



HIGHLAND CITY

HIGHLAND CITY COUNCIL MINUTES


Tuesday, February 7, 2023

Approved March 21, 2023

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

6:00 PM WORK SESSION - UTAH BROADBAND

Call to Order – Mayor Kurt Ostler

The meeting was called to order by Mayor Kurt Ostler as a work session at 6:11 pm. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting.

PRESIDING: Mayor Kurt Ostler

COUNCIL MEMBERS

PRESENT: Brittney P. Bills, Timothy A. Ball (arrived at 6:19 pm), Kim Rodela (arrived at 6:16 pm), Sarah D. Petersen, Scott L. Smith

CITY STAFF PRESENT: City Administrator Erin Wells, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Planner and GIS Analyst Kellie Smith, City Engineer/Public Works Director Andy Spencer

OTHERS PRESENT: Jon Hart, Jon Hagen, Lee Olsen, Athina Riddell

Mayor Ostler recognized representatives of Utah Broadband (UBB), who were present to provide information about the service they would like to provide in the Highland community.

Jon Hagen, Vice President of Fiber for UBB, used the aid of a PowerPoint presentation to provide information regarding UBB, which was founded in 2002. UBB has a strong, experienced leadership team, including Lee Olson, Vice President of Operations for UBB and Athena Ridell, Fiber Project Manager for UBB, both of which were present tonight. Mr. Olson provided background regarding UBB's operations in Utah; they started providing internet in Highland in 2003 and have become one of the top internet service providers (ISPs) in Utah. They built their first fiber network in 2006 and have acquired seven other ISPs since being founded. He discussed the makeup of the company, which employes 74 individuals and is backed by a public company. The company's core values include respect, integrity, passion, and team. Mr. Hagen then addressed the needs of Highland City; UBB can provide great internet to all citizens with long term infrastructure at minimal risk to citizens. UBB proposes the following:

- Total project build cost is estimated at \$18 million.

- UBB will fund 75-85 percent of the build costs based on final low-level design.
- City will fund 15-25 percent.
- City will endorse UBB to apply for BEAD to cover underserved pockets.
- UBB and City will collaborate on awareness campaign, marketing, etc.
- City will provide a 10-year moratorium on city-wide Franchise Agreements.
- UBB will own, operate, and maintain the network.

Council Member Rodela arrived at 6:16 p.m.

Benefits to Highland include the following:

- UBB will pay city a subscriber fee (per paying subscriber) for city bond obligation.
- UBB will pay the subscriber fee in perpetuity as a revenue source for the city.
- UBB will provide Highland City perpetual dark fiber lease for \$1 to identified buildings, parks, water tanks, etc.
- UBB will assist city to set up Wi-Fi, security cameras and air sensors in designated areas.

Council Member Ball arrived at 6:19 p.m.

He then presented three funding models for consideration:

- 15% Funding Option
 - \$2.7M Bond, \$5.50 per subscriber fee paid monthly ¹
 - Principal & Interest returned over 30-year term of Bond.
- 20% Funding Option
 - \$3.6M Bond, \$7.00 per subscriber fee paid monthly ¹
 - Principal & Interest returned over 30-year term of Bond.
- 25% Funding Option
 - \$4.5M Bond, \$9.00 per subscriber fee paid monthly ¹
 - Principal & Interest returned over 30-year term of Bond.

¹ Estimate based upon current interest rate environment, subject to change.

Mr. Hagen stated he believes the proposed model is unique and UBB would love to work with Highland City on a City-wide fiber project. He expressed a willingness to answer any questions the Mayor and Council may have.

Mayor Ostler asked if the \$18 million build cost is a one-time up-front payment or if it would be paid over time. Mr. Hagen stated that the terms of the payment could be negotiated; perhaps the \$2.7 million could be broken up into four or five payments and payments are due when set milestones are reached. He added that \$18 million is only an estimate and as design and engineering occurs, the amount may go up or down.

Mayor Ostler inquired as to the estimated fee end users will pay for fiber. Mr. Hagen stated that the monthly cost for fiber internet is between \$70 and \$90 per month; the \$5.50 per subscriber fee referenced in the 15 percent funding option is part of the monthly cost.

Mayor Ostler asked if there is a certain ‘take rate’ UBB needs to reach and if that rate cannot be reached, will the City be charged to cover any lost revenue. Mr. Hagen stated there is no take rate required; UBB believes in the product enough to spend the money they have committed to spend to build the infrastructure.

Mayor Ostler then addressed City Attorney Patterson and asked if the City can agree to the moratorium requested by UBB. Mr. Patterson stated that if the City partners with UBB, rather than simply granting them a franchise agreement, the City could consider an arrangement that differs from those for other service providers that are operating under a franchise agreement.

Council Member Rodela inquired as to the other cities UBB has partnered with and if other cities have agreed to the requested 10-year moratorium. Mr. Hagen stated this would be UBB's first city-wide deployment; however, they have over 10,000 customers on their network with a heavy customer base in Wasatch and Summit Counties. In those areas there is over 100 miles of fiber in the ground.

Mayor Ostler asked if the public company, Boston Omaha, mentioned in the presentation actually owns UBB. Mr. Olson stated that they are the majority owner of UBB; they own 80 percent. Mayor Ostler inquired as to their net worth. Mr. Olson stated he is unsure, but that information should be publicly available.

Council Member Ball stated that one of UBB's competitors offers a hybrid copper/fiber trunk and they have indicated that is sufficient. He asked UBB if they share that same opinion. Mr. Hagen stated he does not agree with that opinion; UBB's solution is to provide pure fiber from 'the cloud to the home'; there is no copper between point A and B because it is a medium that degrades over time and can become unreliable. As the demand for internet service inevitably increases, the only way to meet that demand will be with a fiber connection. Council Member Ball asked if there are any limitations on UBB's network. Mr. Hagen answered no; fiber is a strand of glass with lasers on either side that can pass up to 1.5 tb of data over the infrastructure. Council Member Ball asked when the City will be able to participate in profit sharing of the subscriber fee revenues. Mr. Hagen stated that the City would receive a portion of all subscriber fees from the onset of the project. Council Member Ball asked if those revenues can be used to repay the bond debt, to which Mr. Hagen answered yes.

Mayor Ostler asked if UBB has calculated the number of users the City would need in order to generate sufficient money to pay the bond payment. Mr. Hagen stated that number is roughly 35 percent of the City's population, or 1,700 subscribers.

High level discussion among the Mayor, Council, and UBB centered on marketing of the UBB service option, remote monitoring of the infrastructure, and the construction method for installing the fiber and associated infrastructure.

Council Member Smith stated that technology is ever-changing, and he asked what assurances can be offered that fiber will be functional for the next 50 years or if it will 'become a dinosaur' at some point. Mr. Hagen stated most functioning connections are over fiber cables and this technology has been deployed for 50 or 60 years. Fiber is not a limiting factor; the only limits are the electronics that are being connected to the fiber networks.

Council Member Ball stated he has heard that if networks are overtaxed, users will experience slower speeds. Mr. Hagen stated that when using a fiber network, the bandwidth can be monitored and if a choke point is identified, the fix is fairly easy with no interruption in service.

Council Member Smith stated that the Council recently discussed this type of project with another provider and determined that it would be appropriate to conduct a citizen survey to see if there is a true demand for fiber and if residents are willing to pay for the service. He asked if UBB would be willing to help the City conduct the survey. Mr. Hagen stated that UBB has never done that before but would be happy to partner with a City to conduct a survey.

Mayor Ostler asked if UBB has any fiber in the ground in Highland currently. Mr. Hagen answered no; there is a subdivision that is being built and while there was an open trench in that project, UBB installed conduit to allow for the future installation of fiber but has been waiting on the outcome of this and subsequent meeting to understand if a franchise agreement will be granted.

Council Member Ball inquired as to UBB's partner for providing certain services like cable programming. Mr. Hagen stated that end users can decide which service providers to contract with; UBB is just the 'highway' and

it can offer symmetrical download and upload speeds. Any speed needed by any household or end user can be provided by fiber.

City Administrator Wells inquired as to UBB’s timeline for a fiber buildout in Highland. Mr. Hagen stated he anticipates a 12-month buildout schedule, weather permitting. Mayor Ostler asked if that includes providing connectivity to every home in Highland. Mr. Hagen answered yes, noting there is an installation fee of \$200 per home.

Council Member Smith thanked Mr. Hagen for being straightforward and transparent relative to their service costs and fees.

Ms. Wells then noted that Administration has been working with another service provider to develop a citizen survey, but those efforts were paused until the Mayor and Council had an opportunity to hear from UBB. She stated that the survey could be launched next week in preparation for the March 7 City Council meeting; it is helpful for staff to have a range of potential bond amounts depending on the fiber partner that is selected and that information can be included in the citizen survey. Council Member Smith stated that it would be helpful for the Council to have a summary of all proposals that have been presented to date.

Mayor Ostler stated that most important to him is the true need for fiber service in Highland. Council Member Smith agreed.

The work session adjourned at 6:51 p.m.

7:00 PM REGULAR SESSION

Call to Order – Mayor Kurt Ostler

Invocation – Mayor Kurt Ostler

Pledge of Allegiance – Council Member Kim Rodela

The meeting was called to order by Mayor Kurt Ostler 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 Mayor Kurt Ostler and those in attendance were led in the Pledge of Allegiance by Council Member Kim Rodela.

PRESIDING: Mayor Kurt Ostler

COUNCIL MEMBERS

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

CITY STAFF PRESENT: City Administrator Erin Wells, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, Planner and GIS Analyst Kellie Smith, City Engineer/Public Works Director Andy Spencer, Police Chief Brian Gwilliam, Communications Coordinator Lina Costa Olsen

OTHERS PRESENT: Jon Hart, David Wadsworth, Chirine Wadsworth, Daniel Wadsworth, Scott & Cassidy (Wadsworth) Skousen, Ladd & Mariah Wadsworth, Joseph Wadsworth, Daniel Wadsworth, Gerald Naumann, Wesley Warren, Robert Valentine, Ken Stratton, Shyloh, Muhlesten Jeromy Nielson, Wendell Jung, Colby Gibson, Joseph Hunsaker

1. UNSCHEDULED PUBLIC APPEARANCES

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

Robert Valentine asked if the City has made decisions about what will be done with the dying orchard in Wild Rose Park. Mayor Ostler stated the Council has a made a decision to proceed with consideration of eliminating the open space fee; this will convert some park spaces in the City to public parks rather than private parks. He stated that the Wild Rose Subdivision was subject to the open space fee and they paid approximately \$60,000, with \$30,000 to be allocated to Wild Rose Park. At this time there has not been discussion among the Council regarding the future of the orchard and the rest of the park space. Mr. Valentine stated that he would like to participate in a site visit with Mayor Ostler and City Administrator Wells as he has some suggestions that he feels would be beneficial to the City in terms of the future of that area, and would likely save some money. His greatest concern is the waste of water on the park space; he and his wife bought the first home in the Wild Rose Subdivision 19 years ago and he started working to install xeriscape. He was informed that he needed to ensure that a certain percentage of his landscaping was grass or other similar materials, but now he plans to convert some of that grass space to landscaping that uses less water. He has watched the orchard die; each tree has its own pipe to water it, but he feels that is a waste of water. Mayor Ostler stated that he will take Mr. Valentine up on his offer to visit at the park.

Colby Gibson addressed the recent actions taken by the City regarding Alpine Food Storage; he was shocked to find out that the City had taken an action that will require one of the few tax revenue generating businesses in the City to close their doors. He has watched their operations over the years and has seen them adjust their operations responsive to concerns that have been voiced. He is baffled that the City would do what has been done to a Highland resident and business owner; he thought Highland was much more pro-business and less big-government and he is deeply disappointed.

Ken Stratton asked if the City is planning to hold an Arbor Day tree sale this year. City Administrator Wells answered yes; it is typically held in April around Arbor Day. Mr. Stratton stated he is the owner of Highland Gardens nursery, and he asked that the City consider not doing the tree sale because he feels it is a direct conflict with commercial businesses in the area. The City is buying commercial products at a discounted rate and passing that discount on to the residents, which takes away a businesses' opportunity to realize a profit on the same product. He stated that he does not feel the City should be doing that type of thing and he asked that the Council consider eliminating the event. Council Member Smith stated he has been a patron of Highland Gardens for many years, but he noted is in American Fork. Mr. Stratton stated that is correct.

Gerald Naumann stated he watched the last City Council meeting during which they discussed the parks building project; he referenced consideration of placing the facility near the Community Center, but separating the two buildings to ensure they are independent of one another. He noted that the cost to ensure that independence is \$600,000 to \$700,000 and he does not feel that burden should be placed on citizens just to make a few people happy. He stated this is not a good use of taxpayer money and he recommended that the Council opt for the cheaper plan as the only negative result could be that different groups and users will be sharing a bathroom space.

2. CONSENT ITEMS

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** *General City Management – Stephannie Cottle, City Recorder*
Regular City Council Meeting – January 3, 2023 and City Council Work Session – January 5, 2023

Council Member Scott L. Smith MOVED that the City Council approve consent item 2a Meeting Minutes from January 3, 2023 and City Council Work Session January 5, 2023.

Council Member Timothy A. Ball 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.

3. ALPINE FOOD STORAGE BUSINESS LICENSE REVOCATION HEARING *Quasi-Judicial/Administrative – Rob Patterson, City Attorney*

The City Council will conduct a hearing on whether to revoke the business license for Alpine Food Storage, operated by the Wadsworth's. The Council will take appropriate action and make a decision to revoke or renew the license.

City Attorney Patterson reviewed the background information included in his staff memo regarding this matter, after which he summarized what has occurred between August of 2022 and December 31, 2022. At the beginning of January, the City issued a letter to the Wadsworth's explaining that their license would expire, and they would need to wind down their business within 30 days. The City also issued a notice regarding this hearing. The Wadsworth's have informed the City that the Pleasant Grove location has fallen through, but that they have found a second location, also outside of Highland, that may be workable. To staff's knowledge, they are currently in the process of finalizing lease terms and moving the business. He then reviewed sections of the Highland City Code regarding business and home occupation licensure that are applicable to the business, after which he noted the primary purpose of the City's home occupation regulations is "to protect the character of residential neighborhoods in the city." HCC 5.08.020. The operation of Alpine Food Storage business does not conform to the requirements of a home occupation. A home occupation is supposed to be "conducted entirely within a building," "clearly incidental and secondary to the use of the building for dwelling purposes," "not change the character" of the building from a residential structure." HCC 5.08.010. Out of the 11 required conditions or standards for home occupations under HCC 5.08.050, the business appears to violate 7 to 9 of those standards. He concluded as was the case in August 2022, the Alpine Food Storage business continues to violate several sections of the City's Code regulating businesses and home occupations. Per the Council's prior direction, the business license should have expired and terminated after December 31, 2022. Because of the way the City staff issued the license, with an expiration date contrary to that set by the Council, this hearing is being held to ensure that all due process requirements are satisfied, and that the City procedures for business license revocations are satisfied. While the Wadsworth's may have found a suitable alternative location, the question for the Council is whether to allow another extension on this license while they complete their transition to the new location outside of Highland, or whether the Council should require the Wadsworth's to end all business within Highland City immediately.

Council Member Smith asked Mr. Patterson to address the discrepancy relating to the license expiration date and how that impacts the legality of revocation at this time. Mr. Patterson stated that in the printing of the license, staff made an oversight relating to the expiration date. It is his point of view that the license should have expired at the end of December of 2022, but when he learned of the discrepancy in the license document, he advised that the Wadsworth's should be given the chance to present their case to the City Council. He suggested that the Council hear from them and any other parties regarding this appeal before rendering a final decision.

Dave and Chirine Wadsworth approached the Council. Ms. Wadsworth provided information regarding the location that she is working to move her business to; in May of 2022 she and her husband began pursuing a lease of property in Pleasant Grove. The space was not ideal for their business, but they believed they could make it work. In June of 2022, they entered into a verbal agreement and were promised that an official lease was forthcoming. She met with Mayor Ostler to inform him of the verbal agreement and the pending lease. Their business license expired on June 30, 2022 and they requested an extension of the license based upon the pending lease agreement for the new space. They had a hearing before the Council in August of 2022 and were granted an extension until the end of 2022 and from July to October they were preparing to relocate their business to the Pleasant Grove space. This included design work, painting, floor installation, and refrigeration work all while awaiting a written lease from the owner. She stated that they paid for \$30,000 in improvements to the building and informed the owner that they would like to begin moving their product to the space and they received an email from the owner on October 7 informing them that another user would be occupying the building and that there was just 3,000 square feet available for them to use. She stated she and her husband tried to communicate with the building owner and subsequently received an email from the owner's attorney informing them that the 'deal was dead'. She has never heard anything else from the owner of the building. Mr. Wadsworth stated he drove by the building today and it still is not occupied, but it has fresh paint and a new floor that he and his wife paid for. Ms. Wadsworth then stated that they found another location in American Fork, The performed a walk through on October 17 while Young Living was in the process of moving out and they later submitted a letter of intent to lease the space on November 1. They submitted their financial statements and business plans by November 17 and on November 22 they received an initial draft of the lease agreement. Negotiations of the lease terms continued throughout the holiday season and on February 1 they executed the lease agreement. She has provided a copy of the signature page for the lease agreement to the Mayor, but asked that she not be required to submit the full lease as doing so would make that document a public record. She stated that the building is beautiful, but some work needs to be done before they can move in. Mr. Wadsworth stated that the relocation is subject to the schedules of third party contractors that they will hire to perform the work. Ms. Wadsworth stated that they are caught between two cities; Highland has communicated that they need to cease operation and move their business elsewhere, but American Fork is requiring an inspection process in order to finalize the licensure of the operation. She concluded that she and her husband are asking that the Council grant a final extension until May 1 to allow them sufficient time to move to the new location, but still provide service to their customers in the meantime. They will begin paying rent on April 15 and they need to sustain their income in order to satisfy that obligation.

Council Member Smith stated that he is sympathetic to the plight of the Wadsworth's; he is sad to see them leave the City, but they have been so successful and outgrown their home occupation use and there is no other alternative. He asked the Wadsworth's if they believe their customer base will follow them to their new location. Ms. Wadsworth stated that their business pulls customers from many other communities and those customers are excited about the new location because it is located just off of the freeway. She is sad that the location is not in Highland, but she does believe the move will be a positive one. Mayor Ostler added that he has had conversations with the Wadsworth's about other locations in Highland, but unfortunately there are no suitable spaces in the City.

Council Member Bills stated that the Wadsworth's were aware that their license was being extended until December 30 and she asked when they were aware that they would not meet that deadline; she asked when they contacted the Mayor to inform him of that matter. Mayor Ostler stated that he was contacted by mid-December.

Ms. Wadsworth indicated that they had signed a letter of intent by that time, but they were still negotiating the terms of the lease. She apologized for not coming forth as soon as the Council feels they should have. Mayor Ostler noted that through his own experience, he is aware that the lease negotiation process can be very lengthy and difficult. Ms. Wadsworth agreed and noted that the typical process was lengthened due to it occurring during the holiday season.

Council Member Rodela asked when staff first realized that there was a violation at the property and how many complaints the City has received from other residents about the land use. Mr. Patterson stated that staff received the first complaints in 2020; this led to informal discussions between staff and the Wadsworth's about opportunities to adjust the use of the property responsive to the complaints and violations. He stated he is unsure of the exact number but would guess the City has received at least a dozen complaints about the land use. Council Member Petersen thanked Council Member Rodela for her question and noted she was interested in that information as well; she is very torn regarding this issue. She sympathizes with the Wadsworth's and their dilemma, but she also feels an obligation to address the concerns of other residents who have been patient for nearly three years. At some point the Council must make a decision and stand by it with the knowledge that the City has been very flexible and patient and given the Wadsworth's sufficient time to respond to the issue. She is concerned that an extension until May will not be enough given the demand for contractors; it may take several months to complete the work needed on the new space before May 1 and she is concerned about being in this situation again in May.

Mr. Wadsworth asked if the City has received complaints from Highland residents or Alpine residents; his property is on the edge of Highland City, and he would not be surprised if some of the complaints were from Alpine residents. Mr. Patterson stated he cannot say for sure that all complaints were from Highland residents, but he knows that some of them definitely are Highland residents. Mr. Wadsworth stated that it is his assumption that most communication the City receives from residents is negative in nature; most people do not reach out to provide positive feedback and he asked that the Council consider there is support in the community for extending the license for another 90 days.

Mayor Ostler refocused on the staff error resulting in the expiration date listed on the most recent license being June 30, 2023. He suggested that the Council consider whether to approve the May 1 request or the June 30 date. He stated the Council does have the authority to revoke a license. Council Member Rodela acknowledged the license expiration date is June 30, but she asked if the business is being operated in compliance with the City's home occupation regulations referenced by Mr. Patterson. Mr. Patterson stated staff has verified the complaints of non-compliance; it is staff's assessment that the business is operating in violation of City ordinances. He is not sure it is necessary to get into a certain level of detail regarding the violations as he believes that the Wadsworth's agree that their operation is violating the City Code and they are working to relocate. The City would like them to succeed in their business, but it is staff's perspective that the business – in its current form – should not be operating in a residential area. The Wadsworth's have indicated that they cannot scale back their operations, and that is why they have been working to relocate for the past year. Council Member Petersen asked if they can be required to scale back their business for the next six months in order to retain their license. Mr. Patterson stated that they do not have a way of scaling back their business without 'killing' it; either they should be allowed to operate, or the license should be revoked.

Council Member Bills asked the Wadsworth's how long it will take them to transition to the new space. Ms. Wadsworth stated that they want to begin operating from their new space on April 15, but they have asked for an extension until May 1 to provide coverage for any extenuating circumstances. Council Member Bills asked if the Wadsworth's have any documentation of their work with American Fork City to achieve licensure. Mr. Wadsworth stated he did not bring that documentation with him tonight, but he can provide it after this meeting. American Fork has affirmed that the business can operate within the zoning designation that has been assigned to the property and they still need to pass a building and fire inspection.

Mayor Ostler stated that the decision before the Council tonight is to either revoke the license, change the expiration date to May 1, or uphold the current expiration date of June 30, 2023. The Council discussed and debated the options before them, with a focus on civil penalties associated with violation of the City's home occupation license regulations. Council Members Rodela and Petersen expressed they wish that the business could stay in Highland and that they believe the Wadsworth's provide a valuable service; however, non-compliance for years is inexcusable, and it is time for the City to uphold its ordinances and protect other residents who have expressed concerns about the violations. Council Member Smith agreed the Council is charged with upholding its ordinances, but he acknowledged some extenuating circumstances that have made it difficult for the Wadsworth's to bring their business into compliance and/or to relocate to another space. There has been a great deal of uncertainty in the business world following the worldwide pandemic, but the Wadsworth's have acknowledged that they have outgrown their space and must move. He is sad that they spent \$30,000 on a new space without being able to secure a lease. He does not believe the City should take an action that would essentially put them out of business when they are already trying to move. They have a license that is good until the end of June, even if that date is a result of a staff mistake. He agrees that the violations should have been corrected years ago, but he is leaning towards allowing them to operate until they move to their new space, or until June 30, 2023. Council Member Ball suggested a stopgap; the Wadsworth's could begin moving to the new space and use it in a way that is different than what they are used to until the renovations are complete. He agreed with Council Member Petersen that the Council has been lenient, but he wants to continue to be lenient and allow them to do business until May 1. If they are unable to relocate by then, the Council should consider revoking the license. He stated his empathy and his support for their business is stronger than his desire to revoke the license. Mr. Wadsworth stated that he is not sure that they can move into the building and begin operating until the license has been granted by American Fork. Council Member Ball agreed, but noted that once the license is approved, they could operate in a way that is different than what they are accustomed to while the space is being improved. Ms. Wadsworth agreed.

Mayor Ostler opened the public hearing at 7:57 p.m.

Joseph Hunsaker stated that this is an awesome problem to have; his family uses Alpine Food Storage, and he had no idea this was happening, but he is happy for them that their business is growing, and they have experienced the level of success that has forced them to transition from a home occupation to a brick and mortar building. He stated that they have provided a great service to the community, and he is sad to see them go.

Colby Gibson stated this is a heartbreaking situation; the Wadsworth's are so kind and so good. They have acknowledged they are breaking the rules, but he suggested that maybe the rules are wrong. He stated that he travels through the neighborhood where the business is operated very regularly, and he urged the Council to not allow the City to be 'run by whiners'. He stated that the Council has not heard from the thousands of people who have benefitted from the business; during COVID, Alpine Food Storage was the only place he could buy flour. He is surprised that this matter is being debated by the Council when they have been presented with a license that should not expire until June of 2023. He is upset to hear that the Wadsworth's spent \$30,000 on a building they will not be able to occupy and that the City is now considering forcing them to close their business before they can move to a new space. He feels the Council is approaching this issue in the wrong way; they should care more about individuals and business owners, and he urged them to not make a decision that could result in the business being forced to close.

Mayor Ostler closed the public hearing at 8:04 p.m.

Council Member Bills asked if a business owner can be fined for violating the terms of their business license in order for the residents of the City to understand that the Council does not take such violations lightly. Mr. Patterson stated that the City Code does not provide for civil penalties for violating the business license provisions; all penalties would be criminal in nature.

Council Member Smith referenced the sample motions listed in the staff memo regarding this item; he suggested that the motion to extend would not be appropriate given that the Wadsworth's already have a license that does not expire until June 30, 2023. Mr. Patterson agreed; the Council could make a motion to do nothing at this time or to state that the current license is still valid.

Council Member Timothy A. Ball MOVED that the City Council allow Alpine Food Storage to continue doing business status quo until the end of their business license on June 30, 2023 with the provision that Council receive semi-monthly updates on progress, especially if it goes beyond agreed upon date.

Council Member Scott L. Smith SECONDED the motion.

Mayor Ostler asked for clarification; he asked if the Council would like to hold another hearing in the event that the business has not been relocated before June 30, 2023. Mr. Patterson stated that a hearing would be required in order for the license to be revoked.

Council Member Bills stated that if the Council is made aware that the business will not be relocated by May 1, she would like to understand the rights the City will have at that time. Mr. Patterson stated that if something changes drastically between now and May 1, the Council can choose to hold another hearing. Council Member Ball stated that was the intent of his motion. Council Member Bills stated that her interpretation was that the Council would simply receive progress reports regarding the status of the relocation; however, she would like to know what options the Council will have if the move is not finalized by May 1. Mr. Patterson suggested the motion be clarified to include language indicating the Council reserves the right to hold further proceedings regarding the validity of the business license based upon updates received from the Wadsworth's.

Council Member Timothy A. Ball MOVED that the City council authorize the continuance of Alpine Food Storage status quo, with semi-monthly updates with the proviso and condition that if it becomes apparent that the business will not be moved, the Council can revisit the issue and consider negating the extension until June 30, 2023.

Council Member Scott L. Smith SECONDED the motion.

Mr. Patterson asked if the term 'status quo' is an acknowledgement that the business is operating in violation of home occupation ordinances that will be permitted until June 30, 2023. Council Member Ball answered yes.

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

The motion passed 3:2.

4. PUBLIC HEARING/ORDINANCE: GENERAL PLAN AMENDMENT - MODERATE INCOME HOUSING ELEMENT *General Plan Update (Legislative) - Kellie Smith, Planner & GIS Analyst*

The City Council will hold a public hearing to consider a request by Highland City Staff to update the Moderate-Income Housing Element of the General Plan to be compliant with Utah State Code. The City Council will take appropriate action.

Planner & GIS Analyst Smith explained on August 16, 2022, the City Council had a discussion item that addressed possible adjustments to existing Moderate-Income Housing (MIH) strategies in the General Plan as well as an implementation plan for each of the strategies. The City Council indicated that they wanted to keep the existing implementation measures and did not want to add any new strategies. On September 6, 2022, the City Council approved the amendment recommended by Planning Commission with a change to the ADU section that would state, "On an ongoing basis the city will monitor ADU's and will also seek citizen input." At the December 6 City Council meeting, staff made the Council aware of a notice of non-compliance received from the State. Staff would work on drafting more specific timelines and benchmarks for the Planning Commission and City Council's review. Staff recommends the City Council hold a public hearing, discuss the proposed amendment and Planning Commission recommendation, and approve the proposed General Plan amendment with any changes the City Council determines necessary that are compliant with the requirements from House Bill (HB) 462. She then summarized the strategies from HB 462 that have been included in the moderate-income housing element of the General Plan.

Council Member Smith stated that during past discussions of compliance with HB 462, he does not recall any mention of the City's eligibility to receive American Rescue Plan Act (ARPA) funding for compliance with the legislation. Ms. Smith stated that recommendation was just recently made but has been removed from the legislation. City Administrator Patterson clarified that the legislation would not have applied to funds received directly from the federal government to the City; rather, it would have applied to ARPA funds received by the State, for which cities can apply. Council Member Smith then stated that he is not concerned about losing eligibility for Transportation Investment Fund/Transportation Investment Fund (TIF/TTIF) funding because the City only has one public transit route. He stated that he is very upset about the mandates included in the legislation; the City has conducted several public surveys, and the residents have communicated a preference for low density. Housing affordability is a 'catch phrase' and it is difficult to ensure affordable housing in Highland based upon demographics; the median income in Highland is nearly twice that of the County. He stated he does not believe the City should be mandating affordable housing and, instead, it should be market driven. He stated many State Legislators have never served as a member of a local governing body so they are not familiar with the needs of local residents; there are many problems created by high density for local municipalities to deal with, such as traffic, crowded schools, and water shortages and State Legislators do not need to deal with those matters directly. He would not have as much of a concern if the State were considering each city's demographics, but the problem is created when Highland is lumped in with other cities who have very different demographics and housing affordability is defined differently in those communities. He noted those who really benefit from this legislation are those that stand to increase their revenue by building high density housing. He has a philosophical and principled objection to the legislation and extending the City in order to comply with the legislation will 'open Pandora's Box' in terms of creating indirect zoning decisions. Ms. Smith stated that she tried to word the implementation measures in a way that the choice to pursue affordable housing strategies, such as building a detached accessory dwelling unit (ADU) on their property, would be up to the residents. Council Member Smith asked if that will be interpreted by the Legislature as compliance with the legislation. Ms. Smith answered yes.

Mayor Ostler stated that he agrees with Council Member Smith's assessment of the legislation but noted that that the Legislature is actively working to strengthen the legislation. He stated that in order for rent rates to be considered 'affordable' they must be \$1,658 per month or lower. He stated that someone would have a hard time finding a basement apartment for that rate. He then noted that upwards of 80 percent of the cities in the State had their moderate income housing element rejected by the State; this action is simply an adjustment to that element of the General Plan to ensure compliance with reporting requirements. He stated that he agrees that the legislation is problematic, but the Council must take action. This led to philosophical discussion and debate among the Council regarding the applicability of the legislation to various cities in the State of Utah, with a focus on the penalties for non-compliance with the legislation.

Mayor Ostler opened the public hearing at 8:40 p.m.

Gerald Naumann stated he believes the City should push back against the affordable housing legislation; if cities do not push back, the Legislature will continue to enact these types of laws. He agrees with Council Member Smith that it is not possible to legislate housing affordability and that issue should be left to the market. He stated

that he works with mortgages and there is no way to control rates and different conditions that impact a mortgage; the same is true for housing affordability.

Scott Hart agreed the City should push back against the legislation and that more cities should do the same.

Mayor Ostler closed the public hearing at 8:42 p.m.

Council Member Petersen asked how resistance – or ‘push back’ – from the City would be communicated to the State Legislature. Mayor Ostler stated that the City has representation on the Legislative Policy Committee (LPC) of the Utah League of Cities and Towns (ULCT) and those members can communicate that they want the ULCT to oppose the legislation. However, the Legislature and the Governor are both very focused on housing affordability and he does not think it will be possible to defeat the bill altogether. Council Member Smith agreed but noted that there are different conditions in each community that influence housing affordability. He urged all Council Members and residents to contact legislators that represent Highland City and Utah County. The message should be that every city is different and a State-wide or County-wide mandate is not appropriate. Council Member Rodela agreed that many residents moved to Highland for a reason; they appreciate the rural feeling and low-density residential neighborhoods. She agrees that housing affordability is important because she wants her children to be able to afford a home in Highland one day, but she wondered if there is a way to comply with the legislation that does not impede the way of life in Highland. She stated that she thinks that the ADU strategy is a good ‘outside of the box’ solution for complying with the legislation and preserving the nature of the community. She added that age-specific housing, such as 55 and over communities are also a great strategy. Mayor Ostler agreed, but noted in the past the City has been classified as ‘elitist’ due to its lack of high-density housing and its response to the housing affordability legislation; however, the City has added several developments with higher density and that type of development will likely continue. He stated that the State continues to ask for more, however, and that is unreasonable. Council Member Bills agreed.

City Administrator Wells addressed Council Member Petersen’s question about what ‘pushing back’ looks like; if the Council chooses to not update the moderate income housing element of the General Plan, the City will be deemed non-compliant with the legislation and will be charged \$94,000 per year as a fine for non-compliance. Council Member Smith stated that the alternative would be to adopt three strategies, but not really do anything to implement those strategies. Ms. Wells stated that the element includes implementation measures as well, and those will be part of future reporting to the State.

Mayor Ostler facilitated discussion among the Council with the goal of choosing three strategies to include in the moderate income housing element of the General Plan for submission to the State of Utah. He suggested that pursuing a senior housing zone is a strategy that would be appropriate for the City to adopt. Council Member Smith asked if a decision must be made today. Ms. Wells stated that the Plan must be submitted to the State immediately or the City will be out of compliance.

Council Member Bills stated that she feels the legislation is ridiculous, but she is not prepared to spend nearly \$100,000 in taxpayer money for noncompliance. She is willing to vote to update the moderate-income housing element of the General Plan but would also like to send a strongly worded letter to the State Legislature communicating the City’s position. Council Member Petersen agreed; she would like to develop a plan for opposing the legislation and pursuing future modifications. She stated that the senior living zoning makes sense to her; she is also willing to entertain a survey regarding the ADU land use and mixed-use developments that include housing elements. This led to continued discussion among the Council regarding appropriate strategies to include in the document; they settled on options E, F, and U, which read as follows:

- E - create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones:
 - 2023 language: Include in the City’s annual survey a question to gauge support for detached accessory dwelling units in residential zones.
 - 2025 language: Review the results of the annual survey. If there is significant support for detached accessory dwelling units, work with the Planning Commission and City Council to update the

Development Code to allow for them; if there is not significant support from the residents, determine an alternative way to reduce regulations for internal accessory dwelling units.

- F - zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers:
 - 2023-2025 language: Permit the remaining 425 lots for the townhomes, carriage lots, and cottage lots that have yet to apply for building permits in the Ridgeview Planned Development.
 - 2024 language: Remove the requirement to include a commercial aspect in Planned Development (PD) Districts.
 - 2026 language: Work with the Planning Commission and City Council to update the Land Use Plan in the General Plan to allow for higher density housing adjacent to Commercial Retail, Commercial-1, and appropriate Planned Development zones.
 - 2027 language: Work with the Planning Commission and City Council to research and draft an ordinance creating a residential zone with higher density such as a senior housing zone.
- U - develop a moderate-income housing project for residents who are disabled or 55 years old or older:
 - 2024 language: Work with the Planning Commission and City Council to draft an age-restricted senior housing residential zone that requires a density higher than the City’s typical residential zoning. Work with the Planning Commission and City Council to determine areas in the City where this zoning could be approved.
 - 2025 language: Adopt the new senior housing zone and work with the State on application of that zone to State owned property adjacent to North County Blvd.
 - 2028 language: If no property owners have requested to rezone in appropriate areas, rezone areas determined to be appropriate by the Planning Commission and City Council.

Council Member Ball stated he wants to be sure that regulations can be imposed on 55 and older communities to ensure that use is maintained in perpetuity rather than converted to a different use to allow the units to be sold to owners of any age. Mr. Patterson stated a deed restriction can be placed on a 55 and older subdivision, but the City cannot enforce it; rather, it would be enforced by a homeowner’s association (HOA) for the project.

Council Member Kim Rodela MOVED that the City Council APPROVE the proposed amendment to the Moderate-Income Housing Element of the General Plan as recommended by the Planning Commission; strategy “E” is adopted with no changes, “U” is adopted with the change to the 2025 language to refer to it is as “a new senior housing zone.”, and “F” is adopted with no changes.

Council Member Sarah D. Petersen SECONDED the motion.

Scott requested further clarification on U and the change.

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>No</i>

The motion passed 4:1.

5. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - RECORD DRAWINGS *Development Code Update (Legislative) - Kellie Smith, Planner & GIS Analyst*

The City Council will hold a public hearing to consider a proposal by Highland City Staff to amend Section 5-9-111 of the Development Code to clarify details regarding record drawings or as-builts for completed subdivisions. The City Council will take appropriate action.

Planner & GIS Analyst Smith explained the Engineering Department has been working with several developers in an attempt to get more accurate record drawings for completed subdivisions. The current Code requires record drawings to be provided in order to give the City an updated plan set of what was actually constructed in the field, but the Code lacks specificity on what exactly is required which has led to confusion for developers and staff. Record drawings include actual survey points for each public improvement and utility that is placed in the ground. They show how the improvements may have changed from the approved plans for various reasons based on field conditions during construction. Record drawings are a necessary part of the development process as the Engineer of Record is liable for the design and must ensure that the project meets engineering and safety standards for all deviations from that engineering plan. The proposed amendment to Section 5-9-111 of the Development Code requires the following for record drawings:

1. PDF showing the improvements installed per the approved construction plans marked as “AB”.
 - a. All improvements must be shown in actual location with a horizontal control based off of the Utah County GIS Coordinate System, station and offset, or other control measures approved by the City Engineer.
 - b. Points shall be listed with the dimensions of the improvements; the document shall include a reference table with all of the points.
 - c. The survey points shall be from open-trench or pre-burial conditions, where applicable.
2. CAD files with the survey points for the public improvements.
3. Engineer of Record Stamp certifying the locations of the completed public improvements on the document.

The public improvements and record drawings of the improvements must be accepted and approved by the City Engineer prior to any release of bond monies or beginning of any warranty period.

Ms. Smith concluded staff recommends the City Council hold a public hearing, accept the findings, and recommend approval of the proposed amendment relating to record drawings of completed subdivisions.

Council Member Smith spoke to the importance of requiring record drawings for improvements. Mayor Ostler agreed and stated he has had personal experiences related to the lack of record drawings for infrastructure improvements.

Mayor Ostler opened the public hearing at 9:12 p.m.

There was no public comment.

Mayor Ostler closed the public hearing at 9:12 p.m.

Council Member Scott L. Smith MOVED that the City Council APPROVE the proposed amendment to Section 5-9-111 of the Development Code relating to record drawings of completed subdivisions.

Council Member Sarah D. Petersen 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.

6. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - MODEL HOMES

Development Code Update (Legislative) – Kellie Smith, Planner & GIS Analyst

The City Council will hold a public hearing to consider a proposal by Highland City Staff to amend several sections of the Development Code relating to model homes in residential zones. The City Council will take appropriate action.

Planner & GIS Analyst Smith explained on January 17, 2023, Staff communicated the need to update the Development Code for the regulation of model homes. The Council agreed that approval of model homes should be done administratively but wanted to keep some regulations in place. She provided a summary of the proposed text amendment as follows:

1. The proposed amendment adds model homes as a permitted use in R-1-40, R-1-20, R-1-30, Town Center Overlay Urban Subdivision, and Town Center Transitional Housing Overlay zones and refers to Section 3-617 in Supplementary Regulations. The amendment also removes model homes as a conditional use in each of these zones.
2. The proposed amendment details the regulations for a model home in Section 3-617: Model homes used for the sale of homes/lots within a subdivision in Highland are a permitted use in all residential zones, provided that the model home conforms to the following requirements:
 1. The maximum number of personnel shall not exceed three (3) at any given time, not including visitors.
 2. All parking and traffic created by the use must follow typical traffic laws, with the same number of off-street parking spaces provided with the model home as required for other similar residential units within the zone.
 3. Signage shall be regulated by the existing sign ordinance.
 4. Outdoor lighting shall be limited to outdoor and landscape lighting permitted in a residential setting as defined in the Municipal Code.
 5. A model home shall operate only between the hours of 7:00 a.m. to 9:00 p.m. Monday through Saturday.
 6. Model homes shall obtain a business license and follow typical business license regulations that are not specified in this Code.
 7. If any portion of the model home is used as a sales office or for other commercial purposes, such portion shall comply with applicable ADA requirements.
 8. Garages used as sales offices shall be converted back before occupancy is permitted.
 9. All homes permitted under this section shall have a final inspection prior to conversion as a residential use.
 10. No model home use shall exceed two (2) years. An extension may be approved by the Zoning Administrator if it is determined not to create an undue burden upon residents of the immediate area and the applicant is actively marketing homes/lots related to the model home within Highland.

The Planning Commission held a public hearing on January 24, 2023. No resident comment was made. Commissioners discussed landscaping and xeriscaping requirements for the model homes. Staff clarified that the model home would be expected to meet typical landscaping requirements for the residential zone. Commissioner Abbott asked about ADA regulations for model homes. The City Attorney said he would do research and be prepared with potential requirements before the amendment is reviewed by the City Council. The Planning Commission voted seven to zero to recommend approval of the proposed amendment. After the Planning Commission meeting, the City Attorney worked with staff to draft an additional regulation relating to ADA requirements. Bullet number 2.7 in the summary above is the addition drafted based on the Planning Commission's question regarding ADA requirements. Staff recommends the City Council hold a public hearing, accept the findings, and approve the proposed amendment relating to model homes in residential zones.

Mayor Ostler opened the public hearing at 9:16 p.m.

There was no public comment.

Mayor Ostler closed the public hearing at 9:16 p.m.

Council Member Timothy A. Ball MOVED that the City Council APPROVE the proposed amendment to several sections of the Development Code relating to model homes in residential zones as recommended by the Planning Commission with the addition regarding ADA requirements.

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 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: PI METER CONSTRUCTION CONTRACT WITH HYDRO VAC EXCAVATION *General City Management - Andy Spencer, City Engineer/Public Works Director*

The City Council will consider approving a construction contract with Hydro Vac Excavation, LLC for the installation of PI meters. The Council will take appropriate action.

City Engineer/Public Works Director Spencer explained the City Council has previously accepted grant funding through the Bureau of Reclamation and Utah State Department of Water Resources for the installation of pressurized irrigation (PI) meters and provided direction to proceed with preparations for the PI meter project. In December of 2022, the City placed out to bid the installation portion of the PI meter project. Bidding was solicited through the Utah State procurement website (Sciquest). The bid opening date was on January 17th, 2023. We received a total of six bids. Of the six bids received, J&C Testing provided the lowest bid of \$175,750. Due to the deficiency in information submitted with the J&C Testing bid it is considered as non-responsive. Hydro Vac Excavation, LLC was the second lowest bidder at \$656,150. The City Council would also include a 10% contingency in the authorization for a contract award for a total of \$721,765. Hydro Vac has a great deal of experience with PI meter installations having installed meters in Lehi, American Fork, Lindon, and several other cities in Utah. All the references we have contacted are very pleased with the work they have performed. The bid documents provide at the City's option for an extension of the contract for the ensuing years of meter installation. The bid from Hydro Vac includes a 10% increase for the installation of meters in 2024 and 2025. The City will evaluate the performance in 2023 before making decisions relative to future years. Funding for this expense will be taken from General Ledger (GL) 53-40-50, PI Meter Grant with the City's match coming from 53-40-60, PI Capital. The City's portion is included in the PI utility rate study and fund balance is sufficient for the City's portion. It is anticipated that this construction will be completed in FY23 and FY24. Staff is monitoring current PI projects to determine if a budget adjustment is necessary in FY23. The remaining expenses for this project will be included in the FY24 Budget. Staff recommends the approval and award of a construction contract with Hydro Vac Excavation, LLC for the installation of PI meters.

Council Member Smith asked why it was necessary for the City Attorney to provide a formal letter recommending that the Council vote to award the contract to someone who was not the lowest bidder. Mr. Spencer stated that he

was simply trying to be prepared for all questions that may be raised during the public meeting, specifically any questions that may be asked by the low bidder.

Mayor Ostler asked if the low bidder has done work in other cities. Mr. Spencer stated that all bidders were asked to include information in their bid regarding experience they have with other cities; J&C Testing did not provide that information in their original bid, but later provided references after being contacted by City staff. Staff checked with those references and just one city indicated that their scope of work involved digging up lawn to install meters; all other projects involved simply replacing existing meters with new meters with no disruption to existing landscaping or other improvements. Mayor Ostler asked if J&C was made aware that this matter would be discussed tonight. Mr. Spencer stated that he has sent an email to J&C informing them that this recommendation was being made to the Council tonight and that they were not recommended for the award. They were also informed that this would be a public meeting and that they would have the opportunity to address the Council and represent themselves. Mayor Ostler asked if there is a representative of J&C present this evening; there was no such representative appearing to be heard. Mayor Ostler indicated there is a representative of Hydro Vac present.

Council Member Bills noted this project is also the result of a State mandate and she inquired as to the total projected cost of the meter installation. Mr. Spencer stated that the total cost for the entire City is estimated to be \$9.8 million. Council Member Bills asked if staff had an understanding of all other improvements that would be required to ensure that the meters function properly. Mr. Spencer answered yes, but noted many of those improvements are part of a separate project.

Mayor Ostler noted it is important to select a bidder that performs the project correctly due to the fact that it is being funded using federal grant dollars and the City will be required to report on the completion of the project. Mr. Spencer stated that is correct; federal government reporting is very detailed and if the award of the bid were challenged, it would be helpful for the City to have clear document of the reasons that the contract was awarded to someone other than the low bidder.

Council Member Smith asked if the contract documents include information regarding the timeline for replacing grass or other landscaping. Mr. Spencer answered yes; the contractor must restore the grass within a few days of performing the meter install and they will warranty the replaced grass or planting for 60 days.

Mayor Ostler invited public input.

Joseph Hunsaker asked who will own the meter on his property. Mr. Spencer stated that the main water line to the meter and the meter are owned by the City; any connection from the meter to the private improvements on the property belong to the homeowner and must be maintained privately. Mr. Hunsaker asked what other items on a private property are owned by the City. Mr. Spencer stated that the park strip in front of a home is technically owned by the City but maintained by the abutting property owner. Infrastructure lateral lines on private property are technically owned by the property owner. If a property has been subdivided, there is a 10-foot public utility easement on most properties, and this is where publicly owned and maintained infrastructure is located.

Council Member Smith stated there are many long-term residents of the City who were told several years ago that pressurized irrigation lines would never be metered and they could always have as much water as they want. Unfortunately, with the phenomenal growth along the Wasatch Front, the State has mandated metering by the year 2030; he appreciates the work that Mr. Spencer has done to secure grant funding to aid in responding to this mandate and relieve some of the burden on taxpayers.

Mayor Ostler stated that some irrigation boxes contain the valve and a filter; he asked if any filters that are disturbed as part of the meter installation process will be replaced. Mr. Spencer stated there are five different scenarios identified in the bid; the intent is to leave a property as it was found. Mayor Ostler asked if that means the contractor will repair any damage to cement, to which Mr. Spencer answered yes, though he anticipates very little concrete repair as part of this project.

Council Member Scott L. Smith MOVED City Council APPROVE the construction contract with Hydro Vac Excavation, LLC in an amount up to \$721,765 which includes a contingency and AUTHORIZE the City Administrator to sign the necessary contracts.

Andy: suggested adding the words up to \$721,765.

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 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. EXPEDITED ITEMS

a. ACTION: Approval of Sensus AMI Agreement *General City Management - Andy Spencer, City Engineer/Public Works Director*

The City Council will consider authorization of an agreement for software that facilitates daily communication from the pressurized irrigation meter to the citizen or business owner. Council will take appropriate action.

City Engineer/Public Works Director Spencer explained the Council previously approved the purchase of Sensus meters and hardware to facilitate the pending pressurized irrigation (PI) meter project. Sensus requires that the City enter into a 5-year agreement for the software to operate the system. In 2018 the City entered into an agreement that defined the lease of the radio frequency from the FCC that the City currently uses to read the culinary meters via a drive-by method. This agreement builds on that agreement. In the future, the City will be able to equip the culinary (drinking water) meters with compatible communication devices. At that time, both the culinary and PI meters usage will be available daily to the citizens. To use this service, citizens will need to create an account login, there will be no additional charge to the citizens. The cost of the services associated with this agreement is \$26,925 for the first year. Ensuing years will be similar; however, as more connections are added to the system, there will be some adjustments in charges. Funding for this expense in calendar year 2024 will be included in General Ledger (GL) 53-40-17, PI Radio Maintenance & Tower Rent within the FY2024 budget. The initial expenditure will be paid through the PI meter project funds which are a combination of user rates and grant revenues. This account is GL 53-40-50, PI Grant Expenditures. Mr. Spencer concluded staff recommends approval of the agreement.

Council Member Smith asked if staff is satisfied with the proposed location of the two communication towers. Mr. Spencer answered yes, the recommendations are based upon a study performed by Sensus, but the towers must be located on City-owned property. He described the appearance of the towers, noting that they should not be too visually intrusive as they should blend in with other existing power poles and associated infrastructure.

Council Member Kim Rodela MOVED that City Council APPROVE the agreement with Sensus for the PI meter project and AUTHORIZE the City Administrator to sign the agreement.

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.

b. RESOLUTION/ORDINANCE: Council Procedures, Personnel Policy, and City Officers Update *General City Management/Municipal Code Update (Legislative) - Rob Patterson, City Attorney*

The City Council will discuss draft updates to the Council’s rules of procedure, the City’s personnel policies, and sections of the Highland Municipal Code related to council meeting procedures and the appointment and removal of city officers. The Council will take appropriate action.

City Attorney Patterson reported on October 18, 2022, the City Council reviewed and discussed the Highland City form of government and the allocation, delegation, and division of power between the Mayor, Council, and City Administrator. As part of that discussion, the Council directed staff to work on updates to the City Code and Council rules of procedure to clarify questions regarding who on city staff is a City “officer,” how City officers are appointed and removed, how the Council can and should interact with staff, and how agendas are set and presented. On January 17, 2023, staff presented the draft changes and draft documents on these matters for the Council to review and provide feedback on. The Council provided additional direction on the City Administrator’s role in appointing officers, the methods of removing City officers, and on removing agenda items added by Council Members. The Council directed staff to make three changes as follows:

1. Require City Administrator advice (but not appointment or consent) on appointment of city officers.
2. Allow city officers to be removed with mayor and majority (rather than unanimous) council approval, without administrator consent.
3. Require both council members who asked for an item to be added to an agenda to consent to the rescheduling or removal of the item.

Council Member Smith asked why the Assistant City Administrator is designated as a Department Head rather than a City Officer and why the Council would not have some role to play in hiring or firing that individual. He stated he is unsure what ‘department’ the Assistant City Administrator will oversee. Ms. Wells stated that all other City officers’ positions are dictated by State Code, or their duties are defined in the City Code; the same is not true for the Assistant City Administrator position. Council Member Smith wondered if Department Heads should be added to the list of positions that the Council has the authority to appoint.

Mayor Ostler invited public input.

Brian Braithwaite stated that he likes the proposed changes.

Mr. Patterson then concluded there are three motions for the Governing Body to consider; the Mayor should vote on the first motion since it modifies the Mayor’s powers and duties.

Motion 1:

Mayor Kurt Ostler MOVED that the Council ADOPT the Highland City Ordinance amending Title 2 of the Highland City Code regarding municipal officers.

Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

<i>Mayor Kurt Ostler</i>	<i>Yes</i>
<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 6:0.

Motion 2:

Council Member Kim Rodela MOVED that the Council ADOPT the Highland City Resolution adopting the City Council Procedures and Policies dated February 7, 2023.

Council Member Sarah D. Petersen 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.

Motion 3:

Council Member Sarah D. Petersen MOVED that the Highland City Council ADOPT the Highland City Resolution amending portions of the Highland City Personnel Policies related to city officers and department heads.

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.

- c. RESOLUTION: Appointment of City Officials** *General City Management (Legislative)*
- Rob Patterson, City Attorney
The City Council will consider consenting to and ratifying the appointment of all city officers. The Council will take appropriate action.

City Attorney Patterson explained that in connection with the draft changes to the City’s policies and codes regarding City officers, City staff reviewed all current officers to determine when or if they were appointed by the mayor with the advice and consent of the City Council. Upon review, it was unclear for some officers when, or if, they were actually appointed in accordance with city code. Further, the City Council has considered and adopted a city code amendment that creates the new office of City Finance Director. Accordingly, staff believed it would be helpful and clarifying for the City Council to officially ratify the appointments that have previously been made and confirm all City staff that are currently operating as City officers. This will not change any employment status or position of any of the named employees or officers. Staff recommends the Council consent to the appointment of all City officers as currently serving.

Council Member Scott L. Smith MOVED that the Highland City Council ADOPT the Highland City Resolution ratifying and consenting to the appointment of all Highland City Officers, as now constituted.

Council Member Sarah D. Petersen 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.

Council Member Scott L. Smith MOVED to continue the meeting to 10:10 pm.

Council Member Kim Rodela SECONDED the motion.

All voted in favor and the motion passed unanimously.

9. DISCUSSION ITEMS

a. Parks Division Operation Building *General City Management - Andy Spencer, City Engineer/Public Works Director*

The City Council will discuss the proposed City Parks Division operations building (parks building) and the recent decision to place the parks building at the Community Center site. The Council will take no action as this will be a discussion item only.

City Engineer/Public Works Director Spencer explained on January 17, 2023, the City Council denied the bids that were received for the parks building and directed staff to further investigate placing the parks building at the Community Center site. Staff has considered the options for the site plan at the Community Center. Staff has narrowed the options considered to a final choice between two options. He discussed options eight and nine and presented site plans for each of the options:

- Option #8 places the building along the eastern site property line with the building openings facing west. This option allows for more separation between the buildings and may facilitate better the use of a metal structure. Option #8 provides 26 new parking spaces for the Community Center. It also allows for an additional entrance to the Community Center from Alpine Highway.
- Option #9 places the building 9-feet away from the Community Center with the building openings facing north. This provides the most parking for the Community Center. with 34 new parking spaces. With this

layout, an access to Alpine Highway would still be added, but would be restricted to City vehicles only as it would enter directly into the Parks Building yard.

There has been recent discussion amongst the Council regarding the structure constructed at the northwest corner of Alpine Highway and Canal Blvd. This structure is 5,600 sq. ft. and 35' tall to the roof peak. The parks building is proposed as +/-6,500 sq. ft. The roof height will be approximately 30 feet. As such, the parks building will be a similar size and scale to the building located at the northwest corner of Alpine Highway and Canal Blvd. In either option, the parks building will be a contrast both from a size and architectural standpoint to the existing Community Center. That contrast will be especially evident in Option #9 as the parks building is only 9 feet away from the Community Center. In either case, Council may want to consider a different construction methodology to more closely align with the existing Community Center building and minimize the contrast. Both options have additional drawings included that show the anticipated daytime and overnight parking when the parks building is operating at peak staffing. It is anticipated that winter usage at the parks building will be contained within the fenced enclosure. The cost estimates for Option #8 for a wood construction to match the existing structure is \$1,818,921 or \$1,639,896 for a metal structure. For Option #9, costs are estimated at \$1,852,638 for a wood structure or a metal structure is estimated at \$1,672,073.

Council Member Smith asked if the addition of a breezeway would allow for joint use of the bathrooms. Mr. Spencer stated that could be accomplished, but based upon past direction, he tried to keep the uses of the two facilities separate from one another. The breezeway was added to help the two buildings look like one large municipal building rather than a building and a shed on the same site. The breezeway was purely esthetic.

Mayor Ostler facilitated discussion among the Council regarding their support for options eight and nine. Council Member Petersen stated that the arts programs in the community continues to grow and the need for the community center space is real. She feels it is important to maintain the feeling of community that is created by the arts council's use of the center, and she asked that the parking and daytime use of the facility remain independent of that for the new parks building. Council Member Rodela stated she agrees with the idea of leaving the community center alone; she stated she supports option nine. Council Member Bills and Mayor Ostler agreed. Mr. Spencer stated he also likes option nine from an operational standpoint. Council Member Smith stated he can also support option nine and asked how it is going to be funded. Mr. Spencer stated that the City has \$900,000 available for the project at this time, but it will be necessary to find an additional \$900,000 to complete option nine. Council Member Bills stated she feels the funding can be examined as the Council moves through the upcoming budget process. Council Member Ball agreed, he will support option nine and looks forward to funding discussions.

Ms. Wells asked Mr. Spencer if he can solicit bids or if he needs direction on whether to use wood or metal in the building's construction. Mr. Spencer stated that he will begin working on design and he does need some guidance on whether to build a metal building or to try to match the architecture of the community center. Council Member Petersen stated that she thinks it would be appropriate to match the architecture. Council Member Rodela stated she needs some visual aids in order to visualize how a metal building would look on the site. Mr. Spencer stated he can provide some conceptual renderings of the building before the Council makes a decision on whether to proceed with formal design of the facility.

Council Member Scott L. Smith MOVED to continue the meeting to 10:20 pm.

Council Member Kim Rodela SECONDED the motion.

All voted in favor and the motion passed unanimously.

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. Meyers' Sewer Agreement – *Andy Spencer, City Engineer/Public Works Director*

City Engineer/Public Works Director Spencer reported that three or four years ago, the City traded property with Lehi City in the Dry Creek area and the property that was traded away is privately owned. The owner is now pursuing an agreement to allow them to connect to the City's sewer system and staff will present the agreement to the Council at a future meeting.

b. TSSD Rates – *Erin Wells, City Administrator*

Brian Braithwaite, representing the Timpanogos Special Service District, discussed changes to impact fees charged by the District; the previous impact fee was \$1,785.55 per equivalent residential unit (ERU) and the new impact fee is \$3,559.00 per ERU. Developer's threatened litigation because they felt the fee was too high so the District developed a formula for calculating the impact fee based upon updated plans, construction costs, and inflation. The District's fees are now in line with other Districts; the District is appropriately planning for growth, which is paid for using impact fee revenue.

c. Library Software – *Erin Wells, City Administrator*

City Administrator Wells reported the Library is moving away from their current software to an open-source system; over the next four years, the software is expected to pay for itself, but the transition requires a budget adjustment at this time.

Council Member Bills asked if the library software will change any filtering for internet searched. Ms. Wells answered no.

d. Bonding for Public Improvements – *Rob Patterson, City Attorney*

City Attorney Patterson stated the City has heard from developers about the lack of a timeframe in City ordinances regarding bonding for public improvements; staff will be recommending adding a two-year time frame to the City's regulations regarding such bonds.

e. Personnel Policy – Affordable Care Act – *Rob Patterson, City Attorney*

City Attorney Patterson stated that according to the Affordable Care Act (ACA), an employee must work only 30 hours per week to be eligible for health insurance; however, the hours worked per week can be averaged over the period of an entire year, and staff is recommending a policy amendment to institute language to that affect.

f. December Financial Report – *Tyler Bahr, Finance Director*

Due to time, the financial report was not provided at this meeting.

g. Legislative Updates – *Kurt Ostler, Mayor*

Mayor Ostler and City Administrator Wells provided a brief report of the activities of the Utah League of Cities and Towns (ULCT) during the 2023 legislative session; he also reported on the implications on some pieces of pending legislation.

g. Future Meetings

- February 8, Lone Peak Public Safety District Meeting, 7:30 am, City Hall
- February 21, City Council Work Session & Meeting, 6:00 pm, City Hall
- February 28, Planning Commission Meeting, 7:00 pm, City Hall
- March 7, City Council Meeting, 7:00 pm, City Hall

11. CLOSED SESSION

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

There was no closed session.

ADJOURNMENT

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

The meeting adjourned at 10:22 pm.

I, Stephannie Cottle, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on February 7, 2023. This document constitutes the official minutes for the Highland City Council Meeting.



Stephannie Cottle, CMC
City Recorder