



**HIGHLAND CITY**

**HIGHLAND CITY PLANNING COMMISSION MINUTES**


**Tuesday, September 27, 2022**

**Approved October 25, 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: [planningcommission@highlandcity.org](mailto:planningcommission@highlandcity.org)

**7:00 PM REGULAR SESSION**

Call to Order – Jerry Abbott, Chair

Invocation – Commissioner Jay Roundy

Pledge of Allegiance – Commissioner Audrey Moore

The meeting was called to order by Commissioner Jerry Abbott as a regular session at 7:00 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 Commissioner Jay Roundy and those in attendance were led in the Pledge of Allegiance by Commissioner Audrey Moore.

**PRESIDING:** Commissioner Jerry Abbott

**COMMISSIONERS**

**PRESENT:** Jerry Abbott, Chris Dayton, Tracy Hill, Claude Jones, Audrey Moore, and Jay Roundy, Chris Howden (*electronically*)

**CITY STAFF PRESENT:** City Planner and GIS Specialist Kellie Smith, Planning Commission Secretary Heather White, City Recorder Stephannie Cottle, City Code Compliance Officer Brent Wallace

**OTHERS PRESENT:** Jon Hart, Marcie Jones, Emma Fetzer

**1. SWEARING IN NEW PLANNING COMMISSIONERS**

Stephannie Cottle, City Recorder, will issue the Oath of Office to Trent Thayn as a new Commissioner Alternate.

Ms. Cottle issued the Oath of Office to Planning Commissioner Trent Thayn. He was previously appointed as an alternate, but was recently asked to serve full-time on the planning commission.

**2. UNSCHEDULED PUBLIC APPEARANCES**

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

None was offered.

### **3. COMMISSIONER LEGAL TRAINING**

Marcie Jones, from the Utah State Ombudsman, will give a training on several topics requested by the Planning Commission including the role of Planning Commissioners, drafting ordinances and code, exactions versus regulations, general plans, etc.

Marcie Jones, Attorney with the Office of the Property Rights Office Ombudsman, explained what the ombudsman office was. She mentioned that Utah was the only state that had an ombudsman office that did what they did. She spoke about how to use General Plans, the difference in regulations and exactions, and how to draft code that complied with state law.

### **4. CONSENT ITEMS**

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

- a. Approval of Meeting Minutes** *Administrative*  
Regular Planning Commission Meeting – August 23, 2022

*Commissioner Moore MOVED to approve the minutes from the August 23, 2022 meeting. Commissioner Rounly SECONDED the motion. All present were in favor. None were opposed. The motion carried.*

Commissioner Howden joined the meeting electronically at 8:05 PM.

### **5. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - FENCES NEAR GOLF COURSES** *Development Code Update (Legislative) - Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a request by Morian Eberhard to amend Section 3-612 Fences, Retaining Walls, Theme and Screen Walls, relating to fence height for properties adjacent to golf courses. The Planning Commission will take appropriate action.

Ms. Smith explained that a complaint was submitted to the city in August relating to the height of a fence being installed on a neighboring property. Highland's code compliance officer met with the property owner building the fence. The property owner was under the impression that the fence contractor had already received a permit from the city. After speaking with the City Council during unscheduled public appearances, the property owner decided to file a formal application for a development code amendment. Ms. Smith showed pictures of golf balls collected from the yard as well as damage to the applicant's home. She explained that the applicant wanted to install stretch netting behind his house. The applicant had serious concerns with golf balls hitting and penetrating his home. She said the play area in the applicant's backyard was also a concern. Ms. Smith reviewed the proposed amendments to the code. She said staff recognized that it was a situation that caused safety concerns for residents as well as damage to homes.

Commissioner Abbott opened the public hearing at 8:12 PM and called for public comment.

Applicant Morian Eberhard explained that the fence would blend with large trees in his yard. He said golf balls came into his yard with great speed and that it was not safe. He mentioned that recently someone on the trail was hit in the forehead and had to be rushed off. He said his home was close to the tee box. He had kids and didn't want them to play on the playground in their backyard because of safety concerns. He said he would bear all costs for the proposed fence.

Commissioner Abbott called for additional comment. Hearing none, he closed public hearing at 8:15 PM. He asked for additional discussion.

Commissioner Hill understood the concerns with living next to a golf course and thought it was dangerous.

Commissioner Abbott thought the request was for safety netting instead of a fence. He didn't think it necessarily belonged in the fence code. He thought the applicant should be able to put the netting up to protect his property. He was concerned that the city was changing the code for one exception. Instead of changing code, he thought a paragraph needed to be added regarding houses along a golf course. He wondered what other cities allowed along golf courses.

Ms. Smith explained that the city fence code was very specific and all-inclusive and said the application met the definition of a fence. She mentioned that she researched cities that had multiple golf courses and couldn't find much. She said St. George specified golf course fencing in their code and it was somewhat used as a template for the proposed amendments. She talked about the process for an exception, or a variance, and said Mr. Eberhard could probably get one, however, staff recognized that the safety concern effected more than one property. Because of that, staff thought the issue should be recognized and regulated by putting it in code. She explained that the suggested materials were based on Mr. Eberhard's application.

Commissioner Thayne recognized the safety concerns and said he did not want to regulate materials because new/updated fencing materials could be available in the future. He talked about batting cages currently in residents' yards and wondered if those were permitted. Ms. Smith said she had not encountered anyone who wanted a batting cage. Commissioner Thayne mentioned that there were two near his house. He talked about previously serving on the Board of Adjustments and thought the code needed to be specific to the actual usage or the home/backyard, rather than a blanket statement.

Commissioner Abbott agreed with the need for fencing but thought the reason staff couldn't find it in other cities was because it wasn't regulated.

Mr. Wallace talked about the proposed code and said it was written in a way that was flexible for anyone along a golf course. He said it applied only to five or six homes in Highland. He said the goal was to try to make it invisible to neighbors and that a black or neutral color would blend in.

Commissioner Howden was disconnected from the meeting at 8:25 PM.

*Commissioner Roundy MOVED that the Planning Commission accept the findings and recommend approval of the proposed amendment to Section 3-612 of the Development Code.*

*Commissioner Hill SECONDED the motion.*

*The vote was recorded as follows:*

<i>Commissioner Jerry Abbott</i>	<i>Yes</i>
<i>Commissioner Chris Dayton</i>	<i>Yes</i>

<i>Commissioner Tracy Hill</i>	<i>Yes</i>
<i>Commissioner Christopher Howden</i>	<i>Absent</i>
<i>Commissioner Claude Jones</i>	<i>Absent</i>
<i>Commissioner Audrey Moore</i>	<i>Yes</i>
<i>Commissioner Jay Roundy</i>	<i>Yes</i>
<i>Commissioner Trent Thayn</i>	<i>Yes</i>

*Motion carried 6:0*

**6. PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - FENCE MATERIALS** *Development Code Update (Legislative) - Kellie Smith, Planner & GIS Analyst*

The Planning Commission will hold a public hearing to consider a proposal by Highland City Staff to amend Section 3-612 Fences, Retaining Walls, Theme and Screen Walls, relating to additional fence materials that may or may not be permitted. The Planning Commission will take appropriate action.

Ms. Smith explained the city had recently received applications for fence materials not permitted in the code: gabion, hog/horse wire, steel cable, and concrete (not precast). She mentioned that vinyl, wood, wrought iron, and precast concrete were the only fencing materials permitted in the code. Chain link was the only material not permitted. She said staff wondered if pictures should be added to the fencing code to provide clarity.

Commissioner Abbott opened the public hearing at 8:39 PM and called for public comment. Hearing none, he closed the public hearing at 8:39 PM and asked for additional discussion.

Commissioner Moore talked about rock as a natural resource in Highland and wondered why rock wall fences were not included on the list. She thought masoned rock walls should be a material for fencing. Commissioner Abbott agreed.

The Commissioners discussed the difference between animal enclosures and the public view. They reviewed the current code regarding animal enclosures.

Commissioner Thayn said Highland was for people with larger lots, rural areas, and was concerned that fencing options used in the past were going to be taken away for residents with large animals. He said Highland was a farming community. Ms. Smith explained that the proposed amendment permitted hog/horse wire for enclosures for residents with animal rights. She mentioned that any lot with 30,000 square feet could have three horses and said oftentimes there were lots with horses in nice neighborhoods. She explained that other than chain link, the city never regulated the fencing around animal enclosures.

The Commissioners spoke of their concerns with limiting future materials. Ms. Smith talked about chain link fences and explained that they currently were permitted only for athletic fences. She said there were many chain link fences installed throughout Highland before it was prohibited. She mentioned that bushes and other greenery was also considered a fence.

Commissioner Roundy talked about his time serving on the Planning Commission about ten years ago. He said the Commission at that time was asked to review fencing materials. They took pictures and tried to determine what would blend into the landscape. They set up study areas and gathered public opinion. He said he was surprised that galvanized steel subdued into the landscape faster and closer than any other structure. Commissioner Roundy said the public didn't want anything to do with galvanized until they saw the alternatives

side by side. He thought at least 80% of vinyl fences today looked like they were hit by golf balls because of kids, sun exposure, etc. He thought chain link should be an approved fencing material in the code as well as gabion. He mentioned that there were miles of gabion fencing in the American Fork Canyon that most people probably did not know was there.

Commissioner Abbott thought chain link was okay only if there was a top rail to give support. He said he was not opposed to masonry walls and a rock face.

The Commissioners talked about different materials and options. They talked about high winds that were common in Highland and how some materials were better than others. They thought brick/masonry fencing should be permitted. They talked about the gauge of hog/horse wire and decided not to regulate it. Most agreed that chain link should have a top pole support if it was permitted, that hog/horse wire fencing needed to have top and side supports, and that the steel cable fence looked nice.

*Commissioner Roundy MOVED that the Planning Commission recommend the following materials to be permitted for fences in Section 3-612 of the Development Code.*

- *Vinyl, wood, wrought iron, precast concrete, concrete, steel cable, hog/horse wire with wooden or metal beams and posts, chain link with horizontal top pole support, gabion, and stone and masonry walls. Hog/horse wire without beams are permitted for animal enclosures required for large animals.*
- *All materials not listed above are prohibited*

*Commissioner Moore SECONDED the motion.*

*The vote was recorded as follows:*

<i>Commissioner Jerry Abbott</i>	<i>Yes</i>
<i>Commissioner Chris Dayton</i>	<i>Yes</i>
<i>Commissioner Tracy Hill</i>	<i>Yes</i>
<i>Commissioner Christopher Howden</i>	<i>Absent</i>
<i>Commissioner Claude Jones</i>	<i>Absent</i>
<i>Commissioner Audrey Moore</i>	<i>Yes</i>
<i>Commissioner Jay Roundy</i>	<i>Yes</i>
<i>Commissioner Trent Thayn</i>	<i>Yes</i>

*Motion carried 6:0*

## **7. ELECTIONS OF CHAIR AND VICE-CHAIR**

The Planning Commission will elect one of its members as Chair and a second member as Vice-Chair. The Chair shall serve for a term of one year and until a successor is chosen in the same manner. A person may be elected to serve consecutive terms as Chair.

Commissioner Moore was elected to serve as Chair and Commissioner Howden was elected to serve as Vice Chair.

## **8. PLANNING COMMISSION AND STAFF COMMUNICATION ITEMS**

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

**a. Future Meetings**

- October 4, City Council, 7:00 pm, City Hall
- October 18, City Council, 7:00 pm, City Hall
- October 25, Planning Commission, 7:00 pm, City Hall
- November 1, City Council, 7:00 pm, City Hall

Ms. Smith reviewed a recently received letter regarding the Waterwise Rebate from CUWCD (Central Utah Water Conservancy District). She explained that starting January 2023 the rebate would only be offered to residents of cities that implemented specific water efficiency standards. She explained that the City Council looked into specifics of what CUWCD required and decided that certain property rights were being taken away. She recently contacted CUWCD at the Council's request and found that CUWCD allowed a level of leniency in the wording but not to the standards. She reviewed the new standards for the CUWCD rebate and said the City Council thought it regulated too much. The Commissioners' opinions were similar to the City Council. The Commissioners discussed actions that could be taken as a city but thought the CUWCD standards seemed extreme. The Planning Commission agreed with moving forward with a water-wise type ordinance for Highland. Ms. Smith said she would contact Commissioner Howden regarding an amendment to existing city ordinances.

## **ADJOURNMENT**

*Commissioner Hill MOVED to adjourn the meeting. Commissioner Roundy SECONDED the motion. All present were in favor.*

The meeting was adjourned at 9:53 PM.

I, Heather White, Planning Commission Secretary, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on September 27, 2022. The document constitutes the official minutes for the Highland City Planning Commission Meeting.

/s/Heather White  
Planning Commission Secretary