



**HIGHLAND CITY**

**HIGHLAND CITY COUNCIL MINUTES**

**Tuesday, May 16, 2023**

**Approved July 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)

**6:00 PM WORK SESSION - LONG -TERM FINANCIAL OBLIGATIONS**

The meeting was called to order by Mayor Kurt Ostler as a work session at 6:04 pm. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting.

**PRESIDING:** Mayor Kurt Ostler

**COUNCIL MEMBERS**

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

**CITY STAFF PRESENT:** City Administrator Erin Wells, Assistant City Administrator/Community Development Director Jay Baughman, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, City Engineer/Public Works Director Andy Spencer

**OTHERS PRESENT:** Jon Hart, Doug Cortney

Finance Director Bahr used the aid of a PowerPoint presentation to discuss the long-term financial obligations of the City. Current long-term financial obligations include a building bond, and bonds for pressurized irrigation (PI) system, and parks; compensated employee absences; and pressurized irrigation water shares, including enclosure assessments and regular assessments. He provided brief historical information regarding the City’s three existing bonds; the parks bond originated in 2007 and was refunded in 2016, with payoff scheduled for September of 2027. The outstanding principal of the bond is approximately \$2.9 million. The building bond was issued in 2006 and was refunded in 2015 and 2020. The PI bond is much older, but it was combined with the building bond during the refunding action of 2020 to save money associated with interest due on the bonds; the PI portion was later paid off in September of 2021. The current principal of the building bond is \$1.7 million and is scheduled to be paid off in September of 2026.

Mayor Ostler asked if each bond has a balloon payment at the end of the bond term. Mr. Bahr answered no; the park bond does have a balloon payment structure, but building bond does not. Mayor Ostler asked if both bonds are paid using impact fee revenues. Mr. Bahr answered no; the building bond is paid from the General Fund and the park bond is paid using impact fee revenues.

Relative to compensated absences, employees are allowed to maintain up to 175 percent of their annual vacation accrual. Vacation time is paid out at separation and the long-term liabilities as of June 30, 2022 are \$85,572 in the General Fund and \$64,032 in the Enterprise Fund. He noted the City must keep sufficient money in the bank to cover these liabilities. Mayor Ostler asked if that money is accruing interest, to which Mr. Bahr answered yes. Council Member Smith inquired about the way the interest earnings are used. Mr. Bahr stated that it is deposited into the General Fund and is accounted for each year as the fiscal year is closed out.

City Engineer/Public Works Director Spencer then discussed long term obligations related to the PI system assessments. The City holds several shares in different water delivery companies and must pay an annual assessment for the shares. These assessments have increased as of late due to inflation and increased operating costs. The assessments are paid through user rates as directed by the City's utility rate study. Additionally, the City's auditor has recognized enclosure assessments. He noted the purpose of enclosures are to capture evaporative and seepage losses and reduce risk and liability associated with open canals. Options that were available to the City at the time of the enclosures in 2010 included surrendering saved water shares, paying upfront for the enclosures, or paying annually through FY2035. In 2010, the Council and Mayor opted for payments over time and that is why this is a long-term financial obligation. He discussed the City's current process for encumbered shares, including the pros and cons associated with accepting encumbered shares. He engaged in high level discussion with the Mayor and Council regarding how to handle encumbered shares and to get confirmation from the group that they are comfortable with the ongoing payment schedule for Highland Conservation and Provo Reservoir Water Users Company for the enclosures. There was a focus on the total number of water shares currently held by the City and any opportunity to sell any of those shares as a revenue generation mechanism. Mr. Spencer concluded the City's financial statements recognize the arrangements with the two water companies as a debt and that will be the case until 2035.

Council Member Bills asked if both Highland and Alpine cities charge the same public safety impact fee; she noted that the impact fee is based upon the percentage of public safety that each city covers, and that Highland pays more than half of the share of the public safety costs. She stated she would like to review those matters in the future.

The work session adjourned at 6:57 pm.

## **7:00 PM REGULAR SESSION**

Call to Order – Mayor Kurt Ostler

Invocation – Mayor Kurt Ostler

Pledge of Allegiance – Council Member Kim Rodela

The meeting was called to order by Mayor Kurt Ostler as a regular session at 7:06 pm. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Mayor Kurt Ostler and those in attendance were led in the Pledge of Allegiance by Council Member Kim Rodela.

**PRESIDING:** Mayor Kurt Ostler

## **COUNCIL MEMBERS**

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

**CITY STAFF PRESENT:** City Administrator Erin Wells, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, Planner and GIS Analyst Kellie Smith, City Engineer/Public Works Director Andy Spencer, Police Chief Brian Gwilliam, Fire Chief Brian Patten, Building Inspector Jason Nelson

**OTHERS PRESENT:** Jon Hart, Wesley Warren, Steve Hogan, Mike Broadhead, Lori Broadhead, Eileen Miller, Doug Cortney, Michael Smith, Jeff Thurman

## 1. UNSCHEDULED PUBLIC APPEARANCES

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

Steve Hogan thanked the City for the response to flooding issues in the community. He then asked for clarification of the impact of recent changes to the development code regarding placement of fences in the past. He asked if the code update is a precursor or a final decision. Mayor Ostler noted those issues will be addressed during a staff presentation later in the meeting when agenda item four is discussed.

## 2. CONSENT ITEMS

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

- a. **Approval of Meeting Minutes** *General City Management - Stephannie Cottle, City Recorder*  
City Council Work Session – March 30, 2023
- b. **ACTION: Final Plat - Ridgeview Plat K Land Use (Administrative) - Kellie Smith, Planner & GIS Analyst**  
The City Council will consider a request by Ivory Development LLC for final plat approval of a 17-lot subdivision located at approximately Elmfield Way and Willowbank Drive. The City Council will take appropriate action.

*Council Member Scott L. Smith MOVED to approve consent item 2a Approval of Meeting Minutes for City Council Work Session March 30, 2023 and 2b. Final Plat – Ridgeview Plat K.*

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

*The vote was recorded as follows:*

<i>Council Member Timothy A. Ball</i>	<i>Absent</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 4:0.*

## 3. PUBLIC HEARING/ORDINANCE: PARK IMPACT FEE *General City Management - Tyler Bahr, Finance Director*

The City Council will hold a public hearing and consider adoption of amended park impact fees. The Council will take appropriate action.

Finance Director Bahr explained on August 16, 2022, Council approved a contract with Lewis, Young, Robertson & Burningham, Inc. (LYRB) to assess park impact fee revenue and revenue sufficiency to address the remaining balance of the Park Bond and future development. On May 2, 2023, LYRB presented the draft amendment to City Council. The Council did not indicate any concerns with the analysis and draft update. The proposal is to increase the single-family and multi-family parks impact fees; the current single-family fee is \$5,854 and the proposed fee is \$6,301, which is an eight percent increase. The current multi-family fee is \$4,804 and the proposed fee is \$4,904, which is a two percent increase. The amount of revenue collected in park impact fees is dependent on the volume and type of development activity. The FY2024 Tentative Budget approved by the Council on May 2 projects \$400,000 in park impact fees. Mr. Bahr concluded staff recommends the City Council hold a public hearing and approve the ordinance adopting an amendment to an impact fee facilities plan and impact fees analysis and imposing impact fees for parks. If approved, the new fees will not be charged until the expiration of a 90-day waiting period.

Council Member Smith inquired as to the definition of multi-family for the purpose of assessing this fee. Mr. Bahr stated that the fee will be assessed for projects with more than six units per acre, such as the Ridgeview development.

Mayor Kurt Ostler opened public hearing at 7:15 p.m.

There were no public comments.

Mayor Kurt Ostler closed the public hearing at 7:15 p.m.

*Council Member Kim Rodela MOVED that City Council approve the ordinance adopting an amendment to an impact fee facilities plan and impact fees analysis and imposing impact fees for parks and recreation.*

Council Member Smith asked if approval of the proposed fee adjustments would also adjust the amount of impact fee revenue that will be used for debt service on the bonds. City Administrator Wells stated that revenues will be used to maintain the current level of service and provide for construction of new facilities. If the Council wants to make an adjustment to the formula pertaining to the use of impact fee revenue, they can do so. Council Member Smith discussed needed improvements to existing facilities and wondered whether impact fee revenues can be used for those needs. Ms. Wells stated that impact fees cannot be used for existing facilities. Lewis, Young, Robertson & Burningham, Inc. (LYRB) representative Fred Philpot noted that new structures could be built at an existing facility so long as such an improvement is identified in the impact fee facilities plan and the added capacity is needed to meet demand. He noted that an existing structure, such as a bathroom facility at a park, cannot be demolished and replaced with a new bathroom facility using impact fee revenue. Council Member Smith noted that the Ridgeview development will accommodate a lot of new residents who will use Highland Glen Park; he asked if a new pavilion, playground, or picnic area could be added to that park using impact fee revenue, as long as those facilities are not replacing pre-existing facilities. Mr. Philpot answered yes, if the improvements are intended to maintain the level of service that is currently defined.

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

*The vote was recorded as follows:*

<i>Council Member Timothy A. Ball</i>	<i>Absent</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>

The motion passed 4:0.

#### **4. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - FENCES**

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

The City Council will continue and complete a public hearing to consider a proposal by Highland City Staff to amend Chapter 3-612 Fences, Retaining Walls, Theme and Screen Walls in the Development Code relating to municipal fencing, how fence height is measured, and adjusting fence design requirements adjacent to trail corridors. The City Council will take appropriate action.

Planner & GIS Analyst Smith explained on April 18, 2023, staff brought a communication item to the City Council regarding the design of municipal fencing. A Councilmember also requested that the Council discuss fencing along trail corridors. Councilmembers directed staff to move forward with an amendment to the fence code to allow chain link fencing for municipal facilities. The Council also directed staff to change the requirement for fences adjacent to trails. They requested that the code only require fences adjacent to trails to have the top two (2) feet be 55% open when the trail corridor is less than 30' rather than 40'. At the April 18, 2023 City Council meeting, there was also extensive discussion on the Alpine Hwy theme wall. Staff added specific theme wall regulations to address the concerns that were brought up in the meeting relating to the maintenance or reconstruction of theme walls. At the May 2, 2023 City Council meeting, the City Council opened a public hearing for the proposed amendment, and then moved to continue the public hearing and the review of the item to the next meeting. She provided a review of background information regarding the proposed amendment; the proposal is a result of confusion among residents, developers, and staff regarding how fence height is measured. The proposed amendment simplifies this by determining fence height based on the average finished grade on both sides of the fence. Fences adjacent to parkway detail are treated separately. The parkway detail is currently being updated to require that the fence height be measured from the sidewalk elevation. There has also been confusion for contractors regarding retaining wall height. The Development Code and the International Building Code measure retaining wall height differently. The proposed amendment addresses this issue. Other changes in the proposed amendment regarding trail corridors and municipal fencing are based on direction given to staff by the City Council. She reviewed the text of the ordinance to be amended pertaining to fence heights, fences adjacent to trails, theme walls, retaining walls, and municipal fencing. She concluded staff recommends the City Council continue and complete the public hearing, accept the findings and approve the proposed amendment to Section 3-612 in the Development Code relating to fences and retaining walls.

Discussion among the Council and staff centered on the impact that fences can have on drainage between properties; the party responsible for ensuring fence height is measured in accordance with the City Code; and maintenance and responsibility for theme wall fencing.

Council Member Smith referenced the Ridgeview development along Canal Boulevard, which contains a concrete theme wall; he asked if the developer of that project owns the fence or if individual residents own and are responsible for it. Ms. Smith stated that the theme wall is maintained by a homeowner's association (HOA), but there are specific areas that are owned by individual residents. Council Member Smith asked who owns the fences in Timpanogos Cove, to which Mr. Smith answered the residents. Council Member Smith asked if the residents know that. Ms. Smith stated she is unsure. Council Member Smith stated he understands the need to adjust City ordinances to clarify these issues, but there is ongoing confusion about the ownership and maintenance responsibilities for existing fences. Residents who live along the Alpine Highway have been told for 23 years that the City owned the fence along their property, and it is important to clarify that matter. Mayor Ostler agreed and noted that the City is examining each section of that fence and is gathering bids on the cost of improving or replacing that fence. Council Member Smith stated that it is important to decide if each individual resident along the Alpine Highway will own the fencing. Ms. Smith agreed and stated that the ordinance amendment would establish that any resident seeking to replace or reconstruct the fence would need to do so based upon the original

approval of the fence. Council Member Smith stated it is important to provide multiple options for handling theme walls in the future; he has suggested that residents participate with the City on finding a compromise relating to the existing theme walls along their property.

Ms. Smith concluded her review of the proposed code text amendments, noting that the Planning Commission has recommended approval of the proposal on a five to zero vote.

Mayor Kurt Ostler opened the public hearing at 7:41 p.m.

Steve Hogan stated that he and other residents still have questions about the implications of the proposed ordinance amendment; based upon the text that has been presented for approval, the only option available to residents is to repair or replace a section of theme wall according to the original approval given for that wall. However, residents would still like to have discussions with the City about this unique situation; some residents would have liked to replace or repair their fence five or six years ago, but when they contacted the City, they were told they could not do so. Now, the cost of replacing the fence is much higher than it would have been five or six years ago. He agrees that this is a complicated issue but would like to have more discussion with the City to work towards a solution that is acceptable to all parties. Mayor Ostler stated that the City regrets any miscommunication in the past between residents and City staff, but the Council must ultimately make their decisions based upon what is best for the entire City and all taxpayers. Mr. Hogan asked if the issue will still be discussed in future meetings. Mayor Ostler stated that the costs of replacing the individual fences along Mr. Hogan and other residents' yards can still be discussed.

Eileen Miller stated she is with Utah Valley Home Builders, and she would like to ask the City or residents to review the title documents that were presented to each homeowner who purchased property that abuts a theme wall; this would include a declaration of covenants, maintenance agreement, bylaws, and brochures produced by the sellers and developers. She noted that she has found an 84-page document that governs her property, which is part of an HOA. She has done research about who is responsible to present important documents to home buyers, and she has been told a property transaction is a 'buyer beware' situation. She suggested that the responsibility for the fences would have been defined in the land use agreements and declarations for each home in each project.

Doug Cortney thanked City staff for including new language for fencing of municipal facilities and he strongly suggested that the Council accept the amendments and follow the ordinance once it is adopted. He has been frustrated in the past when the City deviated from its own ordinances.

Mayor Kurt Oster closed the public hearing at 7:48 p.m.

*Council Member Scott L. Smith MOVED that the City Council APPROVE the proposed amendments to Section 3-612 of the Development Code relating to municipal fencing, how fence height is measured, and adjusting fence design requirements adjacent to trail corridors.*

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

*The vote was recorded as follows:*

<i>Council Member Timothy A. Ball</i>	<i>Absent</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 4:0.*

## 5. RESOLUTION: PERSONNEL POLICY UPDATE CONCERNING EMPLOYEES SERVING AS ELECTED OFFICIALS *General City Management - Jay Baughman, Assistant City Administrator and Community Development Director*

The City Council will hold a public meeting to consider amendments to the personnel policies concerning a Highland City employee running for and being elected to the position of a Highland City elected office. The Council will take appropriate action.

Assistant City Administrator & Community Development Director Baughman explained that 2023 is a municipal election year and in the past the City has encountered situations where City employees chose to run for office. According to Utah State Code Section 10-3-1108, a municipal employee who has filed a declaration of candidacy may be given a leave of absence for the period between the primary election and general election and use any vacation or other leave available to engage in campaign activities. If a municipal officer or employee is elected to a public office, the employee may be given a leave of absence without pay for the time during which the employee receives compensation for service in the public office; and use any vacation or other leave available to serve in the public office. Staff has drafted the following language to include in the Highland City Employee Manual to explain clearly what course of action the City will take in the event that an employee is elected to a Highland City elected office (underlined text only):

Political activity:

1. An employee shall not be encouraged or coerced to support a political activity, whether funds or time are involved.
2. An employee shall not engage in political activity during work hours, unless on approved leave.
3. An employee shall not use Highland City owned equipment, supplies or resources, and other attendant expenses (i.e., paper, email, phones) when engaged in political activity.
4. An employee shall not discriminate, in favor of or against, any person or applicant for employment based on political activities.
5. An employee shall not use the employee's title or position while engaging in political activity.

### CITY EMPLOYEES AS HIGHLAND CITY ELECTED OFFICIALS

Utah state law allows individuals employed by a city to run for elected office. To avoid a conflict of interest, if an individual is elected to a position within the city that that employs them, cities are allowed to place such an employee on a leave of absence. While campaigning, all rules and restrictions listed in the previous section above apply. If a Highland City employee is elected to position in the city, such as City Council Member, that employee will be placed on an unpaid leave of absence for the duration that they hold that elected office. Neither will that employee be subject to receive fringe benefits (medical, dental, etc.) from the City under their non-elected position.

Mr. Baughman concluded staff recommends approving the proposed language for inclusion in the Highland City Personnel Policy Manual.

Council Member Smith stated that most City employees do not live in Highland, and he asked if this section applies to running for office in another City. Mr. Baughman answered no. Council Member Smith stated that he does not believe anyone would choose to give up compensation or benefits in order to run for public office given that elected officials do not receive significant compensation.

Council Member Rodela stated she would like to hear input from Mr. Cortney. Mr. Cortney stated that he had questions about the unpaid leave of absence for an employee seeking office. He suggested that the text be clarified to ensure that an employee will return to the same position and receive the same benefits they were receiving prior to the leave of absence. He also feels there is some conflict in the State law; if an employee is allowed to use vacation or other leave during their leave of absence, they are essentially still receiving benefits from the City. Mr. Cortney requested that the text be changed from "unpaid leave of absence" to leave without pay".

City Attorney Patterson stated that he does not see the need to change the text regarding the leave of absence because this is a special circumstance and unpaid leave is defined throughout the City’s policy manual. He stated that if an employee chooses to run for office, the City Administration will confer with that employee to make sure they understand the implications of their decision relative to their employment.

*Council Member Kim Rodela MOVED that City Council approve the proposed language regarding Highland City employees who are elected to Highland City office for inclusion in the Highland City Personnel Policy Manual and change wording “unpaid leave of absence” to “leave without pay”.*

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

*The vote was recorded as follows:*

<i>Council Member Timothy A. Ball</i>	<i>Absent</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 4:0.*

## **6. EXPEDITED**

### **a. PUBLIC HEARING/ORDINANCE: Text Amendment - Storm Drainage Development Code Update (Legislative) - Kellie Smith, Planner & GIS Analyst**

The City Council will continue and complete a public hearing to consider a proposal by Highland City Staff to amend Section 5-9-105 Storm Drainage in the Development Code to update regulations regarding drainage being directed toward the right-of-way. The City Council will take appropriate action.

Planner & GIS Analyst Smith explained at the April 18, 2023 City Council meeting, a communication item was presented to the Council by staff regarding a storm drainage text amendment that would be brought to the City Council at a future meeting. The Council did not express any concerns about the amendment. At the May 2, 2023 City Council meeting, the City Council opened the public hearing for the proposed amendment, and then moved to continue the public hearing and the review of the item to the next meeting. She noted the proposed amendment adds the following requirements for storm drainage in new developments:

- Applicants and Subdividers shall ensure that drainage within or directed to natural watercourses does not cause an increase in frequency of flow or peak flow to the downstream facilities.
- All drainage shall be contained within a given property or routed to an approved drainage facility.
- Approved drainage facilities that are not owned and maintained by Highland City shall be established with ownership, insurance, and maintenance responsibilities prior to approval by the City Engineer.
- All privately owned storm-water facilities shall be maintained in accordance with long-term storm water plans and maintenance agreements.
- Fencing or walls associated with the Parkway Detail or other fencing directly adjacent to public property along public rights-of-way shall be set such that drainage flows at a minimum of 2-percent slope from the base of the fence perpendicularly to the curb and gutter on the adjacent public right-of-way.

Staff recommends the City Council continue and complete the public hearing, accept the findings and approve the proposed amendment relating to storm drainage being directed toward the right-of-way.



Council Member Smith asked how the two percent slope identified in bullet point five will be measured. City Engineer/Public Works Director Spencer stated that measurement is fairly easy to perform using a laser level.

Mayor Kurt Ostler opened the public hearing at 8:02 p.m.

There were no public comments.

Mayor Kurt Ostler closed the public hearing at 8:02 p.m.

Council Member Smith stated it seems this text amendment is a preventative measure to keep storm drainage from entering a private property. Ms. Smith stated that is correct.

*Council Member Kim Rodela MOVED that the City Council APPROVE the proposed amendments to Section 5-9-105 Storm Drainage in the Development Code to update regulations regarding drainage being directed toward the right-of-way.*

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

*The vote was recorded as follows:*

<i>Council Member Timothy A. Ball</i>	<i>Absent</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 4:0.*

**b. ORDINANCE: City Records Code Update** *General City Management (Legislative) – Rob Patterson, City Attorney*

The City Council will consider an amendment to the Highland City Municipal Code Title 2, Chapter 28, City Records. The Council will take appropriate action.

City Attorney Patterson explained on February 1, 2022, the City Council reviewed a proposed update to the City’s code regarding the management of City Records. After discussing the proposed code updates, the Council indicated support for the update to City Code, but expressed a desire for additional time to review the proposed changes. On April 18, 2023, the City Council, as part of a discussion item, directed staff to bring the code updates back for review and to adopt the state retention schedules for City records, subject to staff’s eventual preparation of City-specific retention schedules. He emphasized that the proposed changes streamline the City’s code to meet current state law and City practices relative to records retention. Staff recommends City Council approve the ordinance amending the Highland City Municipal Code Chapter 2.28 City Records.

*Council Member Sarah D. Petersen MOVED that City Council approve the ordinance amending the Highland City Municipal Code Chapter 2.28 City Records.*

*Council Member Kim Rodela SECONDED the motion.*

*The vote was recorded as follows:*

<i>Council Member Timothy A. Ball</i>	<i>Absent</i>
<i>Council Member Brittney P. Bills</i>	<i>No</i>

<i>Council Member Sarah D. Petersen</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>No</i>
<i>Mayor Kurt Ostler</i>	<i>Yes</i>

*The motion passed 3:2.*

## **7. 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. Flooding Update** - *Ernie John, North Utah County Water Coordinator*

Ernie John, President/Watermaster of American Fork Irrigation Company, provided the Council with an update regarding snowmelt in Utah and the ongoing flooding potential for northern Utah County. He engaged in high level discussion with the Mayor and Council regarding flow levels of local waterways and communication between all water companies and local cities about flooding potential and response efforts.

### **b. Magnolia Estates Development Agreement** - *Andy Spencer, City Engineer/Public Works Director*

City Engineer/Public Works Director Spencer provided a map to orient the Council to the location of Magnolia Estates; the property is 7.85 acres and could accommodate eight lots. Two of the lots can be less than 30,000 square feet with a minimum of 20,000 square feet. The proposed concept plan for the property still has only two lots under the 30,000 square foot size, but it includes nine total lots. The property owner is seeking some feedback from the City about options for providing connections through other properties in order to relieve burdens on the land and prevent shortcut options for traffic on State Road 92. The current water line connections in the area only benefit the existing neighborhoods; this was done intentionally and based upon direction from a special service district. The top three homes on Manor Drive do not have a sewer connection and they are on a septic system. When the owner of the Magnolia property formally applies, there may be some issues with requirements relating to the installation of infrastructure improvements and there could be some claim that any requirements placed on the property are unfair. If the City were willing to allow nine lots, it may be easier to convince the developers to provide all desired utility connections. The lots would still be very nice and large and would be harmonious with surrounding development given that all lots on Manor Drive are approximately 20,000 square feet. The Mayor and Council engaged in philosophical discussion and debate regarding whether to allow for nine lots via a development agreement for the project; they concluded they are willing to consider the proposal, but would like to have a more in-depth discussion about the best long-term solutions for the entire area.

### **c. Fiber Next Steps** - *Rob Patterson, City Attorney & Jay Baughman, Assistant City Administrator/Community Development Director*

City Attorney Patterson stated that the topic of discussion relative to fiber this evening is options for placing a ballot question on the upcoming 2023 municipal election ballot. He discussed the process the City would need to follow in order to determine the issue that would be submitted to the voters and to perform a feasibility study that can be referenced by voters. The first steps would be to publish requests for proposals (RFP) for fiber providers and for a consultant that can complete the feasibility study.

Council Member Smith asked if the City can just offer a franchise agreement to any fiber provider that wishes to operate in the City. Mayor Ostler stated that is what is currently being done, however, the areas of the City that are harder to serve will remain underserved.

The Mayor, Council, and staff discussed whether to proceed with the process necessary to include the matter on the 2023 election ballot; they concluded it would not be worth the time and money spent to include the matter on the ballot. This led to discussion about whether to issue more debt to partner with a fiber provider or to leave fiber to the private market; Council Members and the Mayor agreed to allow the free market to operate in the community relative to fiber.

**d. Sensitive Lands Development Ordinance - Rob Patterson, City Attorney**

City Attorney Patterson stated that the City has some code provisions relating to sensitive lands, but there is not a clear definition of regulations or development standards for sensitive lands. Administration would like to develop an ordinance identifying slopes, geological standards, unstable soils, faults, wetlands, and rivers and providing rules and regulations for developers in those areas. He provided some examples of specific regulations that would be included in an ordinance and asked if the Council is comfortable with Administration working on this type of project. Council Member Bills asked if such an ordinance could create more liability for the City when allowing development in sensitive areas. Mr. Patterson stated he feels that such an ordinance would reduce the City's liability and protecting residents now and in the future. The Council briefly discussed the concept and indicated they are comfortable with Administration working on a draft ordinance for consideration in the future.

**e. 5th 5th Local Option - Kurt Ostler, Mayor**

Mayor Ostler reported the Utah County charges a quarter-cent sales tax for roads and trails and a portion of the revenue generated by that tax is allocated to cities and towns. The State Legislature has added a .2 percent sales tax on top of the quarter-cent sales tax and the revenue of that tax will also be distributed to cities and towns based upon the point of origination of the sale. He discussed the formula and the portion of the revenue that Highland City could receive and stated that the City needs to send an email to the County Commission to let them know if Highland City supports the tax. The Council briefly discussed the items and purchases that will be taxed if the new tax is imposed in Highland, after which Council Member Bills and Smith indicated they are not in favor of the tax with the limited information they have. Council Member Peterson agreed and stated she would like to study the tax more before supporting it. Council Member Bills stated that she would only support a tax increase that would benefit residents. Council Member Rodela agreed and stated she also would not support the tax increase at this time.

**f. Financial Report for March - Tyler Bahr, Finance Director**

Finance Director Bahr provided the Mayor and Council with the financial report for the City as of March 2023; In the General Fund, tax revenue is at 79 percent of the annual projection with five months of sales tax revenue to collect. Licenses and permit revenue is at 85 percent of annual budget, with \$98,000 in building permit revenue in March. Snow removal accounts are exceeding their budgets due to a heavy winter. In the Open space fund, property sales revenue year to date is \$146,000. Road capital includes the 6800 West project to be reimbursed this year and early in Fiscal Year (FY) 2024. There have been some shifts in development activity impacting the capital and enterprise impact fee funds and staff is monitoring those shifts. The sales tax budget for FY2023 was \$3.6 million and year to date collections are \$2.3 million, which is a 9.3 percent increase when compared to the same time last year.

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

Mayor Ostler provided an update on the Alpine Food Storage relocation; he received an email from Chirine Wadsworth providing information on the buildout of their new location, concluding they are still planning to open on June 1.

Council Member Peterson stated that she walks by the Highland Alpine Food Storage location on a regular basis and there is a lot of commotion at the site; she asked if there are plans to make the Highland location a secondary location or if it will close entirely. She stated it does not look like the Wadsworth's have moved out of the Highland location and they may plan to use it as a secondary delivery site. Mayor Ostler stated that they have a business license to operate in Highland through June 30 and staff is aware they should not renew the license for that site.

**h. Future Meetings**

- May 17, Community Budget Meeting, 7:00 pm, City Hall
- May 23, Planning Commission Meeting, 7:00 pm, City Hall
- June 6, City Council Meeting, 7:00 pm, City Hall
- June 14, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- June 20, City Council Meeting, 7:00 pm, City Hall
- June 27, Planning Commission Meeting, 7:00 pm, City Hall

**9. 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.

*At 9:20 pm Council Member Scott L. Smith MOVED that the City Council recess to convene in a closed session to discuss pending or reasonably imminent litigation, as provided by Utah Code Annotated §52-4-205.*

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

*The vote was recorded as follows:*

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

*The motion passed unanimously.*

*Council Member Scott L. Smith MOVED to adjourn the CLOSED SESSION and Council Member Sarah D. Petersen SECONDED the motion. All voted in favor and the motion passed unanimously.*

*The CLOSED SESSION adjourned at 10:22 pm.*

**ADJOURNMENT**

*Council Member Sarah D. Petersen 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 10:23 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 16, 2023. This document constitutes the official minutes for the Highland City Council Meeting.



Stephannie Cottle, CMC  
City Recorder