NEXT

HIGHLAND CITY

HIGHLAND CITY COUNCIL AGENDA

Tuesday, June 1, 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: 846 2415 9787

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 – Council Member Brittney P. Bills

1. UNSCHEDULED PUBLIC APPEARANCES

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

2. PRESENTATIONS

a. **North Point Solid Waste Special Service District –** *Neil Schwendiman*
Neil Schwendiman will present a new software program which will help educate residents regarding solid waste.

b. **Water Update –** *Jeff Murdoch*
Jeff Murdoch will present the current water situation as it relates to pressurized irrigation for Highland City.

c. **Legislative Updates –** *Brady Brammer*
Representative Brady Brammer will discuss with the Council state level issues effecting Highland City.

d. **Introduction of New City Engineer –** *Andy Spencer*
Andy Spencer will be introduced as the new City Engineer/Public Works Director.

3. CONSENT ITEMS *(5 minutes)*

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

a. **Approval of Meeting Minutes** *Administrative*
Regular City Council Meeting – May 4, 2021 and May 18, 2021

b. **Construction Contract: HA5 and Bonded Matrix Road Treatment** *Administrative*
The City Council will consider a request to approve a bid with Holbrook Asphalt Co. to proceed with the application of HA5 (High Density Mineral Bond) to 722,833 square feet

of road surface and the application of Bonded Matrix sealcoat to 117,186 square feet of road surface throughout Highland for a total of $219,829.63. The City Council will also authorize the City Administrator and City Recorder to execute the necessary contract documents for the project. The Council will take appropriate action.

c. Construction Contract: ONYX Sealant Treatment *Administrative*
The City Council will consider a request to approve a bid in the amount $63,905.74 to Morgan Pavement for the placement of 336,345 square feet of ONYX Frictional Mastic Sealant as a part of the 2021 Road Rehabilitation Project. The City Council will also authorize the City Administrator and City Recorder to execute the necessary contract documents for the project. The Council will take appropriate action.

4. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – NUISANCES *Legislative*

The City Council will hold a public hearing to consider a request by Highland City Staff to amend several sections of the Development Code relating to the nuisance of noise in commercial zones. The City Council will take appropriate action.

5. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – SPORTS AND FITNESS *Legislative*

The City Council will hold a public hearing to consider a request by Highland City Staff to amend Chapter 10 Definitions in the Development Code to clarify permissible uses in the C-1 Zone, CR Zone, and Town Center Overlay relating to sports, fitness, and social dances. The City Council will take appropriate action.

6. RESOLUTION: ADOPTION OF THE ORPHAN PROPERTY DISPOSAL POLICY *Legislative*

The City Council will consider the adoption of the Orphan Property Disposal Policy. This policy outlines the process and procedures to designate parcels as orphan and the valuation of said parcels. The Council will take appropriate action.

7. ORDINANCE: AMENDMENT TO THE MUNICIPAL CODE RELATING TO THE DISPOSAL ORPHAN PROPERTY *Legislative*

The City Council will consider an amendment to Chapter 2.44 Disposal of Public Property relating to the process for the disposal of orphan property and repealing Chapter 12.32 Designation of Open Space Property For Disposal. The Council will take appropriate action.

8. RESOLUTION: DESIGNATING THE VALUE OF ORPHAN PARCELS FOR 2021 *Legislative*

The City Council will consider a resolution designating the value of orphan space parcels for 2021. The Council will take appropriate action.

9. DISCUSSION: UTAH STATE AUDITOR’S FRAUD RISK ASSESSMENT *Administrative*

The Council will discuss continued implementation of the State Auditor’s Fraud Risk Assessment. This item is being presented for discussion only to fulfill requirements of the State Auditor’s Office. Formal action will not be taken.

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. Future Meetings

- June 15, City Council Meeting, 7:00 pm, City Hall
- June 22, Planning Commission Meeting, 7:00 pm, City Hall
- July 6, City Council Meeting, 7:00 pm, City Hall
- July 14, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- July 20, City Council Meeting, 7:00 pm, City Hall
- July 27, Planning Commission Meeting, 7:00 pm, City Hall

b. RAP Tax Committee

11. CLOSED SESSION

The City Council may recess to convene in a closed session to discuss pending or reasonable imminent litigation, as provided by Utah Code Annotated §52-4-205.

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 27th day of May, 2021. **Stephannie Cottle, City Recorder**

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

HIGHLAND CITY

HIGHLAND CITY COUNCIL MINUTES

Tuesday, May 4, 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: 840 3555 9759

Email comments prior to meeting: council@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Mayor Rod Mann
Invocation – Library Director Donna Cardon
Pledge of Allegiance – Ed Norton

The meeting was called to order by Mayor Rod Mann as a regular session at 7:05 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 Library Director Donna Cardon and those in attendance were led in the Pledge of Allegiance by Ed Norton.

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, Engineer EIT Mike Burns, Planner & GIS Analyst Kellie Bronson, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, City Engineer Todd Trane, Library Director Donna Cardon

OTHERS PRESENT: Scott Hart, Colby Gibson, Helene Pockrus, Ed Norton, Tim Davis, Daniel Schmidt

1. UNSCHEDULED PUBLIC APPEARANCES

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

Tim Davis, General Manager at Norton Performance, discussed the noise ordinance in Highland City. He said that his business wanted to figure out what the noise ordinance will be like going forward so that he can run his business and keep the community happy. He said that he wanted to do a better job with issues that have arisen when he's had dances and there has been complaints from Alpine Highway. Doors on the north side of the building could be closed to keep noise levels down. He is interested in purchasing a decibel reader to know what the sound level is to know if they are going over or under the limit. They need to do some tests so they know they are following noise level ordinances.

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*

City Council Work Session – April 13, 2021

b. 2021 Sewer Lining Project *Administrative*

The City Council will consider a request to approve a bid in the amount $115,687 to Insituform for the installation of 4.5 mm cured in place liner for 4,619 linear feet of 8" sewer main in the Hidden Oaks Subdivision. The City Council will also authorize the Mayor or City Administrator and City Clerk to execute the necessary contract documents for the project. The Council will take appropriate action.

Council Member Scott L. Smith MOVED that the City Council approve consent items 2a and b. Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

3. PUBLIC HEARING: ADOPTING THE TENTATIVE HIGHLAND CITY BUDGET FOR FISCAL YEAR 2021-2022 AND APPROVING THE TENTATIVE LONE PEAK PUBLIC SAFETY DISTRICT BUDGET FOR FISCAL YEAR 2021-2022 *Administrative*

It is proposed that the City Council approve Highland City's Tentative Budget for Fiscal Year 2021-2022, along with the increase in assessments to Highland in Lone Peak Public Safety District's Tentative Budget, and set a date of June 15, 2021 for approval of the City's Final Budget for that fiscal year.

Tyler Bahr, Finance Director, said that the goal was for a final adoption of the budget in June. There have been some changes since the last work session on 4/13. He said that the LPPSD increase in assessments may need the approval of the Council and that he would like to adopt the tentative budget and set the hearing for the final budget adoption in June. This presentation is built on conversations from the last couple of month and he has incorporated feedback from previous meetings. He has done his best to summarize information from previous meetings but is happy to answer any questions.

Mr. Bahr said that they are responding to a requirement in the code that requires the council to tentatively adopt each tentative budget on or before the first regularly scheduled meeting in May, which was today. There is an opportunity to discuss the tentative budget, as it is not final. He said he wants any feedback and that he expects the budget to change from this point until the middle of June when it is finally adopted. The path forward is to have a budget adoption on June 15th; today the tentative budget is being considered. Previously, there had been discussions about a work session on June 1st. They would like to include a budget discussion on May 18th, which will allow the Council to discuss it and produce information in a timely manner. He said in the working draft of the budget, there is no change from revenue projections, capital and general fund projects, Council appropriations, public works fleet needs or public safety.

Mr. Bahr said that that there have been changes made to the tentative budget. It was discussed in a previous work session that an Assistant Public Works Director and two additional Public Works Operator I positions could be created. They also discussed an additional 3% market adjustment to staff salaries in addition to the 3% merit increased that aims to keep up with the market and is a result of the pay plan study that was recently completed. Both of those changes have been put into the tentative budget. He said another change that was included in the tentative budget is an additional review of benefits estimated and actual usage, however these quotes are still pending. He said those will be finalized within the next week so they can plug in the actual figures for next year's projections.

Mayor Mann asked asked if when benefits are done if LPPSD are included to create a pool. Mr. Bahr said that is correct. He said that they are spreading the cost over a broader base and that the benefits are there.

For the LPPSD funding, Mr. Bahr said the reason the request for approval has been presented is that there is an amendment in the Interlocal Agreement that considers property tax increase over the next two years compared to what the budget would assess for the participating cities. When they look at the property tax revenue change, the average between Highland and Alpine was $66,000. He said the LPPSD did tentatively adopt the budget. That would result in an increase of assessments to the two cities of approximately $100,000. He said that the results of the benefit quotes could reduce those estimates. In the case that they don't go below the $66,000 budget, it is required that both Highland and Alpine City Councils approve the district's budget prior to the district adopting it, which is scheduled for May 26th.

Council Member Rodela asked how the expenses for dispatch in Highland and Alpine are determined. She noted that Highland's is twice that of Alpine.

Mr. Bahr said that it is the direct cost of dispatch related to Highland. He explained that the dispatch is billed directly to the city that the call came from. This means that there are roughly twice as many calls coming from Highland than there are from Alpine. He said he appreciates the engagement from the Council. If the Council adopts the tentative budget this evening, it would be what the Council will consider during the meeting on June 15th. He said he wants there to be plenty of opportunity for valuable feedback. He would like for another discussion to be had in two weeks with the primary focus being the general fund and how revenues will be allocated that are anticipated to come into the general fund. He said that Mayor Mann has produced analysis of the budget data. Mayor Mann's chart is a comparison of general fund revenues and expenses from the last two years. For 2022, revenues are projected to exceed expenses by $467,000. He said the Council may choose to allocate those funds to the general fund balance and that the State will allow them to reach a fund balance of up to 35% of annual revenues. Those funds could go to the fund balance, or projects such as Mitchell Hollow Park, or other priorities. He thinks that is an important discussion that could be had in a couple of weeks. He said if there are any other areas of focus, they can prepare information for the discussion in a couple of weeks they would be happy to do so. He recommended that the Council holds a public hearing to adopt the tentative budget and approve the increase in assessments to Highland and LPPSD.

Mayor Mann asked if the $466,000 surplus that is projected for 2022 excludes the American Rescue Plan money, which they will not be getting until later in 2021. He said that once they know exactly what they are getting they can make a decision on that separate from everything else. He wanted to know what the options for the $466,000 could be used for, including capital projects or specific capital funds like the park capital funds.

Mr. Bahr said that the the $466,000 did not have to be used for specific capital funds. He said that with the State's revisions to the fund balance requirements the money can be left in the general fund. However, if the Council wants to allocate it to a capital fund that is also an option.

Mayor Mann said that the Council can also hold for now and know that the money is available, and as they approach decisions with more information, that money can be used to fund whatever is necessary.

Mayor Mann opened the public hearing at 7:25 pm. There were no public comments. Mayor Mann closed the public hearing at 7:26 pm.

Council Member Smith said that the revenue is often conservatively estimated. He asked how conservative the estimates are for both sales and property tax. He said that last year there was $500,000 more in sales tax come in.

Mr. Bahr said they are appropriately conservative. He said that there is an estimated 1% increase on property tax and 3% on sales tax. He pointed out that when property taxes fluctuate, the City doesn't see the same return. Council Member Smith agreed but noted that there has been a lot of growth. Council discussed the timing of receiving property tax from new construction.

Council Member Smith asked when the certified tax rate is estimated to be published. He said they have to vote on that on June 15th. Mr. Bahr said that they do have to vote on it on the 15th, and that he will do research and get the answer, and that he doesn't have that answer.

Mayor Mann said there was a problem last year because of COVID, but that it was sometime around the first of June.

Council Member Smith asked what the reason for moving the surplus up to 30%. He noted that usually the general fund surplus is at 25% and that it goes up because the budget does as well. He said that there are some capital projects that they would like to get started, including Mountain Ridge Park and Mitchell Hollow Park. He said he wasn't opposed to those projects, but that he wasn't aware that new things had been discussed. Council Member Rodela said she thinks the baseball field should be fixed. Council Member Smith agreed.

Council Member Ostler noted that in the past the discussions have focused on Beacon Hills Park and Mountain Ridge, and that he wasn't sure if it had been switched.

Council Member Smith said that he would keep the reserve at 25% and work on some of the projects that have been delayed for years.

Mayor Mann said that a policy could be established of three months of capital to run the City for three months. This turns out to be around 25%. He said that if more people were hired it would go up a little bit. He said that this is a metric that they could agree on, and that anything else could be allocated wherever is necessary. He noted that the three months is what bond agencies look at when determining whether you're a risk or not.

Mr. Bahr said that the difference of 5% of the $10 million general fund revenue is $500,000. The thought process behind the 25% is that is about three months of expenses. The reason the State is increasing the requirement is that over the past few decades there have been circumstances that have put cities into scary circumstances. He said that they need to make sure there is enough available. He agreed with Council Member Smith that you don't want to have too much. He suggested that the discussion in two weeks focuses on that.

Council Member Ostler noted that Council Member Smith asked about the percent of increase in last year's sales tax. He noted that there was an increase of $500,000. He asked if the 3% is on top of the $500,000 from last year.

Mr. Bahr said that this was the case, compared to what was budgeted at the mid-year adjustment. He said that there was an initial increase anticipated at $2.4 million, and that this was revised to $2.9 million, so the 3% is on top of that.

Council Member Ostler said that he feels like that is a little aggressive. He said that he's nervous because they're not sure what the response will be after the pandemic. He asked what percentage of increase there was last year with the sales tax. Mr. Bahr said that they are in the high teens, closer to 20%.

Council Member Ostler asked if they were keeping that and adding 3% onto it, which Mr. Bahr confirmed. Council Member Ostler said that this is a concern. He said that it is a red flag that they are anticipating to keep the revenue and the sales tax the same. He said that he hopes he's wrong. He said that he thinks this is too liberal, and that they have to be careful. He said he doesn't know if sales tax will be the same as last year, and wanted to know if other Council Members felt as though the trend would continue.

Council Member Smith said that he felt that there is some pent up demand after the pandemic, that he's an optimist, and that he feels like it's good to be conservative.

Council Member Ostler said that with the stimulus checks they should have seen a bump, and that will be a part of the discussion.

Mayor Mann agreed that that is a fair point. He said that he thought when they talked about it last time that Council Member Ostler felt like at least half of that increase would be a permanent fixture. He said that the norm is a 6% to 7% increase yearly increase. Council Member Kurt Ostler said that the City really benefited from online sales. Mayor Mann said that they think some of that is a permanent increase, but that it is worth thinking about.

Council Member Ostler said that he would like Mr. Bahr to help the Council with bond balances. He said they had talked about what accounts they have, such as open space and cemetery, where they have cash but it is not clear what they are committed to or restricted to. He said that the 30% Council Member Smith is talking about is unrestricted funds. He wanted to know what the balances are on all these different accounts. He said that some of the money keeps slipping through, such as the open space. A little bit of the money has been spent on tennis courts, but that it's an account they need to be aware of. He asked Mr. Bahr to help them understand Page 4, underneath the City Council's budget, specifically 10-41-21, the professional organizational membership. He asked if this is for the League of Cities.

Mr. Bahr said that's part of it. He said that there is a manual membership charged to cities that participate in the League. He said that they benefit from their services, particularly with the American Rescue Plan.

Council Member Ostler said he's not asking if they are good or bad, rather he wanted to know what the expenditures are for. Mr. Bahr said it comes out of the Mountainland Association of Governments and the Utah Lake Commission.

Council Member Ostler said he noticed down on 10-41-31 that there is $22,400 for professional services and wanted to know what it's for. Mr. Bahr said that is for broadcasting these meetings. Council Member Ostler said that on 10-41-61 miscellaneous supplies and expenses are listed, and wanted to know what they're for. Mr. Bahr said that they are for publications and expenses such as traffic measurement.

Mayor Mann asked where the Lone Peak Business Alliance fee is listed. Mr. Bahr said that he doesn't believe it comes out of that particular account. He said that there are a few different professional organizations, and that they try to align those with the fund and department it makes the most sense with and that he would get that information.

Council Member Ostler inquired about 10-41-63 and $18,000 listed for Council appropriation. Mr. Bahr said that's a line that is being proposed to be repurposed. He said that for the coming year they would like to allocate $3,000 for each Council Member and the Mayor for an innovative or timely project. This would allow for collaboration amongst Council Member but that the money would be used at discretion.

Council Member Smith asked if there was a project they wanted to promote if that was seed money that could be used. Mr. Bahr confirmed that. Council Member Rodela noted that it could be used for Christmas lights as well.

Council Member Ostler said that there is a budget of $126,000 and he wants to know what the Council spends it on.

Nathan Crane, Development Director, said that another example of 10-41-61 is flowers, surgery, or a death in the family. He said that Council funds are appropriated for these types of expenses.

Council Member Ostler said that on Page 9, underneath recorder, he wanted to verify what appears to be new election fees. Underneath 10-47-22 elections could be $70,000. Under 10-47-28 software is listed as $16,000. He wanted to know why there is a software fee when the county is running the elections.

Mr. Bahr said the software fee is independent of elections. He said it's a meeting management tool, and that it is being considered.

Council Member Ostler asked what the meeting management software is for. City Recorder Stephannie Cottle said the meeting management software would handle electronic voting, meeting interfaces, management of agendas, reformat minutes, and a portion would be for adjusting the code.

Council Member Ostler said that he's noticed that some cities have segments that can be viewed online after meetings. He wanted to know if the software would allow for that as well. City Recorder Stephannie Cottle said that would be a future feature of the software.

Council Member Ostler said that on page 19, on 10-66-31, there is a jump from $35,000 in this budget year to $185,000. He asked what was happening in this instance. Mr. Bahr said that there is a good deal of construction and development going on, and that this is to engage external expertise to supplement the engineering staff.

Council Member Ostler inquired if this was a gap period, noting that the City engineer is leaving for another job. He wanted to know if this would be used for a City engineer, an assistant engineer, and outside services as well.

Mr. Bahr said the reasoning for this increase was determined prior to the departure of the former City engineer. His departure is another reason why it is necessary to keep up with the workload.

Mayor Mann noted that a lot of it was because of the Ridgeview projects and inspections that will have to be outsourced.

Mr. Crane noted that some of it is for inspections, some are for drawing plans, others are for getting road plans done or getting sewer lines drawn.

Council Member Ostler asked if they have ever seen what the expenses will be versus revenue when paying a developer such as Ridgeview to pay the developer to develop in the City or if they're covering their costs with impact fees and builder fees.

Mr. Crane said that impact fees or building permit fees wouldn't apply to this category. He noted that they have civil review fees and inspection fees that would also be applied.

Council Member Ostler asked if the residents of Highland would be paying for Ridgeview's development. Mr. Crane said that in some cases they would break even and in some cases they won't. He said that they need to be sure that the infrastructure is done correctly the first time. They felt that it is important with the capital projects going on that someone needed to be brought in to make sure it was installed correctly.

Council Member Ostler said that it is concerning that as residents it's concerning that they're paying a developer to come in and develop. Council Member Smith said that they could have done future property tax like American Fork. Council Member Ostler said that public safety employees are being expanded because of this. He said that hopefully there will be some property tax from the 80 commercial acres and that some wins could come down the road. Mayor Mann noted that they have a lot of development happening.

Mr. Crane said that they are mainly happening on two projects, and that the other alternative is to bring extra staff in to try and get the inspections done. Council Member Ostler said that's what he thought they hired the extra engineer for. Mr. Crane agreed and said they are watching it closely. He said that with as aggressive as a capital improvement plan that they have that three wells under construction and sewer lines under construction and Canal Boulevard and half the City under construction it is necessary.

Council Member Ostler agreed and noted that the economy is going nuts. He echoed Mayor Mann's sentiment that there is quite a bit of development going on.

Mr. Crane said that for perspective they typically issue 100 single family home or unit permits per year and that they are doing that just for Ridgeview on top of the 100 they normally do.

Council Member inquired about page 27, item 20-43-37. He noted that they have budgeted $25,000 for equipment replacement. He wanted to know if this was for playground equipment. Mr. Bahr said that it is for playground repair.

Mr. Crane said that's for allocating expenses for the parks department that they're doing for open space. He said they're trying to allocate money each year to pay for push mowers as well as bigger ones. Council Member Ostler asked if the equipment was replaced this year. Mr. Crane said that so far they have spent about $6,000.

Council Member Ostler brought up account 44-36-13 on page 48. He asked what a Town Center exaction fee is. Mr. Crane said that when the Town Center was originally constructed, which includes the building this meeting took place in, the Public Safety building and the roads around it, and Town Center Boulevard, the City entered into agreements with surrounding property owners to help build the infrastructure. This includes roads, water, sewer, and P.I. lines. An exaction fee is used to reimburse the contributions from surrounding property owners.

He said it should be called an infrastructure reimbursement fee instead. The agreement stated that as property is developed, there is a charge to the developers that is collected and then reimbursed.

Council Member Ostler said that the City carries a balance with W.P.I. and he wanted to know if there are any other developers that they have a balance with that is owed what he calls pioneering fees.

Mr. Crane said that there have been other developers, including Knight West and a couple of others. He said that he believes that they have been paid off. Mr. Bahr said that they are wrapping up those payments but that funds are available to close them out.

Council Member Ostler said that if they have any balances open it is important for the Council to know if there is still any money owed from the City. He said that he understands that is a pioneering agreement, meaning that as it builds they will be reimbursed. Mr. Crane said that they are based on area and that Council Member Ostler is correct.

Council Member Ostler asked if Beacon Hills is even. He said that he had seen Beacon Hills money that was given and he wanted to know what happened with that money. Mr. Crane asked for him to define even. Council Member Ostler said that it appeared that there was money charged to the developer of Beacon Hills. He asked if that was pioneering money. Mr. Crane said that he needed more information. Council Member Ostler said that it was a Northwest exaction fee. Mr. Crane said that there were separate Northwest impact fees which were done during 2016. Council Member Ostler asked if they owed any more money up in that area. Mr. Crane said they didn't owe any as far as he is aware. He said they were surprised a few years ago by Suncrest.

Council Member Ostler asked if they are tracking the bond payments, such as the one with a balloon on it, so that they know exactly what is owed. He said there was a time that they got burned because there was a balloon payment that wasn't paid and they had to pay a huge fee. He said that he wants to know that they are looking at those documents and are aware because it has happened in the past.

Mr. Bahr said they are tracking the bond payments. Mr. Crane added that they had been burned a couple of times. Council Member Ostler brought up account 55-44-11 on page 60, which deals with culinary water. He said that his understanding is that the City Council is going to be increasing water fees for culinary water by $3 per month. He said that his understanding is this increase is necessary because of a new well. He wanted to know if the wages were part of the increase. Mr. Crane said that it is part of the increase. Council Member Ostler wanted to know if there is anything else that the $3 is tied to. Mr. Bahr said that it was for overall maintenance and future projects. He said that the majority of the increase is influenced by upcoming projects. He explained that the inclusion of the new positions has a limited impact compared to the projects coming up.

Mr. Crane asked Mr. Bahr to clarify about operating days and extra capital projects and the percentages of those two. Mr. Bahr said that during Fred Philpot's presentation one of the measures that was looked at was the number of days of operating cash on hand. He said that with culinary water and the projects coming online, they actually go in the red, which explains the increase. He said that the increase is 30% and for most residents it would be an adjustment in base rate of just over $3 and the 30% increase will also be tied to usage rates as well. If someone is using over 6,000 gallons, then they would see an increase as well. Mr. Crane said that the primary increase in rate isn't for staffing but rather capital projects coming up and the operating cash on hand.

Council Member Smith said that this addressed his question. He said that it seems that the base rate is around $12.47 for the first 6,000 gallons, and then it is $.78 for 1,000 gallons for another 10,000 gallons, and then it goes to $2.04. He noted that this is a 30% increase in base rate as well as a 30% increase in tiers. He said that he saw several of his neighbors greening their lawn with culinary water and hoses because in their neighborhood they have their own pressurized system that they don't turn on until May 1st. He said the area between 6,000 and

16,000 gallons is where the focus needs to be on. He said he thinks people should be encouraged not to use culinary water to irrigate their yards when they have pressurized irrigation. He said that it seems that $.78 for 1,000 gallons is very cheap, which is nice, but there is a water shortage and the City is growing.

Mr. Bahr said that the presentation in two weeks will have the budget discussion as well as the public hearing on utility rates. He said they haven't recommended any adjustments in the tiering, but that's certainly an option. This could be kept in mind for future years.

Council Member Smith said that he doesn't like increasing taxes or fees but that it seems as though the water shortage and the growth in the city means that they need to discourage using culinary water inappropriately when there is a pressurized irrigation system. He noted that they did a study comparing base salaries with other cities. He wanted to be sure that the recommendation was that base salaries were increased by 3% with a chance for a 3% merit increase. Mr. Crane said that was correct. Council Member Smith asked which cities were used for the study. Mr. Crane said that cities up and down the Wasatch Front were used. They used cities that are similar in size, but there was a range of smaller and larger cities. He said they are happy to share the data points collected. Mayor Mann asked if the 3% increase would be shared among all employees. Mr. Crane said it would be applied equally.

Mr. Bahr said that the merit increase would be based on performance, and is not guaranteed. He said they want to make that less than a default and that if that's the only raise available because of inflation it becomes a challenge.

Council Member Smith said he wants to be fair to the employees and that his understanding is that this is being done to be competitive with other cities because of a high turnover rate with staff. He said that if they are more competitive there won't be an added incentive to leave.

Council Member Rodela noted there was a third party hired to do an analysis. Mr. Crane said they will send out the data to show how it is adjusted for everybody.

Council Member Ostler said he knew one subdivision that is all on culinary water. He asked if any other subdivisions in Highland that are all on culinary water. Todd Trane, City Engineer, said that there are no other subdivisions that are all on culinary water as far as he is aware. He said that a lot of the old parts of the City that are still on culinary water that have never hooked onto pressurized irrigation. Council Member Ostler asked if ViewPoint is billed at a different rate or if when they use more culinary water if their rate will go up.

Mr. Trane said that they will continue to supplement culinary water for P.I. but that they will be billed similar to P.I. He said that they pressurize with culinary water because they don't have a tank that can pump that high. The old parts of the town have a system that is separate from the rest of the culinary and P.I. systems, so they will continue to bill them like they normally are. They won't bill them for outdoor use with culinary water.

Council Member Ostler asked if an older resident has not been hooked up to the pressurized system if they use culinary water to water their grass if their bill is increasing. Mr. Trane confirmed this. Council Member Ostler then asked about Ridgeview, and asked if they have their own well for P.I. or if they are coming onto Highland's system.

Mr. Trane said that their water has been submitted through the State. He explained that the current plats that are being used have dedicated water shares. He said that they have given Highland surface and stored water rights similar to any other subdivision.

Council Member Ostler asked if it is A.F. Canyon and Lehi Water that are being used. Mr. Trane said that the surface water is American Fork Water. He said that it has been historically put on that property for years. The stored rights belong to Highland Conservation.

Council Member Ostler noted that there had been conversations about hooking into their well. Mr. Trane reiterated that they are treating them like any other subdivision.

Council Member Smith said that they have a large irrigation well north of the high school. He said that they would use that to irrigate the properties south of the development. Mr. Trane said that they still get American Fork irrigation water out of the canyon that continues to go down a 24-inch pipe that runs down North County Boulevard. He said that will continue to provide water south of the canal.

Council Member Ostler asked if Lehi Water and Highland Conservation Water are run out of American Fork Canyon. Mr. Trane said that it is not, and that it is stored rights up at Deer Creek. He said that they are the majority stockholder in Highland Conservation. The only water that comes out of American Fork Canyon are American Fork, Lehi, and Pleasant Grove Irrigation. They are owners in stock in all three of those companies.

Council Member Smith said he understands the Highland Glen Pond is filled with Pleasant Grove Irrigation water, he asked if that is correct. Mr. Trane said that is correct, and that's the only water they fill it with. Council Member Smith asked if Mr. Trane thinks that they are the ones putting koi in their pond. Mr. Trane said no.

Council Member Kim Rodela MOVED that the City Council ADOPT the Highland City Tentative Budget for FY 2021-2022 and APPROVE the increase in assessments to Highland in Lone Peak Public Safety District Tentative Budget for FY 2021-2022 and set a date of June 15, 2021 for approval of the City's Final Budget for that fiscal year. Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

Council Member Smith thanked Mr. Bahr for the organization of the budget. He said he thinks it is better organized and easier to understand and that he appreciates his efforts.

4. PRELIMINARY PLAT: SUNRISE FARMS *Administrative*

The City Council will consider a request by Patterson Development for Preliminary Plat approval for Sunrise Farms, a proposed 10-lot single family subdivision located at approximately 11241 N 6000 W. The City Council will take appropriate action.

Kellie Bronson, Planner & G.I.S. Analyst, gave background of the plat request. The request is for a 10 lot, single-family subdivision. It is just west of 6000 West and north of Timpanogos Highway. It is zoned as R-140 and designated as a low density residential in the general plan. The preliminary plat is a total of 13.59 acres. The lots range from 23,175 square feet to 40,325. On the southern portion of the subdivision there is a parcel designated for future development. She confirmed that the plat conforms to what is required of R-140 standards. She said that 25% of the lots are allowed to be between 20,000 and 30,000 square feet, and two of them are. The main access to the lot comes from 6000 West. Because there are future plans for the road to be extended in the future, a temporary turnaround is accounted for on the plat because it exceeds the 600-foot minimum for a cul de sac. She said that a public hearing was held at the Planning Commission, and public hearing notices were sent out to properties within 500 feet of the subject property. It was also posted in newspapers and on the City website. One written correspondence was included in the packet from a resident in Bull River. At the public hearing a few residents had concerns about the R-140 standards. They went through that with the residents at the Planning Commission. There were also concerns about the development on the whole. The Planning Commission did move for a recommendation of approval for the preliminary plat. The staff recommends that the Council considers the request, accept the findings, and approve the preliminary plat. The engineer was also present.

Council Member Smith said that he had questions in regards to the correspondence from the Bull River resident. He said that there were concerns about a partially filled ravine on the east side of the property. He said the ravine has a bunch of cement and he wanted to know if work would be done on it.

Ms. Bronson said that was addressed, and a note was added on the construction plans that the ravine would be removed, cleaned up, and grated evenly.

Council Member Smith said there were questions about putting an eight-foot fence along the property rather than a six-foot fence. He said that City ordinances allow a six-foot fence. He asked if there was a discussion about putting a six-foot fence up.

Ms. Bronson said that because it is a low density development next to another low density development they can't require that of the developer. She said that residents that move in have the freedom to build six foot fences.

Mayor Mann asked if residents on the other side could put a fence up, which Ms. Bronson confirmed. Council Member Smith said there was a request for the developers to make one story homes. He said he didn't think the Council could mandate that. Ms. Bronson said that the Council can't mandate that with a development like this.

Council Member Kim Rodela MOVED that the City Council accept the findings and APPROVE the Sunrise Farms Preliminary Plat subject to the three (3) following stipulations recommended by staff.

1. *The final plat shall be in substantial conformance with the preliminary plat received April 26, 2021.*
2. *All public improvements shall be installed as required by the City Engineer.*
3. *The civil construction plans shall meet all requirements as determined by the City Engineer.*

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

5. PUBLIC HEARING: PURCHASE AGREEMENT *Legislative*

The City Council will hold a public hearing to accept public comment regarding the declaration of 2,433 square feet as property surplus for the purpose of selling the property to

WPI for a commercial retail building. The City Council will also consider the purchase contract with WPI for the property. The Council will take appropriate action.

Kellie Bronson explained that the purchase agreement is between the City and W.P.I. The agreement is for a total purchase price of $48,660, and $20 per square foot. This purchase is for a retail building that was approved at the last Council meeting on April 20th. She said that the little parcels were declared as surplus property. A public hearing needs to be done for the consideration of this purchase request. The Council will have to take action in regards to approving or denying the purchase contract. The contract is attached in the staff report. The terms include water source protection from a well south of the property. This wording was in the original contract when they first purchased the property. An added term was the certificate of occupancy for the building would not be issued without first having a buyer, who is now W.P.I., brought to resolution in an application with UDOT for its access. That is Option B, and the contract includes talks of W.P.I. having the primary responsibility of submitting that application to UDOT for approval. The City is charged with responsibility of getting in contact with Rocky Mountain Power about Option A. She said that Mr. Trane had a conversation with Rocky Mountain Power and that JoAnn contacted them as well. They are working on getting a response back.

Mr. Trane said that he thought they received a text today that it had been turned down. He said that he was able to track down the manager of the power substation and that he explained what they were asking for. The manager passed the request up the line at PacifiCorp, and that it is difficult to get a straight answer in that scenario. He was told on the phone that the manager was definitely leaning towards a no, and that Option A was unfeasible. This is not a guarantee. The manager said he would send the exhibit up the line and see what they say. Mr. Trane said he thinks Option A seems like a long shot at this point, and that Option B is more doable. He said the City needs to go back to UDOT and plead their case.

Council Member Smith said that the clinching factor for how he votes is that he thinks more access to the parking area is needed. Everybody confirmed that they are in agreement. He said that we wondered why Rocky Mountain Power couldn’t put in an access off of SR-92 west of the building in the parking area there. He said that with their access it makes it less likely the Council won’t get their access. If the two were combined it would be more likely for them to get access.

Mr. Trane said he was told that it was designed so a semi could come through and make a U-Turn, and by coming in they are worried about making the turn in a narrow, thirty-foot access. He said they wanted the straight shot off of SR-92. Rocky Mountain Power’s big concern with Option A is that they see the area as a future expansion for the substation and that they would like to expand in both directions. By providing an access through there, Rocky Mountain Power feels like their property is being bisected. Mr. Trane said at this point they are going to prepare the document, pass it up the line, and see what PacifiCorp says but that they need to start moving forward with UDOT and that a secondary access is needed for the site.

Council Member Smith asked Mr. Trane what he thinks the chances are of getting the secondary access if Rocky Mountain Power won’t work with him on it. Mr. Trane said that he thinks Option B is much more likely. He said that UDOT is more flexible with municipalities versus private developers. He said if they go in and plead their case as a municipality asking for help they can see where it goes.

Council Member Bills asked Mr. Trane if he would be asking for a route right in and right out there. Mr. Trane said he thinks that’s the only thing they would be allowed to do. Council Member Bills said she wonders how that will solve the problem.

Mr. Trane said that any access would be helpful and that a full left turn there would not be feasible. He said it ultimately depends on where UDOT depends to put the traffic signal. The options are at 5600 or at the Town

Center. He said he thinks in the future UDOT will determine which one is more likely to be a traffic signal but that the Council will move forward on deciding whether Option B is a possibility and what that would look like.

Council Member Bills asked how the signal at 5600 solves the problem with this lot if access is not possible to that road. Mr. Trane said that when you have a very long portion of road without a stop with that much traffic there ends up not being any gaps in the traffic. He explained that you end up having a lot of people trying to make a left-hand turn and that there are no gaps. He said that a traffic signal would create gaps for a left hand turn.

Council Member Smith asked Mr. Trane what the chances are of getting the light put in on 5600. He noted that they have studied it for a while. Mr. Trane said that the warrant study was still not quite there. He said that his opinion is that when they build the traffic will come. He said people don't go there because they know it's hard to get across. He said that he has talked to UDOT about the proposal and that they're aware of it and are planning on it for the future but that it's far down the list of priorities.

Council Member Ostler said that there is a water line with a lease agreement by 5600. He said that with expansion they would have to keep a 30-foot gap in their expansion. Mr. Trane said that is correct, and that they would maintain the entire park.

Mayor Mann noted that the lease agreement covers the park and not necessarily the line. Mr. Trane said that is correct; the lease agreement only addresses the park and that they haven't found anything that addresses the water line. He said that it is an emergency line and that they have an ability with well number five to put it into culinary water or to remove that section of pipe, turn it, and use it for irrigation.

Council Member Ostler asked if Utah Power is aware that there is a water line there and if they need to ask for an agreement. He said that he always thought if the road had to be moved on top of the water line that it might be their best option for 5600. Mr. Trane said that the water line is about 30 to 40 feet south of Option A.

Council Member Ostler said that would be the easiest ask because they already have a water line, there is already an easement, and that they would like to build a road on top of that easement. He also noted that when he looked at the plat that he noticed that Utah Power owns part of the land on 5600. Mr. Crane said that they might have the right-of-way.

Council Member Ostler asked for clarification that Option B is City property. Mr. Trane confirmed this. He said that the City owns 36 feet of property and that it has always been there for access to the well.

Council Member Ostler asked if it is worth maintaining 36 feet even if the City sells the parcel. Mr. Trane said that if the little piece is sold it is obviously coming out of the 36 feet, and that it would amount to about 6 feet. This leaves them between 24 and 30 feet. This would allow for two cars to be able to pass each other, and that the current access requires a minimum of 24 feet. He noted that when you get out wider you can get out to 36 feet so a left hand turn is available, but he doesn't believe that UDOT would allow a left hand turn.

Council Member Ostler asked Mr. Trane what he thinks any other solutions are, and if there are any concerns for selling it. Mr. Trane said that it doesn't limit the City's ability to accessing the well. He said that is what the property is intended for. He explained that 24 feet is substantially enough to access the well. He said that he is concerned that in the future there is secondary access into the commercial area because of safety issues. They are asking for 7 to 8 feet.

Council Member Ostler said he noticed that some gravel was being stored by Highland City dump trucks. Mr. Trane said that those are the City's bins and that the bins would definitely be moved elsewhere. He said that the access is more important than the storage because they have other places for storage, they've had the bins for many years, and are only used occasionally.

Council Member Smith asked how long it would take to get an agreement with UDOT. He said he is still apprehensive about approving the plan without knowing they will have access. He said that they have been talking about property for the drive-thru and that he thinks they really need access.

Mr. Trane said that he agrees and that the City needs access to the well. He said that having a building there will restrict access. He said that they have put barricades up and that they disappear. It would be good for something permanent to be established but he doesn't know how long it will take. Working with Rocky Mountain Power but that UDOT can approve or deny it sooner rather than later. He thinks the Council should look at it and decide if it stands alone on its own merit. He doesn't think the decision should be based on Option A or B, rather that it should be approved based on merit and the City will continue to get the access approved.

Council Member Smith asked if we don't get A or B if a traffic problem would be created. Council Member Rodela asked what percentage increase of traffic would come with the drive-through. If 30% customers come for the drive through, she wanted to know how many per hour that would be. Mr. Trane said that would be a question for the applicant and not the City Engineer.

Council Member Bills asked if this is Mr. Trane's last meeting. Mr. Trane confirmed that it is. He said he believes that W.P.I. has been a good neighbor for the City for many years. He said there are traffic issues with this site and that they will always exist because of the layout. He explained that accesses with UDOT are getting harder to get. He said he doesn't believe the problems will get fixed all at once, but that the City should continue to try and solve the problem but not hold up the development.

Council Member Ostler said he has concerns with legality. He said that part of the stipulation, that certificate of occupancy for pad will not be issued without first having buyers and sellers brought to resolution with UDOT for access or Rocky Mountain Power for access across its land. He asked Rob Patterson, City Attorney, what it means when he says there has to be resolution. He asked what would trigger that resolution?

Mr. Patterson said his interpretation is that we have contacted both UDOT and Rocky Mountain Power, have asked them for it, and they say either say yes they are working on it or no we won't allow it. He said that either way that is a resolution.

Council Member asked Mr. Patterson for clarification that if they say they're working on it that it is a resolution. He said to him a resolution is a no or a yes. Mr. Patterson clarified that by working on it he means yes we agree to move forward with access and that the road is allowed to be built. That would be the resolution; we'll consider it for some time is not a resolution. Council Member Smith clarified that a no is also a resolution, which Mr. Patterson confirmed.

Council Member Ostler said if UDOT or Rocky Mountain Power say there is a chance it gets built then it's not resolved. He said in another agreement that if one of the two roads went in that W.P.I. agreed to install and maintain the roads. He said he noticed there is nothing in this agreement. He thought that two weeks ago that part of the agreement was that if UDOT or Rocky Mountain Power agreed to the plan that W.P.I. would bear the cost of the road construction and maintenance. Mr. Patterson confirmed that it's in the agreement.

Council Member Bills said that it's number eight in the agreement. Mr. Patterson clarified that 4b says that the buyer will approve and undertake all improvements on and for the access at its expense if procured.

Council Member Ostler asked where the certificate of occupancy is in the agreement. Mr. Patterson said that 4b talks about the occupancy not being granted until this is resolved. It states that the buyer agrees that a certificate of occupancy on the adjacent pad that uses the property will not be issued by the seller without first having a resolution in an application. Later on it says that the buyer will undertake improvements. He said that survives closing and if this is approved, this provision survives after the deed is signed.

Council Member Smith addressed Daniel Schmidt of W.P.I. He said in the last meeting the engineer from W.P.I. showed different ways to get traffic flow through the area. Council Member Smith said he is pessimistic if access is possible off of SR-92 or 5600. He asked if we don't get access and we approve the surplus, if W.P.I. has a good plan to address traffic flow. He said he's in favor of the project but that he is worried about negatively impacting Meier's and this has the potential to do that. He said he doesn't want to bring a business in that will negatively impact another business. His impression is that there's not a lot of love lost between Meier's and W.P.I.

Mr. Schmidt said Ryan Hales with Hale's Engineering reviewed the site prior to the last meeting based on its merit, with or without the additional access. He said that the main drive is clearly identifiable and has access to off-site corridors. There is one coming in off of SR-92 and one in front of Meier's. The individual parcels also have independent access to main drive aisles. Not only do they have independent access, but they have more than one access to the drive aisles. This was not the case when they looked at the Wendy's and there was a proposal to reconfiguring the south of the property. He said that there are multiple drive aisles to a main drive. Wendy's has multiple drive accesses to the main drive. Similarly, for the new building there are multiple accesses to the main drive aisle. He said that each of the drive-thrus are as far away from each other as possible. These design principles apply to the site, and allow for maximum opportunity to get in and out. There are already two accesses to the main corridors. There is consensus that a third access would clearly improve this, but not they don't believe that is a necessary factor to consider. He said it seemed like at the last meeting that the discussion about the surplus land surrounded whether or not access was available, and that he assumed that is to handcuff the developer into taking action to support the process with UDOT or Rocky Mountain Power. The way they've addressed that is by saying we can't issue the building permit without follow through on the commitments. He said the building can be built without drive-thru and that it locks in what the building will be for roughly a 10-year period. Even if access was approved in the future and the drive-thru was enabled, at that point the tenant would not have it be built. Financing issues make it more difficult to change characteristics of the building. He said that once it is established they get locked in. There are also rising prices in construction. Roughly 20 days ago W.P.I. locked into pricing with their builder. They fear that in the future if they lock in that building they won't be able to meet the market parameters by balancing between rent and construction costs. He said that is their problem and not the Council's problem. He said that we have approached UDOT and that Ryan Hales believes that it could be about 90 days to work through a conclusion with UDOT. At that point in time, we will be able to know if that will or won't work for UDOT. In the past we had approached UDOT about the left in and that is where the previous application stalled, approximately 18 months ago. The previous application was a little bit more pro-developer, but now the City might take more of the forefront in the proposal with UDOT. He said the discussion tonight has mainly been focused on whether the drive-thru will work or not. Approximately six cars per hour on average go through during the day, which is what the tenant has in mind. He noted that W.P.I. has provided two times the required parking by the City. They have also provided 27% more stacking capability. They do believe all precautions have been taken to address traffic issues. He spoke with Fiiz about the commitments from landlords and tenants. He said that perhaps there is not an ideal or exact solution. They do believe that all issues have been explored, and all commitments are being followed through with. With the building moving forward in terms of sales tax the drive-thru tenants to get more sales and command more food oriented sales. This could be approximately $600 to $700 per square foot as opposed to soft goods which is somewhere around $400 per square foot. In terms of sales tax increment for the City, it does make a material difference. Additionally, drive-thrus help drive demand for other food in the building.

Council Member Smith asked Mr. Schmidt if they plan on doing traffic mitigating things such as speed signs or stop signs in front of Macey's. He said if you have six cars an hour that's not a lot, but you may have a steady stream.

Mr. Schmidt said that they will be putting in no entry signs and additional directional parking signs. He said that people park in proximity to the building. He said that Fiiz is spending $1,800 on signs to help direct the traffic. Additionally, there will be stop signs and do not enter signs. There will also be striping to help direct traffic. These are the immediate issues, but for the future, he noted that on small sites too many signs get confusing. He said that they have a good relationship with Meier's and that they have a good working relationship. Marsh and him communicate on the phone regularly. He said they have done their best to address conflicts as they have occurred. He agreed that six cars doesn't sound like a lot, but if it does become a problem then they will have to take further mitigating steps. Ryan Hales helps to come up with solutions with adjacent property owners. He said it requires cooperation to solve traffic issues between parties especially with warring property owners. To mitigate this, they place safeguards that prevent one property from taking parking from another. Typically, problems are addressed at the time they occur. He noted that there are concerns about blinking lights or other issues, and that mitigation tactics can be implemented like the stacking issues with Fiiz. He said that after consulting with all parties, this is the best solution. He said there are still options on the table and that there are additional things that we proposed but the staff said it was too much and took them off.

Council Member Bills said that when she came in she was leaning towards not approving the purchase because of traffic concerns. She said that if we assume that we never have access to SR-92 that would be a reason to not approve this. She said that having that drive-thrus provides another way for cars to get out and around the building. Without the drive-through they will be entering and leaving the same way. She said that saying six cars an hour is misleading because there will be times where there are more than six cars. She thinks that the problem with Fiiz is going to get better and she understands the need for drive-thrus. She said that now she is leaning towards this being safer and that it is better to have the drive-thru.

Council Member Rodela said that we know the building is going to be there and that traffic will increase. She asked Mr. Crane how many drive-thrus there are in Highland. Mr. Crane said that there are three drive-thrus. Council Member Rodela said that she has been taking pictures of herself in drive-thrus this week. and that there is inevitably traffic. She said that the traffic was backed up on to the main street at an establishment in St. George. She said that residents want more restaurants and drive-thrus and that she doesn't want to be the one to say no, based on possibly not getting access.

Mayor Mann said that he agrees with Kim and Brittney. He said that he is hopeful with Rocky Mountain Power. He said he thinks there are things we can do that we haven't had the time to do yet but that he thinks this is a better solution in the long term. He said he will do what he can to work with Rocky Mountain Power to make it known that they consider this a win/win scenario for both parties.

Council Member Bills said that we have an obligation to let them use the property as it's zoned. It's not a question about can they build the building, rather it's a matter of making it beneficial to the community. Mayor Mann said he agrees about the traffic and noted that there will be increased revenue for the City.

Council Member Ostler said that this won't be a traditional fast food retailer in the space and that it won't be a fast drive-thru, perhaps like a Costa Vida drive-thru. In that scenario it might be faster to go in than to use the drive-thru. He noted that many residents ask for restaurants. He said if they put in an American Burger there it might have more drive-thru traffic. He noted that Fiiz brought in more traffic than expected, so that can change depending on what type of retailer is there. He said that app or call-ahead ordering technology from the tenants can help. He noted that in the parking lot there are 44 parking spaces and that 14 spaces were already full when he went to look. He is concerned that cars can't get out of parking spaces and that he hopes that we can get access but that they have a property owner that has rights.

Mayor Mann opened the public hearing at 9:03 pm. There were no public comments. Mayor Mann closed the public hearing at 9:03 pm.

Council Member Kurt Ostler MOVED that the City Council approve the purchase contract with WPI agreeing to sell 2,433 square feet to WPI for a commercial retail building. Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

6. ORDINANCE: MUNICIPAL CODE AMENDMENT - NUISANCES *Legislative*

The City Council will hold a public meeting to consider a request by Highland City Staff to amend Section 8.16.100 Nuisance of Noise And Light in the Municipal Code. The City Council will take appropriate action.

Kellie Bronson, Planner & GIS Analyst said that currently we have some decibel levels set in code, and in the Municipal Code laid out in the staff report the proposed amendment's parameters are very vague. It states that what is not permitted is objectionable or bothersome noise. They decided to amend the Municipal Code and put all decibel levels in the Municipal Code. Once the Council comes to a conclusion, they will amend the Development Code to match the Municipal Code. The proposed amendment is separated into three types of properties. Type A is a residential home or property. She explained that the ambient sound is the average sound of a certain area and it can be measured by taking different measurements at different times. A quieter neighborhood could be 30 decibels and another could be 40, etcetera. 10 above ambient sound is the limit in quiet neighborhoods with a max level at 60 decibels. At night, the code switches to just five decibels above ambient sound. A Type B property is conditional use in a residential zone such as a church or school. The limit in these types or properties is 65 decibels or 10 above ambient sound during the day and 55 decibels max at night. Type C properties are commercial buildings. The limit is 70 decibels or 10 above ambient sound during the day and 60 decibels max at night. She said nighttime is 10 pm to 7 am. This is measured from the receiving property, not where it's generated. In the development code there is one zone that specifies at the source and no other commercial specifies where it needs to be measured from.

Tim Davis said that 60 decibels is equivalent to the human voice. He asked if this is over sustained time for violation or if it is an instantaneous measurement at any point in time. Ms. Bronson said that enforcement would require measurement of ambient sound, then if there were a problem, there would have to be measurements taken throughout the time.

Mr. Davis asked with instantaneous measurements who's going to enforce this, for instance with neighbors talking loudly in our yard. Ms. Bronson said this would be based on complaints, as with other code enforcing processes. She said that there are decibel readers that can be purchased.

Council Member Bills asked if there are problems elsewhere in the City or if the concern is about one place. Ms. Bronson said that the Council has looked at amending this piece of the code before. She said that the Burt Brothers was approved for conditional use that specified 65 decibels max at the source.

Mr. Davis noted that there are temporary short term use exemptions for construction, maintenance, or cleaning. He said that the construction sites should have oversight. Ms. Bronson said that the idea is for the exemption to be short-term or temporary. Mr. Davis said that he often sees construction sites where they are working too early or too late and the noise is well over the allowed decibel level. He asked why there is an exemption for them.

Ms. Bronson said that the intent was for lawn mowers and leaf blowers. Construction companies and builders are asked to stay in daytime hours. Mayor Mann said that the hours of operation are 7-10. He said that he downloaded a phone app and that his TV was at 60 decibels. Mr. Davis clarified that it would have to be 60 decibels in your home originating from another source.

Mayor Mann said for the city to buy some decibel readers, they are not expensive. Mr. Davis said that he thinks they need to tighten up the exemptions and the regulations, so not they are not infringing on people's rights but also protecting others' rights against having too much noise.

Mayor Mann asked what Mr. Davis would tighten up on the exemptions. Mr. Davis said he would like exemptions for construction and what that means to be clarified. Rob Patterson, City Attorney, said that construction is loud and it has to be allowed. He said it could be tightened up by not giving a whole exemption, but rather an exemption for daytime hours. Mayor Mann said that's a good change and that elsewhere the code says that 7-10 is for construction.

Council Member Ostler said that consistency is an issue. He said that a sound for a 10 second period vs consistent for five minutes are two different scenarios. He noted that it would be measured at the point it is received, whether indoor or outdoor. Mr. Davis said that the issue comes down to instantaneous measurement versus measurement over time and that needs to be distinguished.

Nathan Crane, City Administrator/Development Director said that any time you do code enforcement you look at what a reasonable person would do. What they are looking at are events that become intrusive or repetitive or make an impact on a reasonable person. There have been issues with air conditioners and roosters. In cases of construction, roads have to be built and sewers need to be fixed. Squawking boxes in drive-thru also make noise. He noted that Quick Quack has loud vacuums. You're looking for constant noise, not one-time events.

Council Member Ostler asked what happens if there is a loud motorcycle coming down a street breaking noise ordinance. He also noted that UDOT breaks noise ordinances on SR 92. Mr. Patterson said that you can't regulate UDOT because they own the roads and they allow it.

Council Member Bills said that the Council needs to think about the issue at hand. She said that construction is a temporary thing and that eventually the building will be built. On the other hand, some of the complaints about Norton won't go away.

Mr. Crane said that when the current code is used to do construction, it says that it is unlawful for any group or person to permit any noise that is objectionable between hours of 10 A.M. and 7 P.M.

Council Member Ostler gave a scenario where there is a movie in the backyard after 10 P.M. and a call comes about the noise. He asked how this is enforced. He said the police would have to have a decibel reader, go to the home of the complainant, and take the decibel reading. If it comes in at 75 and it is after 10, they can cite that homeowner.

Mr. Patterson said that yes, they could enforce it, but that the police most likely would say to stop. He said the issue with the current code is that the definition of what is objectionable noise is vague. In other cities that he's worked with the police will use discretion and say if it's bad we can cite you for it. He said that if you are running a business you need to know what's objectionable. Ideally, the police would come and tell you to turn a movie down.

Council Member Ostler said that Norton Performance has been doing dances and that there have been residents concerned by the noise. Now they would call the police, who would go to the resident's home, not Norton Performance, and take the measurement. He asked if he thinks the officer should first go to Norton, offer a warning, then give a citation after a second visit and then go to court after that. Mr. Crane said that it would be up to the officer.

Mr. Patterson said the City can cite. He said he thinks with code enforcement the idea isn't to fine people, but rather compliance. Ideally, this helps Norton understand how they are impacting their neighbors, and the neighbors will understand what they are entitled to as far as noise levels are concerned. He noted that if you live near large major roads you will have a noisier ambient level.

Council Member Smith noted that the neighbors who are complaining also live in one of the busiest intersections in Utah. He asked how police officers can sort out the noise from the corner and the noise Norton produces.

Mayor Mann said that this is a big improvement over what we have because what we have now is subjective. This is trying to make it quantitative. He said he views this as a big step forward for those generating noise and those who are receiving noise.

Mr. Patterson said that ideally the police could measure the noise at Norton Performance during the dance and then measure ambient noise when there's not a dance. He said that this is why they try to define it as above ambient to a maximum amount. If your ambient amount is typically very low, you can enforce that quietness. If you're in a noisier neighborhood, you don't have the same minimum levels but you do have a maximum protection.

Council Member Ostler brought up the Burt Brothers situation. He said that they have garages on both sides, and that when it gets hot during the summer they usually open it up. He said that the City Council has now approved condos next to the business. He said he is surprised they haven't got complaints about it. He noted that it is a permitted use that has been used before and the City is causing the noise issue. In the case of Norton Performance, they built there and the Council let townhomes go next to it. He said the City is causing problems.

Council Member Rodela said that it cleans up the language and makes it quantitative. In this way there are set guidelines, specifically the number of decibels allowed. Council Member Ostler said that if there is an issue, it can be addressed. Mr. Patterson said that there is actually a noise level standard in a few of the zones and this is a loosening of the standards that makes it easier to comply. He said that for Burt Brothers they had a conditional use agreement that they agreed to in regards to decibel levels.

Council Member Bills asked who is responsible for the noise once the dance is over at 11:30 as the teenagers are leaving. Mr. Patterson said that it is the property owner because it is still an event on their property. Council Member Ostler said that this is an important point: the dance ends at 11:30 and it is still part of the event as they are leaving. Mr. Patterson said that it is supposed to clear out at a certain hour. He gave the example of a lube facility where cars are idling. That is all part of the business and the impact that the business has on neighbors. In the same way, you expect the business owner to be responsible for that.

Council Member Bills said that in this situation with Norton, there is a use that is not what it was originally supposed to be. She said they are moving away from their primary use. Mr. Davis said that he has talked to officers and that the noise is more the bass than anything and that is the major complaint.

Council Member Bills asked what the process would be if the police came to your facility. Mr. Davis said that he wasn't at the last dance but there is a staff member at every dance. He said for him the process is to shut it down. Similarly, there was a dance with people not wearing masks and they kicked them out. A sound system and a DJ are brought in; they just rent the building.

Council Member Ostler asked if there is a contractual issue after 10 if they're prepared to shut it down. Mr. Davis said that they had that happen a couple of months ago. They had to tell them to shut it down. Council Member Ostler created a scenario where it is 10 P.M. and the doors are closed. He asked what level of decibels inside the building it would be. Mr. Davis didn't have an answer.

Mayor Mann explained that this is where you would go to the residences and check. Mr. Davis said he wants to test it at one of the dances. He said that he and Kellie spoke about him wanting to test it, with a look at what is reasonable and if it is something they can do going forward. He said that he cancelled some dances and was told that we are ruining kids' lives.

Council Member Bills said that she is glad to add this code. She said she would like to know what you are doing on your end. Council Member Smith noted that there will be a lot more residents. Council Member Bills noted that the noise ordinance ends at 10 P.M. and dances don't end at that time.

Ms. Bronson clarified that the decibel level is correct in report, but not correct in resolution. She said that it is 70 decibels for Type C daytime and 60 decibels for Type C at nighttime.

Mayor Mann recommended there be an exemption for construction 7 A.M. to 10 P.M.

Council Member Kim Rodela MOVED that the City Council accept the findings and APPROVE the proposed amendment to Section 8.16.100 Nuisance Of Noise And Light based on the following findings. The amendment is consistent with the purpose of the section established in Chapter 8.16 Nuisances, the proposed amendment is consistent with the goal set in the General Plan to integrate commercial land uses such that Highland City's rural-residential community character is maintained. The decibels levels for Type C properties as stated in the staff report, which is the nighttime hours should not exceed 60 decibels. Construction noise allowed from 7am – 10 pm. Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*No*
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 4:1.

7. ACTION: FUNDING FOR ADDITIONAL PUBLIC WORK EMPLOYEES
Administrative

The City Council will consider a request to add three additional full-time employees to the Public Works Department pending adoption of the new utility rates. The City Council will take appropriate action.

Todd Trane, City Engineer, said that there are three positions that we are asking to get approved tonight. The three positions are the Public Works Assistant Director, the Culinary Water Operator, and a Floating Public Works Operator. He said the purpose of the positions are noted in the Council report. There are currently 16 full-time employees, which is far less than any other municipality. He said with the growth that has occurred the City has been reactive and not proactive. He noted that the City is growing and that these positions will allow for proactive measures to be put in place. He said the City is about to add 700 units in a very large development. He said the staff feels as though they are drowning in work and the three positions will help keep staff. He said these positions are needed.

Council Member Smith asked what the floater is. Mr. Trane said that the floater doesn't have anything to do with sewage. He said there are a lot of things done in Public Works that need more than two or three people. He noted that every department only has two employees other than streets. He said that some tasks require one department to take workers from other departments to handle projects and because of that they are falling short of maintenance requirements. He explained that the floater position will fill in that role. The Public Works Assistant will be in charge of directing the floater day to day where they are needed. Ultimately, the Public Works Department doesn't have the hands they need to do the tasks they are required to do and these three positions will help them be proactive.

Council Member Bills said she is good with the proposal if everyone else is. Council Member Ostler said that he wants to recognize Todd and say thank you for his dedicated hours. Mr. Trane said that it's been a pleasure, that he appreciates the friendships and support, and that he hopes the relationships don't end tonight.

Council Member Scott L. Smith MOVED that the City Council authorize the funding for the three new public works employees subject to approval of the utility rate study. Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

8. 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. Office 365 Upgrade

Tyler Bahr, Finance Director, asked for anybody with an Android cell phone to raise their hand. He said that the tech industry is moving to subscription-based software. He said that it was planned for the City to move to Microsoft 365 in the coming fiscal year but the IT department has determined that needs to be done sooner to protect data. He said that in the end it will save the City money.

Mayor Mann said that right now they host the exchange on their server, and that this would move to the Cloud which is substantially more secure.

Council Member Ostler clarified that all their files will still be there. Mr. Bahr said that the file migration will take place this weekend. He explained that Email will not be available consistently throughout the weekend. He said that this could be Friday, Saturday, and Sunday. He said he hopes that starting on Monday, the Council will be able to connect with us if they have access to a computer. He said that they can be set up with a password and then use instructions to connect with your mobile device and that IT can also help you. He said if anyone has any questions to call Tyler.

Council Member Smith asked if this is in relation to iPhones and computers or if it is for everything. Mr. Bahr said it is for all Email.

Council Member Smith said that there is a ribbon cutting on the 15th. He said that he has had a lot of questions from the USDC governing board. He asked if there has been a formal invitation sent to them.

Mayor Mann said they reached out to Thompson and Reese.

Mr. Trane said they should have received an official invitation and that it would have gone to Frank Reese. He said that on the morning of the 15th there will be a ribbon cutting ceremony at 9.

Mayor Mann said there will be a big banner and a fire truck and that everyone can get on the fire truck and drive through the banner.

Mr. Trane said the road will stay closed for anyone who wants to drive their classic cars, anyone who would like to ride their bikes and the road will officially open on May 15th at 1:00 pm. He said the ribbon cutting ceremony will be right by the tunnel and that people can park all down the back side of Lone Peak by the trail around the restrooms.

Mayor Mann said that there will be three other Mayors speaking and that the City Council is invited. Mr. Bahr said that Corrinne will send the details. Mayor Mann said that there will be an antique car station set up.

Mr. Trane said that he is meeting with UDOT this Thursday and that he will send details to the Council.

b. Future Meetings

- May 18, City Council Meeting, 7:00 pm, City Hall
- May 25, Planning Commission Meeting, 7:00 pm, City Hall
- May 26, Lone Peak Public Safety District Board Meeting, 7:30 am, 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 10:00 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 May 4, 2021. This document constitutes the official minutes for the Highland City Council Meeting.

Stephannie Cottle
City Recorder

HIGHLAND CITY

HIGHLAND CITY COUNCIL MINUTES

Tuesday, May 18, 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: 825 7295 1489

Email comments prior to meeting: council@highlandCity.org

7:00 PM MEETING OPEN TO PUBLIC

Call to Order – Mayor Rod Mann
Invocation – Ben Smith
Pledge of Allegiance – Engineer EIT Mike Burns

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 Ben Smith and those in attendance were led in the Pledge of Allegiance by Mike Burns.

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, Engineer EIT Mike Burns, Planner & GIS Analyst Kellie Bronson, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, City Engineer Todd Trane, Library Director Donna Cardon
OTHERS PRESENT:	Jon Hart, Kris Johnson, Ty Christensen, Brady Giles

1. UNSCHEDULED PUBLIC APPEARANCES

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

Kris Johnson, resident of Mercer Hallow Estates, expressed his appreciation to the City Council for their willingness to consider disposal of parcels and portions of parcels of open space property. He thanked the Council for considering residents requests in a batch process by the Council subcommittee. He added that in dealing with Kellie Bronson had been a breath of fresh air. He said that she had been proactive and responsive in the way that a service-oriented person had been needed in the department. He said that he had submitted details to the subcommittee with his request. He continued that he had gone through the criteria for an open space parcel to qualify for disposal per the decision of the Council. He said that he strongly felt that his request met all of those criteria. He requested that if the Council subcommittee interpreted the criteria differently somehow that there be an opportunity to discuss and try to align and see eye-to-eye, prior to a final decision on June 1, 2021. He said that in his case there was a weird property line that would cause in unsightly fence between him and his future neighbor. He said that they were both putting in pools. The sale of a small sliver of open space land would resolve the unsightly fence issue as well as resolve an impasse on a pool grotto that he was putting in. After he had already put funds into the building, it was discovered that it was considered an accessory structure, although it is a pool grotto with a slide that was placed within a 10-foot setback. He continued that he and his neighbor were not planning to construct the fence all the way back to the proposed property line. His neighbor's property extended 52.6 feet from the existing property line. He said that they were trying to do everything they could to conserve water. They were putting in turf to help retain rainwater to make sure that acquisition of the property was not a burden on the pressurized irrigation system. He said that he was available for comments or questions.

***Council Member Timothy A. Ball arrived 7:05 pm.*

Council Member Ostler asked what a grotto was. Mr. Johnson said that it was a cave overhang over the pool that someone could go underneath and that had a waterfall on top.

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 – April 20, 2021

b. 2021 Road Preservation Project *Administrative*
The City Council will consider approving a contract with Eckles Paving for construction of the 2021 Road Preservation Project (Patching) for $247,293.56 and authorize the Mayor to sign a contract to proceed with the construction. The Council will take appropriate action.

Council Member Kurt Ostler MOVED that the City Council approve consent items 2a and 2b. Council Member Brittney P. Bills SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Kim Rodela	*Absent*
Council Member Scott L. Smith	*Yes*

The motion passed 4:0.

3. PUBLIC HEARING/RESOLUTION: CULINARY WATER RATES *Legislative*

The City Council will hold a public hearing and consider a request to increase culinary water rates beginning July 1, 2021 and amend the comprehensive fee schedule. The Council will take appropriate action.

Tyler Bahr, Finance Director, introduced Fred Philpot the City's consultant from Lewis, Young, Robertson and Burningham.

Fred Philpot, Consultant, thanked the Council for letting him present virtually to accommodate his busy schedule. He said that it was a pleasure to be working with the City again. He walked through analysis as it related to the water, sewer, and pressurized irrigation rate studies. There were three main elements to the presentation: Highland's financial plan objectives and policies, the utility model methodology, and recommendations.

As part of the process they address certain policies—revenue sufficiency, cash reserves, and debt service coverage—to make sure that rates are sustainable based on those metrics. In addition, the consultants ensure ease of implementation and periodic rate reviews. He provided more specific details about financial details, explaining that they ensure revenue growth in each utility. As a part of this, the firm looks at variables like the cost of service, maintenance, repair costs, capital expenditure, etc. It is from those assumptions that a rate model is designed relative to rate forecasting. The key element was that the City reviewed these variables and rates every three to five years to make sure that if there were changes in the assumptions that adjustments were made as needed. Highland had gone through that process with their last rate change occurring in 2016.

The firm's approach was to evaluate rate increases needed to maintain target types, conduct scenario analysis, evaluate working capital and debt coverage metrics, and then provide recommendations.

The next set of slides showed those findings:

- For water, if there was no rate adjustment, the City would quickly lose their on hand cash. To counteract this, a rate increase was recommended. The firm proposed that in the first year there be a 30% rate increase. For residential water that increased the base rate from $12.24 to $15.91. The other base and consumption rates were also proposed to increase by the same percentage.
- The sewer rates showed that with no increase, the City would stay at or above its targets. As a result, there was no recommended rate changes.
- For storm water, the City was currently above its target, but that declined over time. At present there was no recommended rate change, but as the City moved forward, this was an area that needed rate reviews and updates to track the coverage ratio. At a future point there might be a need to act and increase rates.
- The graph pertaining to pressurize irrigation (PI) showed a dip as a result of capital expenses. Cash fell below the targeted amount, but rebounded. At this time there was not recommended rate changes. However, in three to five years, this fund would need to be reevaluated. The PI fund was the only one that had outstanding bonds. There was sufficient debt coverage, well above the minimum target amounts.

Mr. Philpot summarized that the only proposed rate increase was the 30% to water. This amounted to a $3.67 increase to the base rate. He noted that the 2016 study had contemplated a rate increase. As a result of the changes in capital needs, cost had gone up. That caused a higher increase then what was anticipated in the previous study. All other models and utilities did not have recommended increases. As a result of these findings, the Council could act on rate increases pertaining to the water fund. He was available for questions.

***Council Member Rodela arrived 7:16 pm.*

Mr. Bahr noted that the Council had a copy of Mr. Philpot's full report. He said that page three included a summary of all of the culinary water changes proposed. The appendices of the report included details on the projects pertaining to each of the utilities.

Council Member Ostler stated that the City had an over usage fee related to culinary water. He asked Mr. Crane if staff had ever looked at if most of the overage came from homes prior to 1995. He said that prior to 1995 when the pressurized irrigation system started to come to all new subdivisions that each had their own hook ups, that there were separate hook ups and meters. He had heard that as some of those systems have aged there had been leakage. He wanted to know if that was causing an increase in cost to some of Highland's older residents.

Nathan Crane said that he didn't know specifically. He said that when a resident had an overage, staff went through a specific process with the homeowner to try and determine where the overage was coming from.

Council Member Ostler said that one resident had said that it would cost $2,500 to change their stop and waste system to prevent leakage. They said with an overage fee of $11, it made better financial sense for them to just keep paying the fee. Mr. Crane said that the utility billing system was arranged by address, but he didn't think it included the age of the home. He said that a lot of time when a resident saw a jump in their bill, they contacted staff to inquire why. Mr. Bahr said that staff kept good tabs on changes. Mr. Crane clarified that staff are looking at overages based on meter reads, not the bill itself.

Mayor Rod Mann opened the public hearing at 7:20 pm. There were no public comments. Mayor Rod Mann closed the public hearing at 7:21 pm

Council Member Kim Rodela MOVED that the City Council adopt the recommended increase to culinary water rates and amend the comprehensive fee schedule to include the new rates. Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

4. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – FENCES, WALLS, AND HEDGES *Legislative*

The City Council will hold a public hearing to consider a request by Highland City Staff to amend Section 3-612 Fences, Walls, And Hedges of the Highland City Development Code. The City Council will take appropriate action.

Kellie Bronson, Planner, provided some background on the text amendment. She said that in 2020 there were 46 fence permits issued to Highland residents. In 2021, staff had already received 21 applications. Spring brought a lot of fence and retaining wall questions. The existing development code was confusing for residents, developers, and staff. As a result, staff wanted to reorganize and reword the code.

The current code was organized such that the first section outlined what sort of fence or wall required a permit. The second section was titled “General” and included regulations that applied to both residents and developers. The third section talked about materials and design. The fourth section addressed retaining walls. The proposed outline was for the first section to state what was subject to review. The second section would address fences and would include the general regulations for fences and that materials and designs that applied to fences. Following this, these same elements would be outlined specifically for retaining walls, theme walls, screen walls, etc.

Some additional images and illustrations would be added to the code that showed how a fence should align with the property line and the 30-foot setback that needed to align with the home. Other illustrations would also be added to address height maximums. In Highland these had always been 6-feet tall. She said that there had been issues of residents raising the grade or some land around the fence to give them higher than 6-feet. Because the panels were 6 feet it would meet the restriction. The current code allowed for property owners to raise their land as high as they wanted as long as it was even on their side of the fence for at least 5 feet from the fence line. To address this issue, new language would be added to the code that indicated that berms or any means to raise the fence height shall be included in the total height of the fence.

In regard to retaining walls, the current maximum height was 8 feet. In addition to this, a 6 foot fence could be added on top of the retaining wall providing a maximum of 14 feet. Staff proposed to bring the retaining wall height maximum down to 6 feet. The current code had a 1:1-foot ratio. This meant that when retaining walls were tiered, the next retaining wall had to be set back equal to the height of the subsequent wall.

Council Member Ball asked if these changes would apply to existing structures or only to new construction. Ms. Bronson said it would only apply to new construction. Existing walls and fences would be grandfathered in.

Council Member Ball said that he had received complaints about new construction trying to get around regulations by raising the entire level of the property creating an unfair sightline from the new construction. These new developments could see directly into the homes below creating a lack of privacy.

Ms. Bronson said that she hated that this text amendment was happening now. She wished that it had been done 10 years ago. She continued to talk about changes to the code. If a resident wanted to have a retaining wall and have a fence on the same vertical plane, the new code would limit that height to eight feet total. For example, a resident could have a two-foot retaining wall and a six-foot fence. If they wanted a higher retaining wall, they would have to reduce their fence height. This would not apply to open fencing.

Council Member Ostler asked for clarification about what was permitted. Ms. Bronson displayed some images to illustrate what she previously described verbally. Council Member Ostler was concerned about what happened with the feet in-between a retaining wall and fence when these elements had to be tiered. Ms. Bronson said that she had reviewed several other cities’ code to help amend Highland’s. Alpine City’s code had nine foot maximum with four feet in between. At the Planning Commission this was discussed. They wanted to know why four feet was required as opposed to one or two. It was concluded that if the fence and wall were too close together that it could become a safety hazard.

Council Member Ostler asked Council Member Smith if he was worried about weeds. Council Member Smith said that he hoped that it wouldn’t be. He said that there were a lot of issues in this ordinance that the Council needed to discuss.

Ms. Bronson displayed pictures of existing examples in Highland where residents have raised the grade of their property to try and increase the overall height of retaining walls and fences.

Council Member Ostler verified that the total height of the barrier was 10 feet. The retaining wall was four feet and the fence was six feet. He clarified that the proposed ordinance would allow for a two-foot retaining wall and six feet for the fence height. Ms. Bronson said that this was another thing staff had discussed. They wanted some height for retaining walls to be permitted for those who need the walls for actually retain the existing grade. The wording in the ordinance states that, "berms or other means used to raise the elevation shall be included in the measurement of the fence height." The next point was that retaining walls are considered part of the fence height. This would prohibit a property owner from raising the grade and installing an eight-foot wall unless the wall was actually needed. When staff received applications they would have to look at existing and final grades.

Mayor Mann asked if in the first example residents had raised the grade in addition to building the wall with the added fence height. Ms. Bronson said that was what staff were trying to prohibit. However, if the property sloped down, a resident would be able to use a retaining wall.

Council Member Ostler asked if the proposal pertained to all zones, including the town center zone. Ms. Bronson said yes. She added that the Planning Commission recommended that the retaining wall maximum be applicable to residents and developers and not to City staff. If Highland had a project where the City need a retaining wall higher than two feet, the City would have the right to.

Ms. Bronson continued to provide other examples of properties that had built up the grade of their properties and used a combination of retaining walls and fences. In some cases the properties on the up slope built higher fences than those on the down slope, causing them to tower up to four feet above neighboring fence lines. She then displayed the following table that summarized the current and proposed changes:

Current	**Proposed**
SECTIONS: Permit Required; General; Materials and Design; Retaining Walls	SECTIONS: Subject to Review; Fences; Retaining Walls; Theme Walls; Screen Walls
Chain link only explicitly prohibited for theme and screen walls.	Clarification that chain link is prohibited for all fences.
No max height for fences on top of retaining walls; can go up to 14' tall.	Add 8' max height for fences on retaining walls (on same vertical plane); 6' max height for retaining walls.
66% open fence can be 6' from the curb on a side or backyard adjacent to the street.	Clarification added that it cannot go past the property line.
	Note referencing Section 3-4112(4) for fencing around athletic courts.
	Typical and corner illustrations added.

Council Member Smith said that in the resource material it seemed to indicate that the Council had stated against chain link fences at some point. He asked if anyone could tell him when that happened. Despite serving on the Council twice, he did not remember that happening. Ms. Bronson said that she had been told that it was just the Council's preference. She could not point to a particular set of minutes where the Council had explicitly directed staff not to allow chain link fences.

Mayor Mann said that he thought the preference against chain link fences happened when Jess was Mayor. Mr. Crane said that he remembered chain link fences being prohibited when he started working for Highland 10 years ago.

Council Member Ostler said that in 2005 there was a vote that had to do with fences about heights and them being open. He wondered if this was when the preference against chain link fences came up.

Mayor Mann asked if it was only perimeter fences that were prohibited to use chain link fences as opposed to putting a chain link fence around a sports court. Ms. Bronson said that in the athletic court section of the code, chain link fences were allowed, but the fence had to be vinyl coated.

To conclude, Ms. Bronson noted that the Planning Commission did hold a public hearing on April 27, 2021. There was one public comment regarding the retaining wall and fence on the same vertical plane. The Planning Commission recommended approval of the proposed amendment, but they recommended that the total maximum height for retaining walls to be four feet period and subject to the City if they needed to have higher than four feet. The appropriate noticing had gone out between the Planning Commission and City Council meetings. No written correspondence had been received. Staff recommended that the City Council accept the findings and approve the proposed amendment with the maximum height of the retaining wall and fencing be 8 feet rather than the Planning Commission's recommendation of 10 feet.

Mayor Rod Mann opened the public hearing at 7:44 pm. There were no public comments. Mayor Rod Mann closed the public hearing at 7:44 pm.

Council Member Smith said that he did not understand the restrictions on a corner lot. It seemed to him that the maximum height was three feet and that the fence had to go back 30 feet. Ms. Bronson pulled up the illustration for the corner lot. She said that the green line indicated a three-foot fence and the red line indicated a six-foot fence. The six-foot fence was permitted on everything behind the front set back. On the side property lines, residents were allowed to bring the fence closer to 14 feet from the curb. The fence from the front set back to 14 feet from the curb had a maximum height of three feet. For a corner lot, the side that abuts the street, also had a 14-foot setback before the three-foot fence could be constructed. In addition, there was a 40' x 40' site triangle for corner lots that prohibited anything within the sight line being taller than three feet to ensure the safety of cars turning around corners.

Council Member Ostler asked if someone was allowed to fence their front yard. He also asked if this only pertained to residential properties. He questioned how this impacted agricultural users. Ms. Bronson said that if they wanted the fence to be parallel to their front set back it needed to go back 30 feet. She said that if a property was on a residential plot in a recorded residential plat, it would follow this code.

Council Member Smith asked why anyone would want to build a three-foot fence. It didn't provide much privacy or security. Council Member Rodela said that she lived on a corner lot and there were several people in her neighborhood who had the three-foot fences. It just prevented people from cutting through the lawn on a corner lot. Ms. Bronson said that she didn't expect many people to want three-foot fences, but actually provides permits for them a lot so that they can define their property line.

Council Member Smith asked what materials were prohibited. Ms. Bronson said that the only material prohibited was chain link.

Council Member Rodela said that she was fine with the proposed code changed. She felt that it cleaned up the code and that the changes took a step forward in making a simpler process.

Mayor Mann clarified that anyone who had already filed a fence permit would to be subject to the new rules. Ms. Bronson confirmed this.

Council Member Ostler asked if there were very many agricultural uses coming in to request pasture fencing. Ms. Bronson said she had one recent request to put up horse wire fence even though it was a normal residential property without horses.

Council Member Ostler asked if an exception was needed for agricultural purposes. He said that on his own property he had pasture fencing. In his mind property was different. He said that when he drove around and looked, he was surprised at the variety of fencing and fencing heights.

Council Member Bills asked if there was a definition for berms. She wanted to know how a pile of dirt was differentiated from a berm. Rob Patterson, City Attorney, said that berm was not defined. The code referred to a berm or any means to raise the elevation of the property.

Ms. Bronson said that when there were two properties whose existing grades differed addressed in the proposed code change. The height cannot be taller than five feet, measured from the lower property. She said that if someone wants to raise the property up and build a retaining wall, they will have to set the fence in four feet and lose that area of the property. Any amount that the grade of the lot was increased would count against the height of the fence.

Council Member Ostler proposed a hypothetical scenario. He said that he purchased his lot. He then grades the entire property so that it is increased by two feet. This grading happens before he puts in his application to build a fence. He asked how the increase in grade would be enforced. Mr. Patterson said that the intent in the code change is that when staff know that someone has raised the grade of their property, that height would be included in the overall fence height. He said there might be circumstances were staff miss this. That's why the maximum height was important. That was also why, in instances when staff did not know why there was a grade difference, they would measure the height from the lower property line up to eight feet.

Council Member Ostler said that he recognized the concern and that if the Council took no action that they could start seeing more of these 14-foot fences. He worried that by trying to solve one issue they would be creating another.

Council Member Smith asked what was driving the code change, and wondered if it was an effort to bring greater consistency into the code. He said that the last time that he was on the Council they had spent a lot of time discussing the heights of fences, open fences, etc. He said he had not heard discussion by the Council over the last year or two that fencing was a major problem. He said that he appreciated Ms. Bronson's work, but that the changes could create a lot of new problems. He said that if you were to drive along Alpine Highway, 75% of the fences would not meet the new code. He worried about how residents would be notified about the implication of changing the grade of their properties and fence height restrictions. He said that in Highland, residents were concerned about taxes, densities, and that fences were also pretty high on the list. He wondered about staff's process for preventing future problems. He wanted to prevent future complaints. He asked if in the examples shown earlier in the meeting, neighbors were complaining about other neighbors' fences.

Ms. Bronson responded. The first motivator for the code amendment was to reorganize the sections and wording of the code to create greater clarity. Even as a staff member she felt that she had to read the code at least 30 times to understand it based on how it was written. After the process of reorganizing happened, she had reached out to staff in other departments, such as Public Works, who brought up other issues they wanted addressed with the text amendment. In regard to enforcement, Ms. Bronson said that she works closely with the building inspector who has to inspect all of the retaining walls. The building inspector was very aware when grading occurred to raise the level of a property. The bottom line was that the existing code allowed residents to build a 14-foot wall on their property line. Staff were doing their best to mitigate that. She had received a call from a resident the morning of the meeting whose neighbor was trying to build that 14-foot wall and didn't understand how it was permitted.

Council Member Smith returned to the example shared earlier. He said again that they property owner built an eight-foot retaining wall with a six-foot fence on top of it. He asked if to build the eight-foot retaining wall, they had to get a building permit. He asked why there was no intervention from the City to prevent an eight-foot retaining wall. He asked if the retaining wall was justified. Ms. Bronson said that eight-feet is the maximum height for a retaining wall. There wasn't anything in the code against people grading their properties and putting in an eight-foot retaining wall. Council Member Smith clarified that if the ordinance went into effect, they could have the eight-foot retaining wall, but no fence. Ms. Bronson said no they could not. If they had the eight-foot retaining wall they would have to get a building permit because the wall was higher than two feet. They would also have to set the fence back four feet from the wall after they have applied for a fence permit application. Most of those come hand and hand with new developments because they want to get their retaining walls and fences in at the same time as when they are building their house.

There was further hypothetical discussion about the particulars of what the proposed ordinance would allow looking at the Spring Creek property as an example.

Mr. Crane said that in the Spring Creek example, the City spent between 20-30 hours trying to mitigate the fence construction between the property owners. The neighbor below complained about the neighbor above building the retaining wall and then the neighbor built the retaining wall higher. When there were hillsides and grade breaks there were a lot of complaints and disputes between neighbors. When they look out their window, they see 8-10-foot walls. One of the purposes of the amendment to limit the height to eight feet, or the four-foot terrace, was to eliminate the tall, concrete look.

Council Member Smith asked if staff had looked at the fencing code of other cities. He said that he was restoring his grandparents' home in Pleasant Grove. According to their ordinance, he could put an 8-10 foot fence up if he wanted to.

Ms. Bronson said Alpine City allowed 8-foot fences. In Sandy they had a six-foot maximum, but residents were allowed to do seven to eight feet with a conditional use permit. Mr. Crane said that when you built an eight-foot fence, the footings had to be engineered. That's why fences were generally kept to six feet.

Council Member Kim Rodela MOVED that the City Council accept the findings and approve the proposed amendment to Section 3-612 Fences, Walls, and Hedges with the maximum height of a retaining wall and fence of eight feet. Council Member Timothy A. Ball SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 4:1.

5. AGREEMENT: CONNECTION TO THE PRESSURIZED IRRIGATION SYSTEM OUTSIDE OF CITY LIMITS *Administrative*

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

Mr. Crane reviewed previous meetings when this item was under discussion. This first meeting was on December 3, 2019 when the initial request was approved. Staff worked with the property owner and came back to the Council with a formal plan which was approved on February 16, 2020. One of the conditions of the plan was that a formal agreement be brought back to the Council for approval. He then outlined some of the highlights of the agreement.

Three total connections were allowed. One of the connections was existing. The property owners will provide 22.5 shares of Provo River water and 25 shares of Lehi irrigation water. The City is not obligated to provide water in excess than the water provided. In the case of drought, water use is limited by the amount of water provided by the owners. He explained that some of Highland's water system was supplemented by wells. The pressurized irrigation system, however, was primarily supported by snowfall. This meant that in the case of this contract, if the water did not exist, the City did not have to supplement this portion of the system through its well water. We supplement our system by wells, primarily PI is renewable source provided through snowfall. If water does not exist, we do not have to supplement throughout wells.

In the agreement, the water would be metered and charged at a rate of $40 per acre foot, billed monthly. The usage and contract would be reviewed every five years. Water usage would be limited to the hours of 8:00 a.m. to 10:00 p.m. to allow the system to re-charge. Highland's pressurized irrigation system is most heavily used at night.

The agreement also allows the City to impose restrictions to protect residents as the primary user. It also provides for annexation of a portion of the property on the east side to develop six to eight lots. The agreement would expire in 2041 if not terminated according to the provisions in the contract.

Mr. Crane then provided some miscellaneous information related to the item. There was one user, Wilson. The City needed a formal agreement with that user to establish a water dedication and upgrade a meter. This would result in an increase to their current PI bill. There was already PI service for the home, but not the associated land. He said that the resident was 97 years old so staff were working with her family. In the end, approval to abandon the ditch had to come from Lehi irrigation.

Council Member Ostler asked if they could look at each of the miscellaneous items and their effect on the Peck proposal. He said that if the Wilsons did not connect, it would not affect the Pecks. It just meant that the Harmon ditch would be abandoned. He continued that the situation with Lehi irrigation was the same; the Pecks could still connect. What would happen was that the Pecks would be bound to their allotted water shares and could not supplement their water with water from the ditch. Mr. Crane said that was correct. Once the deal was completed; the Pecks would be serviced through Highland's PI system.

Mayor Mann clarified that in this case, even if the Wilson situation was not resolved, if Highland upgraded 6800, they would not have to pipe the ditch under the road. The Pecks would lose access to it. That would save that road project some money.

Council Member Ostler asked if it was the understanding the Lehi Irrigation would fill in the Harmon ditch once it was abandoned. Mr. Crane said that it was their ditch. Beyond that, he was not aware of discussions on whose responsibility it was to fill.

There was further conversation about Lehi Irrigation's relationship with the Harmon ditch. Mr. Crane confirmed that Lehi Irrigation was willing to abandon the ditch. He said that the decision about the ditch was ultimately up to Lehi Irrigation. Just because the Pecks and Wilsons were off the ditch, did not mean that Highland could give the approval for the ditch to be filled in.

Council Member Smith asked who the City would talk to from Lehi about the ditch. Mr. Crane looked up this name and said that it was John Bushman.

Mayor Mann said that he spoke to Mark Johnson, Lehi Mayor, earlier today and he said they would love to abandon the ditch. The holdup was that the Wilson's still got their irrigation water from it.

Council Member Ostler asked how large the Wilson parcel was. He continued with some additional questions. He said that it was his understanding that sometimes in the late fall, Highland did not have enough water to meet its water shares, so the City augments from its well water. He wanted to confirm that the shares the Pecks were getting would not give them access to the City's well water. Mr. Patterson responded that as the season went on, the entity that controlled the water would look at the total amount of water available and the number of shares an entity has. If the remaining water is not enough to support shares, the total amount of water permitted for use can be reduced proportional to how shares are distributed among users. There could come a time where, although someone has paper shares, there's no water left to take. If that happened for the Pecks and the City was filling the PI system with culinary water to support residents, the City can shut off the Peck's line and not provide them access. It was clear that they were not allowed to take City water and that the City can enforce its termination shutoff to make sure that it goes to them.

Council Member Ostler asked if it was a common occurrence to augment with well water. Mr. Crane said that Highland did end up augmenting at some point. When that occurred varied each year based on demand. He said Highland augmented quite a bit with its 11800 and 700 well.

Council Member Smith said that he was confused. He said that the Pecks would be providing a lot of water out of the Murdock Canal. He said that he had a good friend who worked at CUP and regulated the water. He asked this friend two days prior to the meeting, "How bad are things?" The friend said that they had been preparing for bad years like this. The reservoirs were fine. The friend made the comment that the Provo River water in Deer Creek often time fills the reservoir first. He said that it seemed to him that if Highland started to run out of water, the City had a third pump in that pond to be able to put additional water in from the Murdock Canal. He asked if that was correct. He felt that having these additional acre feet was a benefit to the system and should reduce the use of well water. There was additional conversation about the sources that filled various ponds and wells.

Council Member Ostler read a portion of the proposed agreement pertaining to road improvements on 6800 West. He asked if the Pecks had agreed to dedicate the portion of their property that would be needed for those road improvements.

Mr. Crane said that the Pecks had not yet entered into the agreement to dedicate the property. He had a message in to the property acquisition agent and had spoken with staff and the Pecks on Thursday afternoon mentioning that needed to happen.

Mayor Mann asked if that was a condition to sign the agreement. He verified that even if the Council approved this action tonight, that the contract couldn't be signed until that property had been dedicated.

Council Member Ostler continued to question the text of the proposed contract. Mr. Patterson said that the recital provided a general description of why it was included in the agreement. He said that for the sake of ease, staff had separated out the two agreements so that they were not dealing with a water agreement that might last longer than the dedication agreement needed to be referenced. As part of the Council's approval, the Council could say that it approved the contract, but that the Mayor should not sign it until the Pecks signed the other recital agreement. Mayor Mann recommended that detail be included in the motion.

Council Member Ostler had additional questions about the annexation of the six to eight properties. He felt that items 5a and 5b were in contradiction with each other. Mr. Patterson explained that the issue those items were trying to address was the timing of the annexation. He said that the timing of when the Pecks were going to bring in those properties was not clear. What those items communicated to the Pecks was that they had 20 years to bring in those properties. If that did not happen during the 20-year term, the Pecks had breached the conditions of the agreement and gave the City the right to terminate it. That language communicates that as a result of this agreement they will be abandoning the ditch. This gives the Pecks 20 years to figure out their water situation before they would not have access to water for their property.

Council Member Ostler said that the reason they were coming onto Highland's PI system was because Lehi would not supply them with PI water even though there was a line for Lehi PI going through the property because the Pecks would not annex into Lehi. He wanted to know if the terms of this agreement required the Pecks to annex to Highland, or if it just said that if after 20 years they had not annexed to Highland that Highland was no longer obligated to provide them services.

Mr. Patterson said that the City could not force anyone to annex into Highland and claim additional property. He said that was always initiated by the property owner. Council Member Ostler said that the Pecks had communicated it was their intention to annex into Highland.

Council Member Bills asked if anything had changed since the Council voted on this item in February. She said that unless anything substantial had changed, the previous votes of the Council made her ready for a motion. Council Member Rodela said that she could also go for a motion contingent on the signing of the agreement for property.

Council Member Scott L. Smith MOVED that City Council approve the Pressurized Irrigation and Annexation Agreement with Ron Peck, RLP Enterprises LLC, and Thomas Williams contingent on the agreement that needs to be made to provide property for the widening of 6800 W. Council Member Brittney P. Bills SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

6. RESOLUTION: AUTHORIZATION TO PROCEED WITH RAP TAX PROCESS *Administrative*

The City Council will consider whether or not to begin the process to place a request on the November 2021 Ballot authorizing a Recreation, Arts, and Parks sales and use tax. The City Council will take appropriate action.

Mr. Crane reminded that Utah Code allowed the City to impose a local sale and use tax of 0.1% for recreation, cultural and zoological facilities called a RAP tax. RAP taxes must be approved by residents in municipal election, in this case occurring in November. One of the key aspects of the tax was that the City cannot impose the tax if the County enacts a county-wide RAP tax or declared its intent to do so. The first step for the City to adopt the RAP tax was to adopt a resolution and to submit it to the County. The County had 60 days to respond. He said that if the County responded that they would not be imposing a RAP tax, Highland could proceed to put the tax on its November election. During that time, the City would have to outline how the funds would be used.

A key date for Highland would be the August 17, 2021 meeting because the City would have to file with the Lieutenant Governor's office its resolution notifying its intent to impose the RAP tax by August 19, 2021. Mr. Crane then outlined other key dates on the timeline regarding the RAP tax. Following the approval of the tax, an ordinance would need to be adopted by the Council formally imposing the tax and that declared how and where the proceeds could be used.

Mayor Mann asked if the Council could pull the plug on this initiative any time prior to August 17, 2021. He wanted to verify that this action did not require that the City pursue the RAP tax, but simply enabled Highland to do so. Mr. Crane confirmed this. This action was a first step, but the City had until August 17 to make a formal decision. He continued that he and Mr. Bahr estimated a revenue between $135,000 and $164,000 annually. The use of these revenues can be for capital investments in things like park improvements and repairs, to fund recreational or cultural uses, trails, or the Arts Council. The City would need a public information campaign. The Council would play a big role in selling the implementation of this tax to the community and getting their buy in. Other cities such as Lehi, American Fork, and Cedar Hills all had RAP taxes. He suggested that a Council subcommittee work on a plan for how to use revenues from the tax and work with Erin Wells, Assistant City Administrator, to implement the public information campaign. A sample letter was provided for what could be sent to the County if the Council chose to do so.

Council Member Smith asked if he spent $100 how much he would pay into the RAP tax. Mayor Mann and Mr. Bahr said $0.10.

Council Member Smith continued that if he spent $1,000 he would be paying $1.00 to the RAP tax. This was really not very significant and the people of Highland were already paying it in American Fork, Cedar Hills, Alpine, and soon in Lehi. This made Highland an island not doing this, or not benefiting from the taxes Highland residents were paying in other cities. Council Member Bills added that the RAP tax made it such that people who lived outside of the City paid a portion of the tax when they shopped in Highland stores.

Council Member Ostler clarified that there were some food sales not subject to RAP taxes. Mayor Mann said that items not subject to sales tax would not be applied to the RAP tax. For example, if someone shopped at Macy's and purchased a prescription, even though this was paid for at a food establishment, the prescription would not benefit the RAP tax because it was not subject to a sales tax. Mr. Bahr added that, according to the state, unprepared food has a set rate and would not apply to the RAP tax. Council Member Rodela said that she was excited about this. She thought that this could be used to help fund Mountain Ridge park.

Council Member Kim Rodela MOVED that the City Council approve the resolution and direct staff to proceed with the necessary steps to place the RAP tax on the November 2021 ballot. Council Member Timothy A. Ball SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

7. USE OF OPEN SPACE PROPERTY PROCEEDS *Administrative*

The City Council will provide direction on the use of the proceeds from the sale of open space property. The City Council will take appropriate action.

Mr. Crane said that the Council had spoken on and off about what to do with proceeds from open space. Staff hired Blueline designs to get an inventory done of all parks, particularly those with playgrounds or physical structures, in the City and to create a list of priorities for improvements. Prioritization for these improvements were organized into three categories—Priority A, B, and C—with prioritization based on safety, ADA accessibility, malfunctioning or broken equipment, the age of equipment, and the need for immediate work. In summary, a need for $1.3 million in park improvements was identified. Mr. Crane noted that $600,000 of this was dedicated to Beacon Hills. The City had already raised or allocated $450,000 and had spent $145,000 of those funds. This meant there was an additional need for $450,000. The bottom line was that the needs far outweighed the resources.

Mr. Crane then addressed Beacon Hills specifically. He displayed the master plan which showed that the original concept for the park entailed two playgrounds, one on the north and one of the south side of the park. Part of the reason why the project was so expensive was that the entire park was grass. There were no existing playground pads which meant that these playgrounds would essentially be developed from scratch.

Council Member Ostler asked about this master plan. He said that he had seen many different concepts for Beacon Hills, but that this was the first master plan he had seen. Mr. Crane said that the master plan had been approved by the Council and had been sent out last fall.

Council Member Smith said that the plan was about eight years old. Mr. Crane continued that the first phase of development had been funded from various sources, a significant one being the Storm Drain Fund, as a significant goal of the park was to address drainage. He included the construction drawings so that the Council had a better concept of what the $600,000 would be creating because he recognized that seemed like a lot of money. He stated that each park had an individual sheet outlining its associated expenses. General maintenance costs were not included because Mr. Crane felt that City crews could take care of them, but instead focused on playground replacement and ADA accessibility because those were the places that posed the greatest risk to the City.

Different options for the Council to consider for the use of revenue from the sale of open spaces included: playground replacement, trail connections, new trails, park capital needs, or to create a perpetual fund towards park improvements. From a staff perspective, Heritage and Highland Glen saw the greatest use. Both had older playground equipment and a sand base, which were not the safest standards.

Mayor Mann said that he had thought about this a lot. He felt like it was best to take the revenues from open space sales and put them in a common fund as opposed to try to allocate them to a particular neighborhood or region. For him, this would not only reduce staff time keeping track of what funds were associated where, but would also give the Council the greatest responsibility to respond to priorities and needs. Mr. Bahr said that he agreed.

Council Member Smith said that he had served on the Open Space Committee. He had never heard that the sale of open space in one neighborhood should stay in that neighborhood until recently. He thought that open space money should stay with open spaces as a whole across the 18 Highland neighborhoods. He said that he understood the mayor's perspective because there were a lot of park needs. However, when he listened to residents in open space neighborhoods, they felt as though they paid increased costs in their neighborhood for the open space that was donated to the City. Because of this, they feel as though when open space was sold that those revenues should be used to benefit their neighborhoods. He said that he hoped that funds would be prioritized for open space neighborhoods.

Council Member Bills said that she agreed with Council Member Smith. She didn't feel as though this was a decision that should be made based on convenience. She felt that it was a philosophical issue about if the City charged an open space, what was the fee supposed to be for. She felt that revenue from the sale of open spaces should go back into open space parks, rather than into a general park and recreation fund. She also questioned if those who live in open space neighborhoods are paying a fee of $20 a month, should those residents have expectations for different or better services from the City. She furthered that those residents' fees should not be used for projects and improvements that should just be taken care of by the City anyway. She felt that prior to deciding which parks open space sale revenues would go to, the larger philosophical issue of if the money should stay in open space neighborhoods should be resolved. She said that there would not be a majority of residents who thought these funds should stay in open space neighborhoods because only 25% of Highland residents live in open space neighborhoods.

Council Member Rodela said that she did not think that there was any question that revenues from the sale of open spaces should remain in open space neighborhoods. If you're promised 20% open space and are paying $20 a month to ensure that and then that open space is taken away from your neighborhood, revenues should go back into the open space fund. Because she recognized that there were a lot greater needs in neighborhoods like Beacon Hills than an open space neighborhood that did not have needs, she did not have a clear opinion on if open space revenues needed to stay within a specific neighborhood.

Council Member Bills said that she spoke with residents who lived in Wildrose. When those nine homes were approved, the Council let the developer pay the City to improve a park, rather than create an open space. The way that was done in that neighborhood was that of the total $60,000, $30,000 would stay within that neighborhood. The rest could go to the general park fund. She asked if an arrangement like that would make sense. Should 50% remain in the neighborhood and the other 50% remain in open spaces. She realized that made it more difficult for staff, but she felt that it was important to look out for those residents and their $20.

Mayor Mann said that he felt that the $20 a month is irrelevant to this discussion because it was to pay for ongoing maintenance. Right now that only covers neighborhood parks, but excludes larger City parks such as Beacon Hills and Mitchell Hollow. For him, if the argument is made that money should stay in open space neighborhoods, then it should only stay in what the $20 fee was going towards: maintenance of neighborhood parks. He said that for him it was a moot point anyway. Highland had more needs than resources anyways. He asked if the City currently had an Open Space Capital Fund. He said that he knew there was an Open Space Park Fund, but he didn't know about a capital fund. Mr. Bahr said for open space, no.

Council Member Bills asked why this was a moot point. She said that it seemed to her that needs always exceed costs. You still have to prioritize what you can and cannot afford. If money was said to stay in open space, the Council might prioritize differently.

Council Member Ostler said that he also favored the money staying with open space. He said that the Highland Open Space Special Service District (OSSSP) was formed and 18 subdivisions joined in and are paying the $20 fee. He said that one of the concerns he has is that when neighbors move in they have a rightful assumption that there will be open spaces. If the City sells these properties, open space is taken away. He felt that these residents were subsidizing these spaces with the $20 fee. The bigger question was how the City was going to maintain the playgrounds. He asked if the expectation was that the money would come from the General Fund. Although he does not live in an open space area, he said that he finds walking through open spaces really pretty. He felt okay with money staying in open space neighborhoods because he looked at them like they were an HOA. When he looked back at why the open space neighborhoods were formed, the concern was that if 18 HOAs were formed for each neighborhood that the open spaces would not be maintained.

Mayor Mann asked if Council Member Ostler would create an open space capital improvement fund and then put the revenue from open space sales into the fund. Council Member Ostler said yes. He felt like OSSSP had to function and be able to take care of ongoing upkeep and maintenance costs and there needed to be a conversation on how much the General Fund would augment this. He brought up the Lone Peak Special Service District (LPSSD). He said that it was his understanding that for special service districts the City was covering 33% of their maintenance costs through the General Fund because the City recognizes that other residents go and benefit from those open spaces who did not pay the $20 fee. He then asked about Beacon Hills and if it was being paid for out of the Open Space Fund.

Mayor Mann said that Beacon Hills was an open space park. He said that when he did some analysis a couple of years ago, he took out the larger, reservable parks, and trails. The cost to manage what was left was a little over $20 a month based on current spending. If park staff was added, the cost would go up proportional to how the other money was spent.

Council Member Ostler continued to ask about the special service district. He said that the trails were currency maintained by the 0.25% sales tax given to Highland by the County. Mayor Mann said that the cost per month to maintain open spaces was more than $20. He felt that creating an Open Space Capital Fund was a reasonable request because it would be easy to put the money in there and staff could go to that fund when they do things in open space parks before the General Fund.

Council Member Ostler asked Council Member Bills what residents in her neighborhood in Viewpoint expected if property were to be sold in that area, which was likely. Council Member Bills said that there was absolutely an expectation that some of the money would go back to open space neighborhoods. She said that was why she wanted to have this discussion. She felt it would be less contentious when those properties were sold if residents knew that they were gaining something as well.

Mayor Mann said that one of the arguments for selling the properties near Viewpoint was that nobody benefited except the homeowners. He said that it didn't do anything for anyone else.

Council Member Bills said that there was an argument that the sale of those properties could negatively impact people in the subdivision if the property was sold because it allowed some people to increase the value of their land and homes substantially with no benefit to current homeowners. Even though new residents would be getting that. If the money went back into open space neighborhoods, at least existing residents could feel as though they were getting extra amenities or that the money was going to improvements in already existing open space neighborhoods which would maintain some of the property value. She said that she liked the idea of having a fund and targeting some of the proceeds from open space sales to specific neighborhoods and some to a general pool.

Mayor Mann asked if prioritizing was not just something the Council could do without having a specific percentage. Council Member Ostler felt as though the Council could do this. He cited Canterbury Circle where some money was allocated to the project, but that the Council supplemented this with additional funds to convert the tennis court into a pickleball court. He felt that what Council Member Bills argued was reasonable.

Mayor Mann felt like the questions about what was funded and how would be best to unfold as they happened because it would give the Council the most flexibility.

Council Member Bills said regardless of which fund the money came from, it was still coming out of the City budget. In reflecting on a spreadsheet shared by the mayor, she recognized that each neighborhoods' benefit varied. Because of this, she would support the funding being flexible based on the Council's direction.

Council Member Rodela said she was also okay with that. It seemed like the Council agreed about the Open Space Capital Fund and to take into consideration that when property was sold in a specific subdivision that the Council should look at the priorities of that subdivision first. She agreed that percentages did tie the Council's hands and appreciated allowing for more flexibility.

Council Member Bills said that she felt this was the most fiscally responsible thing to do. You would never want to look around a particular area to do just because there was money left to spend. It was important to look at the priorities of the City as a whole.

Council Member Ostler summarized that the Council wanted to open an Open Space Capital Fund and money made from sold open space would go in that fund. Mr. Bahr said that he liked the flexibility. He said that having the funds in a separate account made it easier to keep track of.

8. DISCUSSION: HIGHLAND CITY BUDGET FOR FISCAL YEAR 2021-2022

The City Council will discuss the adopted Highland City tentative budget, along with the increased assessments to Lone Peak Public Safety District.

Mr. Bahr said that the conversation would focus on a few follow up items from previous discussion and questions that were posed by the Council. In regard to net revenue it was anticipated that revenues would exceed expenses as outlined in the tentative budget. Staff would like direction about what to do with that net revenue. It is anticipated that property taxes would bring $1.8 million in revenues and sales taxes would bring in $3.6 million. In addition there would be some one-time revenue increases. Council Member Ostler asked if there was a fee that developers had to pay towards parks. When Mr. Bahr confirmed this was an impact fee, Council Member Ostler asked where that money went. Mayor Mann said that the park impact fees were used to pay the park bond.

Council Member Smith said that although park impact fees were not available because they went to the park bond, there was $1 million coming in through the American Rescue Plan that was not allocated.

Mr. Bahr said that it was $2.1 million in two installments and had to be spent by 2024. He said that staff had engaged in a number of web conferences. It seemed that the City would not have as big of a reporting requirement as larger cities. There were a lot of folks that had clear information for larger cities and said that information for smaller cities was to come.

Council Member Smith asked if what the money could be used for had been delineated. Mr. Bahr said that the main purpose was to compensate for loss of revenue which more than likely would not apply to Highland, to provide additional payments to impacted staff, and infrastructure improvements. These included sewer, water, and broadband improvements. He said that in the training discussions there was emphasis on being able to show assistance where there might have been a disparate impact on communities that had economic difficulties and saw those difficulties exacerbated as a result of the pandemic.

Council Member Ostler wanted to know if the money could be used to build a park. Mayor Mann wondered if they could argue that COVID put more people outside who used Highland's parks and trails more. Mr. Bahr said that parks were not shared as a go-to for how to use the funding. He continued his presentation and said that the tentative budget carried a project of just over $3 million in sales tax revenues. As was shared in other communications, that was roughly a 4.7% reduction in FY22 compared to where it is anticipated that Highland will end up for the current fiscal year, FY21. In looking at some other economic projects, the economic report to the governor from the Eccles Utah Economic Council forecasted 13.3% in 2021 and an increase of 4.9% in 2022. Applying those percentages to the actual sales tax revenue that Highland saw in FY20 would result in a sales tax revenue of just under $3.2 million in FY22.

Council Member Ostler said that when he looks forward to what cities will be spending in the next two years he felt like there would be extra money in the economy. He questioned if he would be able to keep sales up like they were in the past year. He felt like there was a lot of cash coming to the market.

Mr. Bahr said that the reports were pretty consistent. He noted that the mayor shared a report that came from the League with slightly different projections. Regardless at the specific projections looked at, it seemed that the ~$3 million remained conservative. He said that it had been a good exercise. He continued that property taxes were based on the valuation of the property as of January 1st. If a property was under constructed on January 1 there was subjectivity on the part of the County. If a property was not completed there was a possibility that it would be not taxed based on the full completed property value until the following fiscal year.

Mayor Mann asked if that meant that Ridgeview would not provide a property tax increase for Highland until next year. Mr. Bahr said that was likely. He continued that the certified tax rate had to be published no later than June 8th. In response to questions about the bonds, Mr. Bahr said that park bonds, which were re-financed about five years ago, had a principal balance of $3.8 million. Payments in the upcoming fiscal year would amount to $524,000. There was a final payment in September of 2027 that would be almost twice of what the City was paying each year. He noted that all of the other bonds would be paid off the year prior allowing for some additional capacity. The pressurized irrigation and building bonds, which were financed a year ago, had principal balances of $2.9 million. Payments this year would total $855,000. The pressurized irrigation payment would fall off in subsequent years, reducing the overall payment. Final payments would be in September of 2026.

Mayor Mann stated that the PI portion of the bond would be paid in September of this year. At that point Highland was done with the PI portion, but the building bond would continue to 2026.

Council Member Ostler asked if all the final payments were more than what Highland paid for their annual payments. He asked if the City needed to start saving more to be able to meet the more substantial end payments. Mr. Bahr said that the park bond had somewhat of a balloon. However, the PI and building bonds would occur prior so in regard to the City's debt service capacity, FY22 would be the City's largest year and would reduce.

Council Member Ostler said that he thought that Highland's road fee expired in 2027. He said that because the bonds and that fee came up at the same time, the Council could look at what they want to do with the money that had been going to bond payments. Council Member Smith confirmed that this was all of Highland's bond: $6.7 million total. Mr. Bahr said that was correct and then provided an overview of projected fund balances at the end of FY21.

Council Member Ostler asked if the remaining money from the first round of stimulus was just in the City's General Fund budget. He asked if there was a sense of what the General Fund balance would be at the end of FY21. Mr. Bahr said that was correct and the General Fund would be determined through the year-end close out and audits. Right now the FY21 fund balance would remain at about 25% of Highland's annual budget.

Council Member Ostler asked about the $2.5 million fund balance that was projected for the end of the FY22. Mr. Bahr said that if the City left the FY22 tentative budget as it currently was, there would be $400,000 that would be unallocated in the General Fund, causing the fund balance at the end of FY22 to approach 30% of Highland's annual budget.

Mayor Mann asked if that money could be allocated to parks or water meters. Mr. Bahr explained that the unallocated funds could stay as a fund balance, go towards a park, or go towards other priorities. In the end, if the money stayed in the fund balance, it would still be something that the Council would have discretion over.

Mayor Mann reminded that the $400,000 that was unallocated could stay in the fund balance, because the State raised the threshold of savings that cities would carry over year to year. Mr. Bahr said that was correct. He said that with that, staff would welcome any adjustments the Council would like to see in regard to the tentative budget.

Council Member Smith felt that for him maintaining a 25% reserve was probably good. He suggested that they allocate the $467,000 to something that Highland needed. He felt uncomfortable when there were unexpected or emergent expenses during the year.

Mr. Bahr said that items such as HVAC and heating expenses were places where money could be set aside as building capital. The timing of those expenses could not have been predicted because there was no way to know that the boilers were going to go out. There was a risk that money would be left unused.

Council Member Ostler asked if this was the first year that there had been a building capital fund or if it had been carried over from previous years. Mr. Bahr said that he thought that it was carried over from previous years.

Council Member Ostler thought that funds had to be pulled out of the General Fund to fix air conditioning issues. Mr. Crane said that there were building capital accounts for the park maintenance building and storage. There was also a building maintenance fund that had increased over time.

Council Member Bills asked if there were major equipment purchases that the $467,000 could go towards. Council Member Ostler said that there was already some large equipment in the budget for next year: two snowplows, a skid steer, and a dump truck for the cemetery. Mr. Bahr said that unallocated funds could be placed in a capital account. However, if the Council left the money in the General Fund, there was additional flexibility.

Council Member Ostler said that the legislature moved the fund balance carryover up from 25% to 35%. He said that it needed to be recognized that the City's cash flow did fluctuate throughout the year. Mr. Bahr said that over recent history, the past 10-12 years, the limit had increased from 18% to 25% to 35%. Mayor Mann said that the money could be left unallocated.

Council Member Rodela said she agreed with Mayor Mann. Leaving the money as a fund balance provided flexibility and allowed the Council to look at its priority list with the idea that the money would ultimately be allocated to those priorities. Leaving the money in the fund balance was not to increase the reserve to 35%, but to give the Council flexibility. Council Member Smith said that it just seemed like there was never a priority list that didn't include playgrounds. He felt some of this money should be used for that. Council Member Bills said that she had talked about a desire for a General Fund study many times to help the Council better set its priorities. Mayor Mann said that the City did not have a replacement fund to consistently address playgrounds. This was a big hole.

Council Member Bills said that she liked the idea of using the money towards playgrounds because there was never going to be money for them. She said that she and Council Member Rodela were playground experts.

9. 2021 ROAD REHABILITATION PROJECTS *Administrative*

The City Council will consider a request to approve a bid for the 2021 road rehabilitation projects and authorize the City Administrator and City Recorder to execute the necessary contract documents for the project. The Council will take appropriate action.

Mayor Mann prefaced this item by saying that the previous evening he had started to grill staff about road rehabilitation bids the City had received. He talked with John Dougal, Ty Christensen, Todd Trane, and the State Procurement officer. He said that he was satisfied with what the staff will present.

Mr. Crane said that the road rehabilitation bids opened the previous day, May 17th, 2021. Out of the four bids, Black Forest was the lowest bidder with a bid of $686,701.45. He displayed a map of where the projects would be. There were a lot of projects in Canterbury and Twin Bridges. Twin Bridges was located in Highland's northwest area. The roads were built prior to Highland's current cross-section. There were a lot of clay soils and the roads were built prior to Geotech fabric being required. Staff did not know what they would find when they got into those projects. It was a problematic area for Highland.

Black Forest had already completed Highland's 2019 road rehabilitation projects at a cost of $565,000. These included 6000 West from the canal south and 6400 West from SR92 south. Overall their quality of work was on par with other contractors. There were some minor issues, such as getting some punch list items completed. Those roads had held up well.

Council Member Ostler said that there was an issue on 6000 West where one of the contractors had dropped cement that flooded seven homes. He said that it was the insurance of that contractor that protected the City from needing to use its own funds to respond to that issue. He asked if this was included in the bid that the contractor had to have certain insurance. Mr. Crane said that the concrete issue did not happen with Black Forest contractors. If anything happened, it was the liability of the contractor. He said that there were no sewer components with any of these streets. They were just patching projects.

Ty Christensen, Streets Superintendent, said that he had already had Black Forest do a couple of subdivisions in town and they had done a good job. They had already done some City projects and had given the City a quality product. He said that Black Forest was going to get their asphalt from one of the other contractors.

Mayor Mann asked if there was the possibility of adding projects to those that Black Forest was already scheduled to complete. Mr. Christensen said yes if the City had money to do so. These included the Canal Boulevard to the Alpine Highway to the west of the stoplight. He said that the road was pretty bad going east. He said that he plowed that area and that in a plow truck it was quite the drive.

Council Member Ostler asked about how bids compared to those in the past. Were staff seeing a jump in bids like in other construction costs? Mr. Christensen said that asphalt had not jumped yet, but that it could.

Mayor Mann said that costs could bump between now and when the contractor started work. He asked if that would affect the price of the project. Mr. Christensen said that the City would get the price Black Forest gave in its bid.

Council Member Ostler said that some contractors will help with trail maintenance. Did staff anticipate adding some of the trail projects to the work Black Forest would complete. Mr. Christensen said not at this time. He said that staff did have a trail maintenance plan that they were going to put out to bid. He said that might be Black Forest.

Council Member Rodela asked if he would hire Black Forest again for their lower price despite some of their past minor hiccups. Was the cost savings worth hiring them over some of the contractors with a slightly higher price, but who might have minor hiccups.

Mr. Christensen said that the only real problem was getting Black Forest back to do their punch list. He thought that they might have overextended themselves at the end of the year that made it difficult to get them back to do some minor landscaping, some sidewalk, and a few collars they missed around valves and manholes.

Council Member Smith said that it had been a while since he had sat down with Todd Trane, former City Engineer, and went through the road priority list. He said that they were on year four of planning. He wanted to know if some of these additional projects were at the top of the priority list for the coming year, or if they were separate projects. Mr. Christensen said that if there was extra money, staff tried to move into the following year's priority list.

Mayor Mann said that the work that was supposed to be done on Country Club Drive this year was deferred to the following year because of a sewer project. He confirmed that the City would be re-doing all of Country Club Drive on the west side of the golf course. He said that it made sense to wait to put a road in until both the sewer project and road surfacing could be done at the same time. He said that he was personally pleased with the progress made on road improvements.

City Council Member Kim Rodela MOVED that the City Council approve the contract with Black Forest Paving to proceed with the construction of the 2021 Road Rehabilitation Project for $686,701.45 and authorize the City Administrator and City Recorder to execute the necessary contract documents for the project. Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed 5:0.

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. Future Meetings

- May 25, Planning Commission Meeting, 7:00 pm, City Hall
- May 26, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- June 1, City Council Meeting, 7:00 pm, City Hall
- June 9, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- June 16, City Council Meeting, 7:00 pm, City Hall
- June 22, Planning Commission Meeting, 7:00 pm, City Hall

Council Member Smith said that the director of the North Pointe Waste Management Service would like to make a short presentation to Council regarding new software to help people learn about what can be recycled. Mr. Crane said that he could do it on June 1st.

Council Member Rodela gave a shout out to staff and the Youth Council for the spring clean-up activity over the weekend. She said that Highland residents love it.

Council Member Bills said that the road opening was also fantastic with a great turnout.

Council Member Ostler said that given that Highland was having a difficult time getting employees, he wanted to check in to see how the City was doing with park maintenance employees. He said that when he talked with Josh Castleberry, Parks Superintendent, he had said that he had eight employees of the 15 needed. He wondered if the City needed to give these employees a special incentive that if they stay until the end of the year, as opposed to leaving when school started, that they could get a bonus.

Mr. Crane said that there were five employees coming in the following Monday and three the following week.

Council Member Ostler said that the problem was that when college started again in August or September, the City became short-handed to finish up projects. He asked what Highland could do to keep employees into the fall.

Council Member Rodela asked how much of a budget the City had allocated for the eight seasonal employees coming in. Mr. Crane said that they had allocated more money towards seasonal employees. He said there were nine employees so far and eight coming in to do paperwork for 17 total employees. Council Member Rodela wondered if staff needed the Council to do social media posts to help with recruitment. The Council wanted to know what the starting wage was for these positions. The Mayor thought the starting wage was $12.00.

Council Member Bills asked if someone could tell Mr. Castleberry thank you for coming up to Viewpoint and fixing all of the swings; it was very much appreciated. She continued that if anyone was ever talking to the Utah League of Cities and Towns (ULCT), both she and Council Member Rodela registered for its conference. They were unable to get into it and couldn't watch the videos from the conference. She also asked for an explanation of the process moving forward for the disposal of open space properties. Mr. Crane said that the process was that staff collected all of the applicants that had applied for purchase of open spaces. These would be reviewed by the Council subcommittee beginning on Thursday who would analyze the offers and present to the Council. At that time, a code amendment and resolution would be brought to the Council.

Council Member Rodela asked if the Council would decide based on the recommendations of the subcommittee who gets to sell open space property and who didn't. Council Member Smith said that in previous discussions the Council had identified a dozen or so properties.

Mr. Crane said that those properties would be brought to the Council. In addition, there had been a 30-day window for other open space property owners to put in applications to sell their land. The Council would make final decisions based on all of these applications.

Council Member Rodela asked if the Council would decide one-by-one. Council Member Ostler asked if the subcommittee of the Council was supposed to provide a spreadsheet of all of the properties and which ones they were recommending to sell to the Council. Mr. Crane said yes and then there would be a series of meetings to report the findings.

Council Member Rodela asked if there was one property that the Council did not agree on, it could be pulled or a property could be added. Council Member Smith said that all the properties would be sold for the same price per square foot that had been previously decided, regardless of where the properties were located.

Council Member Bills asked if it would be possible to hold a monthly work session before meetings. She said that she knew that there were a lot of times where the Council was meeting one at a time with developers. She asked if it would be more efficient to meet with them all at once so that the whole Council heard the same questions. Mr. Crane said yes.

Council Member Ostler said that he liked what Council Member Bills suggested. He wanted the transparency of an open meeting. Council Member Bills said that she felt that this was especially important to alleviate any possible perceptions that council members were making decisions based purely on financial incentives as opposed to what residents wanted.

Council Member Bills's last question was about trees. She said that when she reviewed the open space reports and looked at priorities, trees were on every single list. However, they were always at the bottom of what to invest in. She said that she saw that there was $3,500 allocated to the Tree Committee. She asked if it would be possible to just have a tree budget. She said that she would like dead trees to be replaced. For her it was not a level three priority, but something that was fairly cheap and that made the City look a lot nicer. Mr. Crane said yes. He asked how much the Council would like staff to allocate. He said that replacing 10 trees cost about $3,000. Mayor Mann suggested that Mr. Castleberry figure out the number of dead trees in Highland to get an estimate on how much money would need to be allocated in the budget to replace them.

Council Member Ball said that he had a question for Mr. Patterson. He noticed at one of the activities in Heritage Park that when it was windy he was almost hit by a branch of a tree that staff referred to as "garbage trees." He asked if replacing those trees made more sense from a liability perspective. Mr. Patterson said yes.

There was further discussion about the trees in Heritage Park, particularly the Chinese Elms. He said that several branches came off that barely missed people.

Mr. Patterson said that with every legal question it came down to how much the City knew, and what the level of risk was. He said that it did make sense to have a program to make sure that trees were alive, and that branches that were weakened were removed. Council Member Ostler said that usually before the Fling, park staff do go to Heritage Park to trim trees. He said that staff were stretched pretty thin, but recognized that it was an important issue.

Council Member Ball said that he felt like the trees were a known risk and that although when a weather event might happen, that a weather event will happen should be expected. Not only did he not want people to get hurt, but he also wanted to avoid a big lawsuit for the City.

Council Member Bills said that if the City wanted to have a tree planting day, she would be willing to organize something to get neighborhoods to commit to planting a certain number of trees and offer the labor to do so.

Mr. Crane said that it was unrealistic to replace every dead tree every year. He thought that allocating money to replace more trees than what Highland was currently doing was a good action, but there should not be an expectation that 1,000 trees could be replaced tomorrow.

Council Member Smith had another question for Mr. Patterson. He said that there was a former mayor that made some gentleman agreements concerning annexation of areas around the City. He said that he knew there was a gentleman's agreement to allow American Fork to annex the property to the south of Lone Peak. He said that there was also another gentleman's agreement in 2014 for the property to the northeast of Micron. He wanted to know how legal these gentlemen's agreements were. He clarified that for something to be legal it needed to be voted on by the Council.

Mr. Patterson said yes. Anything that bound the City required Council approval. He said that annexation was a tricky issue to have based on agreement because it was a legislative matter. Cities cannot bind themselves forever regarding annexations. The City cannot make a promise to a developer that the City will give them something with annexation. He said that they were like rezone requests; developers had to work through the process, but a particular zone, or annexation could not be guaranteed. He said that gentlemen's agreements could not actually bind the City.

Council Member Ostler said that he pulled up the May 20, 2014 City Council minutes. It was his understanding that on the specific item Council Member Smith referenced, that Lehi had made an inquiry with Highland because it was within the 1999 annexation agreement that the property on Highland Boulevard was supposed to come into Highland. Lehi inquired with Highland because the property owner at the time had expressed an interest to stay in Lehi. He said that the Council discussed the issue in the May 2014 meeting and had instructed the Mayor to talk with Lehi to try and maintain the zoning of the property at two units per half acre. There was no vote.

Mayor Mann said that he had talked with Mayor Johnson of Lehi several times and he was clear that they intend to try and honor that agreement. Both he and the Council required D.R.Horton to work with Highland on acquiring the property. He said that it was a legislative matter so there was no guarantee.

Council Member Smith said that a decision on Lehi's part not to annex could be contested because the property was in Highland's annexation plan.

Council Member Ostler said that in 2019 there was an annexation agreement that 109 acres were supposed to come into Highland. Of the 109 acres, the agreement was renewed and was in place until 2025. Council Member Smith said that it would be nice to know the specifics of the annexation agreement.

Mr. Patterson said that when there was a dispute between two cities regarding an annexation, the matter went to the County and a boundary commission. He had just finished a contest for a different City. He said that it was difficult for a City to contest another City's annexation because it was a legislative item. He said that there were some checkboxes that a City had to go through in order to annex. If those checkboxes were met, it became a matter of policy to overturn the decision. If all of the checkboxes were not met, then it was easier for another City to challenge.

Council Member Ostler asked about the signature agreement that was entered into in 1999 that Lehi would not accept an application from another land if it was in the annexation proposal. Mr. Patterson said that would depend on if there was actually an agreement. It seemed to him that there was a question as to if this was a formal agreement by both parties.

Mayor Mann said that this was discussed last week. He said that according to his recollection, the landowner could request annexation to a City outside of what the plan was because it was the right of the landowner. Cities did not control the annexation process, the landowner did.

Council Member Smith said that he wanted to make sure that the boxes were checked. Micron was leaving anyway and D. R. Horton was the new property owner.

Mr. Patterson said that he would have to review the exact agreement. He said there might be some enforcement mechanism in the agreement. He worried, however, that there would not be because there probably was not anything outlined about how the annexation would unfold.

Council Member Ostler asked Mr. Patterson if he had not seen the 1999 agreement. He said that he didn't expect him to know every agreement, but because the issue came up last week, he would have thought that he had. Mr. Patterson said he had not been asked to review the agreement so he had seen the first page just now. Council Member Rodela asked if Mr. Patterson would review the agreement and get back to the Council.

Council Member Smith said that D.R. Horton wanted to meet with the Council and obviously wanted the Council's opinion. He said there had been a Lehi Planning Commission meeting that was attended by far more Highland residents. There was a split vote on this issue because of the protests from Highland citizens. He got a lot of emails from citizens about this land. He felt that they needed to know legally what the Council was representing. Mr. Patterson said that he would review the agreement and have an answer the following day.

Council Member Ostler said that in the past year he had negotiations with D.R. Horton on this parcel. He had not moved forward with them and he was not in active negotiations. He said the argument that he made with D.R. Horton was that as a land developer of communities it would not hurt them to develop in Highland as opposed to in Lehi. He asked if they had considered taking the 109 acres and developing in Highland. He said that it would be interesting to determine if the Council wanted those 109 acres. They were located on a hill with limited access to water. It could lead to additional City costs.

Council Member Smith said that what they did not want to create was another Blue Bison. He said that there were a lot of citizens in that area and the Council needed to respect their needs and desires. He felt like the Council needed to go in and negotiate for its citizens.

Council Member Ostler said that he felt like Lehi had been a reasonable partner that had been strong in their communication. He said that Highland had heard from Lehi's mayor, but he was a little nervous about what Lehi's Council thought. He said that in every interaction he's had with Lehi it had been positive and they had been respectful of Highland. He hoped that Highland would be respectful with Lehi.

Council Member Smith asked Mr. Crane if there were utilities all the way up Highland Boulevard. He asked if D.R. Horton would be linking into Highland's utilities or if they would be putting in their own utilities. Mr. Crane said that it was a TSSD line. Mayor Mann said that when he talked with D.R. Horton they said that the sewer would run down to SR92 and would connect there.

Council Member Ostler said that Lehi had a PI pond right behind the property. He said that when he looked at the old proposal it outlined 740 residential units. Now the number of units jumped to 2415. He said that D.R. Horton had certain vesting rights on that property.

Mayor Mann said that originally the plan was heavy commercial and light residential, but that when the plan was re-done this ratio switched to lighter commercial and heavier residential. In speaking with Mayor Johnson there was no guarantee they will get what they asked for. He didn't know where his council was on that matter. He continued that D.R. Horton had told him that they would be willing to hold a community meeting. He said that he didn't know when that would happen. He said that was similar to what Highland developers did; before going to the Planning Commission they held a neighborhood meeting. He imagined they would send a mailer out to residents in the area.

Council Member Smith asked if there was any reason for Highland to expect that Lehi would zone and do this area any differently than surrounding areas which were high density. Mayor Mann said that the proposal by D.R. Horton is a buffer zone around Highland with ½ acre lots. He said that they had no obligation to Highland relative to the homes on the west side of Dry Creek because that was already Lehi property. If Lehi let them, they could put apartment buildings there. He said that his understanding through his conversations with Mayor Johnson was that this development would be thoughtful. He had heard complaints about putting in senior housing in that area that was denser than normal. However, when he talked with Mayor Johnson, who in his private life did develop senior housing, he said that at 5.5 units an acre for senior housing has less impact on a City than half acre lots because residents drive less, they don't put kids in school while paying taxes to put kids in school, they typically use parks in their area, and they have lower culinary water use. Mayor Johnson said that the only increase in senior housing areas were ambulance calls.

Mayor Mann said that he had asked Mayor Johnson if he would allocate a fixed number of units, say 400, in the northeast area. If Highland said that they could only do half acre lots, then they would put 200 units in the 109 acres and could put 200 units in the 80 remaining acres. Overall this would create much denser housing in a concentrated area than if Highland worked with D.R. Horton. He thought that the City should be open-minded and listen. He also said that Lehi will be a very good neighbor. He said that it was very early in the process.

Council Member Ostler asked Mayor Mann if in his conversations with Mayor Johnson he had indicated that his Council supported honoring the agreement with Highland. Mayor Mann said that Mayor Johnson had been clear that his Council wanted to work with Highland on this matter. Highland would have influence. If things got ugly, that influence could go away. He said as a Highland resident and past council member he would be very perturbed if another City tried to dictate what he should do.

Council Member Smith asked if it was a myth that property values were greater in Highland than Lehi. If it was not a myth, he asked why the Council would not promote that they annex some of the property into Highland because they would get more.

Council Member Ostler had suggested to D.R. Horton to run the numbers on the returns they would get if they developed in Highland. D.R. Horton admitted that they had not done this yet.

Council Member Smith said that they should do that. Developers like Mill Haven were developing on half acre lots and they were selling immediately. There was further discussion about D.R. Horton's costs and different ways that Highland could negotiate.

Mayor Mann noted that Highland had some property north of Sterling Pointe that was zoned commercial. If a lot of 55+ housing, a restaurant might work really well there.

Mr. Crane introduced Brian Patten as interim Deputy Chief.

11. CLOSED SESSION

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

At 10:30 pm Council Member Scott L. Smith MOVED that the City Council recess to convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, as provided by Utah Code Annotated §52-4-205. Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	*Yes*
Council Member Brittney P. Bills	*Yes*
Council Member Kurt Ostler	*Yes*
Council Member Kim Rodela	*Yes*
Council Member Scott L. Smith	*Yes*

The motion passed unanimously.

Council Member Scott L. Smith MOVED to adjourn the CLOSED SESSION and Council Member Kurt Ostler 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 11:34 pm.

ADJOURNMENT

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

The meeting adjourned at 11:34 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 May 18, 2021. This document constitutes the official minutes for the Highland City Council Meeting.

Stephannie Cottle
City Recorder

HIGHLAND CITY

CITY COUNCIL AGENDA REPORT ITEM #3b

DATE: June 1, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Andy Spencer, PE
Public Works Director/City Engineer

SUBJECT: **CONSTRUCTION CONTRACT:** HA5 and Bonded Matrix Road Treatment
Administrative

PURPOSE:

The City Council will consider a request to approve a bid with Holbrook Asphalt Co. to proceed with the application of HA5 (High Density Mineral Bond) to 722,833 square feet of road surface and the application of Bonded Matrix sealcoat to 117,186 square feet of road surface throughout Highland for a total of $219,829.63. The City Council will also authorize the City Administrator and City Recorder to execute the necessary contract documents for the project. The Council will take appropriate action.

BACKGROUND:

This project includes two of the 2021 local road surface treatments. The HA5 (High Density Mineral Bond) is a product that Highland City has been using for several years with much success. Holbrook Asphalt Co.is a good contractor that we have had positive experience within the past. They have always warrantied the product and workmanship. This is a sole source product which means that Holbrook is the only supplier and installer. The remaining sealcoat work to be done this year will include some of the Onyx product installed by Morgan Pavement. We feel that by utilizing the multiple treatment applications throughout the City, we are better able to tailor the preservation treatments to asphalt condition and traffic needs. We are constantly striving to get the best product for the situation and spend the resident's road fees wisely.

If approved and awarded to Holbrook, the project will start after July 1, 2021 and run through balance of summer and into the early fall. Completion of the patching project (previously approved) is required before surface treatments are placed. The patching project will finish up the end of June.

FISCAL IMPACT:

The proposed budget for this year's road projects is $1.5 million. This is a mix of collected road fees ($1 million) and B & C road funds ($500,000). With the current awarded contracts: rehabilitation for $686,701.45, patching of $252,193.56, and the pending Onyx treatment of $63,905.74 there is $497,199.25 remaining for project work. If the council approves the award of the HA5 and Bonded Matrix bids to Holbrook for $219,829.63, we will have a balance of $277,369.62. We anticipate a crack-seal project will be awarded at the June 15th City Council meeting that will be funded from the remaining $277,369.62. We are optimistic that we will be able to complete all the work scheduled this year and potentially add some other minor road repairs depending upon pricing and timing. Any unexpended monies will be allocated to the 2022 road treatments.

RECOMMENDATION:

Staff recommends that the City Council APPROVE the contract with Holbrook Asphalt to proceed with the HA5 and Bonded Matrix road surface treatment as part of the Road Preservation Project for $219,829.63 and AUTHORIZE the City Administrator to execute the necessary contract documents for the project.

PROPOSED MOTION:

I move that the City Council **APPROVE** and **AUTHORIZE** the City Administrator to sign a contract with Holbrook Asphalt Co. for placement of the HA5 and Bonded Matrix products for a combined total of $219,829.63.

ALTERNATIVE MOTION:

I move that the City Council **REJECT** the bid for the placement of the HA5 and Bonded Matrix product. (The Council should draft appropriate findings).

ATTACHMENTS:

1. 2021 Holbrook Bid for HA5
2. 2021 HA5 Map
3. 2021 Holbrook Bid for Bonded Matrix
4. 2021 Bonded Matrix Map

Proposal

Project Location	Proposal #	Date Issued	PO/LD #
Highland City Corp Attn: Ty Christensen 5400 West Civic Center Dr American Fork UT 84003 United States	HAU942662	5/12/2020	

Terms

Due Upon Completion

Bill To

Highland City Corp
Attn: Ty Christensen
5400 West Civic Center Dr
American Fork UT 84003
United States

Adviser Information

Aaron Eppley
P: 435-703-0023 | E: aaron@holbrookasphalt.com

Description

2021 Highland HA5 Proposal

Item	Quantity	UM	Rate	Amount
HA5 Clean & prepare surface using high pressure air & wire bristle brooms. Install "HA5" High Density Mineral Bond advanced performance pavement preservation treatment. No guarantee surface treatments will adhere to areas saturated with motor oil. HA5 meets demands of High Density Mineral Bond Specification established by agency engineers. **Note** (1) Traffic control will require 24_hour road closures. If additional closures/ methods are required, additional traffic control costs will be added. (2) Taxes are not included in this proposal. If required, the costs will be added to the project invoices. (3) Standard cleaning is included in the unit price. Items NOT considered to be Standard Cleaning include: heavy dirt, mud, construction or landscaping debris, and foreign material on the pavement surface. All non-standard cleaning requirements must be completed and approved by a Holbrook Asphalt representative prior to the start of project. If required, additional/heavy cleaning will be invoiced at $1,750 per crew per day.	73,575	SqYd	1.80	132,435.00

Total	$132,435.00

Please sign for proposal acceptance: **Do not sign this page, see final page for signing**

Date	Number
5/12/2020	HAUB04568

Terms and Conditions

TERMS AND CONDITIONS: Any proposals returned to Holbrook Asphalt Company ("Contractor") more than 45 days after the proposal is submitted to the Client is subject to revision, updated pricing, or may be voided by Contactor. Engineering, tests, permits, inspection fees and bonding fees are not included in price unless stated otherwise. Pricing based on no more than depth dimensions listed. Upon construction, if it is determined that concrete or asphalt depth is greater than the estimation, client agrees to pricing adjustment as a result of project overrun. Client specifically represents and warrants that either the Client is the owner of the premises where the work is to be performed, or, in the alternative, Client has authority from the owner of the premises authorizing the Work to be performed on the said premises.

GENERAL EXCLUSIONS: Contractor is not liable for any ADA compliance, if needed, Client should consult with an ADA compliance professional prior to specific project approval. Contractor will not be responsible for its product failure if said failure is directly or indirectly caused by "Existing Surface Conditions," as defined below, and any written or implied warranty will become void. Existing Surface Conditions are defined as: water drainage issues or delamination or failure of existing paint, asphalt, surface sealer, wearing course or any other material that is in a failing or in an unstable state. If any portion of the project area has existing surface conditions not caused or created by Contractor that impact Contractor's HA5 product or any other product Contractor applies to project area, the warranty is void. Client is responsible for having entry gates open on day of work. Any damage to gates, sensors or loop sensors above or below asphalt are responsibility of Client. Any hot-applied sealants will not be exactly level with pavement surface as material settles to fill voids. There may also be excess material on pavement surface. Regarding asphalt, concrete and excavation work: Contractor is not responsible for subgrade scarification, re-compaction or concrete damage due to removal of asphalt. Contractor is not responsible for existing condition of subgrade, drainage in areas of less than 1% grade, adjustments of utilities, manholes and valve covers. Contractor is not responsible for any damage to underground utilities and cost to repair the same.

PAYMENT TERMS: Payment is due upon completion of work (Completion by line item 'Progress Billing' and/or completion of project core). Payment is due upon Client receipt of invoice. Client understands and agrees that it will be billed for towing as incurred and will be due on receipt. If the Client has a discrepancy with the Contractor regarding the contracted work, a retention of 5% of invoice up to a maximum of $750.00 may be retained by Client up to 45 days. Client agrees that it may be billed as each line item is completed and each item may become their own respective invoice and due upon receipt of the same. Contractor reserves the right to charge up to 50% of Proposal Total if client cancels project within 25 days of scheduled project commencement. Upon request, post-project walk-throughs may be scheduled to review concerns. Client agrees that interest accrues on all past-due amounts at 24% per annum from invoice date, until paid in full; and may be billed collection fees of up to 40% and all fees incurred by collection efforts. Total Proposal price includes one mobilization unless stated otherwise. Additional mobilizations may be billed up to $3,500 per additional mobilization. This agreement provides Client written Notice of Right to Lien. Pricing does not include bonding or prevailing wage/Davis Bacon Certification, unless stated otherwise. By signing this proposal (contract), Client agrees that Contractor may not be held liable for delays, conditions, or Acts of God beyond their control, which situations may delay or cause cancelation partially or entirely on any project. Delays include project demand and material supply. .

I understand that interest accrues on all past-due amounts at 24% per annum from invoice date, until paid in full; and may be billed collection fees of up to 40%, and Client agrees to pay all fees accrued by collection efforts. These terms apply to all amount(s) incurred by me and for whom I have committed management responsibility, regardless of timing. Total Proposal price includes one mobilization unless stated otherwise. Additional mobilizations may be billed up to $3,500 per additional mobilization. This agreement provides Client written Notice of Right to Lien. Pricing does not include Bonding or prevailing wage/Davis Bacon Certification, unless stated otherwise. By signing this proposal (contract), I agree that Holbrook Asphalt Co. may not be held liable for delays, conditions, or Acts of God beyond their control, which situations may delay or cause cancelation partially or entirely on any project. Delays include project demand and material supply.

INSURANCE: These insurance limits are listed by Contractor to inform Client of such. Any premiums above the following to be paid by Client. This disclosure overrules any other contract language wherein Contractor agrees to differing limits. Certificates available upon request. GENERAL LIABILITY: $1m (inc.), $2m (agg.) AUTO: $1m UMBRELLA: $2m (inc.), $2m (agg.) PERSONAL INJ: $1m WORKERS COMP: $1m

I have read and agree with these terms and conditions. I elect to proceed with the signed option below.

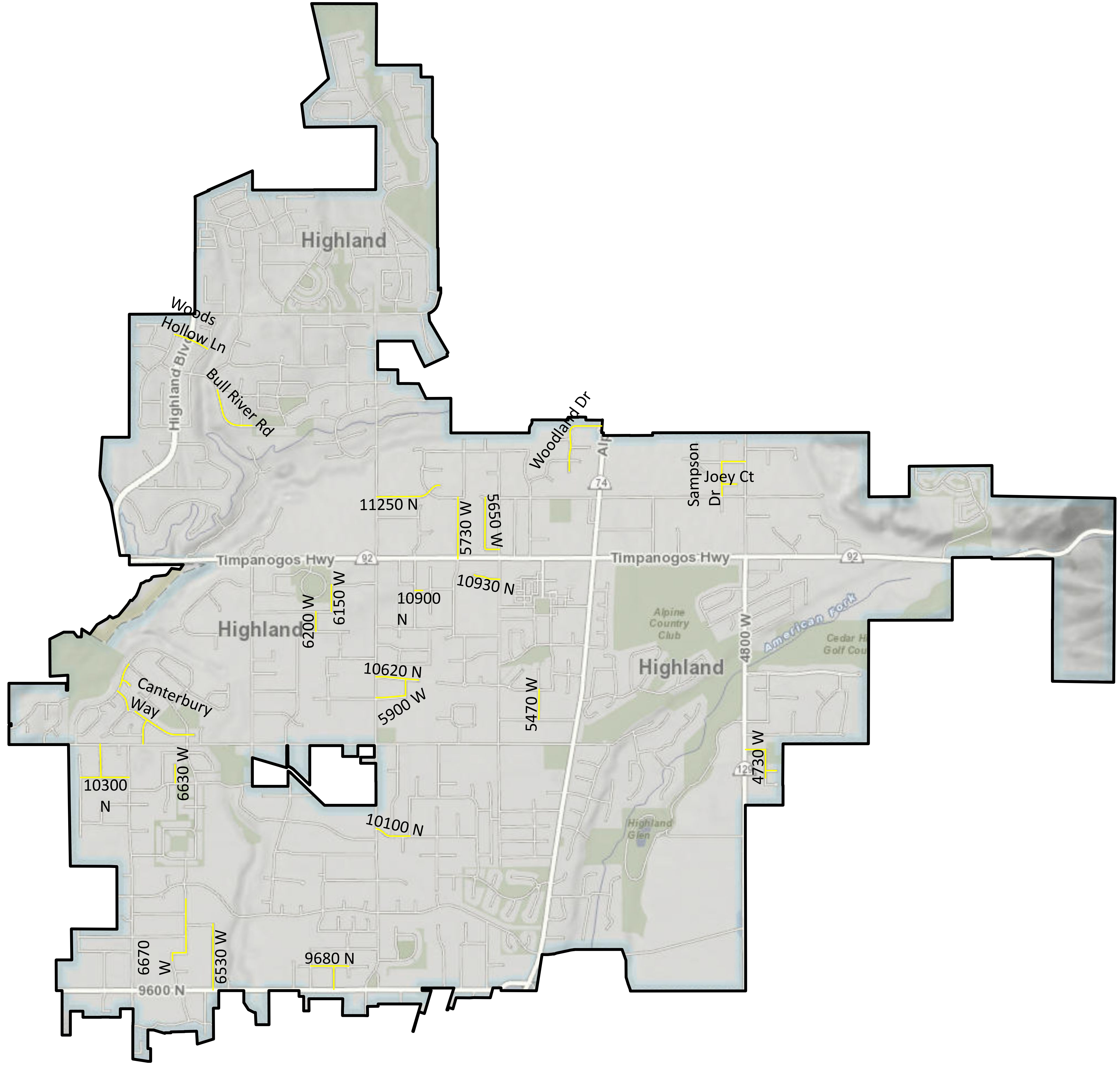
HAU942662 -

Signature _____________________ Print Name _______________________ Date ______________

Holbrook Asphalt Co ____________________

HIGHLAND CITY

HA5



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Proposal

HOLBROOK ASPHALT CO.

Project Location	Proposal #	Date Issued	PO/LD #
Highland City Corp Attn: Ty Christensen 5400 West Civic Center Dr American Fork UT 84003 United States	HAU942661	5/20/2021	

Terms

Due Upon Completion

Bill To

Highland City Corp
Attn: Ty Christensen
5400 West Civic Center Dr
American Fork UT 84003
United States

Adviser Information

Aaron Eppley
P: 435-703-0023 | E: aaron@holbrookasphalt.com

Description

2021 Highland BMO Proposal

Item	Quantity	UM	Rate	Amount
Traffic Control Traffic control for this project includes: Channeling devices, flagging, signage, mobilization, take down and set up.	1	Ea	8,595.75	8,595.75
Bonded Matrix Overlay Bonded Matrix Overlay Flexible asphalt preservation surface designed to fuse intense bonding capabilities with matrix voided aggregate formed to promote a perpetual rough surface texture coupled with an impermeable barrier.	13,424	SqYd	5.87	78,798.88
Note (1) Traffic control will require 24_hour road closures. If additional closures/ methods are required, additional traffic control costs will be added. (2) No taxes or bonding are included in this proposal. If required, the costs will be added to the project invoices. (3) Standard cleaning is included in the unit price. Items NOT considered to be Standard Cleaning include: heavy dirt, mud, construction or landscaping debris, and foreign material on the pavement surface. All non-standard cleaning requirements must be completed and approved by a Holbrook Asphalt representative prior to the start of project. If required, additional/heavy cleaning will be invoiced at $1,750 per crew per day.				

Total	$87,394.63

Please sign for proposal acceptance: **Do not sign this page, see final page for signing**

Date	Number
5/20/2021	HAUB04634

Terms and Conditions

TERMS AND CONDITIONS: Any proposals returned to Holbrook Asphalt Company (“Contractor”) more than 45 days after the proposal is submitted to the Client is subject to revision, updated pricing, or may be voided by Contactor. Engineering, tests, permits, inspection fees and bonding fees are not included in price unless stated otherwise. Pricing based on no more than depth dimensions listed. Upon construction, if it is determined that concrete or asphalt depth is greater than the estimation, client agrees to pricing adjustment as a result of project overrun. Client specifically represents and warrants that either the Client is the owner of the premises where the work is to be performed, or, in the alternative, Client has authority from the owner of the premises authorizing the Work to be performed on the said premises.

GENERAL EXCLUSIONS: Contractor is not liable for any ADA compliance, if needed, Client should consult with an ADA compliance professional prior to specific project approval. Contractor will not be responsible for its product failure if said failure is directly or indirectly caused by “Existing Surface Conditions,” as defined below, and any written or implied warranty will become void. Existing Surface Conditions are defined as: water drainage issues or delamination or failure of existing paint, asphalt, surface sealer, wearing course or any other material that is in a failing or in an unstable state. If any portion of the project area has existing surface conditions not caused or created by Contractor that impact Contractor’s HA5 product or any other product Contractor applies to project area, the warranty is void. Client is responsible for having entry gates open on day of work. Any damage to gates, sensors or loop sensors above or below asphalt are responsibility of Client. Any hot-applied sealants will not be exactly level with pavement surface as material settles to fill voids. There may also be excess material on pavement surface. Regarding asphalt, concrete and excavation work: Contractor is not responsible for subgrade scarification, re-compaction or concrete damage due to removal of asphalt. Contractor is not responsible for existing condition of subgrade, drainage in areas of less than 1% grade, adjustments of utilities, manholes and valve covers. Contractor is not responsible for any damage to underground utilities and cost to repair the same.

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I understand that interest accrues on all past-due amounts at 24% per annum from invoice date, until paid in full; and may be billed collection fees of up to 40%, and Client agrees to pay all fees accrued by collection efforts. These terms apply to all amount(s) incurred by me and for whom I have committed management responsibility, regardless of timing. Total Proposal price includes one mobilization unless stated otherwise. Additional mobilizations may be billed up to $3,500 per additional mobilization. This agreement provides Client written Notice of Right to Lien. Pricing does not include Bonding or prevailing wage/Davis Bacon Certification, unless stated otherwise. By signing this proposal (contract), I agree that Holbrook Asphalt Co. may not be held liable for delays, conditions, or Acts of God beyond their control, which situations may delay or cause cancelation partially or entirely on any project. Delays include project demand and material supply.

INSURANCE: These insurance limits are listed by Contractor to inform Client of such. Any premiums above the following to be paid by Client. This disclosure overrules any other contract language wherein Contractor agrees to differing limits. Certificates available upon request. GENERAL LIABILITY: $1m (inc.), $2m (agg.) AUTO: $1m UMBRELLA: $2m (inc.), $2m (agg.) PERSONAL INJ: $1m WORKERS COMP: $1m

I have read and agree with these terms and conditions. I elect to proceed with the signed option below.

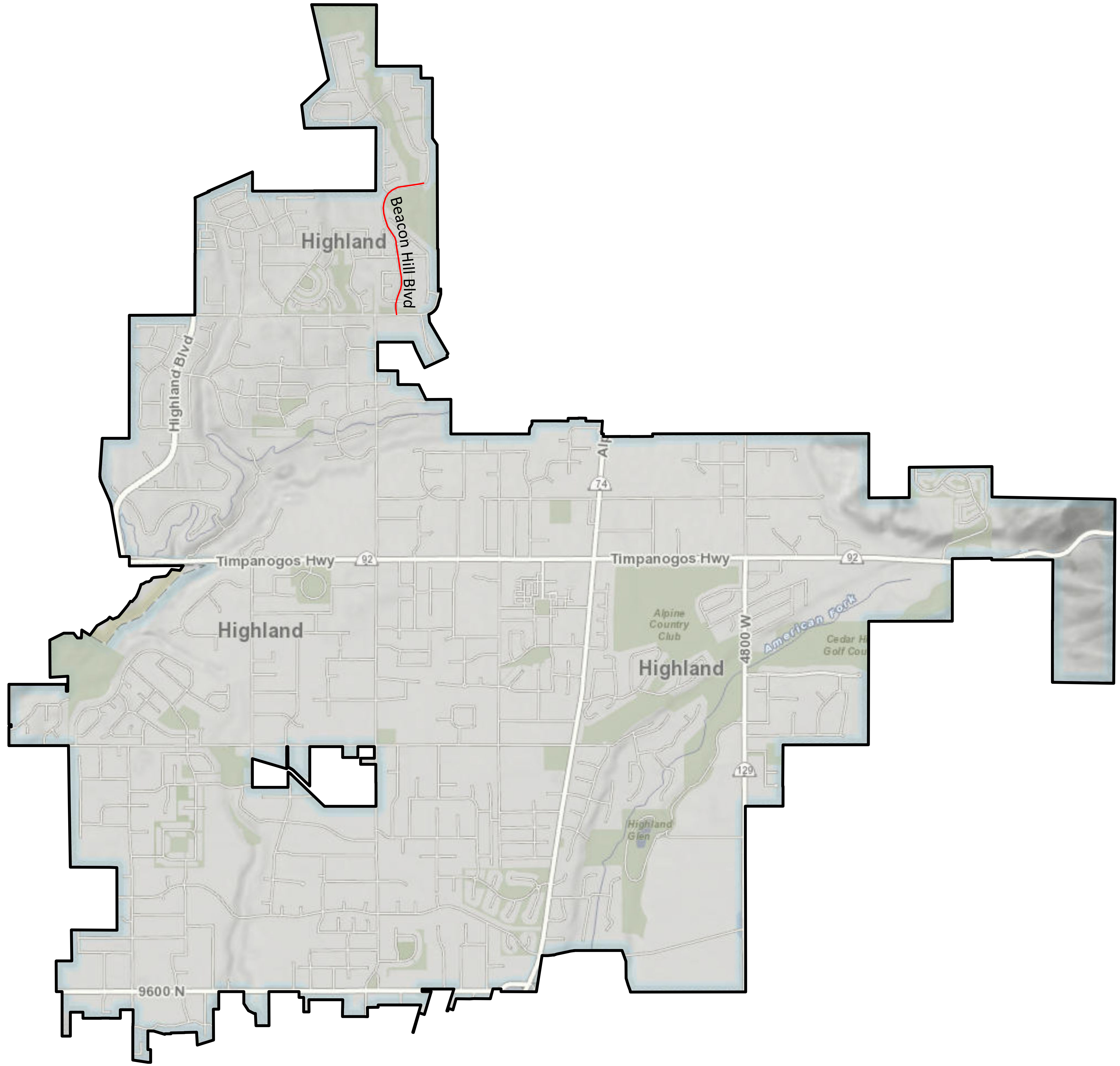
HAU942661 -

Signature ______________________ Print Name ________________________ Date ______________

Holbrook Asphalt Co ____________________

HIGHLAND CITY

Bonded Matrix



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CITY COUNCIL AGENDA REPORT ITEM #3c

HIGHLAND CITY

DATE: June 1, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Andy Spencer, PE
Public Works Director/City Engineer

SUBJECT: **CONSTRUCTION CONTRACT:** ONYX Sealant Treatment *Administrative*

PURPOSE:
The City Council will consider a request to approve a bid in the amount $63,905.74 to Morgan Pavement for the placement of 336,345 square feet of ONYX Frictional Mastic Sealant as a part of the 2021 Road Rehabilitation Project. The City Council will also authorize the City Administrator and City Recorder to execute the necessary contract documents for the project. The Council will take appropriate action.

BACKGROUND:
This project includes miscellaneous locations in the north west area of the City where road preservation is deemed to be essential to the longevity of the road. The ONYX product has been successfully used in Skye Estates as well as other areas where winter traction may be an issue. Morgan Pavement has been a great contractor that we have had good experiences within past projects.

If approved and awarded to Morgan Pavement, the project will start as soon as possible. The schedule of the patching project (previously awarded) will be May and June of 2021. The rehabilitation and surface treatment portions of the 2021 road project will be completed in July and August.

FISCAL IMPACT:
Morgan Pavement was the only bidder on these services.

The proposed budget for this year's road projects is $1.5 million. This is a mix of collected road fees ($1 million) and B & C road funds ($500,000). With the current awarded contracts: rehabilitation for $700,375.32, patching of $252,193.56, the pending HA5 of $219,165 there is $328,266.12 remaining for project work. If the council approves the award of the HA5 and Bonded Matrix bids to Holbrook for $219,829.63, we will have a balance of $263,695.75. We anticipate a crack-seal project will be awarded on the June 15th City Council meeting that will be funded from the remaining $263,695.75. Cost of goods and services have increased in the past year but we feel that based on what the market is seeing in the private construction arena, the bid prices for this work are fair and reasonable.

RECOMMENDATION:

Staff recommends that the City Council APPROVE the contract with Morgan Pavement to proceed with the ONXY Frictional Mastic Sealant treatment as part of the 2021 Road Preservation Project for $63,905.74 and AUTHORIZE the City Administrator to execute the necessary contract documents for the project.

PROPOSED MOTION:

I move that the City Council APPROVE and AUTHORIZE the City Administrator to sign a contract with Morgan Pavement to proceed with the placement of the ONYX Frictional Mastic Sealant in the amount of $63,905.74.

ALTERNATIVE MOTION:

I move that the City Council REJECT the bids for the road patching project. (The Council should draft appropriate findings).

ATTACHMENTS:

1. ONYX Bids
2. Map of project locations

Morgan Pavement
Remit to: PO Box 190
Clearfield, UT 84089
625 S. Main Street
Clearfield, UT 84015

Phone: (801) 544-5947
Fax: (801) 416-8061
MorganPavement.com

EFFICIENCY WITH INTEGRITY

Mastic Asphalt Treatment-Excavation & Grading-Asphalt Paving-Patching-Sealcoat-Slurry-Crackseal-Striping-Consulting

To:	HIGHLAND CITY	**Contact:**	Andy Spencer
Address:	5400 W. CIVIC CENTER DR.	**Phone:**	(801) 756-5751
	HIGHLAND, UT 84003	**Fax:**	
Project Name:	2021 Highland Onyx	**Bid Number:**	
Project Location:	Highland, UTAH	**Bid Date:**	5/2/2019

Item Description	Estimated Quantity	Unit	Total Price
ONYX Frictional Mastic Seal · Clean Entire Surface Free Of Dirt And Debris · Apply 2 Coats Of ONYX Frictional Mastic Sealant For A Combined Coverage Of 0.30 Gal/SY · Includes Traffic Control Equipment	336,346.00	SF	$63,905.74

Total Bid Price: $63,905.74

Notes:

- Any deviation from these specifications and/or terms shall be by written mutual agreement. Payment for extra work and allowances for omission shall be fixed in advance in writing on demand by either party. No verbal agreement or understanding shall be binding
- Temperature is a factor in the ability to apply certain asphalt products and obtain adhesion. In order for warranty to apply, temperatures must fall within certain parameters for that specific scope of work. Please call to verify the temperature parameters of the proposed work.
- Please turn off all sprinklers and remove obstructions(i.e. dumpsters or cars) from work site prior to performance of work. Morgan Pavement will not be held liable for areas that are wet or blocked on the day that the crews arrive. If it is necessary to return to touch up areas so affected, there will be additional charges.
- Morgan Pavement assumes no risk or liability of undisclosed or unforseen conditions of the project site, including but not limited to hazardous waste, unstable or saturated subgrade, underground utilities, water table issues.
- Exclusions unless noted on scope of work: Bonds, fees, permits, material or compaction testing, traffic control and/or barricades, prime coat, soil sterilant, subgrade stabilization, concrete, sawcutting, earthwork, engineering, survey, construction staking, third party billing fees
- Morgan Pavement will not guarantee drainage on grades with 1% or less slope or on overlays.
- Both Parties agree that Morgan Pavement is not liable for any damage of underground piping, wiring, conduit which are not visible to crews on the property that could not be located by utility locator service. (i.e. blue stakes)
- Price is valid for 30 days from date of proposal
- Due to the volatility of the oil industry, this bid may fluctuate with oil prices. Therefore this may adjust with any increase in oil/material prices.
- Morgan Pavement reserves the right to use a sub-contractor on any scope of work.

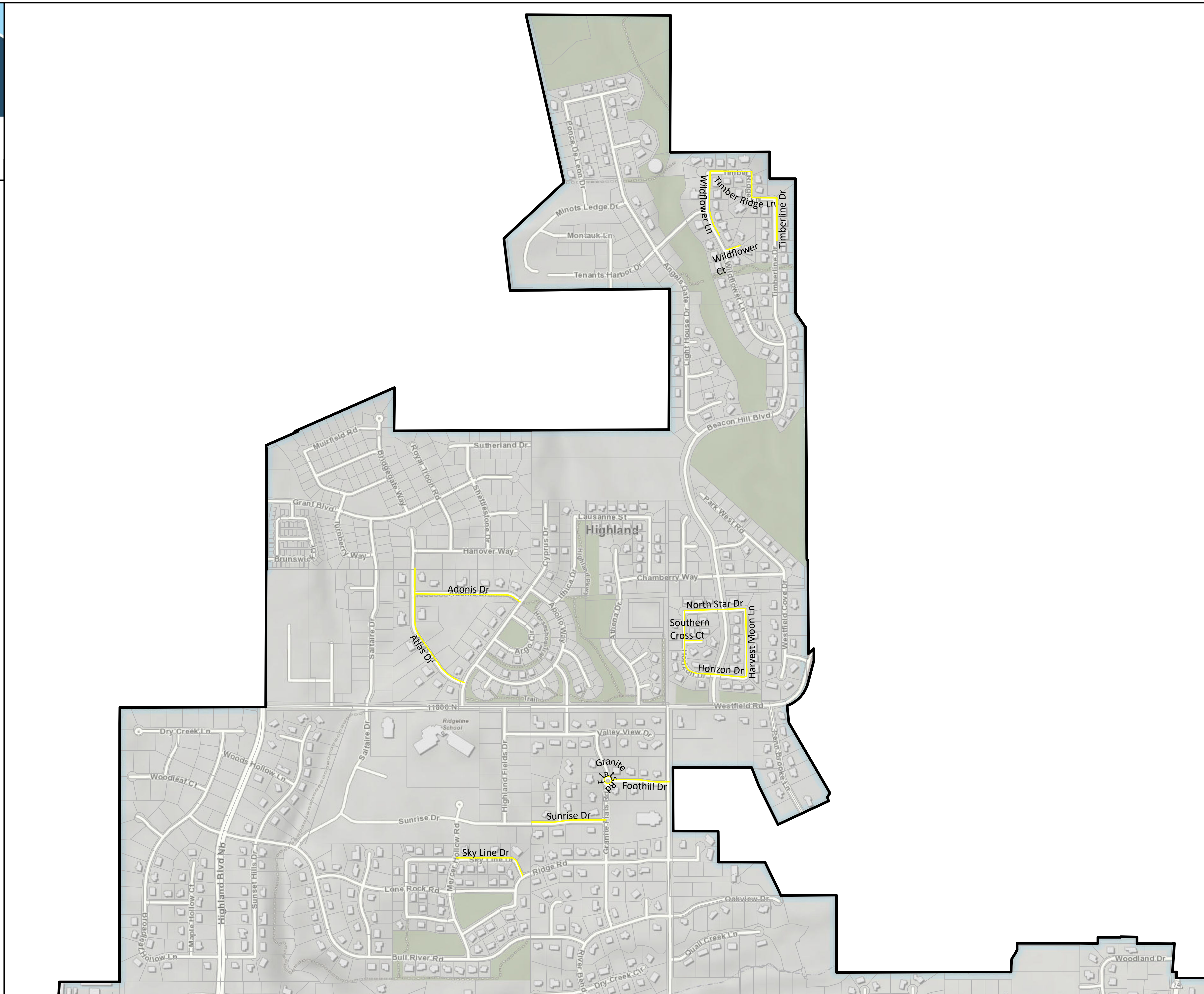
Payment Terms:

Payment is due at completion of project without any retention being withheld, Invoices are subject to 2% interest per month beginning 30 days following the due date. In the event it becomes necessary for Morgan Pavement to file suit to collect any money due, hereunder or for breach thereof, the owner agrees to pay in addition to the amount due, all costs of enforcement including reasonable attorney fees. In the event of dispute between Morgan Pavement and Buyer, the parties agree to arbitration through the American Arbitration Association.

ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted.	**CONFIRMED:** **Morgan Pavement**
Buyer: ______________________	
Signature: ______________________	**Authorized Signature:** ______________________
Date of Acceptance: ______________________	**Estimator:** Kasen Garrett kgarrett@morganpavement.com

HIGHLAND CITY

ONYX



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AGENDA NEXT

CITY COUNCIL AGENDA REPORT ITEM #4

HIGHLAND CITY

DATE: June 1, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Kellie Bronson
Planner and GIS Analyst

SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Nuisances
Legislative

PURPOSE:

The City Council will hold a public hearing to consider a request by Highland City Staff to amend several sections of the Development Code relating to the nuisance of noise in commercial zones. The City Council will take appropriate action.

BACKGROUND:

Several complaints from residents and business owners have led to the need to update the City codes. On May 4th, the City Council approved a text amendment to Section 8.16.100 Nuisance Of Noise And Light in the Municipal Code to clarify the nuisance of noise. This amendment established specific decibel levels for residential properties, conditional uses in residential zones, and commercial properties. See Attachment 2 for the updated Municipal Code.

A Development Code amendment is needed to be consistent with the Municipal Code. A development code amendment is a *legislative* process.

SUMMARY OF THE REQUEST:

The proposed deletions and additions are in each nuisance section of every commercial zone in the Development Code. These amendments remove the existing decibel requirements and add a reference to Section 8.16.100 Nuisance Of Noise And Light in the Municipal Code, where these decibel requirements have been established. See Attachment 1 for the proposed amendment.

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on May 25, 2021 and voted 6-1 to recommend approval of the proposed amendment. The one dissenting vote was concerned enforcement and whether the standards were reasonable. No one spoke in favor or opposition of the amendment.

ANALYSIS:

- The Municipal Code establishes decibel levels for residential properties, conditional uses in residential zones, and commercial properties. The proposed amendment is needed to align the Development Code with the Municipal Code.

CITIZEN PARTICIPATION:

Notice of the public hearing associated with this meeting was published in the Daily Herald on May 15, 2021 and posted on the state and city websites May 13, 2021. No comments have been received.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is needed to update the Development Code.
- The proposed amendment is consistent with the General Plan.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends that the City Council accept the findings and **APPROVE** the proposed amendment.

I move that the City Council accept the findings and **APPROVE** the proposed amendment to several sections of the Development Code relating to the nuisance of noise in commercial zones as recommended by the Planning Commission.

ALTERNATIVE MOTION:

I move that the City Council **DENY** case TA-21-04 a request to amend several sections of the Development Code relating to the nuisance of noise in commercial zones 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
2. Municipal Code Chapter 8.16 Nuisances

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SEVERAL SECTIONS OF THE HIGHLAND CITY DEVELOPMENT CODE RELATING TO THE NUISANCE OF NOISE IN COMMERCIAL ZONES AS SHOWN IN FILENAME TA-21-04.

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 Planning Commission held a public hearing on this Ordinance on May 25, 2021 and

WHEREAS, the City Council held a public hearing on this Ordinance on June 1, 2021.

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

SECTION 1: **AMENDMENT** "3-4321 Nuisances" of the Highland City Development Code is hereby *amended* as follows:
C-1
3-4321 Nuisances

1. No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
2. Noise Attenuation: All commercial areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light. ~~:~~

    1. ~~Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
    2. ~~Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
    3. ~~Commercial developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.~~

SECTION 2: **AMENDMENT** "3-4367 Nuisances" of the Highland City Development Code is hereby *amended* as follows:
CR

3-4321 Nuisances

1. No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
2. Noise Attenuation: All commercial areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.~~:~~

    1. ~~Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
    2. ~~Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
    3. ~~Commercial developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.~~

SECTION 3: **AMENDMENT** "3-4521 Nuisances" of the Highland City Development Code is hereby *amended* as follows:

R-P

3-4521 Nuisances

1. Property in a Residential-Professional Zone shall not be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
2. Noise Attenuation. All Residential-Professional areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.~~:~~

    1. ~~Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
    2. ~~Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
    3. ~~Residential-Professional developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.~~

SECTION 4: **AMENDMENT** "3-4622 Nuisances" of the Highland City Development Code is hereby *amended* as follows:

Senior Care

3-4622 Nuisances

No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.

1. Noise Attenuation. All Senior Care Assisted Living Overlay areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.~~:~~

    1. ~~Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
    2. ~~Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
    3. ~~Senior Care Assisted Living Overlay developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provide adequate sound attenuation walls in conformance with the standards set forth in these articles.~~
2. Dust Mitigation. All excavations in excess of 1/4 acre shall obtain and file with the City a dust mitigation plan.

    1. Grading, Sedimentation and Erosion Control. All building permits shall be accompanied by a grading, sedimentation, and erosion control plan which shall at a minimum include environmental fencing surrounding the project and best management practices.

SECTION 5: **AMENDMENT** "3-4735 Nuisances" of the Highland City Development Code is hereby *amended* as follows:

Town Center Overlay

3-4735 Nuisances

1. No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.
2. Noise Attenuation. All commercial areas within Highland City shall be subject to the ~~following~~ noise limitations ~~measured at the source:~~ established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.

    1. ~~Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
    2. ~~Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
    3. ~~Commercial developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.~~

SECTION 5: **AMENDMENT** "3-4920 Nuisances" of the Highland City Development Code is hereby *amended* as follows:

PO

3-4920 Nuisances

1. No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation,

electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage.

2. Noise Attenuation. All professional office areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.~~:~~

    1. ~~Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
    2. ~~Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
    3. ~~Professional office developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provide adequate sound attenuation walls in conformance with the standards set forth in these articles.~~

3. Dust Mitigation. All excavations in excess of 1/4 acre shall obtain and file with the City a dust mitigation plan.
4. Grading, Sedimentation and Erosion Control. All building permits shall be accompanied by a grading, sedimentation, and erosion control plan which shall at a minimum include environmental fencing surrounding the project and best management practices.

SECTION 6: **AMENDMENT** "3-4959 Nuisances" of the Highland City Development Code is hereby *amended* as follows:

PI

3-4959 Nuisances

1. Property in a Public Institution Zone shall not be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage, or outside storage.
2. Noise Attenuation. All Public Institution areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.~~:~~
    1. ~~Public Institution developments shall incorporate site planning techniques in order to reduce resident exposure to noise~~
3. The storage or manufacturing of hazardous materials or hazardous waste, combustibles and explosive materials, or petroleum products exceeding state or federal limits shall be prohibited. These materials and products shall be regulated and enforced by state and federal laws and regulations.
    1. "Hazardous materials" shall mean hazardous waste as defined in the Utah Hazardous Waste Management Regulations, PCBs, dioxin, asbestos, or a substance regulated under 42 U.S.C., Section 6991(2), and including petroleum products or any explosive materials as determined by state or federal regulations shall be prohibited. Federal limits for hazardous materials are defined by the Code of Federal Regulations: Title 40 — Protection of Environment, Volume 18, 40CFR261.3.
    2. "Hazardous waste" means a solid waste or combination of solid wastes other than household waste which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in

mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

3. “Combustibles and Explosives” shall be defined by Section 10-8-56 Utah Law. The storage or manufacturing of gunpowder, tar, pitch, resin, coal, oil, gas, gasoline, benzine, turpentine, nitroglycerine, petroleum or any of the products thereof, and other combustible or explosive substances or materials shall be prohibited.
4. “Petroleum” includes crude oil or any fraction of crude oil that is liquid at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute. "Petroleum storage tank" means a tank that:
    1. Is underground;
    2. Is regulated under subtitle i of the resource conservation and recovery act, 42 u.s.c. section 6991c, et seq.; and
    3. Contains petroleum.

SECTION 7: **AMENDMENT** “3-41020 Nuisances” of the Highland City Development Code is hereby *amended* as follows:

PU

3-41020 Nuisances

1. Property in a Public Utility Zone shall not be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electromechanical disturbance and radiation, electromagnetic disturbance, air or water pollution, dust emission of odorous, toxic, or noxious matter, or placement, dumping or blowing refuse, paper or other garbage, or outside storage.
2. Noise Attenuation. All Public Utility areas within Highland City shall be subject to the ~~following~~ noise limitations established in Municipal Code Section 8.16.100 Nuisance of Noise and Light.~~:~~
    1. ~~Noise from external sources may not exceed 65 d.b.a. during daylight operations.~~
    2. ~~Noise from external sources may not exceed 45 d.b.a. during nighttime operations.~~
    3. ~~Public Utility developments shall incorporate site planning techniques in order to reduce resident exposure to noise and shall, if needed provided adequate sound attenuation walls in conformance with the standards set forth in these articles.~~
3. The storage or manufacturing of hazardous materials or hazardous waste, combustibles and explosive materials, or petroleum products exceeding state or federal limits shall be prohibited. These materials and products shall be regulated and enforced by state and federal laws and regulations.
    1. "Hazardous materials" shall mean hazardous waste as defined in the Utah Hazardous Waste Management Regulations, PCBs, dioxin, asbestos, or a substance regulated under 42 U.S.C., Section 6991(2), and including petroleum products or any explosive materials as determined by state or federal regulations shall be prohibited. Federal limits for hazardous materials are defined by the Code of Federal Regulations: Title 40 -- Protection of Environment, Volume 18, 40CFR261.3.

2. "Hazardous waste" means a solid waste or combination of solid wastes other than household waste which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
3. "Combustibles and Explosives" shall be defined by Section 10-8-56 Utah Law. The storage or manufacturing of gunpowder, tar, pitch, resin, coal, oil, gas, gasoline, benzine, turpentine, nitroglycerine, petroleum or any of the products thereof, and other combustible or explosive substances or materials shall be prohibited.
4. "Petroleum" includes crude oil or any fraction of crude oil that is liquid at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute. "Petroleum storage tank" means a tank that:

    1. Is underground;
    2. Is regulated under subtitle i of the resource conservation and recovery act, 42 u.s.c. section 6991c, et seq.; and
    3. Contains petroleum.

SECTION 8: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 9: **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 10: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from June 1, 2021 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, June 1, 2021
HIGHLAND CITY, UTAH

____

Rodney W. Mann
Highland City Mayor

ATTEST:

____

Stephannie Cottle
Highland City Recorder

COUNCILMEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Kurt Ostler	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

Attachment 2:

Chapter 8.16 NUISANCES

8.16.010 Purpose

The purpose of this chapter is to define and designate what is a nuisance and to regulate the abatement of such nuisances within the city. Although this chapter outlines the policy and procedure to be followed by city officials in controlling nuisances, it does not preclude the notion that Highland City is made up of people with diverse lifestyles and that the city council must retain the authority to make exceptions to this chapter in reasonable cases and encourage a spirit of tolerance and cooperation between neighbors.

HMC (Ord. 1995-6 § 1(part))

8.16.020 Remedies

1. A civil action to abate or enjoin a nuisance, or for damages for causing or maintaining a nuisance (including the cost, if any, of cleaning the subject property), may be brought by Highland City or by any private person directly affected.
2. It is unlawful and a class B misdemeanor violation for any person to maintain or assist in maintaining a nuisance after receiving notice to abate the same as provided for in this chapter.
3. The city may elect to pursue either civil or criminal remedies or both to enforce this chapter.
4. The city shall retain the option of providing allowances as it deems prudent and fair to owners or occupants who may be in noncompliance of this chapter at the time of its passage into law. Such determinations shall be made by the city inspector or his appointed representative and may be supported, amended or canceled by the city council.

HMC (Ord. 1995-6 § 1(part))

8.16.030 Inspection

1. Inspector.
    1. Until such time as the city council may otherwise authorize appointment of an inspector, the city administrator shall perform the functions of inspector as set forth in this chapter, and shall have all powers delegated to the city by the provisions of Section 10-11-1, et seq., Utah Code Annotated 1953, as amended, subject to control and review as the city council may from time to time direct.
    2. The inspector may, from time to time, authorize such other persons as may be necessary to serve as his representatives in carrying out his functions under this chapter, such as; the chief of police, the building inspector, fire marshall, and director of operations.
2. Inspection Procedure.
    1. Upon written complaint by any citizen of the city, the inspector shall inspect real property situated within the city for the purpose of determining whether or not it contains a nuisance as defined by this chapter.
    2. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the inspector or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition subject to abatement hereunder, the inspector or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any other duty imposed by this chapter; provided, that, if such building or premises be occupied, he shall first present proper credentials and request entry, and if such building or premises be

unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge of the building or premises and request entry. If entry is refused, the inspector or his authorized representative shall have the recourse to every remedy provided by law to secure entry.

3. The city shall keep confidential the identity of the person submitting the complaint, unless otherwise directed by the complainant.

HMC (Ord. 1995-6 § 1(part))

8.16.040 Notice

1. If the inspector concludes that a nuisance, as defined in this chapter, exists on any real property, he shall ascertain the names of the owners and occupants and a description of the premises where such nuisance exists and he shall serve notice in writing upon the owner or occupant of such land, either personally or by mailing notice, postage prepaid by registered or certified mail addressed to the owner or occupant at their last known post office address as disclosed by the records of the county assessor. The notice shall identify the nuisance found by the inspector and require such owner or occupant, or both as the case may be, to abate the nuisance and to eradicate or destroy and remove the objects and conditions specified in the notice within such time as the inspector may designate, which shall not be less than ten days from the date of service of such notice.
2. In the event that the inspector shall choose to proceed under Section 8.16.090 (Collection of abatement costs), he shall make a proof of service of such notice under oath and file the same in the office of the county treasurer. One notice shall be deemed sufficient on any lot or parcel of property for one full year.

HMC (Ord. 1995-6 § 1(part))

8.16.050 Nuisances Defined

The following shall constitute a nuisance subject to abatement under this chapter:

1. Vegetation. It is unlawful, and shall be considered a nuisance, for any owner or occupant of real property located within the city limits to allow the accumulation or growth of noxious weeds or other vegetation which:
    1. Due to proximity to any public property or right-of-way interferes with the public safety or lawful use of the public property or right-of-way;
    2. Creates a fire hazard to any neighboring property or any nearby structures.
2. Accumulations. It is unlawful, and shall be considered a nuisance, for any owner or occupant of real property located within the city limits to allow the accumulation or growth of noxious weeds, garbage, refuse, manure or any unsightly or deleterious objects, conditions or structures on such property, when such objects, conditions or structures create a fire hazard, a source of contamination or pollution of water, air or property, a danger to health, a breeding ground or habitation for insects or rodents or other forms of life deleterious to human habitation, or when such objects, conditions or structures are unsightly or deleterious to their surroundings. This shall not apply to well maintained and protected compost piles.
3. Waste Material Accumulation. It is unlawful, and shall be considered a nuisance, for any owner or occupant of real property located within the city limits, to cause or permit junk, scrap metal, scrap lumber, waste paper products, discarded building material, or any unused or abandoned machinery or machinery parts, or other waste material, to accumulate in any unsightly manner upon any such property.

4. Abandoned, Wrecked or Junk Vehicles. It is unlawful, and shall be considered a nuisance, for any owner or occupant of real property located within the city limits, to park, store or leave, or to permit the parking, storing or leaving of any licensed or unlicensed motor vehicle of any kind, or parts thereof, which is in a wrecked, junked, partially dismantled, inoperative or abandoned condition, whether attended or not, upon such property, for a period of time in excess of thirty days. Such vehicles or parts thereof may be retained on the premises if stored within a closed building. Two or less such vehicles may be stored on the premises if placed behind an opaque screening fence.
5. Chemicals. It is unlawful and shall be considered a nuisance for any person or group as designated in this chapter to permit any form of chemical pollution, (poisonous, noxious or physically irritating) to permeate the air, ground or water within the city or that may enter the city. This is to include chemicals such as gasoline, kerosene, diesel fuel and other common chemicals that when taken out of their normal use, become dangerous or objectionable. Insecticides, pesticides and herbicides used properly and for the intent pursuant with this chapter are deemed justifiable and proper.
6. Depositing or spilling. It is unlawful and shall be considered a nuisance for any person to throw or cast, or, having thrown or cast, to allow to remain upon or in any street, road, ditch, gutter, public place, private premises, vacant lot, watercourse, lake, spring or well any item or thing as enumerated in subsections (A), (B), (C), (D) and (E) of this section.
7. Pest Control
    1. Rodents.
        1. Every person owing or occupying or controlling any structure in the city shall prevent the ingress of rats or other rodents thereto by maintaining the same in a clean and sanitary condition and remove therefrom any matter detrimental to health. All foods, provisions, goods and wares and merchandise shall be so located as to prevent rats from gaining access thereto.
        2. No rubbish, waste matter or other material shall be placed, left or dumped, or permitted to accumulate or remain in any building, place or premises in the city so that the same shall or may afford food or a harboring or breeding place for rats, rodents or other pests.
    2. Insects. It is unlawful for any person or persons to suffer or permit to have upon his premises, either one or more of the following unsanitary conditions:
        1. Any privy, vault, cesspool, sink, pit or like place which is not securely protected from insects;
        2. Garbage which is not securely protected from insects;
        3. Vegetable waste, trash, litter or refuse of any kind in which insects may breed or multiply;
        4. This shall not apply to well maintained and protected compost piles;
        5. Those who maintain animals on any real property shall take reasonable means to control the proliferation of flies.
8. Farms and Farming. Whereas the agricultural enterprises of this area have existed, do exist and are contributors to the rural nature of the community, it is not the intent of this chapter to create any undue economic hardship or community pressure that may cause or intend to cause the moving, closing or abandoning of the farming endeavor. With the exception of the following items, the normal activities of the farming endeavor shall not be considered nuisances subject to abatement:
    1. Health considerations including ground, water and air pollution and dead animal disposal;
    2. Safety considerations which jeopardize public or private safety of the citizens.

HMC (Ord. 1995-6 § 1(part))

8.16.060 Hearing Of Appeals
Upon receipt of written notice to an owner or occupant ordered to abate any nuisance as outlined in this chapter, the owner or occupant may appeal the inspector's decision as set out below.

1. Appeal to City Inspector. Within not more than ten days after owner or occupant has been noticed to abate any nuisance defined in this chapter, he may appeal such action directly to the city inspector. This informal hearing shall allow the owner or occupant to present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this chapter.

   Following this hearing, the city inspector may, at his discretion, leave the current notice of abatement as originally issued or may alter the notice or may cancel it.
2. Appeal to City Council. If the owner or occupant is not satisfied with the informal hearing of the city inspector, the owner or occupant may appeal directly to the city council. This appeal must be submitted in writing within ten days of the decision from the appeal to the city inspector. Until the appeal has been scheduled and reviewed by the city council, the schedule for abatement described in the original notice shall be suspended. Following this hearing, the city council shall direct the city inspector to reissue the original notice of abatement, or may alter the notice or may cancel it.

HMC (Ord. 1995-6 § 1(part))

8.16.070 Abatement By The City

1. Failure to Comply. If the owner or occupant of property described in the notice shall fail or neglect to conform to the requirements of such notice relating to abatement of the nuisance or to the eradication or destruction or removal of such weeds, garbage, refuse, objects or structures, the inspector shall employ all necessary assistance to abate the nuisance and to cause such materials to be removed or destroyed at the expense of the city.
2. Statement of Expenses. The inspector shall prepare an itemized statement of all expenses incurred in the abatement of the nuisance and removal and destruction of said materials and shall mail a copy thereof, by registered mail, to the owner or occupant, or both, demanding payment within twenty days of the date of mailing. Said notice shall be deemed delivered when mailed by registered mail addressed to the property owner's or occupant's last known address.

HMC (Ord. 1995-6 § 1(part))

8.16.080 Failure To Make Payment
In the event the owner or occupant fails to make payment, or make formal arrangements with the city for payment, of the amount set forth in said statement of expenses to the city treasurer within the twenty-day period, the inspector may either cause suit to be brought in an appropriate court or refer the matter to the county treasurer as provided in this chapter.

HMC (Ord. 1995-6 § 1(part))
8.16.090 Collection Of Abatement Costs

1. Collection by Suit. In the event collection of expenses of destruction and/or removal are pursued through the courts, the city shall sue for all of said expenses of destruction and/or removal, to either

with reasonable attorney's fees, interests and costs of court, and shall execute upon such judgment in the manner provided by law.
2. Collection Through Taxes. In the event that the matter is referred to the county treasurer for inclusion in the tax notice of the property owner, the inspector shall make in triplicate an itemized statement of all expenses incurred in the destruction and/or removal of the same and deliver three copies of said statement to the county treasurer within ten days after the expiration of the twenty-day period, in which the owner or occupant may pay voluntarily. Thereupon, the cost of said work shall be pursued by the county treasurer in accordance with the provisions of Section 10-11-4, Utah Code Annotated 1953, as amended, and the owner or occupant shall have such rights and shall be subject to such powers as are granted therein.

HMC (Ord. 1995-6 § 1(part))

8.16.100 Nuisance Of Noise And Light

This section is separated from the definitions and abatement proceedings of the other nuisances defined in this chapter because the procedure for abatement does not logically coincide with that of the other defined nuisances.

1. The following definitions shall apply to this Section:
    1. "Ambient Sound" means the sound pressure level which represents the summation of the sound from all the discrete sources affecting a given site at a given time, exclusive of the source under investigation.
    2. "Daytime" means the hours between 7:00 AM and 10:00 PM. c. "Nighttime" means the hours between 10:00 PM and 7:00 AM. d. "Noise" means sound that may be harmful to health.
    3. "Owner" means any person who alone or jointly and severally with others has legal title to any premise, dwelling, or dwelling unit or has charge, care, or control of any premises, dwelling, or dwelling unit, as legal or equitable owner, agent of the owner, or is an executor, administrator, representative, trustee, or guardian of the estate of the owner.
    4. "Person" means any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institutions, bureau, or agency thereof, municipal corporation, county, city, or any legal entity recognized by the law.
    5. "Receiving property" means any property, including an individual unit of a multi- dwelling or multi-use property, that is adversely affected by noise transmitted by another property or from another unit within the same multi-dwelling or multi-use property.
    6. "Type A Property" means a property used for single family residential uses.
    7. "Type B Property" means a property used for any other conditional or permitted use allowed for residential zones.
    8. "Type C Property" means a property used for any other use allowed in Highland City, including but not limited to, retail, offices, repair, sports and fitness centers, restaurants, gasoline stations, and more.
2. Noise. The making and creation of unreasonable noise is hereby declared to be a public nuisance and may be abated, regulated, and controlled as such.
    1. No person shall emit, nor shall any person cause, allow, permit, or fail to control the emission of any noise source so as to exceed the maximum allowable sound pressure levels for the type of property from which the noise emits, when measured at the receiving property.
    2. Type A Property:
        1. Daytime: 10 dBA above ambient sound not to exceed 60 dBA.
        2. Nighttime: 5 dBA above ambient sound not to exceed 50 dBA.

3. Type B Property:
    1. Daytime: 10 dBA above ambient sound not to exceed 65 dBA.
    2. Nighttime: 5 dBA above ambient sound not to exceed 55 dBA.
4. Type C Property:
    1. Daytime: 10 dBA above ambient sound not to exceed 70 dBA.
    2. Nighttime: 5 dBA above ambient sound not to exceed 60 dBA.
5. The following shall be exempt from these regulations:
    1. Emergency events, equipment, and vehicles.
    2. Commercial or personal emergency power generators operating during power failure or outage.
    3. Fireworks and explosives in accordance with state and local regulations. iv. Heating, Ventilation, and Air Conditioning (HVAC) systems for residential use, if the system is in good repair and operating within manufacturer's specifications.
    4. City, school, or other governmental approved events.
    5. Snow removal equipment.
    6. Temporary or short-term use of equipment or machinery for construction, maintenance, or cleaning, during daytime hours.
    7. Other temporary exceptions may be granted with the approval of the City.

3. Lighting. For the purpose of this chapter, lighting shall be defined to be the artificial illumination of school athletic fields and commercial parking lots, but shall not include residential or municipal street lights. It is unlawful for any person, organization, association, or group to create or permit any outdoor, artificially created light to reflect on any adjacent residential property located within one thousand feet of the source of light, between the hours of ten p.m. and seven a.m.
4. Abatement. Abatement of nuisances created by noise or light shall be enforced by local law enforcement, or other means as may be at the city's option at the time of occurrence of the nuisance.
5. Permit. In order to accommodate special occasions, celebrations, competitions, performances, etc., exceptions to these conditions may be granted by special permit issued by the city council.
6. Farms and Farming. Whereas the agricultural enterprises of this area have existed, do exist, and are contributors to the rural nature of the community, it is not the intent of this chapter to create any undue economic hardship or community pressure that may cause or intend to cause the moving, closing or abandoning of the farming endeavor. The normal activities of the farming endeavor shall not be considered nuisances of noise or light.

HMC (Ord. 1995-6 §1 (part); Ord. 2006-11)

HISTORY
Amended by Ord. O-2021-10 on 5/4/2021

8.16.110 Use Of Dynamic Braking Systems

1. Dynamic Braking Systems.
    1. Defined. A "dynamic braking device" (commonly referred to as a "Jacobs brake," "Jake brake," "engine brake" or "compression brake"), means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.
    2. Use Prohibited. It is unlawful for any person to operate any motor vehicle with a dynamic braking device engaged, except for the aversion of imminent danger, within the Highland City limits.
    3. Exemption of Emergency Vehicles. Fire trucks and other emergency vehicles shall be exempt from the prohibitions of this section.

2. Penalty. Use of a dynamic braking system, as defined in this section, shall constitute a Class C misdemeanor and shall be punishable as set forth in Section 76-3-301, Utah Code Annotated (1953 as amended).

HMC (Ord. 98-9 §1)

HIGHLAND CITY

CITY COUNCIL AGENDA REPORT ITEM #5

DATE: June 21, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Kellie Bronson
Planner and GIS Analyst

SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Sports and Fitness *Legislative*

PURPOSE:

The City Council will hold a public hearing to consider a request by Highland City Staff to amend Chapter 10 Definitions in the Development Code to clarify permissible uses in the C-1 Zone, CR Zone, and Town Center Overlay relating to sports, fitness, and social dances. The City Council will take appropriate action.

BACKGROUND:

Several complaints from residents and business owners have led to the need to update the Development Code to clarify the definition of sports and fitness centers in commercial zones.

A development code amendment is a *legislative* process.

SUMMARY OF THE REQUEST:

1. The proposed amendment adjusts the permitted use in the C-1 Zone of “Fitness centers” to “Sports and fitness centers” to be consistent with the definitions section of the proposed amendment.

2. Social dance facilities are proposed to be listed as a prohibited use in the C-1 Zone, the CR Zone, and the Town Center Overlay.

3. The definition for ‘social dance facilities’ has been added as follows:

   Buildings or portions thereof kept or used for social or recreational dancing not part of an organized instruction or training program. Does not include dance studios, nor does it include schools or churches if the use of the school or *church as a social dance facility is occasional and incidental to the primary use of the building.*

4. The definition for 'sports and fitness centers' has been added as follows:

   Facilities used for physical instruction, training, conditioning, exercising, and sport activities.

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on May 25, 2021 and voted 6-1 to recommend approval of the proposed amendment. The one dissenting vote was concerned about the impact the on existing business. No one spoke in favor or opposition of the amendment.

ANALYSIS:

- Sports and fitness centers are permitted uses in the CR Zone and the Town Center Overlay. Fitness centers are permitted uses in the C-1 Zone.

- Resident complaints have created the need to address what is permitted in a sports and fitness center.

- Staff has concluded that social dances that are not part of an organized instruction or training program are not permitted and cannot be considered an accessory use for sports and fitness centers.

CITIZEN PARTICIPATION:

Notice of the public hearing associated with this meeting was published in the Daily Herald on May 15, 2021 and posted on the state and city websites May 13, 2021. No comments have been received.

FINDINGS:

The proposed amendment appears to meet the following findings:

- The amendment is needed to update the Development Code.
- The proposed amendment is consistent with the General Plan.

RECOMMENDATION AND PROPOSED MOTION:

Staff recommends that the City Council accept the findings and **APPROVE** the proposed amendment.

I move that the City Council accept the findings and **APPROVE** of the proposed amendment to Chapter 10 Definitions in the Development Code to clarify the permitted use of sports and fitness centers in the C-1 Zone, CR Zone, and Town Center Overlay as recommended by the Planning Commission.

ALTERNATIVE MOTION:
I move that the City Council **DENIY** case TA-21-05 a request to amend Chapter 10 Definitions in the Development Code to clarify permissible uses in the C-1 Zone, CR Zone, and Town Center Overlay relating to sports, fitness, and social dances: (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 CHAPTER 10 DEFINITIONS IN HIGHLAND CITY DEVELOPMENT CODE TO CLARIFY PERMITTED USES IN THE TOWN CENTER OVERLAY AND THE CR ZONE RELATING TO SPORTS, FITNESS, AND SOCIAL DANCES SHOWN IN FILENAME TA-21-05.

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 Planning Commission held a public hearing on this Ordinance on May 25, 2021 and

WHEREAS, the City Council held a public hearing on this Ordinance on June 1, 2021.

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

SECTION 1: **AMENDMENT** "3-4302 Uses" of the Highland City Development Code is hereby *amended* as follows:

4.3 C-1 Zone

3-4302 Uses

1. Permitted Uses.
    a. Accessory uses which are customary and incidental to the principal use of the property.
    b. Apparel, new and used
    c. Antiques, crafts, and collectible sales
    d. Art galleries and art studios
    e. Bakeries, retail only
    f. Education learning centers (i.e. Sullivan Learning Center)

g. Financial institutions, excluding non-charted financial institutions

h. Sports and ~~F~~fitness centers

i. Indoor recreational facilities

j. Laundry, cleaning, and dry cleaning establishments

k. Personal services such as barber, beauty shops, copy shops, mail shops, tanning salons, shoe repair, and tailor shops

l. Professional, administrative, business, and medical offices

m. Restaurants, excluding drive thru

n. Retail sales of new merchandise

o. Repair services for small appliances, bicycles, watches, musical instruments, and similar items.

p. Sporting goods equipment rental, sales, and service.

SECTION 2: **AMENDMENT** "3-4303 Prohibited Uses" of the Highland City Development Code is hereby *amended* as follows:

4.3 C-1 Zone

3-4303 Prohibited Uses

The following uses shall be prohibited in the C-1 Zoning District:

1. Thrift stores

2. Pawn shops

3. Sexually oriented businesses

~~3.~~4. Social dance facilities

~~4.~~5. Any use not expressly permitted in Section 3-4302.

SECTION 3: **AMENDMENT** "3-4352 Prohibited Uses" of the Highland City Development Code is hereby *amended* as follows:

4.35 CR Zone

3-4352 Prohibited Uses

In the C-R Zone, any use not expressly listed as a permitted use shall be deemed specifically prohibited including but not limited to the following:

1. Slaughtering of animals or live animal processing
2. Sexually Oriented Businesses
3. Call centers
4. Alcohol sales
5. Thrift Stores or Pawn Shops
6. Tattoo parlors, non-medically prescribed body massages, or body piercing shops, parlors or facilities
7. ~~6.~~ Social dance facilities
8. ~~7.~~ The following Ground Floor Uses shall not be located on a corner lot within the CR Zone:
   a. Office buildings for Professional Services which may include but not limited to:
      i. Financial Lending Institutions; such as banks, credit unions, cash lending institutions, or similar; or
      ii. Insurance institutions such as Insurance agencies, insurance brokers, or similar; or
      iii. Professional services; such as Architects, Engineers, Law offices, Medical Offices or Medical Uses, or similar; or
      iv. Real Estate Institutions; such as Mortgage Companies, Title Companies, Real Estate Brokers or agents, or similar; or
   b. Service oriented businesses; such as dry cleaners, hair or nail salons, gasoline islands, tax preparation services, or similar.

SECTION 4: **AMENDMENT** "3-4707 Prohibited Uses" of the Highland City Development Code is hereby *amended* as follows:

4.7 Town Center Overlay

3-4707 Prohibited Uses

In the Town Center Zone, any use not expressly listed as a permitted use or a conditional use shall be deemed specifically prohibited including but not limited to the following:

1. Slaughtering of animals or live animal processing
2. Sexually Oriented Businesses
3. Call centers
4. Alcohol sales
5. Thrift Stores or Pawn Shops
6. Tattoos or body piercing shops, parlors or facilities.
7. ~~6.~~ Social dance facilities

SECTION 5: **AMENDMENT** "10-102 Definitions" of the Highland City Development Code is hereby *amended* as follows:

10-102 Definitions

The following words, as used in this Title, shall have the meaning ascribed to them:

72. **Social Dance Facilities.** Buildings or portions thereof kept or used for social or recreational dancing not part of an organized instruction or training program. Does not include dance studios, nor does it include schools or churches if the use of the school or church as a social dance facility is occasional and incidental to the primary use of the building.

73. **Sports and Fitness Centers.** Facilities used for physical instruction, training, conditioning, exercising, and sport activities.

[all following sections renumbered accordingly, so prior 72 ("Start of Construction") becomes 74]

SECTION 6: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 7: **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 8: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from June 1, 2021 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, June 1, 2021
HIGHLAND CITY, UTAH

____

Rodney W. Mann
Highland City Mayor

ATTEST:

____

Stephannie Cottle
Highland City Recorder

COUNCILMEMBER	YES	NO
Timothy A. Ball	□	□
Brittney P. Bills	□	□
Kurt Ostler	□	□
Kim Rodela	□	□
Scott L. Smith	□	□

AGENDA NEXT

CITY COUNCIL AGENDA REPORT
ITEM #6

HIGHLAND CITY

DATE: June 1, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Rob Patterson
City Attorney
Nathan Crane, AICP
City Administrator/Community Development Director

SUBJECT: **RESOLUTION**: Adoption of the Orphan Property Disposal Policy
Legislative

PURPOSE:
The City Council will consider the adoption of the Orphan Property Disposal Policy. This policy outlines the process and procedures to designate parcels as orphan and the valuation of said parcels. The Council will take appropriate action.

BACKGROUND:
Over the last several months the City Council has been discussing the process and procedures for the disposal of orphan property. The proposed policy and code amendment on tonight's agenda reflects these efforts.

There will be one additional resolution for the Council to consider at the June 15, 2021 Council meeting that will complete this process. This will be identifying the properties for disposal for this year. The Council Committee is in the process of reviewing the requests from residents for inclusion of additional property for disposal.

DISCUSSION:
Under the direction of the City Council, staff has prepared 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.

The Policy establishes:

- Criteria for which to review property for potential designation as orphan property.
- Determining the valuation of the property.
- How and when the Council will consider the disposal of orphan property.

RECCOMENDATION AND PROPOSED MOTION:

Staff recommends that the Council approve the policy.

I move the Council **ADOPT** the Orphan Property Disposal Policy

ATTACHMENTS:

1. Resolution

ATTACHMENT 1

A RESOLUTION ADOPTING A POLICY REGARDING THE DESIGNATION AND VALUATION OF ORPHAN PARCELS OF PUBLIC REAL 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 finds that there are parcels of real property owned by the City, called "orphan parcels," that have issues of access, connectivity, usability, and location that render the parcels unsuitable for City purposes

WHEREAS, the City Council finds that these parcels are of a condition and location that normal auction or appraisal efforts difficult or unsuitable for disposing of the property, 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

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

1. The City Council declares that is the policy of Highland City to review and potentially surplus and dispose of real public property owned by the City without the procedures required for significant parcels of real estate, when the property meets the following non-exclusive criteria:
    a. Property should not be disposed of if it is part of a trail corridor, meaning the normal width of the trail and any required buffer areas, 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;
    g. Property to be disposed of should otherwise have issues regarding access, connectivity, usability, and/or location that render the parcels unsuitable for City purposes.
    h. The City Council shall designate by separate resolution those specific properties that are surplus orphan parcels that may be sold in accordance with this resolution and policy.

2. The City Council declares that is the policy of Highland City to determine the valuation of surplus orphan parcels as follows:
    a. The City Council shall review the county assessed value of different lots from different areas of the City;
    b. The lots will be chosen based on location, open space subdivision status, diversity, and size in order to obtain a reasonable, average, per square foot valuation;
    c. The City Council shall calculate the average price per square foot for the sample lots and apply a 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.
    d. The City Council shall then adopt by separate resolution the current valuation for orphan parcels. The resulting square foot value shall be used as the basis for the sale of surplus orphan parcels. The potential buyer may, at their own cost and expense, conduct an appraisal to challenge such valuation, which the City Council shall consider in deciding whether and on what terms to sell the parcel
3. The City Council shall review the orphan parcel properties and valuation annually at a council meeting after the first of the year, and then make any desired additions, removals, or other changes within 30 days after such meeting, after allowing submittals, requests, or comments from the public and other interested persons. The City Council may as part of such review do any of the following:
    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, or those resolutions adopted in furtherance of this resolution, 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 ADOPTED by the Highland City Council, June 1, 2021

HIGHLAND CITY, UTAH

____

Rodney W. Mann
Highland City Mayor

ATTEST:

____

Stephannie Cottle
Highland City Recorder

COUNCILMEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Kurt Ostler	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

HIGHLAND CITY

CITY COUNCIL AGENDA REPORT ITEM #7

DATE: March 2, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Rob Patterson
City Attorney
Nathan Crane, AICP
City Administrator/Community Development Director

SUBJECT: **ORDINANCE**: Amendment to the Municipal Code relating to the Disposal Orphan Property *Legislative*

PURPOSE:

The City Council will consider an amendment to Chapter 2.44 Disposal of Public Property relating to the process for the disposal of orphan property and repealing Chapter 12.32 Designation of Open Space Property For Disposal. The Council will take appropriate action.

BACKGROUND:

Over the last several months the City Council has been discussing the process and procedures for the disposal of orphan property. The proposed policy and code amendment on tonight's agenda reflects these efforts.

There will be one additional resolution for the Council to consider at the June 15, 2021 Council meeting that will complete this process. This will be identifying the properties for disposal for this year. The Council Committee is in the process of reviewing the requests from residents for inclusion of additional property for disposal.

DISCUSSION:

Under the direction of the City Council, staff has prepared an amendment to Municipal Code to streamline the process for disposal of orphan property. The amendment removes the requirement for notice, appraisal, and other procedures. This amendment also repeals Chapter 12.32 Designation of Open Space Property For Disposal as it is no longer needed.

RECCOMENDATION AND PROPOSED MOTION:

Staff recommends that the Council approve the proposed amendment.

I move the Council **ADOPT** the ordinance amending Section 2.44 Disposal of Public Property and repealing Chater 12.32 Designation of Open Space Property for Disposal.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING HIGHLAND CITY MUNICPAL CODE SECTION 2.44 DISPOSAL OF PUBLIC PROPERTY AND CHAPTER 12.32 DESIGNATION OF OPEN SPACE PROPERTY FOR DISPOSAL SHOWN IN THE OFFICIAL FILE.

WHEREAS, all due and proper notices of 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 Section 10-9a-205; and

WHEREAS, the City Council held a public meeting on this Ordinance on June 1, 2021.

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

SECTION 1: That Section 2.44 Disposal of Public Property of the Highland City Municipal Code is hereby amended as shown on "Exhibit A" attached hereto and incorporated herein.

SECTION 2: That Chapter 12.32 Designation of Open Space Property for Disposal is hereby repealed in its entirety.

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

SECTION 4: 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: This Ordinance shall be in full force and effect from June 1, 2021 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, June 1, 2021

HIGHLAND CITY, UTAH

____

Rodney W. Mann
Highland City Mayor

ATTEST:

____
Stephannie Cottle
Highland City Recorder

COUNCILMEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Kurt Ostler	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

Exhibit A

Section 2.44 Disposal of Public Property – Amendment
(May 27, 2021)

2.44.020 Definitions

For purposes of this chapter, the following definitions shall apply:

1. "Significant parcel of real public property" shall mean all real property excluding property that is being maintained and used by the public as a prescriptive use for public rights-of-way (roads, trails, etc.) and property designated by the City Council by resolution as a surplus orphan parcel.

2. "Personal public property" shall mean any property other than real estate, such as office equipment, vehicles, furniture, electronics, and maintenance equipment.

2.44.030 Disposal Of Real Public Property

A. The city shall have the authority to sell, lease, convey and dispose of real public property for the benefit of the city as provided by Utah Code Annotated Section 10-8-2, as amended.

B. Before the city may dispose of a significant parcel of real public property, the city shall:

   1. Declare the property surplus by resolution at a regularly scheduled city council meeting; and

   2. Shall publish a notice of the proposed disposition of real public property and of a public hearing before the city council to consider such disposition:

      a. On the Utah Public Notice Website created in Section 63F-1-701,; and

      b. Advertised on the Highland City Website,.

      (This defines "reasonable notice of the proposed disposition of a significant parcel of real public property" as required by Utah State Code.)

   3. Hold a meeting at which the city council accepts public comment on the proposed disposition.

   4. Direct the city administrator to cause the real public property to be appraised by a licensed real estate appraiser.

C. The city council may also authorize at its discretion and under such terms and conditions as it may deem desirable, fair and appropriate, considering intended use, property tax value, and the interests of the city, the sale, trade, exchange, or lease of any public property:

   1. Through public auction; or

   2. By bid; or

   3. Through the State Division of Surplus Property; or

   4. Any other method designed to best serve the interests of city residents and produce a fair return. Methods for the sale, trade, exchange, or lease of public property may include, but

are not limited to: listing with a broker, auction, private negotiations, or other processes or formulas that the city council determines are appropriate.

D. The city council may designate certain public property as orphan parcels, which parcels may be designated as surplus and disposed of without following the notice, appraisal, and other procedures for significant parcels of real public property. The city council shall designate such parcels and their valuation by resolution annually.

HIGHLAND CITY

CITY COUNCIL AGENDA REPORT ITEM #8

DATE: June 1, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Rob Patterson
City Attorney
Nathan Crane, AICP
City Administrator/Community Development Director

SUBJECT: **RESOLUTION**: Designating the Value of Orphan Parcels for 2021
Legislative

PURPOSE:

The City Council will consider a resolution designating the value of orphan space parcels for 2021. The Council will take appropriate action.

BACKGROUND:

Over the last several months the City Council has been discussing the process and procedures for the disposal of orphan property. The proposed policy and code amendment on tonight's agenda reflects these efforts.

There will be one additional resolution for the Council to consider at the June 15, 2021 Council meeting that will complete this process. This will be identifying the properties for disposal for this year. The Council Committee is in the process of reviewing the requests from residents for inclusion of additional property for disposal.

DISCUSSION:

Under the direction of the City Council, staff has prepared policy to address a method for determining the value of the property. Based on this method the value for orphan space parcels for 2021 is $2.74 per square foot.

RECCOMENDATION AND PROPOSED MOTION:

Staff recommends that the Council approve the resolution.

I move the Council **ADOPT** the resolution establishing the value for orphan space parcels.

ATTACHMENTS:

1. Resolution

ATTACHMENT 1

A RESOLUTION DESIGNATING THE VALUATION OF ORPHAN PARCELS FOR 2021

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

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.

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

1. The City Council designates the valuation of surplus orphan parcels as follows: Based on the average 2020 county assessed value of sample properties, at a 25% multiplier, the 2021 valuation of surplus orphan parcels is **$2.74 per square foot**.
2. This valuation shall be in effect for surplus orphan parcels designated as such by resolution 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.
3. The potential buyer may, at their own cost and expense, conduct an appraisal to challenge the valuation provided above, which the City Council shall consider in deciding whether and on what terms to sell the parcel.

PASSED AND ADOPTED by the Highland City Council, June 1, 2021

HIGHLAND CITY, UTAH

____
Rodney W. Mann
Highland City Mayor

ATTEST:

____
Stephannie Cottle
Highland City Recorder

COUNCILMEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Kurt Ostler	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

AGENDA

CITY COUNCIL AGENDA REPORT
ITEM #9

HIGHLAND CITY

DATE: June 1, 2021

TO: Mayor and City Council

FROM: Tyler Bahr, Finance Director

SUBJECT: **DISCUSSION:** Utah State Auditor's Fraud Risk Assessment
Administrative

PURPOSE:
The Council will discuss continued implementation of the State Auditor's Fraud Risk Assessment. This item is being presented for discussion only to fulfill requirements of the State Auditor's Office. Formal action will not be taken.

BACKGROUND:
The Utah State Auditor developed a Fraud Risk Assessment that outlines best practices for fraud detection for local governments. The Auditors office does not require, but recommends that cities do their best to implement these best practices. Cities are required to complete the assessment and present it to the City Council prior to the end of the fiscal year. The report must then be submitted to the State Auditor. In addition, the Utah Local Government Trust (the City's primary insurer) is considering completion of the assessment in underwriting. The City's score was not reported to the Trust, simply completion of the assessment.

This Fraud Risk Assessment and the best practices contained therein are different than the internal controls assessment done annually by our auditors. The Assessment is a questionnaire that awards points depending on the City's adherence to the best practices (see attachment). Last year, the first year of the assessment, the City received 55 points out of 395 possible, which the assessment classifies as "Very High" risk. Staff has worked to improve the City's adherence to the recommended best practices, with particular attention to improving separation of duties. As a result, the City's overall score increased to 245, which is classified as "High" risk.

Staff recommends further implementation of the assessment's best practices during the next fiscal year, including the following:

- Develop written policies as necessary
- All council members complete the State's online fraud training
- Promote a fraud reporting hotline

ATTACHMENTS:

1. Completed FY2021 Fraud Risk Assessment

Fraud Risk Assessment

Continued

*Total Points Earned: 245/395 *Risk Level:

Very Low	Low	Moderate	High	Very High
> 355	316-355	276-315	200-275	< 200

	Yes	Pts
1. Does the entity have adequate basic separation of duties or mitigating controls as outlined in the attached Basic Separation of Duties Questionnaire?	x	200
2. Does the entity have governing body adopted written policies in the following areas:		
a. Conflict of interest?	x	5
b. Procurement?	x	5
c. Ethical behavior?	x	5
d. Reporting fraud and abuse?		5
e. Travel?	x	5
f. Credit/Purchasing cards (where applicable)?	x	5
g. Personal use of entity assets?	x	5
h. IT and computer security?		5
i. Cash receipting and deposits?	x	5
3. Does the entity have a licensed or certified (CPA, CGFM, CMA, CIA, CFE, CGAP, CPFO) expert as part of its management team?		20
a. Do any members of the management team have at least a bachelor's degree in accounting?	x	10
4. Are employees and elected officials required to annually commit in writing to abide by a statement of ethical behavior?		20
5. Have all governing body members completed entity specific (District Board Member Training for local/special service districts & interlocal entities, Introductory Training for Municipal Officials for cities & towns, etc.) online training (training.auditor.utah.gov) within four years of term appointment/election date?		20
6. Regardless of license or formal education, does at least one member of the management team receive at least 40 hours of formal training related to accounting, budgeting, or other financial areas each year?		20
7. Does the entity have or promote a fraud hotline?		20
8. Does the entity have a formal internal audit function?		20
9. Does the entity have a formal audit committee?		20

*Entity Name: Highland City

*Completed for Fiscal Year Ending: June 30, 2021 *Completion Date: May 10, 2021

*CAO Name: Nathan Crane *CFO Name: Tyler Bahr

*CAO Signature: *CFO Signature:

*Required

Basic Separation of Duties

See the following page for instructions and definitions.

	Yes	No	MC*	N/A
1. Does the entity have a board chair, clerk, and treasurer who are three separate people?	x			
2. Are all the people who are able to receive cash or check payments different from all of the people who are able to make general ledger entries?	x			
3. Are all the people who are able to collect cash or check payments different from all the people who are able to adjust customer accounts? If no customer accounts, check "N/A".	x			
4. Are all the people who have access to blank checks different from those who are authorized signers?			x	
5. Does someone other than the clerk and treasurer reconcile all bank accounts OR are original bank statements reviewed by a person other than the clerk to detect unauthorized disbursements?	x			
6. Does someone other than the clerk review periodic reports of all general ledger accounts to identify unauthorized payments recorded in those accounts?	x			
7. Are original credit/purchase card statements received directly from the card company by someone other than the card holder? If no credit/purchase cards, check "N/A".	x			
8. Does someone other than the credit/purchase card holder ensure that all card purchases are supported with receipts or other supporting documentation? If no credit/purchase cards, check "N/A".	x			
9. Does someone who is not a subordinate of the credit/purchase card holder review all card purchases for appropriateness (including the chief administrative officer and board members if they have a card)? If no credit/purchase cards, check "N/A".	x			
10. Does the person who authorizes payment for goods or services, who is not the clerk, verify the receipt of goods or services?	x			
11. Does someone authorize payroll payments who is separate from the person who prepares payroll payments? If no W-2 employees, check "N/A".	x			
12. Does someone review all payroll payments who is separate from the person who prepares payroll payments? If no W-2 employees, check "N/A".	x			

* MC = Mitigating Control