



HIGHLAND CITY

HIGHLAND CITY COUNCIL AGENDA

Tuesday, July 6, 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: 853 0302 1178



Email comments prior to meeting: council@highlandcity.org

6:00 PM WORK SESSION – DR HORTON

7:00 PM REGULAR SESSION

Call to Order – Mayor Rod Mann

Invocation – Mayor Rod Mann

Pledge of Allegiance – Council Member Kim Rodela

1. UNSCHEDULED PUBLIC APPEARANCES

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

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 – June 1, 2021

b. **REDUCING THE SIZE OF THE LIBRARY BOARD** *Administrative*

City Council will consider a recommendation from the Library Board to reduce the number of Board seats to seven. The Council will take appropriate action.

c. **AGREEMENT: WORKMAN FARMS, LLC UTILITY EASEMENT** *Legislative*

The City Council will consider a request for an agreement with Workman Farms, LLC for a perpetual utility easement to facilitate the construction of the Victor View Gravity Sewer line project. The Council will take appropriate action.

3. **PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – ACCESSORY DWELLING UNITS** *Legislative*

The City Council will hold a public hearing to consider a request by Highland City Staff to amend Section 3-624 Accessory Dwelling Unit to be consistent with House Bill 82. The City Council will take appropriate action.

4. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – CONDITIONAL USE UPDATE *Legislative*

The City Council will hold a public hearing to consider a request by Highland City Staff to amend several sections in Chapter 4 Conditional Use Procedure in the Development Code to be consistent with House Bill 409. The City Council will take appropriate action.

5. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – PARCEL BOUNDARY ADJUSTMENTS, LOT LINE ADJUSTMENTS, AND PLAT AMENDMENTS *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 related to parcel boundary adjustments, lot line adjustments, and plat amendments to be consistent with House Bill 409. The City Council will take appropriate action.

6. AGREEMENTS: PROPERTY PURCHASE AGREEMENT WITH GREGORY ROWE AND REIMBURSEMENT AGREEMENT WITH UTAH COUNTY *Legislative*

The City Council will consider a request for a property purchase agreement with Gregory Rowe and reimbursement agreement with Utah County to facilitate the purchase of ± 0.158 acres of property located at the southwest corner of SR92 and North County Boulevard. The Council will take appropriate action.

7. DISCUSSION: MOUNTAIN RIDGE ALL ABILITIES PLAYGROUND

The City Council will discuss the options for equipment to be placed in the Mountain Ridge all abilities playground. The Council will take appropriate action.

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. Future Meetings

- 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
- August 3, City Council Meeting, 7:00 pm, City Hall
- August 11, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- August 17, City Council Meeting 7:00 pm, City Hall
- August 24, Planning Commission Meeting, 7:00 pm, City Hall

9. CLOSED SESSION

The City Council may recess to convene in a closed session to discuss pending or reasonable imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205.

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 1st day of July, 2021.

Stephannie Cottle, City Recorder

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



HIGHLAND CITY

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Tuesday, June 1, 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: 846 2415 9787

 Email comments prior to meeting: council@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Mayor Rod Mann

Invocation – Kathy Harding

Pledge of Allegiance – Andy Spencer

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 Kathy Harding and those in attendance were led in the Pledge of Allegiance by Council Member Brittney P. Bills.

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS

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

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, Assistant City Administrator Erin Wells, Engineer EIT Mike Burns, Planner & GIS Analyst Kellie Bronson, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, City Engineer Andy Spencer, PI Water Superintendent Jeff Murdoch

OTHERS PRESENT: Jon Hart, Kathy Harding, Kristen Giles, Peter & Penny Kilger, Neil Schwendiman, Tavis Timothy, Kris Johnson, Brandon Nish, Braydon Giles, Aaron Welcher

1. UNSCHEDULED PUBLIC APPEARANCES

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

Council Member Ball stated he wished to make some comments about the Fire, Police, and Emergency Services. He mentioned that he had never thought he would be in need of their services but stated that he took care of his 95-year-old elderly father. His father had an issue at 2:00 a.m. and Council Member Ball had to call the EMS.

He explained that the EMS had been courteous, respectful, fast, and treated his father like a prince. He continued that they deserved an 11/10 rating. He thanked the EMS for their work and service.

Brandon Nish: thanked the Council for their service to the City. He mentioned wanting to discuss the disposition of open space currently being contemplated by the City. He explained that he was excited to hear that this was an opportunity. He shared his personal thoughts to help refine options. He explained that he used to live in the ViewPoint area and had a 35 foot space between his backyard and that of his neighbors. He explained that because of the nature of the piece of space, the land was not used. He added that a fence had been required and created a wasted space. He added that grass was dead in the summer and weeds began coming through. While his own yard was well maintained, on the other side of the fence, the City's land was unattractive. He added that he had now moved and was faced with another piece of land between his backyard and that of his neighbor. This created a similar issue with a piece of land that provided no benefits to the community. He explained that he wanted to leave the land natural but added that sometimes, weeds had to be destroyed as they ruined nearby yards. He continued that he wished to express that this was a great thing for the City to do and that each case had be looked at individually. He stated out that neighbors should be allowed to give input and consent. He went on to mention that the pricing of the land could be prohibitive and that no one would purchase at that price.

Braydon Giles explained that he had emailed the Mayor. He thanked him for responding. He added that he seconded exactly what Mr. Nish had stated.

2. PRESENTATIONS

a. North Point Solid Waste Special Service District – Neil Schwendiman

Neil Schwendiman presented a new software program which would help educate residents regarding solid waste.

Mr. Schwendiman explained that the software could help residents know their waste schedules and what waste went where. He presented Recollect and Recycle Coach, which was used by the City of Orem. The first software he presented had an imbedded widget for a city's webpage. He explained the options for users to check their My Schedule tab or to figure out what went where. Mr. Schwendiman typed in an address which pulled up a calendar and showed what days garbage and recycling were collected with optional text reminders, phone call reminder, or Twitter reminder.

Council Member Ostler explained that he had received a text from waste services that they would be off on Monday. He asked whether the app was tied to Waste Management and was answered that it was not. Mr. Schwendiman stated that in Washington County, waste was picked up by Republic Services and continued pointing the different features offered. He added that one could put other events such as household waste events. He stated that the site allowed to select a specific material and find out where it should be discarded with every option to discard. After discussing the basic features of both apps, Mr. Schwendiman showed the City of Orem's app. He mentioned that further questions about what should be thrown away could be answered through these apps. He explained that the district had looked into several options, and the cost for the district would be \$15,000 for the entire year. Mr. Schwendiman explained that broken down by population for each city, without the District's participation, Highland would have to pay \$500 in total. He concluded that the Council should decide if that was something they would like to see done and report back to the Board. He stated that if there was enough interest in the district, the app would be pursued. He added that he would leave some information if the City wanted to go out on its own to find similar programs.

Council Member Smith said that he always had to ask his wife for what to recycle. He mentioned that it would be nice to have this program and that it was not excessive in terms of cost. He asked whether the District would contribute a portion of the cost. He was told that the amount the District would contribute had not been decided.

Mr. Schwendiman explained that in the case of Washington County, all the cities were under the same contract for the collector. He continued that he managed this system and could pull a lot of statistics to know the data. In the case of Highland, because there were several contracts, someone would need to be designated to manage the information. He stated that the set up required in the beginning took the most amount of time.

Mayor Mann said that he would like a reminder on recycle day.

Council Member Rodela explained that she had daughter who had a business taking garbage out and would love that reminder.

b. Water Update – Jeff Murdoch

Jeff Murdoch will present the current water situation as it relates to pressurized irrigation for Highland City.

Mr. Murdoch provided an update on Pressurized irrigation. He stated that the water was very low because of the dry year. Mayor Mann had requested residents to postpone the irrigation season until the 1st of May. He stated that it had been helpful. The first graph showed that the area was in exceptional to extreme drought. He stated that the mountains were already quite bare. Mr. Murdoch showed a flow chart of a testing station in the canyon: the flow meter read every ½ hour. He showed data from 2015 to 2021 and stated there had been some good years and some bad years. He further explained that the area was in the worst year ever and continued that the area was not experiencing any high runoff. He stated that some years the City had 350 cfs in the canyon which meant there was flooding and stated that the City was at 1/3 of what it had had last year.

Mr. Murdoch's next graph showed the month of May with median. The following graph was list of sources showing how the City had used each of them in the past, and what wells the City needed to use. The year prior, the City had used stored water from Jordanelle and Deer Creek though he mentioned that the prior year had been mild.

Council Member Ostler asked whether the irrigation from the canyon served American Fork/Lehi. He was told it was the case. He continued stating that CUP/Deer Creek should come out of the Canal or other diversion plans in the City. Mr. Murdoch explained that the total acre feet came from all sources combined. Council Member Ostler stated that the City was using more water than the year prior despite the conservation messages.

Mr. Murdoch explained that smart meters had been helpful in the past as it helped people pay attention and cut back on their water consumption.

Council Member Ostler asked whether a forecast had been done for 2021. He added understanding this would merely be a guess but added that it was important as the City was having only 30% of what it got in prior years. He continued that the irrigation should be lowered and asked whether the City would be okay. Mr. Murdoch stated that he anticipated 3000-acre feet from Lehi irrigation in 2021. He continued that if the flow continued its trend, there would be a difference of 5000-acre feet to make up for. He added that this could come from storage and wells.

Mayor Mann stated that another option was to use less water.

Mr. Murdoch moved to the storage and allocation, which he referred to as the bank. He explained that these were the water shares the city held: Provo full, Provo late, Highland Conservation, CUP. These stored sources could be brought in. He mentioned that the water could be carried over for a certain number of years and added that the reservoir could not diminish. The allocation for the year was 4,374-acre feet. He continued that having talked

with some of the Provo River Water Users members, there would be only 80% of that. And added that he had shot for 75% and mentioned that the 2021 goal was to not use any of the holdover water which amounted to 868-acre feet. He explained that Highland had used some of their holdover water but stated that most cities around Highland had used all their holdover water the year prior. He also added that 2018 had been a drought year, and Highland had used 4,826 that year.

Mr. Murdoch moved on to the irrigation application rate for the State of Utah water users. The data had been collected from cities that were monitoring their users. He stated Saratoga Springs had the least usage and went to Hurricane which had a much hotter climate and higher water usage. He added that some test meters had been installed throughout the town. These meters had helped compile the application rate which was at 6.2. He added that compared to the rest of the cities, this rate was high. He acknowledged that Highland used a lot of water and stated that some conservation would show a decrease in consumption.

Mr. Murdoch discussed a conservation strategy. He explained that holdover water needed to be preserved in the event that the City did not have a good winter in 2021-2022: the water would be needed. He continued that the City was considering a 25% reduction which seemed reachable.

Mr. Murdoch explained that some studies had shown that even with such a reduction, there could be green lawns, flower, and trees. He explained that any brown spots could be hand watered and that instead of 30 minutes of watering, 22.5 minutes would suffice. He stated that though this was not a big change, it could have an impact. Mr. Murdoch continued that this would be pushed to the public and that the City had handed out flyers regarding pressure issue. They had done the same the year prior and had seen a 15% decrease in usage. He added that the "Slow the Flow" website was a great resource as well. .

Council Member Ostler mentioned that residents were encouraged not to water between the hours of 8 a.m. to 8:00 p.m. and asked whether there were any savings to be had when not watering during these hours. Mr. Murdoch explained that the myth had often been that watering during the hottest hours meant the water evaporated. He stated that while this was true, it also depended on the sprinkler systems and heads used: mists would evaporate, but larger water heads would not evaporate as much. He did agree that watering during cooler hours and on days with less winds was better.

Council Member Smith stated that the City had spent a lot of its culinary water reserves. He explained that he was of the opinion to encourage residents not to use culinary water for brown spots. He asked whether the culinary water supply was that secure that people could use it for brown spots. He was told that some used the PI system for brown spots. Mr. Murdoch explained that this recommendation to water brown spots by hands was intended for people to use PI water. Council Member Smith stated that he knew a lot of people who used culinary water for the brown spots in their lawns.

Council Member Smith stated he had a friend who worked for CUP. He explained that his friends had been planning for years to have a drought year that if residents conserved water, things would be okay. He continued that if there were two or three more years as dry as this one, there would be issues.

Mr. Murdoch explained that the City was planning in order to get ahead of the game. He continued that the City had holdover water and was in a good situation. If there was a reduction through conservation, the City would be fine for three to four years.

Council Member Rodela stated that she appreciated all the planning and mentioned that the City Council supported conservation strategies suggested by Staff. She added that these were all great strategies and that the Council could post on social media as well as.

Council Member Ostler stated that there was a lot of inertia and stated American Fork who had attempted the 25%. He continued by stating that Lehi recommended residents to only water their lawn twice a week. He stated that the Council did not know what would happen in the future.

c. Legislative Updates – Brady Brammer

Representative Brady Brammer discussed with the Council state level issues affecting Highland City.

Mr. Brammer explained that this had been a very difficult year for law enforcement but stated that Chief Gwilliam was doing a great job. He continued that the department had done well on the budget and that even without the stimulus funding, the department would have come above the line. He mentioned that Utah was the only state who had increased education funding. He stated that ARPA funds would take some time to be available because regulations were being created as cities were receiving money. He explained that the City had created buckets for areas they knew could receive those funds and then created grant programs to fund the items. He explained that one of the largest programs was water infrastructure and stated there would be significant investment in water conservation infrastructure state-wide, waste, and water treatments programs which had been underfunded.

Mr. Brammer stated that he knew the Council had been receiving emails regarding Blue Bison. He explained that if Blue Bison continued to run up against city councils that were not cooperating with their developments, it may make a run to the State. He continued that if the Council faced such a situation, they should contact him. He stated that this was a common tactic for larger developers.

Mayor Mann asked about ARPA money and whether the grant programs were intended for cities to apply. Mr. Brammer stated that some of the programs were meant for cities but added that the buckets had been created and grant programs would be set up by administrative bodies as they could. He added that the grant programs were still evolving, and that Staff was receiving regulations from the Federal Government. He explained that it was important to use these for infrastructure since our children were going to be paying for it regardless.

Mr. Brammer explained that Staff was still working on water groups regarding Utah Lake Authority bill. He continued that the City did not have an entity that was authorized to act on behalf of the lake wholly. Council Member Rodela stated that for water conservation, the City had applied for meters and that it planned to apply for meters again. She further asked whether Blue Bison would come to the State when facing an issue, and whether the State would back up the City. She continued that there were some bills that she was passionate about. In these cases, she would contact Mr. Brammer who followed up in ways that were amazing and transparent. She added that he had a newsletter and should be followed on social media.

Council Member Ostler discussed road fees and usage fees. He stated that there was a bill going through that seemed to have been stalled. Mr. Brammer explained that he had talked to Cameron Diehl, who represented the Leagues of Cities and Towns, and had asked him not to run that bill. He mentioned that he disagreed with the path the League had taken but would not force a solution. The bill was on hold. He continued that if the Council saw legislative needs that needed to be addressed at the State level, they should contact him during the summer as it was a better choice than in the Fall. He stated that one could only get a certain number of bills drafted. As a result, there were bills that would never get drafted unless they were submitted early enough. He continued when it came to City needs, earlier was better. He mentioned that his Staff had left 200-300 bills undrafted the past two to three years. He added that 1/3 of the bills requested never became drafted.

Council Member Ostler asked whether there had been anything new regarding affordable housing as the City had tried addressing the issue with accessory apartments. Mr. Brammer stated that there was nothing new there. He mentioned that there might be additional attempts to address affordable housing as there had been increases in the amount of laborers that can work on a home. He also added that the State had gained a lot of population. Mr.

Brammer mentioned the Accessory Dwelling Unit issue. He explained that he had contacted the bill sponsor early to address the parking component. If not handled correctly, it would kill the neighborhoods due to safety hazards created by on-street parking. Mr. Brammer explained that this bill was not popular with city councils. He mentioned that in 1980 the average was 4.3 persons per household but dropped to 3.8. The ADU legislation would take it to 4.2. He stated that when thinking about a common employee trying to find housing, this would be a band-aid.

Council Member asked how the City could respond to Blue Bison. Mr. Brammer explained that he had not seen anything come through, though he had seen a few developers make that play. He explained that often times, this was meant as a warning to councils. He explained that this would depend on how good the developer's lobbyist was and how they structured their plan. On the last day of the 2020 session, a developer was able to obtain an annexation. He continued that this particular annexation got through though it should not have and added that the legislation had come back in special session and repealed the annexation. He mentioned that this was the kind of play the City should watch for.

Mayor Mann asked whether, in the instance Blue Bison, legislation would be passed requiring cities to connect roads and sewers. Mr. Brammer stated that thus far, the City had been able to say no as it could not support that infrastructure. He mentioned that he did not want to be forced by Blue Bison. Council Member Smith asked about water conservation, issues of pressurized irrigation and added he was concerned about long-term culinary water needs. He stated that another developer had purchased property around Micron and wanted to build 2400 residences, which was the equivalent to half the current population. He asked what was happening at the legislative level to make sure cities had enough culinary water. Mr. Brammer stated, in regard to water rights, you had to use your water rights to maintain them. He continued that some cities had farming water rights and used them to make sure they were not taken away. He explained that a couple of years ago, a bill had been passed regarding water banking. He explained that this was a different approach to handling water and one of the good compromises he had seen in the State. He added that water was a complicated system that ran counter to how one thought it should: take some water, bank it, and allow others to use it. He went on to say that the majority of water was for agricultural uses and that engineers could pull extra water down to cities if needed. The structural issue was the Colorado River Water Compact which had been overestimated by 15M cubic feet. Consequently, 7.5 had been allocated to the upper and 7.5 to the lower basin states. There now was a re-negotiation. The Colorado River Water Authority had been formed the year prior to provide tools to negotiate and maintain water rights. He continued that the negotiation was almost like a piece of litigation. He argued that it was too bad this had not been started years ago as it would pay out in protecting water. He further mentioned that the water community had been active, but there was maintenance required to ensure growth.

Council Member Bills stated that we needed to continue to watch out for times when state told cities what to do in terms of billboards, housing, voting, etc. She added that it would be helpful to receive specific legislative updates early in the session and stated that she believed most decisions should be made at the local level. She explained that she had been caught off guard by the Utah Lake Authority bill and that better advocacy could be done if the Council knew ahead of time. Mr. Brammer explained that he would come back at the beginning of the session to discuss what he was planning to run. The first week of January, he went on, was dedicated to caucus meetings which was the time when he could see the structure of where things were going. He continued that by this point, the House Leadership had seen all the bills and knew what the hot issues were. The week before the session would be a good time to meet with the Council. He stated that there often were late bills and added that the Utah Lake Commission, had not provided the drafted bills until 2-3 weeks into the session.

Council Member Bills thanked Mr. Brammer for all he did.

d. Introduction of New City Engineer - Andy Spencer

Andy Spencer will be introduced as the new City Engineer/Public Works Director.

Mr. Spencer introduced himself and explained that it was his second week. He mentioned that he had graduated from BYU as a Civil Engineer and was licensed in the state of Utah. Initially, he had worked as a consultant engineer and had then worked for American Fork. Subsequently, he had joined a private development firm. He stated that he was excited to be here and explained that he had grown up in North Utah County. He went on to say he was learning quickly about Highland and had a substantial familiarity with cities, agencies, and water boards. Council Member Rodela asked whether Mr. Spencer was a Cougar fan. He answered that he was a Cougar fan though he loved all the universities.

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.

Council Member Scott L. Smith MOVED that the City Council approve consent items 2a b, and c.

Council Member Kim Rodela SECONDED the motion.

City Engineer Andy Spencer explained that Staff would have a small award during the next council meeting. He added that seal coating and preservation would happen over the summer while trail maintenance would take place in the Fall around the Highland Glen Park area.

The vote was recorded as follows:

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

The motion passed 5:0.

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.

Planner & GIS Analyst Kellie Bronson explained that the amendment was meant to bring the Development Code into compliance with Municipal Code. She continued that the meeting had taken place on May 4th with the City Council which had approved the municipal code amendment. Planner & GIS Analyst Bronson mentioned that the amendment aimed at separating properties into type a, b, and c properties. She stated that decibel levels for each type had been designated as well as defining what a nuisance was. She mentioned that this would create the ability to enforce noise complaints and that development code in every commercial zone now had a section describing the details. She stated that the threshold was 65 decibels for all commercial zones but that in the town center zone, that number was measured at the source. She stated that this had been an issue and that the amendment had taken all the declared decibel levels out and referenced the section of the municipal code. The Planning Commission held a public hearing and recommended approval with minimal concerns about enforcement. She mentioned that the appropriate notices had been sent out regarding this public hearing.

Council Member Ball asked whether measurements were instantaneous or over a period of time. At the source, a baby could cry at 90 decibels and an anonymous neighbor could call in and subject care takers to fine or prosecution. Planner & GIS Analyst Bronson explained that there was no measurement at the source, only at the receiving property. The maximum was 60 decibels in residential, she added. She continued that the ambient sound would also be taken into consideration, with 10 extra decibel level above the ambient noise. Council Member Ball explained that he did not like this part of the amendment. City Attorney Rob Patterson explained that the definition of noise was tied to what was unreasonable and added that a baby crying was not unreasonable. He continued that the Police would have to enforce which was not simple. He explained that the amendment would provide some standards. Mayor Mann mentioned that the measurement would not be instantaneous, because a noise would need to be repeated to be verified. City Attorney Rob Patterson provided the example of people speeding to illustrate the amendment. He stated that the noise generated by a part would be enforceable. Council Member Ball explained that he understood the necessity of the ordinance and was comforted by the addition of the word reasonable. Council Member Rodela stated that she was fine with the ordinance. She did not imagine that this would be enforced with a decibel reader, but rather would be used as a backup. Chief Brian Gwilliam stated that the police did not have any decibel meters and that the issue with noise was that it was subjective: enforcement would be by report only. When it came to compliance, he added, an ongoing issue would be brought to the Council.

Council Member Ostler explained that some residents had complained about motorcycles jumps in a backyard, which created dust and noise. He asked whether the police would get notified and whether there would be a warning or ticket. Chief Gwilliam stated that this was progressive starting with the least amount of enforcement, doing something like talking to offenders followed by more involvement. Council Member Ostler asked what would happen if there were complaints about fireworks. Chief Gwilliam stated that this would depend on circumstances. Council Member Smith asked what fines would be imposed if things escalated. Council Member Ostler stated that the ordinance did not specify a particular penalty, therefore, the default was a potential Class B misdemeanor. City Administrator Nathan Crane explained that zoning enforcement was all about compliance. The police were not there to issue citations. There was enforcement when needed, but 90% of cases did not even make it to city prosecutor. The goal, he went on, was to achieve compliance and to work with property owners which was much better than handing out tickets. Dealing with noise, the Police looked for patterns of behavior. Council Member Smith explained that the changes in noise ordinances were due to some facilities having dances

and stated that this ability would be taken away. He continued that the City had, however, big exemptions for schools. He added that one extreme had been taken away and that he wanted to know the steps to enforce. Council Member Bills explained that the City did not intend to be heavy-handed but wanted to have consequences when noise became a problem. She stated she was in favor of the amendment.

Mayor Rod Mann opened the public hearing at 8:23 pm

Peter Kilger explained that decibels were in logarithmic scales. Consequently 40 to 50 was not a 20% increase, it was 3 times as loud.

Zfullthrottled (online): Mr. Z. stated that the individual was allowed to know their accuser, and that the Council should not make arbitrary laws that were stupid. Mr. Z was informed that the City of the accuser became the accuser in code enforcement. Zfullthrottled stated that if an individual filed a complaint, the person had a right to face their accuser. Mr. Z. added that if the penalty was a misdemeanor, a person definitely had the right to face their accuser. He was concerned about more laws were being created that could not and would not be enforced. He was told that the update would help the City Council enforce when it became necessary. Mr. Z. stated that he was on his way to the meeting as this was inappropriate. Mayor Mann stated that the City would never take an action until it had witnessed the problem. At which point, the City became the accuser.

Mayor Rod Mann closed the public hearing at 8:26 pm

Council Member Brittney P. Bills MOVED 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.

Council Member Kim Rodela SECONDED the motion.

Tim: Regarding commercial zones, but just discussing residential zones, this amendment is just for dev code pertaining to commercial zones. As long as it precludes residential.

The vote was recorded as follows:

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

The motion passed 5:0.

5. 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.

Planner & GIS Analyst Kellie Bronson explained that the amendment specified that sports and fitness centers were permitted in zones C-1, C-4, and the town center overlay. She stated that because of resident complaints and participation in Council meetings, the definition of sports and fitness centers had to be revised and the intent of permitting these centers in these commercial zones clarified. She added that one use had been prohibited, that of social dances. She also mentioned that the proposed amendment defined social dances and social dance facilities. She continued that in the C-1 zone, the definition had been changed from fitness center to sports and fitness centers. She went on to say that social dance facilities were defined as anything that was not organized instruction as a fitness activity. She finished by explaining the definition of sports and fitness as training, conditioning, exercising, and sport activities. This had been presented to Planning Commission on May 25, 2021, with a public hearing. The Planning Commission recommended approval and Staff had not received any correspondence.

Mayor Rod Mann opened the public hearing at 8:31 pm.

There were no public comments.

Mayor Rod Mann closed the public hearing at 8:31 pm.

Council Member Ostler explained that the City was doing a Footloose ordinance. The City Council was banning dances.

City Attorney Rob Patterson explained the prohibition did not apply to residential zone.

Council Member Rodela clarified that the ordinance did not include schools and churches and asked if this was some form of discrimination. There were exceptions for schools and churches even though they were not zoned for this use and no other facility was being provided with an exception.

City Attorney Rob Patterson explained that based on the Council's discussion, it sounded like this was the direction to take. He mentioned that part of the process had been to define what sports and fitness centers were, what dances were, as well as where dances would be allowed. Council Member Rodela asked whether there were any legal issue allowing dances in some places and not others. City Attorney Rob Patterson stated that as long as the City was not discriminating against a certain person or protected class of people, there should not be.

Mayor Mann observed that school and churches were typically in residential zones and stated that the City did not necessarily need to create this exclusion because of schools.

Council Member Ostler stated that there was a facility called Just Dance on SR 92. He explained that they taught dance but might also have dances. He stated there was a social aspect and discussed the difference with commercial zones. He asked about a dance at the assisted living center and whether the space would be violating the ordinance.

City Attorney Rob Patterson explained that if that space decided to host a public dance that anyone could join in an unstructured, "clubesque" way, there would be a violation, unless the space was in a residential zone. He explained that the City already prohibited uses that were not specifically allowed. Dances were already not a permitted use. He concluded that the amendment was meant to clarify the ordinance, not change it.

Council Member Bills stated that a few months prior, someone had applied to open a reception center and added that the Council had refused based on allowed uses. She asked about the definition of reception centers versus a facility calling itself something else but doing receptions. She added this seemed inconsistent as the Council was letting a different facility that called itself something else hold the same type of event.

Council Member Smith explained that The Pointe, a dance instruction studio in the commercial zone, could have performances. He asked about the possibility of a social dance. He was answered that they can have performances of their dances, but not a social dance. City Attorney Rob Patterson asked whether the studio had been opened for social dances. He stated those performances were not social dances: they were an organized event which made them a permitted use.

Council Member Bills stated that she was concerned about receptions centers and the required parking as well as social dances and the noise issues.

Council Member Rodela explained that the ordinance made more sense with the clarifications about what could be done in residential zones.

Planner & GIS Analyst Kellie Bronson explained the zones as CR-C1 and Town Center. She stated that sports and fitness centers were not allowed in the PO zone or the residential and professional zone. They were only permitted in the three aforementioned commercial zones.

Mayor Mann clarified the zones. He added that when it came to compliance, Staff should be talking with them. As an example, Norton, to check if there were things that had been scheduled. Council Member Ostler explained that since the ordinance would affect them, their events could be grandfathered in until the end of the year. He added that some of these issues were brought on by the situation created by the pandemic as dances and schools were shut down.

Council Member Smith stated that there had been complaints about businesses having social dances. He added that there were also issues of parking and stated that there had been consideration of banning the business being banned from doing social dances. He explained that he would have a difficult time banning social dances.

Council Member Ostler explained that the noise ordinance was trying to address some of these issues. He asked whether during performance dancing the issue was the dance, or the noise. He continued understanding that parking would be an issue and asked whether the issue was the type of clientele renting the facility.

Mayor Mann stated that the complaints included noise, things happening in parking lot, and destructive behavior. When the Council had approved a sports and fitness center, it was not a reception center or a social dance center. The ordinance, he went on, clarified the uses that were allowed. The problem had persisted and unfortunately, the facility had not been told this use was not allowed, the scheduled activities had been allowed to continue. When the Council approved a sports and fitness center, it did not approve a dance hall, a restaurant, or a repair shop. The amendment was meant to clarify what was exclusively allowed.

Council Member Bills asked whether it was better to allow reception centers or whether it was a different use than that. She added that the amendment was inconsistent. Council Member Smith stated that he was not opposed to a reception center if there was enough parking. He stated that the proposed reception center had been on the border of residential and thus caused concerns about parking and noise. He added that there were lovely reception centers throughout the City and that maybe the Council should work with the business a little and not go to the point of banning. He stated that there were no other places big enough for social dances.

Mayor Mann stated that if the Council wanted a social reception center, it was possible to prevent it from going in any of the three aforementioned zones. He added that the code could be amended to allow that reception center. However, the ordinance being discussed stipulated that a sports and fitness center was not a dance hall.

Council Member Ostler stated he understood that dance centers should not be in town center because of residential use but continued he was not sure about adding the other zones.

City Administrator Nathan Crane listed several businesses and the zones in which they were. He explained the PO Zone and PD District. He was asked what the zone was next to the Quick Quack and was told that it was a CR and PO. The reception center had had to deal with amending the code to allow reception centers in PO district.

Council Member Kim Rodela MOVED 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, if it becomes an issue to work with the owner for enforcement.

Council Member Brittney P. Bills SECONDED the motion.

The vote was recorded as follows:

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

The motion failed 3:2.

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.

City Attorney Rob Patterson gave an overview of the next three items on the agenda: General criteria designating surplus orphan parcels; Annual review and price and process; Concerns on language on criteria. He mentioned that nothing was set in stone and that the Council could consider different factors as this was a legislative policy decision.

The first portion, he explained, concerned the designation of orphan parcels, the cost, and the window of time residents could come and comment or ask for parcels to be designated. He stated that the entire process was outlined as both a resolution and a policy. The language and criteria had been updated or added. Each decision to sell property owned by the City was a legislative one.

Mayor Mann clarified that this was why the language “meets the following non-exclusive criteria” had been added.

City Attorney Rob Patterson explained that eight factors had been listed regarding what property could be sold. He added that the Council had discussed them though the Council might want to add others. The document was also meant for residents to know the criteria. He stated that it did not bind the City but was policy.

Council Member Ostler stated that in the past the process had been resident-led and that residents were supposed to gather signatures. Once gathered, the signatures were brought to the Council and had to amount to represent 70% of residents in the plat.

City Attorney Rob Patterson explained that at the time it was proposed, the Council had wanted the decision to reflect the wish of the majority and came down as the subdivisions became larger. Council Member Ostler stated that if neighbors wanted to buy a parcel, they should be notified to give them the opportunity to purchase.

City Attorney Rob Patterson explained there was no strict requirements going forward. He continued that once several parcels became available and someone applied, there would be a requirement of checking with other neighbors. Each case would then be considered one at a time. He explained that the point was to remove the petition process which was divisive. He explained that this was not an exclusive process, and that the Council could instruct Staff to put out a notice. Leaving the process open-ended, would allow the Council to examine each case based on its own merits.

Council Member Ostler mentioned that one of the concerns brought up in comments was plat amendments. He stated that when a person came in a subdivision, they could go on the Utah County Web site and find a plat that had been dedicated as open space. He explained that there was a concern about creating liability issues as the plat recorded had been amended and would not look like a plat that could be purchased.

City Attorney Rob Patterson explained that the open issue was plat amendments, generally, going to open space. He continued that when the City sold a plat, it sold the lot. Residents could ask the Council to approve the amendment so their lot encompassed the open space, otherwise it would be two parcels with the same owner. The second issue, he went on, was what would happen if the City sold property that had been given in order to induce the City to approve a lot. He stated that this was a policy matter and remained the Council's decision. An application had to meet city code at the time during which it came in. In terms of legality, this was not an issue that the City had sold off lands that had been set up as open space. Open space, that is not usable could be handled differently.

Council Member Ostler started from the assumption that the City had space that was usable behind residents' backyards. If used as open space and the Council agreed to sell, would there be issues of legality?

City Attorney Rob Patterson stated cities could sell off parks and open spaces as long as they got reasonable consideration and exchange for said property. The decision, he added, was a policy matter.

Council Member Bills stated she agreed with their policy. She stated that as requests had come in over the last few weeks, most had gone through the criteria and explained why their property met those criteria. She continued those residents seemed to like when criteria were more objective as a lot of them were subjective. She continued that over the last months she had realized that the criteria needed to be refined. She asked whether it would be possible to talk about these criteria when talking about individual properties. The Council had some discretion but needed to be consistent and transparent.

Council Member Rodela explained that property should not be disposed of if it added to the open space feel of the subdivision. She stated that the specific property being looked at did not add to the open space feel. She added that this was subjective when it needed to be as objective as possible.

Council Member Smith stated he agreed with both Council Member Bills and Council Member Rodela. He liked the process but had trouble with the criteria. He mentioned criteria 1a. trail corridor. He explained that he was not sure what trail was being discussed. He stated that the criteria needed to more specific and add clarifications about who determined the feel of the open space neighborhood. He added that criteria A and F were closely

related and could be combined. Criteria D, he went on, unduly restrained the system with irrigable acres. He concluded that objective decisions could not be made with subjective criteria.

City Attorney Rob Patterson stated that the sale of property was an inherently subjective decision though an objective list could be created. He went on to say that the Council could list specific factors but stated that there might still be a property that met the criteria and that the City did not want to sell.

Council Member Bills asked whether the Council could work on an approval on price and process and subsequently have a work session dealing with the first batch of properties. She continued that the criteria might then become clearer. It made sense when looking at the property not as a list alone.

Council Member Ostler stated that he liked the idea of a work session. He explained that it helped to go see a property. He added that each council would be able to change the criteria.

Council Member Rodela explained that without looking at the properties in person and talking to the residents she did not want to make a blanket approval. She added that a work session would help and mentioned that this was a once-a-year process and that it required time and focus as it really affected residents.

Council Member Ostler stated that the Council could set some criteria and added that this was hard to pull back. He continued that one of the main concerns was how fast the Council wished to proceed. He concluded that the Council could try with a couple of parcels because it needed to know if the criteria was helping or not.

Council Member Rodela explained that this would be why it was important to be more subjective than objective.

Council Member Bills explained that the Council did not want to create more work for Staff. She added that she also did not want to frustrate residents more. She recommended that the Council go visit properties over the next couple of weeks and discuss them during a work session. She continued that there could be a Phase 1 and Phase 2 and stated that she wanted to give residents the right answers.

Council Member Smith stated he needed the list of the properties. He was reminded that the Mayor had sent it that day.

Mayor Mann explained that the criteria were meant as a guide. The issue with transparency, was that residents would have expectations that the criteria was specifying exactly how things would work. He added that it was sometimes necessary to talk in private before anything became public, though he did err on the side of being public. He continued that these were not objective criteria exclusively and that other things might be taken into consideration such as conservation easement which would block a sale. He added that in some properties, there might be issues such as a collection basin for water. If the Council started selling property, it might be difficult to stop.

Council Member Rodela explained that she agreed with the Mayor as this helped see that there were things to be added to the criteria.

Mayor Mann added that every sale was subjective and that it was almost impossible to write a set of rules. He continued he expected the Council to make judgment calls. He mentioned that the Council was trying to be transparent but stated that he hoped expectations had not been set to have residents thinking that if the property met the criteria, then they could buy, as this was not necessarily the case. He concluded that it was possible that the list needed to be shorter and add that there might be exceptions.

Council Member Smith stated that when setting a criterion, things needed to be defined. He asked about the definition of a trail corridor as an example.

Mayor Mann provided the definition of a trail corridor. Council Member Smith requested a more specific definition of a trail corridor and asked that the criteria be tweaked.

Council Member Rodela asked whether this should be passed and later tweaked as the Council met for a work session or whether it would be more logical to table the item. Council Member Smith recommended that the Council have a work session to look over some of the criteria and discuss the specific properties

Mayor Mann stated that the Council might have up to thirty properties to deal with.

Council Member Bills explained that the process should be a hybrid at this time. She mentioned that she agreed with all points made. There was validity in listing fewer criteria but that had to be replaced with a discussion. She recommended passing everything with the exception of the criteria and look at that when the Council looked at properties in the next two weeks. She continued that the Council could take their list and start with the properties they were in favor of or those who were an obvious “no”. She concluded that they could vote on this and then discuss the process and the properties in two weeks.

Council Member Ostler stated that some properties would be easier to decide on than others. He provided the example of the conservation easement or the general fit in the subdivision. He reiterated that the decision was subjective to how the Council felt about the subdivision and concluded stating that the Council should start with the low-hanging fruit.

Mayor Mann asked whether the work session was meant to refine the criteria list. He asked whether this would be passed, and the Council would then vote on properties. He mentioned that this process would take until the end of July.

Council Member Bills explained that the work session would happen before the next meeting and that the Council would look at the properties listed by the subcommittee as most likely to be sellable. She continued that the Council could pass everything but have a work session to apply the criteria to each property. The work session would help provide clarity on the criteria.

Council Member Smith stated he was in favor of the suggestion and in favor of surplusing properties the City could not maintain. He stated that he believed the language needed to be clarified

Council Member Smith stated that he would choose to table this and pass it in two weeks.

Mayor Mann asked whether the Council wanted to just table the item.

Council Member Kim Rodela MOVED that the City Council CONTINUE the Orphan Property Disposal Policy and discuss in two weeks.

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.

It was decided that the Council would meet in a work session at 5:30 pm on 6/15/2021. Council Member Bills stated she felt confident that they could do things quickly when they wanted to.

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.

City Attorney Rob Patterson explained that State law mentioned that the City had to define what a significant parcel of real estate was. City law stipulated that everything was a significant parcel and had procedures, appraisal, and notices which, he added, seemed unduly burdensome. The amendment, he explained, excluded orphan parcels as significant parcels and simplified the process. It would allow the Council, by resolution, to designate certain parcels as orphan parcels.

Council Member Ostler asked about the approval of an open space that took place a year and a half prior. He stated that this would be on the ballot in November 2021 and asked if the amendment would have any impact. City Attorney Rob Patterson stated that this was going forward but added that the process would be changed from now on.

Council Member Bills stated that she was in favor. Council Member Smith explained that he appreciated and supported the amendment. He stated, however, that on the noise ordinance, some sections had been crossed out. He added that some sections would be crossed out though there was no reference to this.

City Attorney Rob Patterson stated that Section 1 of Staff exhibit referenced an attachment showing that Section 12.32 was repealed in its entirety.

Council Member Smith stated that there had been some confusion. City Attorney Rob Patterson stated that Staff tried to keep their reports as short as possible. Council Member Smith stated that removing engineering specifics on wells was one thing but added that ordinances and their details should not be removed. Mayor Mann stated that Council could look up ordinances.

Council Member Kim Rodela MOVED that the City Council ADOPT the ordinance amending Section 2.44 Disposal of Public Property and repealing Chapter 12.32 Designation of Open Space Property for Disposal.

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.

Council Member Smith questioned whether the Council had voted on Item #6. It was clarified that the Council had taken a voice vote. Council Member Smith stated he had voted “yes”. Council Member Ball stated he had voted “yes”.

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.

Mayor Mann stated he wondered whether the Council should table this resolution to be considered after the work session. Council Member Smith stated that there were no doubts that the property was being sold and added that the vote should take place so residents knew what price to expect. Mayor Mann stated that there would be 20,000 square feet of property encroached on by an adjacent property. He added that significant improvements had been made and asked whether the Council would want to charge more. He stated that such a discussion should take place in the work session. Council Member Ostler mentioned that if the Council passed this item on June 15, it could still vote to dispose of the property that same night.

City Attorney Rob Patterson stated that the properties had been split into three resolutions so the Council could have one overarching policy. Each year, they determined the properties and price. Council Member Ostler asked whether there would be problem if the resolution at hand was approved that day. He stated that this was a settled question. He was told the Council was free to do this.

Council Member Smith stated that there might be a change in the classification of surplus property at any time. City Attorney Rob Patterson stated that this was possible: a property could be designated as surplus and stated that despite the overarching policy, one property would be valued at a different price. Council Member Ostler stated he would prefer to see a set price. He continued that the Mayor had aptly brought up that some parcels might need a different valuation. City Attorney Rob Patterson stated the resolution was non-binding. It was not a contract.

Council Member Brittney Bills explained that the way the Mayor had come up with the price was smart and added that she agreed. Mayor Mann stated that the resolution could be passed and later tweaked if necessary, as had happened in previous instances. Council Member Ball asked whether it would be advisable to add an addendum indicating the Council reserved the right to modify the pricing structure for special circumstances. City Attorney Rob Patterson stated that this could be added as an amendment. He further asked how much discussion the Council wished to have.

Council Member Smith explained he believed it was better to have one set price, not several different prices changing each year. Council Member Ball stated that the Mayor had made a good point regarding the price changes. They might be necessary because of presumptive ownership based on structures. Council Member Smith stated that exceptions could be made. He asked whether someone could build a swing on the property and change the value of the land. The Mayor added that if improvements had been made; the value would increase. Mayor Mann stated that in Cedar hills, someone had built a pickleball court on public property and now wanted to claim it as theirs.

Aaron Welcher explained that he had purchased his house in 2019. Previous owners, he added, had encroached and put-up fence. He had not encroached but he had improved the space. He continued that the City was supposed

to maintain the land but did not: the grass was high, and despite being charged \$20/month for the maintenance of the space, nothing was done to it. He told of a time when a city employee had tried to come and mow the lawn, but because of all the rocks getting caught in the mower, he had had rocks thrown and broke several windows. The employee had then abandoned the task. Aaron Welcher then explained that the Council should speak to property owners first. He mentioned that the price was too high and that the Council should take the encroachment issue with a light hand as some people were thrown into the issue. He mentioned that he would like to purchase the property behind him.

Council Member Ostler explained that Council did not know who had encroached on a property in the first place.

Council Member Kurt Ostler MOVED that the Council ADOPT the resolution establishing the value for orphan space parcels.

Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

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.

Finance Director Tyler Bahr thanked the Council. He explained that the item was for review, discussion, and considering. This fulfilled the annual requirement to present this information to the Council. He added that this was the 2nd year of the assessment and described the assessment was meant to identify best practices for fraud prevention. He explained that one new aspect was that the assessment was now considered in Utah by the Trust in insurance underwriting. Completing the assessment made the City compliant. He added that Staff was making every effort to improve. Once done with the presentation to the Council, Staff would submit completion to the State Auditor within six months of the end of the fiscal year, which would be done very soon, he noted. Finance Director Tyler Bahr mentioned that there were 20 questions in the assessment with points awarded for each criterion. Basic separation of duties covered more than half the points, he explained. He noted that the current score was 245 points which was up 55 points from the prior year. He continued that the City was no longer in very high risk, but had crossed into the high risk level. He added that the City was a few changes away from being in the moderate range. Finance Director Tyler Bahr added that the City was improving in separation of duties and that in the upcoming year, all Council members would have the opportunity to take the auditor training, which was required once per term. He concluded that additional policies would be identified as needed and that an ethical behavior statement would be formulated. A fraud hotline was also being promoted: the hotline was the state auditor's hotline. He added that risk could not be eliminated. He clarified the scores. The auditor's office top score 355+ with 276 being the next moderate level. Council Member Smith confirmed that if all council members completed the training, this would add 20 points to the score.

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

Brian Patten stated that if American Fork, Alpine, and Lehi had banned fireworks, Highland would become the city of fire and stated that the Council needed to consider this. He explained that the year prior, the consideration had been to ban everything North of SR 92. Council Member Ostler stated that the Council had been getting good reports about Mr. Patten. He thanked him for the recommendations.

b. RAP Tax Committee

Mayor Mann stated that the City needed 3 people to be on the RAP tax subcommittee. Mayor Mann, Council Member Bills, and Council Member Rodela.

Council Member Smith stated he was curious about statistics on road citations. He continued that since the east/west corridor had opened up, he had not seen any officers patrolling. He added that he tried to drive the speed limit and had seen individuals speeding. Moreover, when going West, drivers could not see the brink of the hill with what was at the top. He mentioned that it would be nice to have a patrol person there to help educate people. He also stated that this looked like a great revenue generator. Brian Gwilliam stated that he knew officers had been there though he did not have the statistics with him. He added the department would make a more concerted effort, especially with school out and stated that this was a commuter roadway.

Mayor Mann explained that a posted a sign, big billboard sign, or sign that flashes a car's speed would be helpful and stated that it was one the city had. He continued that it was especially important on the west side as the speed limit had changed.

Council Member Ostler asked whether there had been an uptick in car burglaries?

Brian Gwilliam stated that the Police Department had not seen an uptick in these activities but stated that they had seen an increase in social media reporting. The department was seeing more from public than from law enforcement. He added that they had noticed a rash of burglaries with crimes of opportunities. In the instance of home invasion, there had been instances of people catching burglars upon coming home. He added that a lot of this was posted on social media and helped people remember to take precautionary steps.

Council Member Smith stated that a widow lived next to his house. He explained that he had seen a man pull up in a red car, walking in her garage and her shed. It was the woman's youngest son, who was a police officer.

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.

At 10:02 pm Council Member Kurt Ostler 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 Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

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

The motion passed unanimously.

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

The CLOSED SESSION adjourned at 11:12 pm.

ADJOURNMENT

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

The meeting adjourned at 11:12 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 June 1, 2021. This document constitutes the official minutes for the Highland City Council Meeting.

Stephannie Cottle
City Recorder



CITY COUNCIL AGENDA REPORT

ITEM #2b

DATE: July 6, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Donna Cardon, Library Director
SUBJECT: Reducing the Size of the Library Board *Administrative*

PURPOSE:

City Council will consider a recommendation from the Library Board to reduce the number of Board seats to seven. The Council will take appropriate action.

BACKGROUND:

Recently two of our Library Board members have resigned for personal reasons, and another has chosen not to reapply for a second term of service. Therefore, there are currently three unfilled seats in the Library Board. Efforts have been made to recruit new members, but with no success.

The municipal code requires that the library board have between five and nine members, and states and that the City Council determine the number of Board members, “after receiving a recommendation of the Library Board.” (4.12.060 A)

The Library Board used to have seven members, but two more were added to more easily staff the five standing committees established in the Bylaws. However, in recent years, the committee responsibilities have been light. The Library Board met on June 24th to discuss the issue and determined that the Board could function adequately with seven members instead of nine. They voted to recommend to the Council that the number of seats be reduced to seven. Reducing the number will not cause issues with term expirations. Two or three individuals will still rotate off the Board each year.

If the Council chooses to reduce the size of the Board, staff will continue to try to fill the vacant seat.

FISCAL IMPACT:

No fiscal impact

RECOMMENDATION:

Staff recommends that the number of seats on the Library Board be reduced from nine to seven.

PROPOSED MOTION:

I move that City Council Approve the Library Board's recommendation that the number of Library Board seats be reduced from nine to seven.

ATTACHMENTS:

- 1) Proposed Operating Procedures

Highland City Library Board

Organization and Operating Procedures

I. Board Role

- A. The role of the Library Board is to
 - 1. Establish a clear mission for the Library and a strategic plan allowing the Library to achieve that mission.
 - 2. Set such policies for the Library as are needed to carry out its mission.
 - 3. Provide oversight to ensure that Library policies are implemented effectively.

II. Members and Officers

A. Constitution of the Board

- 1. The Library Board currently consists of seven members.

A.B. Vacancies

- 1. Advertisements of Board vacancies include a brief summary of the position, a solicitation for volunteers, and information about how to volunteer.
 - a) For expected vacancies (such as the end of a member's term of office), advertisement is made between 60 and 90 days before the vacancy begins.
 - b) For unexpected vacancies, advertisement is made as soon as practical once the vacancy occurs.
- 2. Volunteer applications or nominees for open Board seats shall be discussed in a Board meeting and the Board shall make recommendations to the Mayor.

B.C. Officers

- 1. An officer may serve a third consecutive term if approved unanimously by the Board.

III. Board Meetings

A. Time and place

- 1. The regular meeting of the Board shall be on the fourth Thursday of each month at the Highland City Building at a time selected by the Board. Deviations may occur as a result of holidays or other events.

B. Preparation

- 1. The Executive Officer (Library Director) shall assemble an agenda for each Board meeting and coordinate the agenda with the Chair.
- 2. Any Board member wishing to have an item placed on the agenda must contact the Executive Officer at least 3 days prior to the meeting.
- 3. The agenda and information packet shall be distributed electronically to the Board by the Executive Officer 48 hours prior to the meeting.

Highland City Library Board

Organization and Operating Procedures

4. A Board member who is unable to attend a meeting shall notify the Chair as early as possible, so the Chair can determine if a quorum will be present for the meeting.
- C. Conduct of Meetings
 1. General
 - a) Only business properly noticed shall be actionable. An item is “properly noticed” when included in the published agenda for the public to see. To be “actionable” an item must be placed in the “consent agenda” or in the “action/policy” portions of the agenda.
 2. Order of business
 - a) The following Order of Business shall be followed at meetings, excepting that items not needed at any given meeting may be omitted:
 - Call to order • Public comments • Introductions • Consent Agenda • Reports • Action/Policy Items • Discussion Items • Future Agenda Items • Adjournment (Appendix C, Sample Board Bylaws from the State)
 3. Consent agenda
 - a) The Board establishes a Consent Agenda to provide an efficient meeting process. Items that are not expected to require discussion or debate may, at the Chair’s option, be placed in the Consent Agenda portion of the meeting.
 - (1) Any item will be pulled from the Consent Agenda at the request of one or more members. No vote is required to pull the item. The Chair shall decide where to place any such item on the agenda.
 - (2) Approval of the Consent Agenda by the Board constitutes approval of each item on the Consent Agenda at the time of approval.
 - (3) Minutes of the meeting will include the full text of motions/resolutions adopted under the Consent Agenda portion of the meeting.
 4. Voting
 - a) Voting may be by voice, ballot, or show of hands. Whatever method is used; the Chair announces the individual votes (or a unanimous decision) for inclusion in the minutes.
 5. Training
 - a) A portion of the meeting may be designated for training to meet the State requirement for Board member training. (Standard #5, Basic Certification Standards)
- D. Official records

Highland City Library Board

Organization and Operating Procedures

1. The Executive Officer shall work with the City Recorder to ensure the Library Board is following all Open Meetings Law Requirements including proper posting of annual meeting schedules, agendas, minutes, audio recordings, etc.

E. Electronic Meetings Policy

1. The Library Board (“Board”) may hold meetings with or without a physical anchor location pursuant to relevant state and city law.
2. Members of the Board may participate in Board meetings via telecommunications under the terms of this policy.
 - a) All persons at an anchor location and all persons participating from remote locations shall have real time audio (and preferably video) contact with all participants.
 - b) Any form of telecommunication may be used, as long as it allows for real time interaction for discussions, questions and answers, and voting.
 - c) Members participating from remote locations shall use appropriate equipment and take other precautions to eliminate static or other disturbances to the orderly conduct of the meeting.
 - d) Any member participating from a remote location shall arrive and initiate contact early to ensure the equipment to be used is in proper working order.
 - e) This electronic meeting policy does not apply to public comment or participation. When meetings are held in a physical anchor location, public comment cannot be made electronically.
3. Members who desire to participate in a meeting of the Board via telecommunications shall notify the library’s director and the chair of the Board of their intent at least one week in advance of the meeting, so appropriate arrangements can be made to conduct the meeting via telecommunications. This notice requirement may be waived in the event of emergency conditions.
4. Members participating via telecommunications are considered present for purposes of establishing a quorum. In the event that a lack of communications with any member results in a lack of a quorum, no additional business may be conducted until the quorum can be reconstituted. Continuances may be granted as set forth by law. Business already conducted remains valid and binding.

IV. Communication

A. Polling between meetings

Highland City Library Board

Organization and Operating Procedures

1. From time to time it may be necessary between meetings to get the collective opinion of the Board on certain simple matters that are completely internal to the Board. This may be accomplished by asking the Chair to poll the Board. The Chair will request that the Secretary send the matter, by email, to the Board, collect the responses, and inform the Board of the decision. No decision reached in this manner has the ability to bind the City of Highland, the Highland City Public Library, or the Library Board.

V. Committees

A. Standing committees

1. General
 - a) The Board shall have the following Standing Committees: Library Fund, Policy, Reports, Personnel, Outreach, and Strategic Planning.
 - b) The main purpose for the Standing Committees is to provide support to the Library Director and the Library Staff.
 - c) It is the responsibility of the Library Director to provide guidance to the committees how they can provide this support.
2. Library Fund Committee: (9-7-404)
 - a) Supports the Library Director as requested on budget, fee, and fund issues.
3. Library Outreach.
 - a) Supports the Library Director as requested on outreach to the community, library patrons, and other communities such as Alpine and Cedar Hills.
4. Library Policies. (Utah State Code 9-7-404, 405)
 - a) Supports the Library Director as requested on policy issues.
 - b) Investigates and recommends decisions about patron appeals of Library Director decisions such as fine assessments, request for reconsideration of library materials, or use of meeting room.
5. Library Reports. (Utah State Code 9-7-406)
 - a) Supports the Library Director as requested on reports.
 - b) The Committee shall review the annual report prior to submission to the Board.
6. Library Long-range Strategic Planning. (Standard #3, Basic Certification Standards)
 - a) In conjunction with the Library Director, the Committee shall review the Long-range Strategic Plan as to content and execution, and make recommendations for updates to the Board.

Highland City Library Board Organization and Operating Procedures

- b) Ensure that the efforts of the Library Foundation, Friends of the Library, and any other relevant organizational support are coordinated with the Long-range Strategic Plan.

VI. Reference Information

A. Members, liaisons, and officers

- 1. Library Board members [Term Expires](#)
 - Seat 1. Kim Rodella 2023
 - Seat 2. Briawna Hugh 2022
 - Seat 3. Edgar Tooley 2022
 - Seat 4. Claude Jones 2024
 - Seat 5. ~~Michael Burns~~ [2021-2024 Currently vacant](#)
 - Seat 6. Roger Dixon 2022
 - Seat 7. Jessica Anderson 2023
 - ~~Seat 8. Natalie Reed 2020~~
 - ~~Seat 9. Becky Lewis 2021~~
- 2. Library Board officers
 - a) Chair - Roger Dixon
 - b) Vice-chair – Natalie Reed
 - c) Secretary – Jessica Anderson
 - d) Executive Officer - Donna Cardon DCardon@highlandcity.org
- 3. Liaisons from other entities
 - a) Friends of the Library: Wayne Tanaka
waynetanaka10@yahoo.com
- 4. Liaisons to other entities
 - a) Friends of the Library:

B. Committee assignments

- 1. Library Fund – Claude Jones, Briawna Hugh, Mike Burns, Becky Lewis (?)
- 2. Policies – Jessica Anderson, Kim Rodella
- 3. Reports – Edgar Tooley, Kim Rodella
- 4. Outreach - Briawna Hugh, Claude Jones, Becky Lewis (?)
- 5. Strategic Planning – Mike Burns, Roger Dixon, Edgar Tooley, Natalie Reed



CITY COUNCIL AGENDA REPORT

ITEM #2c

DATE: July 6, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Andy Spencer, PE
Public Works Director/City Engineer
SUBJECT: AGREEMENT – Workman Farms, LLC Utility Easement *Legislative*

PURPOSE:

The City Council will consider a request for an agreement with Workman Farms, LLC for a perpetual utility easement to facilitate the construction of the Victor View Gravity Sewer line project. The Council will take appropriate action.

BACKGROUND:

Currently there is a lift station (Victor View Lift Station) which serves approximately 52 homes in the Steven's Lane area. The city has spent substantial time, money, and other resources to keep the lift station functioning. The repeated failures in the lift station are due to the aging infrastructure and the amount of non-biodegradable waste that is placed in the sewer system.

The Workman family has agreed to allow an easement to place a utility bridge across a natural wash on their property that will provide for the gravity sewer line to be extended and tied into an existing sewer line in the Canterbury North subdivision. This sewer line will eliminate the need for the lift station.

There will be an additional agreement necessary with another parcel. This agreement is with the Lyman family for a temporary construction easement to facilitate the construction access to the natural wash area. This agreement will be forthcoming in a future Council meeting.

FISCAL IMPACT:

A one-time lump sum payment in the amount of \$39,659.12 will be made to Workman Farms, LLC. Funds from the Sewer Capital Improvement (52-40-73) budget line item will be used for this easement and construction of the project. This project was included as part of the recent Utility Rate Study and FY2022 Budget.

RECOMMENDATION:

Staff recommends that the City Council **APPROVE** the utility easement agreement with Workman Farms, LLC and **AUTHORIZE** the Mayor and City Recorder to execute the agreement.

PROPOSED MOTION:

I move that City Council **APPROVE** the utility easement agreement with Workman Farms, LLC and **AUTHORIZE** the Mayor and City Recorder to execute the agreement.

ALTERNATIVE MOTION:

I move that City Council **DENY** the agreement. (Council to draft appropriate findings.)

ATTACHMENTS:

1. Utility Easement Agreement with Workman Farms, LLC

EASEMENT AGREEMENT

This Easement Agreement (“**Agreement**”) is executed on _____ [Date], between Workman Farms, LLC (“**Owner**”) and Highland City, a Utah municipality (the “**City**”), together with their respective principals, agents, officers, attorneys, and representatives (collectively, “**Parties**”).

RECITALS

- A. Owner owns certain real property described in Exhibit A, attached hereto (the “**Property**”).
- B. The City desires to obtain certain rights in and to the Property, as described below.
- C. Owner is willing to grant certain rights in and to the Property to the City, on the terms and conditions described below.

AGREEMENT

Now therefore, in order to give effect to the recitals above, and for good and valuable consideration, the sufficiency and adequacy of which is hereby acknowledged, the Parties do agree and covenant as follows:

- 1. **Easement Conveyance Over And Across Real Property.** Owner agrees to dedicate to the City both a perpetual easement and a temporary construction easement for the purpose of installing, constructing, maintaining, and operating a sewer line and related facilities, as described in the attached Exhibit A. Owner agrees to execute the conveyance of property attached as Exhibit A contemporaneously with this Agreement to complete this dedication. By reference, the terms stated in Exhibit A are also incorporated herein to this agreement.
- 2. **Existing Conditions.** Subject to any and all existing restrictions, exceptions, reservations, easements, rights-of-way, conditions, and covenants of whatever nature, whether or not, filed for record, and is expressly subject to all municipal, city, county, and state zoning laws and other ordinances, regulations, and restrictions, including statutes, and other laws of municipal, county, or other governmental authorities applicable and enforceable against the premises described herein. This Easement is also subject to discrepancies, conflicts with boundary lines, shortages in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records. This grant of easement by Workman Farms, LLC to Highland City is subject to that certain easement held by Lehi City.
- 3. **Temporary Easement Duration.** Temporary construction easement shall be valid for a period of 1-year from the date of execution of this agreement.
- 4. **Restoration.** Following construction, property will be restored as nearly as possible to its pre-disturbance grade and low-growth vegetation. Trees removed during construction, will

not be replaced due to long-term maintenance considerations. Highland City will make every effort to preserve any and all trees that can remain following installation. Owner acknowledges that a steel casing and concrete abutments will be visible above ground where sewer line crosses the natural ravine. Other structures such as manholes will be set to existing grade for maintenance access.

5. **Consideration.** As consideration for the dedication described above, the City agrees as follows:
 - a. Payment: \$39,659.12 to Owner as a lump sum.
 - b. Indemnification: Owner shall not be liable or responsible in any way for the construction, operation, maintenance, and presence of the sewer line, and the City agrees to indemnify and hold harmless Owner from all claims arising out of the sewer line, including claims from City representatives, City contractors, or third parties. This limitation on Owner's liability and the City's responsibility to indemnify Owner shall not extend to any willful, intentional, or negligent action by Owner or their representatives or invitees that interferes with the normal operation, construction, and maintenance of the sewer line. These provisions shall survive any closing on the Property.
 - c. Access to City Sewer: The City agrees to allow Owner to connect to the City sewer at a time in the future when development of the owner's property occurs. Connection access to the existing sewer shall be determined by the Owner and the City jointly at a location mutually agreed upon at the time of development. Said location could potentially be one of the (4) four locations identified on attached Exhibit B. Owner will be responsible for construction of the future sewer and sewer connection facilities associated with the development of their property. These provisions shall survive any closing on the Property.
 - d. To the extent practicable, the visible metal portions of the crossing will be finished in a faux rust or rust color or finish.
6. **Recordation.** The Parties agree that the City shall record the executed conveyance of property attached as Exhibit A with the county recorder's office, and that this Agreement in total shall not be recorded.
7. **Complete Agreement.** This written Agreement is the entire contract entered into between the Parties, and no Party is relying or may rely on any other representations, promises, or understandings of any kind not expressly set forth herein. This Agreement may not be altered, amended, modified, or otherwise changed in any respect except in a writing executed by all Parties.
8. **Authority to Execute.** The person executing this Agreement on behalf of each Party hereby represents that he or she has full authority to execute the Agreement and to bind each Party to the terms of this Agreement, and that all necessary actions for him or her to enter into this Agreement have heretofore been completed.

9. **Assignment and Successors.** The Parties agree that this Agreement shall run with the land and continue and be binding on all successors-in-interest, partners, agents, officers, trustees, attorneys, insurers, assigns, representatives, heirs, executors, and administrators of each of the Parties. The terms and conditions of this Easement Agreement shall survive closing. Furthermore, by reference to Exhibit A, Perpetual Utility Easement, is incorporated herein.
10. **Attorney Fees and Costs.** Both Parties agree to pay for their own attorney fees and costs arising out of or connected in any way to the execution of this Agreement. Any Party that prevails in any legal proceeding, including court proceedings, arbitration, and administrative proceedings, to enforce this Agreement or adjudicate any issues under or in connection with this Agreement shall be entitled to recover its reasonable attorney fees, costs, and expenses of such proceedings.

-SIGNATURES TO FOLLOW-

THE UNDERSIGNED HAVE READ AND HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT COUNSEL WITH RESPECT TO THE FOREGOING, AND HEREBY ACKNOWLEDGE AND AGREE TO BE BOUND BY THESE TERMS.

On Behalf of Owner, Workman Farms, LLC

On Behalf of Highland City, Utah

Florence L. Workman

Rod Mann, Mayor

Michael R. Workman

ATTESTED:

Susan W. Jacobs

City Recorder

WHEN RECORDED, MAIL TO:

Highland City
5400 W Civic Center Dr. Ste. 100
Highland, UT 84003

PERPETUAL UTILITY EASEMENT
(LIMITED LIABILITY COMPANY)
Utah County

Affecting Tax ID No: 11:036:0013

Workman Farms, LLC, a Utah Limited Liability Company, GRANTOR, hereby GRANTS AND CONVEYS to Highland City at 5400 West Civic Center Drive, Suite 100, Highland Utah, GRANTEE, for the sum of Ten Dollars (\$10.00), a perpetual non-exclusive easement Thirty (30) feet in width and a temporary construction easement One Hundred (100) feet in width, to construct, locate, maintain, operate, repair, inspect, protect, install, remove and replace sewer pipelines, manholes, valves, valve boxes and other sewer transmission and distribution structures including the right for an above ground suspended crossing and facilities, said easement being situated in Utah County, State of Utah, over and through a parcel of the GRANTOR'S land lying within a portion of land situated within the Southeast quarter (SE-1/4) of Section 34, Township 4 South, Range 1 East, Salt Lake Base and Meridian, Located in Highland City, County of Utah, State of Utah. The sidelines are to be shortened or extended to begin on the North boundary of grantors land, and shortened or extended to terminate on the South boundary of grantors land. Said grantor's land having the Tax Parcel ID 11:036:0013. The sidelines of said perpetual easement are 15.00 feet perpendicularly distant to, and parallel with the following described centerline; the sidelines of the temporary construction easement are 50.00 feet perpendicularly distant to, and parallel with the following described centerline:

Beginning at a point on the North line of said grantors property, said point being West 1730.64 feet and North 2170.00 feet from the Utah County monument marking the Southeast Corner of said Section 34; and running thence South 01°59'08" West, a distance of 151.91 feet to the South line of said grantors property.

PERPETUAL UTILITY EASEMENT contains: 4,557 Sq. Ft., or 0.11 Acres. TEMPORARY CONSTRUCTION EASEMENT contains: 15,191 Sq. Ft., or 0.35 Acres.

The above described easement is for the benefit of Highland City and its residents in general. Highland City will indemnify and hold GRANTOR and all subsequent owners of the property, harmless from all costs, liabilities, losses and damages incurred by or related to the public utility owned by Highland City and located within the above described PERPETUAL UTILITY EASEMENT.

Subject to any and all existing restrictions, exceptions, reservations, easements, rights-of-way, conditions, and covenants of whatever nature, whether or not, filed for record, and is expressly subject to all municipal,

city, county, and state zoning laws and other ordinances, regulations, and restrictions, including statutes, and other laws of municipal, county, or other governmental authorities applicable and enforceable against the premises described herein. This Easement is also subject to discrepancies, conflicts with boundary lines, shortages in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records. This grant of easement by GRANTOR to GRANTEE is subject to that certain easement held by Lehi City, which may encumber a portion of the subject parcels.

In exercising the easement rights, GRANTEE will restore any and all surface disturbance as nearly as practicable to the pre-disturbance condition.

The Perpetual Utility Easement is subject to the terms and conditions of this Easement Agreement dated _____. The terms of said Easement Agreement are incorporated herein and shall run in perpetuity pertaining to the real property.

In witness whereof, said _____ of Workman Farms, LLC
(Principal, Manager, Owner)
has caused this instrument to be executed as its proper officer thereunto duly authorized, this _____ day
of _____, 2021 below have hereto executed this agreement.

Signature on behalf of Workman Farms, LLC

Title or Operating Position

Printed name of signature

State of Utah

County of _____

On this _____ day of _____, 2021, before me _____, a notary public,
personally appeared _____, who has sworn to me that they are the
authorized _____ for Workman Farms, LLC and who was proved on the basis of
(Principal, Manager, Owner)
satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that they
executed the same.

Witness my hand and official seal.

SEAL

Notary Public

EXHIBIT 'A'

KAITLYN CIR

WORKMAN FARMS LLC
PARCEL: 11:036:0013

PROPOSED 30' WIDE
PERMANENT EASEMENT

PROPOSED SEWER LINE

PROPOSED 100' WIDE
CONSTRUCTION EASEMENT

CANTERBURY DR



EXHIBIT 'B'

OPTION C FOR SEWER CONNECTION

OPTION A FOR SEWER CONNECTION

OPTION B FOR SEWER CONNECTION

OPTION D FOR SEWER CONNECTION





CITY COUNCIL AGENDA REPORT

ITEM #3

DATE: July 6, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Kellie Bronson
Planner and GIS Analyst
SUBJECT: PUBLIC HEARING/ORDINANCE: Text Amendment – Accessory Dwelling Units – *Legislative*

PURPOSE:

The City Council will hold a public hearing to consider a request by Highland City Staff to amend Section 3-624 Accessory Dwelling Unit to be consistent with House Bill 82. The City Council will take appropriate action.

BACKGROUND:

House Bill 82 was adopted this past legislative session. The bill defined the regulations that municipalities can place on accessory dwelling units. These provisions will be effective as of October 1, 2021. Staff is requesting to update the Development Code to be consistent with this bill.

A development code amendment is a *legislative* process.

SUMMARY OF THE REQUEST:

1. The proposed amendment includes the definition for an accessory dwelling unit found in Chapter 10 Definitions:

An accessory dwelling unit is a room or set of rooms in a single-family home in a single-family zone that has been designed or configured to be used as a separate dwelling unit, which has a separate kitchen, living/sleeping area, and sanitation facilities, and has been established by permit.

The amendment clarifies the difference between an ADU and a short-term rental. A unit is considered a short-term rental if the renting/subleasing of the unit is for a period of less than 30 consecutive days. Short term rentals require a business license.

2. The proposed amendment prohibits ADUs on lots less than 6,000 square feet.
3. A minimum of one (1) off-street parking space shall be required.

4. A clarification is added that separate utility meters for the home and the ADU are not permitted.

CITIZEN PARTICIPATION:

Notice of the Planning Commission meeting was published in the Daily Herald on June 5, 2021 and posted on the state and city websites June 3, 2021. No comments have been received. Notice of the City Council meeting was published in the Daily Herald on June 19, 2021 and posted on the state and city websites on June 17, 2021.

No comments have been received.

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on June 22, 2021 and voted 4-0 to recommend **APPROVAL** of the proposed amendment.

ANALYSIS:

- The definition for Accessory Dwelling Unit (ADU) found in Chapter 10 Definitions is added to clarify the difference between an ADU and a short-term rental. Short term rentals require a business license as stated in Chapter 5.24 in the Municipal Code.
- The proposed amendment is consistent with the recent changes regarding internal accessory dwelling units in the Utah State Code found in HB 82.
- HB 82 allows cities to prohibit ADUs on lots less than 6,000 square feet. The intent of adding this to the proposed amendment is to help mitigate traffic and parking impacts on the high density planned development districts.
- HB 82 does not allow municipalities to require more than one (1) off-street parking space. The proposed amendment addresses this.

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 recent changes in the Utah State Code found in HB 82.
- 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 Section 3-624 Accessory Dwelling Unit.

ALTERNATIVE MOTION:

I move that the City Council **DENY** case TA-21-07 a request for a text amendment to

Section 3-624 Accessory Dwelling Unit 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. House Bill 82 Link: <https://le.utah.gov/~2021/bills/static/HB0082.html>

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SECTION 3-624 ACCESSORY DWELLING UNIT AS SHOWN IN FILENAME TA-21-07.

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

WHEREAS, the Commission held a public hearing on this Ordinance on June 22, 2021 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 6, 2021.

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

SECTION 1: **AMENDMENT** “3-624 Accessory Dwelling Unit” of the Highland City Development Code, is hereby *amended* as follows:

An accessory dwelling unit is a room or set of rooms in a single-family home in a single-family zone that has been designed or configured to be used as a separate dwelling unit, which has a separate kitchen, living/sleeping area, and sanitation facilities, and has been established by permit. If the renting/subleasing of the unit is for a period of less than thirty (30) consecutive days, it is considered a short term rental and requires a business license. See Chapter 5.24 in the Municipal Code for the regulating of short term rentals.

Accessory Dwelling Units shall meet the following requirements:

- a. Accessory dwelling units shall only be permitted in single family homes that are owner occupied, on lots with at least 6,000 square feet, and served by adequate public facilities.
- b. Accessory dwelling units shall not be permitted in detached accessory buildings.
- c. A minimum of one (1) ~~two (2)~~ off-street parking spaces shall be provided for the accessory dwelling unit in addition to any other required parking spaces for the home. Any required parking spaces contained within a carport or garage that are lost due to the creation of the accessory dwelling unit shall be replaced or otherwise provided for through off-street parking.
- d. The minimum 70% front yard landscaping as defined in Section 3-4107 and 3-621, Highland City Development Code shall be provided.
- e. No more than one (1) accessory dwelling units shall be ~~considered-permitted~~ for each single family home.
- f. The unit and home shall be modified to meet all fire, safety, health and building codes as required by the Building Official and Fire Marshall.

g. The front of the home shall ~~NOT~~not be modified in any form that will give the appearance that separate units are incorporated within the home except separate addresses and mailboxes.

h. The primary entrance for the accessory dwelling units shall be provided for from the rear of the home; a side entrance is allowable in the event that the entrance is camouflaged by property fencing or landscaping and is not visible from the street.

i. Separate utility meters for the home and accessory dwelling unit are not permitted.

ji. Applications for Accessory Dwelling Units shall be made in the Community Development Department on an application form with required documentation and accompanied with appropriate fees as required. All Accessory Dwelling Units shall be subject to review and approval by the Zoning Administrator. The Zoning Administer may record a notice of approval for the accessory dwelling unit with the county recorder as provided by state law.

k. The City may enforce these requirements through any means available to the City, including by recordation of a lien in accordance with state law.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **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 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 7, 2021 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 7, 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	☐	☐



CITY COUNCIL AGENDA REPORT ITEM #4

DATE: July 6, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Kellie Bronson
Planner and GIS Analyst
SUBJECT: PUBLIC HEARING/ORDINANCE: Text Amendment – Conditional Use
Update – *Legislative*

PURPOSE:

The City Council will hold a public hearing to consider a request by Highland City Staff to amend several sections in Chapter 4 Conditional Use Procedure in the Development Code to be consistent with House Bill 409. The City Council will take appropriate action.

BACKGROUND:

House Bill 409 was passed this past legislative session. The bill states that a “municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance...A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.”

This bill was effective as of May 5, 2021.

A development code amendment is a *legislative* process.

SUMMARY OF THE REQUEST:

1. The proposed amendment eliminates the requirement to hold a public hearing for a conditional use permit.
2. General review criteria were added to clarify what the Planning Commission and City Council shall review when recommending or approving a conditional use permit (see proposed amendment for details):
 - a. The site of the structure or use.
 - b. The impact of the proposed building or use on surrounding uses.

- c. Conditions relating to safety of persons and property.
- d. Conditions relating to health and sanitation.
- e. Conditions relating to environmental issues.

3. Planning Commission Review and Recommendation

- a. The Planning Commission shall review the factors, standards, and ordinances applicable to the proposed use, including those set forth in this chapter.
- b. The Planning Commission may not require elimination of all detrimental effects as a condition of recommending approval if the detrimental effects can be reasonably mitigated.
- c. The Planning Commission shall recommend approval if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable, objective standards.

4. City Council Approval

- a. The City Council may not require elimination of all detrimental effects as a condition of approval if the detrimental effects can be reasonably mitigated.
- b. The City Council shall approve the conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable, objective standards.
- c. The City Council shall itemize, describe, and justify the conditions imposed on the use and the detrimental effects being mitigated by those conditions.

CITIZEN PARTICIPATION:

Notice of the Planning Commission meeting was published in the Daily Herald on June 5, 2021 and posted on the state and city websites June 3, 2021. Notice of the City Council meeting was published in the Daily Herald on June 19, 2021 and posted on the state and city websites on June 17, 2021.

No comments have been received.

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on June 22, 2021 and voted 4-0 to recommend **APPROVAL** of the proposed amendment.

ANALYSIS:

- These changes are needed to update the Development Code to be consistent with Utah State Code.
- Utah HB 409 requires that a local land use authority establish objective standards for conditional uses; the General Review Criteria fulfills this requirement.
- The General Review Criteria may guide the Planning Commission and the City Council to know what reasonable conditions may need to be imposed on a conditional use to mitigate reasonably anticipated detrimental effects.
- HB 409 clarifies that the decision to approve or deny a conditional use is an administrative land use decision. A public hearing is not required for a conditional use permit by Utah State Code.

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 HB 409.
- 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 in Chapter 4 Conditional Use Procedure in the Development Code

ALTERNATIVE MOTION:

I move that the City Council **DENY** case TA-21-08 a request to amend several sections in Chapter 4 Conditional Use Procedure in the Development Code 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. House Bill 409 Link: <https://le.utah.gov/~2021/bills/static/HB0409.html>

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SEVERAL SECTIONS IN CHAPTER 4 CONDITIONAL USE PROCEDURE IN THE DEVELOPMENT CODE AS SHOWN IN FILENAME TA-21-08.

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

WHEREAS, the Commission held a public hearing on this Ordinance on June 22, 2021 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 6, 2021.

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

SECTION 1: **ADOPTION** Several sections in Chapter 4 Conditional Use Procedure of the Development Code are hereby amended as shown on “Exhibit A” attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **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 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 7, 2021 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 7, 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

4-104 General RequirementsPublic Hearing

~~The owners of real property located within 500 feet of the property for which a conditional use permit is sought shall be given written notice by the Planning Commission of the application thereof. "Property owners" for purposes of this notice shall be determined from the records of the County Recorder as of the date of the application for the conditional use permit. Applicants are required to provide the City with pre-addressed labels of all real property owners within 500 feet of the proposed property to be taken from the most current County assessor's roll a minimum of 12 days prior to the scheduled planning meeting. The applicant shall be responsible for any expense in obtaining the list of record property owners. Such notice shall inform them that they may protest granting of the conditional use permit within 14 days of such notice, and no conditional use permit shall be granted until expiration of that 14-day period. The applicant shall provide a legible vicinity map indicating the exact location of their property and each property within 3 mile (1,320 feet). The map shall include the address of the subject property and shall be part of each notice required for the public hearing. A public hearing shall be held by the Planning Commission concerning the application for, and before recommending any conditional use permit. If notice given under this section is not challenged within 30 days from the date of the meeting for which the notice was given the notice shall be considered adequate and proper. Notice of the public hearing shall also be given in the manner required by Section 9-102.~~

1. Prior to submitting an application for a conditional use permit, the applicant shall meet with City Staff for a pre-application review as set forth in 2-601.
2. Highland City shall issue a conditional use permit if the City Council, with the recommendation of the Planning Commission, concludes that the application mitigates the reasonably anticipated adverse impacts of the proposed use and complies with all applicable federal, state, and city standards, or reasonable conditions can be imposed to accomplish the required mitigation and compliance. Where Highland City has not adopted a standard regarding a proposed use, the city shall require compliance with a reasonable and objective federal, state, county, or industry standard.
3. General Review Criteria — In reviewing an application for a conditional use permit, the Planning Commission and City Council shall review, but not limit their review, to the following considerations and standards where applicable to the application, and impose reasonable conditions based on such considerations, factors, and objective standards:
 - a. The site of the structure or use, and in particular:
 - i. Adequacy of site: The adequacy of the site to accommodate and contain the proposed use or building and all related activities and impacts.
 - ii. Screening: The location and possible screening of all outdoor activities.
 - iii. Adjoining Uses: The relation of the proposed building or use to any adjoining building with particular attention to protection of light, air, noise, dust, vibrations, fumes, odors, and peace and quiet.

iv. Displays and Signage: The location and character of any display of goods and services and the size, nature and light of any signs.

v. Traffic circulation and parking, and in particular:

(1) Street: The type of street serving the proposed use in relation to the amount of traffic expected to be generated.

(2) Access: The adequacy, convenience, and safety of provisions for vehicular access, internal circulation, and parking including the location of driveway entrance and exits.

(3) Truck traffic: The amount, timing, and nature of associated truck traffic.

vi. Site Features: The presence of important or sensitive features that may require additional mitigation or preservation efforts, such as natural or existing vegetation, water features, wetlands, wildlife habitats, view sheds, green spaces, scenic points, and historic sites.

b. The impact of the proposed building or use on surrounding uses, and in particular:

i. Impact of Patrons: The number of customers or users and the suitability of the resulting activity level to the surrounding uses and especially to any neighboring uses of public importance such as schools, libraries, playgrounds, religious or cultural meeting halls, and hospitals.

ii. Hours of Operation: Timing of business hours and delivery hours.

iii. Off-site Effects: Adequacy of provisions for the control of any offsite effects such as noise, dust, odors, light, or glare, etc.

iv. Special Hazards: Adequacy of provisions for protection of the public against any special hazards arising from the intended use.

c. Conditions Relating to Safety of Persons and Property

i. Flooding: Building elevations and grading plans, which will prevent, or minimize flood water damage, where property may be subject to flooding.

ii. Attractive Nuisances: The relocation, covering, or fencing of irrigation ditches, drainage channels, and other potential attractive nuisances existing on or adjacent to the property.

iii. Increased Setbacks: Increased setback distances from lot lines where necessary to ensure the public safety and to prevent nuisances to adjacent properties.

- iv. Geological Hazards: Appropriate engineering, design, construction, and location of structures, buildings, and facilities, and limitations and/or restrictions on the use and/or location of uses due to slope or other special site conditions, including but not limited to geologically hazardous areas; flood plains, fault zones, and landslide areas.
- v. Lighting: Limitations and control of the number, location, color, size, height, type of lighting, and landscaping of outdoor advertising signs and structures that may present traffic hazards or interfere with adjacent properties.
- vi. Delivery Locations and Traffic Considerations: Plans for the location, arrangement, and dimensions of truck loading and unloading facilities and the reasonable and safe arrangement of parking spaces, traffic lanes, and delivery access.
- vii. Construction of Improvements: Construction of curbs, gutters, drainage culverts, sidewalks, streets, fire hydrants, and street lighting.
- viii. UDOT approval.

d. Conditions Relating to Health and Sanitation

- i. Culinary Water: A guarantee of sufficient culinary water to serve the intended land use and a water delivery system meeting standards adopted by the City Council
- ii. Wastewater: A wastewater disposal system and a solid waste disposal system meeting standards adopted by the City Council
- iii. Sizing of Utilities: Construction of water mains, sewer mains, and drainage facilities serving the proposed use, in sizes necessary to protect existing utility users in the vicinity and to provide for an orderly development of land.
- iv. Other Sanitary Facilities: Obtaining necessary approvals and construction of appropriate facilities to handle hazardous, dangerous, or sensitive materials, such as oil, grease, petroleum, and other products.

e. Conditions Relating to Environmental Issues

- i. Pollution: Processes for the control, elimination, or prevention of land, water, or air pollution; the prevention of soil erosion; and control of objectionable odors and noise.
- ii. Dust and Erosion: The planting of ground cover or other surfacing to prevent dust and erosion.

iii. Restoration of Land: Restoration of the land and planting of the same as directed by the Planning Commission when the Conditional Use involves cutting and/or filling the land, and where such land would be adversely affected if not restructured.

iv. Sensitive lands, waters, and habitats: Identification and mitigation of impacts to the sensitive environmental features.

f. Conditions Relating to Compliance with the Intent of the General Plan and Characteristics of the Vicinity or Neighborhood.

i. Removal of Incompatible Materials: The removal of structures, debris, or plant materials incompatible with the intended characteristics of the zone outlined in this Chapter.

ii. Screening: The screening of yards or other areas as protection from obnoxious land uses and activities.

iii. Landscaping: Landscaping to insure compatibility with the intended characteristics of the zone as outlined in this Chapter.

4-4. The applicant shall provide sufficient information and evidence as part of their application to demonstrate the proposed conditional use's compliance with or satisfaction of the factors, standards, and ordinances applicable to the proposed conditional use, including those set forth in this chapter.

4-105 Planning Commission Review and Recommendation~~General Requirements~~

The Planning Commission shall review the proposed conditional use and may recommend to the City Council reasonable conditions ~~additional requirements~~ to mitigate the reasonably anticipated detrimental effects of the proposed use as set forth below; ~~defined.~~

~~1. The Planning Commission may recommend to the City Council a conditional use to be located within Zone in which the particular conditional use is allowed by the provisions of this Title governing that Zone. In recommending any conditional use, the Planning Commission shall impose such requirements and conditions as it deems necessary for the protection of adjacent properties and the public welfare. A conditional use permit shall not be granted unless the evidence presented by the applicant is such as to show all of the following:~~

~~2. That such use will not under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.~~

1. That the proposed use will comply with regulations and conditions specified in this Code for such use. In reviewing the application and proposed conditional use, the Planning Commission shall review the information provided by the applicant and city staff and the

factors, standards, and ordinances applicable to the proposed use, including those set forth in this chapter.

2. The Planning Commission shall recommend approval of the conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable, objective standards.
3. The Planning Commission may not require elimination of all detrimental effects as a condition of recommending approval if the detrimental effects can be reasonably mitigated.
4. Upon the recommending of any conditional use permit, the Planning Commission shall itemize, describe, and justify the recommended conditions imposed on the use and the detrimental effects being mitigated by those conditions.
5. The recommendation of the Planning Commission shall be forwarded to the City Council. ~~the City Council may then grant, modify, or reject the permit.~~

4-106 City Council Approval Granting Permit

The recommendation of the Planning Commission shall be forwarded to the City Council. The City Council may then grant, modify, or reject the permit and the proposed conditions as set forth below:-

1. In reviewing the application and proposed conditional use, the City Council shall review the information provided by the applicant and city staff, the recommendation of the Planning Commission, and the factors, standards, and ordinances applicable to the proposed use, including those set forth in this chapter.
2. The City Council shall approve the A-conditional use ~~shall be approved~~ if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable, objective standards (UCC 10-9a-507).
- 1-3. The City Council may not require elimination of all detrimental effects as a condition of approval if the detrimental effects can be reasonably mitigated.
4. If the City Council ~~and use authority~~, on the record, finds that a compelling public interest would be jeopardized by approving the application OR if reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied (~~UCC 10-9a-507, 509~~).
- 2-5. The City Council shall itemize, describe, and justify the conditions imposed on the use and the detrimental effects being mitigated by those conditions.



CITY COUNCIL AGENDA REPORT

ITEM #5

DATE: July 6, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Kellie Bronson
Planner and GIS Analyst
SUBJECT: PUBLIC HEARING/ORDINANCE: Text Amendment – Parcel Boundary Adjustments, Lot Line Adjustments, and Plat Amendments - *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 related to parcel boundary adjustments, lot line adjustments, and plat amendments to be consistent with House Bill 409. The City Council will take appropriate action.

BACKGROUND:

House Bill 409 was adopted this past legislative session. The bill modified provisions related to property boundary adjustments, subdivision amendments, and public street vacations and became effective as on May 5, 2021. Staff is requesting to update the Development Code to be consistent with this bill.

A development code amendment is a *legislative* process.

SUMMARY OF THE REQUEST:

1. The proposed amendment includes the following definitions:

Lot - a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

Lot line adjustment - an adjustment of boundaries between a lot and other lots or parcels. Lot line adjustments require a plat amendment.

Parcel - any real property that is not a lot.

Parcel boundary adjustment - an adjustment of parcels that are not a lot. Parcel boundary adjustments do not require a plat amendment.

Plat amendment - any change or alteration to a recorded plat. The change may be a relocation or elimination of a property line within the plat (lot line adjustment), a change in notations or lot numbers on the plat, a change or removal of a condition,

note, or other restriction described on the plat, a change of the title or name of the plat, or any other change that affects the rights of one or more lot owners. Plat amendments require the approval of each affected property owner and the City Council.

2. Parcel Boundary Adjustment Process

If the adjustment involves any parcel with a dwelling unit, it shall be submitted to Staff for review and approval before the deed(s) and Notice of Approval are recorded with the County. See the Ordinance for details.

3. Lot Line Adjustments and Plat Amendment Process

Radius notices are required to be sent out within 10 days of the public meeting to the property owners within 500 feet of the subject property. A public hearing is only required if:

- a. Any owner within the plat notifies the city of their objection in writing within 10 days of mailed notification;
 - b. All owners in the subdivision have not signed the reviewed plat; or
 - c. The petition contains a request to vacate some or all of a public street, right of way, or easement.
4. The proposed amendment emphasizes the protection of easements containing public water or sewer facilities and also clarifies that the City may submit a petition to vacate some or all of a public street, right of way, or easement.
 5. A change was made to the proposed amendment after the Planning Commission's recommendation. Staff added a clarification under 5-10-103 (5a) Grounds for Vacating a Street or Right-of-Way. This clarifies that the City Council does not have to adopt an ordinance or approve a plat to vacate a trail or easement.

CITIZEN PARTICIPATION:

Notice of the Planning Commission meeting was published in the Daily Herald on June 5, 2021 and posted on the state and city websites June 3, 2021. Notice of the City Council meeting was published in the Daily Herald on June 19, 2021 and posted on the state and city websites on June 17, 2021.

No comments have been received.

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on June 22, 2021 and voted 4-0 to recommend **APPROVAL** of the proposed amendment.

ALYSIS:

- These changes are needed to update the Development Code to clarify the difference between a parcel boundary adjustment and a lot line adjustment as defined by Utah State Code. Lot line adjustments will be required to go through the plat amendment process.

Current Process		Proposed	
Parcel and Lot line adjustment	Plat Amendment	Parcel Boundary Adjustment	Plat Amendment (includes Lot line adjustment)
-Application -Approval from Staff -Notice of approval recorded at the County along with parcel/lot adjustment	-Application -Public Hearing Notice (notices sent out to 500' radius around property) -Public Hearing held at City Council -Approval from City Council -Plat recorded at the County	-Application -Approval from Staff -Notice of approval recorded at the County along with parcel/lot adjustment	-Application -Meeting Notice (notices sent out to 500' radius around property) -Approval from City Council -Plat recorded at the County

- Parcel boundary adjustments and plat amendments are administrative processes. The proposed amendment reflects the State Code where a public hearing is only required if:
 - any owner within the plat notifies the city of objection in writing within 10 days of mailed notification;
 - All owners in the subdivision have not signed the revised plat;
 - The petition contains a request to vacate some or all of a public street, right of way, or easement.

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 recent changes to Utah State Code found in HB 409.
- The proposed amendment is consistent with the General Plan.

RECOMMENDATION AND PROPOSED MOTION:

A change was made after the Planning Commission's recommendation. This clarifies that the City Council does not have to adopt an ordinance or approve a plat to vacate a trail or easement. 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 related to parcel boundary adjustments, lot line adjustments, and plat amendments, and include the change made to Section 5-10-05.6 Grounds for Vacating Street, Right-of-Way or Easement.

ALTERNATIVE MOTION:

I move that the City Council **DENY** case TA-21-06 a request for a text amendment for several sections of development code 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. House Bill 409 Link: <https://le.utah.gov/~2021/bills/static/HB0409.html>

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SEVERAL SECTIONS OF THE DEVELOPMENT CODE RELATING TO PARCEL BOUNDARY ADJUSTMENTS, LOT LINE ADJUSTMENTS, AND PLAT AMENDMENTS AS SHOWN IN FILENAME TA-21-06.

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

WHEREAS, the Commission held a public hearing on this Ordinance on June 22, 2021 and

WHEREAS, the City Council held a public hearing on this Ordinance on July 6, 2021.

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

SECTION 1: **ADOPTION** Several sections of the Development Code relating to parcel boundary adjustments, lot line adjustments, and plat amendments are hereby amended as shown on “Exhibit A” attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **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 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from July 6, 2021 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, July 6, 2021

HIGHLAND CITY, UTAH

Rodney W. Mann
Highland City Mayor

ATTEST:

Stephannie Cottle
Highland City Recorder

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

Article 5-10 Adjusting Property Boundaries; Amending A Recorded Plat

5-10-101 Purpose and Definitions

5-10-102 Parcel Boundary AdjustmentProperty Line Adjustments (exchange Of Title)

5-10-103 Lot Line Adjustments and Plat AmendmentsVacating Or Changing A Subdivision Plat (Plat Amendment)

5-10-104 Altering A Public Utility Easement

5-10-101 Purpose and Definitions

The purpose of this article is to provide the process for adjusting, altering, or amending the recorded property descriptions of parcels, lots, and subdivision plats within Highland City. These regulations are intended to ensure that such changes comply with applicable zoning, subdivision, and other requirements of Highland City and state law. Where there is a conflict between the procedures set forth herein and state law, state law controls. As used herein:

1. "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder, and a "lot line adjustment" means an adjustment of boundaries between a lot and other lots or parcels. Lot line adjustments require a plat amendment.
2. "Parcel" means any real property that is not a lot, and a "parcel boundary adjustment" means an adjustment of parcels that are not a lot. Parcel boundary adjustments do not require a plat amendment.
3. A "plat amendment" ~~is means~~ any change or alteration to a recorded plat. The change may be a relocation or elimination of a property line within the plat (lot line adjustment), a change in notations or lot numbers on the plat, a change or removal of a condition, note, or other restriction described on the plat, a change of the title or name of the plat, or any other change that affects the rights of one or more lot owners. Plat amendments require the approval of each affected property owner and the City Council. A plat amendment is an alternative to having to go through a subdivision application process in order to amend a recorded plat.
4. None of the processes described in this article may be used to create an additional lot, parcel, or other type of subdivision. Creation of an additional lot or parcel requires compliance with the subdivision process. These regulations will ensure that:
 1. A plat amendment does not result in properties that violate the requirements of Development Code or any other standard of Highland City; and
 2. A plat amendment does not alter the coverage or availability of existing utility services to existing lots or parcels.

5-10-102 Parcel Boundary AdjustmentProperty Line Adjustments (exchange Of Title)

1. Owners of parcels desiring to adjust the boundaries of their parcels, including eliminating a common property line between two or more abutting parcels, shall follow the procedures set forth in Utah Code § 10-9a-523 and § 10-9a-524 and shall execute and record such agreements and deeds as are required by state law. No City review or approval is required so long as the proposed parcel boundary adjustment does not:

- a. Create a new lot (requires subdivision process);
- b. Involve a lot (requires lot line adjustment and plat amendment); or
- c. Involve any parcels with dwelling units (requires City approval).

~~1.2. Application Required. A parcel boundary adjustment that involves any parcel with a dwelling unit shall be submitted to the City for review and approval. Application for a parcel boundary adjustment shall be made by the property owner or a duly authorized agent and a filing fee shall be charged and collected at the time of application submittal on forms obtained from the Zoning Administrator with any additional information deemed necessary to understand the application. Property Line Adjustment (PLA) is the relocation or elimination of a common property line between two or more abutting properties. A PLA does not create any new parcels or lots. A PLA is required to relocate or remove a common property line between two or more properties.~~

~~2.3. Standards. Property Parcel owners may adjust property lines between adjacent parcels that are described by either a metes and bounds description or a recorded plat, by exchanging title to portions of those parcels by quitclaim deed or boundary line agreement after approval if:~~

- ~~a. No new lot or housing unit results from the property line adjustment;~~
- ~~b. The property line adjustment does not result in remnant land that did not previously exist; and~~
- ~~c. The adjustment does not result in violation of applicable Development Code requirements.~~

~~3. Application and Fee. Application for a property line adjustment shall be made by the property owner or a duly authorized agent and a filing fee shall be charged and collected at the time of application submittal on forms obtained from the Zoning Administrator with any additional information deemed necessary to understand the application.~~

4. Zoning Administrator Review.

- a. The Zoning Administrator shall act as the land use authority and review all the documents to determine if they are complete and that they comply with the requirements set forth above.

- b. If the Zoning Administrator determines that documents are complete and the requested property line adjustment complies with the standards set forth above, the Zoning Administrator shall approve the application.
 - c. If the Zoning Administrator determines that the requested property line adjustment does not comply with the standards set forth above, the Zoning Administrator shall deny the application. If the Zoning Administrator denies the application, the Zoning Administer shall describe the specific deficiencies or additional information that is required to approve the application and state that, upon correction of the deficiencies, the application will be approved.
 - d. The Zoning Administrator shall complete their review of the application within 14 days after the day on which the applicant submits the application and shall notify the applicant in writing regarding the decision.
 - e. The applicant may appeal the Zoning Administrator's decision to the City Council.
5. Conveyance of Title. After approval, the applicant shall:
- a. Prepare a Notice of Approval which:
 - i. Contains an acknowledgment signed by each party executing the Notice as required by State law for real property;
 - ii. Recites the description of both the original parcels and the parcels created by the property line adjustment; and
 - iii. Is executed by each owner included in the exchange and the Zoning Administrator.
 - b. Record a deed(s) or boundary line agreement which conveys title as approved; and
 - c. Record the Notice of Approval; and
 - d. Provide the Zoning Administrator with a recorded copy of the Notice of Approval.

~~4.6.~~ A parcel boundary adjustment does not constitute a land use or zoning approval, unless expressly approved as such by the City. Documents recorded as part of a parcel boundary adjustment do not modify any existing easement or public right of way, nor do they waive or modify any requirement to comply with all zoning and other land use regulations.

5-10-103 Lot Line Adjustments and Plat Amendments~~Vacating Or Changing A Subdivision Plat (Plat Amendment)~~

1. Application Required. A plat amendment is the vacation, alteration, or amendment of a subdivision plat that is not ~~an a PLA, or~~ amendment to a public utility easement or the creation of additional lots or parcels. Changes or alterations that create additional lots or parcels constitute a subdivision, not a plat amendment, and are subject to the subdivision approval process.
2. City Council Consideration. The City Council may, ~~with or without petition,~~ consider ~~any petition proposing a proposed~~ vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any lot, public street, right of way, or easement lot, ~~or alley~~ contained in a subdivision plat.

~~3. Public Hearing Required.~~

- ~~a.~~ The City Council shall consider the ~~petition vacation, alteration, or amendment of a subdivision, or any street or lot contained in a subdivision plat~~ at a public hearing meeting after giving the notice required by this section.

~~a.b.~~ A public hearing is required If a petition is filed a public hearing shall be held if:

- i. Any owner within the plat notifies the City of their objection in writing within 10 days of mailed notification; ~~or~~

~~ii.~~ All owners in the subdivision have not signed the revised plat; ~~or~~

~~ii-iii.~~ The petition contains a request to vacate some or all of a public street, right of way, or easement.

~~b.c.~~ No public hearing is required The City Council shall consider the vacation, alteration, or amendment of a subdivision, or any street or lot contained in a subdivision plat at a public meeting after giving the notice required by this section if notice has been appropriately given to all adjoining property owners and:

- i. Any owner within the plat does not notify the City of their objection in writing within 10 days of mailed notification; ~~or~~

~~ii.~~ All owners in the subdivision have or will sign the revised plat;

~~iii.~~ The petition seeks a lot line adjustment and all affected property owners join in the petition, regardless of whether the properties are located in the same subdivision;

~~iv.~~ The petition seeks to adjust an internal lot restriction imposed by the City that does not apply to the entire subdivision; or

~~ii-v.~~ The petition otherwise seeks to amend or alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not owned by the petitioner(s) and are not designated as common area.

4.3.Notice.

- a. Notice for a plat amendment shall be given as required by Section 10-9a-207 Utah Annotated Code, as amended. Mailed and addressed notices shall be sent to owners of real property located within 500 feet of the property.
- b. If the application includes a vacation of a public street, public right-of-way, or easement the public hearing shall be advertised as required by Section 10-9a-208 of Utah Annotated Code as amended.

5.4.Grounds for Vacating or Changing a Plat.

- a. The City Council may vacate, alter or amend the plat or any portion of the plat if the Council finds:
 - i. Neither the public interest nor any person will be materially injured by the proposed vacation, alteration, or amendment;
 - ii. There is good cause for the vacation or amendment;
 - ~~ii.~~iii. All easements containing existing public water or sewer facilities are identified and preserved;
 - ~~iii.~~iv. No public street, right-of-way, or easement has been vacated or amended, unless the petition requested such a change and the change was approved as required by this article and state law; and
 - ~~iv.~~v. The proposed amendment meets all the requirements of the Development Code.
- b. The Zoning Administrator shall notify the applicant in writing regarding the Council's decision.

6.5.Grounds for a Vacating Street,or Right-of-Way ~~or Easement~~

- a. The City Council may consider and adopt an ordinance or approve a plat amendment vacating a public street,or right-of-way, excluding trails, ~~or easement~~ if City Council finds that:
 - i. Neither the public interest nor any person will be materially injured by the proposed vacation;
 - ii. There is good cause for the vacation;
 - ~~ii.~~iii. All easements containing existing public water or sewer facilities are identified and preserved; and
 - ~~iii.~~iv. The proposed vacation meets all the requirements of the Development Code.

- b. The Zoning Administrator shall notify the applicant in writing regarding the Council's decision.

7.6. Request for Amendment by Petition.

- a. Fee Owner. Any fee owner may apply to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.

~~a.b.~~ City. The City may submit a petition to vacate some or all of a public street, right of way, or easement.

~~b.c.~~ Application Contents. Each application to vacate, alter or amend an entire plat, or portion of a plat, or a street or lot contained in a plat shall include:

- i. The name and address of all owners of record of the land contained in the entire plat;
- ii. The name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended;
- iii. The signature of each of these owners who consents to the petition;
- iv. Filing fee
- v. Any additional information needed to evaluate the proposal as determined by the Zoning Administrator.

8.7. Preparing the Amended Plat.

- a. The surveyor preparing the amended plat shall verify that the surveyor:
 - i. Holds a license in accordance with the Professional Engineers and Professional Land Surveyors Licensing Act established by State Law;
 - ii. Has completed a survey of the property described on the plat in accordance with State Law and has verified all measurements; and
 - iii. Has placed monuments as represented on the plat.
- b. The amended plat shall meet all of the requirements for a final plat as contained herein.
- c. The City shall ensure that the amended plat showing the vacation, alteration, or amendment are recorded in the office of the County Recorder.
- d. The City Council may vacate a street, public right-of-way or easement by ordinance. The City Council may require an amendment plat if it finds that an

amended plat is necessary to accurately portray the action and is in the public interest.



CITY COUNCIL AGENDA REPORT ITEM #6

DATE: July 6, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Andy Spencer, PE
Public Works Director/City Engineer
SUBJECT: **AGREEMENTS** – Property Purchase Agreement with Gregory Rowe and Reimbursement Agreement with Utah County *Legislative*

PURPOSE:

The City Council will consider a request for a property purchase agreement with Gregory Rowe and reimbursement agreement with Utah County to facilitate the purchase of ± 0.158 acres of property located at the southwest corner of SR92 and North County Boulevard. The Council will take appropriate action.

BACKGROUND:

North County Boulevard was widened from a two-lane road to four lane road about ten years ago.

There is an existing lot of record at the southwest corner of SR92 and North County Boulevard. The lot 0.32 acres in size. It is Alpine Country Club Plat A Subdivision that was approved and recorded in 1959. The lot has remained vacant to this day.

Recently staff learned that the lot was on the market for purchase as a buildable lot. Working with MAG and Utah County, funds have been set aside to purchase the eastern 6,882 square feet of the lot. The remaining portion of the lot will be incorporated into the adjacent lot to the east which is under contract.

Utah County will provide the funding for purchase, however due to the availability of the funds the City has agreed to facilitate the purchase of the property. There are two documents:

- *Purchase Agreement with Gregory Rowe:* This agreement states that Highland City will purchase the 0.158 acres for \$115,953.74. Closing will take place on or before August 5, 2012. If the County does not approve the Interlocal Agreement, the City has no obligation to purchase the property. The Interlocal Agreement is scheduled for the July 14, 2021, meeting.
- *Utah County Interlocal Agreement:* This agreement states that Utah County will

reimburse the City the acquisition cost of the property within 30 days of receiving an invoice for the acquisition costs.

FISCAL IMPACT:

As this expenditure was not budgeted, the initial expenditure will come from reserves. However, since it will be reimbursed by Utah County in whole, there will be no net impact on the general fund.

RECOMMENDATION:

Staff recommends that the City Council **APPROVE** the purchase agreement with Gregory Rowe and the Interlocal Agreement with Utah County **AUTHORIZE** the Mayor and City Recorder to execute the documents.

PROPOSED MOTION:

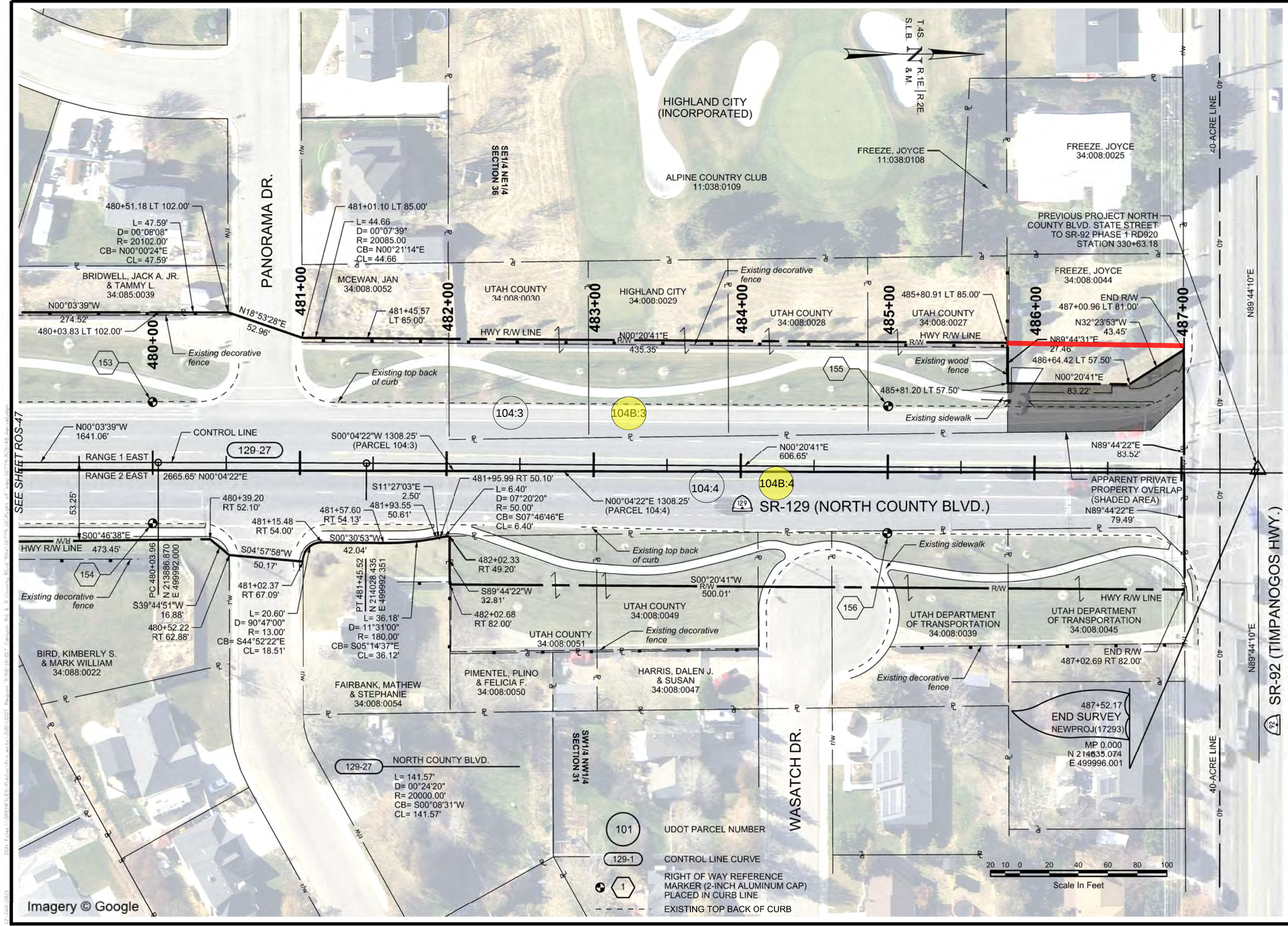
I move that City Council **APPROVE** the purchase agreement with Gregory Rowe and the Interlocal Agreement with Utah County and **AUTHORIZE** the Mayor to execute the agreements.

ALTERNATIVE MOTION:

I move that City Council **DENY** the agreements. (Council to draft appropriate findings.)

ATTACHMENTS:

1. Property Location
2. Proposed Purchase Agreement
3. Proposed Interlocal Agreement with Utah County



UTAH COUNTY		SR-129, US-89 IN LINDON		UTAH DEPARTMENT OF TRANSPORTATION REGION THREE - J-U-B ENGINEERS, INC.				REVISIONS						
PROJECT	TO SR-92 IN HIGHLAND			APPROVED		DRAWN BY		TMR						
PROJECT NUMBER	NEWPROJ.(17293)		PIN	17293			QC CHECKED BY		JDW					
RECORD OF SURVEY				PROFESSIONAL LAND SURVEYOR		DATE					NO.	DATE	APPROVED BY	REMARKS
SHEET NO.		ROS-48												

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (“**Agreement**”) is dated March 1, 2021, between GREGORY JAMES ROWE, an individual (“**Owner**”) and HIGHLAND CITY, a Utah municipality (the “**City**”), together with their respective principals, agents, officers, attorneys, and representatives (collectively, “**Parties**”).

For good and valuable consideration, the sufficiency and adequacy of which is hereby acknowledged, the Parties do agree and covenant as follows:

1. **Property.** The City agrees to purchase and Owner agrees to transfer certain property (collectively, the “**Property**”), which Property includes:
 - a. Real Property: Fee title to the eastern half portion of parcel 34:008:0044, part of Lot 26, Plat A, Alpine Country Club Subdivision (the “**Property**”), and all the appurtenances, rights, and privileges belonging thereto. The Property is more particularly described in Exhibit A, attached hereto.
2. **Warranties.** Owner represents and warrants that Owner lawfully has fee title the Property described in Section 1 and that Owner is authorized and able to convey marketable title to the Property to the City. Owner represents and warrants that there are no liens, leases, other rental or use agreements, or any other encumbrances that would limit or restrict the City’s ownership, occupation, and use of the Property.
3. **Purchase Price.** The Purchase Price for the Property is \$115,953.74. The Purchase Price shall be paid in a lump sum at Settlement. No financing or appraisal is required or made a condition of this Agreement. The Parties agree that this amount represents fair market value and adequate consideration for the Property. This provision is subject to the approval of Utah County, as described in Section 10.
4. **Settlement.** Settlement shall take place no later than the Settlement Deadline described in Section 14. “**Settlement**” will occur only when all of the following have been completed:
 - a. The Parties have signed and delivered to each other or to the escrow/closing office all documents required by this Agreement, by the title insurance and escrow/closing offices, by written escrow instructions (including any split closing instructions, if applicable), or by applicable law;
 - b. Any monies required to be paid by the Parties under this Agreement have been delivered by the responsible Party to the other Party or to the escrow/closing office, in the form of cash, wire transfer, cashier’s check, or other form acceptable to the Party or escrow/closing office.
5. **Closing.** Closing shall take place no later than four calendar days after Settlement. “**Closing**” will occur only when all of the following have been completed:

- a. Settlement has been completed;
 - b. The applicable Closing documents, including deeds and other legal instruments, have been recorded in the office of the county recorder (“**Recording**”).
6. **Possession.** Owner shall deliver physical possession of the Property to the City upon Recording. These provisions shall survive closing.
7. **Payment Obligations.** The following obligations and provisions shall survive Closing:
 - a. All prorations, including homeowner’s association dues, property taxes for the current year, rents, and interest on assumed obligations; any assessments for capital improvements; and any change of ownerships fees assessed by any entity that is due to such entity as a result of the transfer of title to the Property from Owner to the City, shall be paid for by Owner at or before Settlement.
 - b. Owner shall maintain and be responsible for all utilities and other services provided to the Property prior to Settlement. The City shall maintain and be responsible for all utilities and other services provided to the Property after Settlement.
 - c. Each Party shall be responsible for their own fees and costs charged by the escrow/closing office, real estate agents, attorneys, and other agents for their services regarding this Agreement and in the Settlement/Closing process. This provision is subject to the approval of Utah County, as described in Section 10.
 - d. The escrow/closing office is authorized and directed to withhold from Owner’s proceeds at Closing sufficient funds to pay off on Owner’s behalf all mortgages, trust deeds, judgments, mechanic’s liens, tax liens and warrants.
8. **Title and Title Insurance.**
 - a. Owner shall convey marketable title to all of the Property to the City at Closing. Title to all real property shall be conveyed by general warranty deed. Title to all other property shall be conveyed by such other affidavits, deeds, and documents as is necessary.
 - b. The City will accept title to the Property subject to the contents of the Commitment for Title Insurance, as reviewed and approved by the City under Section 10. City shall pay for and cause to be issued in favor of the City the most current available version of an ALTA Owner’s Policy of Title Insurance.
9. **Owner Disclosures.** No later than the Owner Disclosure Deadline described in Section 14, Owner shall provide to the City the following documents in hard copy or electronic format (collectively, the “**Owner Disclosures**”):
 - a. A written Owner property condition disclosure for the Property, completed, signed, and dated by Owner as set forth in Section 11.

- b. A copy of any restrictive covenants (CC&Rs), rules, and regulations affecting the Property.
- c. A copy of any lease, rental, and any other use or management agreement affecting the Property as of the date of this Agreement.
- d. Written notice of any claims or conditions known to Owner relating to geologic or environmental problems, and a copy of any studies, reports, findings, notices, claims, or other documents describing or relating to geologic or environmental issues, conditions, or claims related to the Property.
- e. Written notice if Owner is a foreign person under FIRPTA.

10. The City's Conditions of Purchase. The City's obligation to purchase the Property under this Agreement is conditioned upon the City's Due Diligence, as described below:

- a. The City's Due Diligence shall consist of the City's review and approval of the contents of the Owner Disclosures referenced in Section 9, and any other tests, evaluations and verifications of the Property deemed necessary or appropriate by the City, such as: Commitment for Title Insurance and issues regarding title to the Property; the physical condition of the Property; the existence of any hazardous substances, environmental issues or geologic conditions; the square footage or acreage of the land and/or improvements; the condition of any structures, improvements, or other construction on the Property; the costs and availability of property and flood insurance, if applicable; water source, availability and quality; the location of property lines; regulatory use restrictions or violations; fees for services such as HOA dues, municipal services, and utility costs; and any other matters deemed material to the City in making a decision to purchase the Property.
- b. All of the City's Due Diligence shall be paid for by the City and shall be conducted by individuals or entities of the City's choice. Owner shall cooperate with the City's Due Diligence. The City agrees to pay for any damage to the Property resulting from any such inspections or tests during the Due Diligence.
- c. As part of the City's Due Diligence and as a condition to the City's obligation to purchase the Property under this Agreement, Utah County must agree to all terms and conditions of the purchase of the Property, including Utah County's agreement to pay for or reimburse the City for the Purchase Price and any costs of Settlement and Closing. Utah County and the City will execute a separate agreement between the City and Utah County regarding Utah County's approval. Owner acknowledges and agrees that City may terminate this Agreement prior to the Due Diligence deadline without any liability to the City or to Utah County if Utah County declines to approve or accept the City's Due Diligence, the Purchase Price, or any other term or condition of this Agreement, or otherwise refuses to enter into such separate agreement with the City.

- d. If the City determines, in the City's sole discretion, that the results of the Due Diligence are unacceptable, the City may either:
 - i. No later than the Due Diligence Deadline described in Section 14, cancel and terminate this Agreement by providing written notice to Owner. Upon such termination, all obligations and rights of the Parties under this Agreement shall immediately terminate.
 - ii. No later than the Due Diligence Deadline described in Section 14, resolve in writing with Owner any objections the City has arising from the City's Due Diligence. If unable to resolve the objections, the City may elect to terminate this Agreement as set forth above.
- e. If the City fails to terminate this Agreement or to resolve in writing with Owner any objections the City has arising from the City's Due Diligence, the City shall be deemed to have waived the Due Diligence Condition.

11. As-Is Condition of Property. The following obligations and provisions shall survive Closing:

- a. The City agrees that in reference to the physical condition of the Property:
 - i. the City is purchasing the Property in its "As-Is" condition without expressed or implied warranties of any kind, except as expressly set forth herein;
 - ii. the City shall have, during the City's Due Diligence, an opportunity to completely inspect and evaluate the condition of the Property; and
 - iii. if based on the City's Due Diligence, the City elects to proceed with the purchase of the Property, the City is relying wholly on the City's own judgment and that of any contractors or inspectors engaged by the City to review, evaluate and inspect the Property.
 - iv. The City further agrees that it is taking title to and possession of the Property with the express acknowledgment that the Property is not a separate lot of record, that the Property has not and will not be improved by Owner as a subdivision lot, and that the Property is not being cleared of accessory buildings, personal property, or other materials and debris.
- b. In reference to the physical condition of the Property, Owner agrees to:
 - i. disclose in writing to the City defects in the Property known to Owner that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent purchaser;
 - ii. carefully review, complete, and provide to the City a written Owner property condition disclosure as stated in Section 9; and

- iii. deliver the Property to the City in substantially the same general condition as it was on the date of this Agreement, ordinary wear and tear excepted.

12. Final Pre-Settlement Walk-Through Inspection. No earlier than seven (7) calendar days prior to Settlement, and upon reasonable notice and at a reasonable time, the City may conduct a final pre-Settlement walk-through inspection of the Property to determine only that the Property is “as represented,” meaning that the items referenced in Sections 1 and 10.c.ii (“the items”) are respectively present, repaired or corrected as agreed. The failure to conduct a walk-through inspection or to claim that an item is not as represented shall not constitute a waiver by the City of the right to receive, on the date of possession, the items as represented.

13. Changes During Transaction. Owner agrees that from the date of this Agreement, Owner shall not, without the prior written consent of the City:

- a. Make any substantial alterations or improvements to the Property;
- b. Further financially encumber the Property;
- c. Make any changes to the legal title to the Property;
- d. Enter into any additional lease, rental, or any other use or management agreement affecting the Property;
- e. Change any existing lease, rental, or any other use or management agreement affecting the Property.

14. Schedule of Deadlines.

- a. Owner Disclosure Deadline: Monday, July 12, 2021
- b. Due Diligence Deadline: Monday, August 2, 2021
- c. Settlement Deadline: Thursday, August 5, 2021
- d. The Parties may agree in writing to close/settle earlier, subject to completion of City’s due diligence, the approval of Utah County, and the completion of title inspection and insurance.

15. Property for Public Purpose. The following provisions shall survive closing.

- a. Owner agrees and acknowledges that the Property being purchased will be used by the City for future public purposes, structures, and improvements, which may include but not be limited to highway and road infrastructure, utility lines and facilities, pump stations, piping, fencing, and other utility or public infrastructure purposes.

- b. Owner agrees and acknowledges that the City intends to transfer the Property to the Utah Department of Transportation subsequent to Closing and Settlement.
16. **Time Is of the Essence.** Time is of the essence regarding the dates set forth in this Agreement. Extensions must be agreed to in writing by all Parties. Unless otherwise explicitly stated herein: (a) performance under each Section of this Agreement which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" and "calendar days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement. Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to the Agreement, except as otherwise agreed to in writing by such nonparty.
17. **Insurance and Risk of Loss.** Prior to closing, if any part of the Property is damaged or destroyed by fire, vandalism, flood, earthquake, or act of God, the risk of such loss or damage shall be borne by Owner, provided that if the cost of repairing such damage or loss would exceed ten percent (10%) of the Purchase Price, either the City or Owner may elect to cancel and terminate this Agreement by providing written notice to the other Party. Upon such termination, all obligations and rights of the Parties under this Agreement shall immediately terminate. As of Closing, the City shall be responsible to obtain casualty and liability insurance coverage on the Property in amounts acceptable to the City. These provisions shall survive closing.
18. **Documents and Deeds.** The Parties agree to promptly and timely complete and provide all forms, deeds, assignments, receipts and any other instrument or document required to carry out the terms of this Agreement. These provisions shall survive closing.
19. **Complete Agreement.** This written Agreement is the entire contract entered into between the Parties, and no Party is relying or may rely on any other representations, promises, or understandings of any kind not expressly set forth herein. This Agreement may not be altered, amended, modified, or otherwise changed in any respect except in a writing executed by all Parties.
20. **No Third Parties.** The rights, duties, and obligations of this Agreement are for the sole benefit of the named Parties, and no third party, other than successors in interest as described in Section 20, has any rights hereunder to enforce the terms of this Agreement.
21. **Assignment and Successors.** This Agreement may not be assigned to any other person without the prior written consent of the other Party. Provided, however, that the Parties agree that this Agreement shall continue and be binding on all successors-in-interest, partners, agents, officers, trustees, attorneys, insurers, representatives, heirs, executors, and administrators of each of the Parties, and the transfer of a Party's interest to such person shall not be treated as an assignment requiring prior written consent.
22. **Authority to Execute.** The person executing this Agreement on behalf of each Party hereby represents that he or she has full authority to execute the Agreement and to bind

each Party to the terms of this Agreement, and that all necessary actions for him or her to enter into this Agreement have heretofore been completed.

23. **Counterparts.** This Agreement may be executed in counterparts, whether physical or electronic, which together form a single Agreement. Signatures on this Agreement, whether executed physically or by electronic means, shall be deemed original signatures and shall have the same legal effect as original signatures.
24. **Governing Law and Forum.** This Agreement shall be governed and construed in accordance with Utah law. Any action to enforce this Agreement or adjudicate any issues under or in connection with this Agreement shall be brought and maintained in the Utah Third District Court, Summit County, and the Parties agree to submit to the jurisdiction thereof for purposes of this Agreement and any dispute arising out of the same. These provisions shall survive closing.
25. **Remedies.** In the event of a breach by either Party of any of their obligations under this Agreement, each Party shall be entitled to exercise all rights granted by law and under this Agreement and pursue all remedies available at law and equity. The Parties shall be entitled to specific performance of their rights under this Agreement, and the City and Owner each agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions in this Agreement and agree to waive and not assert in any action for specific performance the defense that a remedy at law would be adequate. These provisions shall survive closing.
26. **Attorney Fees and Costs.** Both Parties agree to pay for their own attorney fees and costs arising out of or connected in any way to the execution of this Agreement. Any Party that prevails in any legal proceeding, including court proceedings, arbitration, and administrative proceedings, to enforce this Agreement or adjudicate any issues under or in connection with this Agreement will be entitled to recover its reasonable attorney fees, costs, and expenses of such proceedings. These provisions shall survive closing.

-- SIGNATURE PAGE TO FOLLOW --

THE UNDERSIGNED HAVE READ AND HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT COUNSEL WITH RESPECT TO THE FOREGOING, AND HEREBY ACKNOWLEDGE AND AGREE TO BE BOUND BY THESE TERMS.

On Behalf of Owner

[Signature]

[Signature]

[Name]

[Name]

[Title]

[Title]

[Date]

[Date]

On Behalf of City

[Signature]

[Name]

[Title]

[Date]

ATTEST:

Stephannie Cottle, City Recorder

Owner Initial: _____

INTERLOCAL COOPERATION AGREEMENT BETWEEN UTAH COUNTY AND HIGHLAND CITY FOR PROPERTY ACQUISITION AND REIMBURSEMENT

THIS IS AN INTERLOCAL COOPERATION AGREEMENT ("Agreement") by and between Utah County, a political subdivision of the State of Utah ("County"), and Highland City, a political subdivision of the State of Utah ("City") (collectively "parties").

WITNESSETH:

WHEREAS, pursuant to the provisions of the Interlocal Cooperation Act ("Interlocal Act"), Title 11, Chapter 13, Utah Code Annotated, 1953 as amended, public agencies, including political subdivisions of the State of Utah as therein defined, are authorized to enter into interlocal agreements for joint or cooperative endeavors;

WHEREAS, the parties desire to provide for the public acquisition of certain property located generally at the southwest corner of Timpanogos Highway (SR 92) and North County Boulevard (SR 129) for transportation and other uses associated with the public rights-of-way;

WHEREAS, the parties intend to set forth the terms and conditions whereby City will facilitate the purchase of said property, with the purchase price to be reimbursed by County, and the property to be ultimately transferred to the Utah Department of Transportation ("UDOT");

NOW, THEREFORE, the parties do mutually agree, pursuant to the terms and provisions of the Interlocal Act, as follows:

Section 1. EFFECTIVE DATE; DURATION

1. This Agreement shall become effective and shall enter into force, within the meaning of the Interlocal Act, as of the date of completion of all of the following:
 - a. The approval of this Agreement by the governing bodies of each of the parties hereto.
 - b. The approval as to form and compatibility with the laws of the State of Utah by the respective attorneys for the parties.
 - c. The filing of the executed Agreement with the person who keeps the records of each of the parties hereto.
2. The term of this Agreement shall be from the effective date hereof through June 30, 2022, unless sooner terminated by the satisfaction of all obligations hereunder or as otherwise set forth herein.

Section 2. ADMINISTRATION OF AGREEMENT

The parties to this Agreement do not contemplate nor intend to establish a separate legal entity under the terms of this Agreement. The parties hereto agree that, pursuant to Section 11-13-207, Utah Code Annotated, 1953 as amended, City shall act as the administrator responsible for the administration of this Agreement. The parties further agree that this Agreement does not anticipate nor provide for any organizational changes in the parties. The administrator agrees to keep all books and records in such form and manner as the City shall specify and further agrees that said books shall be open for examination by the parties hereto at all reasonable times.

Section 3. PURPOSE

This Agreement has been established and entered into between the County and City facilitate the purchase and public acquisition of certain real property located within Highland City, Utah County, which property is generally described as follows: The eastern half portion of parcel 34:008:0044, part of Lot 26, Plat A, Alpine Country Club Subdivision (the "Property"). A more precise description of the Property is attached hereto as Exhibit "A" and incorporated herein by this reference.

Section 4. CITY ACQUISITION OF PROPERTY

1. City agrees to facilitate the preparation, negotiation, and execution of such contracts, deeds, instruments and other documents as may be necessary to purchase the Property.
2. City's obligation to execute such documents is conditioned upon the County's approval of this Agreement and the County's promise to reimburse City for the acquisition of the Property, including the purchase price, escrow fees, title insurance, closing costs, and all other costs to acquire the Property (collectively "Acquisition Costs"), but subject to the terms of this Agreement.
3. All contracts, deeds, instruments, and other documents related to the purchase of the Property are conditioned on County giving its prior approval of the Acquisition Costs, Property description, other terms and conditions of the acquisition of the Property, and subject to the terms of this Agreement.

Section 5. COUNTY REIMBURSEMENT OF ACQUISITION COSTS

1. County's is only obligated to reimburse City for the Acquisition Costs related to the Property after County has received adequate funding from UDOT to pay for such Acquisition Costs. County is not responsible to reimburse City for any shortfall in funding from UDOT to cover the Acquisition Costs.
2. County agrees to reimburse the City for the Acquisition Costs within 30 days of the City's written statement to the County itemizing and describing all Acquisition Costs. The City shall provide such statement within 30 days of closing on the Property.

Section 6. TRANSFER OF PROPERTY TO UDOT

The parties agree that, after City's acquisition of the Property and the County's reimbursement of the Acquisition Costs, the City shall transfer the Property to UDOT. City shall be responsible for coordinating the transfer of the Property to UDOT and executing such documents as the City deems necessary to complete such transfer. Such transfer shall take place within a reasonable time after the closing of City's acquisition of the Property and the County's reimbursement of the Acquisition Costs.

Section 7. OTHER PROPERTY

The parties do not intend to acquire, purchase, or dispose of any other real or personal property pursuant to this Agreement. At all times and upon termination of this Agreement all property shall remain with the party that owned it upon the effective date of this Agreement, except for the specific Property being purchased and disposed of according to the terms set forth herein.

Section 8. METHOD OF TERMINATION

This Agreement will automatically terminate at the end of its term herein, pursuant to the provisions of paragraph one (1) of this Agreement. Prior to the automatic termination at the end of the term of this Agreement, any party to this Agreement may terminate the Agreement sixty (60) days after providing written notice of termination to the other party, provided that the parties may not terminate this agreement after the City has become obligated to close on the acquisition of the Property, unless and until the City is relieved of any obligation to close on the Property or the Property is acquired and financed as set forth herein. The Parties of this Agreement agree to bring current, prior to termination, any financial obligation contained herein.

Section 9. INDEMNIFICATION

To the fullest extent permitted by law, the parties agree that the terms of this Agreement are subject to, and not a waiver of, the protections, immunities and liability limits of the Governmental Immunity Act, U.C.A. 63G-1-101, et. seq. Each party shall indemnify and hold harmless the other for any damage or injury arising out of the negligent, willful, or intentional act or omission of the respective party.

Section 10. AMENDMENTS

This Agreement may not be amended, changed, modified or altered except by an instrument in writing which shall be (a) approved by Resolution of the governing body of each of the parties, (b) executed by a duly authorized official of each of the parties, (c) submitted to and approved by an Authorized Attorney of each of the parties, as required by Section 11-13-205.5, Utah Code Annotated, 1953 as amended, and (d) filed in the official records of each party.

Section 11. SEVERABILITY

If any term or provision of the Agreement or the application thereof shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and shall be enforced to the extent permitted by law. To the extent permitted by applicable law, the parties hereby waive any provision of law which would render any of the terms of this Agreement unenforceable.

Section 12. NO PRESUMPTION

Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against the party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that each of the parties have participated in the preparation hereof.

Section 13. HEADINGS

Headings herein are for convenience of reference only and shall not be considered any interpretation of the Agreement.

Section 14. BINDING AGREEMENT

The parties agree and warrant that they have completed all steps necessary in order to effectuate this Agreement. This Agreement shall be binding upon the heirs, successors, administrators, and assigns of each of the parties hereto.

Section 15. NOTICES

All notices, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties at their addresses first above written, or at such other addresses as may be designated by notice given hereunder.

Section 16. ASSIGNMENT

The parties to this Agreement shall not assign this Agreement, or any part hereof, without the prior written consent of all other parties to this Agreement. No assignment shall relieve the original parties from any liability hereunder.

Section 17. GOVERNING LAW

All questions with respect to the construction of this Agreement, and the rights and liability of the parties hereto, shall be governed by the laws of the State of Utah.

Section 18. COUNTERPARTS AND FACSIMILE SIGNATURES

The Agreement may be executed in counterparts, each of which when executed and delivered shall be deemed to be an original, binding between the executing parties, and all of which together constitute one and the same instrument. Original, facsimile, emailed, texted, electronic, or power of attorney signatures shall be binding upon the executing party.

UTAH COUNTY

Authorized by Resolution No. 2021-_____, authorized and passed on the_____day of

_____,
2021.

BOARD OF COUNTY COMMISSIONERS
UTAH COUNTY, UTAH

By:_____

ATTEST:

Utah County Clerk/Auditor

By:_____

Deputy

APPROVED AS TO FORM AND COMPATIBILITY WITH THE LAWS OF THE STATE OF
UTAH

Utah County Attorney

By:_____

Deputy County Attorney

HIGHLAND CITY

Authorized by Resolution No. _____, authorized and passed on the _____ day of
_____, 2021.

By: _____
MAYOR

ATTEST: _____
City/Town Recorder

APPROVED AS TO FORM AND COMPATIBILITY WITH THE LAWS OF THE STATE OF
UTAH:

City/Town Attorney