



HIGHLAND CITY

HIGHLAND CITY COUNCIL MINUTES

Tuesday, May 4, 2021

Approved June 1, 2021

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

VIRTUAL PARTICIPATION

-  YouTube Live: <http://bit.ly/HC-youtube>
-  Zoom: Call 1-346-248-7799 Meeting ID: 840 3555 9759
-  Email comments prior to meeting: council@highlandcity.org

7:00 PM REGULAR SESSION

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

The meeting was called to order by Mayor Rod Mann as a regular session at 7:05 pm. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Library Director Donna Cardon and those in attendance were led in the Pledge of Allegiance by Ed Norton.

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS

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

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, Engineer EIT Mike Burns, Planner & GIS Analyst Kellie Bronson, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, City Engineer Todd Trane, Library Director Donna Cardon

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

1. UNSCHEDULED PUBLIC APPEARANCES

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

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

the sound level is to know if they are going over or under the limit. They need to do some tests so they know they are following noise level ordinances.

2. CONSENT ITEMS *(5 minutes)*

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

a. Approval of Meeting Minutes *Administrative*
City Council Work Session – April 13, 2021

b. 2021 Sewer Lining Project *Administrative*

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

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

The vote was recorded as follows:

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

The motion passed 5:0.

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

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

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

Mr. Bahr said that they are responding to a requirement in the code that requires the council to tentatively adopt each tentative budget on or before the first regularly scheduled meeting in May, which was today. There is an

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

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

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

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

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

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

Mayor Mann asked if the \$466,000 surplus that is projected for 2022 excludes the American Rescue Plan money, which they will not be getting until later in 2021. He said that once they know exactly what they are getting they

can make a decision on that separate from everything else. He wanted to know what the options for the \$466,000 could be used for, including capital projects or specific capital funds like the park capital funds.

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

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

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

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

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

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

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

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

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

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

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

Mr. Bahr said that the difference of 5% of the \$10 million general fund revenue is \$500,000. The thought process behind the 25% is that is about three months of expenses. The reason the State is increasing the requirement is that over the past few decades there have been circumstances that have put cities into scary circumstances. He

said that they need to make sure there is enough available. He agreed with Council Member Smith that you don't want to have too much. He suggested that the discussion in two weeks focuses on that.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The vote was recorded as follows:

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

The motion passed 5:0.

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

4. PRELIMINARY PLAT: SUNRISE FARMS *Administrative*

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

Kellie Bronson, Planner & G.I.S. Analyst, gave background of the plat request. The request is for a 10 lot, single-family subdivision. It is just west of 6000 West and north of Timpanogos Highway. It is zoned as R-140 and designated as a low density residential in the general plan. The preliminary plat is a total of 13.59 acres. The lots range from 23,175 square feet to 40,325. On the southern portion of the subdivision there is a parcel designated for future development. She confirmed that the plat conforms to what is required of R-140 standards. She said that 25% of the lots are allowed to be between 20,000 and 30,000 square feet, and two of them are. The main

access to the lot comes from 6000 West. Because there are future plans for the road to be extended in the future, a temporary turnaround is accounted for on the plat because it exceeds the 600-foot minimum for a cul de sac. She said that a public hearing was held at the Planning Commission, and public hearing notices were sent out to properties within 500 feet of the subject property. It was also posted in newspapers and on the City website. One written correspondence was included in the packet from a resident in Bull River. At the public hearing a few residents had concerns about the R-140 standards. They went through that with the residents at the Planning Commission. There were also concerns about the development on the whole. The Planning Commission did move for a recommendation of approval for the preliminary plat. The staff recommends that the Council considers the request, accept the findings, and approve the preliminary plat. The engineer was also present.

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

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

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

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

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

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

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

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

5. PUBLIC HEARING: PURCHASE AGREEMENT *Legislative*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Council Member Ostler said he noticed that some gravel was being stored by Highland City dump trucks. Mr. Trane said that those are the City's bins and that the bins would definitely be moved elsewhere. He said that the

access is more important than the storage because they have other places for storage, they've had the bins for many years, and are only used occasionally.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

he went to look. He is concerned that cars can't get out of parking spaces and that he hopes that we can get access but that they have a property owner that has rights.

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

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

The vote was recorded as follows:

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

The motion passed 5:0.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The vote was recorded as follows:

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

The motion passed 4:1.

7. ACTION: FUNDING FOR ADDITIONAL PUBLIC WORK EMPLOYEES

Administrative

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

take appropriate action.

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

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

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

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

The vote was recorded as follows:

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

The motion passed 5:0.

8. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

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

a. Office 365 Upgrade

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

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

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

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

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

Mayor Mann said they reached out to Thompson and Reese.

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

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

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

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

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

b. Future Meetings

- May 18, City Council Meeting, 7:00 pm, City Hall
- May 25, Planning Commission Meeting, 7:00 pm, City Hall
- May 26, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall

ADJOURNMENT

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

The meeting adjourned at 10:00 pm.

I, Stephannie Cottle, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on May 4, 2021. This document constitutes the official minutes for the Highland City Council Meeting.



Stephannie Cottle
City Recorder