



HIGHLAND CITY


HIGHLAND CITY COUNCIL MINUTES

Tuesday, July 18, 2023
Approved September 5, 2023

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

VIRTUAL PARTICIPATION

 YouTube Live: <http://bit.ly/HC-youtube>

 Email comments prior to meeting: council@highlandcity.org

7:00 PM REGULAR SESSION

Call to Order – Mayor Kurt Ostler

Invocation – Council Member Kim Rodela

Pledge of Allegiance – Council Member Sarah D. Petersen

The meeting was called to order by Mayor Kurt Ostler as a regular session at 7:03 pm. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Council Member Kim Rodela and those in attendance were led in the Pledge of Allegiance by Council Member Sarah D. Petersen.

PRESIDING: Mayor Kurt Ostler

COUNCIL MEMBERS

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

CITY STAFF PRESENT: City Administrator Erin Wells, Assistant City Administrator/Community Development Director Jay Baughman, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, Planner and GIS Analyst Kellie Smith, City Engineer/Public Works Director Andy Spencer, Police Chief Brian Gwilliam, Fire Chief Brian Patten

OTHERS PRESENT: Jon Hart, Doug Cortney, Annette MacPherson, Brad Walton, Mark Niebergall, Mark Hafen, Athina Riddell, Chirine Wadsworth, Boyd Timothy, Linda P. Walton, Paulette Santiago, Wesley Warren, Rudy Kilburn, Barbara Kilburn, Helene Pockrus, Juanita Alvarez, Daniel Wadsworth, Spencer Clegg, Anastasia Wadsworth, Rob MacPherson, Kevin Long

1. UNSCHEDULED PUBLIC APPEARANCES

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

Rob MacPherson discussed cameras that have been installed by Alpine City on the boundary between Alpine and Highland. He read from a recent edition of the Alpine Newsliner, which stated that although Alpine is an exceptionally safe place to live, crime still occurs, including several vehicles being stolen from Alpine in recent years and a home invasion last fall. To assist in deterring, preventing, and solving crimes, license plate readers were installed at the boundary between Alpine and Highland. He stated that he has noticed six cameras have been installed, two on West Field Road, two on Alpine Highway, and two on 4800 West. He spoke with City Administrator Wells last week who confirmed that three of the six cameras have been installed. He also spoke with Alpine Mayor Carla Merrill, who confirmed that she had spoken with Highland Mayor Kurt Ostler to get his input and determine if Highland would like to contribute to the project, and according to Mayor Merrill, Mayor Ostler 'turned her down' because of the cost. He stated that his concern is that the license plate readers can invade the privacy of nearby property owners, but he has been told they have been adjusted in a manner to prevent that. He cited five main points that he is most concerned with:

1. Highland holds public lands in trust with corresponding fiduciary duties to the occupants.
2. If the cameras are going to be used by another city, Highland should charge that other city for use of Highland property.
3. Highland residents do not want the cameras and they should be moved into Alpine.
4. The number and types of crimes cited by Alpine will not be impacted by the cameras; thieves will steal cars and license plate cameras will not help.
5. The one thing the cameras do not address is a resident of Alpine stealing something from another resident of Alpine; they will not cross the cameras unless Alpine residents do not commit crimes.

Mayor Ostler stated there is an agenda item tonight dealing with the locations of the FLOCK cameras and he will move that item up on the agenda to follow the consent agenda.

Linda Walton stated she has been working with the Red Cross today on a blood drive in Provo; they had hopes to have about 150 people donate, but only 35 showed up. Utah County is having a real problem with a lack of blood donations, and she would encourage anyone that can do so to donate blood.

Chirine Wadsworth stated she is here to thank the Council for their patience. As of June 30, Alpine Food Storage has moved out of its location at her home and is officially open in its American Fork location. She stated that many in Highland City are angry at the Council for kicking them out of their home location, but she has communicated to those residents that that Highland City has been great to them and given them opportunities to expand and grow their business. She is grateful to still live in Highland.

Mark Neibergall stated that he often runs and bikes on trails in the community and he is concerned about the safety of trail crossings; he has had two close calls on 6000 West and has observed other dangerous situations on the trails in Pleasant Grove. He has been watching for meeting minutes to see a report on trail crossing improvements.

Mayor Ostler stated the Council received a presentation from a consultant regarding a traffic calming study and recommendations for improving safety of trail crossings. They will continue to discuss the issue with the consultant in preparation for adopting a traffic calming toolbox. Mr. Neibergall stated it is his proposal to flip the stop signs so that they are observed by vehicles rather than pedestrians or cyclists.

Helena Pockrus requested that a tree on 6800 West near the stake center be trimmed; there are a few limbs that are blocking the view of a stop sign.

2. CONSENT ITEMS

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

- a. **Approval of Meeting Minutes** *General City Management - Stephannie Cottle, City Recorder*
Work Session & Regular City Council Meeting – May 16, 2023
- b. **Library Board Appointment** *General City Management - Donna Cardon, Library Director*
The City Council will consider the re-appointment of Jessica Anderson and Kim Rodela to the Library Board. The Council will take appropriate action.
- c. **ORDINANCE: Approval and Ratification of City Administrator Agreement** *General City Management - Rob Patterson, City Attorney*
The City Council will hold a public meeting to consider adopting an ordinance approving and ratifying the City’s existing contract with Erin Wells as City Administrator. The Council will take appropriate action.

Council Member Smith stated he would like to remove item 2c from the consent agenda.

Council Member Rodela indicated she will recuse herself from voting on item 2b.

Council Member Scott L. Smith MOVED to approve consent item 2a. approval of meeting minutes for May 16, 2023; 2b. Library Board Appointment of Jessica Anderson & Kim Rodela

Council Member Brittney P. Bills SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 4:0.

Council Member Smith stated that he is not opposed to the previous agreement, and he wished to publicly state that the City Administrator is doing a great job, but he asked why the Council must approve an ordinance for her agreement and not for other appointed officials. He asked why the action is not being handled via a resolution. City Attorney Patterson explained the City typically appoints officers, including the City Administrator, Finance Officer, and City Engineer by resolution. The City Administrator has been appointed by the Council already, but the ordinance before the Council deals with the contract for the City Administrator, not her appointment. He noted that the City does not have employment contracts for its other appointed officials. He noted this matter has arisen due to a recent dispute between a City Administrator and their Governing Body in another municipality and one of the arguments the City made was that it was not liable to abide by the contract because it was not approved by ordinance, even though it had been approved and signed by the Mayor of that City and had been relied upon by all parties. To avoid something similar happening to Highland, it was his recommendation that Ms. Wells’ agreement be approved by ordinance. Council Member Smith stated that ordinances are used to adopt a law in

the City, and he wondered why a resolution is not being used to adopt the agreement. Mr. Patterson stated that any City issue can be handled by ordinance, but only some things can be handled by resolution; the form does not matter too much for the purposes of this action item. Council Member Smith asked if this needs to be done for any other appointed officer in the City, to which Mr. Patterson answered no.

Council Member Scott L. Smith MOVED to approve consent item c ordinance to approve and ratify the agreement with the City Administrator, Erin Wells.

Council Member Sarah D. Petersen SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 4:0.

Mayor Ostler then moved to agenda item 9b on the agenda.

9. 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.

b. Lone Peak Public Safety ILA - Erin Wells, City Administrator

City Administrator Wells summarized the following proposed changes to the Lone Peak Public Safety District (LPPSD) Interlocal Agreement (ILA):

- Clarification on who fills in/votes/Chairs the Board:
 - Current board makeup
 - Can only fill in for respective City
 - Chair votes when they are filling in for the absent chair
- Quorum Clarification:
 - Three minimum including minimum of one from each City
- Clarifying the rotation of the Chair:
 - Has been in practice rotated every other year

She then noted that the ILA must be adopted by the City Councils in both Highland and Alpine and depending upon feedback from Alpine, the agreement could be amended further before it is brought back to the Council for action in a future meeting. She noted that Highland does pay more than Alpine, roughly two-thirds of the total funding for the District. She noted she is open to thoughts from the Council regarding appropriate amendments to the ILA.

Council Member Bills stated she would like to know how Alpine feels about the terms of the ILA relating to the Chair of the Board of the District. Council Member Rodela stated she would also like that information and would like more time to think about the agreement.

Council Member Smith stated it is much more cost effective to share public safety costs with Alpine and while Highland does pay two thirds of the cost of the District, it is a compromise to split makeup of the board 50/50. He stated he feels that the District's Board has functioned well. Mayor Ostler stated that it is working, but there has been some confusion in the past regarding the Council's role on the District's annual budget. Ms. Wells agreed and stated that it can be awkward for staff to present a budget to the Council that has already been approved by the District Board; she asked if the Council would like to discuss the budget earlier in the process before the District Board takes action.

c. Police Data Report – *Brian Gwilliam, Police Chief*

Police Chief Gwilliam shared a presentation he has made to the Lone Peak Public Safety District (LPPSD) regarding call volume and caseload in the District dating back to January of 2023. There was a brief discussion among the Council and Chief Gwilliam regarding the responsibility for patrolling the state roads that are located in the District. The Council thanked Chief Gwilliam for the report and information provided.

d. Alpine City License Plate Cameras – *Erin Wells, City Administrator*

City Administrator Wells discussed the placement of Flock cameras near the borders between Alpine and Highland City; she presented maps identifying the locations of the cameras and discussed the purpose of the cameras according to a policy that has been adopted by Alpine in accordance with Utah Law. The idea is to help respond to and solve crimes that have occurred. Access to the data collected by the cameras is heavily controlled and “shall only be used for official and legitimate law enforcement business” according to Utah Code 41-6a-2003. The cost of the cameras has been borne by Alpine City and have been placed within Alpine City boundaries, except 2 cameras; one which was placed within Highland's boundary, but it will be relocated. The other camera is in an area that could be annexed into either Alpine or Highland. She discussed the option of developing an interlocal agreement (ILA) between both cities to outline Alpine's responsibilities regarding the cameras and maintenance of surrounding property. She then presented examples of photographs that have been captured by the cameras and indicated she is open to discussion about the issue.

Mayor Ostler asked Chief Gwilliam to provide his feelings about the Flock cameras. Chief Gwilliam stated that he was approached by a member of the Alpine City Council about installing cameras provided by a different vendor; he did not believe the arrangement would be beneficial, so he recommended Alpine reach out to Flock instead. He has been aware of this vendor and some of their success stories and indicated he is supportive of the program from a crime-solving standpoint. This led to discussion among the Mayor, Council, and Chief Gwilliam regarding likely routes of travel between Highland and Alpine and the manner in which the cameras can be used to curb or solve crimes; Chief Gwilliam discussed access to and retention of images captured by the cameras, noting he feels that the system is very secure and should not cause concern regarding a violation of privacy of motorists driving on the roads. He suggested that the use of the cameras in Alpine be monitored for a few months and discuss whether it would be advantageous to install additional cameras in Highland.

Council Member Bills stated she is not sure that she is comfortable with cameras being located in Highland; she asked that staff of both cities work together to ensure they understand the boundaries between the City to make sure that all existing cameras are located within Alpine. Council Member Rodela indicated she is comfortable the cameras remaining in the locations where they have been placed. Council Members Bills and Peterson agreed.

3. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT – PLANNING COMMISSION VOTING *Development Code Update (Legislative) - Kellie Smith, Planner & GIS Analyst*

The City Council will hold a public hearing to consider a proposal by Highland City Staff to amend Article 2 Planning Commission in the Development Code to add the requirement that

the majority of the Planning Commission must be in favor in order for a motion to pass. The City Council will take appropriate action.

Planner & GIS Analyst Smith explained at the City Council meeting on May 2, 2023, a couple of Council Members expressed their concern with a Planning Commission vote passing without the majority of the Commission being in favor. The City Attorney stated that it was an issue of quorum versus majority voting in order for an item to pass; the City Code does not address the issue, so the default is that a majority of those present is needed in order for an item to pass rather than a majority of the total makeup of the Commission. The Council briefly discussed the issue and communicated that an amendment to the code is appropriate to ensure clarity on the number of votes needed for a motion to pass. The proposed amendment adds the following wording to Section 2-205 Duties and Powers in Article 2 Planning Commission in the Development Code:

- The minimum number of affirmative votes required to make a recommendation to the City Council, or any other approval as outlined in this Code, shall be a majority of the members present but shall never be less than four (4) affirmative votes.

The Planning Commission held a public hearing on June 27, 2023. There was no resident comment. The Planning Commission discussed the difference between applications that are approved by the Planning Commission versus applications where the Planning Commission is only the recommending body to the Council. Commissioners expressed not wanting to hold up applicants if they were only the recommending body on their applications. One Commissioner wanted to keep the wording of the existing code and only require the majority of those present for a motion to pass. The Planning Commission voted five to one to recommend approval of the proposed amendment with the change that on applications where the Planning Commission is the approval body, the majority of the Commissioners must be in favor for a motion to pass (minimum of four (4) Commissioners); however, on applications where the Planning Commission is only the recommending body to the City Council, only the majority of Commissioners present must be in favor for a motion to pass (minimum of three (3) Commissioners if only four (4) are present).

Council Member Smith stated he is appreciative of the City's Planning Commission; however, he noted that it is a seven-member body and there have been several times when there are only four members present. The position is a paid position, and it is important that a majority of the members are present at each meeting to vote on important issues. He is disappointed that some Planning Commissioners, including alternate members, do not feel it is important to attend meetings and vote. He added the State Legislature has amended land use laws in the State that have given Planning Commissions increased authority and he wanted to be sure the Planning Commission is made up of people who are willing to sacrifice in order to attend all meetings and ensure there is a majority present for all votes that the body takes.

Mayor Kurt Ostler opened the public hearing at 8:23 p.m.

Doug Courtney stated that if only four or five Commissioners are attending meetings, perhaps other individuals should be appointed to the Planning Commission. He echoed the concerns expressed by Council Member Smith and suggested that the Council approve the amendment recommended by staff; otherwise, the message is being sent that the Council is not concerned by the failure of some Commissioners to attend meetings.

Mayor Kurt Ostler closed the public hearing at 8:24 p.m.

Mayor Ostler noted it is important to understand that a few Commissioners have experienced some serious health issues over the past few months; one of these individuals had consistently attended all meetings before falling ill. He stated that it would be his recommendation that for a first-time member of the Commission their initial appointment term be just one year, and then the term can be extended to four years after the first year and an understanding of the individual's commitment to their position. He reiterated Council Member Smith's comments about adjustments to State Laws that will remove some authority from the City Council and assign it to the Planning Commission; he emphasized it is important for the Commission to have a quorum present to vote on the

actions before them. Council Member Smith agreed and reiterated there are alternate members of the Commission, and they could be asked to attend if a Commissioner was going to be absent.

Council Member Kim Rodela MOVED that the City Council APPROVE the proposed amendment to Section 2-205 Duties and Powers in the Development Code to add the requirement that the majority of all Planning Commissioners must be in favor in order for all decisions for a motion to pass.

Council Member Sarah D. Petersen SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 4:0.

4. RESOLUTION/ACTION: COUNTRY FRENCH NO BUILD POLICY *Land Use (Legislative) - Kellie Smith, Planner & GIS Analyst*

The City Council will hold a public meeting to consider a request by Tim Frantzen in the Country French subdivision to allow for vertical construction in the 80' No Build Zone. This amendment would allow stairs attached to the main dwelling to be 65' from the back property line. The Council will take appropriate action.

Planner & GIS Analyst Smith explained in 2005, an 80-foot no-build restriction was included in the final approvals for the Country French Subdivision along lots 1-11 on Plat A and lots 42-52 on Plat B. In 2017, the property owners for Lot 6 began the construction of a pool and a 14' retaining wall without receiving a building permit. On October 3, 2017, after three Council meetings and one public hearing, the Council adopted a policy related to the issuance of building permits for below grade and ground level structures in the no build easement. The policy allows for below grade and ground-level structures, such as pools and sports courts, provided there is a 50-foot setback from the rear property line. Retaining walls over four feet as well as vertical structures such as garages, workshops, pool houses, etc., are not permitted in the 80' from the back property line. The Council also approved a Development Agreement between the City and the owner of Lot 6. This Development Agreement allowed the owner to keep the retaining wall, and finish construction of the pool which was 30 feet from the rear property line. On March 16, 2021, the Council heard another request from a resident to reduce the setback for below grade and ground-level structures to 42 feet from the property line rather than 50 feet. After receiving a letter from the Bull River HOA stating that a majority of the responses from residents was to allow this change in setback, the City Council approved the request to amend the resolution adopted in 2017. Ms. Smith then noted Tim Frantzen submitted a building permit for a new home located at 11282 N Normandy Way in the Country French subdivision. The Building Department provided comments referencing the adopted resolution defining the 80 foot No Build Zone and stating that the building plans were not compliant. The builder and landscaper requested to meet with City Staff to discuss. The Building and Planning departments met with them and explained what the process would look like if they wanted to request a change in interpretation of the policy. The builder decided to change the site plan to be consistent with the policy and the building permit was issued. Inspections for setbacks, footings, and foundation have since passed. The property owner, Tim Frantzen, came to the City Offices to meet with planning to see what his options were to add the stairs back onto the plan. In June of 2023, Mr. Frantzen submitted a formal request to amend the Resolution to allow for the stairs. Ms Smith provided an illustration showing the encroachments into the 80 foot no build zone, after which she concluded staff

recommends the City Council hold a public meeting, discuss the issues, and approve or deny the request to amend the no-build policy. To amend the policy a new resolution would need to be adopted.

Council Member Smith stated he was involved when the 2021 agreement was approved and he recalls that one allowance that was made was for ground level improvements, such as pools or patios, being within 42 feet of the property line. Ms. Smith stated that is correct; in 2021, the 50-foot requirement was reduced to 42 feet. Council Member Smith stated that he feels that an 80-foot easement is wide, and the current applicant is asking to build their pool and a slide that will be 65 feet from the property line. Ms. Smith stated that is correct; the current resolution allows for a pool to be 42 feet from the property line, and it also allows for an above ground slide, as long as the slide is in between the pool and the home. Council Member Smith stated the HOA has indicated they are comfortable with an adjustment for one lot in the development, but they do not want the no-build easement changed again; he asked if the Council can offer an exception for one lot without formal consideration of a variance. City Attorney Patterson stated that this situation would not qualify for a variance and that is why staff has not suggested the applicant pursue a variance; approving the request would be the City carving out an exception to a policy that interprets a plat note with no definition. He stated there is a great deal of 'legal gray area' regarding the no-build zone or easement and the City could theoretically grant an exception for this home, but that feels inconsistent to him.

Council Member Bills asked if these types of issues should be referred to an appeal authority rather than the City Council. Ms. Smith stated that the City Council has actually adopted a resolution regarding this type of issue and that is why the request for an exception to the policy has been referred to the Council. Council Member Smith noted the current City Council voted on the most recent amendment to the policy in 2021. Mr. Patterson likened this situation to the open space maintenance agreement policy the Council has approved and given residents the ability to modify or use City property. He stated in this situation, the City has some kind of interest in an 80-foot strip of land all the way around the subdivision and the City gets to decide what should be allowed and prohibited in that area. He then read notes from a Planning Commission meeting in 2006 to give the Council the full picture of the contention surrounding this issue and the concessions that were made by both the developer and the City regarding the no-build zone; there was confusion about the regulations for the no-build zone and staff attempted to clarify those regulations in a policy that was presented to the Council and adopted in the form of a resolution. He reiterated Ms. Smith's explanation of the changes that have been made to the policy or specific agreements that have been approved between the City and property owners in the Country French development for adjustments to the no-build zone, with approval from the HOA.

Brad Walton stated he is the President of the Bull River HOA and he has been a resident there for 32 years; he is very familiar with the history of this issue. He stated that the concern regarding this subject property was raised by Ms. Smith after the Frantzens communicated their desire to encroach into the 80-foot no-build zone with their pool. The current resolution states that a below grade pool can be located within 42 feet of the rear property line; the Frantzens would also like to install a set of stairs from their home that would encroach 15 feet into the no-build zone. He noted he has spoken with the property owners around the Frantzen property and none of them are concerned with this type of variation. He noted that even though this is the last property to be developed, many of the neighbors in Country French estates have added pools and other features to their yards after their home was built and the HOA did not want the City to vacate the current policy and abandon protection of the no-build zone. He stated that he still would like the City to uphold the policy because it does protect quality of life for residents in the project; he is not concerned about below grade improvements being built in the no-build zone, or even with an above ground slide between the pool and the home. He also has no problem with the Frantzen's landscape design, but he does not want the City to vacate the policy, which would make it possible for any property owner to do anything they would like within the 80 foot strip. This led to discussion between the Council and Mr. Walton regarding the potential for approval of the Frantzen's request to set a precedent that would lead to other residents requesting similar consideration; Mr. Walton stated that is a possibility that he is concerned about.

Mayor Ostler asked why the City cannot simply approve an agreement that is specific to the Frantzen property. Mr. Patterson stated that is because there is an agreement that was approved at the same time that the resolution/policy was approved. The City has approved separate agreements in the past to address specific

improvements that would result in a benefit to the City. He stated that Ms. Smith has crafted an ordinance that would allow for improvements, including stairs, to be built within the protection area.

Mayor Ostler inquired as to standard setbacks for projects not governed by an HOA. Ms. Smith stated that rear setbacks would be 30-feet and side setbacks would be 15-feet. Mayor Ostler asked how Bull River obtained approval of an 80-foot setback or no build zone. Mr. Walton stated that Bull River has large lots, with a minimum lot size of two acres; the City's concern was that if the project was developed as an open space development, the 80-foot strip would provide a buffer between the two developments; if the French Country project were developed in accordance with standard setbacks, it could have had a negative impact on the Bull River project. He cited past retaining wall improvements installed on some of the properties that have led to litigation between property owners. He reiterated that his main concern is the City eliminating the policy and the requirement for the 80-foot easement, because this would eliminate the protection of that land. Ms. Smith stated that staff would recommend specific adjustments to the policy, not elimination of the policy; one recommendation is to allow stairs that would encroach 15-feet into the 80-foot no build zone. Mr. Walton stated he is comfortable with the adjustment to allow for stairs that are attached to the primary dwelling on the property.

Mayor Ostler invited input from others in attendance.

Kevin Long stated that he also participated in the original discussion of this issue; the concept of allowing Bull River to have power over the 80-foot no build zone was not the intention. There was discussion between Bull River and the Country French developer about a plan that was friendly to all parties. There were two other things that were agreed upon: a trail easement and open space, but both of those have since disappeared. He also is not concerned about allowing stairs that are attached to the home, but the intention of the no-build zone was to prevent residents from building a structure within the area. It is important to have softness between developments and he is not concerned with slight exceptions on individual properties that are considered on a case-by-case basis. The goal should not be complete control of a property owner, but anyone who buys a property with an easement or protection strip should be aware of what is allowed in that area.

Council Member Smith stated that the Country French subdivision has multi-million-dollar homes, and these homeowners should be allowed to build stairs on the back of their home. He is concerned about any agreement that would allow one neighborhood to have control over another neighborhood. Mr. Long agreed; he believes the Frantzen's have approached this situation in an appropriate manner.

Mayor Ostler then asked Mr. Long to thank the residents of Bull River for their efforts to keep the water channel running through their neighborhood clear during recent flooding events this spring.

Council Member Kim Rodela MOVED that the City Council approve the proposed amendment to Resolution 21-04 to allow stairs attached to the main dwelling to be 65' from the back property line based on the following findings discussed in the packet.

Council Member Sarah D. Petersen SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 4:0.

5. ORDINANCE: TEXT AMENDMENT – MOBILE HOMES AND TRAILERS

Municipal Code Update (Legislative) Haley Bono, Code Compliance & Rob Patterson, City Attorney

The City Council will hold a public meeting to consider a proposal by Highland City Staff to amend Chapter 15.16.010 Mobile Homes and Trailers of the Municipal Code relating to the habitation of mobile homes and trailers. The City Council will take appropriate action.

Code Compliance Officer Bono explained on June 20, 2023, a communication item was presented by the City Attorney regarding whether to prohibit all uses of mobile homes and trailers by way of a text amendment that would be brought to the City Council at a future meeting. The Council supported the proposed amendment. She provided background information regarding the subject matter; Highland City has received a number of complaints regarding the illegal occupation of mobile homes. The Municipal Code currently prohibits any resident or guest from sleeping in a mobile home or trailer for any length of time. However, the current wording of the ordinance is difficult to enforce due to the interpretation of “human habitation” to mean “sleeping” and the specification as to non-code compliant vehicles. Outside of a scheduled inspection or court approved warrant, there is no way to prove whether someone is “sleeping” in a mobile home. In addition to the difficulty of enforcement, there are several other ways mobile homes are being used outside of “human habitation”:

- Example 1 – *Home Occupation/Hobby Space*
 - One complaint was received on May 2, 2023, and after inspection staff was informed that the individual was not “living” in the mobile home but using the mobile home as a place to pursue his hobby of wood working. This required the individual to “turn the wood” at early hours in the morning such as 2:00 or 3:00 AM, but they were not sleeping in the unit.
- Example 2 – *Housing of Animals/Pets*
 - Another mobile home has received multiple complaints. One complaint was received May 9, 2023. After inspecting the mobile home, it appears to be connected to the main dwelling’s utilities, and a fence has been installed at the entrance. Staff was informed by the homeowner that the mobile home is being used for their dogs, and that no one is “living” there.
- Example 3 – *Personal Office Space*
 - This mobile home has also received multiple complaints; the first one documented on March 14, 2022. After an inspection it appears that the mobile home is attached to a generator. The last time the homeowner was spoken to, they said that the individual uses the mobile home as a home office and does not live or sleep there.

These examples have highlighted potential challenges and concerns associated with the current code regarding the habitation of mobile homes within Highland City. Staff recommends updating the code to clarify the habitation issue and further restrict the occupation of mobile homes campers, RVs, and trailers in Highland City. The proposed amendment clarifies that mobile homes and trailers cannot be occupied for any reason.

Council Member Bills asked if these ordinance amendments would prohibit Ernie John from living in a trailer at the mouth of the canyon during times of flood risk. Mayor Ostler provided an explanation for the reason that Mr. John lives in the trailer for a short period of time. City Administrator Wells stated that some language could be included in the ordinance to provide an exception for emergency situations requiring someone to stay in a trailer on public property.

Council Member Smith stated that there was a situation where someone was staying in a trailer on the side of the street in his neighborhood and the person was discharging their water and sewer into the storm drain. He is also aware of people using a trailer for an accessory dwelling unit. It is important to recognize the real, negative impact that these activities have on neighboring property owners. He asked how City staff will monitor these activities and determine if someone is using a trailer illegally. Ms. Bono stated that the only way to enforce the ordinance is to determine how a trailer is being used; when she receives a complaint, she will check if a trailer is connected

to the utilities for the home or being powered by a generator. She will also attempt to interview the property owner of someone who is present at the trailer. It can be difficult to verify if someone is sleeping in a trailer.

There was brief discussion about allowing trailers to be parked on a residential property as long as it is not being used for long term residential purposes.

Mayor Ostler invited input from those in attendance.

Boyd Timothy suggested the Council be careful in crafting language for this ordinance; he noted he recently rented a trailer that was at his home for three days, but he only needed it for two days. His daughter thought it would be fun to stay in the trailer on the night that he was not using it and he allowed her to do so, and he would hate for enforcement action to be taken for that type of activity. He understands the need to prevent long term usage of a trailer for residential purposes and suggested the language in the ordinance be adjusted to communicate that is the type of behavior the City is trying to deter. Mayor Ostler agreed; flexibility is appropriate. City Attorney Patterson noted the ordinance does provide for temporary loading/unloading of trailers and maintenance activities, and he does not believe enforcement action would be taken if someone stays in a trailer for just one night. He added that code enforcement is complaint driven and it typically takes up to two weeks for the City to respond to and issue a warning for a violation. If someone is staying in a trailer for just one night, the violation would not be present by the time a code enforcement officer can respond.

Helena Pockrus stated she has a neighbor who rented their home and one of the people who rented it brought three RVs to the property and her kids stayed in the RVs for the entire summer. The property was essentially converted to a trailer court for that period of time and the argument was made that the activity was not prohibited by City ordinances. She asked how the City would address this type of situation. Ms. Bono reiterated that code enforcement is complaint driven; after receiving a complaint of this type of situation, she would visit the property and issue a warning notice. If the property owner does not comply with the notice, she can issue two additional notices before referring the matter to the Police Department. She noted the process is lengthy, but the goal is compliance rather than punishment.

Council Member Brittney P. Bills MOVED that City Council APPROVE the REVISED proposed amendment to Chapter 15.16 of the Municipal Code relating to the occupation of mobile homes and trailers.

Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 4:0.

6. ACTION/CONTRACT: FRANCHISE AGREEMENT WITH UTAH BROADBAND *General City Management - Rob Patterson, City Attorney*

The City Council will consider a franchise agreement with FIF UTAH, doing business as Utah Broadband, for the installation of fiber optic cable and associated facilities within Highland City streets and other rights-of-way. The City Council will take appropriate action.

City Attorney Patterson explained on February 7, 2023, City Council held a work session to hear a presentation from Utah Broadband (UBB) regarding their operations and a potential partnership to provide fiber optic cable throughout Highland City. The City Council tabled further consideration of any franchise agreement or partnership arrangement in order to more thoroughly investigate the City's options regarding the City's potential partnership with a provider for a city-wide fiber network. After further consideration, the Council directed that all pending franchise agreements be brought back for Council review, which included a franchise agreement with UBB. The proposed franchise agreement contains basic terms and conditions as the City requires for all similar agreements and as the City requires by municipal code, including terms requiring construction and excavation permits, requiring the franchisee to comply with all safety, traffic, and barricading requirements, requiring the franchisee to repair and restore all property (city or otherwise) damaged by the franchisee in installing their facilities to the city's satisfaction, indemnification provisions protecting the City, emergency work and notices, relocation requirements, and more. The term of the agreement is 15 years, subject to automatic renewal up to 50 years, and terms regarding renegotiation of the franchise agreement prior to termination or expiration. There are terms regarding payment of a franchise fee or municipal telecom tax (if applicable), if and when the City imposes a franchise fee on similarly situated entities. Finally, there are provisions regarding a potential partnership between UBB and the City for a city-wide fiber network, which would require UBB to count all customers as part of the "take-rate" of any such partnership arrangement. UBB requested that the City be willing to negotiate whether and to what extent the cost of existing facilities installed by UBB be counted toward such "take-rate." This will only become an issue if the City decides to proceed with some type of partnership with UBB. Mr. Patterson concluded staff recommends approval of the Franchise Agreement with Utah Broadband for the installation of their facilities within Highland City rights-of-way.

Council Member Smith inquired as to the franchise fee UBB will pay to the City. Mr. Patterson stated that for a standard telecommunications company, the City imposes a municipal telecommunications tax, which is currently 3.5 percent according to State Law. However, UBB may not be defined as a standard telecommunications company if they are only providing internet access. He has been encouraging his municipal clients to include a provision in their franchise agreements to provide for collecting a franchise fee when legally allowed. He included a similar provision in the UTOPIA agreement, and this will give the City the ability to tax internet providers to compensate for the impact and damage to City roads when such a charge is allowed by law.

Mayor Ostler stated that Bountiful City is involved in legal proceedings regarding their arrangement with UTOPIA and he asked Mr. Patterson to research that matter to determine if Highland City may be facing a similar risk. Mr. Patterson stated he is not aware of that case, but will research it.

Council Member Scott L. Smith MOVED that City Council APPROVE the franchise agreement with Utah Broadband.

Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 4:0.

7. EXPEDITED

a. ACTION: Maintenance Agreements – Canterbury North & Highland Hollow Land Use (Legislative) - Kellie Smith, Planner & GIS Analyst

The City Council will hold a public meeting to consider requests by Troy Stott, Brent Wallace, and Jeremy and Sara White to enter into open space maintenance agreements with the City for property adjacent to their lots in the Canterbury North and Highland Hollow subdivision. The Council will take appropriate action.

Mayor Ostler referred to the Council packet for an explanation of these items and the Council indicated they did not need additional information or a staff presentation on this item.

Council Member Smith referenced the maintenance agreement for Brent Wallace; Mr. Wallace has indicated he will be hand watering the area that is the subject of the agreement and he asked if that watering will be done with pressurized irrigation water. Planner & GIS Analyst Smith stated she is unsure whether Mr. Wallace is using culinary or irrigation water. City Administrator Wells stated staff can communicate to Mr. Wallace that he should be using irrigation water for outdoor watering activities.

Council Member Kim Rodela MOVED that City Council authorize staff to execute an open space maintenance agreement with Troy and Karima Stott subject to the following stipulation:

- 1. All improvements shall be consistent with the proposed maintenance plan submitted with the application dated July 3, 2023.*

Member Brittney P. Bills SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 4:0.

Council Member Brittney P. Bills MOVED that City Council authorize staff to execute an open space maintenance agreement with Brent Wallace subject to the following stipulation:

- 1. All improvements shall be consistent with the proposed maintenance plan submitted with the application dated July 5, 2023.*

Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 4:0.

Council Member Sarah D. Petersen *MOVED* that City Council authorize staff to execute an open space maintenance agreement with Jeremy and Sara White subject to the following stipulation:

1. All improvements shall be consistent with the proposed maintenance plan submitted with the application dated July 11, 2023.

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

The vote was recorded as follows:

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

The motion passed 4:0.

b. ACTION: Personnel Policy Amendment for ACA Compliance *General City Management - Rob Patterson, City Attorney*

The City Council will consider amendments to the City’s personnel policies that clarify and establish the City’s tracking and measurement policies for non-benefitted employees in order to comply with the Affordable Care Act. The City Council will take appropriate action.

City Attorney Patterson discussed compliance with the Federal Affordable Care Act (ACA); the Act requires all employers that have at least 50 full-time equivalent employees to provide certain minimum health insurance benefits to all full-time employees. In order to determine whether an employee counts as a full-time employee under the ACA, there are a number of federal regulations and permissible methods to determine whether an employee counts as a full-time employee and thus is entitled to benefits. One such method is called the “look-back” method, where the City “tests” employees by averaging their actual hours worked over a 12-month period to determine whether the employee worked more than 30 hours per week, on average (1560 hours per 12-month period). Seasonal and part-time employees—including the City’s seasonal parks crews—may work 40+ hours per week, so long as the average weekly workload over 12 months remains under 30 hours. While the City has had a practice of properly tracking hours of all employees, this practice has not been clearly set out in the City’s personnel policies. Accordingly, City staff recommends updating the City’s personnel policies to clarify that the City follows the “look-back” method and to establish the process the City will follow to test employees to ensure that part-time, seasonal, and variable hour employees—especially those part-time and seasonal employees that come back year after year—do not work more than 30 hours per week on average and to ensure that the City provides appropriate benefits if an employee is actually considered a full-time employee under the ACA. Under the proposed policies, the City will track all new hires for 12 months from the first day of the first month after their start date to verify whether they worked 30 hours or less, on average, during that 12-month period. The City will also track all new hires and continuing employees on a January to December basis to verify whether those employees worked 30 hours or less, on average, during the calendar year. By tracking these hours, the City will be able to adjust the workload and schedules of non-full-time employees to ensure they do not work more hours than the City permits (1560 per 12-month period). If an employee does work more than 30 hours, the City will offer the benefits required by the ACA as if the employee were a full-time employee. This will ensure that the City is complying with the ACA’s requirements and protect the City in case of an audit.

Council Member Kim Rodela *MOVED* that City Council *APPROVE* the proposed amendments to the City’s personnel policies.

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

The vote was recorded as follows:

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

The motion passed 4:0.

c. ACTION: Plat Amendment - Highland Heights Plat B #24 Land Use
(Administrative) - Kellie Smith, Planner & GIS Analyst

The City Council will hold a public meeting to consider a request petitioned by Gregg and Susan Eyre of a plat amendment located at approximately 6113 Sunrise Drive. The purpose of this request is to adjust an existing storm drainage easement. The Council will take appropriate action.

Planner & GIS Analyst Smith explained the City Council approved the final plat for The Highland Heights subdivision on August 21, 2001. On November 1, 2022, the City Engineer presented a communication item relating to this easement modification for the storm drain basin. The Council discussed including a liability release for any damage to any personal property placed within the basin area. A note has been included on the plat to address this. The City Engineer stated that he wanted to understand if there was any major opposition to this project from the Council. No objections were voiced. Staff recommends the City Council accept the findings and APPROVE the final plat amendment subject to the following stipulations:

1. The recorded plat shall be in substantial conformance with the final plat received June 13, 2023.
2. Prior to recording, the recorded plat shall be revised as required by the City Engineer.
3. A note be added to the plat that any landscape or other surfacing material placed in the detention basin shall not float or otherwise be able to be conveyed into the storm drain system.
4. Sufficient additional detail be provided on the plans to ensure the existing piped storm drainage conveyances will not be modified during the construction of the new detention basin.
5. An orifice plate sized for the allowable discharge be added to the construction plans.

Council Member Smith stated he appreciates that the owner of this property were willing to work with the City on this matter.

Council Member Scott L. Smith *MOVED* that the City Council accept the findings and APPROVE Highland Heights Plat B an Amendment of Lot 24 subject to the five (5) following stipulations recommended by Staff.

1. The recorded plat shall be in substantial conformance with the final plat received June 13, 2023.
2. Prior to recording, the recorded plat shall be revised as required by the City Engineer.
3. A note be added to the plat that any landscape or other surfacing material placed in the detention basin shall not float or otherwise be able to be conveyed into the storm drain system.
4. Sufficient additional detail be provided on the plans to ensure the existing piped storm drainage conveyances will not be modified during the construction of the new detention basin.
5. An orifice plate sized for the allowable discharge be added to the construction plans.

Council Member Kim Rodela *SECONDED* the motion.

The vote was recorded as follows:

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

The motion passed 4:0.

8. DISCUSSION: POTENTIAL SALE OF ADDITIONAL WIMBLETON OPEN SPACE PROPERTY - *Land Use (Legislative) - Kellie Smith, Planner & GIA Analyst & Andy Spencer, City Engineer/Public Works Director*

The City Council will discuss staff recommendations on the potential of disposing of additional open space owned by Highland City in the Wimbleton subdivision. This item is for discussion only. Based on Council direction, a future action item may come to the City Council.

Planner & GIS Analyst Smith explained on June 15, 2021, the City Council adopted Resolution 2021-15 that outlines criteria that the City Council should consider when disposing of orphan parcels:

1. Property should not be disposed of if it is part of a trail corridor, meaning the normal width of the trail and any required buffer areas, unless the Council determines the trail is not used and does not have infrastructure in the ground below;
2. Property should not be disposed of if it adds to the open space feel of an open space neighborhood;
3. Property should not be disposed of if there are potential future City needs for the property;
4. Property should not be disposed of if the transfer of property would result in an increase of irrigable acreage that would unduly strain or burden the City’s pressurized irrigation system;
5. Property should not be disposed of if the transfer of property would result in the creation of orphan parcels;
6. If property adjacent to a trail is disposed of, the City must be able to maintain ownership of the trail with a five-foot buffer on both sides of the trail;
7. Property to be disposed of should otherwise have issues regarding access, connectivity, usability, and/or location that render the parcels unsuitable for City purposes.
8. The City Council shall designate by separate resolution those specific properties that are surplus orphan parcels that may be sold in accordance with this resolution and policy.

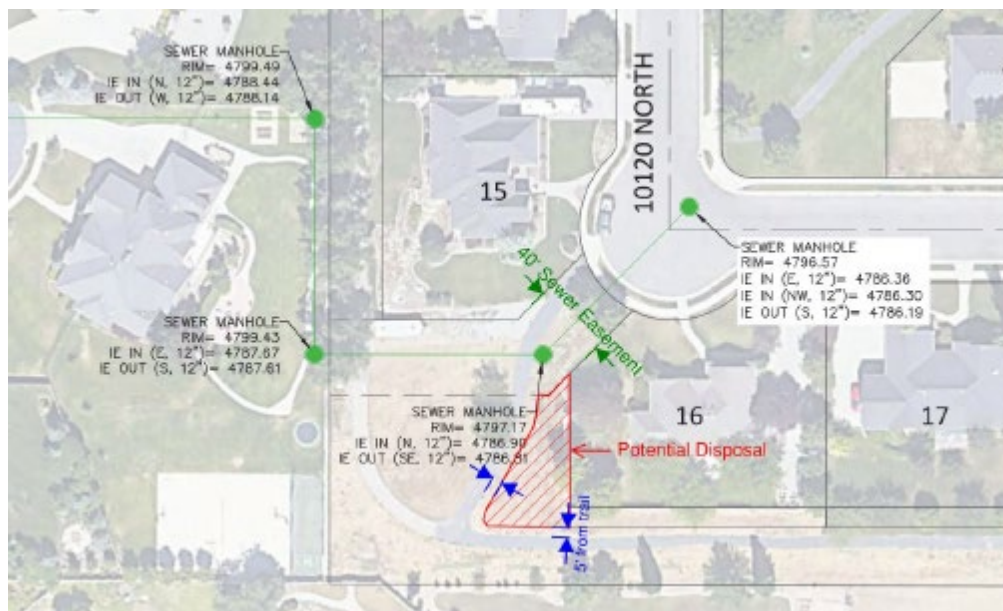
On June 21, 2022, the City Council approved a resolution designating certain parcels of public property in the Wimbleton subdivision as orphan parcels to be disposed of, and directed staff to move forward with the sale of these parcels to the adjacent property owners. On January 3, 2023, staff gave the City Council an update on the sales of these parcels. Staff mentioned that there were a few residents that did not want to purchase because they wanted additional property. The City Council expressed that they were open to hearing additional requests with staff recommendations. Staff was aware that there were city utilities in the open space where residents were requesting additional property, therefore any further recommendations by staff required additional research. Over the next few months, staff continued to give the City Council updates relating to hiring a surveyor to survey the utilities that run through the open space.

Ms. Smith then noted City staff hired a surveyor to survey all utilities that run through the open space throughout the Wimbleton subdivision. Based on these surveys, public works, engineering, and planning departments have come up with recommendations for what the Council should not sell if the Council decides to dispose of additional open space. Staff’s recommendations are based on the policy criteria that states, “property should not be disposed of if there are potential future City needs for the property” and “if property adjacent to a trail is disposed of, the City must be able to maintain ownership of the trail with a five-foot buffer on both sides of the trail”. Ms. Smith noted the potential disposable properties identified were not originally recommended for sale as the Council determined that they added to the “open space feel of an open space neighborhood” as outlined in the policy.

Council Member Smith stated that it seems that the City wants ownership rather than an easement. City Attorney Patterson stated that the City currently owns the properties and wants to maintain that ownership. If the City gives up ownership of the property and prefers an easement, it would be more expensive and difficult for the City to work on the utility infrastructure located within the easement. There was discussion about the effectiveness of an agreement that regulates use of the easement area and any improvements that could be made to the areas. Council Member Smith stated it is important to clarify the areas that the City owns versus those that the City has an easement on; he is supportive of any action that would provide for proper maintenance of areas located within residential areas while protecting the City's access to its infrastructure.

Ms. Smith then noted staff would like the Council to determine if the potentially sellable properties are consistent with the criteria defined in the policy:

Sewer Line: There is a City sewer line located in the City owned open space connecting the Wimbledon subdivision to the subdivision to the north (R Westwood Acres Plat A). The recorded subdivision plat shows a 40' sewer easement inside the open space. Staff recommends the City Council not dispose of any property within the recorded 40' sewer easement. Staff also recommends the City Council be consistent with the adopted policy that no property be sold closer than 5' from the trail. Ms. Smith presented an image illustrating the property that staff does not foresee a potential future City need as outlined in the policy adopted by the City Council.



Ms. Smith and Mr. Patterson then facilitated discussion among the Council regarding the existing condition of the properties referenced in Ms. Smith's presentation and any improvements that would be allowed on properties that have been sold or are subject to a maintenance agreement.

Mayor Ostler invited input from interested parties.

Mark Hafen stated he is the owner of lot 16 and he just wants the property that is adjacent to his lot to be nice; he is opposed to a maintenance agreement after having a negative experience several years ago. Mayor Ostler stated that the City has amended their policy regarding maintenance agreements and asked Mr. Hafen if he would be amenable to considering a maintenance agreement for the area identified in red cross-hatching on the image presented by Ms. Smith. Mr. Hafen stated that he would like to straighten out the property line for the property, widen the front area, and landscape it to make it look like it is part of his property, but he will maintain the sewer easement and will not place anything on top of the center line where the sewer infrastructure is located. There is a tree that was planted by the City that is already located directly on top of the sewer line and another on top of his property line. He would maintain enough space for a large vehicle to get through the property to access the

infrastructure. Council Member Smith stated that Mr. Hafen’s proposal makes sense to him, and he would also like to have a straight line for the property to clean things up. Mr. Hafen reiterated he has no interest in a maintenance agreement; he is interested in buying the properties identified for potential disposal and would like the ability to maintain the sewer easement property as it is essentially part of his front yard.

The Council and Mayor engaged in discussion regarding the City’s ability and intent to maintain the areas where a 40-foot easement has been preserved. Council Members Peterson, Rodela, and Smith indicated they are willing to sell the property adjacent to Mr. Hafen’s property to ensure property maintenance, and to maintain an easement on the property to ensure the City can still access sewer infrastructure.

Ms. Smith then continued with her presentation; she referenced the following additional areas:

Storm Drain Lines & Retention Basins: There are two (2) retention basins in the Wimbleton subdivision. Staff recommends the Council not sell closer than 10’ from the top of each retention basin to allow staff to have sufficient drive access around the basins. There is also a storm drain line that connects the drainage from the street to each of these basins. Staff recommends the Council not sell any property closer than 20’ from these storm drain lines, as shown in the images below. The first image shows a hatched green section labeled “conditional upon neighbor purchasing as well.” The neighbor has a fence that has already been installed on the current property line. Consistent with the policy, staff does not want to create an additional orphan parcel or unusable area for the City. Staff recommends that if the neighbor does not want to purchase, the property available for sale be adjusted to maintain open access for the City in that corner. Staff also recommends the Council remain consistent and not sell any City property closer than 5’ from the trail.





Pressurized Irrigation Lines & Mow Schedule: The survey report included locations of each irrigation box and filter throughout Wimbleton. Staff recommends the City Council not sell any property that contains City sprinklers or is on the City’s mowing schedule. She referenced an attachment included in the Council packet for the full utility survey that includes the irrigation box locations indicating which areas the City maintains.

Mayor Ostler stated Boyd Timothy lives next to one of the properties referenced and he invited him to provide input. Mr. Timothy stated that he currently maintains the property next to his home and it takes him over two hours on a riding mower just to mow it. It cost him nearly \$18,000 to landscape the basin, but he is happy that it was beautified rather than being consumed by weeds. He is interested in purchasing because his landscaper installed some of his curbing on the City owned property and he does not want to encroach on City property. He does not believe his neighbor is interested in purchasing the property and it makes sense to incorporate it into his property. Ideally, he would prefer for the City to maintain the detention basins in the City, as well as other park properties that are not being well maintained; otherwise, he would like to purchase the property and fence it.

Mayor Ostler stated that detention basins are maintained differently than programmable park space. Mr. Timothy stated he understands, but he would like to see it properly maintained; the basin is out of sight for most of the residents of the City, but he is not interested in entering into a maintenance agreement to pay to maintain the property. He installed the sprinkler system at his own cost, and it is operated from his water service. He identified the location of the sprinkler box and indicated that if there are changes to the use and maintenance of the property, someone else will need to provide water service. He stated he is interested in the red hashed marked area on Ms. Smith’s image and is no longer interested in maintaining all of the open space.

The Council briefly discussed the property referenced by Mr. Timothy and agreed to sell the property as requested.

Relating to property number three, Council Member Smith asked if a 40-foot easement is really necessary. City Engineer/Public Works Director Spencer stated that is ultimately a Council decision, but staff recommends uniform easements for City owned infrastructure.

Ms. Smith briefly identified the locations of irrigation boxes throughout Wimbleton, as well as the areas that are currently maintained by the City. Council Member Rodela inquired as to who the City decides which areas to maintain and which not to. Mr. Spencer stated that the areas that are irrigated have living turf or trees that are maintainable by the City without a significant additional expense. Non-irrigated areas that have native vegetation are not regularly maintained.

9. 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. Encroachment Enforcement Update - Canterbury North and Highland Hollow - *Kellie Smith, Planner & GIS Analyst*

Planner & GIS Analyst Smith explained the City Council adopted the Encroachment Policy and Maintenance Agreements on July 19, 2022; during a discussion item of April 18, 2023, the Council gave staff direction to allow specific properties to enter into maintenance agreements, and others to remove their encroachments. Letters have been sent to seven property owners in the Canterbury North subdivision and the City has received responses from four of them. Three individuals have applied for maintenance agreements, which were approved earlier tonight, and two of the seven have submitted improvement plans. In the Highland Hollow area, six of nine property owners have communicated with staff and two have submitted improvement plans; one shared that they were meeting with an attorney in April, but has never followed up. Staff is looking for direction from the Council about the condition they expect for the properties once improvements have been removed. She would also like to know if the Council would like staff to send an additional letter to those who have not yet responded. The Council indicated they would like another letter sent via certified mail. Further action on the strip of property behind five homes should be tabled until the City has an application for development of the Workman property as the City wants to pursue trail connections and improvements in that area.

e. May Finance Report - *Tyler Bahr, Finance Director*

Finance Director Bahr reported that 11 months of the Fiscal Year (FY) have lapsed; final budget adjustments that were approved by the Council in June will be reflected in next month's financial report. Tax revenue in the General Fund is at 93 percent of the annual projection with three months of sales tax collection to go. Licenses and permits revenues are at 108 percent of the budget projection. Property sales revenues year to date are at \$151,000, though the budget was only \$49,000. He also reported the following budgetary observations:

Road Capital

- Includes 6800 West project to be reimbursed in FY24

Parks Capital

- Mountain Ridge donations included in revenue

Culinary Water

- Includes unplanned grant revenue

Sales Tax

- FY2023 Budget = \$3.6MM
- May = \$355,680 / year to date = \$2,896,312
 - Nine (9) months count towards FY2023
 - Last May = \$343,418 (increase of 3.6%)
 - Was \$2,687,487 year to date thru May last year (up 7.8%)
- Rolling 12-month = \$3,871,286

Mayor Ostler reported that some park revenue may be used to help pay for the Mountain Ridge Park project and he briefly discussed other fundraising efforts for that project.

f. Chamber of Commerce Budget Clarification - *Tyler Bahr, Finance Director*

Stephannie Cottle, CMC
City Recorder