



**HIGHLAND CITY**

# **HIGHLAND CITY COUNCIL MINUTES**

**Tuesday, May 18, 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: 825 7295 1489  
 Email comments prior to meeting: [council@highlandCity.org](mailto:council@highlandCity.org)

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

Call to Order – Mayor Rod Mann

Invocation – Ben Smith

Pledge of Allegiance – Engineer EIT Mike Burns

The meeting was called to order by Mayor Rod Mann as a regular session at 7:02 pm. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Ben Smith and those in attendance were led in the Pledge of Allegiance by Mike Burns.

**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:** Jon Hart, Kris Johnson, Ty Christensen, Brady Giles

## **1. UNSCHEDULED PUBLIC APPEARANCES**

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

Kris Johnson, resident of Mercer Hallow Estates, expressed his appreciation to the City Council for their willingness to consider disposal of parcels and portions of parcels of open space property. He thanked the Council for considering residents requests in a batch process by the Council subcommittee. He added that in dealing with Kellie Bronson had been a breath of fresh air. He said that she had been proactive and responsive in the way that a service-oriented person had been needed in the department. He said that he had submitted details to the

subcommittee with his request. He continued that he had gone through the criteria for an open space parcel to qualify for disposal per the decision of the Council. He said that he strongly felt that his request met all of those criteria. He requested that if the Council subcommittee interpreted the criteria differently somehow that there be an opportunity to discuss and try to align and see eye-to-eye, prior to a final decision on June 1, 2021. He said that in his case there was a weird property line that would cause in unsightly fence between him and his future neighbor. He said that they were both putting in pools. The sale of a small sliver of open space land would resolve the unsightly fence issue as well as resolve an impasse on a pool grotto that he was putting in. After he had already put funds into the building, it was discovered that it was considered an accessory structure, although it is a pool grotto with a slide that was placed within a 10-foot setback. He continued that he and his neighbor were not planning to construct the fence all the way back to the proposed property line. His neighbor's property extended 52.6 feet from the existing property line. He said that they were trying to do everything they could to conserve water. They were putting in turf to help retain rainwater to make sure that acquisition of the property was not a burden on the pressurized irrigation system. He said that he was available for comments or questions.

*\*\*Council Member Timothy A. Ball arrived 7:05 pm.*

Council Member Ostler asked what a grotto was. Mr. Johnson said that it was a cave overhang over the pool that someone could go underneath and that had a waterfall on top.

## **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*  
Regular City Council Meeting – April 20, 2021

**b. 2021 Road Preservation Project** *Administrative*  
The City Council will consider approving a contract with Eckles Paving for construction of the 2021 Road Preservation Project (Patching) for \$247,293.56 and authorize the Mayor to sign a contract to proceed with the construction. The Council will take appropriate action.

*Council Member Kurt Ostler MOVED that the City Council approve consent items 2a and 2b. Council Member Brittney P. Bills SECONDED the motion.*

*The vote was recorded as follows:*

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

*The motion passed 4:0.*

## **3. PUBLIC HEARING/RESOLUTION: CULINARY WATER RATES** *Legislative*

The City Council will hold a public hearing and consider a request to increase culinary water rates beginning July 1, 2021 and amend the comprehensive fee schedule. The Council will take appropriate action.

Tyler Bahr, Finance Director, introduced Fred Philpot the City's consultant from Lewis, Young, Robertson and Burningham.

Fred Philpot, Consultant, thanked the Council for letting him present virtually to accommodate his busy schedule. He said that it was a pleasure to be working with the City again. He walked through analysis as it related to the water, sewer, and pressurized irrigation rate studies. There were three main elements to the presentation: Highland's financial plan objectives and policies, the utility model methodology, and recommendations.

As part of the process they address certain policies—revenue sufficiency, cash reserves, and debt service coverage—to make sure that rates are sustainable based on those metrics. In addition, the consultants ensure ease of implementation and periodic rate reviews. He provided more specific details about financial details, explaining that they ensure revenue growth in each utility. As a part of this, the firm looks at variables like the cost of service, maintenance, repair costs, capital expenditure, etc. It is from those assumptions that a rate model is designed relative to rate forecasting. The key element was that the City reviewed these variables and rates every three to five years to make sure that if there were changes in the assumptions that adjustments were made as needed. Highland had gone through that process with their last rate change occurring in 2016.

The firm's approach was to evaluate rate increases needed to maintain target types, conduct scenario analysis, evaluate working capital and debt coverage metrics, and then provide recommendations.

The next set of slides showed those findings:

- For water, if there was no rate adjustment, the City would quickly lose their on hand cash. To counteract this, a rate increase was recommended. The firm proposed that in the first year there be a 30% rate increase. For residential water that increased the base rate from \$12.24 to \$15.91. The other base and consumption rates were also proposed to increase by the same percentage.
- The sewer rates showed that with no increase, the City would stay at or above its targets. As a result, there was no recommended rate changes.
- For storm water, the City was currently above its target, but that declined over time. At present there was no recommended rate change, but as the City moved forward, this was an area that needed rate reviews and updates to track the coverage ratio. At a future point there might be a need to act and increase rates.
- The graph pertaining to pressurize irrigation (PI) showed a dip as a result of capital expenses. Cash fell below the targeted amount, but rebounded. At this time there was not recommended rate changes. However, in three to five years, this fund would need to be reevaluated. The PI fund was the only one that had outstanding bonds. There was sufficient debt coverage, well above the minimum target amounts.

Mr. Philpot summarized that the only proposed rate increase was the 30% to water. This amounted to a \$3.67 increase to the base rate. He noted that the 2016 study had contemplated a rate increase. As a result of the changes in capital needs, cost had gone up. That caused a higher increase than what was anticipated in the previous study. All other models and utilities did not have recommended increases. As a result of these findings, the Council could act on rate increases pertaining to the water fund. He was available for questions.

*\*\*Council Member Rodela arrived 7:16 pm.*

Mr. Bahr noted that the Council had a copy of Mr. Philpot’s full report. He said that page three included a summary of all of the culinary water changes proposed. The appendices of the report included details on the projects pertaining to each of the utilities.

Council Member Ostler stated that the City had an over usage fee related to culinary water. He asked Mr. Crane if staff had ever looked at if most of the overage came from homes prior to 1995. He said that prior to 1995 when the pressurized irrigation system started to come to all new subdivisions that each had their own hook ups, that there were separate hook ups and meters. He had heard that as some of those systems have aged there had been leakage. He wanted to know if that was causing an increase in cost to some of Highland’s older residents.

Nathan Crane said that he didn’t know specifically. He said that when a resident had an overage, staff went through a specific process with the homeowner to try and determine where the overage was coming from.

Council Member Ostler said that one resident had said that it would cost \$2,500 to change their stop and waste system to prevent leakage. They said with an overage fee of \$11, it made better financial sense for them to just keep paying the fee. Mr. Crane said that the utility billing system was arranged by address, but he didn’t think it included the age of the home. He said that a lot of time when a resident saw a jump in their bill, they contacted staff to inquire why. Mr. Bahr said that staff kept good tabs on changes. Mr. Crane clarified that staff are looking at overages based on meter reads, not the bill itself.

Mayor Rod Mann opened the public hearing at 7:20 pm. There were no public comments. Mayor Rod Mann closed the public hearing at 7:21 pm

*Council Member Kim Rodela MOVED that the City Council adopt the recommended increase to culinary water rates and amend the comprehensive fee schedule to include the new rates. 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.*

#### **4. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - FENCES, WALLS, AND HEDGES** *Legislative*

The City Council will hold a public hearing to consider a request by Highland City Staff to amend Section 3-612 Fences, Walls, And Hedges of the Highland City Development Code. The City Council will take appropriate action.

Kellie Bronson, Planner, provided some background on the text amendment. She said that in 2020 there were 46 fence permits issued to Highland residents. In 2021, staff had already received 21 applications. Spring brought a lot of fence and retaining wall questions. The existing development code was confusing for residents, developers, and staff. As a result, staff wanted to reorganize and reword the code.

The current code was organized such that the first section outlined what sort of fence or wall required a permit. The second section was titled “General” and included regulations that applied to both residents and developers. The third section talked about materials and design. The fourth section addressed retaining walls. The proposed outline was for the first section to state what was subject to review. The second section would address fences and would include the general regulations for fences and that materials and designs that applied to fences. Following this, these same elements would be outlined specifically for retaining walls, theme walls, screen walls, etc.

Some additional images and illustrations would be added to the code that showed how a fence should align with the property line and the 30-foot setback that needed to align with the home. Other illustrations would also be added to address height maximums. In Highland these had always been 6-foot tall. She said that there had been issues of residents raising the grade or some land around the fence to give them higher than 6-feet. Because the panels were 6 feet it would meet the restriction. The current code allowed for property owners to raise their land as high as they wanted as long as it was even on their side of the fence for at least 5 feet from the fence line. To address this issue, new language would be added to the code that indicated that berms or any means to raise the fence height shall be included in the total height of the fence.

In regard to retaining walls, the current maximum height was 8 feet. In addition to this, a 6 foot fence could be added on top of the retaining wall providing a maximum of 14 feet. Staff proposed to bring the retaining wall height maximum down to 6 feet. The current code had a 1:1-foot ratio. This meant that when retaining walls were tiered, the next retaining wall had to be set back equal to the height of the subsequent wall.

Council Member Ball asked if these changes would apply to existing structures or only to new construction. Ms. Bronson said it would only apply to new construction. Existing walls and fences would be grandfathered in.

Council Member Ball said that he had received complaints about new construction trying to get around regulations by raising the entire level of the property creating an unfair sightline from the new construction. These new developments could see directly into the homes below creating a lack of privacy.

Ms. Bronson said that she hated that this text amendment was happening now. She wished that it had been done 10 years ago. She continued to talk about changes to the code. If a resident wanted to have a retaining wall and have a fence on the same vertical plane, the new code would limit that height to eight feet total. For example, a resident could have a two-foot retaining wall and a six-foot fence. If they wanted a higher retaining wall, they would have to reduce their fence height. This would not apply to open fencing.

Council Member Ostler asked for clarification about what was permitted. Ms. Bronson displayed some images to illustrate what she previously described verbally. Council Member Ostler was concerned about what happened with the feet in-between a retaining wall and fence when these elements had to be tiered. Ms. Bronson said that she had reviewed several other cities’ code to help amend Highland’s. Alpine City’s code had nine foot maximum with four feet in between. At the Planning Commission this was discussed. They wanted to know why four feet was required as opposed to one or two. It was concluded that if the fence and wall were too close together that it could become a safety hazard.

Council Member Ostler asked Council Member Smith if he was worried about weeds. Council Member Smith said that he hoped that it wouldn’t be. He said that there were a lot of issues in this ordinance that the Council needed to discuss.

Ms. Bronson displayed pictures of existing examples in Highland where residents have raised the grade of their property to try and increase the overall height of retaining walls and fences.

Council Member Ostler verified that the total height of the barrier was 10 feet. The retaining wall was four feet and the fence was six feet. He clarified that the proposed ordinance would allow for a two-foot retaining wall and six feet for the fence height. Ms. Bronson said that this was another thing staff had discussed. They wanted some height for retaining walls to be permitted for those who need the walls for actually retain the existing grade. The wording in the ordinance states that, “berms or other means used to raise the elevation shall be included in the measurement of the fence height.” The next point was that retaining walls are considered part of the fence height. This would prohibit a property owner from raising the grade and installing an eight-foot wall unless the wall was actually needed. When staff received applications they would have to look at existing and final grades.

Mayor Mann asked if in the first example residents had raised the grade in addition to building the wall with the added fence height. Ms. Bronson said that was what staff were trying to prohibit. However, if the property sloped down, a resident would be able to use a retaining wall.

Council Member Ostler asked if the proposal pertained to all zones, including the town center zone. Ms. Bronson said yes. She added that the Planning Commission recommended that the retaining wall maximum be applicable to residents and developers and not to City staff. If Highland had a project where the City need a retaining wall higher than two feet, the City would have the right to.

Ms. Bronson continued to provide other examples of properties that had built up the grade of their properties and used a combination of retaining walls and fences. In some cases the properties on the up slope built higher fences than those on the down slope, causing them to tower up to four feet above neighboring fence lines. She then displayed the following table that summarized the current and proposed changes:

<b>Current</b>	<b>Proposed</b>
SECTIONS: Permit Required; General; Materials and Design; Retaining Walls	SECTIONS: Subject to Review; Fences; Retaining Walls; Theme Walls; Screen Walls
Chain link only explicitly prohibited for theme and screen walls.	Clarification that chain link is prohibited for all fences.
No max height for fences on top of retaining walls; can go up to 14’ tall.	Add 8’ max height for fences on retaining walls (on same vertical plane); 6’ max height for retaining walls.
66% open fence can be 6’ from the curb on a side or backyard adjacent to the street.	Clarification added that it cannot go past the property line.
	Note referencing Section 3-4112(4) for fencing around athletic courts.
	Typical and corner illustrations added.

Council Member Smith said that in the resource material it seemed to indicate that the Council had stated against chain link fences at some point. He asked if anyone could tell him when that happened. Despite serving on the Council twice, he did not remember that happening. Ms. Bronson said that she had been told that it was just the Council’s preference. She could not point to a particular set of minutes where the Council had explicitly directed staff not to allow chain link fences.

Mayor Mann said that he thought the preference against chain link fences happened when Jess was Mayor. Mr. Crane said that he remembered chain link fences being prohibited when he started working for Highland 10 years ago.

Council Member Ostler said that in 2005 there was a vote that had to do with fences about heights and them being open. He wondered if this was when the preference against chain link fences came up.

Mayor Mann asked if it was only perimeter fences that were prohibited to use chain link fences as opposed to putting a chain link fence around a sports court. Ms. Bronson said that in the athletic court section of the code, chain link fences were allowed, but the fence had to be vinyl coated.

To conclude, Ms. Bronson noted that the Planning Commission did hold a public hearing on April 27, 2021. There was one public comment regarding the retaining wall and fence on the same vertical plane. The Planning Commission recommended approval of the proposed amendment, but they recommended that the total maximum height for retaining walls to be four feet period and subject to the City if they needed to have higher than four feet. The appropriate noticing had gone out between the Planning Commission and City Council meetings. No written correspondence had been received. Staff recommended that the City Council accept the findings and approve the proposed amendment with the maximum height of the retaining wall and fencing be 8 feet rather than the Planning Commission's recommendation of 10 feet.

Mayor Rod Mann opened the public hearing at 7:44 pm. There were no public comments. Mayor Rod Mann closed the public hearing at 7:44 pm.

Council Member Smith said that he did not understand the restrictions on a corner lot. It seemed to him that the maximum height was three feet and that the fence had to go back 30 feet. Ms. Bronson pulled up the illustration for the corner lot. She said that the green line indicated a three-foot fence and the red line indicated a six-foot fence. The six-foot fence was permitted on everything behind the front set back. On the side property lines, residents were allowed to bring the fence closer to 14 feet from the curb. The fence from the front set back to 14 feet from the curb had a maximum height of three feet. For a corner lot, the side that abuts the street, also had a 14-foot setback before the three-foot fence could be constructed. In addition, there was a 40' x 40' site triangle for corner lots that prohibited anything within the sight line being taller than three feet to ensure the safety of cars turning around corners.

Council Member Ostler asked if someone was allowed to fence their front yard. He also asked if this only pertained to residential properties. He questioned how this impacted agricultural users. Ms. Bronson said that if they wanted the fence to be parallel to their front set back it needed to go back 30 feet. She said that if a property was on a residential plot in a recorded residential plat, it would follow this code.

Council Member Smith asked why anyone would want to build a three-foot fence. It didn't provide much privacy or security. Council Member Rodela said that she lived on a corner lot and there were several people in her neighborhood who had the three-foot fences. It just prevented people from cutting through the lawn on a corner lot. Ms. Bronson said that she didn't expect many people to want three-foot fences, but actually provides permits for them a lot so that they can define their property line.

Council Member Smith asked what materials were prohibited. Ms. Bronson said that the only material prohibited was chain link.

Council Member Rodela said that she was fine with the proposed code changed. She felt that it cleaned up the code and that the changes took a step forward in making a simpler process.

Mayor Mann clarified that anyone who had already filed a fence permit would to be subject to the new rules. Ms. Bronson confirmed this.

Council Member Ostler asked if there were very many agricultural uses coming in to request pasture fencing. Ms. Bronson said she had one recent request to put up horse wire fence even though it was a normal residential property without horses.

Council Member Ostler asked if an exception was needed for agricultural purposes. He said that on his own property he had pasture fencing. In his mind property was different. He said that when he drove around and looked, he was surprised at the variety of fencing and fencing heights.

Council Member Bills asked if there was a definition for berms. She wanted to know how a pile of dirt was differentiated from a berm. Rob Patterson, City Attorney, said that berm was not defined. The code referred to a berm or any means to raise the elevation of the property.

Ms. Bronson said that when there were two properties whose existing grades differed addressed in the proposed code change. The height cannot be taller than five feet, measured from the lower property. She said that if someone wants to raise the property up and build a retaining wall, they will have to set the fence in four feet and lose that area of the property. Any amount that the grade of the lot was increased would count against the height of the fence.

Council Member Ostler proposed a hypothetical scenario. He said that he purchased his lot. He then grades the entire property so that it is increased by two feet. This grading happens before he puts in his application to build a fence. He asked how the increase in grade would be enforced. Mr. Patterson said that the intent in the code change is that when staff know that someone has raised the grade of their property, that height would be included in the overall fence height. He said there might be circumstances where staff miss this. That's why the maximum height was important. That was also why, in instances when staff did not know why there was a grade difference, they would measure the height from the lower property line up to eight feet.

Council Member Ostler said that he recognized the concern and that if the Council took no action that they could start seeing more of these 14-foot fences. He worried that by trying to solve one issue they would be creating another.

Council Member Smith asked what was driving the code change, and wondered if it was an effort to bring greater consistency into the code. He said that the last time that he was on the Council they had spent a lot of time discussing the heights of fences, open fences, etc. He said he had not heard discussion by the Council over the last year or two that fencing was a major problem. He said that he appreciated Ms. Bronson's work, but that the changes could create a lot of new problems. He said that if you were to drive along Alpine Highway, 75% of the fences would not meet the new code. He worried about how residents would be notified about the implication of changing the grade of their properties and fence height restrictions. He said that in Highland, residents were concerned about taxes, densities, and that fences were also pretty high on the list. He wondered about staff's process for preventing future problems. He wanted to prevent future complaints. He asked if in the examples shown earlier in the meeting, neighbors were complaining about other neighbors' fences.

Ms. Bronson responded. The first motivator for the code amendment was to reorganize the sections and wording of the code to create greater clarity. Even as a staff member she felt that she had to read the code at least 30 times to understand it based on how it was written. After the process of reorganizing happened, she had reached out to staff in other departments, such as Public Works, who brought up other issues they wanted addressed with the text amendment. In regard to enforcement, Ms. Bronson said that she works closely with the building inspector who has to inspect all of the retaining walls. The building inspector was very aware when grading occurred to raise the level of a property. The bottom line was that the existing code allowed residents to build a 14-foot wall on their property line. Staff were doing their best to mitigate that. She had received a call from a resident the morning of the meeting whose neighbor was trying to build that 14-foot wall and didn't understand how it was permitted.

Council Member Smith returned to the example shared earlier. He said again that the property owner built an eight-foot retaining wall with a six-foot fence on top of it. He asked if to build the eight-foot retaining wall, they

had to get a building permit. He asked why there was no intervention from the City to prevent an eight-foot retaining wall. He asked if the retaining wall was justified. Ms. Bronson said that eight-feet is the maximum height for a retaining wall. There wasn't anything in the code against people grading their properties and putting in an eight-foot retaining wall. Council Member Smith clarified that if the ordinance went into effect, they could have the eight-foot retaining wall, but no fence. Ms. Bronson said no they could not. If they had the eight-foot retaining wall they would have to get a building permit because the wall was higher than two feet. They would also have to set the fence back four feet from the wall after they have applied for a fence permit application. Most of those come hand and hand with new developments because they want to get their retaining walls and fences in at the same time as when they are building their house.

There was further hypothetical discussion about the particulars of what the proposed ordinance would allow looking at the Spring Creek property as an example.

Mr. Crane said that in the Spring Creek example, the City spent between 20-30 hours trying to mitigate the fence construction between the property owners. The neighbor below complained about the neighbor above building the retaining wall and then the neighbor built the retaining wall higher. When there were hillsides and grade breaks there were a lot of complaints and disputes between neighbors. When they look out their window, they see 8-10-foot walls. One of the purposes of the amendment to limit the height to eight feet, or the four-foot terrace, was to eliminate the tall, concrete look.

Council Member Smith asked if staff had looked at the fencing code of other cities. He said that he was restoring his grandparents' home in Pleasant Grove. According to their ordinance, he could put an 8-10 foot fence up if he wanted to.

Ms. Bronson said Alpine City allowed 8-foot fences. In Sandy they had a six-foot maximum, but residents were allowed to do seven to eight feet with a conditional use permit. Mr. Crane said that when you built an eight-foot fence, the footings had to be engineered. That's why fences were generally kept to six feet.

*Council Member Kim Rodela MOVED that the City Council accept the findings and approve the proposed amendment to Section 3-612 Fences, Walls, and Hedges with the maximum height of a retaining wall and fence of eight feet. Council Member Timothy A. Ball SECONDED the motion.*

*The vote was recorded as follows:*

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

*The motion passed 4:1.*

## **5. AGREEMENT: CONNECTION TO THE PRESSURIZED IRRIGATION SYSTEM OUTSIDE OF CITY LIMITS** *Administrative*

City Council will review a request by Ron Peck for two pressurized irrigation connections located outside City limits. The Council will take appropriate action.

Mr. Crane reviewed previous meetings when this item was under discussion. This first meeting was on December 3, 2019 when the initial request was approved. Staff worked with the property owner and came back to the Council

with a formal plan which was approved on February 16, 2020. One of the conditions of the plan was that a formal agreement be brought back to the Council for approval. He then outlined some of the highlights of the agreement.

Three total connections were allowed. One of the connections was existing. The property owners will provide 22.5 shares of Provo River water and 25 shares of Lehi irrigation water. The City is not obligated to provide water in excess than the water provided. In the case of drought, water use is limited by the amount of water provided by the owners. He explained that some of Highland's water system was supplemented by wells. The pressurized irrigation system, however, was primarily supported by snowfall. This meant that in the case of this contract, if the water did not exist, the City did not have to supplement this portion of the system through its well water. We supplement our system by wells, primarily PI is renewable source provided through snowfall. If water does not exist, we do not have to supplement throughout wells.

In the agreement, the water would be metered and charged at a rate of \$40 per acre foot, billed monthly. The usage and contract would be reviewed every five years. Water usage would be limited to the hours of 8:00 a.m. to 10:00 p.m. to allow the system to re-charge. Highland's pressurized irrigation system is most heavily used at night.

The agreement also allows the City to impose restrictions to protect residents as the primary user. It also provides for annexation of a portion of the property on the east side to develop six to eight lots. The agreement would expire in 2041 if not terminated according to the provisions in the contract.

Mr. Crane then provided some miscellaneous information related to the item. There was one user, Wilson. The City needed a formal agreement with that user to establish a water dedication and upgrade a meter. This would result in an increase to their current PI bill. There was already PI service for the home, but not the associated land. He said that the resident was 97 years old so staff were working with her family. In the end, approval to abandon the ditch had to come from Lehi irrigation.

Council Member Ostler asked if they could look at each of the miscellaneous items and their effect on the Peck proposal. He said that if the Wilsons did not connect, it would not affect the Pecks. It just meant that the Harmon ditch would be abandoned. He continued that the situation with Lehi irrigation was the same; the Pecks could still connect. What would happen was that the Pecks would be bound to their allotted water shares and could not supplement their water with water from the ditch. Mr. Crane said that was correct. Once the deal was completed; the Pecks would be serviced through Highland's PI system.

Mayor Mann clarified that in this case, even if the Wilson situation was not resolved, if Highland upgraded 6800, they would not have to pipe the ditch under the road. The Pecks would lose access to it. That would save that road project some money.

Council Member Ostler asked if it was the understanding the Lehi Irrigation would fill in the Harmon ditch once it was abandoned. Mr. Crane said that it was their ditch. Beyond that, he was not aware of discussions on whose responsibility it was to fill.

There was further conversation about Lehi Irrigation's relationship with the Harmon ditch. Mr. Crane confirmed that Lehi Irrigation was willing to abandon the ditch. He said that the decision about the ditch was ultimately up to Lehi Irrigation. Just because the Pecks and Wilsons were off the ditch, did not mean that Highland could give the approval for the ditch to be filled in.

Council Member Smith asked who the City would talk to from Lehi about the ditch. Mr. Crane looked up this name and said that it was John Bushman.

Mayor Mann said that he spoke to Mark Johnson, Lehi Mayor, earlier today and he said they would love to abandon the ditch. The holdup was that the Wilson's still got their irrigation water from it.

Council Member Ostler asked how large the Wilson parcel was. He continued with some additional questions. He said that it was his understanding that sometimes in the late fall, Highland did not have enough water to meet its water shares, so the City augments from its well water. He wanted to confirm that the shares the Pecks were getting would not give them access to the City's well water. Mr. Patterson responded that as the season went on, the entity that controlled the water would look at the total amount of water available and the number of shares an entity has. If the remaining water is not enough to support shares, the total amount of water permitted for use can be reduced proportional to how shares are distributed among users. There could come a time where, although someone has paper shares, there's no water left to take. If that happened for the Pecks and the City was filling the PI system with culinary water to support residents, the City can shut off the Peck's line and not provide them access. It was clear that they were not allowed to take City water and that the City can enforce its termination shutoff to make sure that it goes to them.

Council Member Ostler asked if it was a common occurrence to augment with well water. Mr. Crane said that Highland did end up augmenting at some point. When that occurred varied each year based on demand. He said Highland augmented quite a bit with its 11800 and 700 well.

Council Member Smith said that he was confused. He said that the Pecks would be providing a lot of water out of the Murdock Canal. He said that he had a good friend who worked at CUP and regulated the water. He asked this friend two days prior to the meeting, "How bad are things?" The friend said that they had been preparing for bad years like this. The reservoirs were fine. The friend made the comment that the Provo River water in Deer Creek often time fills the reservoir first. He said that it seemed to him that if Highland started to run out of water, the City had a third pump in that pond to be able to put additional water in from the Murdock Canal. He asked if that was correct. He felt that having these additional acre feet was a benefit to the system and should reduce the use of well water. There was additional conversation about the sources that filled various ponds and wells.

Council Member Ostler read a portion of the proposed agreement pertaining to road improvements on 6800 West. He asked if the Pecks had agreed to dedicate the portion of their property that would be needed for those road improvements.

Mr. Crane said that the Pecks had not yet entered into the agreement to dedicate the property. He had a message in to the property acquisition agent and had spoken with staff and the Pecks on Thursday afternoon mentioning that needed to happen.

Mayor Mann asked if that was a condition to sign the agreement. He verified that even if the Council approved this action tonight, that the contract couldn't be signed until that property had been dedicated.

Council Member Ostler continued to question the text of the proposed contract. Mr. Patterson said that the recital provided a general description of why it was included in the agreement. He said that for the sake of ease, staff had separated out the two agreements so that they were not dealing with a water agreement that might last longer than the dedication agreement needed to be referenced. As part of the Council's approval, the Council could say that it approved the contract, but that the Mayor should not sign it until the Pecks signed the other recital agreement. Mayor Mann recommended that detail be included in the motion.

Council Member Ostler had additional questions about the annexation of the six to eight properties. He felt that items 5a and 5b were in contradiction with each other. Mr. Patterson explained that the issue those items were trying to address was the timing of the annexation. He said that the timing of when the Pecks were going to bring in those properties was not clear. What those items communicated to the Pecks was that they had 20 years to bring

in those properties. If that did not happen during the 20-year term, the Pecks had breached the conditions of the agreement and gave the City the right to terminate it. That language communicates that as a result of this agreement they will be abandoning the ditch. This gives the Pecks 20 years to figure out their water situation before they would not have access to water for their property.

Council Member Ostler said that the reason they were coming onto Highland's PI system was because Lehi would not supply them with PI water even though there was a line for Lehi PI going through the property because the Pecks would not annex into Lehi. He wanted to know if the terms of this agreement required the Pecks to annex to Highland, or if it just said that if after 20 years they had not annexed to Highland that Highland was no longer obligated to provide them services.

Mr. Patterson said that the City could not force anyone to annex into Highland and claim additional property. He said that was always initiated by the property owner. Council Member Ostler said that the Pecks had communicated it was their intention to annex into Highland.

Council Member Bills asked if anything had changed since the Council voted on this item in February. She said that unless anything substantial had changed, the previous votes of the Council made her ready for a motion. Council Member Rodela said that she could also go for a motion contingent on the signing of the agreement for property.

*Council Member Scott L. Smith MOVED that City Council approve the Pressurized Irrigation and Annexation Agreement with Ron Peck, RLP Enterprises LLC, and Thomas Williams contingent on the agreement that needs to be made to provide property for the widening of 6800 W. Council Member Brittney P. Bills SECONDED the motion.*

*The vote was recorded as follows:*

<i>Council Member Timothy A. Ball</i>	<i>Yes</i>
<i>Council Member Brittney P. Bills</i>	<i>Yes</i>
<i>Council Member 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. RESOLUTION: AUTHORIZATION TO PROCEED WITH RAP TAX PROCESS** *Administrative*

The City Council will consider whether or not to begin the process to place a request on the November 2021 Ballot authorizing a Recreation, Arts, and Parks sales and use tax. The City Council will take appropriate action.

Mr. Crane reminded that Utah Code allowed the City to impose a local sale and use tax of 0.1% for recreation, cultural and zoological facilities called a RAP tax. RAP taxes must be approved by residents in municipal election, in this case occurring in November. One of the key aspects of the tax was that the City cannot impose the tax if the County enacts a county-wide RAP tax or declared its intent to do so. The first step for the City to adopt the RAP tax was to adopt a resolution and to submit it to the County. The County had 60 days to respond. He said that if the County responded that they would not be imposing a RAP tax, Highland could proceed to put the tax on its November election. During that time, the City would have to outline how the funds would be used.

A key date for Highland would be the August 17, 2021 meeting because the City would have to file with the Lieutenant Governor's office its resolution notifying its intent to impose the RAP tax by August 19, 2021. Mr. Crane then outlined other key dates on the timeline regarding the RAP tax. Following the approval of the tax, an ordinance would need to be adopted by the Council formally imposing the tax and that declared how and where the proceeds could be used.

Mayor Mann asked if the Council could pull the plug on this initiative any time prior to August 17, 2021. He wanted to verify that this action did not require that the City pursue the RAP tax, but simply enabled Highland to do so. Mr. Crane confirmed this. This action was a first step, but the City had until August 17 to make a formal decision. He continued that he and Mr. Bahr estimated a revenue between \$135,000 and \$164,000 annually. The use of these revenues can be for capital investments in things like park improvements and repairs, to fund recreational or cultural uses, trails, or the Arts Council. The City would need a public information campaign. The Council would play a big role in selling the implementation of this tax to the community and getting their buy in. Other cities such as Lehi, American Fork, and Cedar Hills all had RAP taxes. He suggested that a Council subcommittee work on a plan for how to use revenues from the tax and work with Erin Wells, Assistant City Administrator, to implement the public information campaign. A sample letter was provided for what could be sent to the County if the Council chose to do so.

Council Member Smith asked if he spent \$100 how much he would pay into the RAP tax. Mayor Mann and Mr. Bahr said \$0.10.

Council Member Smith continued that if he spent \$1,000 he would be paying \$1.00 to the RAP tax. This was really not very significant and the people of Highland were already paying it in American Fork, Cedar Hills, Alpine, and soon in Lehi. This made Highland an island not doing this, or not benefiting from the taxes Highland residents were paying in other cities. Council Member Bills added that the RAP tax made it such that people who lived outside of the City paid a portion of the tax when they shopped in Highland stores.

Council Member Ostler clarified that there were some food sales not subject to RAP taxes. Mayor Mann said that items not subject to sales tax would not be applied to the RAP tax. For example, if someone shopped at Macy's and purchased a prescription, even though this was paid for at a food establishment, the prescription would not benefit the RAP tax because it was not subject to a sales tax. Mr. Bahr added that, according to the state, unprepared food has a set rate and would not apply to the RAP tax. Council Member Rodela said that she was excited about this. She thought that this could be used to help fund Mountain Ridge park.

*Council Member Kim Rodela MOVED that the City Council approve the resolution and direct staff to proceed with the necessary steps to place the RAP tax on the November 2021 ballot. Council Member Timothy A. Ball SECONDED the motion.*

*The vote was recorded as follows:*

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

## **7. USE OF OPEN SPACE PROPERTY PROCEEDS** *Administrative*

The City Council will provide direction on the use of the proceeds from the sale of open space property. The City Council will take appropriate action.

Mr. Crane said that the Council had spoken on and off about what to do with proceeds from open space. Staff hired Blueline designs to get an inventory done of all parks, particularly those with playgrounds or physical structures, in the City and to create a list of priorities for improvements. Prioritization for these improvements were organized into three categories—Priority A, B, and C—with prioritization based on safety, ADA accessibility, malfunctioning or broken equipment, the age of equipment, and the need for immediate work. In summary, a need for \$1.3 million in park improvements was identified. Mr. Crane noted that \$600,000 of this was dedicated to Beacon Hills. The City had already raised or allocated \$450,000 and had spent \$145,000 of those funds. This meant there was an additional need for \$450,000. The bottom line was that the needs far outweighed the resources.

Mr. Crane then addressed Beacon Hills specifically. He displayed the master plan which showed that the original concept for the park entailed two playgrounds, one on the north and one of the south side of the park. Part of the reason why the project was so expensive was that the entire park was grass. There were no existing playground pads which meant that these playgrounds would essentially be developed from scratch.

Council Member Ostler asked about this master plan. He said that he had seen many different concepts for Beacon Hills, but that this was the first master plan he had seen. Mr. Crane said that the master plan had been approved by the Council and had been sent out last fall.

Council Member Smith said that the plan was about eight years old. Mr. Crane continued that the first phase of development had been funded from various sources, a significant one being the Storm Drain Fund, as a significant goal of the park was to address drainage. He included the construction drawings so that the Council had a better concept of what the \$600,000 would be creating because he recognized that seemed like a lot of money. He stated that each park had an individual sheet outlining its associated expenses. General maintenance costs were not included because Mr. Crane felt that City crews could take care of them, but instead focused on playground replacement and ADA accessibility because those were the places that posed the greatest risk to the City.

Different options for the Council to consider for the use of revenue from the sale of open spaces included: playground replacement, trail connections, new trails, park capital needs, or to create a perpetual fund towards park improvements. From a staff perspective, Heritage and Highland Glen saw the greatest use. Both had older playground equipment and a sand base, which were not the safest standards.

Mayor Mann said that he had thought about this a lot. He felt like it was best to take the revenues from open space sales and put them in a common fund as opposed to try to allocate them to a particular neighborhood or region. For him, this would not only reduce staff time keeping track of what funds were associated where, but would also give the Council the greatest responsibility to respond to priorities and needs. Mr. Bahr said that he agreed.

Council Member Smith said that he had served on the Open Space Committee. He had never heard that the sale of open space in one neighborhood should stay in that neighborhood until recently. He thought that open space money should stay with open spaces as a whole across the 18 Highland neighborhoods. He said that he understood the mayor's perspective because there were a lot of park needs. However, when he listened to residents in open space neighborhoods, they felt as though they paid increased costs in their neighborhood for the open space that was donated to the City. Because of this, they feel as though when open space was sold that those revenues should be used to benefit their neighborhoods. He said that he hoped that funds would be prioritized for open space neighborhoods.

Council Member Bills said that she agreed with Council Member Smith. She didn't feel as though this was a decision that should be made based on convenience. She felt that it was a philosophical issue about if the City charged an open space, what was the fee supposed to be for. She felt that revenue from the sale of open spaces should go back into open space parks, rather than into a general park and recreation fund. She also questioned if those who live in open space neighborhoods are paying a fee of \$20 a month, should those residents have expectations for different or better services from the City. She furthered that those residents' fees should not be used for projects and improvements that should just be taken care of by the City anyway. She felt that prior to deciding which parks open space sale revenues would go to, the larger philosophical issue of if the money should stay in open space neighborhoods should be resolved. She said that there would not be a majority of residents who thought these funds should stay in open space neighborhoods because only 25% of Highland residents live in open space neighborhoods.

Council Member Rodela said that she did not think that there was any question that revenues from the sale of open spaces should remain in open space neighborhoods. If you're promised 20% open space and are paying \$20 a month to ensure that and then that open space is taken away from your neighborhood, revenues should go back into the open space fund. Because she recognized that there were a lot greater needs in neighborhoods like Beacon Hills than an open space neighborhood that did not have needs, she did not have a clear opinion on if open space revenues needed to stay within a specific neighborhood.

Council Member Bills said that she spoke with residents who lived in Wildrose. When those nine homes were approved, the Council let the developer pay the City to improve a park, rather than create an open space. The way that was done in that neighborhood was that of the total \$60,000, \$30,000 would stay within that neighborhood. The rest could go to the general park fund. She asked if an arrangement like that would make sense. Should 50% remain in the neighborhood and the other 50% remain in open spaces. She realized that made it more difficult for staff, but she felt that it was important to look out for those residents and their \$20.

Mayor Mann said that he felt that the \$20 a month is irrelevant to this discussion because it was to pay for ongoing maintenance. Right now that only covers neighborhood parks, but excludes larger City parks such as Beacon Hills and Mitchell Hollow. For him, if the argument is made that money should stay in open space neighborhoods, then it should only stay in what the \$20 fee was going towards: maintenance of neighborhood parks. He said that for him it was a moot point anyway. Highland had more needs than resources anyways. He asked if the City currently had an Open Space Capital Fund. He said that he knew there was an Open Space Park Fund, but he didn't know about a capital fund. Mr. Bahr said for open space, no.

Council Member Bills asked why this was a moot point. She said that it seemed to her that needs always exceed costs. You still have to prioritize what you can and cannot afford. If money was said to stay in open space, the Council might prioritize differently.

Council Member Ostler said that he also favored the money staying with open space. He said that the Highland Open Space Special Service District (OSSSP) was formed and 18 subdivisions joined in and are paying the \$20 fee. He said that one of the concerns he has is that when neighbors move in they have a rightful assumption that there will be open spaces. If the City sells these properties, open space is taken away. He felt that these residents were subsidizing these spaces with the \$20 fee. The bigger question was how the City was going to maintain the playgrounds. He asked if the expectation was that the money would come from the General Fund. Although he does not live in an open space area, he said that he finds walking through open spaces really pretty. He felt okay with money staying in open space neighborhoods because he looked at them like they were an HOA. When he looked back at why the open space neighborhoods were formed, the concern was that if 18 HOAs were formed for each neighborhood that the open spaces would not be maintained.

Mayor Mann asked if Council Member Ostler would create an open space capital improvement fund and then put the revenue from open space sales into the fund. Council Member Ostler said yes. He felt like OSSSP had to function and be able to take care of ongoing upkeep and maintenance costs and there needed to be a conversation on how much the General Fund would augment this. He brought up the Lone Peak Special Service District (LPSSD). He said that it was his understanding that for special service districts the City was covering 33% of their maintenance costs through the General Fund because the City recognizes that other residents go and benefit from those open spaces who did not pay the \$20 fee. He then asked about Beacon Hills and if it was being paid for out of the Open Space Fund.

Mayor Mann said that Beacon Hills was an open space park. He said that when he did some analysis a couple of years ago, he took out the larger, reservable parks, and trails. The cost to manage what was left was a little over \$20 a month based on current spending. If park staff was added, the cost would go up proportional to how the other money was spent.

Council Member Ostler continued to ask about the special service district. He said that the trails were currency maintained by the 0.25% sales tax given to Highland by the County. Mayor Mann said that the cost per month to maintain open spaces was more than \$20. He felt that creating an Open Space Capital Fund was a reasonable request because it would be easy to put the money in there and staff could go to that fund when they do things in open space parks before the General Fund.

Council Member Ostler asked Council Member Bills what residents in her neighborhood in Viewpoint expected if property were to be sold in that area, which was likely. Council Member Bills said that there was absolutely an expectation that some of the money would go back to open space neighborhoods. She said that was why she wanted to have this discussion. She felt it would be less contentious when those properties were sold if residents knew that they were gaining something as well.

Mayor Mann said that one of the arguments for selling the properties near Viewpoint was that nobody benefited except the homeowners. He said that it didn't do anything for anyone else.

Council Member Bills said that there was an argument that the sale of those properties could negatively impact people in the subdivision if the property was sold because it allowed some people to increase the value of their land and homes substantially with no benefit to current homeowners. Even though new residents would be getting that. If the money went back into open space neighborhoods, at least existing residents could feel as though they were getting extra amenities or that the money was going to improvements in already existing open space neighborhoods which would maintain some of the property value. She said that she liked the idea of having a fund and targeting some of the proceeds from open space sales to specific neighborhoods and some to a general pool.

Mayor Mann asked if prioritizing was not just something the Council could do without having a specific percentage. Council Member Ostler felt as though the Council could do this. He cited Canterbury Circle where some money was allocated to the project, but that the Council supplemented this with additional funds to convert the tennis court into a pickleball court. He felt that what Council Member Bills argued was reasonable.

Mayor Mann felt like the questions about what was funded and how would be best to unfold as they happened because it would give the Council the most flexibility.

Council Member Bills said regardless of which fund the money came from, it was still coming out of the City budget. In reflecting on a spreadsheet shared by the mayor, she recognized that each neighborhoods' benefit varied. Because of this, she would support the funding being flexible based on the Council's direction.

Council Member Rodela said she was also okay with that. It seemed like the Council agreed about the Open Space Capital Fund and to take into consideration that when property was sold in a specific subdivision that the Council should look at the priorities of that subdivision first. She agreed that percentages did tie the Council's hands and appreciated allowing for more flexibility.

Council Member Bills said that she felt this was the most fiscally responsible thing to do. You would never want to look around a particular area to do just because there was money left to spend. It was important to look at the priorities of the City as a whole.

Council Member Ostler summarized that the Council wanted to open an Open Space Capital Fund and money made from sold open space would go in that fund. Mr. Bahr said that he liked the flexibility. He said that having the funds in a separate account made it easier to keep track of.

## **8. DISCUSSION: HIGHLAND CITY BUDGET FOR FISCAL YEAR 2021-2022**

The City Council will discuss the adopted Highland City tentative budget, along with the increased assessments to Lone Peak Public Safety District.

Mr. Bahr said that the conversation would focus on a few follow up items from previous discussion and questions that were posed by the Council. In regard to net revenue it was anticipated that revenues would exceed expenses as outlined in the tentative budget. Staff would like direction about what to do with that net revenue. It is anticipated that property taxes would bring \$1.8 million in revenues and sales taxes would bring in \$3.6 million. In addition there would be some one-time revenue increases. Council Member Ostler asked if there was a fee that developers had to pay towards parks. When Mr. Bahr confirmed this was an impact fee, Council Member Ostler asked where that money went. Mayor Mann said that the park impact fees were used to pay the park bond.

Council Member Smith said that although park impact fees were not available because they went to the park bond, there was \$1 million coming in through the American Rescue Plan that was not allocated.

Mr. Bahr said that it was \$2.1 million in two installments and had to be spent by 2024. He said that staff had engaged in a number of web conferences. It seemed that the City would not have as big of a reporting requirement as larger cities. There were a lot of folks that had clear information for larger cities and said that information for smaller cities was to come.

Council Member Smith asked if what the money could be used for had been delineated. Mr. Bahr said that the main purpose was to compensate for loss of revenue which more than likely would not apply to Highland, to provide additional payments to impacted staff, and infrastructure improvements. These included sewer, water, and broadband improvements. He said that in the training discussions there was emphasis on being able to show assistance where there might have been a disparate impact on communities that had economic difficulties and saw those difficulties exacerbated as a result of the pandemic.

Council Member Ostler wanted to know if the money could be used to build a park. Mayor Mann wondered if they could argue that COVID put more people outside who used Highland's parks and trails more. Mr. Bahr said that parks were not shared as a go-to for how to use the funding. He continued his presentation and said that the tentative budget carried a project of just over \$3 million in sales tax revenues. As was shared in other communications, that was roughly a 4.7% reduction in FY22 compared to where it is anticipated that Highland will end up for the current fiscal year, FY21. In looking at some other economic projects, the economic report to the governor from the Eccles Utah Economic Council forecasted 13.3% in 2021 and an increase of 4.9% in 2022. Applying those percentages to the actual sales tax revenue that Highland saw in FY20 would result in a sales tax revenue of just under \$3.2 million in FY22.

Council Member Ostler said that when he looks forward to what cities will be spending in the next two years he felt like there would be extra money in the economy. He questioned if he would be able to keep sales up like they were in the past year. He felt like there was a lot of cash coming to the market.

Mr. Bahr said that the reports were pretty consistent. He noted that the mayor shared a report that came from the League with slightly different projections. Regardless at the specific projections looked at, it seemed that the ~\$3 million remained conservative. He said that it had been a good exercise. He continued that property taxes were based on the valuation of the property as of January 1st. If a property was under constructed on January 1 there was subjectivity on the part of the County. If a property was not completed there was a possibility that it would be not taxed based on the full completed property value until the following fiscal year.

Mayor Mann asked if that meant that Ridgeview would not provide a property tax increase for Highland until next year. Mr. Bahr said that was likely. He continued that the certified tax rate had to be published no later than June 8th. In response to questions about the bonds, Mr. Bahr said that park bonds, which were re-financed about five years ago, had a principal balance of \$3.8 million. Payments in the upcoming fiscal year would amount to \$524,000. There was a final payment in September of 2027 that would be almost twice of what the City was paying each year. He noted that all of the other bonds would be paid off the year prior allowing for some additional capacity. The pressurized irrigation and building bonds, which were financed a year ago, had principal balances of \$2.9 million. Payments this year would total \$855,000. The pressurized irrigation payment would fall off in subsequent years, reducing the overall payment. Final payments would be in September of 2026.

Mayor Mann stated that the PI portion of the bond would be paid in September of this year. At that point Highland was done with the PI portion, but the building bond would continue to 2026.

Council Member Ostler asked if all the final payments were more than what Highland paid for their annual payments. He asked if the City needed to start saving more to be able to meet the more substantial end payments. Mr. Bahr said that the park bond had somewhat of a balloon. However, the PI and building bonds would occur prior so in regard to the City's debt service capacity, FY22 would be the City's largest year and would reduce.

Council Member Ostler said that he thought that Highland's road fee expired in 2027. He said that because the bonds and that fee came up at the same time, the Council could look at what they want to do with the money that had been going to bond payments. Council Member Smith confirmed that this was all of Highland's bond: \$6.7 million total. Mr. Bahr said that was correct and then provided an overview of projected fund balances at the end of FY21.

Council Member Ostler asked if the remaining money from the first round of stimulus was just in the City's General Fund budget. He asked if there was a sense of what the General Fund balance would be at the end of FY21. Mr. Bahr said that was correct and the General Fund would be determined through the year-end close out and audits. Right now the FY21 fund balance would remain at about 25% of Highland's annual budget.

Council Member Ostler asked about the \$2.5 million fund balance that was projected for the end of the FY22. Mr. Bahr said that if the City left the FY22 tentative budget as it currently was, there would be \$400,000 that would be unallocated in the General Fund, causing the fund balance at the end of FY22 to approach 30% of Highland's annual budget.

Mayor Mann asked if that money could be allocated to parks or water meters. Mr. Bahr explained that the unallocated funds could stay as a fund balance, go towards a park, or go towards other priorities. In the end, if the money stayed in the fund balance, it would still be something that the Council would have discretion over.

Mayor Mann reminded that the \$400,000 that was unallocated could stay in the fund balance, because the State raised the threshold of savings that cities would carry over year to year. Mr. Bahr said that was correct. He said that with that, staff would welcome any adjustments the Council would like to see in regard to the tentative budget.

Council Member Smith felt that for him maintaining a 25% reserve was probably good. He suggested that they allocate the \$467,000 to something that Highland needed. He felt uncomfortable when there were unexpected or emergent expenses during the year.

Mr. Bahr said that items such as HVAC and heating expenses were places where money could be set aside as building capital. The timing of those expenses could not have been predicted because there was no way to know that the boilers were going to go out. There was a risk that money would be left unused.

Council Member Ostler asked if this was the first year that there had been a building capital fund or if it had been carried over from previous years. Mr. Bahr said that he thought that it was carried over from previous years.

Council Member Ostler thought that funds had to be pulled out of the General Fund to fix air conditioning issues. Mr. Crane said that there were building capital accounts for the park maintenance building and storage. There was also a building maintenance fund that had increased over time.

Council Member Bills asked if there were major equipment purchases that the \$467,000 could go towards. Council Member Ostler said that there was already some large equipment in the budget for next year: two snowplows, a skid steer, and a dump truck for the cemetery. Mr. Bahr said that unallocated funds could be placed in a capital account. However, if the Council left the money in the General Fund, there was additional flexibility.

Council Member Ostler said that the legislature moved the fund balance carryover up from 25% to 35%. He said that it needed to be recognized that the City's cash flow did fluctuate throughout the year. Mr. Bahr said that over recent history, the past 10-12 years, the limit had increased from 18% to 25% to 35%. Mayor Mann said that the money could be left unallocated.

Council Member Rodela said she agreed with Mayor Mann. Leaving the money as a fund balance provided flexibility and allowed the Council to look at its priority list with the idea that the money would ultimately be allocated to those priorities. Leaving the money in the fund balance was not to increase the reserve to 35%, but to give the Council flexibility. Council Member Smith said that it just seemed like there was never a priority list that didn't include playgrounds. He felt some of this money should be used for that. Council Member Bills said that she had talked about a desire for a General Fund study many times to help the Council better set its priorities. Mayor Mann said that the City did not have a replacement fund to consistently address playgrounds. This was a big hole.

Council Member Bills said that she liked the idea of using the money towards playgrounds because there was never going to be money for them. She said that she and Council Member Rodela were playground experts.

## **9. 2021 ROAD REHABILITATION PROJECTS** *Administrative*

The City Council will consider a request to approve a bid for the 2021 road rehabilitation projects and authorize the City Administrator and City Recorder to execute the necessary contract documents for the project. The Council will take appropriate action.

Mayor Mann prefaced this item by saying that the previous evening he had started to grill staff about road rehabilitation bids the City had received. He talked with John Dougal, Ty Christensen, Todd Trane, and the State Procurement officer. He said that he was satisfied with what the staff will present.

Mr. Crane said that the road rehabilitation bids opened the previous day, May 17th, 2021. Out of the four bids, Black Forest was the lowest bidder with a bid of \$686,701.45. He displayed a map of where the projects would be. There were a lot of projects in Canterbury and Twin Bridges. Twin Bridges was located in Highland's northwest area. The roads were built prior to Highland's current cross-section. There were a lot of clay soils and the roads were built prior to Geotech fabric being required. Staff did not know what they would find when they got into those projects. It was a problematic area for Highland.

Black Forest had already completed Highland's 2019 road rehabilitation projects at a cost of \$565,000. These included 6000 West from the canal south and 6400 West from SR92 south. Overall their quality of work was on par with other contractors. There were some minor issues, such as getting some punch list items completed. Those roads had held up well.

Council Member Ostler said that there was an issue on 6000 West where one of the contractors had dropped cement that flooded seven homes. He said that it was the insurance of that contractor that protected the City from needing to use its own funds to respond to that issue. He asked if this was included in the bid that the contractor had to have certain insurance. Mr. Crane said that the concrete issue did not happen with Black Forest contractors. If anything happened, it was the liability of the contractor. He said that there were no sewer components with any of these streets. They were just patching projects.

Ty Christensen, Streets Superintendent, said that he had already had Black Forest do a couple of subdivisions in town and they had done a good job. They had already done some City projects and had given the City a quality product. He said that Black Forest was going to get their asphalt from one of the other contractors.

Mayor Mann asked if there was the possibility of adding projects to those that Black Forest was already scheduled to complete. Mr. Christensen said yes if the City had money to do so. These included the Canal Boulevard to the Alpine Highway to the west of the stoplight. He said that the road was pretty bad going east. He said that he plowed that area and that in a plow truck it was quite the drive.

Council Member Ostler asked about how bids compared to those in the past. Were staff seeing a jump in bids like in other construction costs? Mr. Christensen said that asphalt had not jumped yet, but that it could.

Mayor Mann said that costs could bump between now and when the contractor started work. He asked if that would affect the price of the project. Mr. Christensen said that the City would get the price Black Forest gave in its bid.

Council Member Ostler said that some contractors will help with trail maintenance. Did staff anticipate adding some of the trail projects to the work Black Forest would complete. Mr. Christensen said not at this time. He said that staff did have a trail maintenance plan that they were going to put out to bid. He said that might be Black Forest.

Council Member Rodela asked if he would hire Black Forest again for their lower price despite some of their past minor hiccups. Was the cost savings worth hiring them over some of the contractors with a slightly higher price, but who might have minor hiccups.

Mr. Christensen said that the only real problem was getting Black Forest back to do their punch list. He thought that they might have overextended themselves at the end of the year that made it difficult to get them back to do some minor landscaping, some sidewalk, and a few collars they missed around valves and manholes.

Council Member Smith said that it had been a while since he had sat down with Todd Trane, former City Engineer, and went through the road priority list. He said that they were on year four of planning. He wanted to know if some of these additional projects were at the top of the priority list for the coming year, or if they were separate projects. Mr. Christensen said that if there was extra money, staff tried to move into the following year's priority list.

Mayor Mann said that the work that was supposed to be done on Country Club Drive this year was deferred to the following year because of a sewer project. He confirmed that the City would be re-doing all of Country Club Drive on the west side of the golf course. He said that it made sense to wait to put a road in until both the sewer project and road surfacing could be done at the same time. He said that he was personally pleased with the progress made on road improvements.

*City Council Member Kim Rodela MOVED that the City Council approve the contract with Black Forest Paving to proceed with the construction of the 2021 Road Rehabilitation Project for \$686,701.45 and authorize the City Administrator and City Recorder to execute the necessary contract documents for the project. 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.*

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

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

### **a. Future Meetings**

- May 25, Planning Commission Meeting, 7:00 pm, City Hall
- May 26, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- June 1, City Council Meeting, 7:00 pm, City Hall
- June 9, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- June 16, City Council Meeting, 7:00 pm, City Hall
- June 22, Planning Commission Meeting, 7:00 pm, City Hall

Council Member Smith said that the director of the North Pointe Waste Management Service would like to make a short presentation to Council regarding new software to help people learn about what can be recycled. Mr. Crane said that he could do it on June 1<sup>st</sup>.

Council Member Rodela gave a shout out to staff and the Youth Council for the spring clean-up activity over the weekend. She said that Highland residents love it.

Council Member Bills said that the road opening was also fantastic with a great turnout.

Council Member Ostler said that given that Highland was having a difficult time getting employees, he wanted to check in to see how the City was doing with park maintenance employees. He said that when he talked with Josh Castleberry, Parks Superintendent, he had said that he had eight employees of the 15 needed. He wondered if the City needed to give these employees a special incentive that if they stay until the end of the year, as opposed to leaving when school started, that they could get a bonus.

Mr. Crane said that there were five employees coming in the following Monday and three the following week.

Council Member Ostler said that the problem was that when college started again in August or September, the City became short-handed to finish up projects. He asked what Highland could do to keep employees into the fall.

Council Member Rodela asked how much of a budget the City had allocated for the eight seasonal employees coming in. Mr. Crane said that they had allocated more money towards seasonal employees. He said there were nine employees so far and eight coming in to do paperwork for 17 total employees. Council Member Rodela wondered if staff needed the Council to do social media posts to help with recruitment. The Council wanted to know what the starting wage was for these positions. The Mayor thought the starting wage was \$12.00.

Council Member Bills asked if someone could tell Mr. Castleberry thank you for coming up to Viewpoint and fixing all of the swings; it was very much appreciated. She continued that if anyone was ever talking to the Utah League of Cities and Towns (ULCT), both she and Council Member Rodela registered for its conference. They were unable to get into it and couldn't watch the videos from the conference. She also asked for an explanation of the process moving forward for the disposal of open space properties. Mr. Crane said that the process was that staff collected all of the applicants that had applied for purchase of open spaces. These would be reviewed by the Council subcommittee beginning on Thursday who would analyze the offers and present to the Council. At that time, a code amendment and resolution would be brought to the Council.

Council Member Rodela asked if the Council would decide based on the recommendations of the subcommittee who gets to sell open space property and who didn't. Council Member Smith said that in previous discussions the Council had identified a dozen or so properties.

Mr. Crane said that those properties would be brought to the Council. In addition, there had been a 30-day window for other open space property owners to put in applications to sell their land. The Council would make final decisions based on all of these applications.

Council Member Rodela asked if the Council would decide one-by-one. Council Member Ostler asked if the subcommittee of the Council was supposed to provide a spreadsheet of all of the properties and which ones they were recommending to sell to the Council. Mr. Crane said yes and then there would be a series of meetings to report the findings.

Council Member Rodela asked if there was one property that the Council did not agree on, it could be pulled or a property could be added. Council Member Smith said that all the properties would be sold for the same price per square foot that had been previously decided, regardless of where the properties were located.

Council Member Bills asked if it would be possible to hold a monthly work session before meetings. She said that she knew that there were a lot of times where the Council was meeting one at a time with developers. She asked if it would be more efficient to meet with them all at once so that the whole Council heard the same questions. Mr. Crane said yes.

Council Member Ostler said that he liked what Council Member Bills suggested. He wanted the transparency of an open meeting. Council Member Bills said that she felt that this was especially important to alleviate any

possible perceptions that council members were making decisions based purely on financial incentives as opposed to what residents wanted.

Council Member Bills's last question was about trees. She said that when she reviewed the open space reports and looked at priorities, trees were on every single list. However, they were always at the bottom of what to invest in. She said that she saw that there was \$3,500 allocated to the Tree Committee. She asked if it would be possible to just have a tree budget. She said that she would like dead trees to be replaced. For her it was not a level three priority, but something that was fairly cheap and that made the City look a lot nicer. Mr. Crane said yes. He asked how much the Council would like staff to allocate. He said that replacing 10 trees cost about \$3,000. Mayor Mann suggested that Mr. Castleberry figure out the number of dead trees in Highland to get an estimate on how much money would need to be allocated in the budget to replace them.

Council Member Ball said that he had a question for Mr. Patterson. He noticed at one of the activities in Heritage Park that when it was windy he was almost hit by a branch of a tree that staff referred to as "garbage trees." He asked if replacing those trees made more sense from a liability perspective. Mr. Patterson said yes.

There was further discussion about the trees in Heritage Park, particularly the Chinese Elms. He said that several branches came off that barely missed people.

Mr. Patterson said that with every legal question it came down to how much the City knew, and what the level of risk was. He said that it did make sense to have a program to make sure that trees were alive, and that branches that were weakened were removed. Council Member Ostler said that usually before the Fling, park staff do go to Heritage Park to trim trees. He said that staff were stretched pretty thin, but recognized that it was an important issue.

Council Member Ball said that he felt like the trees were a known risk and that although when a weather event might happen, that a weather event will happen should be expected. Not only did he not want people to get hurt, but he also wanted to avoid a big lawsuit for the City.

Council Member Bills said that if the City wanted to have a tree planting day, she would be willing to organize something to get neighborhoods to commit to planting a certain number of trees and offer the labor to do so.

Mr. Crane said that it was unrealistic to replace every dead tree every year. He thought that allocating money to replace more trees than what Highland was currently doing was a good action, but there should not be an expectation that 1,000 trees could be replaced tomorrow.

Council Member Smith had another question for Mr. Patterson. He said that there was a former mayor that made some gentleman agreements concerning annexation of areas around the City. He said that he knew there was a gentleman's agreement to allow American Fork to annex the property to the south of Lone Peak. He said that there was also another gentleman's agreement in 2014 for the property to the northeast of Micron. He wanted to know how legal these gentlemen's agreements were. He clarified that for something to be legal it needed to be voted on by the Council.

Mr. Patterson said yes. Anything that bound the City required Council approval. He said that annexation was a tricky issue to have based on agreement because it was a legislative matter. Cities cannot bind themselves forever regarding annexations. The City cannot make a promise to a developer that the City will give them something with annexation. He said that they were like rezone requests; developers had to work through the process, but a particular zone, or annexation could not be guaranteed. He said that gentlemen's agreements could not actually bind the City.

Council Member Ostler said that he pulled up the May 20, 2014 City Council minutes. It was his understanding that on the specific item Council Member Smith referenced, that Lehi had made an inquiry with Highland because it was within the 1999 annexation agreement that the property on Highland Boulevard was supposed to come into Highland. Lehi inquired with Highland because the property owner at the time had expressed an interest to stay in Lehi. He said that the Council discussed the issue in the May 2014 meeting and had instructed the Mayor to talk with Lehi to try and maintain the zoning of the property at two units per half acre. There was no vote.

Mayor Mann said that he had talked with Mayor Johnson of Lehi several times and he was clear that they intend to try and honor that agreement. Both he and the Council required D.R.Horton to work with Highland on acquiring the property. He said that it was a legislative matter so there was no guarantee.

Council Member Smith said that a decision on Lehi's part not to annex could be contested because the property was in Highland's annexation plan.

Council Member Ostler said that in 2019 there was an annexation agreement that 109 acres were supposed to come into Highland. Of the 109 acres, the agreement was renewed and was in place until 2025. Council Member Smith said that it would be nice to know the specifics of the annexation agreement.

Mr. Patterson said that when there was a dispute between two cities regarding an annexation, the matter went to the County and a boundary commission. He had just finished a contest for a different City. He said that it was difficult for a City to contest another City's annexation because it was a legislative item. He said that there were some checkboxes that a City had to go through in order to annex. If those checkboxes were met, it became a matter of policy to overturn the decision. If all of the checkboxes were not met, then it was easier for another City to challenge.

Council Member Ostler asked about the signature agreement that was entered into in 1999 that Lehi would not accept an application from another land if it was in the annexation proposal. Mr. Patterson said that would depend on if there was actually an agreement. It seemed to him that there was a question as to if this was a formal agreement by both parties.

Mayor Mann said that this was discussed last week. He said that according to his recollection, the landowner could request annexation to a City outside of what the plan was because it was the right of the landowner. Cities did not control the annexation process, the landowner did.

Council Member Smith said that he wanted to make sure that the boxes were checked. Micron was leaving anyway and D. R. Horton was the new property owner.

Mr. Patterson said that he would have to review the exact agreement. He said there might be some enforcement mechanism in the agreement. He worried, however, that there would not be because there probably was not anything outlined about how the annexation would unfold.

Council Member Ostler asked Mr. Patterson if he had not seen the 1999 agreement. He said that he didn't expect him to know every agreement, but because the issue came up last week, he would have thought that he had. Mr. Patterson said he had not been asked to review the agreement so he had seen the first page just now. Council Member Rodela asked if Mr. Patterson would review the agreement and get back to the Council.

Council Member Smith said that D.R. Horton wanted to meet with the Council and obviously wanted the Council's opinion. He said there had been a Lehi Planning Commission meeting that was attended by far more Highland residents. There was a split vote on this issue because of the protests from Highland citizens. He got a

lot of emails from citizens about this land. He felt that they needed to know legally what the Council was representing. Mr. Patterson said that he would review the agreement and have an answer the following day.

Council Member Ostler said that in the past year he had negotiations with D.R. Horton on this parcel. He had not moved forward with them and he was not in active negotiations. He said the argument that he made with D.R. Horton was that as a land developer of communities it would not hurt them to develop in Highland as opposed to in Lehi. He asked if they had considered taking the 109 acres and developing in Highland. He said that it would be interesting to determine if the Council wanted those 109 acres. They were located on a hill with limited access to water. It could lead to additional City costs.

Council Member Smith said that what they did not want to create was another Blue Bison. He said that there were a lot of citizens in that area and the Council needed to respect their needs and desires. He felt like the Council needed to go in and negotiate for its citizens.

Council Member Ostler said that he felt like Lehi had been a reasonable partner that had been strong in their communication. He said that Highland had heard from Lehi's mayor, but he was a little nervous about what Lehi's Council thought. He said that in every interaction he's had with Lehi it had been positive and they had been respectful of Highland. He hoped that Highland would be respectful with Lehi.

Council Member Smith asked Mr. Crane if there were utilities all the way up Highland Boulevard. He asked if D.R. Horton would be linking into Highland's utilities or if they would be putting in their own utilities. Mr. Crane said that it was a TSSD line. Mayor Mann said that when he talked with D.R. Horton they said that the sewer would run down to SR92 and would connect there.

Council Member Ostler said that Lehi had a PI pond right behind the property. He said that when he looked at the old proposal it outlined 740 residential units. Now the number of units jumped to 2415. He said that D.R. Horton had certain vesting rights on that property.

Mayor Mann said that originally the plan was heavy commercial and light residential, but that when the plan was re-done this ratio switched to lighter commercial and heavier residential. In speaking with Mayor Johnson there was no guarantee they will get what they asked for. He didn't know where his council was on that matter. He continued that D.R. Horton had told him that they would be willing to hold a community meeting. He said that he didn't know when that would happen. He said that was similar to what Highland developers did; before going to the Planning Commission they held a neighborhood meeting. He imagined they would send a mailer out to residents in the area.

Council Member Smith asked if there was any reason for Highland to expect that Lehi would zone and do this area any differently than surrounding areas which were high density. Mayor Mann said that the proposal by D.R. Horton is a buffer zone around Highland with ½ acre lots. He said that they had no obligation to Highland relative to the homes on the west side of Dry Creek because that was already Lehi property. If Lehi let them, they could put apartment buildings there. He said that his understanding through his conversations with Mayor Johnson was that this development would be thoughtful. He had heard complaints about putting in senior housing in that area that was denser than normal. However, when he talked with Mayor Johnson, who in his private life did develop senior housing, he said that at 5.5 units an acre for senior housing has less impact on a City than half acre lots because residents drive less, they don't put kids in school while paying taxes to put kids in school, they typically use parks in their area, and they have lower culinary water use. Mayor Johnson said that the only increase in senior housing areas were ambulance calls.

Mayor Mann said that he had asked Mayor Johnson if he would allocate a fixed number of units, say 400, in the northeast area. If Highland said that they could only do half acre lots, then they would put 200 units in the 109

acres and could put 200 units in the 80 remaining acres. Overall this would create much denser housing in a concentrated area than if Highland worked with D.R. Horton. He thought that the City should be open-minded and listen. He also said that Lehi will be a very good neighbor. He said that it was very early in the process.

Council Member Ostler asked Mayor Mann if in his conversations with Mayor Johnson he had indicated that his Council supported honoring the agreement with Highland. Mayor Mann said that Mayor Johnson had been clear that his Council wanted to work with Highland on this matter. Highland would have influence. If things got ugly, that influence could go away. He said as a Highland resident and past council member he would be very perturbed if another City tried to dictate what he should do.

Council Member Smith asked if it was a myth that property values were greater in Highland than Lehi. If it was not a myth, he asked why the Council would not promote that they annex some of the property into Highland because they would get more.

Council Member Ostler had suggested to D.R. Horton to run the numbers on the returns they would get if they developed in Highland. D.R. Horton admitted that they had not done this yet.

Council Member Smith said that they should do that. Developers like Mill Haven were developing on half acre lots and they were selling immediately. There was further discussion about D.R. Horton's costs and different ways that Highland could negotiate.

Mayor Mann noted that Highland had some property north of Sterling Pointe that was zoned commercial. If a lot of 55+ housing, a restaurant might work really well there.

Mr. Crane introduced Brian Patten as interim Deputy Chief.

## **11. CLOSED SESSION**

The City Council may recess to convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, as provided by Utah Code Annotated §52-4-205.

*At 10:30 pm Council Member Scott L. Smith MOVED that the City Council recess to convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, as provided by Utah Code Annotated §52-4-205. 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 unanimously.*

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

*The CLOSED SESSION adjourned at 11:34 pm.*

## ADJOURNMENT

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

*The meeting adjourned at 11:34 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 18, 2021. This document constitutes the official minutes for the Highland City Council Meeting.



Stephannie Cottle  
City Recorder