



HIGHLAND CITY

HIGHLAND CITY COUNCIL MINUTES

Tuesday, October 5, 2021

Approved November 9, 2021

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 Rod Mann

Invocation – Edgar Tooley

Pledge of Allegiance – Jessica Anderson

The meeting was called to order by Mayor Rod Mann 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 Edgar Tooley and those in attendance were led in the Pledge of Allegiance by Jessica Anderson.

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS

PRESENT: Timothy A. Ball, Brittney P. Bills, Kurt Ostler, Kim Rodela, Scott L. Smith

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, City Engineer Andy Spencer, Planner & GIS Analyst Kellie Bronson, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, Police Chief Brian Gwilliam, Fire Chief Brian Patten, Library Director Donna Cardon

OTHERS PRESENT: Scott Hart, Brian Cropper, Stephen Babb, Sarah Petersen, Kelli Chynoweth, Janet Wadsworth, Edgar Tooley, Cheryl Tooley, Jessica Anderson, Craig Shields, Brian Hanson, Briawna Hugh, Lance Rodela, Wesley Warren, Pam Muir, Chad Christopherson

1. UNSCHEDULED PUBLIC APPEARANCES

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

Kelli Chynoweth, Homeowners Association (HOA) Board Member for Toscana Townhomes, indicated that the HOA has been trying to improve landscaping in the project, but there is confusion about the parties that are responsible for certain aspects of landscaping and irrigation; she asked for a future agenda item and discussion regarding those matters. Mayor Mann advised Ms. Chynoweth to speak with City Engineer Andy Spencer, who can provide her and the HOA with guidance on the matter.

Craig Shields expressed his gratitude to the City for mowing the weeds on a parcel he has referenced in the past. The area looks much better, and he is very appreciative.

Lance Rodela referenced the agenda item dealing with parks with baseball fields were on agenda; as the Council considers opportunities for improving the parks, he asked that they take into account safety issues throughout the City. He noted he has coached Lone Peak and Super League teams, which play at fields all over the state and he has found the facilities in Highland to be in the worst condition, not just from an appearance and playability perspective, but also from a safety perspective. He stated that during the regular season, many of the kids that play at Heritage Park are afraid to slide when stealing bases for fear of getting cut or scraped by the ground due to the terrible condition of the dirt. Additionally, there has been vandalism of fencing of the parks, which is a great safety hazard. He stated he would love to meet with the appropriate staff member or elected official and noted he has photographs of the conditions he has cited, but at a minimum, he would like for the Council to consider core safety issues. Mayor Mann advised Mr. Rodela to speak with City Engineer Andy Spencer, but he agreed that it is important to consider core safety issues as he would hate for conditions referenced by Mr. Rodela to lead to a serious injury.

Brian Cropper stated he is the most recent Past-President of Lone Peak Youth Baseball; he was the President for 15 years and a Board Member for two years before that. He has coached baseball in this community for many years and he asked that the Council consider an opportunity to partner with the Lone Peak Youth Baseball League to address some of the safety issues that have happened and to secure funding for improvements. Many of the changes that led to insufficient maintenance of the fields happened in conjunction with the City's decision to increase rates for field rental; this also coincided with the action taken by Alpine School District regarding the rental of their facilities. He feels that if it were possible to re-open dialogue about a partnership aimed at use and maintenance of the fields, he feels that the League can assist in fundraising that could be used to maintain Heritage Park.

2. PRESENTATIONS

a. Bird Scooters - Mike Butler

Mike Butler from Bird Scooters will present a proposal to furnish scooters for use within Highland City.

Mike Butler of Bird Scooters used the aid of a PowerPoint presentation to discuss his proposal to introduce a scooter business into Highland City; the goal of the program is to improve communities and the lives of the people living in community through an additional transportation option that employs shared electric vehicles (scooters). Mr. Butler provided information regarding the background of his company, which is the most trusted electric scooter provided in world with over 100 million rides. Bird Scooters provides services to big and small cities; it is an application-based business that allows users to find vehicles throughout the subject city. Riders use the application to sign a user agreement and pay for the scooter rental; the base rate is \$1.00, plus \$.30 per minute, with the average ride being \$7.00. Discounts are offered for government employees, veterans, and senior citizens; healthcare workers ride free. The application teaches the rider how to ride and park their scooter. Bird Scooters will engage a local partner who will handle the scooter rental business in Highland and the application will be used to harvest data regarding operation of the program; vehicles are traced using GPC and if a rider goes into a certain zone where it is not allowed, the vehicle can slow down, or stop entirely. Riders are given direction through the application and the fleet manager is the person who will run the operation locally. He proposed that the Council authorize the program in Highland and indicated he is not seeking any monetary

investment from the City. He proposed that the number of scooters be 75 and that the program launch in 2022; in order to proceed, he would like to enter into a memorandum of understanding (MOU) with the City.

Council Member Rodela and Mayor Mann engaged in conversation with Mr. Butler regarding the number of scooters and factors for determining whether to increase the total number at any point in the future; Mr. Butler indicated that he would start with either 50 or 75 scooters and that number could be increased in increments of 25.

Council Member Ball inquired as to the City's liability for the scooter rental operation. Mr. Butler indicated that each individual rider assumes risk associated with riding a scooter and Highland City would not be held responsible for any damages unless they are the direct result of gross negligence by the City, such as a pothole or severe sidewalk damage. City Attorney Patterson indicated that he does not believe the operation will increase the City's liability; risks may be increased because more people will be riding an electric vehicle throughout the City, but many riders already utilize City sidewalks.

Council Member Rodela asked how the Fleet Manager will make sure that vehicles are parked in a location where they are not blocking pedestrian activity. Mr. Butler stated that the Fleet Manager cannot maintain constant control of the scooters, but he will be checking on scooters throughout the day and if one is found to be located in an area where it is creating a nuisance, the person that notices it can contact the Fleet Manager to report it.

There was a brief high-level discussion regarding the manner in which Bird Scooters differs from the scooter business that is operated in Salt Lake City; Mr. Butler noted that his vehicles are fifth generation – new models of scooters are launched each year. He noted that his business model includes fleet improvement each year.

Council Member Ostler inquired as to if there is a revenue sharing model for the program. Mr. Butler stated that the program will be a pilot program for the first year and there will be no revenue sharing; that is an issue that could possibly be negotiated if the MOU is extended beyond the first year. Any commission yielded to the City would only be available after the trial period.

Council Member Ostler then inquired about the storage location of scooters throughout the City, what happens if a scooter is left on the sidewalk, what other cities are currently allowing the scooter rental program, and what types of accidents – including deaths – have occurred. Mr. Butler stated that Utah cities that have allowed the program include Price, Midvale, Farmington, Kaysville, and Syracuse; he is in discussions with other cities about the program. He then noted that the application teaches riders how to ride the scooters and where to store them when they are finished using them; they are explicitly instructed not to ride scooters on sidewalks, but scooters will be stored on sidewalks awaiting the next rider. He concluded that there have been no deaths as a result of scooter use, but an average of eight accidents per year.

Council Member Smith inquired as to the methods employed by Bird Scooters to deter or prevent vandalism. Mr. Butler stated that certain cities have higher levels of vandalism than others, but the partner city has no responsibility for theft or vandalism of scooters.

Police Chief Gwilliam added that he has spoken to Police Chiefs in other jurisdictions about this program; they have communicated that a scooter rental business provides a valuable service to the community, but there are concerns about the scooters being parked/stored on sidewalks.

Mayor Mann noted that if the Council wants to proceed with allowing the scooter rental business in Highland City, they must approve the MOU mentioned by Mr. Butler; however, that cannot be done tonight because that action was not noticed on the meeting agenda. He will email the draft MOU to the Council for their review, and he invited them to reach out to Mr. Butler regarding additional questions or any items that need to be clarified in the MOU.

Council Member Rodela commented that she rode a scooter in St. George, and it was a fun experience; she stated that scooters could be placed at parks or trails in Highland, and she believes they would be used by residents and visitors.

b. Annual Library Report - Library Director Donna Cardon

Library Director Donna Cardon will present to the City Council the Annual Library Report.

Edgar Tooley, Chair of Highland City Library Board, reported the Board is governed by Utah State Code and Highland City Code. This report satisfies the requirements of those codes to provide an annual report. He then introduced other members of the Board present, after which he used the aid of a PowerPoint presentation to summarize the annual report. He reported on library statistics and offered a comparison of the Highland City Library statistics with statewide averages per capita. The library was able to secure grant funds aimed at addressing the impacts of COVID-19; these grants were used for new technology, digital collections, pilot programs, and circulating materials. He reported on innovative ways the library used new technology to keep people engaged in reading. In addition, new materials were acquired through budgeted purchases and book donations; donated books that are not usable on library shelves are sold by Friends of the Library. He then discussed highlights of programs over the past year, including a summer reading program for all ages; a winter reading program for youth; March book madness through social media; reach for the magic; and after school programs. He also provided photos taken at the many in-person and virtual events. In planning for the future, the Board has commissioned a program space feasibility study; this analysis will make it possible for the City Council to develop policy guiding library funding for the coming years through the City's buildout. Under current tax revenue funding models, the library could become financially unviable in five to 10 years. He then concluded by thanking Donna Cardon, Library Director, for the fantastic job she does at the library; she is excellent and managing the operations of the library and seeking additional funding sources for the facility and its programming.

Council Member Smith inquired as to the total dollar amount of grants the library has received. Ms. Cardon stated that in the past year the library has received over \$20,000 in grant funding; this includes funding from the State of Utah, American Rescue Plan Act (ARPA), and the National Institute of Museum and Library Services.

Council Member Ostler referenced the section of the report regarding total card holders, and he asked how many households that represents in Highland City. Ms. Cardon stated that there are approximately 4,200 cards, but about 600 are non-residents. She has information regarding the number of households that represents and can email that to the Council at a later date. Council Member Ostler inquired as to the cities that the non-resident card holders live in and whether those cities are paying proportionate fees to Highland City for their residents to use the library. Ms. Cardon stated that the majority of non-residents come from Cedar Hills and Alpine and the library receives a non-resident fee for those card holder families and Cedar Hills and Alpine pay a

portion of those fees. The income the library receives from non-resident cards is a significant revenue source.

Council Member Smith referenced the library's membership in the Northern Utah County Library Association (NUCLIC) and asked if that has been beneficial. Ms. Cardon stated that patrons enjoy having access to materials at other libraries in the system; it has been a positive partnership for the library and its patrons.

Council Member Ostler inquired about the feasibility study that was commissioned last year to evaluate the concept of a library/community center project. Ms. Cardon stated that she has provided each council member with a copy of that feasibility study and noted there are other options for expanding the library that the Council could consider. She indicated she is happy to provide a more extensive report about that concept at a future date if the Council wishes.

Council Member Rodela indicated she is a member of the Library Board, and she echoed the sentiments of Mr. Tooley regarding Ms. Cardon's leadership at the library.

3. PLAT AMENDMENT: PHEASANT HOLLOW PLAT C *Administrative*

The City Council will consider a request by Highland City to amend the Pheasant Hollow Plat A subdivision to adjust the property lines of lots 9 and 10 to create one lot and two parcels. The City Council will take appropriate action.

City Attorney Rob Patterson provided a historical overview of the property subject to this application dating back to 1978; the original plat was approved by the City Council on November 15 of that year and in 2009 the City acquired two residential lots within the Pheasant Hollow HOA, previously owned by the Walkenhorst's and the Jensen's. From 2019-2020, Highland negotiated and finalized acquisition of Pheasant Hollow Homeowners Association (HOA) common area/park for the Canal Boulevard project. In June of 2020, the Pheasant Hollow HOA recorded amendments to the Covenants, Conditions, and Restrictions (CC&Rs) to address allocation of funds from City's acquisition of HOA common area/park. As part of the amendment to CC&Rs, the HOA removed all "property originally included within [the HOA] but later deeded or dedicated to Highland City or any other entity." This removed the Walkenhorst and Jensen lots and the acquired common area property from the HOA boundaries and HOA CC&Rs. The proposed plat amendment before the Council this evening is solely focused on the previous Walkenhorst/Jensen lots and does not address the common area property. The common area property acquisition is, from the City's perspective, resolved and does not require further action by the city. The HOA Board has formally approved the proposed plat, subject to some minor clarifications that staff is working to resolve. The primary goals of this proposed plat amendment are:

1. Realign the previous boundaries of the lots to provide for one buildable, residential lot that can be sold to a private owner and one lot that contains the City detention basin that will be kept by the City.
2. Describe utility and right of way easements on all property in the area and clarify the City's right to access the basin and utilities.
3. Reincorporate the new buildable, residential lot into the Pheasant Hollow HOA so that the future owner of that lot will have all the rights and be subject to all of the conditions and requirements of the HOA.

Mr. Patterson presented the plat to identify the areas subject to the amendment and he specifically referenced the HOA signature block on the plat aimed at providing clarity to the HOA and any current/future property owners in the project. He also identified the utility easements in the

project area to orient the Council to the areas that are unbuildable, after which he concluded staff recommends the City Council accept the findings and approve the final plat amendment.

Council Member Smith disclosed that he lives in the Pheasant Hollow neighborhood and asked if he needs to recuse himself from voting on this matter. Mr. Patterson answered no and indicated that Council Member Smith does not stand to benefit financially from this amendment and, therefore, recusal is not required. Council Member Smith stated that he has spoken with residents in the subdivision as well as the HOA president; initially he believed that there was wide support for this plat amendment, but when he arrived at the meeting tonight, he learned of some remaining concerns. He stated it is his understanding that for the property lines that border the river, the property lines extend to the middle of the riverbed, and he asked why the City wants to retain ownership of that property when it is actually part of a private property. City Engineer Spencer stated that there is a new bridge structure on the river and the City needs to retain ownership of the riverbed to ensure that there is adequate access to maintain the bridge. If the City needs to access the bridge, they will seek approval to drive along the storm drain corridor that is located on the southern portion of the new lots. Council Member Smith asked what the owners of that property can do within the easement. Mr. Spencer stated there are restrictions on permanent structures that would restrict access to the easement, but they can landscape the area or place a cement pad for a movable shed. Council Member Smith then referenced the adjustment to the side of the two lots; they were previously much larger, but the buildable area has been reduced to 31,000 square feet and he wondered if that is due to the easements. Mr. Spencer stated that the detention basin area and the portion of the property in the river were previously part of those lots, but they have been removed from the lots. Council Member Smith asked who will maintain the detention basin area. Mr. Spencer stated the City will maintain it initially but may pursue a maintenance partnership agreement with an adjacent property owner for ongoing maintenance. The area will be covered in landscape rock initially and the need for the City to access the area will be minimal and it may be that the future owner of the adjoining lot may be interested in incorporating the area into their lot. Council Member Smith then asked if it is necessary to make additional adjustments to the plat in reference to the manner in which the plat was registered. Mr. Patterson stated that the HOA name initially recorded on the plat was incorrect and will be corrected on amended 'plat c'. Council Member Smith then referenced water shares associated with the property, which are part of a privately owned irrigation company and he asked if it is necessary to address the use of that water on this property. Mr. Patterson stated that the City will not use any private water for the City parcels; no water shares have been secured for those properties. There are rules in the State of Utah regarding beneficial use of water; water that is not being used productively will revert to State ownership, and in theory the fact that the total area of the subdivision is being reduced and the same amount of private water is no longer needed, but he is not sure the impact will be major. Mr. Spencer agreed and noted that he feels the private irrigation company can make the argument that no shares should revert to the State as the company is still watering a majority of the property that was previously watered within the project. Council Member Smith asked for clarification as to whether the City has purchased any private water shares for the property it will retain ownership of, to which Mr. Patterson answered no. Council Member Smith asked for additional information about improvements of the detention basin. Mr. Spencer reiterated it will be landscaped with rock and there will be a pre-cast concrete fence erected around the basin.

Council Member Ostler inquired as to the funding source for the detention basin. Mr. Spencer stated it will be funded using the project construction funds. Council Member Ostler asked if the lots that will be owned by the City will be part of the HOA and if the City will pay HOA fees. Mr.

Patterson stated that parcels a and b are not subject to any HOA regulations or fees. Council Member Ostler inquired as to the location of the future pressurized irrigation line that will be run to the area. Mr. Spencer stated that when the City constructed Canal Boulevard, there was a stub placed in the road wherein the pressurized irrigation line would be extended. However, there is not a present need for the pressurized irrigation line and the private irrigation water is sufficient to maintain the property within the subdivision.

Mayor Mann asked Mr. Patterson if the proposed motion language makes it possible for staff to make the edits discussed by Council Member Smith, to which Mr. Patterson answered yes.

Council Member Kim Rodela that the City Council accept the findings and approve Pheasant Hollow Plat C, subject to the City Engineer and City Attorney addressing any necessary technical edits.

Council Member Timothy A. Ball SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

Mayor requested that the Council consider item seven out of order in order to accommodate the individual in the audience to hear discussion of the matter.

7. DISCUSSION: MITCHELL HOLLOW PARK AND HERITAGE PARK BASEBALL FIELD PARTNERSHIP *Administrative*

The City Council will review the Mitchell Hollow Park Baseball Field Partnership with a possible expansion to include improvements to the baseball field at Heritage Park. This item is being presented for information and direction only.

City Administrator/Community Development Director Crane noted City Administration is requesting direction from the Council on this matter; he invited input from Chad Christopherson regarding the facilities. Mr. Christopherson reported on the history of his partnership with the City to improve Mitchell Hollow; he used his construction company to convert the grass infield to a high school quality dirt infield, but throughout the summer there has been damage to the field caused by dirt bikes and other use of the infield in wet conditions. The infield had to be regraded and repaired and Mr. Christopherson requested that the field be enclosed and that the use be potentially restricted. There are several proposed remaining improvements, including include a pitching mound, GPS grading, another layer of special infield dirt, batters eye blackout, fencing, moving the backout further back (this will allow the field to accommodate different age groups), and a new storage shed. Mr. Christopherson stated he is also willing to add special dirt to the Heritage Park Fields and do other field improvements, but due to vandalism, there is a reluctance to invest in additional improvements.

There was high level discussion among the Council and Mr. Christopherson about options for securing the field and permitting appropriate access by those that have reserved the facility. Mr. Christopherson stated that he understands the City's need to use the facility, but he needs to secure the facility for a set time for three days each week.

Council Member Smith asked how many baseball diamonds there are in Highland City. Mr. Crane stated there are just three City-owned diamonds, but others owned by local churches. Council Member Smith asked Mr. Christopherson if it is his opinion the City is devoid of baseball opportunities. Mr. Christopherson answered yes; there have been good plans for improvements and expansion in the past, but they never came to fruition. Council Member Smith thanked Mr. Christopherson for the great deal of work he has completed to improve the facilities and he noted he supports efforts aimed at deterring vandalism of the improved Mitchell Hollow facility. Mr. Christopherson stated that his team will use the facility for practice, but not for games. The improvements to the infield area have made it possible for his team to practice on the same types of fields they play games on.

Council Member Ostler stated there is a hillside at the park that people use for sledding or ice-blocking and the proposed fence would cut along that hillside. Council Member Rodela agreed, but that is an issue that could be monitored and addressed if needed. However, she likes the idea of fencing the field, but leaving an opening to allow people to use the facility. If the fence does not deter vandalism – specifically damage caused by dirt bikes – the opening could be gated.

Council Member Rodela asked Mr. Christopherson his opinion on Heritage Park. Mr. Christopherson stated he received an email from someone who represents a baseball league who indicated that they just replaced the dirt at the park, and they did not want anything done to it. He stated he did not realize there was a league using that facility or that the City had an arrangement with them.

Council Member Ostler then referenced Strasburg Park, which is owned by the Church of Jesus Christ of Latter-Day Saints and inquired as the terms of the use agreement for that facility. Mr. Crane stated he was not aware of an agreement for use of that facility. Council Member Ostler stated that he is aware there are teams that practice there and wondered if the City had an agreement with the Church for that. Mr. Crane stated that any agreement is likely rumor based.

Mayor Mann stated that an action item will be included on the next meeting agenda to allow the Council to consider the proposed Park Use and Improvement Agreement. He communicated his understanding of the terms the Council would like to include in the agreement, including allowing fencing, but maintaining openings at dugouts to be evaluated for future gate closure if necessary.

Council Member Rodela stated that she would also like for staff to look into any agreement for Heritage Park.

Council Member Ostler inquired as to the term of the agreement desired by Mr. Christopherson, to which Mr. Christopherson answered two to three years.

4. A TRI-PARTY AGREEMENT BETWEEN HIGHLAND CITY, LEHI CITY, AND DR HORTON INC. *Administrative*

The City Council will consider a request for approval of a tri-party agreement between Lehi City, Highland City, and D.R. Horton for the development of property currently located in Utah County. The City Council will take appropriate action.

Mayor Mann reported on the major components of the proposed agreement between Lehi City, Highland City, and D.R. Horton for the development of property currently located in Utah County. DR Horton owns approximately 109 acres generally located at the northwest corner of Highland Boulevard and 11800 North. This property has been included in the Highland City annexation policy plan. DR Horton has petition Lehi City for annexation of the property. In exchange for Highland City not protesting the annexation, the attached agreement is being proposed. The highlights of the agreement include:

1. Highland shall continue to own and maintain the Highland Boulevard Section, and Lehi shall be responsible for fifty percent (50%) of the cost (the “Lehi Maintenance Contribution”) incurred by Highland to maintain and repair the Highland Boulevard Section in accordance with Highland’s roadway standards and requirements (as the same may be modified from time to time) and Highland’s bidding and contracting procedures.
2. As part of the development of the Horton Property following final approval of the Annexation Petition, Horton shall install an additional traffic light or other traffic control measure along the Highland Boulevard Section at the intersection 11800 North (the “Additional Traffic Control”). The total cost for the Additional Traffic Control shall be shared by the Parties as follows: (a) Lehi and Highland shall each be responsible for thirty-three percent (33%) of such costs; and (b) Horton shall be responsible for thirty-four percent (34%) of such costs.
3. Develop the Horton Property substantially in accordance with the Concept Plan, subject to the following density limitations for each pod of development shown on the Concept Plan (each, a “Pod”): (which Horton may increase by no more than ten percent (10%) depending on the final location and layout of proposed open spaces and roads):
 - a. No more than seventy-seven (77) single family lots located the forty-five (45)-acre Pod designated on the Concept Plan as “Estate”;
 - b. No more than ninety-five (95) single family lots located on the thirty-six (36)-acre Pod designated on the Concept Plan as “Emerald”;
 - c. No more than one hundred seventy-four (174) single family lots located on the forty (40)-acre Pod designated on the Concept Plan as “Horton Plus”;
 - d. No more than two hundred forty-nine (249) units located on the thirty-nine (39)-acre Pod designated on the Concept Plan as “Active Adult”; and
 - e. No more than two (2) total clubhouses (one for the single-family residences and one for the active adult units).
4. Notwithstanding the foregoing, Horton may increase the total number of lots or units permitted in any Pod by up to ten percent (10%) so long as the total density of the Horton Property as a whole does not exceed five hundred ninety-seven (597) units.
5. Incorporate the recommendations set forth in that certain Traffic Study, dated Aug 18, 2021, prepared by Horrocks Engineers, with respect to Highland Boulevard.
6. Set the minimum lot size of any subdivision of the Horton Property directly adjacent to the boundary with Highland shown on the Concept Plan to be no less than one-half (1/2) an acre.
7. Include a trail connection to the Dry Creek area of Highland as part of the development of the Horton Property so long as the intervening landowner(s) have granted an easement to Highland for trail purposes.

Mayor Mann concluded Lehi has already approved the agreement; Highland City's approval of the agreement will not have any fiscal impact on the current fiscal year budget. He added if the City opposes the annexation and loses that argument, Highland City's leverage in the project will be lost. He noted that he has heard support for the project since the original design was amended responsive to concerns expressed by the City and the public.

Council Member Smith asked how enforcement of the terms of the agreement and the subdivision approval requirements will be handled once the property is officially annexed into Lehi. City Attorney Patterson stated there is nothing in the agreement itself regarding enforcement, but the City will rely upon normal contract rules and land use law; if Lehi approves a plat that is wildly different than what has been agreed upon, the City would have the right to challenge the approval based upon land use laws. The agreement also provides the City with leverage over DR Horton and the matter could be litigated to require DR Horton to comply with the terms of the agreement. However, the City cannot enter into an agreement that would restrict future public bodies; he referenced a previous agreement with another city that attempted to control legislative matters and that type of agreement would not be held up in court. This proposed agreement is not that type of agreement. Council Member Smith then discussed the different parcels of property that DR Horton has acquired and their plans to annex those properties into Lehi to build additional apartment buildings. He is uncomfortable with those plans given the lack of adequate transportation infrastructure. Mr. Patterson stated that is a valid concern. Council Member Smith stated that he understands that DR Horton plans to build an additional 1,700 units in that area and he wondered if they have made any agreements to extend existing roads to the west. Mayor Mann stated that he understands that plans approved by Lehi do include an additional 1,700 homes on about 1,800 acres and they have been in discussions with the Utah Department of Transportation (UDOT) and Lehi to build connector roads. He concluded they have also expressed interest in annexing an additional 40 acres in Draper.

There was a brief discussion regarding annexation and disconnection laws in the State of Utah, after which Council Member Smith asked if it is necessary to vote on this proposed agreement tonight. Mayor Mann stated he desires action of the Council before the General Election. Mr. Patterson added that if the Council is not going to agree to the agreement and instead pursue a protest of the annexation, Administration needs to know while the protest period is still open.

Council Member Rodela indicated she feels the agreement contemplates all different angles of this proposal and the Mayor and Administration has done an excellent job negotiating. She stated that she feels that the land will eventually be annexed into Lehi and the City will not be able to stop it, so it is appropriate to consider this agreement to give Highland City some leverage in the agreement. Council Member Ostler agreed and stated he feels a great deal of analysis has been performed to display that the annexation into Lehi is appropriate; if the property remains in Highland and is developed, there would be great burdens placed on City staff and City infrastructure. The Mayor and Council have been passionate about protecting the residents of Highland via the negotiation of this agreement.

Mayor Mann stated he has spoken with the County Attorney and the County Surveyor who both indicated that they do not believe the City can meet the standards for securing a successful protest of the annexation.

Council Member Ostler stated that the agreement binds the property owner to certain terms, and he agreed that the City's control of those issues will be lost if the City chooses to protest the

annexation; additionally, the City will lose good will with Lehi City and, for those reasons, he will vote in favor of approving the agreement.

Council Member Smith stated he will be voting in opposition to the agreement as he would rather pursue the protest of the annexation. He noted that the Mayor and Administration have done a good job negotiating the agreement, but he is concerned with the long-term implications of the agreement, which may be hard to predict. He feels that the area is being overbuilt, which is taxing the local schools and roads. He feels the agreement with DR Horton is good but will create an opportunity for Lehi to approve further annexations and build over the top of Highland with additional high-density developments.

Council Member Rodela stated that she will support the agreement; this is not an issue of 'letting' Lehi annex the property. Rather, it is an acknowledgement that Lehi has the right to annex the property and a clear explanation of the City's legal rights. She stated if the City opposes the annexation, it will lose all leverage and negotiating power; additionally, the protest would result in legal costs. She feels the agreement is the best deal for Highland City. Council Member Bills agreed; DR Horton made it very clear that they do not want to be in Highland City, and it is not the best position for the City to take to force them to stay in a location they do not want to be in.

Council Member Ball stated he does not think this agreement is in Highland's best interest; previous agreements made regarding these types of issues have not been upheld. However, he will be begrudgingly voting yes because the terms that have been negotiated in the agreement will yield the best possible outcome considering the entire situation the City is in.

Council Member Ostler declared a potential conflict of interest; he engaged in private business negotiations with DR Horton last year, but a final agreement never came to fruition. He has not engaged in discussions with DR Horton about that land purchase in the last 11 months. He noted he will be voting on this matter.

Council Member Kurt Ostler MOVED that the City Council approve the Tri-Party Agreement between Highland City, Lehi City, and DR Horton.

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

The motion passed 4:1.

The meeting recessed at 9:21 pm and reconvened at 9:38 pm

5. OPEN SPACE PURCHASE AGREEMENTS *Legislative*

The City Council will consider a purchase contract template for the open space purchases approved by the Council on June 15th, 2021. The Council will take appropriate action.

Planner and GIS Analyst Kellie Smith provided background information on the subject matter; earlier this year, the Council voted on a valuation for orphan parcels of \$2.74 per square foot for purchases made during 2021. They also developed an orphan parcel policy and designated 54 parcels as orphan parcels. Surveys were completed by a consultant and at this time a plat amendment is needed if any adjoining property owner wants their setbacks on their original property boundary to change in order to construct an accessory structure or pool on the orphan parcel. Those interested in purchasing an orphan parcel will be required to enter into a purchase agreement and must pay for the cost of the property in full; they will also pay all surveying fees and title company/closing costs. Additional special conditions regarding sprinkler and fencing plans will be imposed. Staff's goal is to contact all residents who own property abutting an orphan parcel within two weeks to inform them that the property is available for purchase. Staff recommends the Council approve the purchase agreement template.

Mayor Mann mentioned the need to include language in the agreement regarding retaining walls on orphan parcels. Ms. Smith stated that staff can add text to the agreement specifying that no retaining walls can be built on the orphan parcel.

City Attorney Patterson asked for direction from the Council on how to handle sprinkler plans. Council Member Ostler suggested that sprinklers must be in place before the property transaction can be closed. Council Member Smith stated that would mean the City would need to give the buyer authority to make improvements on the orphan parcel before they own it. Ms. Smith suggested that the City simply require a sprinkler plan approved by the Parks Department before the transaction closes. She asked if the Council wants to impose a timeline for completing sprinkler improvements after the transition closes. The Council suggested sprinkler plans should be completed within one year of the new owner acquiring the property. There was high level discussion among the Council regarding the areas along the corridor that the City will maintain ownership and the future use of that area. Ms. Smith stated there is a strip of land running south/north that the City will need to maintain access to.

Discussion refocused on appropriate terms of the agreement specific to escrow timeline and completion of sprinkler work upon closure of the property transaction. Council Member Ostler suggested a 90-day escrow period and a timeline of 12 months after closing for the owner to complete the irrigation work.

Ms. Smith then asked if the Council has any recommendations regarding the best way for the City to communicate the availability of the properties for purchase. She noted she will send letters to those for which she has mailing information. Council Member Ostler suggested that the City find mobile phone numbers for those property owners as they may be more likely to respond to text messages or a phone call on that number. Mayor Mann agreed and noted that the Caselle contact information may be outdated with old land-line phone numbers.

Council Member Bills asked Ms. Smith to display the aerial image of the orphan parcels; there is a triangle portion of property in View Point that touches five different properties and she asked if the purchase agreement stipulates that all five property owners must purchase the property. Ms. Smith answered no, but it is her understanding that all five owners are interested in purchasing. City Attorney Patterson stated that there is no vested right for any of those five owners to purchase the property and the action before the Council this evening is approval of the contract template.

Council Member Ostler asked if all potential purchasers are willing to close on the transactions at the same time. Ms. Smith answered yes, though she has not been able to contact one of the residents and she still needs to take care of that.

The Council thanked Ms. Smith for her efforts in carrying out the orphan property policy adopted by the Council.

City Attorney Patterson then noted that if the Council plans to approve the agreement template, they should modify the document to include a 90-day escrow period and require buyers to complete irrigation work within 12 months. Any buyers purchasing an orphan parcel as a group cannot close until all buyers have signed the purchase agreement.

Council Member Kim Rodela that the City Council approve the purchase contract template for the sale of the properties designated as sellable in Resolution 2021-16 with the following two stipulations:

- 1. For properties with sprinkler plans, they don't close until they complete the sprinkler realignments, and they have 12 months to do so.*
- 2. Properties cannot close until they comply with the Council's previous conditions regarding south to north purchases as stated in Resolution 2021-16, and they have 90 days to do so.*

Council Member Smith asked if the second stipulation will cause problems for buyers purchasing as a group. Mr. Patterson stated this is simply a previous condition the Council imposed on the orphan parcels that are available for group purchase. He stated that the motion could be amended to state that closure will not be allowed until buyers comply with the previous stipulation approved by the Council.

Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

Mayor Mann then stated that he was approached by a resident during the break who was very displeased that she was not allowed to provide public input regarding the agenda item dealing with the tri-party agreement with Lehi City and DR Horton. He stated that he did not allow public comment because public input was allowed at the beginning of the meeting and if he had been made aware that she wanted to provide input, he would have likely allowed it. He added that the multiple attorneys have advised him not to do that as doing so could imply that a speaker has a right to influence an item when they do not.

Council Member Ostler asked if there is a point in the annexation process when there will be a public hearing or if there is another time that a public hearing should be allowed. Mr. Patterson stated there is no requirement for the City to hold a public hearing regarding its involvement in the annexation process. Lehi City would be required to hold a public hearing. Mayor Mann added that any resident can contact any member of the Council or himself at any time. There have been

open houses and the City has heard from residents. At every Council meeting, the agenda includes an opportunity for public comments. Council Member Ostler stated that it may be a good idea at the beginning of each meeting to inform visitors when there will not be an opportunity for public comment on later agenda items and encourage them to speak at the beginning of the meeting. Mayor Mann agreed.

6. MOUNTAIN RIDGE PARK *Administrative*

The City Council will consider the process for the future construction of Mountain Ridge Park. The City Council will take appropriate action.

City Administrator/Community Development Director Crane introduced the item and reviewed the City's bidding process for this type of project. Construction plans have been completed. Phase 1 of the park includes parking, pickleball courts, a restroom, an all-inclusive playground, and road improvements along 10400 North and 5600 West. Council Members Bills and Rodela are working on a design plan and fundraising for the all-inclusive playground. They led a work session discussion on the playground at the September 21, 2021, Council Meeting. The purpose of this item to determine the next steps on Mountain Ridge Park. The fiscal impact will be determined if a contract for construction is awarded. The estimated cost for Phase 1 is \$2.35 million.

Council Member Rodela asked why the plan does not include eight pickleball courts, to which Mr. Crane indicated that number of courts is cost prohibitive. He stated that the Council can determine menu items to be included in phase one and provide Administration with direction regarding any adjustments.

There was a brief discussion about the funding sources for this project, after which Council Member Smith stated that he would like to see this park project come to pass, but that other parks need some attention and every cent spent on Mountain Ridge Park cannot be dedicated to other parks, like Highland Glen. Mr. Crane stated the Council has allocated \$2.46 million in existing monies and there is an additional \$1.3 million of American Rescue Plan Act (ARPA) monies available, for a total of \$3.76 million. Council Member Ostler agreed there are other parks that have maintenance needs. This led to high level discussion regarding master planning directives for various parks throughout the City, including Beacon Hills, which is a park with five phases and only two phases have been completed.

Finance Director Bahr stated that in order to use ARPA funds for this project, the space is being identified as a permissible use with elements for all abilities. If ARPA funds are going to be redirected to other parks, it will be necessary for staff to evaluate whether that is an allowed use. There is some flexibility, but the City needs to be careful in observing ARPA guidelines.

Mayor Mann inquired as to the balance of the City's open space fund. Mr. Bahr stated the current balance is \$464,000. This money comes from sales of property.

Council Member Rodela stated she would like to entertain an alternative bid that includes eight pickleball courts. Council Member Ostler agreed and noted he does not feel the residents will be happy with four pickleball courts, a bathroom, and a giant parking lot. Mayor Mann added that staff is awaiting information regarding a possible Surf Soccer component in the park.

Council Member Ostler recommended the City use ARPA funding, plus the \$2.5 million previously approved by the Council, but use open space funding for other parks. Council Member Rodela

agreed. She and Council Members Ostler and Smith voiced support for the phase one alternative bid. Mr. Crane asked if that is direction from the Council to solicit bids for phase one, alternative concept. The Council answered yes. Mr. Crane asked if the Council wants restrooms and a pavilion, to which the Council answered yes. Council Member Ostler suggested that there not be a great deal of grass in the landscaping, except in areas where necessary. Mr. Crane stated that xeriscaping will be completed along 10400 North. Council Member Ostler asked if the City would be required to go through an additional RFP process if the decision were made to include soccer fields at the park. Mr. Crane stated they City would either need to solicit additional bids or negotiate a change order with the contractor that is awarded the project.

Council Member Kim Rodela MOVED that the City Council direct staff to go out to bid for the phase 1 alternate design.

Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:

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

The motion passed 5:0.

8. DISCUSSION: ETHICAL BEHAVIOR STATEMENT *Administrative*

The Council will discuss implementation of an ethical behavior statement as recommended by the State Auditor's Fraud Risk Assessment. This item is being presented for discussion only to fulfill requirements of the State Auditor's Office, formal action will not be taken.

Finance Director Bahr explained that the State Auditor's Fraud Risk Assessment program requires that City officials be reminded of ethics standards contained in State and City Codes, including

- Improper use of official position
- Accepting gifts or loans
- Disclosing privileged information
- Retaining a financial or beneficial interest in a transaction
- Nepotism
- Misuse of public resources or property
- Outside employment
- Political activity
- Fair and equal treatment

This is an opportunity for City officials to reflect and recommit to ethical standards and staff recommends the Mayor and Council individually sign the Ethical Behavior Statement. The Statement will also be presented to the Lone Peak Public Safety District Board and staff of both Highland City and the District.

Council Member Smith stated that many of the standards are more pertinent to City staff. Mr. Bahr agreed, but the Council needs to be aware of any conflicts they may have with their private

employment or other community involvement; they do not need to take dire actions such as quitting their private job to resolve the conflict, but disclosure is important. City Attorney Patterson agreed; conflicts of interest must be disclosed to the Mayor and if there is an agenda item for which an elected official has a conflict of interest, they should again declare that conflict during the meeting and recuse themselves from discussing or voting on item if appropriate. The Council is simply being asked to sign a form acknowledging ethics rules in the State of Utah.

Council Member Ostler inquired as to the types of outside employment that could be a conflict of interest for an elected official. Mr. Patterson stated he is aware of another City where a Council Member is a contractor for the City's garbage service. This type of conflict must be disclosed. Council Member Ostler inquired as the type of political activity that could be a conflict. Mr. Bahr stated that standard is more applicable to staff; City staff must be neutral in political issues of the City. This led to Governing Body involvement in past political matters, such as election propositions. Mr. Patterson stated that the Mayor or City Council Members have the ability to endorse certain election issues, such as propositions.

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. Staff Project List – *City Administrator/Community Development Director Nathan Crane* City Administrator/Community Development Director Crane reviewed the staff project list, noting that items marked with a green star have internal deadlines and items with a yellow star have the potential to go to a Council meeting. There was a brief high-level discussion about various items included on the list and the status of certain projects. Council Members expressed their appreciation to Mr. Crane for developing this informational project list, it is very helpful for the Council in addressing questions from City residents.

b. Future Meetings

- October 19, City Council Meeting, 7:00 pm, City Hall
- October 20, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- October 26, Planning Commission Meeting, 7:00 pm, City Hall
- November 9, City Council Meeting, 7:00 pm, City Hall
- November 10, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- November 16, Planning Commission Meeting, 7:00 pm, City Hall

10. 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, pending or reasonably imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205.

At 11:13 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, pending or reasonably imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205.

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 Kurt Ostler</i>	<i>Yes</i>
<i>Council Member Kim Rodela</i>	<i>Yes</i>
<i>Council Member Scott L. Smith</i>	<i>Yes</i>

The motion passed unanimously.

Council Member Scott L. Smith MOVED to adjourn the CLOSED SESSION and Council Member Timothy A. Ball SECONDED the motion. All voted in favor and the motion passed unanimously. All voted in favor and the motion passed unanimously.

The CLOSED SESSION adjourned at 11:55 pm.

ADJOURNMENT

Council Member Scott L. Smith MOVED to adjourn the regular meeting and Council Member Timothy A. Ball SECONDED the motion. All voted in favor and the motion passed unanimously.

The meeting adjourned at 11:55 pm.

I, Stephannie Cottle, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on October 5, 2021. This document constitutes the official minutes for the Highland City Council Meeting.

Stephannie Cottle
City Recorder