



**HIGHLAND CITY**

**HIGHLAND CITY COUNCIL MINUTES**

**Tuesday, March 7, 2023**

**Approved April 18, 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](mailto:council@highlandcity.org)

**7:00 PM REGULAR SESSION**

- Call to Order – Mayor Kurt Ostler
- 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 7:01 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 by Mayor Kurt Ostler.

**PRESIDING:** Mayor Kurt Ostler

**COUNCIL MEMBERS**

**PRESENT:** Brittney P. Bills (via phone), Timothy A. Ball, Kim Rodela, Sarah D. Petersen (via phone), 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, HR Generalist Jess Andra

**OTHERS PRESENT:** Jon Hart, Jane Nielsen, Sherrie Nielsen, Lillien Andra, Jessica Andra, Brem White, Violet Taylor, Charlotte Justis, Maren England, Evie Gerulat, Wendell Jung, Daniel England, Gwen Andra, Conen Andra, Mike Kennedy, Brady Brammer

**1. UNSCHEDULED PUBLIC APPEARANCES**

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

There were no public comments.

## 2. PRESENTATIONS

### a. **Department Presentation: Human Resources** - *Jess Andra, Pam Stagg, and Sherrie Nielsen*

City Council will hear a report from the Human Resources Department. Jess Andra will introduce herself as the new HR Generalist.

Finance Director Bahr introduced the City's new Human Resources Generalist, Jess Andra; he spoke to her qualifications and experience in the Human Resources (HR) field, after which she was invited to provide the Council with a brief overview of her professional and personal backgrounds. The Council engaged in conversation with Ms. Andra regarding her understanding of her job descriptions and her experience in policy enforcement and conflict resolution.

Mayor Ostler then discussed the HR and payroll roles that Pam Stagg, Sherrie Nielsen, and Ms. Andra have played for both Highland City and the Lone Peak Public Safety District (LPPSD); the greatest payroll burden comes from the LPPSD. He noted that last year, Ms. Stagg was making a transition from Highland City to other employment and during that time there was a gap in coverage and Ms. Nielsen was hired on a part-time basis. The City later received notices from the State of Utah that it had not been paying the required retirement contributions for employees and was being penalized for that violation. Ms. Stagg and Ms. Nielsen worked together to correct the problem and he appreciates their efforts, as well as the efforts of City Administrator Wells, who was also new to her position. He stated that all three have been a great asset and he welcomed Ms. Andra to her position and indicated he feels she will do a great job for the City. Mr. Bahr echoed Mayor Ostler's gratitude; he added that employees are the greatest asset of both the City and the District and he presented Ms. Stagg, Ms. Nielsen, and Ms. Andra with a token of the City's appreciation.

Council Member Smith stated that the Council also deeply appreciates the work that Ms. Stagg and Ms. Nielsen have done for the City.

Ms. Wells added that an employee in the Public Works Department will be gone from her position on an extended medical leave and Ms. Nielsen has been willing to step in and cover for that employee; she is truly an asset to Highland City.

### b. **Legislative Updates**

Highland City Legislators will present an update highlighting recently passed legislation which may affect Highland City.

Senator Mike Kennedy thanked the Mayor and City Council for the opportunity to address them and for their communication throughout the 2023 Legislative Session; he stated it was great to watch Representative Brammer work as the Majority Leader of the House of Representatives. He turned the time over to Representative Brammer to provide a presentation regarding the Session and noted that both he and Representative Brammer are willing to answer questions at the end of that presentation.

Representative Brammer used the aid of a PowerPoint presentation to discuss 2023 Legislative Session accomplishments; he provided a high-level overview of legislation that impacts the entire State of Utah, including water conservation legislation; energy planning; land management; education and school safety; and tax adjustments addressing income tax, social security tax, double dependent exemption, earned income tax credit, and sales tax on food. Legislation that will directly impact Utah County and Highland City include several housing bills and legislation funding bills. He concluded by summarizing the bills that he was a direct sponsor of:

- House Bill (HB) 216 – Chancery Court.
- HB 99 – Sex Offender Restrictions Amendments.
- HB 432 – Probate Modifications.

- HB 488 – Utah Lake Authority Amendments.
- HB 328 – Asbestos Litigation Amendments.
- HB 54 – Largest Tax Cut in History.

Council Member Smith asked for more information regarding what a Chancery Court is. Representative Brammer stated it will create a new court entity that will start with one judge, with possible growth depending upon caseload. Staff will deal with emergency proceedings on business disputes, which currently clog up lower-level courts and are very difficult for judges to handle given they do not deal with such issues on a regular basis. The intent of the court is to handle certain business disputes in a more expeditious manner. He noted that just five other states have a Chancery Court; his goal was not to create a court that will increase revenue generation for the State, but his goal was to create opportunities for success for Utah businesses.

Council Member Smith expressed concern about the bills aimed at addressing housing affordability; he noted that he is not aware of the final vote on a few of those bills and asked for an update from Senator Kennedy and Representative Brammer. Senator Kennedy stated that he is concerned about government getting involved in trying to solve issues that are impacting housing affordability, such as inflation and other market trends, because such involvement typically makes things worse. He stated that when the President of the Senate and the Speaker of the House run a bill together, it is difficult for a Senator or Representative to vote against it; one such piece of legislation this year was a \$50 million fund that would provide first time homebuyers \$20,000 in down payment assistance. He stated that the policy question is whether the State wants to encourage home ownership or renting activities. Council Member Smith asked how residents will access those funds. Representative Brammer stated that individuals can apply for the \$20,000 and a note will be placed on the title of their home to provide for the State to be refunded the \$20,000 when the home is refinanced or sold. If the entire term of the loan is satisfied, the \$20,000 is forgiven. Mayor Ostler stated he actually felt this was a good bill and he is not as concerned about it as he was other housing bills. Representative Brammer stated that the latest housing legislation has been aimed at increasing supply because of the recognition that new housing cannot be classified as affordable without placing government mandated price controls and the Legislature is not willing to do that. If supply of new housing is increased, there will be more older homes available that can be purchased at a lower amount. Council Member Ball agreed; he indicated he is aware of a rider that was attached to the legislation that will require developers to advertise that entry level homes are those that are \$450,000 or less. He asked if the Legislature truly feels that will be effective or if that rider is a ‘gimmick’. Representative Brammer stated that it is gimmicky; however, he feels that some of the procedural changes included in the bill aimed at changing how cities and developers interact will be helpful. He feels that the Utah League of Cities and Towns (ULCT) did a good job of pushing back and lobbying for local municipalities. This led to high level discussion of the procedural changes included in the housing legislation, with a focus on the shift in approval authority from the City Council to the Planning Commission for certain land use applications and the reduced level of public input. Council Member Smith stated he feels that it is a flaw in the legislation; Planning Commissioners are not elected to represent the public and the City Council has been cut out of some decisions. He feels that the goal of the legislation was to make the development process easier for developers.

Discussion among the group then centered on the influence the ULCT and local elected officials have on representatives during the legislative session; Senator Kennedy stated that he and Representative Brammer are very much in favor of local control rather than State control; the ULCT is typically focused on protecting all of their subscribing cities and that can be difficult and unfair to some entities. Ongoing discussion centered on bills relating to homelessness services funding, the gravel pit bill, and election amendments. In conclusion, the Council and Mayor thanked Senator Kennedy and Representative Brammer for their efforts to represent their constituents. Representative Brammer, in turn, thanked the Mayor and Council for the self-sufficient manner in which they manage Highland City and for their meaningful communication to the State Legislature. Mayor Ostler stated there are many projects on the horizon for Utah County, namely school district adjustments and transportation improvements, and he looks forward to effective representation in the Utah Legislature to ensure that the needs of Highland City are represented.

### 3. 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 17, 2023

*Council Member Scott L. Smith MOVED that the City Council approve consent item 3a Meeting Minutes from January 17, 2023.*

*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>Absent</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 4:0.*

The meeting briefly recessed until 8:18 pm due to technical difficulties.

### 4. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – SIGNS *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 Article 7 Signs in the Development Code to update several regulations regarding temporary signage in residential and commercial zones. The City Council will take appropriate action.

Planner & GIS Analyst Smith explained on January 3, 2023, staff communicated the need to update temporary sign regulations in the Development Code. Setbacks in the Ridgeview project have made it impossible to have development promotional signage that meets the Development Code requirements. The Council provided feedback about the need to consider regulations that are appropriate, but still provide business support. The Council further directed staff to look into options to require businesses to be truthful in their advertisements.

Council Member Smith stated that the proposed text amendments that signs shall not be located any closer to any right of way (ROW) than its height from grade ratio; he asked Ms. Smith to explain what that means and provide examples of how that measurement would be performed. Ms. Smith indicated she will provide illustrations to explain how the location of a sign shall be determined. She then provided background information regarding the matter; complaints have been submitted to the City’s Code Compliance Officer regarding the excessive development promotional signage throughout the Ridgeview development. To address the complaint, staff worked with each of the builders in Ridgeview to bring their temporary signage into compliance. While working with them, staff came to the conclusion that with the setbacks and fence locations throughout the development, it would not be possible to fully comply. Staff determined it was necessary to amend the code to update the sign regulations. In researching temporary sign regulations, staff found that the U.S. Supreme Court’s decision in Reed

v. Town of Gilbert on June 18, 2015 established that municipal sign regulations cannot be “content based”. The City’s temporary sign code is content based.

Ms. Smith concluded staff recommends the City Council hold a public hearing, accept the findings, make any amendments the Council feels necessary, and approve the proposed amendment to Article 7 Signs in the Development Code.

Council Member Ball asked what it means that sign regulations cannot be content based. Ms. Smith stated that the City’s current code defines sign types by the content they are advertising and that is not allowed. Council Member Ball asked if there is a difference between content-based regulations and a truth in advertising requirement. Ms. Smith answered yes; the proposed text amendment includes a requirement that any advertisement sign placed on a property must be directly related to that property. Mayor Ostler referenced the content-based matter; he noted that the City cannot regulate signs based upon the message on the sign. City Attorney Patterson agreed; people have the right to free speech and the City cannot regulate a sign if it has an offensive message. Federal Law prohibits signage that is obscene, but content that would meet the definition of being obscene is very narrow. Ms. Smith stated that the City can only regulate size and location of signs. Mayor Ostler asked if those regulations also apply to political signs. Ms. Smith stated that political signs are different from typical temporary signs and there are different regulations for them.

Council Member Smith asked how the proposed sign sizes was determined. Ms. Smith stated that the proposal was staff’s attempt to allow for larger development promotional signs for larger projects. A property that is larger than five acres can have a 32 square foot sign as long as it is meeting required setbacks.

Ms. Smith then explained the City Code requires different sizes and setbacks for promotional signs, grand opening signs, agricultural signs, model home signs, and garage/yard sale signs. Based on the Supreme Court decision, staff has drafted a proposed amendment that shifts the sign regulations from being content based to being based on what type of property the sign is located on. She summarized the proposed text amendments relating to home occupation signage, truth in advertising, permitted sign types, prohibited sign types, regulations for permanent and temporary signs in residential and commercial zones, and amendments to sign definitions.

Council Member Smith referenced Canal Boulevard, where there are walls that are less than six feet from the sidewalk; after directional signs are erected by developers in that area, no other use could ever install a sign on that corridor based upon the proposed text amendments. Ms. Smith stated that the setbacks do not apply to directional signs, but no other advertising signs could be installed along the corridor or on the wall. Council Member Smith asked if the setback requirement would ensure that a 12-foot sign is set back 12 feet from the ROW. Ms. Smith answered yes. Council Member Smith asked who will enforce the new sign regulations. Ms. Smith stated that she has worked extensively with the City’s Code Compliance Officer and she actually drafted several code violation notice letters to ensure that she was able to clearly explain instances that would be considered a violation of the ordinance. She noted that most code enforcement actions related to signs are complaint driven.

Ms. Smith then noted the exemptions to the requirements to obtain a sign permit and pay a fee for a sign for temporary on-premise signs and temporary agricultural signs; there are just two parcels in the City for which the exemption would apply. She then concluded the Planning Commission held a public hearing on February 28, 2023. One resident participated in the public hearing. The resident asked questions and raised concerns regarding signage for temporary uses in residential zones, as well as political signage. Commissioners also discussed political signage, community event signage, as well as temporary signage for private celebrations (birthdays, homecomings, etc.). Staff explained that any signage smaller than six (6) square feet would not require a temporary sign permit nor fee but would still be expected to meet the signage regulations. Staff also clarified that political signage is regulated separately from other temporary signage. The Planning Commission voted four to zero to recommend approval of the amendment as proposed by staff. Staff finds that the proposed amendment meets the following findings:

1. It addresses permanent and temporary signage in all residential zones, including Planned Developments.
2. It is consistent with the intent of the existing regulations for signs.

3. It addresses the issue of content-based regulations identified in the Supreme Court decision in Reed v. Town of Gilbert.

Mayor Ostler opened the public hearing at 8:48 p.m.

There were no persons appearing to be heard.

Mayor Ostler closed the public hearing at 8:48 p.m.

Council Member Smith summarized the intent of the proposed ordinance; it will clarify sign requirements for various developments in the City, correct legal issues in the Code relating to regulating signs based upon content, and the City is able to enforce the sign ordinance. Ms. Smith agreed. She noted that the City's Code Compliance Officer works very well with property owners in the community; she was well trained by the City's prior Officer.

*Council Member Timothy A. Ball MOVED that the City Council APPROVE the proposed amendment to Article 7 Signs in the Development Code updating several regulations relating to temporary signage in residential and commercial zones.*

*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.*

## **5. PUBLIC HEARING/ORDINANCE: PERFORMANCE ASSURANCE CODE UPDATES** *General City Management - Rob Patterson, City Attorney*

The City Council will hold a public hearing to consider a proposal by Highland City Staff to amend Chapter 6 Guarantee of Performance to establish a minimum term length for performance guarantees, require warranty assurances to be cash deposits, and clarify and update related regulations. The City Council will take appropriate action.

City Attorney Patterson explained on February 7, 2023, City Council discussed staff's proposal to update the Highland Development Code regarding development assurances to ensure that the development assurance that covers the cost of completing public improvements remains in place for a minimum term of two years while the development is ongoing. The Council supported amendments to this effect.

Council Member Smith asked if the assurances must be in the form of cash. Mr. Patterson stated there are two types of assurances: guarantee assurances and warranty assurances. Guarantee assurances provide for 100 percent of a development being completed and if that is not done, the City can use the guarantee to complete the work. The warranty assurance provides a one-year period for which improvements will be free of defects and if a defect does arise, the City can use the assurance to correct it. The warranty assurance will be in the form of cash. The guarantee assurance will be in the form of cash or a letter of credit. He then noted the proposed amendments do the following:

1. Clarify language by removing varying usage of “bond,” “guarantee,” “retainage,” etc., and use consistent language: “Performance Guarantee” = the completion assurance; “Warranty Assurance” = the warranty assurance; “Assurances” = collectively referring to both assurances
2. Minimum two-year term for performance guarantees.
3. Replacement performance guarantee required if the original one expires and project remains incomplete.
4. Clarifies that the warranty assurance is not subject to partial release and begins after the improvements are completed by the developer and approved by the city and the developer provides all “as-built” record drawings regarding such improvements.
5. Require the warranty assurance—the 10% amount held for at least 1 year—to be a cash deposit.

Mr. Patterson noted staff finds that the proposed amendment meets the following findings:

1. It is consistent with the desires of the Engineering Department and city practices.
2. It clarifies requirements for the benefit of developers and City Staff
3. It conforms to the requirements of the Municipal Land Use, Development, and Management Act.

The Planning Commission held a public hearing on February 28, 2023. No resident comment was made or submitted. The Planning Commission discussed the various changes in the proposed ordinance and wanted to ensure that developers provide assurances that limit the burden on residents to cover the costs of improvements that serve new development to the fullest extent possible. The Planning Commission voted four to zero to recommend approval of the proposed amendment as presented. Mr. Patterson concluded staff recommends City Council hold a public hearing, accept the findings, and approve the ordinance amending Chapter 6 Highland City Development Code Guarantee of Performance.

Council Member Smith asked how the City will determine the dollar amount for a warranty assurance. City Engineer/Public Works Director Spencer explained the City will require estimates based upon construction bids and he will determine the required assurance amount.

Mayor Ostler opened the public hearing at 9:01 p.m.

There were no persons appearing to be heard.

Mayor Ostler closed the public hearing at 9:01 p.m.

*Council Member Kim Rodela MOVED that City Council APPROVE the ordinance amending the Chapter 6 of the Highland City Development Code Regulating Development Assurances.*

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

Council Member Smith asked where the word ‘assurance’ comes from and why it is used in the place of the word ‘bond’, which has commonly been used in the past. Mr. Patterson stated he was trying to find a legal term that encompasses the intent of the requirement that is being placed upon developers; it comes from State Law, which also cites completion and warranty assurances. The City’s Code previously used the term ‘performance guarantee’ and that will be left in the Code but will be accompanied by the term ‘assurances’.

*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. ORDINANCE: CEMETERY CODE UPDATE** *General City Management - Stephanie Cottle, City Recorder*

The City Council will consider an amendment to the Highland City Municipal Code Chapter 13.48 City Cemetery Policies and Regulations. The Council will take appropriate action.

City Recorder Cottle explained on December 6, 2022, City Council met in a work session to discuss proposed code updates to the Municipal Code as it relates to the Highland City cemetery. On February 21, 2023 Council provided staff with additional direction concerning their preferences regarding headstone height as well as regulations as they relate to transfer of graves. The items discussed in the work session and council meeting are incorporated into the proposed ordinance. She noted Municipal Code 13.48 City Cemetery Policies and Regulations was originally adopted in 1998 and has seen only minor revisions since its initial adoption. The proposed update is to ensure that policy and practice are consistent with code and to preserve the long-term quality of the cemetery. The following items represent the significant changes in the proposed code update:

- Headstone height: 36” from ground. This recommended change will help alleviate some concerns with safety and allow easier access for cemetery staff to maintain the grounds and perform burials. The 36” height will also reduce the number of headstones which block sprinklers causing dry spots in the grass.
- Headstone setting fee: \$50.00. This proposed fee will be charged to the monument company at the time they submit a headstone placement request. A fee will be charged for each stone and each request. If a monument company fails to keep their setting appointment, they will be required to submit a new request and pay another fee. Revenue collected from this fee will be used to help repair any damage to the grounds due to trucks and equipment used to set headstones.
- Headstone setting time: April 1st – October 31st. The Sexton has discretion to allow, or not allow, headstone sets after April 1st, depending on ground conditions. This proposed change will set a policy that will help cemetery staff work with monument companies to ensure that stones are set during times that will cause the least amount of damage to the grounds.
- Holidays the cemetery is closed for burials: New Year’s Day, Independence Day, Pioneer Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day, and the day Highland City observes these holidays. Memorial Day weekend from Thursday through Monday.
- Grave Transfers: Graves may be transferred to any family member while the owner of the grave is alive, or to any person designated in an appropriate testamentary document (will, trust, etc.). Transfers may be done by the living grave owner, or by an individual showing legal documentation that they are the trustee, legal representative, or heir for or of the deceased grave owner. Owners can always direct that the City allow a person of the owner’s choosing to be buried in a grave owned by the owner, with or without an official transfer of ownership. This is not a change to our current practice, just an update to the language of the code to clarify our current policy.
- Removal of Operating Procedures from Code: The current code has an entire section devoted to the Duties of the Sexton and Duties of the City. Many of those duties involve the day-to-day operations of the cemetery and some were duplicated. These duties are now included in the Cemetery Standard Operating Procedures, which is attached to this report.
- Update to Definitions: Several definitions were added or clarified, including the rules to determine residency for the purpose of receiving the resident rate on their grave purchase.

Ms. Cottle concluded staff recommends City Council approve the ordinance amending the Highland City Municipal Code Chapter 13.48 City Cemetery Policies and Regulations.



Council Member Smith inquired as to who is the official Cemetery Sexton for the City. Ms. Cottle stated that Trevor Aston is the Sexton, and he oversees all burials and headstone placement in the cemetery.

There was brief discussion among the Mayor, Council, and staff regarding the observance of holidays and the days upon which burials will not be allowed; City Administrator Wells assured the Mayor and Council that staff will be flexible in working with residents when a death occurs near a holiday; the only time that the cemetery will be closed for an entire weekend, including a holiday, is the weekend before Memorial Day up to and including Memorial Day.

Ms. Cottle briefly discussed the removal of the section of the code providing for reservation of the portion of the cemetery for the burial of infants; staff has proposed removing this section and selling graves in that area of the cemetery as regular burial graves, but allowing parent/infant combination burials under current options provided in the Code. Mayor Ostler stated he feels that is a good change; having experienced the death of an infant in his own family, he is familiar with the decisions made by parents regarding the burial of an infant. His own wife has decided that when she passes and is buried, she will be buried with her infant who preceded her in death. The Council supported the change recommended by Ms. Cottle.

Council Member Smith asked if changes have been made to the burial plot purchase prices to differentiate between residents and non-residents. Ms. Cottle stated that the resident and non-resident burial right costs will remain the same; the only fee that will change is for the placement of a cemetery marker and that will be considered under the next agenda item.

Council Member Ball asked if the City could encounter any legal challenges dealing with the definition of assignee or assigns as someone who is related by blood, marriage, or adoption to the burial right owner. City Attorney Patterson answered yes; he is comfortable defending the definition, but the Council could broaden the definition of they so choose. Ms. Cottle added that the definition of resident is a person who is domiciled within Highland City boundaries at the time of death or moved from the City for the purpose of receiving medical treatment or for the purpose of living in a residential care facility regardless of the actual place of death. She stated that the reason to define a resident is to determine where they lived when they purchased the burial right, not where they lived at the time of death. For that reason, staff recommends that the definition be changed to “a person who is domiciled within Highland City boundaries at the time of purchase of the grave”. The Council briefly discussed the recommendation and supported the proposed definition adjustment.

*Council Member Scott L. Smith MOVED that City Council approve the ordinance amending the Highland City Municipal Code Chapter 13.48 City Cemetery Policies and Regulations, as presented, with the following changes:*

- 1. “Resident” means any person who is domiciled within Highland City boundaries at the time of purchase of the Grave.*
- 2. The December cemetery clean-up will be held on the first Monday in December.*

*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.*

**7. PUBLIC HEARING/RESOLUTION: FEE SCHEDULE UPDATE - HEADSTONE SETTING FEE** *General City Management - Stephannie Cottle, City Recorder*

The City Council will hold a public hearing to consider an amendment to the Highland City Fee Schedule to include a headstone setting fee in the Highland City cemetery. The Council will take appropriate action.

City Recorder Cottle explained on December 6, 2022, City Council met in a work session to discuss proposed code updates to the Municipal Code as it relates to the Highland City cemetery. One of the proposed changes was to charge a headstone setting fee. City Council was agreeable to the proposed fee. As other cemeteries in the area reach their capacity, or are limiting their plot sales, Highland City cemetery is becoming a popular choice not only for Highland residents, but residents from surrounding cities as well. With increased use of the cemetery comes increased damage to the grounds and increased staff time to perform those repairs and mark graves for headstone sets. Approximately 1 hour and 15 minutes of staff time are spent in preparation for headstone setting including the clerical and scheduling work, finding, and marking the headstone location, and being on site to supervise headstone companies. Staff is proposing a fee that can be used to help offset staff's time as well as some of the costs for repairs to the grounds. These repairs include sod replacement, rut repairs, and sprinkler replacement. This fee will also encourage monument companies to keep their appointment times at the cemetery, which will save staff time re-marking graves prior to the headstone set. The proposed fee is \$50.00 per headstone and will be paid at the time the headstone placement request is received; prior to the cemetery staff marking the grave. Monument companies will be charged for each request, including missed appointments or if only part of the stone is set. A headstone setting fee is not uncommon among cemeteries. Pleasant Grove (\$100), Orem (\$80), and Lehi (\$50) also charge a headstone setting fee. Based upon the average number of 63 headstones set per year, the fee adjustment would generate approximately \$3,150/year in revenue that would be part of the Cemetery Perpetual Care Fund. Ms. Cottle concluded staff recommends the City Council hold a public hearing and approve and adopt the resolution to amend the Highland City Fee Schedule to include a \$50.00 headstone setting fee for the Highland City cemetery.

Mayor Ostler opened the public hearing at 9:38 p.m.

There was no public comment.

Mayor Ostler closed the public hearing at 9:38 p.m.

*Council Member Scott L. Smith MOVED that City Council approve the resolution to amend the Highland City Fee Schedule to include a \$50.00 headstone setting fee.*

*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. ACTION: HIGHLAND CITY TRAIL MAINTENANCE 2023** *General City Management – Andy Spencer, City Engineer/Public Work Director*

The City Council will consider approving a contract with Kilgore Contracting for the asphalt Trail Maintenance 2023 project. The Council will take appropriate action.

City Engineer/Public Works Director Spencer explained that as part of the City annual trail maintenance program, several trail sections in the City need treatment to maintain the trail system. In deciding which trails are prioritized for treatment, staff accounts for pavement condition, trail usage, and cost. These treatments include crack seal, seal coat, overlay, and reconstruction. He referenced a design document that identifies treatments for different sections of the trail; the estimated square feet (SF) of trail to be crack sealed is 127,103 SF, estimated seal coat is 84,006 SF, estimated asphalt overlay is 8,097 SF, estimated reconstruction is 20,149 SF, and the estimated new trail addition is 10,170 SF. The Highland Hills Trail addition is on the City's current Trail Master Plan. Staff does receive complaints about the trail not being fully connected. It is an inconvenience for people using the trail and in addition, some homeowners along the non-constructed section have at times used city property as a rear access to their home. As such, staff feels like it makes sense to construct the continuation of that trail. However, due to the costs of the maintenance project, a portion of the trail construction would need to come from the Major Road Maintenance Fund. As trails are part of our overall transportation network, it is an appropriate use of the funds, but would mean there would be less money available for various road projects. Work on this project will occur Spring 2023. Substantial completion is on or before June 1st, 2023 and full completion is on or before June 11th, 2023. The bidding for this project closed on February 28th, 2023. Staff received 4 bids. Staff recommends the bid from Advanced Paving and Construction be deemed nonresponsive due to the fact that they did not acknowledge the addendum which included a clarification on additional work to be performed. As such, they did not provide a bid for the full project. The cost of this project without the alternate is \$199,676.75; if the alternate bid is approved, the cost of the project is \$255,514.14. Mr. Spencer concluded staff recommends City Council approve the contract with Kilgore Contracting for the Highland City Trail Maintenance 2023 project for FY23 for \$181,524.32 allocating a 10% contingency of \$18,152.43 to be administered by staff, for a total authorized project amount of \$199,676.75. The City Council could also approve the project including the Bid Alternate 1 for the Highland Hills Trail Addition for FY23 for \$232,285.58 allocating a 10% contingency of \$23,228.56 to be administered by staff, for a total authorized project amount of \$255,514.14.

Council Member Rodela stated she is supportive of the alternate bid.

Council Member Smith asked if the area identified in red on the trail map will be new trail construction. Mr. Spencer answered yes. Council Member Smith referenced another section of the trail that is in awful shape, and he asked if it will be improved as part of this project. Mr. Spencer stated the proposed bid does give some attention to that portion of the trail, but it will not be complete replacement and, instead, will include sealing of the really bad spots to increase the trail's life. He added there are missing sections of trail and the City receives quite a bit of outreach about that issue; this project will include the completion of those sections of trail and to discourage use of the trail right of way as parking for residents who live along the trail.

Mayor Ostler stated that the City's utility bill includes an \$18.50 monthly road fee; the revenues of that fee are not being used for this trail improvement project and, rather, it will be funded using B&C Road monies allocated by the State of Utah.

*Council Member Kim Rodela MOVED that City Council approve the contract with Kilgore Contracting and authorize a contract amount up to \$255,514 for the Highland City Trail Maintenance 2023 project including the Bid Alternate 1 and authorize the City Administrator to sign the necessary contract documents.*

*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.*

**9. ACTION: AWARDING OF ARCHITECTURAL CONTRACT FOR THE NEW PARKS BUILDING** *General City Management - Andy Spencer, City Engineer/Public Works Director*

The City Council will consider awarding a bid for the Architectural design of the new Parks Maintenance Building to Pontis Architectural Group. The Council will take appropriate action.

City Engineer/Public Works Director Spencer explained on February 7, 2023, Council discussed the different options presented for the orientation of the Parks Maintenance Building and parking scenarios. Direction was given to proceed with Option #9 with the building at the Community Center as presented. Council also discussed the exterior aesthetics of the building. Matching the architecture of the Community Center was the preferred option rather than having a metal siding exterior. Staff was given direction to solicit bids from Engineering Design firms to proceed with the project. With the direction of City Council, Staff has solicited bids from three separate architectural firms for the architecture/design of the building. The bids were as follows:

- Archiplex - \$32,340
- Jarrett - \$55,000
- Pontis - \$27,400

The low bid was from Pontis Architectural Group with a bid of \$27,400. None of the bids include all the various engineering consultants (mechanical, electrical, structural, civil) that the design firm will work with as a part of the project. Staff estimates a total cost of \$60,000 including contingency for the architecture and engineering for the building design. Funding for this expense is included in GL 42-40-67 New Parks Maintenance Building within the FY23 budget. Staff recommends accepting the bid from Pontis Architectural Group for the architectural design portion of the new Parks Building.

Council Member Rodela stated the existing building is outdated and she is unsure whether it is appropriate to match the existing building. Mr. Spencer agreed; he noted that rather than ‘matching’ the existing building, the design is intended to complement the existing building. Council Member Rodela stated she is more comfortable with that direction.

Council Member Smith stated he is supportive of moving forward with the design work. He then asked if the City could recarpet and repaint the Community Center. City Administrator Wells stated that Administration is working on getting bids for those improvements and she agreed the work needs to be performed soon.

*Council Member Kim Rodela MOVED that City Council approve the bid from Pontis Architectural Group for the Architectural design and engineering of the new Parks Building and allow the City Administrator to sign the necessary contracts.*

*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.*

## **10. EXPEDITED**

### **a. ACTION: Approval of Special Recognition and Naming Rights Agreement**

*General City Management – Erin Wells, City Administrator*

The City Council will hold a public meeting to consider approving the Special Recognition and Naming Rights Agreement with Kurt and VaLayne Ostler for the large pavilion at Mountain Ridge Park. The Council will take appropriate action.

Mayor Ostler declared a conflict of interest and indicated he will not participate in discussion of this agenda item.

On January 3, 2022, Council approved the Special Recognition and Naming Agreement document subject to Council approving the dollar amount threshold for use of naming rights. The Council previously approved an agreement with another family for a donation towards the playground. Resident Kurt Ostler is seeking to donate \$100,000 towards the large pavilion at Mountain Ridge Park; the pavilion would be named “Veteran’s Pavilion”. A placard with the pavilion name and recognition of the Kurt and VaLayne Oster Family would be placed on the pavilion to honor their donation.

Council Member Rodela and Ball thanked Mayor Ostler for his generosity and indicated they are supportive of the proposed pavilion name.

*Council Member Timothy A. Ball MOVED that the City Council approve the Special Recognition and Naming Rights Agreement with Kurt and VaLayne Ostler for a donation of \$100,000 for the large pavilion at Mountain Ridge Park and authorize the Mayor Pro Tem to sign the agreement.*

*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.*

*Council Member Scott L. Smith MOVED to extend the meeting to 10:15 pm*

*Council Member Kim Rodela SECONDED the motion.*

*All voted in favor and the motion carried.*

## **11. 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. Fees: Pleasant Grove Court Decision** - *Erin Wells, City Administrator*

City Attorney Patterson reported the Utah Supreme Court ruled in Pleasant Grove's favor on the case of whether the city's transportation utility fee was legal. The case was remanded back to District Court to handle outstanding issues, such as whether the fee is reasonable. Now that a decision has been rendered, the Council can consider the following: 1.) Cities can charge fees for services for general welfare, including a transportation fee; 2.) Cities have broad discretion when determining how to finance infrastructure projects or improvements; and 3.) People besides residents benefit from the roads that are funded by a resident fee and that is not an issue so long as the residents who pay the fee see a benefit. He discussed the manner in which Pleasant Grove determined what their fee would be and noted the Supreme Court felt their formula is valid. He stated that Highland City charges a few similar fees: the road fee, open space fee, and public safety fee. He stated that based upon this case law, the City has broad authority to impose these fees as long as they are reasonable and tied to the cost of providing service. The City could commission another study to determine if the current fees are reasonable and appropriate, but at present he feels the fees are appropriate. City Administrator Wells added that the tentative Fiscal Year (FY0 2023-2024) budget will be presented to the Council in the coming weeks and it includes removal of the open space fee; however, the public safety fee and road fee will be maintained. At this time, Administration is not proposing any kind of tax increase. The Council indicated they are comfortable maintaining the road and public safety fee.

**b. Open Space Update** - *Kellie Smith, Planner & GIS Analyst*

City Administrator Wells provided an update regarding open space agreements with residents; in Highland Hollows, there are two sites left to visit and staff will bring the rest of the lots in Highland Hollows to the Council for direction to either to sell, allow maintenance agreements, or simply remove encroachment. In the Wimbledon project, the City hired a surveyor last week and they are working on getting descriptions for all City utilities in the open space; staff will bring recommendations to the Council based on the survey results. In the Canterbury North development, there are 20 encroachments, though they are minor in nature. There are five remaining developments that have a few encroachments each, all of which are also minor in nature. Staff will consider lessons learned in the Highland Hollows and Wimbledon subdivisions when considering how to deal with the outstanding properties.

Council Member Rodela asked if the issues surrounding Wimbledon will be brought back to the Council. Ms. Wells answered yes; once the surveyor identifies utility easements, the matter will be brought back to the Council to determine if they want to sell properties upon which encroachment has occurred.

Council Member Smith stated that he would like staff to consider requirements for trail corridor widths and when a resident would be allowed to install a solid fence along the corridor. Ms. Wells stated he will ask Planner & GIS Analyst Smith to look into that issue and bring it back to the Council for a recommendation.

**c. Alpine Food Storage Update** - *Kurt Ostler, Mayor*

Mayor Ostler stated he met with Dave Wadsworth at the new American Form location for Alpine Food Storage; he performed a walkthrough with Mr. Wadsworth to understand the status of the buildout of the space. He also received an email from Chirine Wadsworth indicating that a fire inspection has been performed and a few issues were found that need to be addressed. Additionally, they have hired a team of designers and an architect that will work on future buildout. They have also started transferring inventory to the new location and the Mayor indicated he personally observed 16 pallets that have been moved to the new location. He was surprised that the work was

not further along at this point. It is his opinion that there is still a great deal of work to be done, but Mr. Wadsworth has indicated they are still shooting for the April 15th goal because that is when they will begin paying rent.

Council Member Smith stated that the current license will expire on June 30, which means that no home occupation will be permitted on the Wadsworth property. Mayor Ostler stated that it may be appropriate to have a discussion and another report on the issue in May to be sure that they will not be requesting an additional extension of their business license.

On another note, Council Member Smith then stated that this is a wetter than normal spring and it is likely there will be flooding in Highland this year; efforts are underway with other communities and partners to fill sandbags to prepare for flooding. Mayor Ostler stated that the City's Public Works Department has also ordered sandbags to begin filling in preparation for flooding.

**d. Financial Report** – *Tyler Bahr, Finance Director*

Finance Director Bahr indicated that as of January 31, 2023, 59 percent of Fiscal Year (FY) 23 has lapsed; he noted his observations of the status of the budget include:

- General Fund
  - Tax revenue at 64.6% includes property taxes that comes mainly in December and January; sales tax is on target with projections.
  - Licenses and permits revenue is at 63.7%, slightly higher than projection due to building permits.
  - Intergovernmental revenue includes the City's ARPA distribution from July as well as B&C and County Option sales tax.
- Open Space
  - Property sales revenue YTD = \$146K
- Library
  - Majority of property tax received in Dec & Jan
- Park Tax
  - Trending slightly higher than anticipated.
- Road Capital
  - Includes 6800 West project to be reimbursed (\$1.4MM reimbursement received in February); work is ongoing.
- Impact Fees (Capital and Enterprise Funds)
  - Shifts in development activity – staff monitoring.
- Sales Tax
  - FY2023 Budget = \$3.6MM
  - January = \$359,879 / YTD = \$1,611,832
    - First five months that counts towards FY2023.
    - Was \$1,432,393 same months last year (12.5% increase)
  - Rolling 12-month (thru January) = \$3,841,900

**e. Future Meetings**

- March 14, City Council Work Session, 7:00 pm, City Hall
- March 15, Lone Peak Public Safety District Meeting, 7:30 am, City Hall
- March 21, City Council Meeting, 7:00 pm, City Hall
- March 28, Planning Commission Meeting, 7:00 pm, City Hall
- March 30, City Council Work Session, 6:00 pm, City Hall

**12. 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 10:16 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 March 7, 2023. This document constitutes the official minutes for the Highland City Council Meeting.



Stephannie Cottle, CMC  
City Recorder