



HIGHLAND CITY

HIGHLAND CITY COUNCIL MINUTES

Tuesday, August 2, 2022
Approved September 20, 2022

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 Brittney P. Bills
- Pledge of Allegiance – Mayor Kurt Ostler

The meeting was called to order by Mayor Kurt Ostler as a regular session at 7:01 pm. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Council Member Brittney P. Bills and those in attendance were led in the Pledge of Allegiance Mayor Kurt Ostler.

PRESIDING: Mayor Kurt Ostler

COUNCIL MEMBERS

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

CITY STAFF PRESENT: Interim City Administrator Erin Wells, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Planner/GIS Analyst Kellie Smith, City Engineer/Public Works Director Andy Spencer, Police Chief Brian Gwilliam, Deputy Fire Chief Jake Beck, Code Compliance Officer Brent Wallace, PI Superintendent Tayson Arnoldsen

OTHERS PRESENT: Jon Hart, Ernie John, Brian Kane, Morian Eberhard, Roger & Deanne Dixon, Carol & Jan Pearson, Mark S. Thompson, Kathryn Schramm, Holly Dixon, Cary Wise, Robin Wise, Liz Dixon, Eric Dixon, Eric Davenport

1. UNSCHEDULED PUBLIC APPEARANCES

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

Morian Eberhard discussed the City’s fencing ordinance; he lives on Caddie Lane close to a tee box for the golf course and he has serious concerns about golf balls hitting and penetrating his home. He has met with a contractor about options they would recommend, and they have suggested using tall poles and golf netting to screen his property. This will protect his home and playground where his grandchildren play. He stated he has found cases where young children have been killed after being struck by a hockey puck, which would be very similar to a golf ball. He has been working in his yard and has been scared of golf balls hitting him directly or ricocheting off his

home. He would like the Council to consider an exception to the current fencing ordinance that would provide additional options for him and the neighboring six homes. He provided a packet of materials to Interim City Administrator Wells for her to provide to the Mayor and Council.

Council Member Smith stated he is familiar with the area and Mr. Eberhard's concerns, and he asked him if he has spoken with the Cedar Hills Golf Course. Mr. Eberhard answered yes and indicated they have set aside some money to patch homes damaged by golf balls, but they instructed him to call the City about his questions about fencing. He noted he is willing to bear the cost of installing the fence if he can simply get approval from the City. He stated he feels the net is unintrusive. He stated the contractor has installed the poles and he thought he had obtained a permit, but he has not. He needs approval before the net can be hung.

There was brief discussion among the Council, Mr. Eberhard, and City Attorney Patterson about any liability the golf course or a golfer has for causing damage to private property located off the golf course. Mr. Eberhard presented photographs of his home and the tee box that is aimed at his home to orient the Council to the issue concerning him.

Eric Davenport introduced himself as the applicant for the minor subdivision plat under agenda item eight; he thanked City staff for their assistance thus far in navigating the City's land use ordinances and application process.

2. PRESENTATIONS

a. Interim City Administrator - Mayor Kurt Ostler

Mayor Kurt Ostler will present Assistant City Administrator Erin Wells as the Interim City Administrator.

Mayor Ostler reported that the City's long time City Administrator has been released from his position, though not for cause. He reported Assistant City Administrator Wells will be the Interim City Administrator and the position will be advertised soon. He thanked former City Administrator/Community Development Director Crane for his service after starting his employment as a City Planner. He also thanked Ms. Wells for stepping into the role at this time.

b. Service Recognition for Roger Dixon - Council Member Kim Rodela

Council Member Kim Rodela will present a special recognition award to Roger Dixon for his service on the Library Board.

Council Member Rodela stated that she is grateful to be the Council Member with the opportunity to recognize Roger Dixon; she spoke of her personal friendship with Roger and Deann Dixon and stated that Roger can be considered one of the founding fathers of the Highland City Library. He served on the City's Planning Commission and the Library Board when the new City Center was being planned. After a brief hiatus to serve a LDS Mission, he came back to the Library Foundation and to the Library Board; he served a second term as Chair from 2017-2021 and oversaw the creation of the children's room and the acceptance of the library as full member of the Northern Utah County Library Cooperative. He has worked diligently to create the Library Board bylaws and procedural documents. He has been an advocate and a voice of reason, and she thanked him for his service. She asked the Mayor and Council to join her in presenting Mr. and Mrs. Dixon with a token of the City's gratitude.

Mr. Dixon stated he has loved serving and he thanked the Mayor, Council, City staff, and his family for supporting him.

Council Member Smith stated that Mr. Dixon has always been a voice of reason for the Library and for the City at-large.

c. Beautification Committee Report – *Chairperson Cary Wise*

Chairperson Cary Wise will report on the recent activities of the Beautification Committee.

Beautification Committee Chair Cary Wise provided a report of the recent activities of the Committee relative to the community garden; there are 17 garden plots at the garden, and all are rented. The Committee has managed a ‘yard of the month’ program and the monthly winners are given a \$25 gift card to Ace Hardware and two bags of mulch. He presented photographs of most recent ‘yard of the month’ award recipients. He also noted back-yard tours will be conducted during the Highland Fling celebration, on Thursday from 6:00 to 8:00 p.m.

Council Member Smith stated that in the past the beautification committee has managed weeding projects in the community, and he asked if that is still being done. Mr. Wise answered yes; there is a group that takes care of Larsen Park and the also work with the City’s Parks Superintendent to identify areas in need.

Mayor Ostler thanked Mr. Wise for the information provided and thanked the beautification committee for their efforts and service to the community.

d. Water Presentation – *Pressurized Irrigation Superintendent Tayson Arnoldsen*

Pressurized Irrigation Superintendent Tayson Arnoldsen will give a brief update on current water conditions in Highland City.

Pressurized Irrigation Superintendent Arnoldson provided an update regarding current water conditions; he compared discharge rates for the last several months dating back to July 2021 and indicated that river flows are at 40 percent of normal levels. He stated the City has done a good job at conserving water; he presented a graph that identifies the reduction in water usage in 2022 when compared to 2020 and 2021. To date, residents have used 14 percent less water than in 2021 and 23 percent less than in 2020. With continued conservation, surface water and well water should be sufficient for 2022. Continued strategies for increasing public awareness of the drought and the need to reduce consumption include:

- Updating residents that their efforts are appreciated and have had tremendous results;
- Newsletter/website advertisements;
- Text/email/social media advertisements;
- Referring residents to water conservation websites.

There was brief discussion among the Council and staff regarding future projections regarding the drought conditions and things that individual property owners can do to assist in water conservation efforts.

3. 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 – Stephanie Cottle, City Recorder*
Regular City Council Meeting – June 7, 2022

Council Member Scott L. Smith *MOVED* that the Council approve consent item meeting minutes from June 7, 2022.

Council Member Kim Rodela *SECONDED* the motion.

The vote was recorded as follows:

| | |
|----------------------------------|-----|
| Council Member Timothy A. Ball | Yes |
| 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 5:0.

4. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - DEFINITION OF MAIN DWELLING *Legislative - Kellie Smith, Planner & GIS Analyst*

The City Council will hold a public hearing to consider a proposal by Highland City Staff to amend Section 10-102 Definitions to revise the definition of a Main Dwelling and what constitutes attached to or part of a Main Dwelling as compared to accessory structures. The City Council will take appropriate action.

Planner and GIS Analyst Smith reported on June 21, 2022, the City Council gave staff direction to amend the Development Code to address what constitutes attached to or part of a Main Dwelling as compared to accessory structures. The Highland City Development Code requires that in order for an addition to be considered part of the Main Dwelling, it shall include a connecting roof line, connecting foundation, at least four connecting walls, uninhibited interior access within the structure, and at least 60% of one common wall with the existing dwelling. However, it includes an exception for structures connected by a breezeway:

“Structures connected by a breezeway with a common roof line, common footing and foundation, a minimum width of 6’, and a foundation separation of less than 10 feet between unattached structures shall be considered part of the main dwelling.”

This breezeway exception allows for additions connected by a roofline with no square footage maximum and a height of 35’ as long as setbacks for the dwelling are met. Several residents and Elected Officials have expressed concerns with the allowance of the breezeway connection being considered part of the Main Dwelling. The proposed amendment updates the definition of a Main Dwelling with the following (underlined text are proposed additions to the code, strikethroughs are deletions):

Dwelling, Main Dwelling. The main dwelling on a property shall include a connecting roof line, connecting foundation, at least four (4) connecting walls, and uninhibited interior access within the structure. An underground walking path is excluded in counting as a connection to the main dwelling unit between unattached structures.

1. To be considered part of the main dwelling, any addition to the original dwelling shall include the previous requirements defined described above in 10-102(16)(a) and shall include at least sixty percent (60%) or more to be attached and in common with the original dwelling. The connection shall be sixty percent (60%) of the length of the portion of the addition that faces the main dwelling. ~~of one common wall.~~
2. Structures connected by a breezeway shall not be considered part of the main dwelling. ~~with a common roof line, common footing and foundation, a minimum width of 6’, and a foundation separation of less than 10 feet between unattached structures shall be considered part of the main dwelling.~~
3. Covered decks and patios shall be considered part of the main dwelling.

4. Residential construction that does not meet the criteria above shall meet all requirements for an accessory structure (~~see 3-4104-3-106 and 3-4109-3-4110; and 3-4204-3-4206 and 3-4209-3-4210 in this Code~~).

The Planning Commission held a public hearing on July 26, 2022. There was no public comment on the proposed amendment. The Planning Commission voted 6-0 to recommend approval of the proposed text amendment with the following stipulations:

1. Visual drawings for compliant and noncompliant be included to make it self-explanatory.
2. 60% be replaced by “majority of”.

The proposed amendment has been updated to address the stipulations recommended by the Planning Commission. The proposed amendment clarifies the meaning of “one common wall” in the current code. It also requires that any addition have a connecting roof line, connecting foundation, at least four connecting walls, uninhibited access within the structure, and a connection that is a majority of the length of the portion of the addition that faces the Main Dwelling. The proposed amendment addresses the concerns of the Elected Officials and residents. Based on the Planning Commission’s recommended stipulation, staff has created visual aids that can be included in the ordinance to provide illustrative examples for readers. The visual aids identify layouts that would be permitted and not permitted.

Council Member Ball asked if it is correct that the ordinance amendment does not apply to perimeter measurements, but exclusively to parallel lines. Ms. Smith answered yes and clarified the manner in which measurements will be taken.

Council Member Smith asked if the proposed code change is a result of an accessory building that was built in his neighborhood; he assumes that the owner of that property is using the ‘breezeway’ stipulation to build an accessory building that is twice as big and tall as their home. This project has caused a great deal of stress in the City, but he has yet to see where and how the breezeway is attached. Ms. Smith stated that the City’s building inspector has visited that property and found the footings have been poured for the breezeway that will connect the primary structure and accessory structure. There was brief discussion about the property referenced by Council Member Smith and the allowed maximum building height that will be imposed for future accessory structures.

Mayor Ostler opened the public hearing at 7:48 p.m.

There was no public comment.

Mayor Kurt Ostler closed the public hearing at 7:48 pm.

Council Member Kim Rodela MOVED that the City Council accept the findings and APPROVE the proposed amendment to Section 10-102 Definitions to revise the definition of a Main Dwelling with the two (2) stipulations recommended by the Planning Commission:

1. *Visual drawings for compliant and noncompliant be included to make it self-explanatory.*
2. *60% be replaced by “majority of”.*

Council Member Sarah D. Petersen SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

5. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - NEWSPAPER NOTICES *Legislative - Kellie Smith, Planner & GIS Analyst*

The City Council will hold a public hearing to consider a proposal by Highland City Staff to amend several sections of the Development Code relating to removing newspaper noticing requirements for public hearings. The City Council will take appropriate action.

Planner and GIS Analyst Smith explained as part of the 2021 Utah Legislative Update, newspaper noticing requirements were removed for General Plan amendments, annexations, and adoptions of land use regulations. The Highland City Development Code still requires the newspaper noticing. There are two versions of the proposed amendment:

1. This amendment only updates what was mentioned by the City Council.
 - a. This proposed amendment removes newspaper noticing requirements from text amendments, rezones, and annexation requests.
 - b. This amendment adds the requirement for a 500' radius notice for rezones.
2. This amendment addresses the concerns of the City Council, removes repeated codes, and references to Utah State Code for certain noticing and annexation requirements.
 - a. This proposed amendment removes Section 3-617 Amendments to Zoning Code, as it is a repeat of Chapter 9 Amendments to Title and Zone Map.
 - b. The amendment removes newspaper noticing requirements from text amendments, rezones, and annexation requests.
 - c. This amendment adds the requirement for a 500' radius notice for rezones.
 - d. The proposed amendment also eliminates requirements for annexations that are not consistent with Chapter 2 Part 4 Annexation in Utah Code.

The Planning Commission held a public hearing on July 26, 2022 and there was no public comment on the proposed amendment. The Planning Commission voted six to zero to recommend approval of version two of the proposed amendment. She then noted that the annual cost over the last four calendar years to Highland City for newspaper notices is as follows:

- 2019: \$3,852.98
- 2020: \$5,601.38
- 2021: \$4,992.61
- 2022: \$686.80 to date

There are several regulations that have changed in the Utah State Code over the years. Some of the Highland City Development Code noticing requirements are not compliant with State Code. The proposed amendment addresses these inconsistencies.

Council Member Smith inquired as to the origination of the 500-foot radius measurement. Ms. Smith stated State Code requires cities to establish a radius for purposes of noticing for various types of land use applications; the City's radius has been 500 feet in the past, though other cities have established other wider radius measurements. Council Member Smith stated that the noticing radius has been a point of contention in the past as some have felt broader noticing would be more appropriate. He stated that if one of the noticing methods is being removed, it may be appropriate to expand the radius to ensure that more residents receive direct notification of a land use application that would impact them. He suggested a noticing radius of 750 or 1000 feet. Ms. Smith stated that she understands the concern, but she provided a demonstration of the County's website, which is used to determine noticing requirements based upon the 500-foot radius; while 500 feet may sound small, it usually results in noticing of upwards of 20 property owners. Council Member Smith stated that would be in the case of a more dense residential area. Mayor Ostler agreed and stated that fewer people would be noticed in a more rural area. The Mayor, Council, and Ms. Smith experimented with the County's website to determine noticing impacts in rural areas of a 750- or 1000-foot radius were used. Council Member Ball suggested employing other notification methods, such as email notification, for certain types of land use applications. Ms. Smith stated that residents can

sign up for email or text notifications for various types of notices in the City, but the matter before the Council applies to mailed notifications of land use applications. The Council debated the appropriate noticing radius and Council Members Smith and Rodela both communicated support of a 750-foot noticing radius.

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

Kathryn Schramm referenced a recent land use application for the Johnson house and property; she has visited with her neighbors and has found that those that did receive the letter threw them away and she does not think that letters are helpful. She would appreciate an email notification of a land use application, it seems as if people do not read hard copy documents that are sent to them.

Mayor Ostler stated that Ms. Schramm has served on the City Council in the past and he asked her opinion about the proper noticing radius for land use applications, to which Ms. Schramm answered 330 feet; she stated that if people are interested in a matter, they will provide input regardless of whether they receive a written letter .

Eric Davenport stated he serves on the Utah Housing Gap Coalition, and they are exploring opportunities for improving housing affordability and access. There are findings that some fees charged in municipalities are increasing home costs by several thousand dollars and he cautioned the Council against making any changes that will further increase costs for developers. He stated that he supports transparency and open communication with residents, but if noticing requirements will increase overall costs associated with a development, those costs will be passed on to home buyers.

Mayor Ostler closed the public hearing on 8:09 p.m.

Council Member Smith stated that the City does not have much high-density development and developers have not experienced increased costs for sending more notices to impacted property owners in a more dense area; however, he has heard many complaints in the past about a lack of transparency when residents are not notified of a land use application that could impact them. He would still like to increase the radius to 750 feet, and he does not think the cost associated with that change is too drastic.

Council Member Scott L. Smith MOVED that the City Council accept the findings and approve Version 2 of the proposed amendment—as recommended by the Planning Commission—to several sections of the Development Code to remove newspaper noticing requirements for certain public hearings as well as increase the radius from 500’ to 700’ for notification and transparency.

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 Sarah D. Petersen</i> | <i>Yes</i> |
| <i>Council Member Kim Rodela</i> | <i>Yes</i> |
| <i>Council Member Scott L. Smith</i> | <i>Yes</i> |

The motion passed 5:0.

6. ACTION: IMPACT FEE AGREEMENT WITH KANES & WILY *Administrative – Rob Patterson, City Attorney*

The City Council will consider a request from the Kane family regarding the calculation of the pressurized irrigation impact fee requirement for their property located at 11224 North Tamarack Drive. The Council will take appropriate action.

City Attorney Patterson explained this request comes from Brian Kane, who is in the process of building a home in the Bull River subdivision, on lot 10b, parcel number 35:075:0002, 11224 North Tamarack Drive; the lot is approximately two acres in size. When the Kanes submitted a building permit application, the City imposed its normal water dedication and impact fee requirements. The Bull River subdivision is subject to covenants, conditions, and restrictions (CC&Rs) that restrict the types and amount of landscaping that is allowed. Due to these restrictions on landscaping, the Kanes will not be landscaping or irrigating the entire lot, and a large portion of the lot will remain with natural vegetation and landscaping. The Kanes accordingly requested that the City adjust the amount of water required to be dedicated and the amount of the pressurized irrigation (PI) impact fee charged because their actual usage is far less than a fully landscaped, two-acre lot. Under the City's PI impact fee enactment, "The Council may adjust either up ... or down the standard impact fees at the time the fee is charged in order to respond to an unusual circumstance in specific cases and to ensure that the fees are imposed fairly. The Council may adjust the amount of the fees to be imposed if the fee payer submits studies and data clearly showing that the payment of an adjusted impact fee is more consistent with the true impact being placed on the system." This is consistent with state law, which requires the City to have a mechanism by which impact fees can be adjusted in individual cases based on unique or individual circumstances. Utah Code § 11-36a-402(1)(c) - (d). Staff has prepared an Impact Fee Agreement that, if approved, will be recorded against the property, which Agreement contains the following terms:

1. The PI impact fee for the Kanes will be \$6,243.60, which was calculated based on the 2021 formula in place at the time of the Kanes' building permit application (\$0.43 per square foot, multiplied by 14,520 square feet of irrigated property).
2. The Kanes must provide proof to the City that the HOA has approved their landscaping plan, and any changes to that plan that increase the impact on the City's PI system require written City approval.
3. If the Kanes or any other owner of the property changes the landscaping in a way that increases impacts to the City's PI system, additional impact fees and water dedication will be required according to the City requirements in place at the time of exaction.

Mr. Patterson concluded the agreement conforms to the requirement under State and City Code to allow for adjustments to impact fees to respond to individual circumstances, while still retaining the City's right to charge impact fees in the future, at future rates, if there are additional impacts that warrant additional impact fees. This decision will result in the City collecting approximately \$26,800 less in PI impact fees than originally assessed for this property.

Council Member Ball asked how the agreement would be tracked and enforced. Mr. Patterson stated it would be similar to the enforcement of other encroachment agreements in the City. This led to high level discussion among the Council and staff regarding the difficulty in enforcing encroachments and landscaping agreements in the future.

Council Member Smith stated that he supports the exception and reduction of the impact fee, but he would like for the applicant to develop a more sophisticated and detailed landscape plan. Brian Kane stated that the HOA for his subdivision is very restrictive, and his plan abides by those restrictions, but he never intended for the current landscape plan to be publicly viewed as it was for example purposes only. He stated that he will be working with a landscape professional to create a landscape plan that will be submitted to the HOA Board for approval. This is the last lot in the Bull River area and the back portion has a stream with quite a bit of land on the other side of the stream. Council Member Smith stated he understands Mr. Kane's position and noted that his comments were based on the fact that there have been residents who have 'pushed the limits' of existing ordinances and policies; he is apprehensive based upon past experiences. Mr. Kane stated he understands that but indicated he has negotiated the agreement in good faith and fully intends to abide by the agreement.

Continued discussion among the Mayor, Council, staff, and the applicant centered on past precedent that has been set for this type of issue, with a focus on the need to thoroughly document these types of agreement and record the documents against the property to ensure that a future owner is aware of and will abide by the agreements that have been made.

Council Member Sarah D. Petersen *MOVED* that City Council approve the Impact Fee Agreement for Lot 10b of the Bull River Subdivision.

Council Member Kim Rodela *SECONDED* the motion.

Council Member Smith stated he is comfortable voting to approve the impact fee reduction and agreement based upon the fact that the applicant has agreed to stipulations that will provide buffering for landscape improvements and costs.

The vote was recorded as follows:

| | |
|----------------------------------|-----|
| Council Member Timothy A. Ball | Yes |
| 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 5:0.

7. AGREEMENT: 2022 DEBRIS BASIN PROJECT INTERLOCAL COOPERATION AGREEMENT *Legislative - Andy Spencer, City Engineer/Public Works Director*

The City Council will consider an interlocal agreement with American Fork City and Cedar Hills City pertaining to the pending reconstruction of the outlet structure and bridge for the jointly owned and managed American Fork Canyon Debris Basin. The Council will take appropriate action.

City Engineer/Public Works Director Spencer explained On June 7, 2022, the Council tabled consideration on this item to allow for more information and background on the debris basin. The supporting information relative to the Debris Basin Administrative Board, and ownership was subsequently distributed to the Council on June 8, 2022. On October 15, 2013, the Council approved the interlocal agreement that established the Debris Basin Administrative Board and agreed that maintenance expenses would be shared evenly between the three Cities. The 2022 agreement is in harmony with the 2013 interlocal agreement which stipulates the cost sharing for necessary maintenance of the facility. As a part of acquiring the basin from the County, the City agreed to facilitate the long-term operation of the debris basin to prevent flooding. The structure has deteriorated, and the gates do not function properly. The reconstruction will address identified operational and safety concerns and preserve the life span of the debris basin. The Fiscal Year (FY) 2023 adopted budget under 54-40-41 (Storm Sewer System Debris Basin Annual Maintenance) includes \$245,200 which has been allocated to fund this project. The recently updated utility fees also take into account this project. The City Council may request additional information as necessary to provide assurance that the recommendations from the Debris Basin Administrative Board are in harmony with the maintenance objectives and operational necessities for the basin. If all is found to be in harmony, the Council may approve the agreement with the provided motion to approve. If the Council finds that agreement is not in harmony with the operational objectives, the Council may deny the agreement with the provided motion to deny.

Ernie John, President and Water Master of the American Fork Irrigation Company, spoke to the work done by the Debris Basin Committee and efforts to secure funding to facilitate groundwater recharge.

Council Member Smith stated that it seems that this arrangement is sensible in a dry year, but given recent dramatic inflation, he is apprehensive about the bids that will be submitted for this project. Additionally, there has been discussion about creating a secondary recharge area near the mouth of the canyon and this is the first he has heard of the need to recharge the aquifer. He suggested expanding the recharge area rather than building a

new one. Mr. John stated the money that is allocated is for a different location and that funding cannot be commingled with other sources. He added that all recharge areas will be needed if the service area is going to continue to develop. A study that has been done to identify ongoing needs to keep pace with growth. Mr. Spencer added information about the difference between recharge areas and wells; two facilities are needed to operate differently and independently from one another. The facilities are complimentary of each other but serve different functions.

High level discussion among the Mayor, Council, staff, and Mr. John centered on past projects that have been completed and the basis for those projects. Mr. John expounded on ongoing planning efforts for additional projects that are needed responsive to the rapid growth of the area. Mr. Spencer and Pressurized Irrigation Manager Murdoch discussed historical water events that have created a great deal of debris that has created safety concerns for the City. This project will allow for effective and clearing of the debris basins.

Council Member Rodela asked if American Fork and Cedar Hills have already approved and signed the agreement. Mr. Spencer answered yes. Council Member Rodela stated that the Council has heard that the project is needed for the safety of residents and City staff; additionally, the Council has included funding for the project in the City budget and she is comfortable proceeding. Council Member Smith stated he is concerned about the cost estimate, and he does not feel that \$240,000 per City will be sufficient. Mr. Spencer stated that the initial estimate came from the design engineers for the project; they have already revised their original estimate to take inflation into account. Language can be included in the bid document indicating an escalation/de-escalation clause will be included in the agreement document. Mayor Ostler added that the agreement identifies an administrative board that will evaluate bids for the project; Mr. Spencer serves as the City's representative on that administrative board and will report back to the Council if bid amounts exceed the amount that has been identified for the project. Mr. Spencer stated that is the intent; he will come back to the Council if the bid amounts are excessive.

Council Member Scott L. Smith MOVED that City Council approve the 2022 Debris Basin Project Interlocal Cooperation Agreement and authorize the Mayor to sign the document with the following stipulation that any cost overruns be brought to the Council for discussion and approval.

Council Member Bill suggested that a specific percentage of cost overrun be specified in the motion language. Interim City Administrator Wells clarified the City's purchasing policy indicates that any cost overrun of 10 percent, or \$10,000, whichever is less should be presented to the Council for consideration. Council Member Smith stated he would like any cost overrun to be presented to the Council for this project.

There was no SECOND. Motion withdrawn.

Council Member Sarah D. Petersen MOVED that City Council approve the 2022 Debris Basin Project Interlocal Cooperation Agreement and authorize the Mayor to sign the document and allow for the normal overage following the City's purchasing policy.

Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

8. MINOR SUBDIVISION FINAL PLAT: HHC HIGHLAND *Administrative - Kellie Smith, Planner & GIS Analyst*

The City Council will consider a request Holmes Homes Custom LLC for approval of a proposed 2-lot subdivision located at approximately 6386 W and 6390 W 10400 N. The City Council will take appropriate action.

Planner and GIS Analyst Smith explained the property is 2.49 acres and is located at approximately 6386 W and 6390 W 10400 N. The property is designated as Low Density Residential on the General Plan Land Use Map and the site is zoned R-1-40. The property is not in a recorded subdivision. A 2-lot subdivision is classified as a minor subdivision in the Development Code. The Minor Subdivision Option’s intent is to allow for small subdivisions to be processed as quickly as possible. Minor subdivisions include developments of three or fewer lots. In this process, the preliminary and final plats, required for most subdivisions, are simplified and combined. The Minor Subdivision Option found in Section 5-4-300 of the Development Code requires a public hearing at the Planning Commission meeting, a recommendation from the Planning Commission, and approval from the City Council. The applicant is requesting approval of a 2-lot subdivision to split the property into two (2) 1.25-acre parcels. Access to the site will be from 10400 North. Parkway detail will be required. A 20’ landscape easement is included on the final plat. The theme wall along parkway detail will not be required as the homes will front the collector street. The Planning Commission held a public hearing on July 26, 2022. There was no resident comment. The applicant was present. The Commissioners asked the applicant what their willingness was to add more xeriscaping. The property owner believed they had a substantial amount of xeriscaping. The Planning Commission voted 6-0 to recommend approval of the HHC Highland subdivision plat subject to the following stipulations:

1. The recorded plat conforms to the final plat date stamped July 5, 2022, except as modified by these stipulations.
2. The civil construction plans shall meet all requirements as determined by the City Engineer.
3. All public improvements shall be installed as required by the City Engineer.
4. The plat shall meet all requirements as determined by the Jordan Valley Water Conservancy District (JVWCD), the United States Bureau of Reclamation (USBR), and Central Utah Water Conservancy District (CUWCD).

Council Member Scott L. Smith MOVED that the City Council accept the findings and approve the HHC Highland subdivision plat subject to the four (4) stipulations recommended by the Planning Commission.

1. *The recorded plat conforms to the final plat date stamped July 5, 2022, except as modified by these stipulations.*
2. *The civil construction plans shall meet all requirements as determined by the City Engineer.*
3. *All public improvements shall be installed as required by the City Engineer.*
4. *The plat shall meet all requirements as determined by the Jordan Valley Water Conservancy District (JVWCD), the United States Bureau of Reclamation (USBR), and Central Utah Water Conservancy District (CUWCD).*

Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

9. ACTION: HIGHLAND TOWN PLAZA PARKING CONFIGURATION

Administrative – Kellie Smith, Planner & GIS Analyst

The City Council will consider a request from WPI to adjust the parking configuration for the Highland Town Plaza site. The Council will take appropriate action.

Planner and GIS Analyst Smith explained the City Council reviewed the Site Plan, Final Plat, and declaration of property surplus in relation to this property on March 30, 2021. Concerns were raised regarding traffic flow in the overall Highland Town Plaza subdivision. These items were continued to the April 20, 2021 City Council meeting to allow the developer to address these issues.

On April 20, 2021, the developer provided the City Council a detailed traffic study with a concept that shows the best way to configure the parking lot. The City Council approved the Site Plan and Final Plat with a stipulation that states: The developer will install a new parking configuration south of Wendy's with striping only for parking stalls and south-end landscaping islands. South-end landscaping islands will be installed when Pad 3 is constructed. WPI is requesting to adjust the parking configuration that was presented to the Council on April 20th, 2021. The following are options provided by WPI:

1. Original proposal
2. Restripe existing with additional striped islands
3. Stripe the southern half of the original proposal
 - a. This proposal will act as Phase 1 of the original proposal. The rest of the configuration, along with the landscaped islands, will be added when the pad to the east is constructed.

WPI is requesting the adjustment to delay removing the landscaped island near Wendy's and save costs as they incurred more than planned in the road connection to 5600 West and with recent landscaping upgrades along their property on Town Center Boulevard.

Ms. Smith noted staff believes option two provides more parking than option three. However, as option three is phase one of the final parking layout, it would get visitors used to the final planned flow and configuration in that area. If the City Council is amenable to allowing a change, staff would recommend option three.

Council Member Peterson asked if option three is a temporary option, to which Ms. Smith answered yes and noted the work to be completed eventually will be the same as the original approval.

Mayor Ostler noted that the Council is expecting option one eventually, but he asked why the necessary work cannot be completed now to provide that option at this time. Dan Schmidt of WPI stated that there are specific stipulations surrounding traffic flow and parking configuration for the Wendy's restaurant. He is working with that entity to address reconfiguration to ensure that option one is eventually completed. Ms. Smith added that staff's recommendation is based on the idea that phasing the improvements will help drivers to adjust to the changes incrementally. This led to high level discussion among the Mayor, Council, staff, and Mr. Schmidt regarding parking and driving habits in the project area; they ultimately concluded to support staff's recommendation and encouraged WPI to proceed as quickly as possible with complying with option one and the original approvals for the project.

Council Member Kim Rodela MOVED that the City Council approve Option 3 for the parking configuration south of Wendy's.

Council Member Timothy A. Ball SECONDED the motion.

The vote was recorded as follows:

Council Member Timothy A. Ball Yes

| | |
|----------------------------------|-----|
| Council Member Brittney P. Bills | Yes |
| Council Member Sarah D. Petersen | Yes |
| Council Member Kim Rodela | Yes |
| Council Member Scott L. Smith | No |

The motion passed 4:1.

Mr. Schmidt then reported on leases that he has been working on for the spaces in the project; this included retail/commercial users, medical users, and office space users.

10. ACTION: PRIORITIZATION OF ENCROACHMENT POLICY ENFORCEMENT *Legislative - Kellie Smith, Planner & GIS Analyst*

The City Council will consider which neighborhoods or areas should be prioritized when enforcing the encroachment policy adopted by the City Council on July 19th, 2022. The Council will take appropriate action.

Planner and GIS Analyst Smith explained the City Council has discussed private encroachments on City property on numerous occasions. The Council previously established a committee with Councilmembers Bills and Petersen to provide suggestions to the Council regarding a formal encroachment policy. On July 19, 2022, the City Council adopted an Encroachment Policy and Maintenance Agreement. The City Council directed staff to bring the item back to the Council at the August 2 meeting for staff to receive direction on which areas to begin with enforcing encroachment. The City Council may consider the following when prioritizing certain neighborhoods with encroachments:

- Most egregious encroachments.
- Encroachments in conservation easements.
- Encroachments along trails.
- Encroachments in parks or other City-owned land.

Once staff has prioritization direction from Council, staff will carry out the Encroachment Policy and "...mail a written Notice of Encroachment to the responsible property owner, or to all adjacent owners and residents when the responsible party is not apparent, when the City determines that an encroachment exists. The Notice shall summarize the circumstances and type of encroachment, explain the compliance options and timeframes, contain a copy of this policy, and provide City contact information." Mayor Ostler has indicated he would like to be the signatory of these Notice of Encroachments.

Mayor Ostler stated he has spoken with staff at length about this issue and he wants to address each subdivision individually and move slowly with this process. He asked if the Council has ideas about which subdivision should be addressed first and noted he recommends the Highland Hollows Subdivision because it has a great deal of conservation easement space and several areas have been landscaped.

Council Member Smith stated he has suggested that those areas that will be easier to deal with are focused upon first; this will give staff the opportunity to learn what is working best in areas where there may not be as much contention as others. The Mayor and Council then engaged in high level philosophical discussion and debate regarding prioritization of encroachment enforcement; they concluded to direct Council Member Bills to work with Interim City Administrator Wells to identify a prioritization list, starting with the Highland Hollows Subdivision.

City Attorney Patterson noted he has spoken with the County about the issue, and they will not charge the City for recording maintenance or encroachment agreements against properties. Administration needs direction from the Council regarding whether maintenance agreements will terminate when someone sells their property of if

they will continue through transfer of the title. Council Members Smith, Rodela, and Ball indicated that they would like the agreement to be continuous and transfer with title for a property.

Council Member Kim Rodela MOVED that the City Council direct staff to prioritize the following encroachments: Highland Hollows and then continuing with Council Member Bills providing a prioritization list to staff.

Council Member Sarah D. Petersen SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

Interim City Administrator Wells explained the Municipal Code outlines encroachment policies and there will be amendments to those ordinances to ensure they are in line with policy amendments. Such recommendations will be provided to the Council in future meetings.

11. CONSTRUCTION CONTRACT: HIGHLAND GLEN PARK PAVILION IMPROVEMENTS *Administrative - Andy Spencer, City Engineer/Public Works Director*

The City Council will consider entering into a contract with LGL Construction for improvements at the pavilion at Highland Glen Park. The Council will take appropriate action.

City Engineer/Public Works Director Spencer explained that in a prior City Council meeting while discussing improvements at Highland Glen Park, Councilman Smith asked the question as to what can be done to address the missing rocks that have fallen off the pavilion wall. In an effort to find solutions, City staff reached out to several masons to attempt to locate a source for rocks that would match the structure. A source for the same rocks has not been located. In working with LGL Construction, we were informed this type of rock is no longer available. They proposed a solution to remove the wall located on the south portion of the pavilion and replace it with smaller pillars joined with a steel railing. The removal of the wall will allow for the rocks that are currently adhered to the wall to be salvaged. The rocks will be placed on the new pillars to match the existing structure. The lower rocks visible from the exterior would remain and the railing would provide a safeguard for the falling hazard as the floor elevation is approximately 2-feet above the exterior grade at the wall location. Given the lack of stone availability, the solution proposed by LGL appears to be the best solution to keep the integrity of the original construction by using the rock resources that are available. Other potential solutions include replacing all rock at the pavilion with a newer stone or replacing the rock with another material such as stucco. Other options could include removal of the wall entirely and changing of the adjacent grade and improvements to limit the fall hazard. The cost of this proposed project is \$16,995.00. Funding for this expense was not included in the FY23 Budget. As this expenditure was not included in the Budget, it will need to be funded by the Parks Capital Fund (Highland Glen Park Improvements) and will be included as part of the mid-year budget adjustments unless otherwise directed by the Council. Using \$16,995 from the Parks Capital Fund for this project would still allow enough funds for the Parks Bond payment as well as the planned funding for Mountain Ridge Park.

Council Member Smith thanked staff for their response to his request; there has been discussion about fixing this pavilion for years and he likes the option that has been identified.

Council Member Scott L. Smith MOVED that City Council approve a construction contract with LGL Construction in the amount of \$16,995.00 for the repairs of the Highland Glen Park Pavilion.

Council Member Kim Rodela SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

12. 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. Trail Maintenance Plan – Andy Spencer, City Engineer/Public Works Director

City Engineer/Public Works Director Spencer facilitated a review of the City’s Trail Maintenance Plan, which was adopted in 2021, but is based upon 2020 prices and trail conditions. Some maintenance has been done, but it would be appropriate to update the plan to include new pricing and trail conditions.

b. Dry Creek Circle – Andy Spencer, City Engineer/Public Works Director

City Engineer/Public Works Director Spencer reported on the status of the Dry Creek Circle sewer project, which has been very impactful. He would like to communicate to residents that the City understands how impactful the project has been and will continue to be for them and thank them for their patience and willingness to be flexible with the City as the project continues.

c. Highland Fling Update – Mayor Kurt Ostler

Mayor Ostler provided an update on the upcoming Highland Fling celebration; he reviewed the schedule of events, with a brief focus on those events that require Council involvement.

d. Fee for Highland Glen Park – Scott L. Smith

Council Member Smith stated that there are many non-residents who are using the Highland Glen Park and he asked the Council to consider establishing a fee for non-resident usage. The revenues generated by the fee could be used to upgrade and maintain the park. The Mayor and Council briefly discussed the proposal and concluded they would like to know what other cities are doing with similar situations. Council Member Smith stated that he will conduct some research on that matter.

e. Future Meetings

- August 10, Lone Peak Public Safety District Meeting, 7:30 am, City Hall
- August 16, City Council Meeting, 7:00 pm, City Hall
- August 23, Planning Commission Meeting, 7:00 pm, City Hall
- September 6, City Council Meeting, 7:00 pm, City Hall

- September 14, Lone Peak Public Safety District Meeting, 7:30 am, City Hall
- September 20, City Council Meeting, 7:00 pm, City Hall
- September 27, Planning Commission Meeting, 7:00 pm, City Hall

13. 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 10:20 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 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 Sarah D. Petersen</i> | <i>Yes</i> |
| <i>Council Member Kim Rodela</i> | <i>Yes</i> |
| <i>Council Member Scott L. Smith</i> | <i>Yes</i> |

The motion passed unanimously.

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

The CLOSED SESSION adjourned at 12:03 am.

ADJOURNMENT

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

The meeting adjourned at 12:03 am.

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 August 2, 2022. This document constitutes the official minutes for the Highland City Council Meeting.

Stephannie Cottle
City Recorder