



**HIGHLAND CITY**

**HIGHLAND CITY COUNCIL MINUTES**

**Tuesday, January 11, 2022**

**Approved February 1, 2022**

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

**VIRTUAL PARTICIPATION**

 YouTube Live: <http://bit.ly/HC-youtube>

 Email comments prior to meeting: [council@highlandcity.org](mailto:council@highlandcity.org)

**6:30 PM REGULAR SESSION**

Call to Order – Mayor Kurt Ostler

*At 6:31 pm Council Member Scott L. Smith MOVED that the City Council 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.*

*Council Member Brittney P. Bills SECONDED the motion.*

*The vote was recorded as follows:*

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Sarah D. Petersen</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.*

**1. CLOSED SESSION**

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

*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 7:02 pm.*

**7:00 PM MEETING OPEN TO THE PUBLIC**

Invocation – Council Member Kim Rodela

Pledge of Allegiance – Mayor Kurt Ostler

The meeting was called to order by Mayor Kurt Ostler as a regular session at 7:07 pm. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Council Member Kim Rodela and those in attendance were led in the Pledge of Allegiance Mayor Kurt Ostler.

**PRESIDING:** Mayor Kurt Ostler

**COUNCIL MEMBERS**

**PRESENT:** Timothy A. Ball, Brittney P. Bills, Sarah D. Petersen, Kim Rodela, Scott L. Smith

**CITY STAFF PRESENT:** City Administrator/Community Development Director Nathan Crane, Assistant City Administrator Erin Wells, City Engineer Andy Spencer, Planner & GIS Analyst Kellie Smith, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, Police Chief Brian Gwilliam, Fire Chief Brian Patten

**OTHERS PRESENT:** Wendy Hart, Pearl Hart, Douglas Cortney, Jonathan Myres, Jenny Myres, Natalie Ball, Tanya Colledge, Adam Swerdlow, Mel Cook Wesley Warren,

**2. UNSCHEDULED PUBLIC APPEARANCES**

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

There were no public appearances.

**3. PRESENTATIONS**

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

A member of the Highland City Youth Council will give a brief report on recent and upcoming activities.

The Youth Council Representative was unable to attend.

**b. GRAMA and OPMA Training – Rob Patterson, City Attorney**

City Attorney Rob Patterson will provide training on GRAMA (Government Records Access Management Act) and OPMA (Open & Public Meetings Act).

City Attorney Rob Patterson provided the Mayor and Council with the required annual training regarding the Open and Public Meetings Act (OPMA) for the State of Utah as well as the Government Records Access Management Act (GRAMA) for the State of Utah. He noted the OPMA requires public bodies to deliberate and take actions in open meetings; it also provides directives regarding the manner in which meetings shall be noticed, recorded, and the record of meetings kept. He added that meetings can be closed for very specific reasons identified in OPMA. The law seems somewhat technical but is very straightforward. In conclusion he noted that one issue that has caused problems for public bodies in recent years is the use of personal mobile devices for communicating about public matters; he advised that if the Mayor or Council use their cell phones to communicate about City business, those records could be made public or a requirement could be placed on them to make those conversations part of the public record.

He then discussed GRAMA; the purpose of this meeting is to balance the public’s right to access public records. It also provides for the privacy or protection of certain records. Records are documentary materials that are reproducible and relate to public business. He briefly discussed records that are commonly classified as public and those that are commonly classified as private. He noted that he is working to update the City’s record management and retention program to align more closely with current State Code and State retention policies. He

indicated that City Recorder Cottle is the records official for the City and she handles all requests for public records.

Council Member Smith asked if communications between a Council Member and City staff would be classified as public records. Mr. Patterson answered yes. Council Member Smith asked if another member of the City Council or the Mayor wanted to review those communications; he asked if they would be able to file a GRAMA request and obtain the records. Mr. Patterson stated that the Mayor and Council have the power to inspect documents and reports from City employees without filing a GRAMA request.

#### **4. CONSENT ITEMS** (5 minutes)

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

**a. Plat Amendment: Dry Creek Highlands Phase 5a (Pa-21-12)** *Administrative*

The City Council will consider a request by Todd Ambery on behalf of Brandon and Amber Gueck, Sean and Lareen Luangrath, and Doss and Janean Stallings. The request is to adjust the lot lines of lots 414, 505, and 506 in the Dry Creek Highlands subdivision phases 4 and 5. The City Council will take appropriate action.

**b. ACTION: Public Defender Services** *Administrative*

The City Council will consider a contract with Stevens and Gailey, PC to provide public defender services for the Highland/Alpine Justice Court. The Council will take appropriate action.

*Council Member Scott L. Smith asked to pull item 4b for further discussion.*

*Council Member Kim Rodela MOVED to approve consent items 4a.*

*Council Member Brittney P. Bills SECONDED the motion.*

*The vote was recorded as follows:*

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Sarah D. Petersen</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.*

4b. Council Member Smith stated the City currently pays its public defender \$100 per hour; the proposal is to contract with a group that charges \$175 per hour for pre-trial work and an additional \$75 per hour for post sentencing work. He indicated the packet states that the City received another bid for this service, which would increase the hourly rate from \$100 to \$110. He asked why the City has recommended the contractor that is charging \$175 per hour. City Administrator/Community Development Director Crane stated that the \$175 rate is actually per case rather than per hour. City staff estimates that costs billed by Stevens and Gailey, PC will only represent a four percent increase, whereas the second bidder's proposal represents a 10 percent increase.

Council Member Scott L. Smith *MOVED* that the City Council approve consent items 4b, the contract with Stevens and Gailey for public defender services.

Council Member Kim Rodela *SECONDED* the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball	Yes
Council Member Brittney P. Bills	Yes
Council Member Sarah D. Petersen	Yes
Council Member Kim Rodela	Yes
Council Member Scott L. Smith	Yes

The motion passed 5:0.

## **5. RESOLUTION: ASPHALT TAILINGS IN HIGHLAND GLEN PARK** *Administrative*

The City Council will consider a resolution adopting a policy and plan for the removal of asphalt tailings in Highland Glen Park. The Council will take appropriate action.

City Administrator/Community Development Director Crane explained asphalt tailings have been stored at Highland Glen Park since before 2002. To address resident concerns, a Resolution has been prepared that outlines the Council's plan. The plan includes the following:

- The Council will use reasonable and good faith efforts to remove the tailings within one year. If due to unanticipated circumstances this cannot be met, the Council will communicate with the residents by October 1, 2022.
- Contingent upon available funds the Council will budget up to \$20,000 for the removal and/or improvements to the property in fiscal year 2023.

Mr. Crane concluded this action will require the Council to budget up to \$20,000 as part of the Fiscal Year (FY) 2023 budget.

Council Member Smith asked for a summary of the residents' feelings about this arrangement. Mr. Crane stated the residents would have preferred a more concrete resolution, but they agree this is a good place to start. Council Member Smith asked if there will be further discussions about revegetation or improvements at the park. Mr. Crane answered yes; the scope of the improvements have not been determined and staff will seek input from the Council regarding that matter. Additionally, staff has looked into replacing the chain-link fencing with a more opaque fencing material, but the residents indicated they would like to keep what is currently there. Council Member Rodela stated she has heard that from residents as well; they feel the current fencing will preserve the open feeling of the area. Additionally, the residents have been very patient and this is a good step in the right direction at addressing their concerns about the tailings. She is happy that these plans are being documented as the residents have only received verbal promises in the past.

Mayor Ostler inquired as to where the tailings will be moved to. City Engineer Spencer stated they will be moved to the Victor property, which is close to the Kilgore pit. Mayor Ostler asked who owns the material that is currently being stored at that pit. Mr. Spencer stated some is owned by contractors who are actively working on projects in the City and the rest is owned by the City; there will be interim storage on the property for the foreseeable future. There was brief discussion of the capacity of the storage area and its useful life.

*Council Member Kim Rodela MOVED that the City Council approve the resolution adopting a policy and plan for the removal of asphalt tailings in Highland Glen Park.*

*Council Member Scott L. Smith SECONDED the motion.*

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Sarah D. Petersen</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

*The motion passed 5:0.*

## **6. RESOLUTION: DESIGNATING THE VALUE OF ORPHAN PARCELS FOR 2022 Administrative**

The City Council will consider a resolution designating the value of orphan space parcels for 2022. The Council will take appropriate action.

Mayor Kurt Ostler discussed the efforts of City Administration to develop a proposed policy for designating the value of orphan parcels; the majority of existing orphan parcels are located behind a private residence and there is only value for the adjoining property owners as the properties cannot be designated as buildable lots. Because orphan parcels are somewhat unique, it is difficult to determine their value. In 2018, the City obtained appraisals for orphan parcels and asked the appraiser the methodology they used to determine the value of the property. They indicated that they determined the value of the orphan parcel should be 25 percent of a larger parcel. It is difficult for the City to justify obtaining an appraisal for every orphan parcel, so the City has determined it appropriate to define an annual value. Based upon that determination, the proposed value for orphan parcels for 2022 is \$3.14 per square foot. This value is based upon a review of County assessed value of different lots from different areas of the City; the lots were chosen based on location, open space subdivision status, diversity, and size in order to obtain a reasonable, average, per square foot valuation.

Council Member Peterson asked if it is correct that this action will not result in the identification of orphan parcels or obligate the City to sell any property. Mayor Ostler stated that is correct; this action is simply to set the value of orphan parcels in the event that any resident approaches the City to pursue acquisition of an orphan parcel.

Council Member Smith stated that he supports the methodology for determining the value; however, he noted there are some ongoing discussions of selling orphan parcels that were identified in 2021. He asked if those parcels will be subject to the 2021 valuation or 2022 valuation. Planner & GIS Analyst Kellie Smith stated that for those sales that have been deferred, it is her understanding that the 2021 valuation will be applied. Council Member Rodela stated she supports that decision. This led to high level discussion of outstanding orphan property transactions, with the Council concluding that the 2021 valuation will only be in effect for a rolling year from the date that the sale was approved; if the transactions are not completed by the end of 2022, the valuation will change. Mayor Ostler stated there may be a need for an additional Council action to sunset approved agreements if the transaction is not closed within one year of approval of the agreement.

*Council Member Brittney P. Bills MOVED that the City Council adopt the resolution establishing the value for orphan space parcels at \$3.14 per square foot.*

*Council Member Sarah D. Petersen SECONDED the motion.*

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Sarah D. Petersen</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

*The motion passed 5:0.*

**7. ACTION: BROADLEAF HOLLOW CHANNEL RECONSTRUCTION**

*Administrative*

The City Council will consider the awarding of the bid for the Broadleaf Channel drainage reconstruction project to S&L, Inc. The Council will take appropriate action.

City Engineer/Public Works Director Spencer presented a map to orient the Council to the location of the Broadleaf Channel. The Broadleaf Channel storm-drainage facility has meandered outside of the original easement corridor that was dedicated with the Dry Creek Highlands Phase 3 development and subdivision plat. The impacted properties are Dry Creek Highlands Phase 3, Lots 302~310. City staff has been meeting with the residents along the Broadleaf Channel corridor. The objective of these meetings has been to select an alignment and easement condition that will provide the City a long-term and maintainable storm-drainage channel and minimize the impact on the residents. The purpose of this project is to realign and the existing Broadleaf Channel and line the channel with rock to prevent future erosion. Bids have been solicited for the project. The City received six bids for the project and S&L, Inc. was the low bidder. The bid cost for the project is \$228,000. The bid includes an optional individual lot channel crossings for the residents. The decision will be up to each individual homeowner if they would like to accept this option. The intent is to allow the property owners located on the west side of the drainage to access the City trail and eastern portions of their lots that are located on the east side of this drainage. The individual lot channel crossings per the low bid are \$5,000.00 per crossing. The cost is \$500 per lineal foot with a minimum of 10 feet. This cost would be paid by individual lot owners. There are three items detailed in the Fiscal Impact cost summary that are not included in the bid:

1. Geotextile Channel Liner - This is necessary to prevent migration of soil from under the channel rock layer. The inclusion of this liner helps ensure that the channel does not migrate. The liner was intended for inclusion on the bid plan and was unintentionally omitted by the engineer.
2. Reseeding following construction - Following the channel construction, the project soil disturbance area will need to be reseeded with a native seed mix. This was also an unintentional omission from the bid plan set.
3. 10% Contingency – This has been included as a standard practice to ensure that there are sufficient funds allocated to the project to adapt to unforeseen conditions during construction.

Mr. Spencer concluded staff recommends the awarding of this contract to S&L, Inc. in an amount up to the amount of \$278,300 to reconstruct the Broadleaf Hollow drainage. Allowing individual homeowners the option to have a channel crossing installed behind their lot at their cost.

Council Member Smith asked that Mr. Spencer summarize the benefits of this project. Mr. Spencer stated there are two main benefits for the City; first is the placement of the channel within the appropriate easement. At present it has meandered outside the easement onto other properties. The second benefit is to armor the channel so that it will not move; it will essentially be stronger and able to handle the flow. The benefits to the residents include vacation of the old easement and removal of the ‘no-build’ line on the plat so that some property owners will essentially pick up an additional 20 feet of usable area on their property. Council Member Smith asked if there is always water in the drainage channel or only during a storm event. Mr. Spencer noted there is some sort of

drainage all year round. Council Member Smith asked if City staff has spoken to residents about this project. Mr. Spencer answered yes; he has met with each resident impacted by the project and sent all of them an email about tonight's meeting. Council Member Smith asked if there will be any sort of barrier or fence between the adjacent trail and the waterway. Mr. Spencer stated that there has been consideration of allowing residents to erect a fence between their property and the trail/drainage channel and that will be acted upon during the next item on the agenda. The Council and staff engaged in discussion about the types of improvements the City will allow private property owners to place on their property line to serve as a barrier between their property and the channel. The intent of these barriers would be to keep their children or passersby out of the channel or their yard. Council Member Smith asked if the City would have any liability for an injury caused by someone falling from the trail into the drainage channel. City Attorney Patterson stated that the risk is related to the presence of the drainage channel and trail; adjacent property owners will not have any liability and the risk will fall entirely on the City. Regarding ditches and canals, there is always a risk. Council Member Smith wondered if it would be beneficial for the City to erect a barrier between the trail and the drainage channel. The Council discussed the concern about liability, with a focus on the cost of placing fences along all drainage ditches that run throughout the City.

Council Member Bills asked if the plan for this project includes restoration of the hillside above the pipe in the area that has been flooded out. Mr. Spencer stated that the new channel will fill up that hole and there will be no water falling from the pipe. He is not planning to bring in new dirt, but reusing the dirt that will be excavated at the site. Mayor Ostler wondered if tailings could be used. Mr. Spencer stated they could be mixed with the dirt on the site, but he would not use only tailings to fill the hole. Council Member Bills then referenced the 10 percent contingency included in the contract amount; she asked if that means that the project cost can grow by up to 10 percent without Council approval. Mr. Spencer answered yes; a contingency gives staff the ability to adapt to changing or unforeseen conditions quickly. There was brief discussion about whether it is necessary to review the City's purchasing policy to ensure that the use of a contingency is clearly defined.

Council Member Smith stated that moving the channel to the east will give private property owners more land and he wondered if they could bridge the channel and then erect a fence along the trail. Mr. Spencer answered yes. Council Member Smith asked if there will be restrictions placed on what the property owners can do in the sloped area; he wondered if there will be a requirement for natural vegetation. Mr. Spencer stated that the entire area is native, and he had planned to re-seed it with native seed. He had not thought that any property owner would want to turn the space into a manicured landscaped area. Council Member Smith stated that residents would not be interested in fencing a conservation area, but if they have the ability to improve it for personal use, they may be interested in fencing. Mayor Ostler stated that the property is basically within a conservation easement and if residents are going to be allowed to install a fence, the City needs to ensure that it will have access to the easement for maintenance purposes. Mr. Spencer agreed; if someone places a fence within the easement, they will be required to install a gate that the City can use to access the property. He stated he knows of one family, the Colledges, that are interested in installing a fence and they will include a 20-foot gate in their fence. He stated that if the Council is comfortable allowing fences, it would be appropriate to include language in the motion allowing for a fence. Verbiage regarding the fence will then be added to the proposed easement agreement between the City and the private residents. There is nothing in the proposed motion language that addresses planting trees or changing the vegetation in the area. Council Member Smith stated that his personal home borders the Jordanelle Aqueduct and he has an easement agreement that specifies that he is not supposed to plant trees within that easement. Mr. Spencer stated that language that regulates the access corridor does specify that no trees can be planted, but staff has not contemplated landscaping improvements in the sloped area. He noted planting additional trees would be problematic.

Mayor Ostler invited public input.

Jonathan Myres stated that the solution that has been discussed by Mr. Spencer is a great resolution; he noted that Mr. Spencer has communicated with the residents extensively and he has dealt very well with a difficult issue that

he inherited from several years ago. He feels that the proposal addresses liability and other known issues with the property and he asked for the Council's support of Mr. Spencer's proposal.

Council Member Smith asked Mr. Myres if his reference to liability is based upon an assumption that the City will assume the liability for the drainage channel. Mr. Myres answered yes; he understands that the channel was on his and other private properties, but it is under the ownership of the City, and it is appropriate for the City to have that liability. Council Member Smith asked if he and other neighbors are interested in fencing along the west side of the trail. Mr. Myres stated there is some interest, but the grade in the area is very uneven and it will be difficult to fence it in a way that is aesthetic pleasing without spending a great deal of money to level the ground. He stated that he anticipates that most of the property owners will keep the property in its natural vegetative state.

Tanya College stated that she lives at the north end of the ditch, and she is hopeful that these improvements will beautify the area. Her concerns are related to the pipe and the difficulty in moving it into the easement on her property as well as continuing to adjust it to the south on neighboring property; these concerns are based upon the fact that it is impossible to control water. She is supportive of the proposal but is concerned that she is open to liability if someone falls into the ditch at some point in the future. It would cost her money to clearly explain that the ditch is in the City's easement, and she is not liable. Her property is different than others that abut the ditch and that is why she has requested approval to install a fence that provides a separation between her property and the ditch. The fence will be costly, and she is assuming that cost for her own protection. She stated she and Mr. Spencer have talked about planting trees as well and any trees she would plant would be sparse and minimal so that they do not interfere with the City's need to access the area. She stated she believes what she is requesting is reasonable and she is hoping the Council will support it. She is happy for her neighbors who are gaining usable property. She asked that the City secure surplus dirt and other building materials in the event that it is necessary to use more material to fill the vacated area from where the pipe is going to be moved. On her property alone, the contractor will need 50,000 to 60,000 cubic feet of dirt to fill in the vacated ditch and that amount of dirt will not be available from digging a new ditch. She reiterated she is most concerned about the area above the pipe, not the area below. She understands that she is not able to give the contractor direction, but she would like the Council to address her concerns.

There were no additional persons appearing to be heard.

Council Member Ball agreed with Ms. College that the City cannot actually control water and she asked if the engineering firm can project that the improvements to the channel will last for at least 10 years. Mr. Spencer stated that the engineer was told that the project needs to withstand a water flow of 250 cubic feet per second (CFS). The engineer has placed his stamp on the construction plans to certify that the channel will work up to that value. Council Member Ball asked how long the channel is expected to perform at that level. Mr. Spencer stated that he believes that the statute for an engineer's liability is nine years, but in theory the project should be designed to withstand those flows into perpetuity.

*Council Member Scott L. Smith MOVED that City Council APPROVE the contract with S&L, Inc. and authorize a contract amount up to \$278,300 for the reconstruction of the Broadleaf Hollow channel. Release of the contract shall be subject to receipt of signed easement documents from Lots 302 through 309 for the new channel location.*

*Council Member Kim Rodela SECONDED the motion.*

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Sarah D. Petersen</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.

**8. ACTION: VACATION AND RELEASE OF EASEMENT FOR THE BROADLEAF HOLLOW CHANNEL** *Legislative*

The City Council will consider a request to approve a vacation and release of easement of the twenty feet wide storm drain easement as recorded on the Dry Creek Highlands Phase 3 Plat for lots 302 through 309. This vacation will be approved contingent upon the recording of a new easements by the owners of lots 302 through 309. The Council will take appropriate action.

City Engineer/Public Works Director Spencer indicated this item is directly related to the previous item on the agenda; he presented the plat map to identify the red line that represents the vacation of the easement and indicated that residents will be allowed to install a fence as close to the trail as the red line. He suggested that the motion language be adjusted require the receipt of new easements for lots 302-209; lot 310 will be allowed to build a fence commensurate with other fencing.

*Council Member Sarah D. Petersen MOVED that the City Council APPROVE and AUTHORIZE the Mayor to sign the vacation and release of easement as recorded on the Dry Creek Highlands Phase 3 Plat for lots 302 through 309. Instruct staff to add an allowance in the new easement documents approved on Sept. 21, 2021 that allows an open or semi-open fence to be placed at the edge of the trail easement between the channel and trail and implements the other conditions for fencing discussed in the staff report, subject to the receipt of the new easements for lots 302-309. Lot 310 also allowed to build a fence commensurate with the other fencing.*

*Council Member Scott L. Smith SECONDED the motion.*

- Council Member Timothy A. Ball*                      *Yes*
- Council Member Brittney P. Bills*                      *Yes*
- Council Member Sarah D. Petersen*                      *Yes*
- Council Member Kim Rodela*                      *Yes*
- Council Member Scott L. Smith*                      *Yes*

The motion passed 5:0.

**9. ACTION: AGREEMENT BETWEEN PATTERSON CONSTRUCTION, LEHI IRRIGATION AND HIGHLAND CITY** *Administrative*

The City Council will consider an agreement with Patterson Development and Lehi Irrigation Company to resolve current and future irrigation and tail water control of the existing Lehi Irrigation Ditch on 11200 North. The Council will take appropriate action.

City Engineer/Public Works Director Spencer reminded the Council that during their last meeting, they voted to approve drilling well #4 in the City. Drilling has commenced and the well is at a depth of 115 feet at the present time. Well #4 is located at 5100 West on 11200 North and does not have a retention area or other location to send wastewater to other than the Lehi Irrigation Ditch on 1200 North. Pumping water to waste is an essential function each time the Well is started and before it is sent into the culinary system. Because of our use of the ditch for this function, Highland City has an interest in finding a solution to address tail water flows. He proposed Sunrise Farms development will eliminate the ditch going to the north and therefore, Wayne Patterson of Patterson Development, Highland City, and Lehi Irrigation Company have agreed in concept to redirect the irrigation ditch under the terms of the attached contract. The contract was prepared by Lehi Irrigation Company. For the foreseeable future, irrigation and tail water will be routed to the southern portion of the undeveloped Patterson property. When the balance of the property develops, Patterson Development will pipe the portion of the ditch

along their frontage. At that same time, Lehi Irrigation Company and Highland City will be responsible to share the costs equally to get the balance of the pipe to Dry Creek. The ditch portion to be piped on the east side of 6000 W. will be divided among the three agreement parties included in this agreement. Patterson Development has agreed to pipe the equivalent of the eastern frontage portion of the Sunrise Development which is approximately 500 feet. Highland City and Lehi Irrigation Company will each be responsible for half of the cost for the remaining portion of piping to Dry Creek. This length is approximately 900 feet. The cost sharing percentage is not explicitly clear in the signed agreement as provided to Highland City. However, it is the understanding of the Highland City staff that the intended cost sharing is 50-50. The proposed motion includes a provision for clarifying this percentage in the signed agreement. Current estimates for the Highland City portion of the costs are \$150,000. This expense is appropriate to be paid by the culinary water fund as this improvement is necessary to allow the City to operate the water system. The expense was not foreseen or accounted for in the current water rate study. It is an expense that will need to be included in the next water rate study update. As the date of actual construction is unknown, the fiscal year and inflationary cost increase of the expense is difficult to predict. Mr. Spencer concluded that staff recommends approval of the agreement and entering into this contract with Lehi Irrigation Company and Wayne Patterson of Patterson Development; this action will have no impact on the current fiscal year's expenditures, however it does obligate the City to future costs as discussed.

The Mayor and Council reviewed the map of the project area to determine the portions that will be paid for by each party to the agreement.

Council Member Smith inquired as to the advantage this project will create for Lehi Irrigation. Mr. Spencer stated that the City will realize the greatest advantage; Lehi Irrigation does not really need the ditch, but they are contributing financially to the project. He stated he feels Highland City is getting a great deal with this project.

Council Member Peterson stated there will be water in the ditch that runs adjacent to private residences, and she asked if this will impact the residences by way of increased flooding. Mr. Spencer stated there is already water in the area; the new improvements will be piped and located under the asphalt. He stated the greatest issue for the Council to consider is what improvements will need to be made when the Longhorn property develops. He then asked that the Council include in the motion the cost sharing that was detailed in his staff report.

*Council Member Kim Rodela MOVED that City Council approve the agreement with Patterson Development, Lehi Irrigation Company, and Highland City and authorize the Mayor to sign the agreement with the provision that the signed agreement clarifies that the Lehi Irrigation and Highland City cost sharing is equal with each entity paying 50% of the shared costs.*

*Council Member Scott L. Smith SECONDED the motion.*

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Sarah D. Petersen</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

*The motion passed 5:0.*

## **10. ACTION/RESOLUTIONS: COUNCIL BOARD ASSIGNMENTS & RESOLUTIONS** *Administrative*

The City Council will consider ratifying the appointments of Mayor and Council for 2022 as proposed and adopt resolutions as necessary.

Mayor Kurt Ostler reviewed a staff memo that details the changes to Mayor and Council assignments for 2022. These assignments are reviewed every two years, but some are effective until the end of an elected official's term of office. He added that it is necessary to appoint a Mayor Pro Tem and that should be a separate motion from the approval of the assignments.

*Council Member Kim Rodela MOVED that the City Council ratify Mayor Ostler's Council Appointments as presented, including the appointment of Mayor Kurt Ostler as a regular member on the Lone Peak Public Safety District Board, and the North Utah County Aquifer Council; Brittney P. Bills on the Utah Valley Dispatch Special Service District Board, and as a regular member on the Lone Peak Public Safety District Board; and Sarah D. Petersen as an alternate member on the Lone Peak Public Safety District Board.*

*Council Member Scott L. Smith SECONDED the motion.*

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Sarah D. Petersen</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.*

*Scott L. Smith NOMINATED Brittney P. Bills as the Mayor Pro-tem. Timothy Ball SECONDED the nomination.*

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member Sarah D. Petersen</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.*

## **11. DISCUSSION: INTERLOCAL AGREEMENT - NORTH COUNTY EQUESTRIAN PARK** *Legislative*

City Council will consider the drafted interlocal agreement with American Fork, Lehi, and Highland cities outlining the cities' intent to take over management of the North County Equestrian Park. The Council will discuss the drafted interlocal agreement and provide feedback to staff. If Utah County selects the cities to operate the Equestrian Park moving forward, the final agreement will be brought back to Council for their approval.

Mayor Ostler provided background information on this issue. Utah County has contemplated changing the operation the North Utah County Equestrian Park located at 9450 North 6800 West in Highland. At one time, the County was even considering selling the property for at least partial private development. The County has seemed to decide against the idea of selling the land but is looking to lessen the County's involvement in the operation and maintenance of the facility. The County currently has a Request for Proposal (RFP) open for the maintenance of the property that closed today at 3:00 p.m. He noted that more recently, staff and elected officials from American Fork, Lehi, and Highland have been meeting to discuss the idea of the three cities joining together to manage the park moving forward. This type of management would ensure that the facility stay open for public use. Some other groups who have indicated interest in taking over management of the facility seem to want to turn it into much more of a private operation. An interlocal agreement outlining terms of management for the

three cities has been drafted and turned in to Utah County to consider as an alternative to a private or non-profit management of the facility. Due to the timing as to when a draft of the agreement was available, staff could not make it available in a Council meeting before the due date of the RFP. While the cities are not responding to the County's RFP, but rather as an alternative to a private or non-profit group taking over management, they felt it best to meet the same deadline as the RFP's. The drafted agreement turned in to the County does not constitute Highland signing the agreement. As a part of the submission, the cities noted that final approval from each cities' Council's was required before the agreement could be executed.

At this time, staff is looking for feedback from Council on the concept presented and the content of the agreement. If Utah County selects the interlocal agreement option to manage the facility moving forward, the agreement will be finalized between all four parties before being brought back to Council for approval. Mayor Ostler concluded the agreement requires that American Fork, Lehi, and Highland contribute equally to the maintenance costs of the facility. What those final costs will be is still be analyzed. A part-time employee is on staff at the facility. An estimated cost for an Operator I type employee working 20 hours per week would be \$20,800 total. It is anticipated that the costs will be offset by user fees.

Assistant City Administrator Wells added that she has attended the meetings during which this agreement has been discussed; the benefit she sees to the three cities joining together to manage the facility is that such an arrangement will allow the facility to remain open to the public. If a private entity is awarded a contract to manage the facility, they would have the ability to close it to the public as they choose.

Mayor Ostler added that Lehi City would like to place a water tank on the property and that has been included in the interlocal agreement; additionally, trail connections could be made through the property, which would benefit the entire City. He stated that the facility is located within Highland City's boundaries.

High level discussion among the Council centered on the terms of the agreement and the responsibilities of each of the three cities; the Council indicated they'd like to have a clear understanding of the of the fiscal impact of the contract. Mayor Ostler stated that once the three cities have the opportunity to discuss the issue in greater detail with the County, he can provide more information to the Council and have a detailed report of potential costs.

## **12. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS**

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

Council Member Smith spoke to his reappointment to the North Pointe Solid Waste District; he believes he will need to reapply as a member at large. Highland, Vineyard, and Cedar Hills joined after the creation of the Special Service District, which means each of the cities must reapply to be part of the District's membership.

Chief Patton inquired as to the time for the Lone Peak Public Safety District (LPPSD) meeting tomorrow, to which Mayor Ostler answered 7:30 a.m.

### **a. Future Meetings**

- January 12, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- January 18, City Council Meeting, 7:00 pm, City Hall
- January 25, Planning Commission Meeting, 7:00 pm, City Hall

## **ADJOURNMENT**

*Council Member Kim Rodela 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 9:16 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 January 11, 2022. This document constitutes the official minutes for the Highland City Council Meeting.



Stephannie Cottle  
City Recorder