process needs to continue for the appropriate determination to be sought. Councilmember Henderson indicated reasonable compromises could still be considered.

Councilmember Shields sympathized with the group about the process and requested to have a future discussion about changing the process for the better. Councilmember Ohrn agreed.

Mayor Palmer empathized with the residents who offered their comments. He relayed his comfort of moving the process forward and acknowledged the process wasn't over for the property owners and would still be rightfully compensated.

*Councilmember Hodges moved to approve Resolution No. R11-2023 authorizing eminent domain proceedings with respect to Herriman Main Street. Councilmember Ohrn seconded the motion.*

*The vote was recorded as follows:*

*Councilmember Jared Henderson Yes*  
*Councilmember Teddy Hodges Yes*  
*Councilmember Sherrie Ohrn Yes*  
*Councilmember Steven Shields Yes*  
*Mayor Lorin Palmer Yes*

*The motion passed unanimously.*

Councilmember Ohrn encouraged residents to reach out to the Council.

#### **10. Consent Agenda**

- 10.1. Review and consideration of proposed amendments to the Herriman City Planning Commission Rules of Procedure and Ethical Conduct – Michael Maloy, City Planner**
- 10.2. Request to Amend the Governing Documents for the Auto Mall and Retail Public Infrastructure District**
- 10.3. Consideration of a Master Services Agreement with STRATA Networks – Blake Thomas, Community Development Director**
- 10.4. Discussion on Interlocal Agreement with Salt Lake County Regarding Corridor Preservation Reimbursement – Bryce Terry, Assistant City Engineer**
- 10.5. Review and consider a participation agreement with Wasatch Front Regional Council to develop a Southwest Waterways Visioning Plan**

*Councilmember Ohrn moved to approve the consent agenda as written. Councilmember Shields seconded the motion.*

*The vote was recorded as follows:*

*Councilmember Jared Henderson Yes*  
*Councilmember Teddy Hodges Yes*  
*Councilmember Sherrie Ohrn Yes*  
*Councilmember Steven Shields Yes*  
*Mayor Lorin Palmer Yes*

*The motion passed unanimously.*

#### **11. Discussion and Action Items**

- 11.1. Consideration of a Resolution approving the advance of funds for the purpose of purchasing two (2) dump trucks and a hydro excavator truck, and adopting official intent to reimburse said funds at a later date through financing – Kyle Maurer, Finance Director**

Finance Director Kyle Maurer explained the purchase of this equipment there was uncertainty of when the City would receive all the vehicles and the final sales price. At that time, the former Finance Director elected to not execute the lease agreement in advance and execute the contract once the vehicles have been purchased. The Internal Revenue Service requires official action by the City Council to allow reimbursement of the expenses with tax exempt financing.

*Councilmember Ohrn moved to approve Resolution No. R13-2023 approving the advance of funds for the purpose of purchasing two dump trucks and a hydro excavator vactor truck and adopting official intent to reimburse said funds at a later date through financing. Councilmember Shields seconded the motion.*

*The vote was recorded as follows:*

<i>Councilmember Jared Henderson</i>	<i>Yes</i>
<i>Councilmember Teddy Hodges</i>	<i>Yes</i>
<i>Councilmember Sherrie Ohrn</i>	<i>Yes</i>
<i>Councilmember Steven Shields</i>	<i>Yes</i>
<i>Mayor Lorin Palmer</i>	<i>Yes</i>

*The motion passed unanimously.*

**11.2. Discussion and consideration to award the construction contract for Hamilton Farms Storm Drain Improvements – Jonathan Bowers, Public Utilities Engineering Manager**

Public Utilities Engineering Manager Jonathan Bowers explained the Hamilton Farms Storm Drain Improvements consist of approximately 4,000 linear feet of new storm drainpipe along McCuiston Ave, Erin Loop Road, and Gina Road. This project also included removal of undersized pipe. He noted J&B Excavating Inc provided the lowest bid for the project and recommended the Council award the contract accordingly. Councilmember Shields observed the need to have to pull funding allocations from other projects to be able to complete this one. Manager Bowers indicated potential projects funding could be impacted.

Councilmember Shields questioned the 20-percent contingencies and wondered, from a budgeting standpoint, how often projects have gone over budget and how much of the contingencies have been utilized on a regular basis. Manager Bowers indicated the increase of percentage of the contingency is due to the construction climate. City Manager Cherpesci added the contingency does not automatically go to the contractor; it would be controlled by the City for emergency purposes.

Finance Director Maurer observed during the last budget cycle, a few capital projects go over the allocated budget. Moving forward, a spreadsheet would be disseminated to the Council along with a budget amendment outlining project statistics indicating if the project needed

more funds allocated or if there was funds which needed to be released from a project. Councilmember Shields expressed his appreciation. Manager Bowers continued with the project additions and noted it would be at the City's discretion whether to move forward.

*Councilmember Shields moved to approve the construction contract for the Hamilton Farms Storm Drain Improvements to J&B Excavating. Councilmember Ohrn seconded the motion and all voted aye.*

### **11.3. Discussion and Consideration of an Amendment to the Olympia Master Development Agreement** – Blake Thomas, Community Development Director

Community Development Director Blake Thomas offered a background of the Olympia Master Development agreement approved in November 2021. The first amendment to the agreement was executed September 1, 2022 to formalize storm water discharge rates in accordance with Salt Lake County. The proposed second amendment includes four requests:

1. Add Section 7.2: Special Owner Consent Provision. This would indicate the Special Owner would not be required to execute any amendments to the agreement that do not affect school district property.
2. Modify Section 2.10.1: Intersection of 12600 South and U-111 within the planned community. If at least ~~half~~ one-quarter (1/4) of the intersection of 12600 South and relocated U-111 is ~~aligned~~ located within the planned community, then the master developer shall develop commercial uses, as permitted by the design guidelines, as follows.
3. Modify Section 5.3.1: ~~One-Time Contract Fee Security for Public Infrastructure Districts~~. The parties hereby acknowledge that the collateral for securing public financing through the Public Infrastructure Districts shall be the One-Time Contract Fee ~~and/or such other security as may be provided by the Governing Documents of the Public Infrastructure Districts. Special Owner shall not be required to pay the One-Time Contract Fee so long as the School District Property is developed for school purposes.~~ The Parties acknowledge that the One-Time Contract Fee contemplated hereunder is not being assessed as an “impact fee” as that term is defined in Utah Code Annotated Section 11-36a-102(9)(2021).
4. Delete in its entirety section 2.18: Secondary Water. ~~Master Developer shall install secondary water infrastructure within the City's water zones 3 and 4 as required by the City's Vested Laws. The Administrator may modify these requirements, pursuant to the Administrative Modification procedures of Section 7.1, where there are similar or equivalent means and costs of providing water service in zones 3 and 4.~~

Community Development Director Thomas recommended continuing the item based on the Council's previous discussion about the PID policy. He asked if there were any questions. In response to a question posed by Councilmember Ohrn, City Attorney Todd Sheeran recommended amending the Master Development Agreement to require bonding for incomplete landscaping.

*Councilmember Shields moved to continue the resolution approving the second amendment to the Olympia Master Development Agreement to a future meeting. Councilmember Ohrn seconded the motion and all voted aye.*

## 12. Future Meetings

- 12.1. Next Planning Commission Meeting: April 5, 2023
- 12.2. Next City Council Meeting: April 12, 2023

## 13. Events

- 13.1. April 1 – Herriman City Basket Dash; Crane Park; 10:00 a.m.
- 13.2. April 3 – Hungry Herriman; Crane Park 5:00 p.m.

## 14. Closed Session

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

*Councilmember Shields moved to temporarily recess the City Council meeting to convene in a closed session to discuss pending, or reasonable imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205 at 9:28 p.m. Councilmember Ohrn seconded the motion.*

*The vote was recorded as follows:*

Councilmember Jared Henderson	Yes
Councilmember Teddy Hedges	Yes
Councilmember Sherrie Ohrn	Yes
Councilmember Steven Shields	Yes
Mayor Lorin Palmer	Yes

*The motion passed unanimously.*

The Council reconvened the meeting at 9:52 p.m.

## 15. Adjournment

*Councilmember Shields moved to adjourn the City Council meeting at 9:52 p.m. Councilmember Ohrn seconded the motion and all voted aye.*

## 16. Recomence to Work Meeting (If Needed)

I, Jackie Nostrom, City Recorder for Herriman City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on March 22, 2023. This document constitutes the official minutes for the Herriman City Council Meeting.



Jackie Nostrom, MMC  
City Recorder